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STATUTORY INSTRUMENTS

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**1993 No. 3228**

**The Public Services Contracts Regulations 1993**

**PART VI**

**MISCELLANEOUS**

**Design contests**

**24.**—(1) This regulation shall apply to a design contest—

- (a) if it is organised as part of a procedure leading to the award of a public services contract and the estimated value of any public services contract (calculated in accordance with regulation 7 above) which it is intended to award as the outcome of the contest is not less than 200,000 ECU, or
- (b) whether or not it is organised as part of a procedure leading to the award of such a contract, if the aggregate of the value of the prizes or payments for the contest is not less than 200,000 ECU.

(2) The contracting authority shall publicise its intention to hold a design contest by sending to the Official Journal a notice in a form substantially corresponding to that set out in Part F of Schedule 2 and containing the information therein specified.

(3) The contracting authority shall make the rules of the design contest available to services providers who wish to participate in the contest.

(4) The contracting authority may restrict the number of persons invited to participate in the design contest, but it shall make the selection on the basis of clear and non discriminatory criteria.

(5) The contracting authority shall take account of the need to ensure adequate competition in determining the number of persons invited to participate in the design contest.

(6) Regulation 20 applies to design contests as it applies to the seeking of offers in relation to a proposed public services contract.

(7) The contracting authority shall provide for the participants' proposals to be submitted to the jury without any indication as to the authorship of each proposal.

(8) The contracting authority shall ensure that the members of the jury are all individuals who are independent of participants in the design contest and, when the participants are required to possess a particular professional qualification, that at least one third of the members of the jury also possess that qualification or an equivalent qualification.

(9) The contracting authority shall ensure that the jury makes its decision independently and solely on the basis of the criteria set out in the notice referred to in paragraph (2) above.

(10) The contracting authority shall, no later than 48 days after the date the jury has made its selection, publicise the results of the design contest by sending to the Official Journal a notice substantially corresponding to the form set out in Part G of Schedule 2 and including the information therein specified.

### **Subsidised public services contracts**

**25.**—(1) Where a contracting authority undertakes to contribute more than half of the consideration to be or expected to be paid under a public services contract to which this paragraph applies by virtue of paragraph (2) below which has been or is to be entered into by a person other than a contracting authority (in this paragraph referred to as “the subsidised body”), that contracting authority shall—

- (a) make it a condition of the making of such contribution that the subsidised body complies with the provisions of these Regulations in relation to that public services contract as if it were a contracting authority, and
- (b) ensure that the subsidised body does so comply or recover the contribution.

(2) Paragraph (1) above applies to a contract which would be a public services contract if the subsidised body were a contracting authority and which is for the carrying out of services in connection with the carrying out of any of the activities specified in Schedule 1 of the Public Works Contracts Regulations 1991(1) as are included in Group 502 or for the carrying out of building work for hospitals, facilities intended for sports, recreation and leisure, school and university building or buildings for administrative purposes.

### **Obligations relating to employment protection and working conditions**

**26.** A contracting authority which includes in the contract documents information as to where a services provider may obtain information about obligations relating to employment protection and working conditions which will apply to the services to be provided under the public services contract shall request services providers to indicate that they have taken account of those obligations in preparing their tender or in negotiating the contract.

### **Statistical and other reports**

**27.**—(1) A contracting authority shall, no later than 31st July 1995 and 31st July in each alternate year thereafter, send to the Treasury a report specifying in relation to each public services contract awarded by it during the year preceding the year in which the report is made—

- (a) the value (estimated if necessary) of the consideration payable under the contract;
- (b) whether the open, restricted or negotiated procedure was used in awarding the contract;
- (c) if the negotiated procedure was used, pursuant to which provision of regulation 10(2) that procedure was used;
- (d) the services specified in Part A of Schedule 1 provided or to be provided under the contract; and
- (e) the nationality of the person to whom the contract was awarded.

(2) A contracting authority shall send to the Treasury a report containing such other information as the Treasury may from time to time require in respect of a particular public services contract (including a public services contract excluded from the application of these Regulations by regulation 6 or 7 and a Part B services contract) for the purpose of informing the Commission.

### **Responsibility for obtaining reports**

**28.**—(1) Where a contracting authority is not a Minister of the Crown or a government department that contracting authority shall send any report which it is required in accordance with regulations 8(6), 10(7), 21(8), 23(3) and 27 to send to the Treasury instead to the Minister responsible

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(1) S. I. 1991/2680 as amended by S. I. 1992/3279.

for that contracting authority and that Minister shall be responsible for sending the report to the Treasury.

(2) The Minister responsible for a contracting authority shall be the Minister of the Crown whose areas of responsibility are most closely connected with the functions of the contracting authority; and any question as to which Minister of the Crown's areas of responsibility are most closely connected with the functions of a contracting authority shall be determined by the Treasury whose determination shall be final.

(3) The requirement on a contracting authority to send any report in accordance with paragraph (1) above to the Minister of the Crown responsible for that contracting authority shall be enforceable, on the application of the Minister responsible, by mandamus or, in Scotland, for an order for specific performance.

(4) Proceedings under paragraph (3) above brought in Scotland shall be brought before the Court of Session.

(5) In the application of this regulation to Northern Ireland references to the Minister shall include references to the head of a Northern Ireland department.

### **Publication of notices**

**29.**—(1) Any notice required by these Regulations to be sent to the Official Journal shall be sent by the most appropriate means to the Office for Official Publications of the European Communities<sup>(2)</sup> and where the contracting authority is applying the restricted procedure or the negotiated procedure and, for reasons of urgency, is applying the provisions of regulation 12(15) or 13(4), the notice shall be sent by telex, telegram or telefax.

(2) Any such notice shall not contain more than 650 words.

(3) The contracting authority shall retain evidence of the date of despatch to the Official Journal of each notice.

(4) The contracting authority shall not place a contract notice in the press or like publications in the United Kingdom before the date on which the notice is despatched in accordance with paragraph (1) above and if it does after that date so place the notice it shall not add to the notice any information in relation to the contract which was not contained in the notice sent to the Official Journal.

(5) When a contracting authority is not required to send a contract notice to the Official Journal in respect of a particular services contract it may nevertheless send such a notice and request that it be published.

### **Confidentiality of information**

**30.** A contracting authority shall comply with such requirements as to confidentiality of information provided to it by a services provider as the services provider may reasonably request.

### **Sub-contractors**

**31.** A contracting authority may require a services provider to indicate in his tender what part of the public services contract he intends to sub-contract to another person.

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(2) The address for the Office for Official Publications of the European Communities is 2 Rue Mercier, L-2985, Luxembourg (tel: 499 28-1; telex: 1324 PUBOF LU; fax: 49 00 03, 49 57 19).