

**2002 No. 2090**

**TRANSPORT, ENGLAND**

**The Service Subsidy Agreements (Tendering) (England)  
Regulations 2002**

*Made* - - - - - *6th August 2002*

*Laid before Parliament* *8th August 2002*

*Coming into force* - - *2nd September 2002*

The Secretary of State for Transport, in exercise of the powers conferred upon him by sections 90(2) and (3), 91(1) and (7) and 134(5) of the Transport Act 1985(a) hereby makes the following Regulations:—

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Service Subsidy Agreements (Tendering) (England) Regulations 2002 and shall come into force on 2nd of September 2002.

(2) These Regulations extend to England only(b).

**Interpretation**

2. In these Regulations—

“the Act” means the Transport Act 1985;

“authority” means an authority responsible for expenditure on public passenger transport services;

“service subsidy agreement” means an agreement which provides for the payment of service subsidies for the provision of a local service.

**Exclusions from section 89(1) of the Act**

3.—(1) Subject to paragraphs (2), (3) and (4) below, there are excluded from section 89(1) of the Act(c) the following service subsidy agreements—

(a) any agreement which will remain in force for 12 months or more and under which the aggregate amount of the service subsidies payable in any period of 12 months is less than £25,000; and

(b) any agreement which will remain in force for less than 12 months and under which the aggregate amount of the service subsidies payable under the agreement is less than £25,000.

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(a) 1985 c. 67; Section 90(3) was amended by section 152(3) of the Transport Act 2000 (c. 38); see section 137(1) of the Transport Act 1985 (c. 67) for the definitions of “prescribed” and “regulations”.

(b) The functions of the Secretary of State under sections 90 and 91 are, so far as exercisable in relation to Scotland, transferred to the Scottish Ministers by section 53(1) of the Scotland Act 1998 (c. 46) and, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2; see the entry in Schedule 1 for the Transport Act 1985 (c. 67).

(c) Section 89(7) and (8) was amended by section 152(2) of the Transport Act 2000.

(2) This regulation shall not exclude from section 89(1) of the Act any agreement whose effect is—

- (a) to provide for the person operating the service to receive in any period of 12 months from any one authority under service subsidy agreements entered into otherwise than by accepting tenders invited pursuant to section 89 of the Act an aggregate amount of service subsidies exceeding £150,000;
- (b) to modify an agreement which is within the scope of paragraph (1) above so that—
  - (i) in the case of a modified agreement which will remain in force for 12 months or more after the date on which the modification takes effect, the aggregate amount of the service subsidies payable in any period of 12 months is increased to £25,000 or more, or
  - (ii) in the case of a modified agreement which will remain in force for less than 12 months after the date on which the modification takes effect, in the period during which the modified agreement remains in force the aggregate amount of the service subsidies payable is increased to £25,000 or more.

(3) For the purposes of paragraphs (1) and (2) above, the aggregate amount of service subsidies payable in any period under a service subsidy agreement shall—

- (a) include any specific amount whose payment is dependent on a contingency; and
- (b) exclude any amount payable in any period of 12 months after the first such period during which the agreement is in force and which becomes payable—
  - (i) as a direct consequence of an increase in an index published by the Government of movements in prices or costs; or
  - (ii) pursuant to any provision of the agreement whereby an increase in the amount of service subsidies payable is not to exceed a figure calculated by reference to such an index.

(4) This regulation shall not exclude from section 89(1) of the Act any service subsidy agreement providing for an increase in the amount of service subsidies payable to be agreed between the parties or to be calculated by any method other than those mentioned in paragraph (3)(b) of this regulation.

#### **Information with respect to tenders**

4.—(1) In any case where an authority enters into a service subsidy agreement by accepting a tender invited in accordance with section 89 of the Act, that authority shall publish in the manner prescribed by these Regulations the information as specified in Part I of Schedule 1 hereto.

(2) In any case where an authority accept none of the tenders invited in accordance with that section, that authority shall publish in the manner prescribed by these Regulations the information as specified in Part II of Schedule 1 hereto.

#### **Manner of publication of information and reasons**

5.—(1) In this regulation, the information which is required to be published pursuant to regulation 4 of these Regulations and the reasons or statements which are required to be published by section 90(3) or section 91(7) of the Act are referred to as “material”.

