
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 88

The Public Contracts (Scotland) Regulations 2012

PART 3

PROCEDURES LEADING TO THE AWARD OF A PUBLIC CONTRACT

Use of the negotiated procedure with prior publication of a contract notice

13. A contracting authority may use the negotiated procedure with the prior publication of a contract notice in accordance with regulation 17(3) in the following circumstances—

- (a) subject to regulation 14(1)(a)(i), in the event that the procedure leading to the award of a contract by the contracting authority using the open procedure, the restricted procedure or the competitive dialogue procedure was discontinued because of—
 - (i) irregular tenders; or
 - (ii) unacceptable tenders following an evaluation made in accordance with regulation 15(11), 16(7) or 18(10),but only if the original terms of the proposed contract offered in the discontinued procedure have not been substantially altered in the negotiated procedure;
- (b) exceptionally, when the nature of the work or works to be carried out, the goods to be purchased or hired or the services to be provided under the contract or the risks attaching to them are such as not to permit prior overall pricing;
- (c) in the case of a public services contract, when the nature of the services to be provided, in particular in the case of services specified in category 6 of Part A of Schedule 3 and intellectual services, such as services involving the design of work or works, is such that specifications cannot be established with sufficient precision to permit the award of the contract using the open procedure or restricted procedure; or
- (d) in the case of a public works contract, when the work or works are to be carried out under the contract solely for the purpose of research, testing or development but not with the aim of ensuring profitability or to recover research and development costs.