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STATUTORY INSTRUMENTS

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**2016 No. 274**

**The Utilities Contracts Regulations 2016**

**PART 2**

**RULES APPLICABLE TO CONTRACTS**

**CHAPTER 2**

Techniques and instruments for electronic and aggregated procurement

**Electronic catalogues**

*Generally*

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**54.**—(1) Where the use of electronic means of communication is required, utilities may require tenders to be presented in the format of an electronic catalogue or to include an electronic catalogue.

(2) Tenders presented in the form of an electronic catalogue may be accompanied by other documents, completing the tender.

(3) Electronic catalogues shall be established by the candidates or tenderers with a view to participating in a given procurement procedure in accordance with the technical specifications and format established by the utility.

(4) Electronic catalogues shall also comply with the requirements for electronic communication tools set out in regulation 40 as well as with any additional requirements set by the utility in accordance with that regulation.

(5) Where the presentation of tenders in the form of electronic catalogues is accepted or required, utilities shall—

- (a) state so in the contract notice, in the invitation to confirm interest, or, where the means of calling for competition is a notice on the existence of a qualification system, in the invitation to tender or negotiate; and
- (b) indicate in the procurement documents all the necessary information relating to the matters covered by regulation 40(16) to (20) so far as they concern the format, the electronic equipment used and the technical connection arrangements and specifications for the catalogue.

*Framework agreements*

(6) Where a framework agreement has been concluded with more than one economic operator following the submission of tenders in the form of electronic catalogues, utilities may provide that the reopening of competition for specific contracts is to take place on the basis of updated catalogues.

(7) In such a case, utilities shall use one of the following methods—

- (a) invite tenderers to resubmit their electronic catalogues, adapted to the requirements of the contract in question; or

- (b) notify tenderers that they intend to collect from the electronic catalogues which have already been submitted the information needed to constitute tenders adapted to the requirements of the contract in question, provided that the use of that method has been indicated in the procurement documents for the framework agreement.
- (8) Where utilities reopen competition for specific contracts in accordance with paragraph (7)(b), they shall—
  - (a) notify the tenderers of the date and time at which they intend to collect the information needed to constitute tenders adapted to the requirements of the specific contract in question, and
  - (b) give tenderers the possibility to refuse such collection of information.
- (9) Utilities shall allow for an adequate period between the notification and the actual collection of information.
- (10) Before awarding the contract, utilities shall present the collected information to the tenderer concerned so as to give it the opportunity to contest or confirm that the tender thus constituted does not contain any material errors.

*Dynamic purchasing systems*

- (11) Utilities may award contracts based on a dynamic purchasing system by requiring that offers for a specific contract are to be presented in the format of an electronic catalogue.
- (12) Utilities may also award contracts based on a dynamic purchasing system in accordance with paragraphs (7)(b) and (8) to (10) provided that the request to participate in the dynamic purchasing system is accompanied by an electronic catalogue in accordance with the technical specifications and format established by the utility.
- (13) For the purposes of paragraph (12), the catalogue shall be completed subsequently by the candidates, when they are informed of the utility's intention to constitute tenders by means of the procedure set out in paragraph (7)(b).