

STATUTORY INSTRUMENTS

2016 No. 274

The Utilities Contracts Regulations 2016

PART 1

GENERAL

CHAPTER 3

MATERIAL SCOPE

SECTION 1

Thresholds

Threshold amounts

16.—(1) These Regulations apply to procurements with a value [^{F1}inclusive] of VAT estimated to be equal to or greater than the following thresholds—

- (a) for supply and service contracts and design contests, [^{F2}£429,809];
- (b) for works contracts, [^{F3}£5,372,609];
- (c) for contracts for social and other specific services listed in Schedule 2, [^{F4}£884,720].

(2) The thresholds referred to in paragraph (1) do not apply to procurements excluded by regulations 18 to 23 or regulation 34.

^{F5}(3)

^{F5}(4)

Textual Amendments

- F1** Word in reg. 16(1) substituted (1.1.2022) by [The Public Procurement \(Agreement on Government Procurement\) \(Thresholds\) \(Amendment\) Regulations 2021 \(S.I. 2021/1221\)](#), regs. 1(1), **5(3)(a)** (with reg. 7)
- F2** Sum in Reg. 16(1)(a) substituted (1.1.2024) by [The Public Procurement \(Agreement on Government Procurement\) \(Thresholds\) \(Amendment\) Regulations 2023 \(S.I. 2023/1117\)](#), regs. 1(1), **4(2)(a)** (with reg. 5)
- F3** Sum in Reg. 16(1)(b) substituted (1.1.2024) by [The Public Procurement \(Agreement on Government Procurement\) \(Thresholds\) \(Amendment\) Regulations 2023 \(S.I. 2023/1117\)](#), regs. 1(1), **4(2)(b)** (with reg. 5)
- F4** Sum in reg. 16(1)(c) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(6)(c)** (with Sch. paras. 3-5)
- F5** Reg. 16(3)(4) omitted (31.12.2020) by virtue of [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(6)(d)** (with Sch. paras. 3-5)

[^{F6}Review and amendment of certain thresholds

16A.—(1) Every two years the Minister for the Cabinet Office must review the thresholds mentioned in regulation 16(1)(a) and (b) (“the reviewable thresholds”) to verify whether they correspond with the thresholds established for those purposes in the GPA.

(2) The Minister must do so by calculating the sterling value of each of the reviewable thresholds on the basis of the average daily value of sterling in terms of the special drawing rights mentioned in the GPA over a period of 24 months ending with 31st August.

(3) The Minister must make that calculation using the applicable conversion rates in the monthly International Financial Statistics published from time to time by the International Monetary Fund.

(4) If the sterling value of a reviewable threshold so calculated differs from the sum for the time being mentioned in regulation 16(1) in respect of that threshold, the Minister must make regulations amending regulation 16(1) so as to substitute for that sum the sum equal to that value.

(5) Such regulations—

(a) must be made and laid before Parliament before 1st November following the end of the 24-month period covered by the review; and

(b) must provide for the substitution to come into force on the following 1st January.

(6) The first review under this regulation must relate to the 24-month period ending with 31st August 2021.]

Textual Amendments

F6 Reg. 16A inserted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(7)** (with Sch. paras. 3-5)

Methods for calculating the estimated value of the procurement

General rules

General rules

17.—(1) The calculation of the estimated value of the procurement shall be based on the total amount payable, [^{F7}inclusive] of VAT, as estimated by the utility, including any form of option and any renewals of the contracts as explicitly set out in the procurement documents.

(2) Where the utility provides for prizes or payments to candidates or tenderers it shall take them into account when calculating the estimated value of the procurement.

(3) Where a utility is comprised of separate operational units, account shall be taken of the total estimated value for all those units.

(4) But where a separate operational unit is independently responsible for its procurement, or certain categories of its procurement, the values may be estimated at the level of the unit in question.

(5) The choice of the method used to calculate the estimated value of a procurement shall not be made with the intention of excluding it from the scope of these Regulations.

