
STATUTORY INSTRUMENTS

2014 No. 3337

The Single Source Contract Regulations 2014

PART 2

Qualifying defence contracts

Threshold value for qualifying defence contracts

6.—(1) In the case of a contract to which section 14(3) applies, the amount specified for the purposes of section 14(2)(b) (threshold value for qualifying defence contracts) is—

- (a) if the contract is entered into before 31 March 2015, £500,000,000;
- (b) otherwise, £5,000,000.

(2) In the case of a contract to which section 14(4) or section 14(5) applies, the amount specified for the purposes of section 14(2)(b) is £5,000,000.

Contracts that may not be qualifying defence contracts

7. The contracts specified for the purposes of section 14(2)(c) (contracts that may not be qualifying defence contracts) are contracts—

- (a) to which the government of any country other than the United Kingdom is party;
- (b) made within the framework of an international cooperative defence programme; or
- (c) made wholly for the purposes of one or more of the following—
 - (i) the acquisition of land (including existing buildings or other structures, and land covered with water), and any estate, interest, easement, servitude or right in or over such land;
 - (ii) the management or maintenance of any land or buildings or other structures; or
 - (iii) intelligence activities.

Competitive process for single contracts

8.—(1) Where the Secretary of State enters into a contract with a primary contractor, the award of the contract is the result of a competitive process if—

- (a) the Secretary of State either—
 - (i) published (in the Official Journal or elsewhere) a notice of intention to seek offers in relation to a proposed contract; or
 - (ii) invited one or more persons other than the primary contractor, and not associated with the primary contractor, to negotiate or provide offers in relation to a proposed contract;
- (b) the material terms of the contract are wholly or substantially the same as were offered by the primary contractor in its tender for, or in negotiations relating to, that proposed contract; and

- (c) at the time of making its offer, the primary contractor did not consider it likely, or could not reasonably have considered it likely, that its offer would be the only offer reasonably capable of acceptance by the Secretary of State.
- (2) Where the Secretary of State is party to a contract with a primary contractor the award of which is the result of a competitive process, any amendment to that contract is the result of a competitive process if—
 - (a) the Secretary of State either —
 - (i) published (in the Official Journal or elsewhere) a notice of intention to seek offers in order to obtain the goods, works or services provided under the amendment or amended contract; or
 - (ii) invited one or more persons other than the primary contractor, and not associated with the primary contractor, to negotiate or provide offers in relation to those goods, works or services;
 - (b) the material terms of the amendment or amended contract are wholly or substantially the same as were offered by the primary contractor in its tender for, or in negotiations relating to, those goods, works or services; and
 - (c) at the time of making its offer, the primary contractor did not consider it likely, or could not reasonably have considered it likely, that its offer would be the only offer reasonably capable of acceptance by the Secretary of State.

Competitive process for contracts made under a framework agreement

- 9.—(1) This regulation applies where the Secretary of State—
- (a) has either—
 - (i) published (in the Official Journal or elsewhere) a notice of intention to seek offers in relation to a proposed agreement or other arrangement (“framework agreement”) which establishes terms under which a person (a “framework contractor”) would enter into one or more contracts with the Secretary of State in the period during which the framework agreement applies; or
 - (ii) invited two or more persons to negotiate or provide offers in relation to the terms of a proposed framework agreement;
 - (b) has entered into a framework agreement with one or more framework contractors; and
 - (c) enters into a contract with a primary contractor.
- (2) The award of a contract is the result of a competitive process if—
- (a) the terms governing the price payable under the contract are determined by a framework agreement and the conditions in paragraph (3) are met; or
 - (b) the terms governing the price payable under the contract are determined by a competition between two or more framework contractors and the conditions in paragraph (4) are met.
- (3) The conditions mentioned in paragraph (2)(a) are—
- (a) the material terms of the framework agreement are wholly or substantially the same as were offered by the framework contractor—
 - (i) in a tender submitted in response to the notice mentioned in sub-paragraph (a)(i); or
 - (ii) in negotiations following the invitation mentioned in sub-paragraph (a)(ii);
 - (b) at the time of making that offer, the framework contractor did not consider it likely, or could not have reasonably considered it likely, that its offer would be the only offer reasonably capable of acceptance by the Secretary of State; and

- (c) where this regulation applies by virtue of paragraph (1)(a)(ii), the persons mentioned in that paragraph included at least one person who was not the primary contractor (or a person associated with the primary contractor).
- (4) The conditions mentioned in paragraph (2)(b) are—
 - (a) at least one of those framework contractors was not the primary contractor (or a person associated with the primary contractor);
 - (b) the terms governing the price payable under the contract are wholly or substantially the same as were offered by the primary contractor in its tender for the contract or in negotiations during that competition; and
 - (c) the primary contractor did not consider it likely, or could not have reasonably considered it likely, that its offer in respect of the contract would be the only offer reasonably capable of acceptance by the Secretary of State.