
STATUTORY INSTRUMENTS

1983 No. 685**LOCAL GOVERNMENT, ENGLAND AND WALES****The Local Government (Direct Labour Organisations) (Competition) Regulations 1983**

<i>Made</i> - - - -	<i>5th May 1983</i>
<i>Laid before Parliament</i>	<i>9th May 1983</i>
<i>Coming into Operation</i>	<i>1st October 1983</i>

The Secretary of State for the Environment, in relation to England, and the Secretary of State for Wales, in relation to Wales, in exercise of the powers conferred upon them by section 7 and section 9(3) of the Local Government, Planning and Land Act 1980(a) and of all other powers enabling them in that behalf, hereby make the following regulations:—

Title and commencement

1. These regulations may be cited as the Local Government (Direct Labour Organisations) (Competition) Regulations 1983 and shall come into operation on 1st October 1983.

Interpretation

2.—(1) In these regulations—

“the Act” means the Local Government, Planning and Land Act 1980;

“contractual construction work”, “contractual highway work” and “contractual maintenance work” mean respectively works of new construction, general highway works and works of maintenance carried out by a local authority or development body by placing a contract for the doing of the work by another person (either directly or, in whole or in part, through subcontractors) the value of which, if it provides, or provides principally, for the carrying out of—

- (i) general highway works, does not exceed £50,000, or
- (ii) works of new construction, does not exceed £50,000, or
- (iii) works of maintenance, does not exceed £10,000;

“emergency work” means work of any description whose necessity could not reasonably have been foreseen by a local authority or development body and which is required to avert, alleviate or eradicate in their area, or any part of

(a) 1980 c. 65.

it, the effects or potential effects of any emergency or disaster involving or likely to involve risk of serious damage to or destruction of property or risk of injury or danger to health or life;

“estimated cost” in relation to a job, means the aggregate of the amounts which a local authority or development body will credit to their DLO revenue account in respect of the carrying out of all the items of construction or maintenance work comprised in a job—

- (i) so far as such amounts will fall to be determined in accordance with a written statement prepared in compliance with section 9(2)(a) of the Act, as so determined; and
- (ii) so far as such amounts will fall to be determined in accordance with a method specified in a written statement prepared in accordance with section 9(2)(b) of the Act, as reasonably estimated in accordance with that method;

“general highway works” has the meaning ascribed to it in section 10(3) of the Act;

“job” means all the functional work which can reasonably be carried out most economically and efficiently under one arrangement;

“relevant construction work”, “relevant highway work” and “relevant maintenance work” mean respectively works of new construction, general highway works and works of maintenance comprised in a works contract which provides, or provides principally for, or in a job which consists, or consists principally of, general highway works, works of new construction or works of maintenance and the value of the contract or the estimated cost of the job in the case of—

- (i) general highway works does not exceed £50,000, or
- (ii) works of new construction does not exceed £50,000, or
- (iii) works of maintenance does not exceed £10,000;

“relevant limit” in relation to a works contract has the meaning assigned to it in regulation 6 and, in relation to a job, the meaning assigned to it in regulation 8;

“works of maintenance” means works of maintenance within the meaning of the Local Authorities (Goods and Services) Act 1970(a) not being general highway works or the maintenance of a sewer;

“works of new construction” means building or civil engineering works of any description not being general highway works, the construction of a sewer or works of maintenance.

(2) Subject to paragraph (3) below, in ascertaining for the purposes of these Regulations the description of work for which a contract principally provides, or of which a job principally consists, regard shall be had only to—

- (a) the value of the contract so far as it is attributable to works of each description mentioned in paragraphs (a) to (d) of regulation 3(1) and comprised in the contract, or
- (b) the estimated cost of the job so far as it is attributable to works of each description comprised in the job,

(a) 1970 c. 39.

and if the value of the contract or the estimated cost of the job so far as attributable to works of more than one description is the same, the contract or job shall be treated as providing principally for works of each of those descriptions.

(3) In ascertaining for the purposes of paragraph (1) above or regulation 6 or 8 below the description of work for which a contract principally provides, or of which a job principally consists, no regard shall be had to the value of the contract or the estimated cost of the job so far as in either case it is attributable to the construction or maintenance of a sewer.

