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STATUTORY INSTRUMENTS

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**2015 No. 102**

**The Public Contracts Regulations 2015**

**PART 4**

**MISCELLANEOUS OBLIGATIONS**

**CHAPTER 8**

**BELOW-THRESHOLD PROCUREMENTS**

**Assessing suitability etc**

**111.**—(1) A contracting authority shall not include a pre-qualification stage in a procurement.

(2) Where the relevant threshold for the purposes of regulation 109(1) is that mentioned in regulation (5)(1)(a) or (d), paragraph (1) of this regulation applies only if the estimated value of the procurement is less than the lower threshold mentioned in paragraph (3).

(3) The lower threshold is the threshold mentioned in—

- (a) regulation 5(1)(b) where the contracting authority is a central government authority;
- (b) regulation 5(1)(c) where the contracting authority is a sub-central contracting authority.

(4) In paragraph (1), “pre-qualification stage” means a stage in the procurement process during which the contracting authority assesses the suitability of candidates to perform a public contract for the purpose of reducing the number of candidates to a smaller number who are to proceed to a later stage of the process.

(5) In any event, contracting authorities may ask candidates to answer suitability assessment questions only if each such question is—

- (a) relevant to the subject-matter of the procurement; and
- (b) proportionate.

(6) In paragraph (5), “suitability assessment question” means a question which relates to information or evidence which the contracting authority requires for the purpose of assessing whether candidates meet requirements or minimum standards of suitability, capability, legal status or financial standing.

(7) In complying with this regulation, contracting authorities shall have regard to any guidance issued by the Minister for the Cabinet Office, which may include guidance on how to establish and assess, without infringing paragraph (5), whether candidates meet requirements or minimum standards relating to suitability, capability, legal status and financial standing.

(8) Where a contracting authority conducts a procurement in a way which represents a reportable deviation from the guidance issued under paragraph (7), the contracting authority shall send to the Cabinet Office a report explaining the deviation.

(9) For that purpose, something is a reportable deviation only if it falls within criteria laid down for that purpose in guidance issued under paragraph (7).

(10) In this regulation, “candidate” means an economic operator that wishes to be considered for the award of a public contract.