

Draft Order laid before Parliament under section 77 of the Deregulation and Contracting Out Act 1994, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

LONDON GOVERNMENT

CONTRACTING OUT

The Transport for London (Best Value) (Contracting
Out of Investment and Highway Functions) Order 2005

Made - - - - - xxxx
Coming into force - - - - - xxxx

This Order is made in exercise of the powers conferred by section 70 of the Deregulation and Contracting Out Act 1994(1) as applied in relation to functions of a best value authority by section 18 of the Local Government Act 1999(2).

Before making this Order the First Secretary of State consulted with such representatives of local government as he considered appropriate.

The First Secretary of State considers the provision made by this Order to be necessary or expedient for the purpose of permitting or facilitating compliance by Transport for London with the requirements of Part 1 of the Local Government Act 1999.

In accordance with section 77(2) of the Deregulation and Contracting Out Act 1994 a draft of this Order was laid before and approved by resolution of each House of Parliament.

The First Secretary of State makes the following Order:

Citation and commencement

1. This Order may be cited as the Transport for London (Best Value) (Contracting Out of Investment and Highway Functions) Order 2005 and shall come into force on the day after the day on which it is made.

(1) 1994 c. 40. Section 70 was amended by section 40 of and Schedule 34 to the Greater London Act 1999 (c.29) and article 29 of the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001 (S.I. 2001/2237) and article 28 of the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (Wales) Order 2002 (S.I. 2002/808).

(2) 1999 c. 27. Transport for London is a best value authority for the purposes of Part 1, by virtue of section 1.

Contracting out of investment functions

2.—(1) The functions of Transport for London consisting of, or relating to, the investment of any sum for the time being held by it may, subject to the following paragraphs, be exercised by, or by the employees of, such person (if any) as may be authorised by Transport for London to do so.

(2) The investment referred to in paragraph (1) must be an investment which, if made by Transport for London, would be permitted by virtue of section 12 of the Local Government Act 2003 (power to invest).

(3) Articles 5 and 7 to 13 of the Local Authorities (Contracting Out of Investment Functions) Order 1996⁽³⁾ shall apply in relation to functions mentioned in, or an authorisation given by virtue of, paragraph (1) as if—

- (a) a reference to an authority were a reference to Transport for London;
- (b) a reference to a contractor—
 - (i) were a reference to any person to whom an authorisation is given by virtue of that paragraph; and
 - (ii) except in the application of article 9 of that Order, included the employees of that person;
- (c) a reference to article 4 or Part 2 of that Order were a reference to that paragraph; and
- (d) a reference to an authorisation given by virtue of that Order were a reference to an authorisation given by virtue of that paragraph.

Contracting out of highway functions

3. Any function of Transport for London which is conferred by or under any of the provisions—

- (a) described in Schedule 1, 2 or 3 to the Local Authorities (Contracting Out of Highway Functions) Order 1999⁽⁴⁾; or
- (b) listed in the Schedule to the Local Authorities (Contracting Out of Highway Functions) (England) Order 2001⁽⁵⁾

may be exercised by, or by the employees of, such person (if any) as may be authorised by Transport for London to do so.

Signed by authority of the First Secretary of State

[Date]

Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

⁽³⁾ S.I. 1996/1883, amended by S.I. 2001/3649 and 2004/2044.
⁽⁴⁾ S.I. 1999/2106.
⁽⁵⁾ S.I. 2001/4061

EXPLANATORY NOTE

(This note is not part of the Order)

This Order enables Transport for London to contract out the functions local authorities are authorised to contract out by virtue of—

- (a) the Local Authorities (Contracting Out of Investment Functions) Order 1996 (“the 1996 Order”);
- (b) the Local Authorities (Contracting Out of Highways Functions) Order 1999 (“the 1999 Order”); and
- (c) the Local Authorities (Contracting Out of Highways Functions) (England) Order 2001 (“the 2001 Order”).

Article 2 enables Transport for London to contract out the same investment function as local authorities. The exercise by any person to whom an authorisation is given of any investment function is subject to the conditions set out in Articles 7 to 13 of the 1996 Order, including, in particular—

- (a) a requirement concerning that person’s qualifications;
- (b) a requirement concerning the observance of investment and accounting practices; and
- (c) a requirement that that person shall not appoint any other person to exercise the function which he has been authorised to exercise, unless that person has also been authorised to do so.

Article 3 enables Transport for London to contract out the same highway functions as local authorities. The functions are set out in Schedules 1, 2 and 3 to the 1999 Order and the Schedule to the 2001 Order and include, in particular, the authority’s functions under the Highways Act 1980 and the New Roads and Street Works Act 1991.