Prescribed amounts for works contracts

3. For the purposes of section 7(1) of the Act (prescribed amounts for certain works contracts) the following amounts are prescribed as the amounts for works contracts of the following descriptions, namely for a contract which provides, or provides principally, for the carrying out of—

- (a) general highway works, £50,000;
- (b) the construction or maintenance of a sewer, £50,000;
- (c) works of new construction, £50,000; or
- (d) works of maintenance, £10,000.

Treatment of certain works contracts as a single contract

4. For the purposes of determining whether the value of a works contract exceeds the prescribed amount for a contract of that description it shall be treated together with one or more other contracts as a single works contract if each contract is made within a period of six months and relates to work of a similar description to be performed on a single site or surface or on adjacent sites or surfaces.

Requirement to tender for certain works contracts

5. The following conditions are prescribed for the purposes of section 7(1)(b) of the Act (local authority not to enter into works contract except in compliance with conditions) in relation to a works contract to which this regulation applies, namely:—

- (a) that the contract was made by acceptance of an offer on the part of the authority to carry out the work in question;
- (b) that the authority made the offer in response to an invitation to submit such offers; and
- (c) that the invitation was extended to at least three other persons.

6.—(1) Subject to regulation 7 below, regulation 5 above applies to—

- (a) a works contract entered into in the period 1st October 1983 to 31st March 1984 inclusive the value of which, where it provides or provides principally, for the carrying out of—
 - (i) general highway works, does not exceed £50,000;

- (ii) works of new construction, does not exceed £50,000;
- (iii) works of maintenance, does not exceed £10,000, and the value of the contract—
 - (a) where the contract so provides for the carrying out of general highway works, together with the value of all relevant highway work, or
 - (b) where the contract so provides for the carrying out of works of new construction, together with the value of all relevant construction work, or
 - (c) where the contract so provides for the carrying out of works of maintenance, together with the value of all relevant maintenance work,

previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in that period exceeds the relevant limit;

- (b) a works contract entered into after 31st March 1984 the value of which, where it provides, or provides principally, for the carrying out of—
 - (i) general highway works, does not exceed £50,000;
 - (ii) works of new construction, does not exceed £50,000;
 - (iii) works of maintenance, does not exceed £10,000, and the value of the contract—
 - (a) where the contract so provides for the carrying out of general highway works, together with the value of all relevant highway work, or
 - (b) where the contract so provides for the carrying out of works of new construction, together with the value of all relevant construction work, or
 - (c) where the contract so provides for the carrying out of works of maintenance, together with the value of all relevant maintenance work,

previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in the same financial year exceeds the relevant limit.

(2) In this regulation the relevant limit, in relation to a works contract which—

- (a) is entered into in the period 1st October 1983 to 31st March 1984 and provides, or provides principally, for—
 - (i) the carrying out of general highway works, is 70% of the aggregate value of all relevant highway work undertaken and all contractual highway work carried out by the authority in the period 1st October 1982 to 31st March 1983;
 - (ii) the carrying out of works of new construction, is 40% of the aggregate value of all relevant construction work undertaken and all contractual construction work carried out by the authority in the period 1st October 1982 to 31st March 1983;

- (iii) the carrying out of works of maintenance, is 40% of the aggregate value of all relevant maintenance work undertaken and all contractual maintenance work carried out by the authority in the period 1st October 1982 to 31st March 1983, or £150,000, whichever is greater; or
- (b) is entered into after 31st March 1984 and provides, or provides principally, for—
 - (i) the carrying out of general highway works, is 70% of the aggregate value of all relevant highway work undertaken and all contractual highway work carried out by the authority in the immediately preceding financial year; or
 - (ii) the carrying out of works of new construction, is 40% of the aggregate of all relevant construction work undertaken and all contractual construction work carried out by the authority in the immediately preceding financial year; or
 - (iii) the carrying out of works of maintenance, is 40% of the aggregate value of all relevant maintenance work undertaken and all contractual maintenance work carried out by the authority in the immediately preceding financial year or £300,000, whichever is greater.

