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STATUTORY INSTRUMENTS

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**2015 No. 102**

**The Public Contracts Regulations 2015**

**PART 3**

**REMEDIES**

**CHAPTER 5**

**FACILITATION OF REMEDIES**

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

**86.**—(1) Subject to paragraphs (5) and (6), a contracting authority shall send to each candidate and tenderer a notice communicating its decision to award the contract or conclude the 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 87, 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 contracting authority will not, in conformity with regulation 87 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 contracting authority that the economic operator did not meet the technical specifications—
- (a) in an equivalent manner as mentioned in regulation 42(14); or

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**Changes to legislation:** The Public Contracts Regulations 2015, Section 86 is up to date with all changes known to be in force on or before 12 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (b) because compliance with a standard, approval, specification or system mentioned in regulation 42(15) does not address the performance or functional requirements laid down by the contracting authority.
- (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 contracting authority need not comply with paragraph (1) in any of the following cases:—
  - (a) where the contract or framework agreement is permitted by Part 2 to be awarded or concluded without prior publication of a contract notice;
  - (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 the contracting authority awards a contract under a framework agreement or a dynamic purchasing system.
- (6) A contracting authority 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 a particular economic operator, whether public or private; 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 6; 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 92(4) and (5).

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 54 Sch. 11 para. 5](#)

**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. 6(15A) words omitted by [S.I. 2023/506 reg. 2\(3\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). S.I. 2023/506 revoked before coming into force by The Public Procurement (International Trade Agreements) (Amendment) (Wales) (No. 2) Regulations 2023 (S.I. 2023/567), regs. 1(2), 6)
- reg. 10(1)(d)(i)(aa) words substituted by [S.I. 2019/560 reg. 5\(9\)\(a\)\(i\)](#) (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. 10(1)(d)(i)(bb) words substituted by [S.I. 2019/560 reg. 5\(9\)\(a\)\(ii\)](#) (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. 18(4) words omitted by [S.I. 2023/506 reg. 2\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). S.I. 2023/506 revoked before coming into force by The Public Procurement (International Trade Agreements) (Amendment) (Wales) (No. 2) Regulations 2023 (S.I. 2023/567), regs. 1(2), 6)