
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 89

The Utilities Contracts (Scotland) Regulations 2012

PART 3

PROCEDURES LEADING TO THE AWARD OF A CONTRACT

Periodic indicative notices

15.—(1) Subject to paragraphs (4), (6) and (7), a utility must, 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](#)(1) 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) must 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 must 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 must 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.

(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 dispatch of the notice—

- (a) the total consideration which the utility expects to be payable under—
 - (i) supply contracts or framework agreements for the purchase or hire of goods falling within the same product area; or

(1) The annex to [Commission Regulation \(EC\) No 1564/2005](#) was amended by [Commission Regulation \(EC\) 1150/2009](#), OJ L 313, 29.11.2009, p.3.

- (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 the amount set out in Article 16(b).
- (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.