
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 49

The Utilities Contracts (Scotland) Regulations 2016

PART 2

RULES APPLICABLE TO CONTRACTS

CHAPTER 3

CONDUCT OF THE PROCEDURE

SECTION 3

Choice of participants and award of contracts

SUB-SECTION 2 Award of the Contract

Contract award criteria

80.—(1) A utility must base the award of contracts on the most economically advantageous tender assessed from the point of view of the utility.

(2) Where the utility is a person mentioned in regulation 4(1)(a) (utilities) it must not use price only or cost only as the sole award criteria.

(3) A utility must identify the most economically advantageous tender on the basis of the price or cost using a cost-effectiveness approach (such as life-cycle costing in accordance with regulation 81 (life-cycle costing)) and may include the best price-quality ratio which must be assessed on the basis of criteria linked to the subject-matter of the contract in question.

(4) Criteria referred to in paragraph (3) 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; and
- (c) after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion and commitments with regard to parts and security of supply.

(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 utility;
- (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 utility must verify effectively the accuracy of the information and proof provided by the tenderers.

(9) The utility 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 utility must indicate the criteria in descending order of importance.