

The Defence and Security Public Contracts Regulations 2011

Glossary

Terms used in this guidance

Term	Meaning
Acquisition team	The community within the procurer responsible for the procurement of supplies, works or services from outside its organisation using the DSPCR 2011. This may include staff responsible for requirement setting, and the commercial, financial, and technical aspects of the process.
BAFO (Best and Final Offer)	A BAFO is aimed at obtaining better Value For Money through a further, final, round of tendering with all remaining tenderers. The emphasis will be on securing a price reduction, but this should not preclude seeking other improvements, e.g. delivery or performance.
Candidate	"Candidate" is used only in the DSPCR 2011 in respect of Regulation 33 (Information about contract award procedures). It means an economic operator which has sought an invitation to take part in a restricted, negotiated or competitive dialogue procedure, and has not been informed of the rejection of its application and the reasons for its rejection.
Civil purchases	The term retains its natural meaning, i.e. in the DSPCR 2011 it means contracts covering the procurement of non-military products, works or services for logistical purposes that are not subject to Regulation 6(1) or (2) (Application).
Competitive dialogue	"Competitive dialogue" means a procedure in which any supplier may ask to participate and whereby the procurer conducts a dialogue with the candidates admitted to that procedure with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on the basis of which the candidates chosen are invited to tender.
Competitive negotiated procedure	The term used in the guidance for the negotiated procedure with publication of a contract notice
Commercial officer	Commercial Officer is the term used specifically for the procurer's staff that are authorised to award contracts on the procurer's behalf.

Term	Meaning
Commission	The European Commission
Concession contract	A contract of the same type as a works or service contract except for the fact that the consideration for the works or service to be carried out consists either solely in the right to exploit the work or service or in this right together with payment.
Contract	This term includes all forms of written contract including certain framework agreements.
Contract documents	This means the invitation to tender or invitation to negotiate, the descriptive document (if any), the proposed conditions of contract, the technical specification, and all supporting documents.
Contract documentation	Contract notices required to be published in OJEU and the contract documents.
Contractor	The economic operator that undertakes to provide the goods, services or works under the contract, described in the Regulations as “contractor”, “services provider” or “supplier” depending on the type of work.
Directive	There are many references in the guidance to the Directive. This refers to “Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and services contracts by contracting authorities or entities in the fields of defence and security, and amending Directive 2004/17/EC and Directive 2004/18/EC”.
Electronic auction	This means a repetitive process involving an electronic device for the presentation of new prices, revised downwards, and / or new values concerning certain elements of tenders, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods.
European procurement law	The law that opens up the EU's public procurement market to open competition, in order to promote the free movement. It includes TFEU obligations; Directive 2009/81/EC, Directive 2007/66/EC, Directive 2004/17/EC and Directive 2004/18/EC and case-law from the CJEU.

Term	Meaning
EU law	<p>The EU's system of internal law which overrides the national laws of its Member States. There are three sources of EU law:</p> <p>(1) primary legislation: the treaties</p> <p>(2) secondary legislation: regulations, directives, decisions, recommendations and opinions made in accordance with the treaties</p> <p>(3) decisions of the CJEU</p>
Exclusion	A provision in the DSPCR 2011 whose sole effect is to allow you to dis-apply the DSPCR 2011. Not to be confused with "treaty exemption".
Facility Security Clearance (FSC)	The term refers to contractors or subcontractors which have been formally placed on "List X" because they are undertaking work marked CONFIDENTIAL or above "on the Company Premises". List X is not available on request; it has to be "sponsored" by a contracting authority.
Financial threshold	The point when the estimated value of a contract or framework agreement is at a level to require procurers to apply the DSPCR 2011 if the contract or framework falls within the scope of DSPCR 2011
Framework agreement	This means an agreement or other arrangement between one or more contracting authorities / entities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Protective Marking System (GPMS)	The UK Government's Protective Marking System (hereafter referred to as GPMS) comprises five levels (PROTECT, RESTRICTED, CONFIDENTIAL, SECRET, TOP SECRET) designed to help individuals determine, and indicate to others, the necessary controls required to prevent the compromise of sensitive government assets; primarily, but not exclusively, National Security assets.
Invitation to Continue Dialogue (ITCD)	An ITCD may be issued under the competitive dialogue procedure where more than one round of dialogue is needed, particularly for very complex projects. Procurers should consider issuing an ITCD with the aim of producing "initial bids" that specify the candidates' proposals in writing, which can be further clarified during the dialogue phase.

Term	Meaning
Invitation to Negotiate (ITN)	An ITN is issued to bidders that meet the minimum pre-qualification standards and have been selected to participate in the procedure under either the competitive or non-competitive negotiated procurement procedure and invites them to negotiate the tenders with the aim of adapting them to the requirements specified in the contract documents.
Invitation to Participate in Dialogue (ITPD)	An ITPD is issued to the bidders that meet the minimum pre-qualification standards and have been selected to participate in the procedure under the competitive dialogue procedure. It invites them to participate in the competitive dialogue process. This opens the dialogue phase and the document will state the procurer's needs and requirements based on their stated evaluation criteria.
Invitation to Submit Final Bids (ITSFB)	Under the competitive dialogue procedure, the ITSFB is a final tender document which is issued to the bidder(s) remaining after down-selection of the solution(s). It enables preparation of a final bid containing everything needed to perform the contract on the basis of the solution(s) presented during dialogue. On receipt of the final bids no further dialogue is allowed
Invitation to Tender (ITT)	The ITT is issued to the bidders that meet the minimum pre-qualification standards and have been selected to tender. Under UK law, an ITT by itself is not an offer; it solicits offers. It will include all contract documents and how responses will be evaluated.
Main contract	A contract that is awarded directly by the procurer, often referred to as the prime contract.
Managing Public Money (MPM)	MPM is an HM Treasury publication. It sets out the main principles for dealing with resources used by public sector organisations in the UK and offers guidance to public servants on how to handle public funds of all kinds.
MEAT (Most Economically Advantageous Tender)	MEAT is a basis on which the award of a contract may be made under the DSPCR and PCR. It means the tenders received are assessed using a variety of objective and non-discriminatory criteria linked to the subject matter of the contract that serve to identify the tender which is best value for money. It allows a number of factors including the technical aspects and price of a tender to be assessed and ranked against other tenders in the competition.

