

SSRO

Single Source
Regulations Office

Reporting guidance consultation response - Appendices
July 2022

Contents

Appendix 1 – Aggregation principles	3
Appendix 2 – Framework contracts	25
Appendix 3 – Supplier reporting general requirements	33
Appendix 4 – Company registration numbers for overseas contractors	36
Appendix 5 – Minor and uncontroversial changes	37

Appendix 1 – Aggregation principles

Comment	Draft guidance	SSRO response	Final guidance
<p>This wording suggests that all contracts greater than £1m report a QSC assessment. This is not the requirement; it should state that the outcome is required 'IF' an assessment has been made. The Regulations as quoted (R26,27,28) all start with the word 'if'.</p>	<p>3.33 For each sub-contract which has or is expected to have a value of not less than £1 million, contractors are required to report the outcome of any assessment that has been made of whether a sub-contract is a QSC. This information must be provided in the Contract Notification Report, Quarterly Contract Report, Interim Contract Report and Contract Completion Report (see regulations 25(2)(l)(ix), 26(6)(k)(ix), 27(5)(e)(ix) and 28(2)(p)(ix)). Additionally, if the sub-contract is valued at £15 million or more, and the contractor's assessment is that the sub-contract would not be QSC, then the contractor must also report:</p> <ul style="list-style-type: none"> • the outcome of the negative assessment; • confirmation of whether the award of the contract is not, or would not be, the result of a competitive process; and • confirmation of whether the contract enables the performance of contracts other than a QDC or QSC. <p>This information must be provided in the Contract Notification Report, Quarterly Contract Report, Interim Contract Report and Contract Completion Report (regulations 25(2)(m), 26(6)(l), 27(5)(f) and 28(2)(q)).</p>	<p>The draft guidance, which provides that contractors are required to report the outcome of any assessment that has been made of whether a sub-contract is a QSC, is consistent with the legislation. The SSRO considers that, in any event, regulation 61 requires a contractor to undertake a QSC assessment in each case where it is proposed to enter into a relevant sub-contract, irrespective of the contract value. We would therefore expect that a QSC assessment will have been made for each sub-contract required to be reported.</p> <p>No change to the proposed guidance has been made for this comment, however paragraph numbers are updated due to other consequential changes in the guidance.</p>	<p>3.36 For each sub-contract which has or is expected to have a value of not less than £1 million, contractors are required to report the outcome of any assessment that has been made of whether a sub-contract is a QSC. This information must be provided in the Contract Notification Report, Quarterly Contract Report, Interim Contract Report and Contract Completion Report (see regulations 25(2)(l)(ix), 26(6)(k)(ix), 27(5)(e)(ix) and 28(2)(p)(ix)). Additionally, if the sub-contract is valued at £15 million or more, and the contractor's assessment is that the sub-contract would not be QSC, then the contractor must also report:</p> <ul style="list-style-type: none"> • the outcome of the negative assessment; • confirmation of whether the award of the contract is not, or would not be, the result of a competitive process; and • confirmation of whether the contract enables the performance of contracts other than a QDC or QSC. <p>3.37 This information must be provided in the Contract Notification Report, Quarterly Contract Report, Interim Contract Report and Contract Completion Report (regulations 25(2)(m), 26(6)(l), 27(5)(f) and 28(2)(q)). Table 19 provides further guidance on sub-contract data input.</p>

Comment	Draft guidance	SSRO response	Final guidance
I am content with the revised wording.		One change has been made to this paragraph to refer to the guidance provided in Table 19 of the reporting guidance. This is in response to this respondent's comments on the proposed new paragraph 3.42, which has now been deleted.	
'assessments in all cases', we believe that this appears too expansive and 'for assessments that are undertaken' should be substituted.	3.34 Regulation 61 specifies the circumstances in which an assessment must be carried out of whether a proposed sub-contract would be a QSC (a QSC assessment). A QSC assessment must be carried out by the primary contractor or other person who proposes to enter into a sub-contract if the proposed sub-contract involves the provision of anything for the purposes of a QDC or QSC to which the contractor or other person is a party. Regulation 61 also specifies that the person carrying out the assessment must keep a record of the assessment, give written notice to the MOD and the sub-contractor if it considers the contract would be a QSC, and in all cases give written notice that an assessment has been made to the MOD and the SSRO.	The phrase 'assessments in all cases' has been used to distinguish between the two notification types: one in relation to every QSC assessment undertaken and the other in relation to positive QSC assessments. For clarity, this paragraph has been updated to refer to 'every QSC assessment carried out' in the final guidance.	3.38 Regulation 61 specifies the circumstances in which an assessment must be carried out of whether a proposed sub-contract would be a QSC (a QSC assessment). A QSC assessment must be carried out by the primary contractor or other person who proposes to enter into a sub-contract if the proposed sub-contract involves the provision of anything for the purposes of a QDC or QSC to which the contractor or other person is a party.
Whilst this guidance on notification requirements of regulation 61 sections (3), (6) and (8) may be both accurate and even helpful, it does not constitute reporting guidance on Part 5 of the regulations and should therefore be removed along with SSROs notification templates.	The requirement upon contractors to provide a notification for the purposes of regulations 61(3) and (6) and 61(8) is not satisfied through the submission of sub-contract information or statutory reports in DefCARS. For assessments in all cases, an assessment notification template, together with guidance on submitting the notification, can be found on the SSRO's website.	The SSRO regularly encounters instances of contracting authorities failing to provide written notices of a positive QSC assessment to the Secretary of State and the sub-contractor. In many cases notice is provided several months after the QSC is entered into, at which time a sub-contractor would have failed to submit their initial contract reports which are due within one month of the sub-contract being entered into. Inclusion of paragraph 3.34 in the guidance is therefore appropriate, since it helps sub-contractors to understand and comply with their reporting obligations following a QSC assessment.	Regulation 61 also specifies that the person carrying out the assessment must keep a record of the assessment, give written notice to the MOD and the sub-contractor if it considers the contract would be a QSC, and in all cases give written notice that an assessment has been made to the MOD and the SSRO. The requirement upon contractors to provide a notification for the purposes of regulations 61(3) and (6) and 61(8) is not satisfied through the submission of sub-contract information or statutory reports in DefCARS.

