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## SCOTTISH STATUTORY INSTRUMENTS

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### 2006 No. 2

## The Utilities Contracts (Scotland) Regulations 2006

### PART 3 **S**

#### PROCEDURES LEADING TO THE AWARD OF A CONTRACT

##### The open, restricted and negotiated procedures **S**

14. For the purposes of seeking offers in relation to a proposed contract a utility shall use the open procedure, the restricted procedure or the negotiated procedure.

##### Periodic indicative notices **S**

15.—(1) Subject to paragraphs (4), (6) and (7), a utility shall, at least once every 12 months, send a notice in the form of the periodic indicative notice in Annex IV to Commission Regulation (EC) No. 1564/2005 and containing the information therein specified to the Commission or publish it on that utility's buyer profile as soon as possible after—

- (a) the beginning of the financial year in the case of supply contracts, services contracts or framework agreements for the purchase or hire of goods or for the provision of services; or
- (b) the decision authorising the programme of works contracts or framework agreements for the carrying out of work or works, in the case of works contracts or framework agreements for the carrying out of work or works.

(2) The notice referred to in paragraph (1) shall contain information in respect of—

- (a) the supply contracts, the services contracts or the framework agreements referred to in paragraph (1)(a) which the utility expects to award during the period of 12 months beginning with the date of the notice; and
- (b) the works contracts or the framework agreements referred to in paragraph (1)(b) which the utility expects to award during the period of 12 months beginning with the date of the notice;

and that notice shall be sub divided to give that information separately for each product area of goods by reference to the CPV nomenclature of each category of works or services as specified in Schedules 2 and 3.

(3) Where a utility publishes a notice on its buyer profile in accordance with paragraph (1), it shall also send a notice informing of such publication to the Commission by electronic means in accordance with the format and procedure for sending notices specified in paragraph (3) of Annex XX to the Utilities Directive<sup>M1</sup>.

(4) The obligation to publish a periodic indicative notice in accordance with paragraph (1) applies only to proposed contracts or framework agreements which are not excluded from the application of these Regulations by regulations 6, 7, 8, 9 or 11 and where, at the date of despatch of the notice—

- (a) the total consideration which the utility expects to be payable under—

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- (i) supply contracts or framework agreements for the purchase or hire of goods falling within the same product area; or
  - (ii) Part A services contracts or framework agreements for the provision of services falling within the same category specified in Part A of Schedule 3;
- is equal to or exceeds 750,000 euro; or
- (b) the total consideration which the utility expects to be payable under works contracts or framework agreements for the carrying out of work or works is equal to or exceeds 5,278,000 euro.
- (5) A notice sent to the Commission or published on the utility's buyer profile in accordance with paragraph (1) need not repeat information about contracts included in a previous periodic indicative notice, provided that the notice clearly states that it is an additional notice.
- (6) The obligation to publish a periodic indicative notice applies only where the utility takes the option of shortening time limits for the receipt of tenders in accordance with regulation 22(3).
- (7) This regulation does not apply to a proposed contract or framework agreement where the procedure for the award or conclusion of the framework agreement is a contract award procedure without a call for competition in accordance with regulation 17.

#### Marginal Citations

- M1** The format and procedures for sending notices by electronic means are accessible at <http://simpa.eu.int>.

### Call for competition **S**

- 16.**—(1) Subject to regulation 17, for the purposes of seeking offers in relation to a proposed contract a utility shall make a call for competition.
- (2) The requirement under paragraph (1) to make a call for competition is satisfied—
- (a) in the case of a contract to be awarded using the restricted procedure or the negotiated procedure—
    - (i) if the intention to award the contract has been indicated in a periodic indicative notice and the requirements referred to in paragraph (3) are satisfied in relation to the contract; or
    - (ii) if a notice indicating the existence of a qualification system for economic operators has been sent to the Official Journal in accordance with regulation 25(17) and the requirement referred to in paragraph (5) is satisfied; or
  - (b) in any case by sending to the Official Journal a contract notice in the form of Annex V to Commission Regulation (EC) No. 1564/2005 and containing the information therein specified in respect of the contract.
- (3) The requirements referred to in paragraph (2)(a)(i) are that—
- (a) the periodic indicative notice refers specifically to the goods, works or services which are to be the subject of the proposed contract;
  - (b) the notice states that offers are to be sought using the restricted procedure or the negotiated procedure without further publication of a notice calling for competition and invites economic operators to express their interest in writing;
  - (c) the utility sends to all economic operators which express an interest detailed information including the information described in paragraph (4), on the contract concerned and before

