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WELSH STATUTORY INSTRUMENTS

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**2024 No. 782**

**The Procurement (Wales) Regulations 2024**

**PART 2**

**Transparency**

**Tender notices: open procedure**

**19.**—(1) This regulation sets out other information which must be included in a tender notice for the award of a public contract through an open procedure published under section 21(1)(a) of the 2023 Act.

(2) The information is—

- (a) the contracting authority information,
- (b) the title of the procurement,
- (c) the unique identifier for the procurement,
- (d) a statement that the tender notice is for the award of a public contract through an open procedure in accordance with section 20(1) and (2)(a) of the 2023 Act,
- (e) whether the tender notice relates to a special regime contract and, if so, whether that contract is—
  - (i) a concession contract,
  - (ii) a light touch contract, or
  - (iii) a utilities contract,
- (f) the contract subject-matter,
- (g) the estimated value of the public contract,
- (h) where the public contract is for goods, services or works which the contracting authority expects will be needed after the expiry of the contract—
  - (i) whether the contracting authority intends to carry out a subsequent procurement of similar goods, services or works in reliance on the direct award justification in paragraph 8 of Schedule 5 to the 2023 Act, or
  - (ii) an estimate, if possible, of the date when any subsequent tender notice will be published,
- (i) whether an electronic auction will be used and, if so, the technical details of how suppliers may participate in the electronic auction,
- (j) how tenders may be submitted and the date by when they must be submitted,
- (k) the award criteria, or a summary of the award criteria, for the public contract,
- (l) the languages in which tenders or enquiries in connection with the tendering procedure may be submitted,

- (m) whether the public contract is a contract for which the United Kingdom has obligations under the GPA,
- (n) from the date when the Comprehensive and Progressive Agreement for Trans-Pacific Partnership enters into force for the United Kingdom, whether the public contract is a contract for which the United Kingdom has obligations under that Agreement,
- (o) whether the public contract is awarded by reference to lots and, if so, for each lot—
  - (i) the title of the lot,
  - (ii) the distinct number given to the lot by the contracting authority,
  - (iii) the following information, so far as it is known to the contracting authority when the tender notice is published—
    - (aa) a description of the kinds of goods, services or works which will be supplied,
    - (bb) a summary of how those goods, services or works will be supplied,
    - (cc) the estimated date when, or period over which, the goods, services or works will be supplied,
    - (dd) the estimated amount of goods, services or works which will be supplied,
    - (ee) the estimated value of the lot,
    - (ff) the relevant CPV codes,
    - (gg) the relevant award criteria in relation to the lot,
    - (hh) any option in relation to the lot, and
    - (ii) the geographical classification, where it is possible to describe this,
- (p) where the public contract is awarded by reference to lots—
  - (i) whether a supplier may only submit a tender for a maximum number of lots and, if so the maximum number,
  - (ii) whether a supplier may only be awarded a maximum number of lots and, if so, the maximum number, and
  - (iii) whether the contracting authority will award multiple lots to the same supplier in accordance with criteria and, if so, a summary of the criteria,
- (q) where the contracting authority considers under section 18(2) of the 2023 Act that the public contract could be awarded by reference to lots but it is not, the reasons for this, except in the case of a utilities contract or a light touch contract,
- (r) a description of any option which will be included in the public contract—
  - (i) to supply additional goods, services or works, or
  - (ii) to extend or renew the term of the contract,
- (s) whether the contracting authority proposes to set the shortest minimum tendering period by reference to one of the following entries in the table in section 54(4) of the 2023 Act and, if so, which entry—
  - (i) second entry (utilities contracts or contracts awarded by a contracting authority which is not a central government authority subject to a negotiated tender period; no minimum period ),
  - (ii) third entry (utilities contracts or certain contracts awarded by a contracting authority which is not a central government authority, where tenders may be submitted only by preselected suppliers; 10 days),
  - (iii) fourth entry (a qualifying planned procurement notice has been issued;10 days), or
  - (iv) fifth entry (state of urgency; 10 days),

- (t) whether the contracting authority considers that the public contract or any lot forming part of the contract may be particularly suitable to be awarded—
  - (i) to a small and medium-sized enterprise, or
  - (ii) to a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives,
- (u) whether associated tender documents are being provided in accordance with the tender notice at the same time that the notice is published and, if so—
  - (i) the title of each associated tender document,
  - (ii) whether each associated tender document is attached to the tender notice, and
  - (iii) if an associated tender document is not attached to the tender notice, a link to the web page where it is provided,
- (v) whether an associated tender document is being, or may be, provided in accordance with the tender notice after the date when that notice is published and, if so, a link to the web page where it will be provided, or an explanation of how the document will be provided,
- (w) a description of any technical specifications which are expected to be met or a cross reference to where they can be accessed,
- (x) a description of any conditions of participation under section 22 of the 2023 Act,
- (y) any payment terms (in addition to those set out in section 68 of the 2023 Act),
- (z) a description identifying any risk that—
  - (i) the contracting authority considers could jeopardise the satisfactory performance of the public contract, but because of its nature, may not be addressed in the public contract as awarded, and
  - (ii) may require a subsequent modification to the public contract under paragraph 5 of Schedule 8 to the 2023 Act (modification of contract following materialisation of a known risk), and
- (z1) the estimated date when the public contract will be awarded.

(3) In paragraph (2), “electronic auction” means an iterative process that involves the use of electronic means for the presentation by suppliers of either new prices, or new values for quantifiable non-price elements of the tender related to the evaluation criteria, or both, resulting in a ranking or re-ranking of tenders.

(4) Nothing in this regulation prevents a contracting authority from publishing other information that relates to the same procurement in the notice.

(5) This regulation does not apply to a tender notice for the award of a framework through an open procedure (see instead regulation 21).