Term	Meaning
NATO Standardization Agreements	Known as STANAGs, they help NATO Member States to achieve the required levels of interoperability and to better accomplish their common strategic, operational and tactical tasks, to understand and execute command procedures, and to employ techniques, material and equipment more efficiently.
Negotiated procedure	This means procedures in which the procurer negotiates the terms of the contract with one or more suppliers selected by it.
Non-competitive negotiated procedure	The term used in the guidance for the negotiated procedure without publication of a contract notice. This is mostly used for single source procurement but can also refer to a limited competition without an advertised call for competition.
OJEU (Official Journal of the European Union)	This is the publication in which all tenders from the public sector, which are valued above a certain financial threshold according to EU legislation, must be published.
Pre-Qualification Questionnaire (PQQ)	A PQQ allows any potential supplier interested in bidding for a contract the opportunity to complete a brief questionnaire demonstrating that they have the capacity and are capable of undertaking the contract. The PQQ sets out the procurer's minimum requirements, and the objective and non-discriminatory criteria used by the procurer to reduce those suppliers that meet those minimum requirements to a shortlist of those to be invited to the next stage.
Procurer	Contracting authority as defined in Regulation 4 (Contracting authorities) of the DSPCR.
Requirement	The description of the subject matter of the contract.
Research and development	This means all activities comprising fundamental research, applied research and experimental development, where the latter may include the realisation of technological demonstrators, i.e., devices that demonstrate the performance of a new concept or a new technology in a relevant or representative environment.
Restricted procedure	This means procedures in which any economic operator may ask to participate and whereby only those economic operators invited by the contracting authority / entity may submit a tender.

Term	Meaning
Revise or Confirm Offer (ROCO)	<p>ROCO invitations are issued if there are many issues to resolve and all, or most, of the tenderers remain in the competition. ROCO invitations detail:</p> <p>(1) the specific areas requiring attention (tailored to suit each tenderer if necessary); and / or</p> <p>(2) additional or amended information from the procurer that the tenderer needs to be aware of when re-submitting its offer.</p>
Secretary of State	There are many references in the Regulations and its guidance to the "the Secretary of State". This means the holder of such an office in Her Majesty's Government. It includes but is not limited to the Secretary of State for Defence.
Security of supply	A nation's ability to assure and be assured of contracted supplies of goods and services sufficient to discharge its defence and security commitments in accordance with its foreign and security policy requirements.
Subcontract	This means a contract for pecuniary interest concluded in writing between a successful tenderer for a contract and one or more suppliers for the purposes of carrying out that contract and having as its object works, supplies of products or the performance of services.
Supplier	Supplier means economic operator, as defined in Regulation 5(1) of the DSPCR, irrespective of its legal form.
Supply network	Entire set of organisations that are directly linked to the movement of materials, information or other resources as they flow from their source to the customer. It includes manufacturing, purchasing, warehousing, transportation, and service provision and the related tiers of subcontractors involved. Often referred to as the supply chain.
Tenderer	The economic operator that presents to the procurer an offer capable of acceptance to enter into a contract in response to a contract notice. The US term is bidder. Tenderer is used in Regulation 33 (Information about contract award procedures) with a specific definition and the use of the word tenderer at 43(1)(f)(ii) (Award of a sub-contract without publication of a sub-contract notice) denotes tenderers for a sub-contract.

Term	Meaning
Treaty exemption	A treaty derogation that allows us to exempt or relax our obligations under the TFEU. It also allows us not to apply all or part the DSPCR for specific procurements.
Technical specification	This means an instruction in the contract documents defining the required characteristics of a product, service and / or works in a manner such that it fulfils the use for which it is intended by the procurers.

Abbreviations used in this Guidance

Abbreviation	Meaning
CJEU	Court of Justice of the European Union
EU	European Union
ERG	Efficiency Reform Group in the Cabinet Office, formerly the Office of Government Commerce
DSPCR	Defence and Security Public Contracts Regulations 2011 , and any subsequent amendments
MOD	United Kingdom Ministry of Defence
OJEU	Official Journal of the European Union
PCR 2006	The Public Contracts Regulations 2006 , and any subsequent amendments
PCSR 2006	The Public Contracts (Scotland) Regulations 2006 , and any subsequent amendments
UCR 2006	The Utilities Contracts Regulations 2006 , and any subsequent amendments
UCSR 2006	The Utilities Contracts (Scotland) Regulations 2006 , and any subsequent amendments
SME	Small and Medium sized Enterprises

Abbreviation	Meaning
TFEU	Treaty for the Functioning of the European Union Formerly called the Treaty Establishing the European Community (TEC). The Lisbon Treaty of 1 Dec 09 amended and renamed this treaty.
TED	Tenders Electronic Daily The online version of the 'Supplement to the Official Journal of the European Union'.
TEU	Treaty on European Union This was signed in Maastricht on 7 Feb 92 and amended by the Lisbon Treaty of 1 Dec 09.
VFM	Value for Money