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STATUTORY INSTRUMENTS

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**2015 No. 102**

**The Public Contracts Regulations 2015**

**PART 2**

**RULES IMPLEMENTING THE PUBLIC CONTRACTS DIRECTIVE**

**CHAPTER 2**

**RULES ON PUBLIC CONTRACTS**

*SECTION 5*

*Conduct of the Procedure*

*SUB-SECTION 5*

*Preparation*

**Prior involvement of candidates or tenderers**

- 41.**—(1) Where a candidate or tenderer, or an undertaking related to a candidate or tenderer—
- (a) has advised the contracting authority, whether in the context of regulation 40 or not, or
  - (b) has otherwise been involved in the preparation of the procurement procedure,
- the contracting authority shall take appropriate measures to ensure that competition is not distorted by the participation of that candidate or tenderer.
- (2) Such measures shall include—
- (a) the communication to the other candidates and tenderers of relevant information exchanged in the context of or resulting from the involvement of the candidate or tenderer in the preparation of the procurement procedure; and
  - (b) the fixing of adequate time limits for the receipt of tenders.
- (3) The candidate or tenderer concerned shall only be excluded from the procedure where there are no other means to ensure compliance with the duty to treat economic operators equally in accordance with regulation 18(1).
- (4) Prior to any such exclusion, candidates or tenderers shall be given the opportunity to prove that their involvement in preparing the procurement procedure is not capable of distorting competition.
- (5) The measures taken under this regulation shall be documented in the report referred to in regulation 84(1).

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

The Public Contracts Regulations 2015, Section 41 is up to date with all changes known to be in force on or before 28 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.