
STATUTORY INSTRUMENTS

2014 No. 3337

The Single Source Contract Regulations 2014

PART 11

Qualifying sub-contracts

Competitive process for sub-contracts made under a framework agreement

- 60.**—(1) This regulation applies where the contracting authority—
- (a) has either—
 - (i) published 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 contracting authority 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 framework contractor.
- (2) For the purposes of section 28, 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 procurement process by which the contracting authority entered into the framework agreement with the sub-contractor—
 - (i) was transparent and arms-length; and
 - (ii) used appropriate evaluation criteria to determine which sub-contractor or sub-contractors should be awarded a framework agreement;
 - (b) the material terms of the framework agreement are wholly or substantially the same as were offered by the sub-contractor—
 - (i) in a tender submitted in response to the notice mentioned in sub-paragraph (1)(a)(i); or
 - (ii) in negotiations following the invitation mentioned in sub-paragraph (1)(a)(ii);
 - (c) at the time of making that offer, the sub-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 contracting authority; and

- (d) 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 sub-contractor (or a person associated with the sub-contractor).
- (4) The conditions mentioned in paragraph (2)(b) are—
 - (a) at least one of those framework contractors was not the sub-contractor (or a person associated with the sub-contractor);
 - (b) the competition—
 - (i) was transparent and arms-length; and
 - (ii) used appropriate evaluation criteria to identify the offer made by the sub-contractor as the best offer;
 - (c) the terms governing the price payable under the contract are wholly or substantially the same as were offered by the sub-contractor in that best offer; and
 - (d) at the time of making that offer, the sub-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 contracting authority.