
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 446

The Public Contracts (Scotland) Regulations 2015

PART 2

RULES IMPLEMENTING THE PUBLIC CONTRACTS DIRECTIVE

CHAPTER 1

SCOPE AND GENERAL PRINCIPLES

SECTION 2

General Rules

Principles of procurement

19.—(1) A contracting authority must, in carrying out any procurement or design contest which is subject to the application of these Regulations—

- (a) treat economic operators equally and without discrimination; and
- (b) act in a transparent and proportionate manner.

(2) A contracting authority must not design a procurement or design contest with the intention of excluding it from the application of these Regulations or of artificially narrowing competition.

(3) Without prejudice to the generality thereof, competition shall be deemed to be artificially narrowed for the purpose of paragraph (2) where the design of the procurement or design contest is made with the intention of unduly favouring or disadvantaging any particular economic operator.

(4) A contracting authority must include in each public contract or framework agreement such conditions relating to the performance of the contract or framework as meet the requirements mentioned in paragraph (5) and are reasonably necessary to ensure that the economic operator complies with environmental, social and employment law, including any relevant collective agreements or international law measures referred to in Annex X of the Directive as amended from time to time.

(5) The requirements referred to in paragraph (4) are that the conditions are—

- (a) linked to the subject matter of the contract or framework within the meaning of regulation 70 (conditions for performance of contracts); and
- (b) indicated in the call for competition or in the procurement documents.