
STATUTORY INSTRUMENTS

2014 No. 3337

The Single Source Contract Regulations 2014

PART 2

Qualifying defence contracts

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.