
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Single Source Contract Regulations 2014

PART 9

SSRO: opinions and determinations

Matters on which the SSRO must give an opinion

51.—(1) The matters relating to a proposed qualifying defence contract which are specified for the purposes of section 35(1)(a) (matters on which the SSRO must give an opinion) are—

- (a) the appropriate amount of adjustment that should be made under step 2, 3 or 6 in regulation 11;
- (b) the appropriate amount of a group cost risk adjustment (regulation 13(2)), group POCO adjustment (regulation 13(4)) or group capital servicing adjustment (regulation 13(5));
- (c) any question relevant to the cost recovery rates that should be used to estimate likely allowable costs;
- (d) the extent to which a particular cost would be an allowable cost.

(2) The matters relating to a qualifying defence contract which are specified for the purposes of section 35(1)(a) are—

- (a) if the contract price were to be re-determined (regulation 14)—
 - (i) the appropriate amount of adjustment that should be made under step 2, 3 or 6 in regulation 11;
 - (ii) the appropriate amount of a group cost risk adjustment (regulation 13(2)), group POCO adjustment (regulation 13(4)) or group capital servicing adjustment (regulation 13(5));
 - (iii) any question relevant to the cost recovery rates that should be used to estimate likely allowable costs;
 - (iv) the extent to which a particular cost would be an allowable cost;
- (b) whether the Secretary of State has acted unreasonably in exercising a power to require the contractor to provide information under regulation 30 (on-demand contract report).

Matters in relation to which the SSRO must make a determination

52.—(1) The matters relating to a qualifying defence contract which are specified for the purposes of section 35(1)(b) (matters in relation to which the SSRO must make a determination) are the defined pricing structure and output metrics that the contractor must use in all reports provided under Part 5 for that contract.

(2) A reference to the SSRO for a determination in relation to any of those matters must be made no later than 6 months after the qualifying defence contract is entered into.

Time limits for applications for opinions

53.—(1) An application for an opinion on whether the Secretary of State has acted unreasonably in exercising a power to require a contractor to provide information under regulation 30 (on-demand contract report) must be made within three months of the contractor receiving a written direction under paragraph (1) or (3) of that regulation.

(2) A reference under section 35(3)(a) (reference by Secretary of State and primary contractor for SSRO's opinion) must be made no later than two years after the contract completion date of the contract to which the reference relates.

Matters to which the SSRO must have regard in making determinations

54. In making any determination under the Act or these Regulations, the SSRO must have regard (in addition to any other matter to which these Regulations require it to have regard) to—

- (a) any regulations or statutory guidance made under Part 2 of the Act which were in force at any time material to the matters under consideration;
- (b) the extent to which any relevant statutory guidance has been followed (and any justification advanced for not following it);
- (c) the extent to which any person has fulfilled its responsibilities under Part 2 of the Act and these Regulations;
- (d) any relevant previous decisions of the SSRO; and
- (e) representations made by the parties to the contract (or the persons who would be parties to the proposed contract), and (where not such a party or person) by the Secretary of State.

References in relation to contracts entered into before the relevant date

55.—(1) A reference under section 35(7) (contracts entered into before the relevant date) may be made no later than two years after—

- (a) the date described in the contract as the contract completion date;
- (b) if no such date is described in the contract, the date on which the contractor completes all obligations which entitle it to final payment under the contract; or
- (c) if the contract is terminated before either of the dates described in (a) or (b), the date that the contract is terminated.

(2) In making a determination or giving an opinion under section 35(7), the SSRO must have regard to—

- (a) any relevant published decisions of the Review Board for Government Contracts;
- (b) the Government Profit Formula and Associated Arrangements in force at the date the contract was entered into;
- (c) the terms of the contract; and
- (d) representations made by the parties to the contract and, where not a party to the contract, the Secretary of State.