
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 446

The Public Contracts (Scotland) Regulations 2015

PART 2

RULES IMPLEMENTING THE PUBLIC CONTRACTS DIRECTIVE

CHAPTER 4

RECORDS AND REPORTS

Reporting and documentation requirements

83.—(1) Subject to paragraph (2), every contract or framework agreement covered by this Part, and every time a dynamic purchasing system is established, a contracting authority must draw up a written report which must include—

- (a) the name and address of the contracting authority, the subject-matter and value of the contract, framework agreement or dynamic purchasing system;
- (b) where applicable, the results of the qualitative selection and reduction of numbers pursuant to regulations 66 (reduction of the number of otherwise qualified candidates to be invited to participate) and 67 (contract award criteria), namely—
 - (i) the names of the selected candidates or tenderers and the reasons for their selection; and
 - (ii) the names of the candidates or tenderers rejected and the reasons for their rejection;
- (c) the reasons for the rejection of any tenders found to be abnormally low;
- (d) the name of the successful tenderer and the reasons why its tender was selected;
- (e) where known by the contracting authority—
 - (i) the share (if any) of the contract or framework agreement which the successful tenderer intends to subcontract to third parties; and
 - (ii) the names of the main contractor's subcontractors (if any);
- (f) for competitive procedures with negotiation and competitive dialogues, the circumstances as laid down in regulation 27 (choice of procedures) which justify the use of those procedures;
- (g) for negotiated procedures without prior publication, the circumstances referred to in regulation 33 (use of the negotiated procedure without prior publication) which justify the use of this procedure;
- (h) where applicable, the reasons why the contracting authority has decided not to award a contract or framework agreement or to establish a dynamic purchasing system;
- (i) where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders; and
- (j) where applicable, conflicts of interests detected and subsequent measures taken.

(2) A report referred to in paragraph (1) is not required in respect of contracts based on framework agreements where these are concluded in accordance with regulation 34(6) or (7)(a) (framework agreements).

(3) To the extent that the contract award notice drawn up in accordance with regulation 51 (contract award notices) or 75(3) (publication of notices) contains the information required in this paragraph, a contracting authority may refer to that notice.

(4) Where the Commission so requests, the contracting authority must communicate the report, or its main elements, to the Commission.

(5) Where the Scottish Ministers so request, the report, or its main elements, must be communicated to the Scottish Ministers or to such other body as the Scottish Ministers may direct in connection with any functions which that body exercises for the purposes of Article 83 of the Directive.

(6) A contracting authority must, for the purpose of enabling the Scottish Ministers to provide the Commission with information, send to the Scottish Ministers a report containing such other information as the Scottish Ministers may from time to time request in respect of procurements—

- (a) within the scope of this Part; or
- (b) which would have been within the scope of this Part if their value had exceeded the relevant threshold mentioned in regulation 5 (thresholds).

(7) A contracting authority must document the progress of all procurement procedures, whether or not those are conducted by electronic means.

(8) To that end, a contracting authority must ensure that the authority keeps sufficient documentation to justify decisions taken in all stages of the procurement procedure, such as documentation on—

- (a) communications with economic operators and internal deliberations;
- (b) preparation of the procurement documents;
- (c) dialogue or negotiation (if any);
- (d) selection and award of the contract.

(9) The documentation must be kept for a period of at least 3 years from the date of award of the contract.