Exempted works contracts

7.—(1) Section 7(1) of the Act shall not apply to works contracts of any of the following descriptions, namely:—

- (a) a contract for the carrying out of emergency work;
 - (b) a contract for the gritting of or the clearing of snow from highways;
 - (c) a contract which satisfies the following conditions—
 - (i) it is a contract the value of which does not exceed by more than 10% the value of a contract of a similar description awarded to the local authority at any time in the immediately preceding period of twelve months (hereinafter referred to as “the former contract”), and in relation to which the value of each of the separate items of work comprised and priced in the contract does not exceed by more than 10% the value of each corresponding separate item of work (if any) comprised and priced in the former contract;
 - (ii) except in the case of a contract for works of maintenance the work comprised in the contract is to be carried out on the same site or surface as the work comprised in a former contract or on sites or surfaces adjacent to those on which the work comprised in a former contract has been or is to be carried out.
- (2) For the purposes of this regulation a contract is a former contract if, and only if,—
- (a) it was made as the result of an invitation to tender which was extended to at least three other persons;
 - (b) the local authority submitted the lowest tender for the former contract following that invitation;
 - (c) it has not been renewed (either by extension or the making of a new

contract for work of a similar description), unless the invitation to tender, as a result of which it was awarded, specifically referred to the award to the successful contractor of one or more further contracts.

Functional work

8.—(1) Subject to regulation 9 below, a local authority or development body may not undertake a job comprising functional work of the following descriptions unless they have first complied with the conditions mentioned in section 9(3)(a) of the Act as well as with those in section 9(2), namely a job which consists, or consists principally, of—

- (a) general highway works, where the estimated cost of the job exceeds £50,000;
- (b) the construction or maintenance of a sewer, where the estimated cost of the job exceeds £50,000;
- (c) works of new construction, where the estimated cost of the job exceeds £50,000;
- (d) works of maintenance, where the estimated cost of the job exceeds £10,000;
- (e) general highway works or works of new construction where in either case the estimated cost of the job does not exceed £50,000 or works of maintenance where the estimated cost of the job does not exceed £10,000, undertaken in the period 1st October 1983 to 31st March 1984 inclusive, if the estimated cost of the job together with—
 - (i) where the job consists, or consists principally of general highway works, the aggregate value of all relevant highway work or,
 - (ii) where the job consists, or consists principally of works of new construction, the aggregate value of all relevant construction work or,
 - (iii) where the job consists, or consists principally of works of maintenance the aggregate value of all relevant maintenance work,

previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in that period exceeds the relevant limit; or

- (f) general highway works or works of new construction where in either case the estimated cost of the job does not exceed £50,000 or works of maintenance where the estimated cost of the job does not exceed £10,000, undertaken after 31st March 1984, if the estimated cost of the job together with—
 - (i) where the job consists, or consists principally of general highway works, the aggregate value of all relevant highway work or,
 - (ii) where the job consists, or consists principally of works of new construction the aggregate value of all relevant construction work, or
 - (iii) where the job consists, or consists principally of works of maintenance, together with the aggregate value of all relevant maintenance work,

previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)(a) of the Act in the same financial year exceeds the relevant limit.

- (2) In this regulation the relevant limit in relation to a job which—
- (a) is undertaken in the period 1st October 1983 to 31st March 1984 and consists, or consists principally, of—
- (i) general highway works, is 70% of the aggregate value of all relevant highway work undertaken and all contractual highway work carried out by that authority or body in the period 1st October 1982 to 31st March 1983 inclusive; or
 - (ii) works of new construction, is 40% of the aggregate value of all relevant construction work undertaken and all contractual construction work carried out by that authority or body in the period 1st October 1982 to 31st March 1983 inclusive; or
 - (iii) works of maintenance, is 40% of the aggregate value of all relevant maintenance work undertaken and all contractual maintenance work carried out by the authority or body in the period 1st October 1982 to 31st March 1983 inclusive, or £150,000 whichever is greater; or
- (b) is undertaken after 31st March 1984 and consists, or consists principally of—
- (i) general highway works, is 70% of the aggregate value of all relevant highway work undertaken and all contractual highway work carried out by that authority or body in the immediately preceding financial year;
 - (ii) works of new construction, is 40% of the aggregate value of all relevant construction work undertaken and all contractual construction work carried out by that authority or body in the immediately preceding financial year;
 - (iii) works of maintenance, is 40% of the aggregate value of all relevant maintenance work undertaken and all contractual maintenance work carried out by the authority or body in the immediately preceding financial year or £300,000, whichever is greater.

