
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 49

The Utilities Contracts (Scotland) Regulations 2016

PART 4

INFORMATION AND DOCUMENTATION

Reporting and documentation requirements

96.—(1) Subject to paragraph (2), a utility must keep appropriate information on each contract and framework agreement covered by these Regulations and each time a dynamic purchasing system is established.

(2) The information referred to in paragraph (1) must be sufficient to permit the utility at a later date to justify decisions taken in connection with—

- (a) the qualification and selection of economic operators and the award of contracts;
- (b) the use of negotiated procedures without a call for competition in accordance with regulation 48 (use of the negotiated procedure without prior call for competition);
- (c) the derogations provided for in Chapters 2 and 3 of Part 1 to these Regulations relating to Chapters 2 to 4 of Part 2 to these Regulations;
- (d) where necessary, the reasons why means of communication other than electronic means have been used for the submission of tenders.

(3) To the extent that the contract award notice drawn up in accordance with regulations 68 (contract award notices) or 89(3) (publication of notices) contains the information required in this paragraph, the utility may refer to that notice.

(4) A utility must document the progress of all procurement procedures, whether or not the procedures are conducted by electronic means.

(5) For the purposes of paragraph (4), a utility must ensure that the utility keeps sufficient documentation to justify decisions taken in all stages of the procurement, such as documentation on—

- (a) communications with economic operators;
- (b) internal deliberations;
- (c) preparation of the procurement documents;
- (d) dialogue or negotiation, if any;
- (e) selection and award of the contract.

(6) The documentation must be kept for a period of at least 3 years from the date of award of the contract.

(7) Where the Commission so requests, the utility must communicate the information and documentation referred to in paragraphs (1) to (5), or its main elements, to the Commission.

(8) Where the Scottish Ministers so request, the utility must communicate the information and documentation referred to in paragraphs (1) to (5), or its main elements, to the Scottish Ministers or

to such other body as the Scottish Ministers may direct in connection with any functions which that body exercises for the purpose of Article 99 of the Utilities Contracts Directive.

(9) A utility must, for the purpose of enabling the Scottish Ministers to provide the Commission with other information or documentation, send to the Scottish Ministers such other information or documentation as the Scottish Ministers may from time to time request in respect of a procurement—

- (a) within the scope of these Regulations; or
- (b) which would have been within the scope of these Regulations if their value had exceeded the relevant threshold mentioned in regulation 15 (thresholds).