



# Defence Reform Act 2014

## 2014 CHAPTER 20

### PART 2

#### SINGLE SOURCE CONTRACTS

##### *Sub-contracts*

#### **29 Determining whether a contract is a qualifying sub-contract**

- (1) Single source contract regulations may provide that where—
- (a) a primary contractor proposes to enter into a contract with another person (the “prospective sub-contractor”), and
  - (b) the proposed contract involves the provision by the prospective sub-contractor of anything for the purposes of a qualifying defence contract to which the primary contractor is a party,
- the primary contractor must assess whether the proposed contract would be a qualifying sub-contract if it were entered into.
- (2) The regulations may require the primary contractor—
- (a) to keep a record of an assessment made by virtue of subsection (1), for the purpose of its inclusion in the records which the primary contractor would be required to keep in relation to the proposed contract, by virtue of section 23(3)(d) (records relating to whether a contract is a qualifying sub-contract), if the contract were entered into;
  - (b) where the assessment is that the proposed contract would be a qualifying sub-contract if it were entered into, to give notice in writing of that fact to the Secretary of State, an authorised person and the prospective sub-contractor.
- (3) Single source contract regulations may provide that where—
- (a) a person (“the prospective primary contractor”) proposes to enter into a qualifying defence contract with the Secretary of State (“the proposed qualifying defence contract”),

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*Status: This is the original version (as it was originally enacted).*

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- (b) the prospective primary contractor also proposes to enter into a contract (“the proposed sub-contract”) with another person (“the prospective sub-contractor”), and
- (c) the proposed sub-contract involves the provision by the prospective sub-contractor of anything for the purposes of the proposed qualifying defence contract,

the prospective primary contractor must assess whether the proposed sub-contract would be a qualifying sub-contract if it and the proposed qualifying defence contract were entered into.

- (4) The regulations may require the prospective primary contractor—
  - (a) to keep a record of an assessment made by virtue of subsection (3), for the purpose of its inclusion in the records which the prospective primary contractor would be required to keep, by virtue of section 23(3)(d), if the proposed contracts were entered into;
  - (b) where the assessment is that the proposed sub-contract would be a qualifying sub-contract if it and the proposed qualifying defence contract were entered into, to give notice in writing of that fact to the Secretary of State, an authorised person and the prospective sub-contractor.
- (5) Single source contract regulations may contain provision—
  - (a) in relation to a case where an assessment is made by virtue of subsection (1), entitling the prospective sub-contractor to appeal to the SSRO against an assessment that a proposed contract would be a qualifying sub-contract if it were entered into;
  - (b) in relation to a case where an assessment is made by virtue of subsection (3), entitling the prospective sub-contractor to appeal to the SSRO against an assessment that the proposed sub-contract would be a qualifying sub-contract if it and the proposed qualifying defence contract were entered into.
- (6) The regulations must contain provision about the procedure to be followed by the SSRO in determining an appeal by virtue of subsection (5).