- beginning the selection of economic operators invites them to confirm their wish to be selected to tender for or to negotiate the contract; and
- (d) the notice referred to in sub-paragraph (b) was not published more than 12 months before the date on which the invitation is sent out in accordance with sub paragraph (b).
- (4) The information referred to in paragraph (3)(b) shall include–
- (a) the nature and quantity or extent of the goods, work, works or services to be supplied under the contract;
  - (b) any options for further supplies, work, works or services and, if known, an estimate of the timing when such options may be exercised;
  - (c) in the case of recurring contracts for goods, work, works or services, their nature and quantity or extent, and, if known, the estimated date of the subsequent calls for competition for the goods to be supplied, the work or works to be carried out or the services to be provided;
  - (d) a statement of whether the contract is to be awarded using the restricted procedure or the negotiated procedure;
  - (e) any date for beginning or completing the delivery of goods or for the carrying out of work or works or for providing services;
  - (f) the address to which and the date by which an application to be invited to tender must be submitted and the one or more languages in which it must be submitted;
  - (g) the address of the utility and any information needed to obtain specifications and other documents relating to the proposed contract;
  - (h) any economic and technical requirements, financial guarantees and information required from economic operators;
  - (i) the amount to be paid for and the terms of payment in respect of the documents relating to the proposed contract;
  - (j) a statement of whether the utility is inviting offers for purchase, lease, rental or hire-purchase or involving more than one of these methods; and
  - (k) the contract award criteria and their weighting in accordance with regulation 30(3) and 30(4) or the descending order of importance of such criteria in accordance with regulation 30(5), if this information is not specified in the periodic indicative notice or the contract documents.
- (5) The requirement referred to in paragraph (2)(a)(ii) is that the economic operators selected to tender for or to negotiate the contract are selected from the candidates which qualify in accordance with the system.

#### **Award without a call for competition** S

- 17.—(1) A utility may seek offers in relation to a proposed contract without a call for competition in the following circumstances–
- (a) in the absence of tenders, suitable tenders or applications in response to a procedure with a call for competition but only if the original terms of the proposed contract offered in the discontinued procedure have not been substantially altered;
  - (b) when the contract is to be awarded purely for the purposes of research, experiment, study or development but not where it has the purpose of securing profit or of recovering research and development costs and insofar as its award will not prejudice the competitive award of subsequent contracts which are, in particular, for the same purposes;

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- (c) when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may only be performed by a particular economic operator;
  - (d) when (but only if it is strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by the utility the time limits specified in regulation 22(2) to (11) cannot be met;
  - (e) when the contract to be awarded is a supply contract and the goods to be purchased or hired under the contract are required by the utility as a partial replacement for, or in addition to, existing goods or an installation and when to obtain the goods from a supplier other than the supplier which supplied the existing goods or the installation would oblige the utility to acquire goods having different technical characteristics which would result in—
    - (i) incompatibility between the existing goods or the installation and the goods to be purchased or hired under the contract; or
    - (ii) disproportionate technical difficulties in the operation and maintenance of the goods or the installation;
  - (f) when a utility wants an economic operator which has entered into a works contract or a services contract with that utility to carry out additional work or works or provide additional services which were not included in the project initially considered or in the original works contract or services contract but which through unforeseen circumstances have become necessary, and such work, works or services—
    - (i) cannot for technical or economic reasons be carried out or provided separately from those under the original contract without major inconvenience to the utility; or
    - (ii) can be carried out or provided separately from those under the original contract but are strictly necessary to the later stages of the performance of that contract;
  - (g) subject to paragraph (2), when the utility wants an economic operator which has entered into a works contract with that utility following a call for competition which satisfies the requirement of regulation 16(1) to carry out new work or works which are a repetition of the work or works carried out under the original contract and which are in accordance with the project for the purpose of which the first contract was entered into;
  - (h) in respect of a supply contract for the purchase or hire of goods quoted and purchased on a commodity market;
  - (i) when the contract to be awarded is to be awarded under a framework agreement which has been concluded in accordance with these Regulations and to which the provisions of regulation 18 apply;
  - (j) when the contract to be awarded is a supply contract, to take advantage of a particularly advantageous bargain available for a very short period of time at a price considerably lower than normal market prices;
  - (k) when the contract to be awarded is a supply contract, to take advantage of particularly advantageous conditions for the purchase of goods in a closing down sale or in a sale brought about because a supplier is subject to a procedure referred to in regulation 26(5) (a), (b) and (c); and
  - (l) in the case of services contracts, when the rules of a design contest require the contract to be awarded to the successful contestant or to one of the successful contestants, provided that all successful contestants are invited to negotiate the contract.
- (2) A utility shall not seek offers without a call for competition in accordance with paragraph (1) (g) unless—
- (a) the original contract was awarded after a call for competition;

