



# Procurement Reform (Scotland) Act 2014

## 2014 asp 12

### PART 3

#### SPECIFIC DUTIES

##### *Giving of reasons*

#### 32 Giving of reasons to unsuccessful participants

- (1) This section applies to a regulated procurement (other than [F1 a higher value regulated procurement]).
- (2) A contracting authority must, as soon as reasonably practicable after deciding to exclude an economic operator from participating in the procurement process at any stage before the economic operator has submitted a tender, notify its decision to the economic operator.
- (3) A notice under subsection (2) must include the following information—
  - (a) the names of the economic operators who have not been so excluded,
  - (b) the criteria used to exclude the economic operator in question,
  - (c) the contracting authority's scoring (if any), against those criteria, of the economic operator.
- (4) A contracting authority must, as soon as reasonably practicable after deciding to award a contract, notify its decision to all unsuccessful tenderers.
- (5) A notice under subsection (4) must include the following information—
  - (a) the name of the successful tenderer,
  - (b) the criteria used to award the contract,
  - (c) the contracting authority's scoring, against those criteria, of the unsuccessful tenderer and the successful tenderer.

#### Textual Amendments

- F1** Words in s. 32(1) substituted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), regs. 1(2), **3(3)** (with sch. paras. 1-5)

*Changes to legislation: Procurement Reform (Scotland) Act 2014, Cross Heading: Giving of reasons is up to date with all changes known to be in force on or before 29 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

#### Commencement Information

**II** S. 32 in force at 18.4.2016 by [S.S.I. 2016/30](#), [art. 3](#) (with [art. 5](#))

### 33 Request for further information

- (1) The following persons may request further information in relation to a regulated procurement (other than <sup>F2</sup>a higher value regulated procurement)—
  - (a) an economic operator who was excluded from participating in the procurement process before it submitted a tender,
  - (b) an unsuccessful tenderer,
  - (c) the successful tenderer.
- (2) The request must be—
  - (a) in writing, and
  - (b) made before the end of the period of 30 days beginning on—
    - (i) in the case of a person mentioned in subsection (1)(a) or (b), the day the person received a notice under section 32,
    - (ii) in the case of the successful tenderer, the day on which it was notified of the decision to award the contract.
- (3) The contracting authority must, before the end of the period of 30 days beginning on the day it receives the request, provide the relevant information.
- (4) The relevant information is—
  - (a) in the case of an economic operator excluded from the participating in the procurement process, a summary of the reasons why the economic operator was excluded,
  - (b) in the case of an unsuccessful tenderer—
    - (i) a summary of the reasons why the tenderer was unsuccessful, and
    - (ii) the characteristics and relative advantages of the successful tender,
  - (c) in the case of the successful tenderer, a description of any improvements the contracting authority considers the tenderer could have made to its tender.

#### Textual Amendments

**F2** Words in s. 33(1) substituted (31.12.2020) by [The Public Procurement etc. \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/468\)](#), [regs. 1\(2\), 3\(3\)](#) (with [sch. paras. 1-5](#))

#### Commencement Information

**I2** S. 33 in force at 18.4.2016 by [S.S.I. 2016/30](#), [art. 3](#) (with [art. 5](#))

### 34 Withholding information

Despite sections 32 and 33, the contracting authority may withhold information from a person if it considers that disclosure would—

- (a) impede law enforcement or otherwise be contrary to the public interest,
- (b) prejudice the commercial interests of any person, or
- (c) prejudice fair competition between economic operators.

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**Changes to legislation:** Procurement Reform (Scotland) Act 2014, Cross Heading: Giving of reasons is up to date with all changes known to be in force on or before 29 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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#### Commencement Information

**I3**    [S. 34](#) in force at 18.4.2016 by [S.S.I. 2016/30](#), **art. 3** (with [art. 5](#))

**Changes to legislation:**

Procurement Reform (Scotland) Act 2014, Cross Heading: Giving of reasons is up to date with all changes known to be in force on or before 29 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act power to amend conferred by [2023 c. 54 s. 115\(3\)\(4\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. para. 40A inserted by [2023 asp 6 sch. 2 para. 5\(2\)](#)