STATUTORY INSTRUMENTS

1982 No. 1036

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government (Direct Labour Organisations) (Competition) Regulations 1982

Made - - - -	22*nd July* 1982
Laid before Parliament	3*rd August* 1982
Coming into Operation	1*st October* 1982

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 1982 and shall come into operation on 1st October 1982.

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);

"contractual construction work" and "contractual maintenance work" mean respectively works of new construction and works of maintenance carried out by a local authority by placing a contract for the doing of the work by another person (either directly or, in whole or in part, through sub-contractors) where the value of the contract, insofar as it provides for the carrying out of—

(i) works of new construction, does not exceed £50,000; or

(ii) works of maintenance, does not exceed £10,000;

"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 aggregate of the amounts which a local authority or development body will credit to their DLO revenue account in respect of the carrying out of all the items of construction or maintenance work comprised in a job—

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

(i) insofar as such amounts will fall to be determined in accordance with a written statement prepared in compliance with section 9(2)*(a)* of the Act, as so determined; and

(ii) insofar as such amounts will fall to be determined in accordance with a method specified in a written statement prepared in accordance with section 9(2)*(b)* of the Act, as reasonably estimated in accordance with that method;

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

"job" means all the functional work which can reasonably be carried out most economically and efficiently under one arrangement;

"relevant construction work" means works of new construction where the value, in the case of a works contract, or the estimated cost, in the case of a job, of the works of new construction undertaken does not exceed £50,000;

"relevant maintenance work" means works of maintenance where the value, in the case of a works contract, or the estimated cost, in the case of a job, of the works of maintenance undertaken does not exceed £10,000;

"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;

"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, £50,000;

(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) a works contract, the value of which, insofar as it provides for the carrying out of works of new construction, does not exceed £50,000, if that value together with the aggregate value of all relevant construction work previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section

9(3)*(a)* of the Act in the same financial year exceeds two thirds of the aggregate value of all relevant construction work undertaken and all contractual construction work carried out by the authority in the immediately preceding financial year;

(b) a works contract entered into in the period 1st October 1982 to 31st March 1983 inclusive and the value of which, insofar as it provides for the carrying out of works of maintenance, does not exceed £10,000 if that value together with the value of all relevant maintenance work previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)*(a)* of the Act in that period exceeds the greater of the following amounts—

(i) 70% of the aggregate value of all relevant maintenance work undertaken and all contractual maintenance work carried out by the authority in the period 1st October 1981 to 31st March 1982 inclusive, and

(ii) £150,000; and

(c) a works contract entered into after 31st March 1983 and the value of which, insofar as it provides for the carrying out of works of maintenance, does not exceed £10,000 if that value together with the value of all relevant maintenance work previously undertaken by the authority otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)*(a)* of the Act in the same financial year exceeds the greater of the following amounts—

(i) 70% of the aggregate value of all relevant maintenance work undertaken and all contractual maintenance work carried out by the authority in the immediately preceding financial year, and

(ii) £300,000.

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 10% the value of a contract of a similar description awarded to the local authority at any time in the immediately preceding period of twelve months (hereinafter referred to as "the former contract"), and in relation to which the value of each of the separate items of work comprised and priced in the contract does not exceed by more than 10% the value of each corresponding separate item of work (if any) comprised and priced in 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;

(iv) the former contract has not been renewed (either by extension or the making of a new contract for work of a similar description), 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; and

(v) except in the case of a contract for works of maintenance the work comprised in the contract is to be carried out on the same site or surface as the work comprised in the former contract or on sites or surfaces adjacent to those on which the work comprised in the former contract has been or is to be carried out.

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 (2) 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 £50,000;

(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;

(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 value of all relevant construction work previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)*(a)* of the Act in the same financial year exceeds two thirds of the aggregate value of all relevant construction work undertaken and all contractual construction work carried out by that authority or body in the immediately preceding financial year;

(f) works of maintenance undertaken in the period 1st October 1982 to 31st March 1983 inclusive where the estimated cost of the job does not exceed £10,000 if the estimated cost of the job together with the aggregate value of all relevant maintenance work previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)*(a)* of the Act in that period exceeds the greater of the following amounts—

(i) 70% of the aggregate value of all relevant maintenance work undertaken and all contractual maintenance work carried out by the authority or body in the period 1st October 1981 to 31st March 1982 inclusive, and

(ii) £150,000; and

(g) works of maintenance undertaken after 31st March 1983 where the estimated cost of the job does not exceed £10,000 if the estimated cost of the job together with the aggregate value of all relevant maintenance

work previously undertaken by the authority or body otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)*(a)* of the Act in the same financial year exceeds the greater of the following amounts—

(i) 70% of the aggregate value of all relevant maintenance work undertaken and all contractual maintenance work carried out by the authority or body in the immediately preceding financial year, and

(ii) £300,000.

(2) 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 10% the estimated cost of a job of a similar description undertaken by the local authority or development body in the immediately preceding period of twelve months (hereinafter referred to as "the former job") and in relation to which the estimated cost of each of the separate items of work comprised and priced in the job does not exceed by more than 10% the estimated cost of each corresponding item of work (if any) comprised and priced in 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 former job submitted by the authority or development body was lower than the lowest tender submitted following that invitation;

(iv) the former job has not been renewed (either by extension of time or the undertaking of a new job of a similar description) 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; and

(v) except in the case of a job of works of maintenance the work comprised in the job is to be carried out on the same site or surface as the work comprised in the former job or on sites or surfaces adjacent to those on which the work comprised in the former job has been or is to be carried out.

Revocation

8. The Local Government (Direct Labour Organisations) (Competition) Regulations 1981 (**a**) and the Local Government (Direct Labour Organisations) (Competition) (Amendment) Regulations 1982 (**b**) are hereby revoked.

(**a**) S.I. 1981/340.
(**b**) S.I. 1982/325.

21st July 1982.

Michael R. D. Heseltine,
Secretary of State for the Environment.

22nd July 1982.

Nicholas Edwards,
Secretary of State for Wales.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations consolidate, with amendments, the Local Government (Direct Labour Organisations) (Competition) Regulations 1981 and the Local Government (Direct Labour Organisations) (Competition) (Amendment) Regulations 1982. The amendments are limited to the insertion in regulation 4(2)*(a)*, *(b)* and *(c)* and in regulation 7(1)*(e)*, *(f)* and *(g)* of the qualifying words "otherwise than in accordance with section 7 or the conditions mentioned in section 9(3)*(a)* of the Act", (defined as the Local Government, Planning and Land Act 1980). Regulations 4 and 7 specify, respectively works contracts and functional work which are to be subject to competitive tendering when prescribed thresholds are exceeded. Regulations 4(2)*(a)*, *(b)* and *(c)* and 7(1)*(e)*, *(f)* and *(g)* provide that the relevant thresholds will in each case be exceeded when the aggregate value of work previously undertaken in a financial year reaches the threshold. The effect of the qualifying words is to exclude from these aggregate values the value of any work which has already been subject to competitive tendering.

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