- (b) when the utility invited contractors to tender for or negotiate the contract it gave notice that a works contract for new work or works which would be a repetition of the work or works carried out under the original contract may be awarded without a call for competition in accordance with paragraph (1)(g); and
- (c) in determining the estimated value of the original contract for the purposes of regulation 11 the utility took into account the value of the consideration which it expected to be payable for the new works.

### Framework agreements **S**

**18.**—(1) A utility may regard a framework agreement as a contract within the meaning of these Regulations and award it in accordance with these Regulations and in such a case a reference in these Regulations to a contract includes a framework agreement, except where the context otherwise requires.

(2) A utility which has entered into a framework agreement awarded in accordance with these Regulations may rely on regulation 17(1)(i) when awarding a contract under a framework agreement.

(3) A utility which has not entered into a framework agreement awarded in accordance with these Regulations shall not rely on regulation 17(1)(i) when awarding a contract under a framework agreement.

(4) A utility may not misuse a framework agreement in order to prevent, restrict or distort competition.

### Dynamic purchasing systems **S**

**19.**—(1) A utility using a dynamic purchasing system shall comply with this regulation.

(2) The utility which seeks to establish a dynamic purchasing system shall comply with the requirements of regulation 42(2) to (7) and shall use only electronic means to—

- (a) establish that system; and
- (b) award contracts under it.

(3) The utility shall use the open procedure in accordance with these Regulations to establish a dynamic purchasing system up to the beginning of the procedure for the award of contracts under the system set out in this Regulation.

(4) When establishing a dynamic purchasing system, the utility shall—

- (a) send to the Official Journal as soon as possible after forming the intention a notice, in the form of the contract notice in Annex V to Commission Regulation (EC) No. 1564/2005 stating that a dynamic purchasing system is to be established; and
- (b) produce a specification which indicates—
  - (i) the nature of the goods, work, works or services intended to be purchased under that system; and
  - (ii) information concerning the purchasing system, the electronic equipment to be used in its operation, the arrangements for technical connection to the system, the rules governing its operation and any other necessary information relating to the system.

(5) When establishing a dynamic purchasing system the utility may also produce additional documents relating to the operation of the system.

(6) Where the utility establishes a dynamic purchasing system it shall—

- (a) offer unrestricted, direct and full access to the specification and to any additional documents by electronic means from the date of publication of the contract notice to the date when the system ceases to be operated; and

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- (b) indicate in the contract notice the internet address at which such documents may be examined.
- (7) Throughout the duration of the dynamic purchasing system, the utility shall—
- (a) give any economic operator the opportunity to—
- (i) submit an indicative tender; and
- (ii) be admitted to that system under the conditions referred to in paragraph (8); and
- (b) complete the evaluation of an indicative tender within 15 days from the date of its submission or such longer period as that utility may determine if no invitation to tender is issued under the system as provided in paragraph (13) within the 15 day period.
- (8) The utility shall admit to the dynamic purchasing system each economic operator which satisfies the selection criteria and has submitted an indicative tender which complies with the specification and any additional documents produced in accordance with paragraph (5) by the utility when establishing the system.
- (9) The utility shall as soon as possible notify an economic operator of its admission to a dynamic purchasing system or of the rejection of its indicative tender.
- (10) An economic operator which is admitted to a dynamic purchasing system may improve its indicative tender at any time provided that the improved tender complies with the specification described in paragraph (4)(b).
- (11) Where the utility proposes to award a contract under a dynamic purchasing system, it shall send to the Official Journal as soon as possible after forming the intention a notice, in the form of a simplified contract notice on a dynamic purchasing system in Annex IX to Commission Regulation (EC) No. 1564/2005, inviting economic operators to submit an indicative tender in accordance with paragraph (7)(a)(i) not less than 15 days from the date of the despatch of the simplified contract notice.
- (12) The indicative tenders received within the period specified in paragraph (11) shall be evaluated by the utility for admittance to the dynamic purchasing system before it proceeds with the issue of invitations to submit tenders in relation to any contract to be awarded under the dynamic purchasing system to an economic operator admitted to the system.
- (13) The utility shall invite all economic operators admitted to the dynamic purchasing system to submit a tender for each contract within a time limit specified by the utility.
- (14) For each contract to be awarded under the dynamic purchasing system the utility—
- (a) shall award the contract to the economic operator which submits the tender which best meets the award criteria specified in the contract notice for the establishment of the dynamic purchasing system; and
- (b) may if appropriate, formulate those award criteria more precisely in the invitation to submit tenders.
- (15) The utility shall not charge any economic operator seeking admission to a dynamic purchasing system or which has been admitted to such a system in relation to any aspect of that system.
- (16) A dynamic purchasing system established by the utility shall not be operated for more than 4 years, unless there are exceptional circumstances.
- (17) The utility shall not use a dynamic purchasing system improperly or in such a way as to prevent, restrict or distort competition.

