

---

STATUTORY INSTRUMENTS

---

**1993 No. 3228**

**The Public Services Contracts Regulations 1993**

**PART IV**

**SELECTION OF SERVICES PROVIDERS**

**Information as to ability and technical capacity**

**16.**—(1) Subject to regulation 18, in assessing whether or not a services provider meets any minimum standards of ability and technical capacity required of services providers by the contracting authority for the purposes of regulations 11(8), 12(4) and 13(7), and in selecting the services providers to be invited to tender for or to negotiate the contract in accordance with regulations 12(5) and 13(8), a contracting authority may have regard to—

- (a) the services provider's ability, taking into account in particular his skills, efficiency, experience and reliability; and
- (b) his technical capacity, taking into account any of the following—
  - (i) the services provider's educational and professional qualifications where the services provider is an individual and the qualifications of the services provider's managerial staff if any and those of the person or persons who would be responsible for providing the services under the contract;
  - (ii) the principal services provided by the services provider of a similar type to the services to be provided under the contract in the past 3 years, the dates on which the services were provided, the consideration received and the identity of the person to whom the services were provided, any certificate issued or countersigned by that person confirming the details of the services provided or, but only where that person was not a contracting authority, any declaration by the services provider attesting the details of the services provided;
  - (iii) the technicians or technical bodies who would be involved in the provision of the services under the contract, particularly those responsible for quality control whether or not they are independent of the services provider;
  - (iv) the services provider's average annual manpower and the number of managerial staff over the previous 3 years;
  - (v) the tools, plant and technical equipment available to the services provider for providing the services under the contract;
  - (vi) the services provider's measures for ensuring quality and his study and research facilities in relation to the services to be provided under the contract;
  - (vii) where the services to be provided under the contract are complex or are required for a special purpose, any check, carried out by the contracting authority or on its behalf by a competent official body of the member State in which the services provider is established, on the technical capacity of the services provider in relation to the services to be provided under the contract and, if relevant, on the services provider's study and research facilities and quality control measures;

- (viii) any certificate that the services of the services provider to be provided under the contract conform to BS 5750 or any certificate of an independent body established in any member State conforming to the EN 45 000 European standards series attesting conformity to relevant quality assurance standards based on the EN 29 000 series, or where the services provider has no access to such a certificate, or cannot obtain such a certificate within the relevant time limits, any other evidence of conformity to equivalent quality assurance standards;
- (ix) any proportion of the contract which the services provider intends to sub-contract to another person.

(2) The contracting authority shall specify in the contract notice or in the invitation to tender or to negotiate what information, for the purposes of making the assessment or selection for the purposes of paragraph (1) above, it requires to be provided and it may require a services provider to provide such of that information as it considers it needs to make the assessment or selection.