- (2) An authority which is required to publish any material shall do so by—
  - (a) making the material available to the general public at times and in places and in a form all of which are convenient to that public; and
  - (b) inserting or causing to be inserted a notice of the availability of the material at those times and places in a local newspaper or newspapers circulating in each locality in which the service or services in question will be provided.

**Revocation**

6. The Regulations set out in Schedule 2 hereto are hereby revoked so far as they apply to England.

Signed by the authority of the Secretary of State for Transport

6th August 2002

*John Spellar*  
Minister of State,  
Department for Transport

## SCHEDULE 1

Regulation 4

### PART I: INFORMATION TO BE PUBLISHED BY AN AUTHORITY ACCEPTING A TENDER

1. The name of the successful tenderer.

Under this head, there shall appear the name appearing on—

- (a) any PSV Operator's licence held by that tenderer;
- (b) any permit granted to him under section 22 of the Act,  
and also (if different) the name under which he trades.

2. The amount of the successful tender.

Under this head, there shall be published the aggregate amount (ascertained where appropriate in accordance with regulation 3(3)(a)) of the service subsidies payable by the authority during the period of 12 months commencing with the date on which the relevant service subsidy agreement comes into force.

3. The number of tenders received.

4. The amounts of the highest and lowest tenders received.

Under this head, there shall be published the aggregate amount (ascertained where appropriate in accordance with regulation 3(3)(a)) of the service subsidies which would have been payable during the period of 12 months commencing with the date on which the relevant service subsidy agreement would have come into force had these tenders been accepted.

Where tenders were invited on more than one basis, under this head there shall be published—

- (a) a summary of each basis on which tenders were invited; and
- (b) where more than one tender was received on any such basis, the amounts (expressed in the manner described in the preceding paragraph) of the highest and lowest tenders; or
- (c) where only one tender was received on any such basis, the amount (expressed in the manner described above) of that tender.

An authority is not required to publish under this head any information required to be published under head 2 of this Part of the Schedule.

### PART II: INFORMATION TO BE PUBLISHED BY AN AUTHORITY ACCEPTING NONE OF THE TENDERS SUBMITTED

1. The number of tenders received.

2. The amounts of the tender (if only one) or amounts (if more than one) of the highest and lowest tenders received.

Under this head, there shall be published the aggregate amount (ascertained where appropriate in accordance with regulation 3(3)(a)) of the service subsidies which would have been payable by the authority during the period of 12 months commencing with the date on which the relevant service subsidy agreement would have come into force had the tender or the highest and lowest tenders been accepted.

Where tenders were invited on more than one basis, under this head there shall be published—

- (a) a summary of each basis on which tenders were invited; and
- (b) where more than one tender was received on any such basis, the amounts (expressed in the manner described in the preceding paragraph) of the highest and lowest tenders; or
- (c) where only one tender was received on any such basis, the amount (expressed in the manner described above) of that tender.

## SCHEDULE 2

Regulation 6

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<i>Title</i>	<i>Year and number</i>
The Service Subsidy Agreement (Tendering) Regulations 1985	1985/1921
The Service Subsidy Agreements (Tendering) (Amendment) Regulations 1989	1989/464
The Service Subsidy Agreements (Tendering) (Amendment) Regulations 1994	1994/1227
The Service Subsidy Agreements (Tendering) (Amendment) Regulations 1998	1998/2197

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These regulations revoke and re-enact with amendments the Service Subsidy (Tendering) Regulations 1985 (as amended) in so far as those Regulations apply to England.

Regulation 3 excludes from the tendering requirements of section 89(1) of the Transport Act 1985 various agreements that provide for the payment of service subsidies as part of the provision of a local service. Agreements are excluded where the service subsidy to be paid over a twelvemonth period is less than £25,000 (increased from £12,000 under the 1985 Regulations) provided that the aggregate amount of the non-tendered subsidy under agreements between the person operating the services and one authority over that period is less than £150,000 (increased from £70,000 under the 1985 Regulations).

Regulation 4 specifies the information that is to be published with respect to tenders submitted in response to invitations to tender made pursuant to s89 of the Transport Act 1985.

Regulation 5 stipulates the manner in which that information is to be published.



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