Comment	Draft guidance	SSRO response	Final guidance
	<p>If a contractor wishes to provide the template to the MOD and/or the SSRO in DefCARS, this can be done by uploading the completed template to the sub-contracts page of the next CNR, QCR, ICR or CCR submitted for the parent contract. A separate template has been developed by the SSRO which can be used to notify the MOD and the proposed sub-contractor of a positive QSC assessment. This should be done in a timely way (before or upon entering into the sub-contract), as the requirements of the regulatory framework will only apply to the QSC once notice has been given and in order that the sub-contractor can meet its own reporting obligations in a timely manner.</p>	<p>We acknowledge that the notification requirements exist separately from the reporting obligations established under section 24 of the Act and Part 5 of the Regulations. For this reason, the notification template and guidance on its submission will exist outside of the reporting guidance, on the SSRO's website, for a contractor to use should it wish to.</p> <p>Should a prime contractor choose to do so, it may submit a completed notification template through DefCARS in the next CNR, QCR, ICR or CCR submitted.</p> <p>No change to the proposed guidance has been made for this comment, however paragraph numbers are updated due to other consequential changes in the guidance.</p>	<p>3.39 For every QSC assessment carried out, an assessment notification template, together with guidance on submitting the notification, can be found on the SSRO's website. If a contractor wishes to provide the template to the MOD and/or the SSRO in DefCARS, this can be done by uploading the completed template to the sub-contracts page of the next applicable report. The CNR, QCR, ICR or CCR submitted for the parent contract may be the most appropriate as these already include a page on sub-contract information but contractors remain free to adopt other approaches should they wish to. A separate template has been developed by the SSRO which can be used to notify the MOD and the proposed sub-contractor of a positive QSC assessment. This should be done in a timely way (before or upon entering into the sub-contract), as the requirements of the regulatory framework will only apply to the QSC once notice has been given and in order that the sub-contractor can meet its own reporting obligations in a timely manner.</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>We agree with the point being explained but also recognise, in the case of sub-contracts, the threshold test takes place twice: when QDC is let, and when the sub-contract is subsequently let, “whichever is the higher”.</p>	<p>3.35 The Regulations only call for a QSC assessment to be undertaken at the time when it is proposed to enter into the sub-contract. The Regulations do not require a QSC assessment to be undertaken if an existing sub-contract is subsequently amended. If they have been assessed and determined not to be a QSC, they will not subsequently become QSCs. A proposed amendment to a sub-contract will, however, trigger the requirement for a QSC assessment under regulation 61 if the parties propose to amend a sub-contract in a way that results in a new subcontract.</p>	<p>Regulation 5(3)(a) explains when the value is to be determined, which is either the date of the QSC assessment or, if later, the date on which it is proposed to enter into the sub-contract (whichever is the higher) rather than the date on which the QDC is let. We agree, however, that the guidance would benefit from clarification on when the contracting authority must determine the value of the sub-contract. Paragraph 3.37 has been updated to reflect the requirements of regulation 5(3)(a).</p>	<p>3.40 The Regulations only call for a QSC assessment to be undertaken at the time when it is proposed to enter into the sub-contract and not when an existing sub-contract is subsequently amended, unless the parties propose to amend the sub-contract in such a way that a new sub-contract is created.</p>
<p>Although the intent of this paragraph is to indicate that a new assessment need only be made if a subcontract is amended in such a way that what would be deemed to be a new contract is created and it would be that new contract that would be subject to assessment and not the original contract, the wording does encapsulate this idea succinctly. Given that the guidance relates to regulation 61, the paragraph should be wholly removed. The contents refer to assessment requirements that lay outside Part 5.</p>		<p>The SSRO has seen incorrect application of the QSC assessment requirements. This includes, for example, assessing a sub-contract as a QSC following amendment when it was originally assessed as not being a qualifying contract, which has resulted in erroneous reporting. The inclusion of paragraphs in the guidance in relation to QSC assessment requirements will assist contractors in understanding and complying with their reporting obligations following a QSC assessment.</p> <p>The paragraph has been amended to make it more succinct.</p>	