9.—(1) Regulation 8 above shall not apply to functional work of the following descriptions, namely:—

- (a) emergency work;
- (b) the gritting of or the clearing of snow from highways;
- (c) a job which satisfies the following conditions—
 - (i) it is a job the estimated cost of which does not exceed by more than 10% the estimated cost of a job of similar description undertaken by the local authority or development body in the immediately preceding period of twelve months (hereinafter referred to as “the former job”) and in relation to which the estimated cost of each of the separate items of work comprised

and priced in the job does not exceed by more than 10% the estimated cost of each corresponding item of work (if any) comprised and priced in the former job;

- (ii) except in the case of a job of works of maintenance the work comprised in the job is to be carried out on the same site or surface as the work comprised in the former job or on sites or surfaces adjacent to those on which the work comprised in the former job has been or is to be carried out.

(2) For the purposes of this regulation a job is a former job if, and only if—

- (a) it was undertaken following an invitation to tender which was extended to at least three other persons;
- (b) the estimated cost of the job submitted by the authority or development body was lower than the lowest tender submitted following that invitation, and
- (c) the job has not been renewed (either by extension of time or the undertaking of a new job of a similar description) unless the invitation to tender following which it was undertaken specifically referred to the award to the successful tenderer of one or more further contracts.

Revocation

10. The Local Government (Direct Labour Organisations) (Competition) Regulations 1982(a) are hereby revoked.

Tom King,
Secretary of State for the Environment.

5th May 1983.

Signed by authority of
the Secretary of State.

John Stradling Thomas,
Minister of State,
Welsh Office.

5th May 1983.

(a) S.I. 1982/1036.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations replace, with amendments, the Local Government (Direct Labour Organisations) (Competition) Regulations 1982.

The amendments are as follows. In regulations 6 and 8 there has been introduced a requirement for a proportion of general highway works the cost of which does not exceed £50,000 to be undertaken only after competitive tendering. This will apply to general highway works undertaken in the period 1st October 1983 to 31 March 1984 where the value of the contract or the estimated cost of the job together with the value of all such work previously undertaken in that period exceeds 70% of the aggregate value of general highway works undertaken, whether by way of works contract or functional work, and all such works carried out by placing a contract, in the period 1st October 1982 to 31st March 1983. For general highway works entered into after 31st March 1984 the limit beyond which competitive tendering is required is 70% of the value of all general highway works undertaken, whether by way of works contract or functional work, and all general highway works carried out by placing a contract in the immediately preceding financial year.

The existing requirements for tendering in the case of works of new construction where the value of the contract or the estimated cost of the job does not exceed £50,000 and works of maintenance where the value of the contract or the estimated cost of the job does not exceed £10,000 have been altered (regulations 6 and 8). In these cases contracts or jobs the value or estimated cost of which exceeds a limit cannot be undertaken except following competitive tendering. The new limits and the new periods to which they apply are for works of new construction undertaken in the period 1st October 1983 to 31st March 1984 40%, instead of 66 $\frac{2}{3}$ %, of the value of all construction work undertaken, by way of works of contract or functional work, and all such work carried out by placing a contract, in the period 1st October 1982 to 31st March 1983, and for works of maintenance is 40%, instead of 70%, of the value of all maintenance work undertaken, whether by way of works contract or functional work, and all maintenance work carried out by placing a contract, in the period 1st October 1982 to 31st March 1983, or £150,000 whichever is greater. These new limits replace, in relation to this period, the requirement for periods after 31st March 1983 in the 1982 regulations. For works of new construction and works of maintenance undertaken after 31st March 1984 corresponding alterations in the limits which applied to such works undertaken after 31st March 1983 have also been made.

The new regulations make provision for works contracts and jobs which relate to work of more than one description (regulations 2, 3, 6 and 8 and the definitions of relevant construction work etc. and contractual construction work etc.). In such cases the contract or job will be treated as being one for the description of work to which the greatest part of the value or estimated cost is attributable and where the value or estimated cost attributable to more than one description of work is the same, the contract or job will be treated as one for each of such descriptions (regulation 2(2)). For the purposes of regulations 6 and 8 the value or estimated cost of work consisting of the construction or maintenance of a sewer will be disregarded in ascertaining the description of work to which the greater part of the value or estimated cost is attributable, as there is no tendering requirement for such work where the value of the contract or the estimated cost of the job does not exceed £50,000, (regulation 2(3)).

Other minor changes consist of drafting alterations to the definition of estimated cost in regulation 2(1) and to the definition of a former contract in regulation 6 and corresponding alterations to the definition of a former job in regulation 9.

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