
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 49

The Utilities Contracts (Scotland) Regulations 2016

PART 2

RULES APPLICABLE TO CONTRACTS

CHAPTER 3

CONDUCT OF THE PROCEDURE

SECTION 2

Publication and transparency

Electronic availability of procurement documents

71.—(1) Subject to paragraph (2), a utility must offer on the internet unrestricted and full direct access free of charge to the procurement documents from the date of publication of a notice in accordance with regulation 69 (form and manner of sending notices for publication at EU level) or the date on which an invitation to confirm interest was sent.

(2) Where the means of calling for competition is a notice on the existence of a qualification system, the access referred to in paragraph (1) must be offered as soon as possible and at the latest when the invitation to tender or to negotiate is sent.

(3) The text of the notice or the invitation must specify the internet address at which the procurement documents are accessible.

(4) Where unrestricted and full direct access free of charge by electronic means to certain procurement documents cannot be offered for one of the reasons set out in regulation 38(3) (rules applicable to communication), a utility may indicate in the notice or the invitation to confirm interest that the procurement documents concerned will be transmitted by means other than electronic means in accordance with the periods mentioned in paragraphs (7) and (8).

(5) Where unrestricted and full direct access free of charge by electronic means to certain procurement documents cannot be offered because a utility intends to apply regulation 37(3) (confidentiality), the utility must indicate, in one of the following, which measures, aimed at protecting the confidential nature of the information, the utility requires and how access can be obtained to the documents—

- (a) the notice;
- (b) the invitation to confirm interest; or
- (c) where the means of calling for competition is a notice on the existence of a qualification system, the procurement documents.

(6) Where paragraph (4) or (5) applies, the time limit for the submission of tenders must be extended by 5 days, except—

- (a) in a case of duly substantiated urgency referred to in regulation 43(5) (open procedure); or

(b) where the time limit is set by mutual agreement in accordance with regulation 44(6) (restricted procedure) or 45(6) (negotiated procedure with prior call for competition).

(7) Provided that it has been requested in good time, a utility must supply to all tenderers taking part in the procurement additional information relating to the specifications and any supporting documents, not later than 6 days before the time limit fixed for the receipt of tenders.

(8) In the case of an accelerated open procedure, the period mentioned in paragraph (7) shall not be later than 4 days before the time limit fixed for the receipt of tenders.