Comment	Draft guidance	SSRO response	Final guidance
<p>This paragraph should be removed as the contents refer to assessment requirements that lay within regulations outside Part 5.</p>	<p>3.36 If the outcome of the QSC assessment is positive and the proposed amendment is made, the new QSC will be brought into the regime upon the contractor complying with the notice requirements under regulation 61(3).</p>	<p>QSCs are not brought into the regulatory framework unless and until the contracting authority provides notice in writing of a positive QSC assessment to the Secretary of State and the prospective sub-contractor (regulation 58(6)). In many cases notice is either not provided, or provided several months after the QSC is entered into, at which time a sub-contractor would have failed to submit their initial contract reports which are due within one month of the sub-contract being entered into. Inclusion of paragraph 3.36 in the guidance is therefore appropriate, since it helps sub-contractors to understand and comply with their reporting obligations following a QSC assessment.</p> <p>No change to the proposed guidance has been made for this comment, however paragraph numbers are updated due to other consequential changes in the guidance.</p>	<p>3.41 If the outcome of the QSC assessment is positive and the proposed amendment is made, the new QSC will be brought into the regime upon the contractor complying with the notice requirements under regulation 61(3).</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>'Contractors must determine the value of each sub-contract to a QDC or QSC in order to know whether to report':</p> <ol style="list-style-type: none"> i. This requires assessment of all relevant direct sub-contracts. ii. This requires assessment of all indirect sub-contracts recovered through relevant rates even if it recovers a very small percentage of a sub-contract. iii. We believe that the use of the Regulation 5 threshold value is onerous, invasive, and not the intent of the legislation. 	<p>Determining the value of a sub-contract</p> <p>3.37 Contractors must determine the value of each sub-contract to a QDC or QSC in order to know whether to report:</p> <ul style="list-style-type: none"> • details of sub-contracts valued at £1 million or more, including whether a QSC assessment has been carried out; and • details of a negative QSC assessment for a sub-contract valued at £15 million or more. <p>The contractor, as the contracting authority, is required to determine the value of the proposed sub-contract in accordance with regulation 5. Regulation 5 explains when the value is to be determined, and what must be included in and excluded from the calculation. It includes a requirement in certain cases to aggregate the value of the proposed sub-contract being assessed with the value of other sub-contracts and proposed sub-contracts.</p>	<p>Regulation 61 explains the requirement to undertake a QSC assessment in each case where it is proposed to enter into a relevant sub-contract.</p> <p>No changes to the proposed guidance has been made for this comment, however paragraph numbers are updated due to other consequential changes in the guidance.</p>	<p>Determining the value of a sub-contract</p> <p>3.42 Contractors must determine the value of each sub-contract to a QDC or QSC in order to know whether to report:</p> <ul style="list-style-type: none"> • details of sub-contracts valued at £1 million or more, including whether a QSC assessment has been carried out; and • details of a negative QSC assessment for a sub-contract valued at £15 million or more. <p>3.43 The contractor, as the contracting authority, is required to determine the value of the proposed sub-contract in accordance with regulation 5. Regulation 5(3)(a) explains when the value is to be determined, which is either the date of the QSC assessment or, if later, the date on which it is proposed to enter into the sub-contract (whichever is the higher). Regulation 5 also describes what must be included in and excluded from the calculation. It includes a requirement in certain cases to aggregate the value of the proposed sub-contract being assessed with the value of other sub-contracts and proposed sub-contracts.</p>
<p>This paragraph should be removed as the contents refer to assessment requirements that lay within regulations outside Part 5.</p>		<p>The SSRO has seen incorrect application of the QSC assessment requirements. This includes, for example, the incorrect application of the aggregation principles, which has resulted in erroneous reporting. The inclusion of paragraphs in the guidance in relation to QSC assessment requirements will assist contractors in understanding and complying with their reporting obligations following a QSC assessment.</p> <p>No change to the proposed guidance has been made for this comment.</p> <p>The guidance has been updated to address the earlier comment concerning when a sub-contract value is to be determined.</p>	

