
STATUTORY INSTRUMENTS

2016 No. 274

The Utilities Contracts Regulations 2016

PART 2

RULES APPLICABLE TO CONTRACTS

CHAPTER 3

Conduct of the procedure

SECTION 3

Choice of participants and award of contracts

SUB-SECTION 1 Qualification and qualitative selection

Use of exclusion grounds and selection criteria provided for under the Public Contracts Regulations

80.—(1) The objective rules and criteria for the exclusion and selection of—

- (a) economic operators requesting qualification in a qualification system; and
- (b) candidates and tenderers in open, restricted or negotiated procedures, in competitive dialogues or in innovation partnerships,

may include the exclusion grounds listed in regulation 57 of the Public Contracts Regulations on the terms and conditions set out in those Regulations.

(2) Where the utility is a contracting authority, the criteria and rules referred to in paragraph (1) shall include the exclusion grounds listed in regulation 57(1) to (5) of the Public Contracts Regulations on the terms and conditions set out in that regulation.

(3) The criteria and rules referred to in paragraph (1) may include the selection criteria set out in regulation 58 of the Public Contracts Regulations on the terms and conditions set out in that regulation, notably as regards the limits to requirements concerning yearly turnovers, as provided for under regulation 58(9) of those Regulations.

(4) For the purposes of applying paragraphs (1), (2) and (3)—

- (a) regulations 59 to 61 of the Public Contracts Regulations apply.
- (b) regulations 57 to 61 and 65 of the Public Contracts Regulations shall have effect as though a reference to a contracting authority in those regulations were a reference to a utility;
- (c) references to regulations 56(2), 24 and 41 in regulation 57(8) of the Public Contracts Regulations shall have effect as though such references are to, respectively, regulations 76(6), 42 and 59 in these Regulations;
- (d) references to regulations 62 and 63 in regulations 59 and 60 of the Public Contracts Regulations shall have effect as though such references are to, respectively, regulations 81 and 79 in these Regulations;

- (e) in regulation 59(9) of the Public Contracts Regulations, the words “where such contracts are concluded in accordance with regulations 33(7) or 8(a)” shall be replaced with “with a single economic operator or where such contracts are concluded without reopening competition in accordance with regulations 51 of the Utilities Contracts Regulations 2016.”;
- (f) in regulation 58(9) of the Public Contracts Regulations, the words “in the report referred to in regulation 84(1).” shall be replaced with “in the information and documentation referred to in regulation 99 of the Utilities Contracts Regulations 2016.”.