1981 No. 340

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government (Direct Labour Organisations) (Competition) Regulations 1981

Made - - - -	*5th March* 1981
Laid before Parliament	*11th March* 1981
Coming into Operation	*1st April* 1981

The Secretary of State for the Environment, in relation to England, and the Secretary of State for Wales, in relation to Wales, in exercise of the powers conferred upon them by section 7 and section 9(3) of the Local Government, Planning and Land Act 1980(**a**) and of all other powers enabling them in that behalf, hereby make the following regulations:—

Title and commencement

1. These regulations may be cited as the Local Government (Direct Labour Organisations) (Competition) Regulations 1981 and shall come into operation on 1st April 1981.

Interpretation

2. In these regulations—

"the Act" means the Local Government, Planning and Land Act 1980;

"the 1970 Act" means the Local Authorities (Goods and Services) Act 1970(**b**);

"emergency work" means work of any description whose necessity could not reasonably have been foreseen by a local authority or development body and which is required to avert, alleviate or eradicate in their area, or any part of it, the effects or potential effects of any emergency or disaster involving or likely to involve risk of serious damage to or destruction of property or risk of injury or danger to health or life;

"estimated cost" means the cost of a job as estimated under section 9(2) of the Act;

"general highway works" has the meaning ascribed to it in section 10(3) of the Act;

"job" means any functional work in respect of which a separate written statement of the estimated cost has been prepared in accordance with section 9 of the Act;

"works of maintenance" means works of maintenance within the meaning of the 1970 Act not being general highway works or the maintenance of a sewer;

(**a**) 1980 c. 65. (**b**) 1970 c. 39.

" works of new construction " means building or civil engineering works of any description not being general highway works the construction of a sewer or works of maintenance.

Prescribed amounts for works contracts

3. For the purposes of section 7(1) of the Act (prescribed amounts for certain works contracts) the following amounts are specified as the prescribed amounts for works contracts of the following descriptions, namely:—

(*a*) a contract for general highway works, £100,000;

(*b*) a contract for the construction or maintenance of a sewer, £50,000;

(*c*) a contract for works of new construction, £50,000; and

(*d*) a contract for works of maintenance, £10,000.

Requirement to tender for certain works contracts

4.—(1) The following conditions are prescribed for the purposes of section 7(1)(*b*) of the Act (local authority not to enter into works contract except in compliance with conditions) in relation to a works contract to which this regulation applies:—

(*a*) that the contract was made by acceptance of an offer on the part of the authority to carry out the work in question;

(*b*) that the authority made the offer in response to an invitation to submit such offers; and

(*c*) that the invitation was extended to at least three other persons.

(2) Subject to regulation 5 below, this regulation applies to a works contract for the carrying out of works of new construction whose value does not exceed £50,000, if the value of the contract together with the aggregate value of all relevant work previously undertaken by the authority in the same financial year exceeds two thirds of the aggregate value of all relevant work undertaken by the authority in the immediately preceding financial year.

(3) In this regulation " relevant work " means any works of new construction undertaken by entering into a works contract or by undertaking a job where the value of the contract or the estimated cost of the job does not exceed £50,000.

Exempted works contracts

5. Section 7(1) of the Act shall not apply to works contracts of any of the following descriptions, namely:—

(*a*) a contract for the carrying out of emergency work;

(*b*) a contract for the gritting of or the clearing of snow from highways;

(*c*) a contract which satisfies the following conditions—

(i) it is a contract the value of which does not exceed by more than 25% the value of a contract for work of a similar description awarded to the local authority at any time within the preceding two years (hereinafter referred to as " the former contract ");

(ii) the former contract was made as the result of an invitation to tender which was extended to at least three other persons;

(iii) the local authority submitted the lowest tender for the former contract following that invitation; and

(iv) the former contract has not been renewed (either by extension or the making of a new contract for work of a similar description) more than once, unless the invitation to tender, as a result of which the former contract was awarded, specifically referred to the award to the successful contractor of one or more further contracts.

Treatment of certain works contracts as a single contract

6. For the purposes of determining whether the value of a works contract exceeds the prescribed amount for a contract of that description it shall be treated together with one or more other contracts as a single works contract if each contract is made within a period of six months and relates to work of a similar description to be performed on a single site or surface or on adjacent sites or surfaces.

Functional work

7.—(1) Subject to paragraph (3) below, the following descriptions of functional work are hereby specified as descriptions of functional work which a local authority or development body may not undertake unless they have first complied with the conditions in section 9(4) of the Act as well as with those in section 9(2), namely—

(*a*) general highway works where the estimated cost of the job exceeds £100,000 ;

(*b*) construction or maintenance work in relation to sewers where the estimated cost of the job exceeds £50,000 ;

(*c*) works of new construction where the estimated cost of the job exceeds £50,000 ;

(*d*) works of maintenance where the estimated cost of the job exceeds £10,000 ; and

(*e*) works of new construction undertaken in a financial year where the estimated cost of the job does not exceed £50,000, if the estimated cost of the job together with the aggregate value of all relevant work previously undertaken by the authority or body in the same financial year, exceeds two thirds of the aggregate value of all relevant work undertaken by that authority or body in the immediately preceding financial year.

(2) In this regulation " relevant work " means any works of new construction undertaken by a local authority or development body by entering into a works contract or by undertaking a job where the value of the contract or the estimated cost of the job does not exceed £50,000.

(3) Paragraph (1) above shall not apply to functional work of the following descriptions, namely: —

(*a*) emergency work ;

(*b*) the gritting of or the clearing of snow from highways ;

(*c*) a job which satisfies the following conditions--

(i) it is a job the estimated cost of which does not exceed by more than 25% the value of a job of a similar description undertaken by a local authority or development body at any time within the preceding two years (hereinafter referred to as " the former job ") ;

(ii) the former job was undertaken following an invitation to tender which was extended to at least three other persons ;

(iii) the estimated cost of the job submitted by the authority or development body was lower than the lowest tender submitted following that invitation ; and

(iv) the former job has not been renewed (either by extension of time or the undertaking of a new job of a similar description) more than once, unless the invitation to tender following which the former job was undertaken specifically referred to the award to the successful tenderer of one or more further contracts.

Michael R. D. Heseltine,
4th March 1981. Secretary of State for the Environment.

Nicholas Edwards,
5th March 1981. Secretary of State for Wales.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Section 7(1) of the Local Government, Planning and Land Act 1980 provides that a local authority may not enter into a works contract whose value exceeds the prescribed amount unless they do so as the result of acceptance of a tender, or enter into a works contract whose value is equal to or less than the prescribed amount unless they have complied with conditions to be prescribed by regulations. These regulations prescribe different amounts in relation to different descriptions of contract and, in relation to certain descriptions of works contracts whose value is equal to or less than the prescribed amounts, they prescribe conditions to be complied with. The regulations also provide for the treatment of certain works contracts as a single contract. In relation to functional work they specify descriptions of work which a local authority or development body may not undertake unless they have first complied with the conditions specified in section 9(4) of the Act. The regulations also specify certain descriptions of works contracts to which the restrictions in section 7(1) of the Act do not apply and corresponding descriptions of functional work which may be undertaken by a local authority or development body without having first complied with the conditions specified in section 9(4) of the Act.

SI 1981/340
ISBN 0-11-016340-0