Comment	Draft guidance	SSRO response	Final guidance
<p>This paragraph should be removed as the contents refer to assessment requirements that lay within regulations outside Part 5.</p>	<p>3.38 In circumstances where the contracting authority:</p> <ul style="list-style-type: none"> • proposes to enter into a sub-contract for the purpose of fulfilling a requirement for goods, works or services; and • has also entered into, or proposes to enter into, one or more other single source contracts with the same person (or persons associated with that person) for the purpose of fulfilling that requirement, <p>the value of the proposed sub-contract is the aggregate of the consideration (being something of value, including monetary payments) which the contracting authority has paid or expects to be payable under (i) the proposed sub-contract being assessed; and (ii) all of those other contracts or proposed contracts (regulation 5(5)).</p>	<p>The SSRO has seen incorrect application of the QSC assessment requirements. This includes, for example, the incorrect application of the aggregation principles, which has resulted in erroneous reporting. The inclusion of paragraphs in the guidance in relation to QSC assessment requirements will assist contractors in understanding and complying with their reporting obligations following a QSC assessment.</p> <p>No change to the proposed guidance has been made for this comment, however paragraph numbers are updated due to other consequential changes in the guidance.</p>	<p>3.44 In circumstances where the contracting authority:</p> <ul style="list-style-type: none"> • proposes to enter into a sub-contract for the purpose of fulfilling a requirement for goods, works or services; and • has also entered into, or proposes to enter into, one or more other single source contracts with the same person (or persons associated with that person) for the purpose of fulfilling that requirement, <p>the value of the proposed sub-contract is the aggregate of the consideration (being something of value, including monetary payments) which the contracting authority has paid or expects to be payable under (i) the proposed sub-contract being assessed; and (ii) all of those other contracts or proposed contracts (regulation 5(5)).</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>This paragraph should be removed as the contents refer to assessment requirements that lay within regulations outside Part 5. The 'Aggregation example' should also be excluded.</p>	<p>3.39 When carrying out a value assessment, some contracts must or may be disregarded for the purposes of aggregation (regulations 5(6) - 5(8)):</p> <ul style="list-style-type: none"> • A contract or proposed contract with a value of £250,000 or less must be disregarded if the contracting authority is reasonably satisfied that the procurement has not been subdivided to avoid the requirements of the Act and Regulations. • A contract or proposed contract may be disregarded if conditions A and B are met in relation to it. <p>Condition A is that the contract has a value of over £250,000 and less than £1 million. Condition B is that the contract, and any other contract valued at more than £250,000 but less than £1 million and which would otherwise be within scope of the aggregation, together have an aggregate value of less than 20% of the consideration the contracting authority has paid or expects to be payable under all contracts entered into for the purposes of fulfilling the requirement under regulation 5(5)(a).</p>	<p>The SSRO has seen incorrect application of the QSC assessment requirements. This includes, for example, the incorrect application of the aggregation principles, which has resulted in erroneous reporting. The inclusion of paragraphs in the guidance in relation to QSC assessment requirements will assist contractors in understanding and complying with their reporting obligations following a QSC assessment.</p> <p>No change to the proposed guidance has been made for this comment, however paragraph numbers are updated due to other consequential changes in the guidance.</p>	<p>3.45 When carrying out a value assessment, some contracts must or may be disregarded for the purposes of aggregation (regulations 5(6) - 5(8)):</p> <ul style="list-style-type: none"> • A contract or proposed contract with a value of £250,000 or less must be disregarded if the contracting authority is reasonably satisfied that the procurement has not been subdivided to avoid the requirements of the Act and Regulations. • A contract or proposed contract may be disregarded if conditions A and B are met in relation to it. <p>Condition A is that the contract has a value of over £250,000 and less than £1 million. Condition B is that the contract, and any other contract valued at more than £250,000 but less than £1 million and which would otherwise be within scope of the aggregation, together have an aggregate value of less than 20% of the consideration the contracting authority has paid or expects to be payable under all contracts entered into for the purposes of fulfilling the requirement under regulation 5(5)(a).</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>The proposed guidance does provide clearer assistance with respect to the aggregation principles. It gives a clearer understanding of what elements would become a QSC through this process. Additional guidance is required to direct what would happen in the event of a further QSC for over £1 million being assessed later in the contract. Would that be automatically be QSC?</p> <p>The example used is fine for demonstrating aggregation principles but too narrow in the wider context of reporting sub-contracts. An additional sub-contract over £1m should also be shown to assist in the general reporting requirements.</p> <p>Regarding notification of assessment for a QSC, are the SSRO suggesting that all assessments regardless of value should be notified to the S.o.S? Regulation 61 (8) only states where records are kept.</p>	<p>Aggregation example below paragraph 3.39.</p>	<p>The example has been amended to reflect the later aggregation of a further sub-contract for the same requirement.</p> <p>Regulation 61(8) states that where a record of assessment is made, the contracting authority must give notice in writing to the Secretary of State and the SSRO that an assessment has been made. However, regulations 61(2) and 61(5) require the contracting authority to keep a record of every QSC assessment undertaken, irrespective of value. The effect, therefore, is that a written notification will be required in every case.</p>	<p>See example in full below this table</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>The inclusion of an example is a valuable addition to guidance to aid the understanding of the requirements and would raise the following points:</p> <p>First paragraph shows “£500,0000”, we presume it should be “£500,000”?</p> <p>In paragraph one should the term “price” be used for each sub-contract being considered for the threshold aggregation test?</p> <p>Likewise the first sentence of the section “Value of SC6 and 7”.</p> <p>Notice of a sub-contract assessment, template – we do not understand the logic for attaching this template to the DefCARS report, since the information is already a requirement of each report.</p>	<p>Aggregation example below paragraph 3.39.</p>	<p>The additional zero noted has been removed from the example.</p> <p>Regulation 5 describes how the value of a contract is to be determined, which includes in some cases the requirement to aggregate the values of more than one contract. The contract price is not relevant for the purposes of calculating the value.</p> <p>The requirement for contracting authorities to provide written notification for the purposes of regulations 61(3) and (6) and 61(8) is not satisfied by virtue of complying with the reporting requirements of the statutory reports. For example, in the CNR, QCR, ICR and CCR, a contractor is required to provide the outcome of a QSC assessment in relation to sub-contracts with a value of at least £1 million. The notification requirements, however, are not dictated by either any, or the same, contract values.</p> <p>If a contracting authority wishes to provide the notification template to the MOD and the SSRO in DefCARS in order to satisfy their notification requirements under regulations 61(3) and (6) and 61(8), it may upload the completed template to the sub-contracts page of the next CNR, QCR, ICR or CCR submitted for the parent contract.</p> <p>No change to the proposed guidance has been made for this comment.</p>	<p>See example in full below this table</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>Whilst we disagree with some principles as outlined above, the example is consistent with the SSRO's approach. We do not understand the following however:</p> <p>a. 'give notice in writing to the Secretary of State and the SSRO that each QSC assessment has been made for SC6 and SC7 (regulation 61(8)) (notice in relation to contracts SC1, SC2, SC3, SC4 and SC5 should previously have been made to the Secretary of State and to the SSRO)';</p> <p>b. Why would notices have been given in relation to SC1-SC5. These contracts had values of £200k, £500k x 3 and £2m. No assessment is required. The SSRO are suggested that every sub-contract should be assessed and therefore a negative assessment reported, even when the value is obviously not relevant. Can the SSRO explain this statement and show how this is reasonable and proportionate.</p>	<p>Aggregation example below paragraph 3.39.</p>	<p>Regulation 61(8) states that where a record of assessment is made, the contracting authority must give notice in writing to the Secretary of State and the SSRO that an assessment has been made. However, regulations 61(2) and 61(5) require the contracting authority to keep a record of every QSC assessment undertaken, irrespective of value. The effect, therefore, is that a written notification will be required in every case.</p> <p>While some sub-contracts may be excluded from application of the aggregation rules, the requirement to undertake a QSC assessment in each case will still apply (regulation 61(1) and 61(4)), as will the notification requirements of regulation 61(8).</p> <p>The guidance accurately reflects the requirements of the legislation. The SSRO can recommend legislative changes to the Secretary of State and would welcome discussion on the respondent's comments in relation to proportionality in due course.</p> <p>No change to the proposed guidance has been made for this comment.</p>	<p>See example in full below this table</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>'For all sub-contracts and proposed sub-contracts Contractor A has entered into or intends to enter into, regardless of value, it is required to provide a description (together with the total proportion of the contract price of the QDC which it expects to sub-contract) in the CNR (reg 25(2)(k)), QCR (reg 26(6)(j)) and ICRL (reg 27(5)(d)). This includes sub-contracts SC1 – SC4 which were disregarded for the purposes of the determining the value of SC6 and SC7. Paragraph 4.68 of the contract reporting guidance refers'. Whilst this is the requirement of the Regulations, it is expansive, onerous and not proportionate for all contracts to be included.</p>	<p>Aggregation example below paragraph 3.39.</p>		<p>See example in full below this table</p>
<p>The aggregation example should be removed.</p>		<p>The SSRO has seen incorrect application of the QSC assessment requirements. This includes, for example, incorrect application of the aggregation principles, which has resulted in erroneous reporting. The inclusion of the example in the guidance in relation to QSC assessment requirements will assist contractors in understanding and complying with their reporting obligations following a QSC assessment.</p> <p>No change to the proposed guidance has been made for this comment.</p>	

