
STATUTORY INSTRUMENTS

2016 No. 273

The Concession Contracts Regulations 2016

PART 4

Rules on the performance of concession contracts

Subcontracting

Giving information to contracting authority or utility

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42.—(1) In the concession documents, the contracting authority or utility may ask the tenderer to indicate in its tender any share of the concession contract that it may intend to subcontract to third parties and any proposed subcontractors.

(2) Paragraph (1) is without prejudice to the question of the concessionaire's liability.

(3) In the case of a works concession contract and in respect of services to be provided at a facility under the oversight of the contracting authority or utility, after the award of the concession contract and at the latest when the performance of the concession contract commences, the contracting authority or utility shall require the concessionaire to notify to the contracting authority or utility the name, contact details and legal representatives of its subcontractors involved in such works or services, in so far as known at the time.

(4) The contracting authority or utility shall require the concessionaire to notify it of—

- (a) any changes to the information notified under paragraph (3) during the course of the concession contract; and
- (b) the name, contact details and legal representatives of any new subcontractors which it subsequently involves in such works or services.

(5) Paragraphs (3) and (4) do not apply to suppliers.

(6) Contracting authorities and utilities may extend the obligations provided for in paragraphs (3) and (4) to, for example—

- (a) services concession contracts (other than those concerning services to be provided at the facilities under the oversight of the contracting authority or utility) or suppliers involved in works concession contracts or services concession contracts;
- (b) subcontractors of the concessionaire's subcontractors or subcontractors further down the subcontracting chain.

Excluding subcontractors

(7) Contracting authorities and utilities may verify whether there are grounds for exclusion of subcontractors under regulation 38(8) to (25).

(8) In such cases, the contracting authority or utility—

- (a) shall require that the economic operator replaces a subcontractor in respect of which the verification has shown that there are compulsory grounds for exclusion; and
- (b) may require that the economic operator replaces a subcontractor in respect of which the verification has shown that there are non-compulsory grounds for exclusion.