

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2012 No. 88**

**The Public Contracts (Scotland) Regulations 2012**

**PART 4**

**SELECTION OF ECONOMIC OPERATORS**

**Information as to economic and financial standing**

**24.**—(1) Subject to regulation 27 and paragraph (2), in assessing whether an economic operator meets any minimum standards of economic and financial standing required of economic operators by the contracting authority—

- (a) for the purposes of regulations 15(11), 16(7) and 17(9) or 18(10); and
- (b) in selecting the economic operators to be invited to tender for or to negotiate the contract, in accordance with regulations 16(8), 17(10) or 18(11),

a contracting authority may take into account any of the following information—

- (i) appropriate statements from the economic operator's bankers or where appropriate, evidence of relevant professional risk indemnity insurance;
- (ii) statements of accounts or extracts from those accounts relating to the business of the economic operator where publication of the statement is required under the law of the relevant State in which the economic operator is established; or
- (iii) where appropriate, a statement, covering the 3 previous financial years of the economic operator, of—
  - (aa) the overall turnover of the business of the economic operator; and
  - (bb) where appropriate, the turnover in respect of the work, works, goods or services which are of a similar type to the subject matter of the public contract.

(2) Where the information specified in paragraph (1) is not appropriate in a particular case, a contracting authority may require an economic operator to provide other information to demonstrate the economic operator's economic and financial standing.

(3) A contracting authority which requires information to be provided in accordance with paragraphs (1) and (2) must specify in the contract notice or in the invitation to tender the information which the economic operator must provide.

(4) Where appropriate—

- (a) an economic operator or a group of economic operators as referred to in regulation 28 may rely on the capacities of other entities or members in the group, regardless of the legal nature of the link between the economic operator or group of economic operators and the other entities; and
- (b) the economic operator or the group of economic operators must prove to the contracting authority that the resources necessary to perform the contract will be available and the

contracting authority may, in particular, require the economic operator to provide an undertaking from the other entities to that effect.

(5) Where an economic operator is unable for a valid reason to provide the information which the contracting authority has required, the contracting authority must accept such other information provided by the economic operator as the contracting authority considers appropriate.