

Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (Text with EEA relevance)

TITLE II

RULES APPLICABLE TO CONTRACTS

CHAPTER III

Conduct of the procedure

Subsection 2

Award of the contract

Article 84

Abnormally low tenders

1 Contracting entities shall require economic operators to explain the price or costs proposed in the tender where tenders appear to be abnormally low in relation to the works, supplies or services.

2 The explanations referred to in paragraph 1 may in particular relate to:

- a the economics of the manufacturing process, of the services provided or of the construction method;
- b the technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the supply of the products or services or for the execution of the work;
- c the originality of the supplies, services or work proposed by the tenderer;
- d compliance with obligations referred to in Article 36(2);
- e compliance with obligations referred to in Article 88;
- f the possibility of the tenderer obtaining State aid.

3 The contracting entity shall assess the information provided by consulting the tenderer. It may only reject the tender where the evidence supplied does not satisfactorily account for the low level of price or costs proposed, taking into account the elements referred to in paragraph 2.

Contracting entities shall reject the tender, where they have established that the tender is abnormally low because it does not comply with applicable obligations referred to in Article 36(2).

4 Where a contracting entity establishes that a tender is abnormally low because the tenderer has obtained State aid, the tender may be rejected on that ground alone only after consultation with the tenderer where the latter is unable to prove, within a sufficient time limit fixed by the contracting entity, that the aid in question was compatible with the internal market

Status: This is the original version (as it was originally adopted).

within the meaning of Article 107 TFEU. Where the contracting entity rejects a tender in those circumstances, it shall inform the Commission thereof.

5 Upon request, Member States shall make available to other Member States by means of administrative cooperation any information at its disposal, such as laws, regulations, universally applicable collective agreements or national technical standards, relating to the evidence and documents produced in relation to details listed in paragraph 2.