## Electronic auctions **S**

- 20.**—(1) A utility which holds an electronic auction shall comply with this regulation.

- (2) Subject to paragraph (3), the utility may hold an electronic auction when using—
  - (a) the open procedure;
  - (b) the restricted procedure;
  - (c) the negotiated procedure with a prior call for competition; or
  - (d) the procedure set out in regulation 19 on the opening of competition for contracts to be awarded under a dynamic purchasing system.
- (3) The utility shall not hold an electronic auction to precede the award of a services contract or a works contract having as its subject matter intellectual performance, such as the design of works.
- (4) The utility may only hold an electronic auction to precede the award of a contract when the contract specification can be established with precision.
- (5) The utility shall base an electronic auction on—
  - (a) price alone where the contract is to be awarded on the basis of the lowest price; or
  - (b) price or the values of quantifiable elements of tenders indicated in the contract specification, where the contract is to be awarded on the basis of the offer which is the most economically advantageous in accordance with regulation 30(1)(a).
- (6) Where the utility intends to hold an electronic auction it shall state this in the contract notice.
- (7) A contract specification prepared by the utility in relation to a contract the award of which is to be preceded by an electronic auction shall include—
  - (a) the quantifiable elements of tenders capable of expression in figures or percentages which will be the subject of the electronic auction;
  - (b) any limitations on the values for the quantifiable elements of tenders (resulting from the contract specification) which may be submitted in the electronic auction;
  - (c) the information to be made available to economic operators during the electronic auction and, where appropriate, an indication of when it will be made available to them;
  - (d) a description of the electronic auction process;
  - (e) the conditions under which economic operators will be able to bid and, in particular, the minimum differences which may be required when bidding; and
  - (f) all relevant information concerning—
    - (i) the electronic system to be used in the electronic auction; and
    - (ii) the arrangements for and technical specifications relevant to connection to the electronic system to be used.
- (8) Before proceeding with an electronic auction, the utility shall—
  - (a) make an initial evaluation of the tenders in accordance with the award criteria specified and with any weighting fixed for them; and
  - (b) by electronic means simultaneously invite all the economic operators which have submitted admissible tenders to submit new prices or new values in the electronic auction.
- (9) Where the utility is to award a contract on the basis of the offer which is most economically advantageous to it in accordance with regulation 30(1)(a), each invitation referred to in paragraph (8)(b) shall include the outcome of the evaluation of the tender submitted by the economic operator to which the invitation is sent, carried out in accordance with the weighting described in regulation 30(3).
- (10) The utility shall include in the invitation referred to in paragraph (8)(b)—
  - (a) all relevant information concerning individual connection to the electronic system to be used in the electronic auction;