Comment	Draft guidance	SSRO response	Final guidance
<p>DSAG believes that where the scope of a regulated work is being considered, this should be addressed in a wider tri-partite forum with the MoD. It would be useful to industry to have clarity on 'the requirement' as required by Regulation 5, industry has been asking MoD for clear definition of this term since 2013.</p> <p>The SSRO define the Regulation 5 'requirement'. This is a fundamental definition of the scope of a QDC/QSC, as such it should not be defined by reporting guidance. It is a complex and judgemental definition. DSAG supports the MoD in leading a tri-partite working group to adequately complete this task.</p> <p>In CP Appendix 1 paragraph 3 the SSRO are seeking to define the key term 'requirement' for the purpose of Regulation 5. The definition required is highly complex, and requires tri-partite working to agree the definition. The definition of the word requirement is fundamental to the scope of what is a QDC/ QSC and therefore what is the scope of the Defence Reform Act. This definition should not be made in the SSRO reporting guidance, and therefore must be removed.</p>	<p>3.40 The requirement to be fulfilled by the sub-contract whose value is being assessed (see 3.38) should be identified from the terms of that contract. Similarly, the requirement to be fulfilled by other sub-contracts that the contracting authority has with the sub-contractor should be identified from the terms of those other sub-contracts. In each case, the contracting authority should:</p> <ul style="list-style-type: none"> • Exercise judgment in describing the requirement under the contract. • Avoid an overly narrow or excessively detailed characterisation that emphasises minor or non-significant differences. • Be mindful that the aggregation principles are intended to prevent avoidance of the regulatory framework by dividing a single requirement into multiple contracts. <p>3.41 When considering whether the requirement fulfilled by the sub-contract is the same as the requirement fulfilled by other contracts, the contracting authority should consider whether the contracts deliver goods, works or services which:</p> <ul style="list-style-type: none"> • are uniform in character (e.g. a repeat order for the same goods, works or service); or • together, fulfil a single economic and technical function (e.g. they all contribute to one asset or project). 	<p>The SSRO accepts that the term 'requirement' is not defined in the Act or Regulations.</p> <p>For the purpose of assessing whether the requirement fulfilled by the sub-contract being assessed is the same as the requirement fulfilled by other contracts, we remain of the view that this is to be identified from the terms of each contract and that contracting authorities should give careful consideration to how those requirements are expressed. Contracting authorities should also take into account the intent of the aggregation principles, being to prevent avoidance of the regulatory framework by dividing a single requirement into more than one contract.</p> <p>We have simplified paragraph 3.40 and deleted the proposed paragraph 3.41. We have also updated the example to explain that the sub-contracts were for the same requirement.</p>	<p>3.46 The requirement to be fulfilled by the sub-contract whose value is being assessed (see 3.44) should be identified from the terms of that contract. Similarly, the requirement to be fulfilled by other sub-contracts that the contracting authority has with the sub-contractor should be identified from the terms of those other sub-contracts. In each case, the contracting authority should be mindful that the aggregation principles are intended to prevent avoidance of the regulatory framework by dividing a single requirement into multiple contracts.</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>The SSRO definition of 'requirement' is brief and does not cater for the complexity of the goods and services that are delivered to the MoD by the contractor base. For example, what is the scope of the 'single economic and technical function, e.g. they all contribute to one asset or project' in the case of submarine maintenance? Is the boundary a single task when on a tidal-x berth, is it fleet time maintenance, is it a long-overhaul period refuel (LOPR), or is it all of these requirements, as they are all for the purposes of Continuous At Sea Deterrent (CASD)?</p> <p>This issue is fundamental to the scope of the Defence Reform Act, and regulated contracts. Definition must be led by the MoD with the inclusion of industry and the SSRO in its formulation.</p>			

Comment	Draft guidance	SSRO response	Final guidance
<p>These paragraphs should be removed as the contents refer to assessment requirement that lay within regulations outside Part 5. As SSRO points out in its appendix 1 paragraph 5 'The aggregation provisions are intended to prevent a single requirement being distributed among multiple contracts in order to circumvent application of the Act and Regulations', and in paragraph 3 of the same appendix, that 'the term 'requirement' is not defined in the DRA or regulations'. It should therefore be left to the contracting authority to describe the requirement to be satisfied by a contract, to assess whether the requirement is or will be satisfied by more than one contract and to assess whether or not it considers that aggregation provisions should apply. It is then a matter for the MOD to decide whether assessments have been made correctly. The SSRO, in its role as an independent entity, should have no concern with the assessment unless and until such time as a reference is made to it for a determination.</p>			

Comment	Draft guidance	SSRO response	Final guidance
<p>Explores Regulation 5(5)(a) the purpose of the contract is to fulfil a requirement for goods, works or services and 5(5)(b)enter into, one or more other contracts....with the same person for the purpose of fulfilling that requirement and seems consistent with the regulation.</p> <p>Bullet 1 seems consistent with the regulation as it talks of the requirement in terms of contract deliverables.</p> <p>Bullet 2 seems inconsistent as it expands the definition of requirement from one that describes the contracted deliverables to one that is framed by their use (a contribution to a common asset or project). This could mean quite different contract deliverables, with the same parties for the same common asset or project could be subject to aggregation. We do not think that this is consistent with Regulation 5.</p>			

