



Defence Reform Act 2014

2014 CHAPTER 20

PART 2

SINGLE SOURCE CONTRACTS

Pricing of contracts

17 Contract profit rate

- (1) Single source contract regulations must make provision for determining the contract profit rate for a qualifying defence contract.
- (2) The regulations must provide for the determination to be made by taking the following sequence of steps, subject to section 18(2)—

Step 1

Take the baseline profit rate (see section 19) which is in force at the relevant time.

“The relevant time” means—

- (a) in a case within section 15(2)—
 - (i) when the contract is entered into, if the contract is a qualifying defence contract by virtue of section 14(3), or
 - (ii) when the contract is amended, if the contract is a qualifying defence contract by virtue of section 14(4) or (5);
- (b) in a case within section 15(3), when the contract is amended.

Step 2

Adjust that rate by an agreed amount, being an amount falling within specified parameters above or below the baseline profit rate, so as to reflect the risk of the primary contractor’s actual allowable costs under the contract differing from its estimated allowable costs.

“Specified” means specified in the regulations.

Step 3

Status: This is the original version (as it was originally enacted).

Deduct an agreed amount from the amount resulting from step 2, so as to ensure that profit arises only once in relation to those allowable costs under the contract in respect of which the regulations provide that a deduction may be made (and see section 20 as to allowable costs).

Step 4

Deduct the SSRO funding adjustment (see section 19) which is in force at the time mentioned in step 1 from the amount resulting from step 3.

Step 5

Where the Secretary of State determines that the amount resulting from step 4 should be increased so as to give the primary contractor a particular financial incentive as regards the performance of provisions of the contract specified by the Secretary of State, increase that amount by an amount specified by the Secretary of State.

Any increase must not exceed the maximum increase permitted by the regulations.

Step 6

Take the amount resulting from step 5 and add to or subtract from it an agreed amount, so as to ensure that the primary contractor receives an appropriate and reasonable return on the fixed and working capital employed by the primary contractor for the purposes of enabling the primary contractor to perform the contract.

This adjustment—

- (a) is to be made having regard to the capital servicing rates determined under section 19, but
- (b) does not apply to the extent that the costs of the fixed and working capital employed by the primary contractor are allowable costs under the contract.

(3) The contract profit rate is—

- (a) the amount found at the end of step 6 in subsection (2), or
- (b) in a case where step 6 is disapplied under section 18(2)(a), the amount found at the end of the last of the steps in subsection (2) that apply in that case.

(4) For the purposes of subsection (2)—

- (a) “agreed” means agreed by the Secretary of State, or an authorised person, and the primary contractor;
- (b) the adjustment agreed under step 2, 3 or 6 may be zero.