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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 446**

**The Public Contracts (Scotland) Regulations 2015**

**PART 2**

**RULES IMPLEMENTING THE PUBLIC CONTRACTS DIRECTIVE**

**CHAPTER 2**

**RULES ON PUBLIC CONTRACTS**

*Choice of Participants and Awarding Contracts*

**General principles**

**57.—**(1) A contracting authority must award a contract or conclude a framework agreement on the basis of criteria laid down in accordance with regulations 67 to 69, provided that the contracting authority has verified in accordance with regulations 60 to 62 that—

- (a) the tender complies with the requirements, conditions and criteria set out in the contract notice or the invitation to confirm interest and in the procurement documents, taking into account, where applicable, regulation 46 (variants); and
- (b) the tenderer—
  - (i) is not excluded in accordance with regulation 58 (exclusion grounds);
  - (ii) meets the selection criteria set out by the contracting authority in accordance with regulation 59 (selection criteria); and
  - (iii) meets, where applicable, the non-discriminatory rules and criteria referred to in regulation 66 (reduction of the number of otherwise qualified candidates to be invited to participate).

(2) A contracting authority may decide not to award a contract to, or conclude a framework agreement with, the tenderer submitting the most economically advantageous tender where the authority has established that the tender does not comply with applicable obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Directive as amended from time to time.

(3) In open procedures, a contracting authority may decide to examine tenders before verifying the absence of grounds for exclusion and the fulfilment of the selection criteria in accordance with regulations 58 to 65.

(4) Where a contracting authority makes use of the possibility referred to in paragraph (3), the authority must ensure that the verification of absence of grounds for exclusion and of fulfilment of the selection criteria is carried out in an impartial and transparent manner so that no contract is awarded to, or framework agreement concluded with, a tenderer that—

- (a) should have been excluded under regulation 58 (exclusion grounds); or
- (b) does not meet the selection criteria set out by the contracting authority.

(5) Where information or documentation to be submitted by an economic operator is or appears to be incomplete or erroneous, or where specific documents are missing, a contracting authority may request the economic operator concerned to submit, supplement, clarify or complete the relevant information or documentation within an appropriate time limit, provided that such requests are made in full compliance with the principles of equal treatment and transparency.