

# COMPETITIVE PROCEDURE WITH NEGOTIATION

Reg 30 of the Public Contracts (Scotland) Regulations 2015

## RULES/REQUIREMENTS

The contract notice/call for competition must be sufficiently precise to allow Economic Operators to:

- identify the nature and scope of the procurement;
- decide whether to request to participate.

The procurement documents must:

- identify the subject matter of the procurement by describing the Contracting Authority's needs;
- specify both the criteria for qualitative selection and the award criteria.

Request must be accompanied by information for qualitative selection (in the form of the Single Procurement)

On assessment of the qualitative selection information, the Contracting Authority may limit the number of suitable candidates to be invited, provided:

- the limitation was indicated in the contract notice;
- there are at least three candidates invited;
- there are sufficient candidates to ensure genuine competition.

Contracting Authority may award a contract on the basis of the initial tender **without negotiation** where it has indicated in the contract notice or ITT that it reserves the possibility of doing so.

Contracting Authority must not:

- negotiate the minimum requirements or the award criteria;
- provide information in a discriminatory manner;
- reveal confidential information of other Economic Operators.

Contracting Authority must:

- ensure equal treatment of all tenderers;
- inform all active tenderers of any changes to the technical specification or other procurement documents.

This can only be done if the Contracting Authority has indicated in procurement documents that it is proceeding this way.

Only the award criteria specified in the contract notice and/or descriptive document can be used to reduce the number of tenderers.

Contracting Authority must verify that final tenders are in conformity with the minimum requirements and general principles. It must then evaluate against award criteria to identify the most economically advantageous tender ("MEAT"), on the basis of best price - quality ratio.

Standstill letter must include: (a) the award criteria; (b) where practicable, the score obtained by the economic operator which is to receive the notice; (c) the name of and, where practicable, the score obtained by the successful party; (d) in the case of an unsuccessful tenderer/candidate, a summary of the reasons why they were unsuccessful and the characteristics and relative advantages of the successful tender; and (f) a precise statement of the effect of the standstill period.

## STAGE

Contract notice / call for competition issued by Contracting Authority.

Economic Operator submits request to participate.

Contracting Authority issues Invitation to Tender ("ITT").

Economic Operators submit initial tenders.

Negotiations between Contracting Authority and those Economic Operators.

A Contracting Authority may conduct negotiations in successive stages, in order to reduce the number of tender to be negotiated.

Decision to award contract to MEAT.

Contracting Authority issues notice (known as the "Standstill Letter") to all tenderers and candidates informing them of its decision.

Contracting Authority enters into contract.

Contract award notice published on Public Contracts Scotland.

## TIMEFRAME

Minimum period for receipt of requests to participate is 30 days from date of publication of call for competition.

Where 30 days is rendered impracticable by a state of urgency, a time limit may be set of not less than 15 days from the date the contract notice was sent.

Minimum time period for receipt of initial tenders:

- Ordinarily, 30 days from date on which ITT was sent;
- Where tenders are permitted to be submitted electronically, 25 days from date on which ITT was sent;
- Where a PIN was published which was not itself the call for competition, minimum of 10 days from the date on which ITT was sent;
- By mutual agreement.

When Contracting Authority intends to conclude negotiations, it must inform all remaining tenderers and invite final tenders to be submitted.

Where the time limit is rendered impracticable by a state of urgency, a time limit may be set of 10 days from the date on which the ITT was sent.

Submission of final tenders.

Notice must be issued as soon as possible after the decision is made.

A "standstill period" must be allowed between the date that a (compliant) Standstill Letter is sent and the date of entry into the contract:

- where the notice is sent electronically, the standstill period is 10 days;
- otherwise, the standstill period is 15 days.

Not later than 30 days after the award of contract.