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STATUTORY INSTRUMENTS

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**2024 No. 420**

**The Single Source Contract (Amendment) Regulations 2024**

**Insertion of regulation 13A (costs associated with group profits)**

17. After regulation 13 insert—

**“Costs associated with group profits**

**13A.**—(1) The requirements in section 20(2)(a) to (c) (allowable costs to be appropriate, attributable to the contract or component, and reasonable) will not be met if—

- (a) the primary contractor is a party to or proposes to enter into a group sub-contract; and
  - (b) a deduction from the allowable costs has not been made in accordance with paragraph (2).
- (2) Where paragraph (1)(a) applies to a qualifying defence contract—
- (a) the allowable costs of that qualifying defence contract that relate to the price payable under any group sub-contract must be reduced by an amount equal to the attributable profit on that group sub-contract; and
  - (b) the allowable costs of the qualifying defence contract that relate to the price payable under any further group sub-contract which relates to the group sub-contract described in sub-paragraph (a) must be reduced by an amount equal to the attributable profit on that further group sub-contract.
- (3) “Group sub-contract” means a contract—
- (a) the price payable under which includes an amount of profit;
  - (b) which is made between the primary contractor and any person connected with the primary contractor;
  - (c) the value of which is no less than £250,000;
  - (d) the award of which was not the result of a competitive process (within the meanings given in regulation 59 or 60);
  - (e) the price of which is not determined in accordance with regulation 19A (commercial pricing) or 19B(3) (prices determined in accordance with law); and
  - (f) where the goods, works or services to be provided under the contract are necessary to enable the performance of the qualifying defence contract.
- (4) “Further group sub-contract” means a contract—
- (a) the price payable under which includes an amount of profit;
  - (b) which is made between the two or more persons, each of which is associated with the primary contractor or a group sub-contractor;
  - (c) the value of which is no less than £250,000;
  - (d) the award of which was not the result of a competitive process (within the meanings given in regulation 59 and 60);

- (e) the price of which is not determined in accordance with regulation 19A (commercial pricing) or 19B(3) (prices determined in accordance with law); and
  - (f) where the goods, works or services to be provided under the contract are necessary to enable the performance of the qualifying defence contract.
- (5) The attributable profit is—
- (a) where all of the output of a group sub-contract or further group sub-contract is necessary to enable the performance of the qualifying defence contract, all the profit element in the price payable under that group sub-contract or further group sub-contract;
  - (b) where only part of the output of a group sub-contract or further group sub-contract is necessary to enable the performance of the qualifying defence contract, that part of the profit element in the price payable under that group sub-contract or further group sub-contract which relates to the output necessary for that performance.
- (6) Attributable profit does not include—
- (a) any appropriate sub-contractor profit;
  - (b) any capital servicing adjustment made under regulation 11(7);
  - (c) any profit which is received by a person who is not connected with the primary contractor.
- (7) In determining the value of a contract for the purposes of sub-paragraph (3)(c) or (4)(c), paragraphs (5) to (8A) of regulation 5 do not apply.
- (8) In this regulation, “appropriate sub-contractor profit” means an amount of profit in the price of a group sub-contract or further group sub-contract which the Secretary of State is satisfied is not duplicated by the values calculated by applying step 1 (baseline profit rate) and step 2 (cost risk adjustment) of regulation 11.
- (9) A person is connected with another person for the purposes of this regulation if they are associated with each other.”.