- (b) the date and time of the start of the electronic auction;
  - (c) the number of phases in the electronic auction;
  - (d) the mathematical formula to be used in the electronic auction to determine automatic re-ranking of tenders on the basis of the new prices or new values to be submitted by economic operators and incorporating the weighting of all the criteria set to determine the most economically advantageous tender;
  - (e) where variant bids are authorised by the utility, a separate mathematical formula for each variant; and
  - (f) the basis on which the electronic auction is to be closed and the appropriate additional information specified in paragraph (16).
- (11) In relation to the formula referred to in paragraph (10)(d), any ranges used in the weighting of criteria shall be set at a specified value before the invitation is sent to economic operators.
- (12) At least two working days must elapse between the date on which the invitation referred to in paragraph (8)(b) is sent and the date of the electronic auction.
- (13) During each phase of an electronic auction, the utility—
- (a) shall instantaneously communicate to all economic operators participating in the auction at least sufficient information to enable them to ascertain their relative rankings in the auction at any time;
  - (b) may communicate to each economic operator other information concerning prices or values submitted by other economic operators provided that this has been stated in the contract specification; and
  - (c) may disclose the number of economic operators participating in that phase of the auction.
- (14) During any phase of an electronic auction the utility shall not disclose the identity of any economic operator participating in the auction.
- (15) The utility shall close an electronic auction—
- (a) at the date and time fixed for closure in the invitation referred to in paragraph (8)(b);
  - (b) when it receives no further new prices or new values which meet the requirements concerning minimum differences; or
  - (c) when the number of phases in the electronic auction specified in the invitation referred to in paragraph (8)(b) has been completed.
- (16) Where the utility intends to close an electronic auction—
- (a) as described in paragraph (15)(b), it shall state in the invitation referred to in paragraph (8) (b) the period which it intends to allow to elapse before it closes the auction after receiving a submission from an economic operator participating in the auction; or
  - (b) as described in paragraph (15)(c), it shall state in the invitation referred to in paragraph (8) (b) the timetable for each phase in the auction.
- (17) After closing an electronic auction a utility shall award the contract in accordance with regulation 30 on the basis of the results of the electronic auction.
- (18) The utility shall not use an electronic auction improperly or in such a way as to prevent, restrict or distort competition or to change the subject matter of the contract as referred to in the contract notice and defined in the specification.
- (19) The references to values in paragraphs (5)(b), (8)(b), (10)(d), (13)(b) and (15)(b) shall be interpreted as including price.



## Central purchasing bodies **S**

**21.**—(1) A utility may purchase work, works, goods or services from or through a central purchasing body.

(2) Where a utility makes purchases in accordance with paragraph (1), it shall be deemed to have complied with these Regulations, or where appropriate the Public Contracts (Scotland) Regulations 2006, to the extent that the central purchasing body has complied with them.

## Time limits **S**

**22.**—(1) Subject to the minimum time limits specified in this regulation, a utility shall take account of all the circumstances, in particular, the complexity of the contract and the time required for drawing up tenders when fixing time limits for receipt by it of requests to be selected to tender for or to negotiate the contract and for the receipt by it of tenders.

(2) Subject to paragraphs (3), (6) and (7), the date which a utility using the open procedure fixes as the last date for the receipt by it of tenders made in response to the contract notice shall be specified in the notice and shall be not less than 52 days from the date of despatch of the notice.

(3) Where—

- (a) the utility has published a periodic indicative notice in accordance with regulation 15;
- (b) the periodic indicative notice contained as much of the information specified in the form of periodic indicative notice used to call for competition in Annex IV to Commission Regulation (EC) No. 1564/2005 as was available at the time of publication; and
- (c) the periodic indicative notice was sent to the Official Journal at least 52 days and not more than 12 months before the date on which the contract notice was despatched;

a utility using the open procedure may substitute for the period of not less than 52 days specified in paragraph (2) a shorter period of generally not less than 36 days and in any event not less than 22 days.

(4) The date which a utility using the restricted procedure or the negotiated procedure with a call for competition fixes as the last date for the receipt by it of requests to be selected to tender for or to negotiate the contract shall be specified in the contract notice or, where the call for competition is made by means of a periodic indicative notice, in the invitation to economic operators made in accordance with regulation 16(3)(b), and shall in general be at least 37 days from the date of the despatch of the notice or invitation and shall in any case be not less than 22 days from that date, apart from when the notice is transmitted by electronic means in accordance with paragraph (6) or facsimile in which case it shall be not less than 15 days.

(5) The date which is the last date for the receipt of tenders made in response to an invitation to tender by a utility using the restricted procedure or the negotiated procedure with a call for competition may be agreed between the utility and the economic operators invited to tender and shall be the same date for all economic operators or, in the absence of agreement as to the date, shall be fixed by the utility and shall be as a general rule at least 24 days and in any event not less than 10 days from the despatch of the invitation to tender.

(6) Where a contract notice is transmitted by electronic means in accordance with the format and procedures referred to in paragraph (3) of Annex XX to the Utilities Directive a utility may reduce the time limits by 7 days for—

- (a) the receipt by it of requests to be selected to tender for or to negotiate the contract; and
- (b) the receipt by it of tenders when using the open procedure.