Comment	Draft guidance	SSRO response	Final guidance
<p>'Confirmation of whether the contract enables the performance of contracts other than a QDC or QSC. For a sub-contract to be a QSC, it must involve the provision by the sub-contractor of anything for the purposes of a QDC or QSC to which the primary contractor is a party. If the contractor decided the sub-contract was not a QSC on this ground, then it should indicate the contracts which are not QDCs or QSCs that the contract supports and explain why the contract is being identified for the purposes of the QDC or QSC that is being reported on.' We reject this requirement, the contractor must only be required to report that a contract is not a QSC and the status of a failure under the 50% test. It should not be required to report non-QDCs/non-QSCs that the contract supports.</p>	<p>3.42 If a contractor is required to report a negative QSC assessment, the report should contain the following information.</p> <ul style="list-style-type: none"> The outcome of the negative assessment. This should explain why the contractor considered the sub-contract was not a QSC. It should include a statement of the assessed value of the sub-contract. Confirmation of whether the award of the contract is not, or would not be, the result of a competitive process. Regulations 59 and 60 set out, respectively, the circumstances in which: the award of a sub-contract is the result of a competitive process; and the award of a sub-contract to a framework supplier is the result of a competitive process. Confirmation of whether the contract enables the performance of contracts other than a QDC or QSC. For a sub-contract to be a QSC, it must involve the provision by the sub-contractor of anything for the purposes of a QDC or QSC to which the primary contractor is a party. If the contractor decided the sub-contract was not a QSC on this ground, then it should indicate the contracts which are not QDCs or QSCs that the contract supports and explain why the contract is being identified for the purposes of the QDC or QSC that is being reported on. 	<p>Regulations 25(2)(m)(iii), 26(6)(l)(iii), 27(5)(f)(iii) and 28(2)(q)(iii) requires the contractor to provide confirmation of whether a sub-contract enables the performance of contracts other than a qualifying defence contract or qualifying sub-contract in relation to each sub-contract which the primary contractor has entered into, or intends to enter into, and which has or is expected to have a value of not less than £15,000,000, if the contractor has made an assessment that the contract would not be a qualifying sub-contract.</p> <p>DefCARS provides fields for the contractor to complete this information, where applicable, and the reporting guidance provides guidance to contractors who need to complete the field.</p>	<p>Proposed paragraph deleted.</p>
<p>This paragraph should be removed as the reporting requirements set out in Part 5 reporting regulations are addressed in 3.33 and this section of guidance requests information that is not required by the regulations.</p>	<p>Table 19 provides further guidance on sub-contract data input.</p>	<p>We accept that there is duplication between the revised paragraph 3.36 and the proposed paragraph 3.42. We have deleted this proposed paragraph, but have retained and moved the reference to Table 19 to the end of paragraph 3.36.</p>	

Comment	Draft guidance	SSRO response	Final guidance
No comments made	<p>[contract reporting guidance, Table 19, row titled 'outcome of negative assessment']</p> <p>Where the value of the sub-contract or proposed sub-contract is equal to or more than £15 million and the prime contractor has assessed that the sub-contract would not be a qualifying sub-contract, the prime contractor must report the outcome of the negative assessment. The contractor should report the outcome of the negative assessment using the free text field and provide the information in accordance with paragraph 3.41.</p>	<p>Minor change to guidance proposal to refer to the requirements set out in paragraph 3.36.</p>	<p>[contract reporting guidance, Table 19, row titled 'outcome of negative assessment']</p> <p>Where the value of the sub-contract or proposed sub-contract is equal to or more than £15 million and the prime contractor has assessed that the sub-contract would not be a qualifying sub-contract, the prime contractor must report the outcome of the negative assessment. The contractor should report the outcome of the negative assessment using the free text field and provide the information in accordance with paragraph 3.36.</p>
<p>Assessment notification templates are outside the scope of reporting guidance relating to Part 5 and should therefore be removed. The SSRO does not have vires to issue guidance relating to regulation 61.</p>	<p>General comment.</p>	<p>We acknowledge that the notification requirements exist separately from the reporting obligations established under section 24 of the Act and Part 5 of the Regulations. For this reason, the notification template and guidance on its submission will exist outside of the reporting guidance, on the SSRO's website, for a contractor to use should it wish to.</p> <p>We consider that the notification template will assist sub-contractors in understanding and complying with their reporting obligations and, if a prime contractor chooses to do so, may be provided through DefCARS in the next CNR, QCR, ICR or CCR submitted.</p> <p>No change has been made for this comment.</p>	<p>N/A</p>

Aggregation example

Contractor A has a QDC with the Secretary of State. It has entered into five sub-contracts with Contractor B to provide the same requirement for a QDC. One sub-contract (SC1) has a value of £200,000, three sub-contracts (SC2, SC3 and SC4) each have a value of £500,000, and the remaining sub-contract (SC5) has a value of £2 million.

Contractor A proposes to award two further sub-contracts to Contractor B for the same requirement for the QDC. One sub-contract is expected to have a value of £21 million (SC6) and the other £4 million (for SC7). Contractor A must carry out a QSC Assessment for SC6 and SC7, which includes the need to determine each of their values.

All the sub-contracts SC1 to SC7 are not the result of a competitive process.

In determining the values of SC6 and SC7, Contractor A must aggregate the consideration paid, or expected to be payable, under all contracts either entered into or proposed to be entered into on a single source basis with Contractor B for the same requirement. In doing so, Contractor A should disregard:

- a. SC1, because it has a value of £250,000 or less (regulation 5(6)(c));
- b. SC2, SC3 and SC4, because:
 - i. the values are within the range of £250,000 and £1 million (Condition A of Regulations 5(6)(a) and 5(7)); and
 - ii. the aggregate value of each contract is within the range of £250,000 and £1 million (being £1.5 million) and is less than 20% of the aggregate of the consideration paid or expected to be paid under all contracts entered into, or expected to be entered into, in accordance with Regulation 5(5)(b). In that respect, $20\% \times (\text{£}1.5 \text{ million} + \text{£}2 \text{ million} + \text{£}21 \text{ million} + \text{£}4 \text{ million}) = \text{£}5.7 \text{ million}$, and £1.5 million is less than £5.7 million ((Condition B of Regulations 5(6)(a) and 5(8)).

Value of SC6 and 7

When considering the value of SC6 and SC7, the contractor must aggregate the value of each contract with contracts that it has entered into or proposes to enter into for the same requirement. Given that SC5, SC6 and SC7 are all for the same requirement, the value of all three contracts should be aggregated and the value of SC6 and SC7 will each be £27 million (£2 million + £21 million + £4 million). This means that, following aggregation, both SC6 and SC7 have a value exceeding the £25 million threshold for a contract to be a QSC (regulation 58(1)).

