

---

STATUTORY INSTRUMENTS

---

**1991 No. 2680**

**The Public Works Contracts Regulations 1991**

**PART III**

**PROCEDURES LEADING TO THE AWARD OF A PUBLIC WORKS CONTRACT**

**The negotiated procedure**

**13. –**

(1) A contracting authority using the negotiated procedure shall comply with the following provisions of this regulation except that—

- (a) a contracting authority using the negotiated procedure pursuant to regulation 10(2)(d), (e), (f), (g) or (h), and
- (b) a contracting authority using the negotiated procedure pursuant to regulation 10(2)(a) who invites to negotiate the contract every contractor who submitted a tender following an invitation made during the course of the discontinued open or restricted procedure (not being a tender which was excluded pursuant to regulation 11(6)), need not comply with paragraphs (2) to (6) below.

(2) The contracting authority shall publicise its intention to seek offers in relation to the public works contract by sending to the Official Journal as soon as possible after forming the intention a notice, in a form substantially corresponding to that set out in Part D of Schedule 3, inviting requests to be selected to negotiate and containing the information therein specified in relation to the contract.

(3) Subject to paragraph (4) below, the date which the contracting authority shall fix as the last date for the receipt by it of requests to be selected to negotiate shall be specified in paragraph 6(a) of the contract notice and shall be not less than 37 days from the date of despatch of the notice.

(4) Where compliance with the minimum period of 37 days in paragraph (3) above is rendered impracticable for reasons of urgency, the contracting authority may substitute a period of not less than 15 days and, in those circumstances, the contracting authority must send the invitation to negotiate the contract by the most rapid means possible.

(5) Where there is a sufficient number of persons who are suitable to be selected to negotiate the contract, the number selected to negotiate shall be not less than 3.

(6) A contracting authority shall not refuse to consider an application to be selected to negotiate if it is made by letter, telegram, telex, facsimile or by telephone provided that, in the last 4 cases, it is confirmed by letter before the date fixed by the contracting authority as the last date for the receipt of requests to be selected to negotiate.

(7) The contracting authority may exclude a contractor from those persons from whom it will make the selection of persons to be invited to negotiate the contract only if the supplier may be treated as ineligible on a ground specified in regulation 14 or if the contractor fails to satisfy the minimum standards of economic and financial standing and technical capacity required of contractors by the contracting authority; for this purpose the contracting authority shall make its evaluation in accordance with regulations 14, 15, 16 and 17.

---

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

(8) The contracting authority shall make the selection of the contractors to be invited to negotiate in accordance with regulations 14, 15, 16 and 17; and in making the selection and in issuing the invitations to negotiate the contracting authority shall not discriminate between contractors on the grounds of their nationality or the member State in which they are established.