
STATUTORY INSTRUMENTS

2016 No. 274

The Utilities Contracts Regulations 2016

PART 5

REMEDIES

CHAPTER 1

FACILITATION OF REMEDIES

Notices of decisions to award a contract or conclude a framework agreement

101.—(1) Subject to paragraphs (5) and (6), a utility shall send to each candidate and tenderer a notice communicating its decision to award the contract or conclude a framework agreement.

Content of notices

- (2) Where it is to be sent to a tenderer, the notice referred to in paragraph (1) shall include—
- (a) the criteria for the award of the contract;
 - (b) the reasons for the decision, including the characteristics and relative advantages of the successful tender, the score (if any) obtained by—
 - (i) the tenderer which is to receive the notice, and
 - (ii) the tenderer—
 - (aa) to be awarded the contract, or
 - (bb) to become a party to the framework agreement,and anything required by paragraph (3);
 - (c) the name of the tenderer—
 - (i) to be awarded the contract, or
 - (ii) to become a party to the framework agreement; and
 - (d) a precise statement of either—
 - (i) when, in accordance with regulation 102, the standstill period is expected to end and, if relevant, how the timing of its ending might be affected by any and, if so what, contingencies; or
 - (ii) the date before which the utility will not, in conformity with regulation 102, enter into the contract or conclude the framework agreement.
- (3) The reasons referred to in paragraph (2)(b) shall include the reason for any decision by the utility that the economic operator did not meet the technical specifications—
- (a) in an equivalent manner as mentioned in regulation 60(13); or
 - (b) because compliance with a standard, approval, specification or system mentioned in regulation 60(14) does not address the performance or functional requirements laid down by the utility.

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- (4) Where it is to be sent to a candidate, the notice referred to in paragraph (1) shall include—
- (a) the reasons why the candidate was unsuccessful; and
 - (b) the information mentioned in paragraph (2), but as if the words “and relative advantages” were omitted from sub-paragraph (b).

Exemptions

- (5) A utility need not comply with paragraph (1) in any of the following cases—
- (a) where the contract or framework agreement is permitted by these Regulations to be awarded without a call for competition;
 - (b) where the only tenderer is the one who is to be awarded the contract or who is to become a party to the framework agreement, and there are no candidates;
 - (c) where a utility awards a contract under a framework agreement or a dynamic purchasing system.
- (6) A utility may withhold any information to be provided in accordance with the preceding requirements of this regulation where the release of such information—
- (a) would impede law enforcement or would otherwise be contrary to the public interest;
 - (b) would prejudice the legitimate commercial interests of any economic operator; or
 - (c) might prejudice fair competition between economic operators.

Meaning of “candidate” and “tenderer”

- (7) In this regulation—
- (a) “candidate” means a candidate, as defined in regulation 2(1), which—
 - (i) is not a tenderer, and
 - (ii) has not been informed of the rejection of its application and the reasons for it;
 - (b) “tenderer” means a tenderer, as defined in regulation 2(1), which has not been definitively excluded.
- (8) For the purposes of paragraph (7)(b), an exclusion is definitive if, and only if, the tenderer has been notified of the exclusion and either—
- (a) the exclusion has been held to be lawful in proceedings under Chapter 2 of this Part; or
 - (b) the time limit for starting such proceedings has expired even on the assumption that the Court would have granted the maximum extension permitted by regulation 107(4) and (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](#)