

## LEGAL UPDATE

### Two (administrative) developments in the field of tenders

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Dutch procurement law is largely influenced by the European Union. For example, every two years the European Commission publishes new thresholds for European tenders. The new thresholds were published in the [Official Journal of the European Union](#) on 31 October 2019.

For the first time since 2010, all thresholds have been lowered. From 1 January 2020 through to (in any case) 31 December 2021, the amounts are as follows (excluding VAT):

Classical government: (Directive 2014/24/EU)

- Works: €5,350,000
- Deliveries and services for central government: €139,000
- Deliveries and services for local government: €214,000

Concession contracts: (Directive 2014/23/EU)

- Concession contracts for (public) works: €5,350,000
- Service concessions: €5,350,000

Special sector companies: (Directive 2014/25/EU)

- Works: €5,350,000
- Deliveries and services: €428,000

Defence: (Directive 2009/81/EU)

- Works: €5,350,000 (€198,000 lower)
- Deliveries and services: €428,000 (€15,000 lower)

The new thresholds apply to contracts announced from 1 January 2020. Before that date, the old, slightly higher thresholds still apply. With the new thresholds, contracts will therefore have to be tendered out at European level sooner. Contracts below the threshold are of course still subject to the specific rules of national procurement law and the contracting authorities' own procurement policy.

In addition to new thresholds, there is also a development in the area of CPV codes. The Common Procurement Vocabulary (CPV) is a European glossary that the contracting authority uses to specify the subject matter of the contract. However, the contracting authorities do not always select the appropriate code. That is why TED (Tenders Electronic Daily, the European digital platform for tenders) will verify the use of the correct main CPV codes more strictly with effect from 15 January 2020. TED, where TenderNed automatically publishes notices, will reject a publication if this CPV code does not match the contract. In line with this, TenderNed established on 27 November 2019 that entering an incorrect combination of a main CPV code and type of contract is no longer possible.

It is now even more important for a contracting authority to think carefully about the CPV code. The first two digits of the code must in any case be the following:

- CPV codes starting from 0 to 44 or 48 for deliveries
- CPV codes starting with 50 to 98 for services
- CPV codes starting with 45 for works

It is also worth noting that there are no codes starting with 46, 47 or 49.

This is a Legal Update from Anne Kusters.

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