Outcome of QSC assessment

The contractor should find that SC6 and SC7 are both QSCs. The aggregated value of each contract exceeds the £25 million threshold. The contracts are not the result of a competitive process and both provide something for a QDC.

Any future sub-contracts for the same requirement to be awarded on a single source basis to Contractor B with a value of at least £1 million will also be assessed as QSCs as the £25 million threshold has already been exceeded.

Status of SC5: The status of SC5, in terms of whether or not it is a QSC, will remain unchanged despite its value being taken into account in determining the value of SC6 and SC7. If it were assessed as not being a QSC (for instance, because at the time of the QSC assessment Contractor A had not proposed to enter into SC6 and SC7 and so its value was assessed as being £2 million), it will remain outside of the regulatory framework.

Notification requirements: Having undertaken a QSC assessment for SC6 and SC7, Contractor A must keep a record of those assessments (regulation 61(2)). Contractor A must then:

- give notice in writing to the Secretary of State and the SSRO that each QSC assessment has been made for SC6 and SC7 (regulation 61(8)) (notice in relation to contracts SC1, SC2, SC3, SC4 and SC5 should previously have been made to the Secretary of State and to the SSRO); and
- because the outcome of the QSC assessments for SC6 and SC7 is positive, give notice in writing of that fact to the Secretary of State and to Contractor B.

Contractor A can satisfy the notification requirements by completing the assessment notification template and submitting to the relevant parties in accordance with the guidance found on the SSRO's website.

Reporting requirements: Contractor A's reporting requirements under the QDC in relation to the sub-contracts arise in the CNR, the QCR, the ICR and the CCR.

For all sub-contracts and proposed sub-contracts Contractor A has entered into or intends to enter into, regardless of value, it is required to provide a description (together with the total proportion of the contract price of the QDC which it expects to sub-contract) in the CNR (reg 25(2)(k)), QCR (reg 26(6)(j)) and ICRL (reg 27(5)(d)). This includes sub-contracts SC1 – SC4 which were disregarded for the purposes of the determining the value of SC6 and SC7. Paragraph 4.68 of the contract reporting guidance refers.

Of those sub-contracts or proposed sub-contracts which have or are expected to have a value of £1 million or more (in this case SC5, SC6 and SC7), Contractor A is required to provide additional information in the CNR (reg 25(2)(l)), QCR (reg 26(6)(k)), ICRL (reg 27(5)(e)) and CCR (reg 28(2)(p)). In relation to the QCR, this information need only be provided for those sub-contracts which were entered into in the period covered by the report, or which are intended to be entered into in the following calendar quarter. Paragraph 4.69 of the contract reporting guidance refers.

Assessment notification templates

Notice of a positive qualifying sub-contract assessment

For the purposes of regulations 61(3) or (6), the notification should be emailed to the proposed sub-contractor and the Single Source Advisory Team at the MOD (descomrcl-ssat-1@mod.gov.uk)

Contracting Authority name	[Complete name].
Contracting Authority contract title	[Complete title].
Contracting Authority contract reference	[Complete contract reference].
Proposed sub-contractor name and sub-contract title	[Complete proposed sub-contractor name and sub-contract title].
Proposed sub-contract value	[Confirm whether the proposed sub-contract value is £50m or greater].

A sub-contract in respect of which a positive QSC assessment has not been notified in accordance with regulations 61(3) and (6) will not be a QSC. In such circumstances the Secretary of State may take enforcement action against the contracting authority pursuant to sections 31(3)(f) and 32(1) of the Act.

A contracting authority must also give written notice to the MOD and the SSRO that a QSC assessment has been made in all cases (Regulation 61(8)) (see separate template).

Notice of sub-contract assessment

For the purposes of regulation 61(8) the notification template can be appended to the sub-contracts page of the CNR, QCR, ICR or CCR in DefCARS. For convenience, it may contain details of multiple sub-contracts and may be implemented in spreadsheet format.

Contracting Authority name	[Complete name].
Contracting Authority contract title	[Complete title].
Contracting Authority contract reference	[Complete contract reference].

Proposed sub-contractor name and sub-contract title	Outcome of QSC assessment. Has the sub-contract been assessed as being a QSC? (Y/N)	Proposed sub-contract value equal to or greater than £15 million? (Y/N)	If the proposed value is equal to or greater than £15 million and the QSC assessment is negative, is the sub-contract the result of a competitive process? (Y/N)	If the proposed value is equal to or greater than £15 million and the QSC assessment is negative, please provide any other reasons relied on for the negative assessment
				For example, state the contract value if it is less than £25 million.

A contracting authority must give written notice to the MOD and the SSRO that a QSC assessment has been made in all cases (Regulation 61(8)). If it considers a proposed sub-contract will be a QSC if entered into, the contracting authority is also required to give written notice to the proposed sub-contractor and the MOD (Regulation 61(3) and (6)) (see separate template).

