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STATUTORY INSTRUMENTS

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**2006 No. 5**

**The Public Contracts Regulations 2006**

**PART 3**

**PROCEDURES LEADING TO THE AWARD OF A PUBLIC CONTRACT**

**Framework agreements**

**19.**—(1) A contracting authority which intends to conclude a framework agreement shall comply with this regulation.

(2) Where the contracting authority intends to conclude a framework agreement, it shall—

- (a) follow one of the procedures set out in regulation 15, 16, 17 or 18 up to (but not including) the beginning of the procedure for the award of any specific contract set out in this regulation; and
- (b) select an economic operator to be party to a framework agreement by applying award criteria set in accordance with regulation 30.

(3) Where the contracting authority awards a specific contract based on a framework agreement, it shall—

- (a) comply with the procedures set out in this regulation; and
- (b) apply those procedures only to the economic operators which are party to the framework agreement.

(4) When awarding a specific contract on the basis of a framework agreement neither the contracting authority nor the economic operator shall include in that contract terms that are substantially amended from the terms laid down in that framework agreement.

(5) Where the contracting authority concludes a framework agreement with one economic operator—

- (a) it shall award any specific contract within the limits of the terms laid down in the framework agreement; and
- (b) in order to award a specific contract, the contracting authority may consult in writing the economic operator which is party to the framework agreement requesting that economic operator to supplement its tender if necessary.

(6) Where the contracting authority concludes a framework agreement with more than one economic operator, the minimum number of economic operators shall be 3, insofar as there is a sufficient number of—

- (a) economic operators to satisfy the selection criteria; or
- (b) admissible tenders which meet the award criteria.

(7) Where the contracting authority concludes a framework agreement with more than one economic operator, a specific contract may be awarded—

- (a) by application of the terms laid down in the framework agreement without re-opening competition; or

(b) where not all the terms of the proposed contract are laid down in the framework agreement, by re-opening competition between the economic operators which are parties to that framework agreement and which are capable of performing the proposed contract in accordance with paragraphs (8) and (9).

(8) Where the contracting authority is following the procedure set out in paragraph (7)(b), it shall re-open the competition on the basis of the same or, if necessary, more precisely formulated terms, and where appropriate other terms referred to in the contract documents based on the framework agreement.

(9) Where the contracting authority is following the procedure set out in paragraph (7)(b), for each specific contract to be awarded it shall—

- (a) consult in writing the economic operators capable of performing the contract and invite them within a specified time limit to submit a tender in writing for each specific contract to be awarded;
- (b) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the contract and the time needed to send in tenders;
- (c) keep each tender confidential until the expiry of the time limit for the receipt by it of tenders; and
- (d) award each contract to the economic operator which has submitted the best tender on the basis of the award criteria specified in the contract documents based on the framework agreement.

(10) The contracting authority shall not conclude a framework agreement for a period which exceeds 4 years except in exceptional circumstances, in particular, circumstances relating to the subject of the framework agreement.

(11) In this regulation, a “specific contract” means a contract based on the terms of a framework agreement.

(12) The contracting authority shall not use a framework agreement improperly or in such a way as to prevent, restrict or distort competition.