(7) Subject to paragraph (5), a utility using the open procedure, the restricted procedure or the negotiated procedure may reduce the time limits for the receipt by it of tenders by 5 days provided that—

- (a) the utility offers unrestricted and full direct access by electronic means to the contract documents from the date of publication of the contract notice; and
  - (b) the contract notice specifies the internet address at which the documents referred to in sub paragraph (a) are available.
- (8) When using the reductions specified in paragraphs (3), (6) and (7), the date which a utility using the open procedure fixes as the last date for the receipt by it of tenders, shall be not less than 15 days from the date of despatch of the contract notice.
- (9) Where the contract notice is not transmitted by facsimile or electronic means and when using the reductions specified in paragraphs (3), (6) and (7), the date which a utility using the open procedure fixes as the last date for the receipt by it of tenders, shall be not less than 22 days from the date of despatch of the contract notice.
- (10) When using the reductions specified in paragraphs (3), (6) and (7) the date which a utility using the restricted procedure or the negotiated procedure with a call for competition fixes as the last date for the receipt by it of requests to be selected to tender for or to negotiate the contract, shall be not less than 15 days from the date of despatch of the notice or invitation.
- (11) Subject to paragraph (5) and when using the reductions specified in paragraphs (3), (6) and (7), the date which a utility using the restricted procedure or the negotiated procedure with a call for competition fixes as the last date for the receipt by it of tenders, shall be not less than 10 days from the date of despatch of the invitation to tender.
- (12) Subject to paragraph (5), a utility shall extend the time limit for receipt by it of tenders in order that all the information necessary for the preparation of a tender is available to all economic operators where—
- (a) an economic operator requests the contract documents in sufficient time to allow a utility to respond in accordance with paragraphs (3) and (14) and, for whatever reason, the contract documents are not supplied in accordance with those paragraphs; or
  - (b) it is necessary that the economic operators be given the opportunity to inspect the site or premises or documents relating to the contract documents.
- (13) Where a utility using the open procedure does not offer unrestricted and full direct access by electronic means to the contract documents in accordance with paragraph (7), the utility shall send the contract documents to an economic operator within 6 days of the receipt of a request from that economic operator, provided that the documents are requested in good time before the date specified in the contract notice as the final date for the receipt by it of tenders.
- (14) A utility using the open procedure, the restricted procedure or the negotiated procedure shall supply to an economic operator such further information relating to the contract documents as may be reasonably requested by that economic operator provided that the request is received in sufficient time to enable the utility to supply the information not later than 6 days before the date specified in the contract notice as the final date for the receipt by it of tenders.
- (15) A utility using the restricted procedure or the negotiated procedure with or without a call for competition shall send invitations in writing simultaneously to each of the economic operators selected to tender for or to negotiate the contract and the invitation shall—
- (a) be accompanied by the contract documents;
  - (b) specify the internet address which offers unrestricted and full direct access by electronic means to the contract documents in accordance with paragraph (7); or
  - (c) where the contract documents are held by an entity other than the utility, specify the address to which requests for contract documents should be sent including any final date for making such requests and the amount and any method of payment of any fee which may be charged for supplying that information.

(16) Where the contract documents are held by an entity other than the utility, the utility shall ensure that the contract documents are sent to economic operators by the most rapid means practicable.

(17) The utility shall include the following information in the invitation—

- (a) the final date for making requests for further information and the amount and method of payment of any fee which may be charged for supplying that information;
- (b) the final date for receipt by it of tenders, the address to which they must be sent and the one or more languages in which they must be drawn up;
- (c) a reference to any contract notice;
- (d) an indication of the information to be included with the tender;
- (e) the criteria for the award of the contract if this information was not specified in the contract notice, the notice on the existence of a qualification system used as a means of calling for competition published in accordance with regulation 16(2)(a)(ii) or the contract documents; and
- (f) the relative weighting of the contract award criteria or, where appropriate, the descending order of importance of such criteria if this information was not specified in the contract notice, the notice on the existence of a qualification system or the contract documents.

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**Changes and effects yet to be applied to :**

- Part 9 (regs 45 - 46) appl (mod) by [S.S.I. 2010/390 reg 6](#)
- 19 am (with transtl provns) by [S.S.I. 2009/428 regs 45](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Regulations revoked by [S.S.I. 2012/89 reg. 48Sch. 5 Pt. A](#)
- reg. 6(p) inserted by [S.I. 2011/1848 Sch. 4 para. 4\(4\)](#)
- reg. 34(5)(e)(iii)(aa) words substituted by [S.I. 2011/2053 reg. 30\(2\)\(d\)](#)
- regs 45A - 45C added (with transtl provns) by [S.S.I. 2009/428 regs 45](#)