



Procurement Act 2023

2023 CHAPTER 54

PART 6

BELOW-THRESHOLD CONTRACTS

PROSPECTIVE

84 Regulated below-threshold contracts

- (1) In this Part, a “regulated below-threshold contract” means a below-threshold contract which is not—
- (a) an exempted contract,
 - (b) a concession contract, or
 - (c) a utilities contract.
- (2) This Part does not apply in relation to procurement—
- (a) by a school,
 - (b) by a transferred Northern Ireland authority, other than procurement under a reserved procurement arrangement or a devolved Welsh procurement arrangement, or
 - (c) under a transferred Northern Ireland procurement arrangement.

Commencement Information

- II** S. 84 not in force at Royal Assent, see [s. 127\(2\)](#)

Status: Point in time view as at 12/03/2024. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Procurement Act 2023, PART 6. (See end of Document for details)

PROSPECTIVE

85 Regulated below-threshold contracts: procedure

- (1) If a contracting authority invites the submission of tenders in relation to the award of a regulated below-threshold contract, the authority may not restrict the submission of tenders by reference to an assessment of a supplier's suitability to perform the contract.
- (2) The reference to a supplier's suitability to perform the contract includes a reference to a supplier's—
 - (a) legal and financial capacity;
 - (b) technical ability.
- (3) Subsection (1) does not apply in relation to a works contract if the contract has an estimated value of—
 - (a) in the case of a contract to be awarded by a central government authority, not less than £138,760, or
 - (b) otherwise, not less than £213,477.
- (4) A Minister of the Crown may by regulations amend this section for the purpose of amending the financial thresholds.
- (5) This section does not apply in relation to—
 - (a) the award of a contract by a devolved Welsh authority, unless it is awarded under a reserved procurement arrangement,
 - (b) the award of a contract under a devolved Welsh procurement arrangement, or
 - (c) the award of a contract in accordance with a framework.

Commencement Information

I2 S. 85 not in force at Royal Assent, see [s. 127\(2\)](#)

PROSPECTIVE

86 Regulated below-threshold contracts: duty to consider small and medium-sized enterprises

- (1) Before inviting the submission of tenders in relation to the award of a regulated below-threshold contract, a contracting authority must—
 - (a) have regard to the fact that small and medium-sized enterprises may face particular barriers in competing for a contract, and
 - (b) consider whether such barriers can be removed or reduced.
- (2) Subsection (1) does not apply in relation to the award of a contract in accordance with a framework.

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Changes to legislation: There are currently no known outstanding effects for the Procurement Act 2023, PART 6. (See end of Document for details)

Commencement Information

I3 S. 86 not in force at Royal Assent, see [s. 127\(2\)](#)

87 Regulated below-threshold contracts: notices

- (1) A contracting authority may not advertise for the purpose of inviting tenders in relation to the award of a notifiable below-threshold contract without first publishing a below-threshold tender notice.
- (2) Subsection (1) does not apply if a contracting authority advertises only for the purpose of inviting tenders from particular or pre-selected suppliers.
- (3) As soon as reasonably practicable after entering into a notifiable below-threshold contract, a contracting authority must publish a contract details notice.
- (4) A “notifiable below-threshold contract” is a regulated below-threshold contract with an estimated value of—
 - (a) in the case of a contract to be awarded by a central government authority, not less than £12,000, or
 - (b) otherwise, not less than £30,000.
- (5) A “below-threshold tender notice” is a notice setting out—
 - (a) that the contracting authority intends to award a contract, and
 - (b) any other information specified in regulations under section 95.
- (6) Any time limits provided for in a below-threshold tender notice must be—
 - (a) reasonable, and
 - (b) the same for each supplier.
- (7) A Minister of the Crown or the Welsh Ministers may by regulations amend this section for the purpose of amending the financial thresholds.

Commencement Information

I4 S. 87 not in force at Royal Assent, see [s. 127\(2\)](#)

I5 S. 87(7) in force at 12.3.2024 by [S.I. 2024/361](#), [reg. 2\(h\)](#)

PROSPECTIVE

88 Regulated below-threshold contracts: implied payment terms

- (1) The terms in subsections (2) to (5) are implied into every regulated below-threshold contract entered into by a contracting authority.
- (2) Any sum due to be paid under the contract by the contracting authority must be paid before the end of the period of 30 days beginning with—
 - (a) the day on which an invoice is received by the contracting authority in respect of the sum, or

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- (b) if later, the day on which the sum first became due in accordance with the invoice.
- (3) The term in subsection (2) does not apply if the contracting authority—
 - (a) considers the invoice invalid, or
 - (b) disputes the invoice.
- (4) On receiving an invoice from a payee, the contracting authority must notify the payee without undue delay if—
 - (a) it considers the invoice invalid, or
 - (b) it disputes the invoice.
- (5) A contracting authority may rely on a payment made by a third party to satisfy the term in subsection (2) only with the agreement of the payee.
- (6) For the purposes of the terms in subsections (2) to (5), an invoice is valid if it sets out the minimum required information and meets any other requirement set out in the contract.
- (7) The minimum required information is—
 - (a) the name of the invoicing party,
 - (b) a description of the goods, services or works supplied,
 - (c) the sum requested, and
 - (d) a unique identification number.
- (8) The terms in subsections (2) to (5) are also implied into any contract that is wholly or substantially for the purpose of performing (or contributing to the performance of) all or any part of the contract referred to in subsection (1).
- (9) But for the purpose of subsection (8), references in those terms to the contracting authority are to be read as references to the person to whom goods, services or works are supplied for the purpose of performing (or contributing to the performance of) all or any part of the contract referred to in subsection (1).
- (10) Any term purporting to restrict or override the terms implied by this section is without effect.
- (11) But nothing in this section prohibits the parties to a contract from agreeing that a sum due under the contract must be paid earlier than would be required by the term in subsection (2).
- (12) A Minister of the Crown or the Welsh Ministers may by regulations amend this section for the purpose of changing the number of days referred to in subsection (2), but the number of days may not be more than 30 days.
- (13) In this section—
 - (a) “payee” means the person due to be paid under the invoice concerned;
 - (b) a reference to a contracting authority receiving an invoice includes a reference to an invoice being delivered to an address specified in the contract for the purpose.

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Changes to legislation: There are currently no known outstanding effects
for the Procurement Act 2023, PART 6. (See end of Document for details)

Commencement Information

I6 S. 88 not in force at Royal Assent, see [s. 127\(2\)](#)

Status:

Point in time view as at 12/03/2024. This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Procurement Act 2023, PART 6.