(6) A procurement shall not be subdivided with the effect of preventing it from falling within the scope of these Regulations, unless justified by objective reasons.

(7) The estimated value shall be calculated as at the moment at which the call for competition is [^{F8}submitted] or, in cases where such call for competition is not foreseen, at the moment at which the utility commences the procurement procedure (for example, where appropriate, by contacting economic operators in relation to the procurement).

(8) In the case of framework agreements and dynamic purchasing systems, the value to be taken into consideration shall be the maximum estimated value, [^{F9}inclusive] of VAT, of all the contracts envisaged for the total term of the framework agreement or the dynamic purchasing system.

(9) In the case of innovation partnerships, the value to be taken into consideration shall be the maximum estimated value, [^{F10}inclusive] of VAT, of the research and development activities to take place during all stages of the envisaged partnership as well as of the supplies, services or works to be developed and procured at the end of the envisaged partnership.

(10) In the case of public works contracts, utilities shall include in the estimated value of a works contract both the cost of the works and the total estimated value of any supplies or services that are made available to the contractor by the utilities provided that they are necessary for the execution of the works.

Treatment of Lots

(11) Where a proposed work or a proposed provision of services may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots.

(12) Where a proposal for the acquisition of similar supplies may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots when applying regulation 16(1)(b) and (c).

(13) For the purposes of paragraphs (11) and (12), where the aggregate value of the lots is equal to or greater than the relevant threshold mentioned in regulation 16, these Regulations apply to the awarding of each lot.

(14) Despite paragraphs (11) to (13), utilities may, subject to [^{F11}paragraphs (15) and (15A)], award contracts for individual lots without applying the procedures provided for in these Regulations, but only if the estimated value [^{F12}inclusive] of VAT of the lot concerned is less than—

- (a) [^{F13}£70,778] for supplies or services; or
- (b) [^{F14}£884,720] for works.

(15) The aggregate value of the lots awarded in reliance on paragraph (14) shall not exceed 20% of the aggregate value of all the lots into which the proposed work, the proposed acquisition of similar supplies or the proposed provision of services, has been divided.

[^{F15}(15A) Where a utility ^{F16}... is unable to estimate in accordance with this regulation the value of one or more lots into which a proposed work, proposed acquisition of similar supplies or proposed provision of services has been divided, the aggregate value of the lots awarded in reliance on paragraph (14) shall not exceed 20 per cent of the aggregate value of all the lots that can be so estimated.]

Other specific rules

(16) In the case of supply or service contracts which are regular in nature or which are intended to be renewed within a given period, the calculation of the estimated contract value shall be based on either of the following—

- (a) the total actual value of the successive contracts of the same type awarded during the preceding 12 months or financial year adjusted, where possible, to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract;
- (b) the total estimated value of the successive contracts awarded during the 12 months following the first delivery, or during the financial year where that is longer than 12 months.

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(17) In the case of supply contracts relating to the leasing, hire, rental or hire purchase of products, the value to be taken as a basis for calculating the estimated contract value shall be as follows—

- (a) in the case of fixed-term contracts, where that term is less than or equal to 12 months, the total estimated value for the term of the contract or, where the term of the contract is greater than 12 months, the total value including the estimated residual value;
- (b) in the case of contracts without a fixed term or contracts the term of which cannot be defined, the monthly value multiplied by 48.

(18) In the case of service contracts, the basis for calculating the estimated contract value shall, where appropriate, be the following:—

- (a) in the case of insurance services, the premium payable and other forms of remuneration;
- (b) in the case of banking and other financial services, the fees, commissions payable, interest and other forms of remuneration;
- (c) in the case of design contracts, fees, commissions payable and other forms of remuneration.

(19) In the case of service contracts which do not indicate a total price, the basis for calculating the estimated contract value shall be the following—

- (a) in the case of fixed-term contracts where that term is less than or equal to 48 months, the total value for their full term;
- (b) in the case of contracts without a fixed term or with a term greater than 48 months, the monthly value multiplied by 48.

