
STATUTORY INSTRUMENTS

1993 No. 3228

The Public Services Contracts Regulations 1993

PART III

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

The restricted procedure

12.—(1) A contracting authority using the restricted procedure shall comply with the following paragraphs of this regulation.

(2) The contracting authority shall publicise its intention to seek offers in relation to the public services 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 C of Schedule 2, inviting requests to be selected to tender and containing the information therein specified.

(3) Subject to paragraph (15) below, the date which the contracting authority shall fix as the last date for the receipt by it of requests to be selected to tender shall be specified in the contract notice and shall not be less than 37 days from the date of the despatch of the notice.

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

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

(6) The contracting authority may predetermine the range within which the number of persons which it intends to invite to tender for the contract shall be fixed but only if—

- (a) the lower number of the range is not less than 5 and the higher number not more than 20,
- (b) the range is determined in the light of the nature of the services to be provided under the contract, and
- (c) the range is specified in the contract notice.

(7) The number of persons invited to tender shall be sufficient to ensure genuine competition.

(8) The contracting authority shall send invitations to each of the services providers selected to tender and the invitation shall be accompanied by the contract documents, or the invitation shall state the address for requesting them.

(9) The invitation shall be sent in writing simultaneously to each services provider selected to tender.

(10) The following information shall be included in the invitation—

- (a) the address to which requests for the contract documents (if not accompanying the invitation) and further information relating to those documents should be sent, the final date for making such a request and the amount and terms of the fee which may be charged for supplying that material;
- (b) the final date for the receipt of tenders, the address to which they must be sent and the language or languages in which they must be drawn up;
- (c) a reference to the contract notice published in accordance with paragraph (2) above;
- (d) an indication of the information to be included with the tender which the contracting authority may require to be provided in accordance with regulations 15, 16 and 17; and
- (e) the criteria for the award of the contract if this information was not specified in the contract notice published in accordance with paragraph (2) above.

(11) Subject to paragraphs (12) and (15) below, the date which the contracting authority shall fix as the last date for the receipt of tenders made in response to the invitation to tender which shall be specified in the invitation to tender in accordance with paragraph (10)(b) above shall not be less than 40 days from the date of the despatch of the invitation.

(12) Subject to paragraph (15) below, where the contracting authority has published a notice in accordance with regulation 9 above in relation to the category of services to be provided under the public services contract, it may substitute for the period of not less than 40 days in paragraph (11) above a period of not less than 26 days.

(13) If it is necessary that services providers should be given the opportunity to inspect the site in relation to which the services under the contract are to be provided or documents relating to the contract documents, then the minimum periods referred to in paragraphs (11) and (12) above shall be extended to allow for such inspection.

(14) Subject to paragraph (15) below, the contracting authority shall supply such further information relating to the contract documents as may reasonably be requested by a services provider selected to tender provided that the request for such information is received in sufficient time to enable the contracting authority to supply it not less than 6 days before the date specified in the invitation to tender as the final date for the receipt of tenders.

(15) Where compliance with the minimum periods referred to in paragraphs (3), (11), (12) and (14) above is rendered impracticable for reasons of urgency, the contracting authority may substitute for the period specified in paragraph (d) a period of not less than 15 days and for the period specified in paragraphs (11) and (12) periods of not less than 10 days and for the period specified in paragraph (14) a period of not less than 4 days and, in those circumstances, the contracting authority must send the invitation to tender by the most rapid means possible.

(16) A contracting authority shall not refuse to consider an application to be invited to tender for a contract if it is made by letter, telegram, telex, facsimile or telephone provided that, in the last 4 cases, it is confirmed by letter despatched before the date fixed by the contracting authority as the last date for the receipt of applications to be invited to tender for the contract.