

STATUTORY INSTRUMENTS

2016 No. 274

The Utilities Contracts Regulations 2016

PART 4

INFORMATION AND DOCUMENTATION

Retention of contract copies

98.—(1) Utilities that are contracting authorities shall, at least for the duration of the contract, keep copies of all concluded contracts with a value equal to or greater than—

- (a) [^{F1}£884,720] in the case of supply contracts or service contracts;
- (b) [^{F2}£8,847,200] in the case of works contracts.

(2) Contracting authorities shall grant access to those contracts, but access to specific documents or items of information may be denied to the extent and on the conditions provided for in the [^{F3}rules on access to documents and data protection applicable in the relevant part of the United Kingdom].

Textual Amendments

- F1** Sum in reg. 98(1)(a) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(57)(a)(i)** (with Sch. paras. 3-5)
- F2** Sum in reg. 98(1)(b) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(57)(a)(ii)** (with Sch. paras. 3-5)
- F3** Words in reg. 98(2) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(57)(b)** (with Sch. paras. 3-5)

Information and documentation requirements

Keeping of information

Keeping of information

99.—(1) Utilities shall keep appropriate information on each contract or framework agreement covered by these Regulations and each time a dynamic purchasing system is established.

(2) The information referred to in paragraph (1) shall be sufficient to permit utilities at a later date to justify decisions taken in connection with—

- (a) the qualification and selection of economic operators and the award of contracts;
- (b) the use of negotiated procedures without a call for competition in accordance with regulation 50;
- (c) the derogations provided for in Chapters 2 and 3 of Part 1 to these Regulations relating to Chapters 2 to 4 of Part 2 to these Regulations;

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(d) where necessary, the reasons why means of communication other than electronic means have been used for the submission of tenders.

(3) To the extent that the contract award notice drawn up in accordance with regulation [F433(b),] 70 or 91(3) contains the information required in this paragraph, utilities may refer to that notice.

Documentation of progress and decisions

(4) Utilities shall document the progress of all procurement procedures, whether or not the procedures are conducted by electronic means.

(5) To that end, utilities shall ensure that they keep sufficient documentation to justify decisions taken in all stages of the procurement procedure, such as documentation on—

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

(6) The documentation shall be kept for at least 3 years from the date of award of the contract.

Communication of information and documentation

[F5(7) A utility shall communicate the report, or its main elements—

- (a) to the Minister for the Cabinet Office if the Minister so requests;
- (b) where the utility is a devolved Welsh authority, to the Welsh Ministers if they so request (whether or not the Minister for the Cabinet Office also makes a request under sub-paragraph (a));
- (c) where the utility is a devolved Northern Ireland authority, to a Northern Ireland department if that department so requests (whether or not the Minister for the Cabinet Office also makes a request under sub-paragraph (a)).]

F6(8)

F7 ...

F7(9)

Textual Amendments	
F4	Word in reg. 99(3) inserted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 10(58)(a) (with Sch. paras. 3-5)
F5	Reg. 99(7) substituted (31.12.2020) by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 10(58)(b) (with Sch. paras. 3-5)
F6	Reg. 99(8) omitted (31.12.2020) by virtue of The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 10(58)(c) (with Sch. paras. 3-5)
F7	Reg. 99(9) and cross-heading omitted (31.12.2020) by virtue of The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1319), regs. 1(2), 10(58)(d) (with Sch. paras. 3-5)

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 54 Sch. 11 para. 7](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 20(2)(2A) substituted for reg. 20(2) by [2024 c. 6 Sch. para. 9\(3\)](#)
- reg. 20(5) inserted by [2024 c. 6 Sch. para. 9\(6\)](#)
- reg. 21(1)(c)(i)(aa) words substituted by [S.I. 2019/560 reg. 9\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 21(1)(c)(i)(bb) words substituted by [S.I. 2019/560 reg. 9\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Affecting Regulations revoked (20.11.2020) by S.I. 2020/1319, regs. 1(3), 2(a))
- reg. 70(2)(a)(iiia) inserted by [2024 c. 6 Sch. para. 10](#)