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## STATUTORY INSTRUMENTS

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# 2011 No. 1848

## The Defence and Security Public Contracts Regulations 2011

### PART 5

#### THE AWARD OF A CONTRACT

##### Criteria for the award of a contract

**31.**—(1) Subject to regulation 19(29) and to [<sup>F1</sup>paragraph (6)] of this regulation, a contracting authority shall award a contract on the basis of the offer which—

- (a) is the most economically advantageous from the point of view of the contracting authority; or
- (b) offers the lowest price.

(2) A contracting authority shall use criteria linked to the subject matter of the contract to determine that an offer is the most economically advantageous including quality, price, technical merit, functional characteristics, environmental characteristics, running costs, life cycle costs, cost effectiveness, after sales service, technical assistance, delivery date and delivery period, period of completion, security of supply, interoperability and operational characteristics.

(3) Where a contracting authority intends to award a contract on the basis of the offer which is the most economically advantageous it shall state the weighting which it gives to each of the criteria chosen in the contract notice or contract documents.

(4) When stating the weightings referred to in paragraph (3), a contracting authority may give the weightings a range and specify a minimum and maximum weighting where it considers it appropriate in view of the subject matter of the contract.

(5) Where, in the opinion of the contracting authority, it is not possible to provide weightings for the criteria referred to in paragraph (3) on objective grounds, the contracting authority shall indicate the criteria in descending order of importance in the contract notice or contract documents.

(6) If an offer for a contract is abnormally low the contracting authority may reject that offer but only if it has—

- (a) requested in writing an explanation of the offer or of those parts which it considers contribute to the offer being abnormally low;
- (b) taken account of the evidence provided in response to a request in writing; and
- (c) subsequently verified the offer or parts of the offer being abnormally low with the economic operator.

(7) Where a contracting authority requests an explanation in accordance with paragraph (6), the information requested may, in particular, include—

- (a) the economics of the method of construction, the manufacturing process or the services provided;

**Changes to legislation:** The Defence and Security Public Contracts Regulations 2011, Section 31 is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) the technical solutions suggested by the economic operator or the exceptionally favourable conditions available to the economic operator for the execution of the work or works, for the supply of goods or for the provision of the services;
- (c) the originality of the work, works, goods or services proposed by the economic operator; <sup>F2</sup>or]
- (d) compliance with the provisions relating to employment protection and working conditions in force at the place where the contract is to be performed; <sup>F3</sup>...

<sup>F3</sup>(e) .....

<sup>F4</sup>(8) .....

<sup>F4</sup>(9) .....

(10) In this regulation “offer” includes a bid by one part of a contracting authority to provide services, to carry out work or works or to make goods available to another part of the contracting authority when the former part is invited by the latter part to compete with the offers sought from other persons.

**Textual Amendments**

- F1** Words in reg. 31(1) substituted (31.12.2020) by The Defence and Security Public Contracts (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/697), regs. 1, **3(18)(a)** (with reg. 4) (as amended by S.I. 2020/1450, regs. 1(3), 3(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Word in reg. 31(7) inserted (31.12.2020) by The Defence and Security Public Contracts (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/697), regs. 1, **3(18)(b)(i)** (with reg. 4) (as amended by S.I. 2020/1450, regs. 1(3), 3(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Reg. 31(7)(e) and word omitted (31.12.2020) by virtue of The Defence and Security Public Contracts (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/697), regs. 1, **3(18)(b)(ii)** (with reg. 4) (as amended by S.I. 2020/1450, regs. 1(3), 3(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Reg. 31(8)(9) omitted (31.12.2020) by virtue of The Defence and Security Public Contracts (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/697), regs. 1, **3(18)(c)** (with reg. 4) (as amended by S.I. 2020/1450, regs. 1(3), 3(3)); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:**

The Defence and Security Public Contracts Regulations 2011, Section 31 is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 54 Sch. 11 para. 4](#)