
SCOTTISH STATUTORY INSTRUMENTS

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

Contract award criteria

67.—(1) A contracting authority—

- (a) must base the award of public contracts on the most economically advantageous tender assessed from the point of view of the contracting authority; and
- (b) may not use price only or cost only as the sole award criteria.

(2) A contracting authority must identify the most economically advantageous tender on the basis of the best price-quality ratio, which must be assessed on the basis of criteria linked to the subject-matter of the public contract in question and must include the price or cost, using a cost-effectiveness approach.

(3) A cost-effectiveness approach referred to in paragraph (2) may include life-cycle costing in accordance with regulation 68 (life-cycle costing).

(4) Criteria referred to in paragraph (2) may comprise or include—

- (a) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions;
- (b) organisation, qualification and experience of staff assigned to performing the contract, where the quality of the staff assigned can have a significant impact on the level of performance of the contract; or
- (c) after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion.

(5) The cost element may also take the form of a fixed price or cost on the basis of which economic operators will compete on quality criteria only.

(6) Award criteria must be considered to be linked to the subject-matter of the contract where they relate to the works, supplies or services to be provided under that contract in any respect and at any stage of their life cycle, including factors involved in—

- (a) the specific process of production, provision or trading of those works, supplies or services; or
- (b) a specific process for another stage of their life cycle,

even where such factors do not form part of their material substance.

(7) Award criteria must—

- (a) not have the effect of conferring an unrestricted freedom of choice upon the contracting authority;
- (b) ensure the possibility of effective competition; and
- (c) be accompanied by specifications that allow the information provided by the tenderers to be effectively verified in order to assess how well the tenders meet the award criteria.

(8) In case of doubt, the contracting authority must verify effectively the accuracy of the information and proof provided by the tenderers.

(9) The contracting authority must specify, in the procurement documents, the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender.

(10) The weightings referred to in paragraph (9) may be expressed by providing for a range with an appropriate maximum spread.

(11) Where weighting is not possible for objective reasons, the contracting authority must indicate the criteria in decreasing order of importance.