[^{F17}(20) If a utility ^{F18}... is unable to estimate the value of a procurement in accordance with this regulation, the estimated value of the procurement inclusive of VAT is deemed to be equal to the relevant threshold amount in regulation 16 (threshold amounts).]

Textual Amendments

- F7** Word in reg. 17(1) substituted (1.1.2022) by [The Public Procurement \(Agreement on Government Procurement\) \(Thresholds\) \(Amendment\) Regulations 2021 \(S.I. 2021/1221\)](#), regs. 1(1), **5(3)(b)(i)** (with reg. 7)
- F8** Word in reg. 17(7) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(8)(a)** (with Sch. paras. 3-5)
- F9** Word in reg. 17(8) substituted (1.1.2022) by [The Public Procurement \(Agreement on Government Procurement\) \(Thresholds\) \(Amendment\) Regulations 2021 \(S.I. 2021/1221\)](#), regs. 1(1), **5(3)(b)(ii)** (with reg. 7)
- F10** Word in reg. 17(9) substituted (1.1.2022) by [The Public Procurement \(Agreement on Government Procurement\) \(Thresholds\) \(Amendment\) Regulations 2021 \(S.I. 2021/1221\)](#), regs. 1(1), **5(3)(b)(iii)** (with reg. 7)
- F11** Words in reg. 17(14) substituted (25.5.2023) by [The Public Procurement \(International Trade Agreements\) \(Amendment\) Regulations 2023 \(S.I. 2023/484\)](#), regs. 1(2), **4(3)(a)** (with reg. 5)
- F12** Word in reg. 17(14) substituted (1.1.2022) by [The Public Procurement \(Agreement on Government Procurement\) \(Thresholds\) \(Amendment\) Regulations 2021 \(S.I. 2021/1221\)](#), regs. 1(1), **5(3)(b)(iv)** (with reg. 7)
- F13** Sum in reg. 17(14)(a) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(8)(b)(i)** (with Sch. paras. 3-5)
- F14** Sum in reg. 17(14)(b) substituted (31.12.2020) by [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1319\)](#), regs. 1(2), **10(8)(b)(ii)** (with Sch. paras. 3-5)
- F15** Reg. 17(15A) inserted (25.5.2023) by [The Public Procurement \(International Trade Agreements\) \(Amendment\) Regulations 2023 \(S.I. 2023/484\)](#), regs. 1(2), **4(3)(b)** (with reg. 5)

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- F16** Words in reg. 17(15A) omitted (W.) (26.5.2023) by virtue of The Public Procurement (International Trade Agreements) (Amendment) (Wales) (No. 2) Regulations 2023 (S.I. 2023/567), regs. 1(2), **4(3)(a)** (with reg. 5)
- F17** Reg. 17(20) inserted (25.5.2023) by The Public Procurement (International Trade Agreements) (Amendment) Regulations 2023 (S.I. 2023/484), regs. 1(2), **4(3)(c)** (with reg. 5)
- F18** Words in reg. 17(20) omitted (W.) (26.5.2023) by virtue of The Public Procurement (International Trade Agreements) (Amendment) (Wales) (No. 2) Regulations 2023 (S.I. 2023/567), regs. 1(2), **4(3)(b)** (with reg. 5)

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 54 Sch. 11 para. 7](#)

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. 20(2)(2A) substituted for reg. 20(2) by [2024 c. 6 Sch. para. 9\(3\)](#)
- reg. 20(5) inserted by [2024 c. 6 Sch. para. 9\(6\)](#)
- reg. 21(1)(c)(i)(aa) words substituted by [S.I. 2019/560 reg. 9\(12\)\(a\)\(i\)](#) (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. 21(1)(c)(i)(bb) words substituted by [S.I. 2019/560 reg. 9\(12\)\(a\)\(ii\)](#) (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. 70(2)(a)(iiia) inserted by [2024 c. 6 Sch. para. 10](#)