Appendix 2 – Framework contracts

Comment	Draft guidance	SSRO response	Final guidance
<p>The SSRO needs to define the types of framework agreement in Appendix 2. One in which the contracts are let within an expanding contract, and one where the framework contract enables separate contracts to be let. The SSRO guidance should consider both of these possible forms in its reporting guidance (as the guidance may/will require to be different).</p>	<p>3.29 A framework agreement establishes the key terms and conditions that will apply to subsequent purchases. This can enable the MOD to procure future goods and services efficiently and effectively, as terms need only be refined, rather than re-negotiated each time a subsequent purchase is placed. A framework agreement may be a QDC or QSC if it is a contract that satisfies the definitions in, respectively, sections 14 and 28 of the Act.</p> <p>3.30 The subsequent purchases made under a framework are sometimes referred to as call-off contracts, tasks, or orders. In line with the Regulations a contract awarded under a framework agreement may also be a QDC or QSC if it satisfies the definitions in, respectively, section 14 and 28 of the Act. For the purposes of these definitions, regulations 9 and 60 specify the circumstances in which a contract awarded under a framework is the result of a competitive process and, by inference, when it is not.</p> <p>3.31 If a framework agreement is a QDC or QSC, then the same reporting requirements apply as for other QDCs and QSCs. At the initial time of agreement, it is not uncommon for a framework agreement to have a nominal agreed contract price and a nominal price that the contracting authority has committed to pay.</p>	<p>The Act and Regulations do not distinguish between different types of framework agreement and this is therefore the approach adopted in the proposed guidance. Whether a framework agreement (or a contract awarded under it) is a QDC or QSC is determined by reference to the definitions in sections 14 and 28 of the Act respectively. The proposed guidance has been prepared to assist contractors with completing the contract value, contract price and price committed to pay reporting fields for any type of framework agreement which is a QDC or QSC. No change to the proposed guidance has been made for this comment.</p>	<p>3.29 A framework agreement establishes the key terms and conditions that will apply to subsequent purchases. This can enable the MOD to procure future goods and services efficiently and effectively, as the terms for each subsequent purchase are usually already established, subject to the possibility of refinement rather than a re-negotiation. A framework agreement may be a QDC or QSC if it is a contract that satisfies the definitions in, respectively, sections 14 and 28 of the Act.</p> <p>3.30 The subsequent purchases made under a framework are sometimes referred to as call-off contracts, tasks, or orders. In line with the Regulations a contract awarded under a framework agreement may also be a QDC or QSC if it satisfies the definitions in, respectively, section 14 and 28 of the Act. For the purposes of these definitions, regulations 9 and 60 specify the circumstances in which a contract awarded under a framework is the result of a competitive process and, by inference, when it is not.</p> <p>3.31 If a framework agreement is a QDC or QSC, then the same reporting requirements apply as for other QDCs and QSCs. At the initial time of agreement, it is not uncommon for a framework agreement to have an agreed contract price and a price that the contracting authority has committed to pay which may be subject to change.</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>The contractor and MoD both need to agree the thresholds for QDC entry and QCR entry points for a framework contract. Technically MoD are under no obligation to issue call off orders but still wish to contract under the regulations which adds to a contractor's reporting requirements. This process is open to inefficiencies which is not beneficial to either party.</p> <p>Proposed paragraph 3.29 states that terms will be refined for each call off order. This requires modification to make explicit for delivery of the call off arrangement.</p>	<p>By contrast, the contracting authority may have assessed that the framework agreement has a substantial value for the purposes of the QDC or QSC threshold, for example where a unit price has been agreed but the expected unit volumes have not yet been committed to. The value assessment will be used for identifying which reporting requirements are triggered (e.g. whether QCRs are required and the type and frequency of ICRs). The contract price and/or the price committed to pay may then increase over the life of the framework as subsequent purchases are made under the framework.</p> <p>Contractors should consider the following additional guidance:</p> <ul style="list-style-type: none"> • contract value (paragraph 3.37); • contract price (Table 7); • price committed to pay (Table 7); and • reporting thresholds (paragraphs 3.2, 5.7 and 6.4). 	<p>Paragraph 3.29 provides a broad statement of how a framework agreement can operate. This includes that it establishes the terms which apply to subsequent purchases, subject to the possibility of some refinement to those terms. We have considered the comment and changed the language to reflect that refinement to the terms may not be needed in every case.</p>	<p>By contrast, the contracting authority may have assessed that the framework agreement has a substantial value for the purposes of the QDC or QSC threshold, for example where a unit price has been agreed but the expected unit volumes have not yet been committed to. The value assessment will be used for identifying which reporting requirements are triggered (e.g. whether QCRs are required and the type and frequency of ICRs). The contract price and/or the price committed to pay may then increase over the life of the framework as subsequent purchases are made under the framework. Contractors should consider the following additional guidance:</p> <ul style="list-style-type: none"> • contract value (paragraph 3.37); • contract price (Table 7); • price committed to pay (Table 7); and • reporting thresholds (paragraphs 3.2, 5.7 and 6.4).
<p>The SSRO use the words 'as terms need only be refined' under a framework contract. We believe that this statement is incorrect and should be deleted. The terms are usually agreed and quantities are simply added.</p>		<p>Paragraph 3.29 provides a broad statement of how a framework agreement can operate. This includes that it establishes the terms which apply to subsequent purchases, subject to the possibility of some refinement to those terms. We have considered the comment and changed the language to reflect that refinement to the terms may not be needed in every case.</p>	

Comment	Draft guidance	SSRO response	Final guidance
<p>These are matters that are addressed in Parts 1, 2 and 10 of the SSPRs and therefore lay outside the scope of reporting guidance. I agree that each contract within a framework agreement needs to be assessed in accordance with the requirements of regulation 5. However, this is the assessment necessary to be undertaken by the contracting officer to establish if that initial or subsequent contract is a qualifying contract required to be priced and reported as a stand-alone qualifying contract and nothing to do with Part 5 reporting. Reporting under Part 5 will follow should a positive assessment be made. Reporting guidance should be just that, guidance on how to report and not how to assess if a contract should be reported.</p>		<p>The SSRO has received multiple queries through its Helpdesk concerning the reporting requirements associated with framework agreements.</p> <p>Contractors can be unsure, for example, of the difference between 'contract value', 'contract price' and 'price committed to pay' in the context of framework agreements, and the proposed guidance is therefore appropriate, since it helps contractors to understand and comply with their reporting obligations.</p> <p>The contracting authority's assessment of contract value is not only relevant for the purposes of determining whether the contract is a QDC or QSC, but also to determine certain reporting requirements, including whether QCRs must be submitted and, in the absence of agreed dates, the frequency of Interim Contract Reports. The proposed paragraph is therefore appropriate since it helps contractors to understand and comply with their reporting obligations.</p>	

Comment	Draft guidance	SSRO response	Final guidance
<p>I am unsure why the SSRO has included this section. The proposed guidance has little to do with reporting obligations. The situation is further confused by the fact that guidance on the use of DefCARS has been integrated into what is labelled statutory guidance. I am surprised that the SSRO should recommend that “The contractor should consider taking legal advice to understand ...”. This is not something I would expect to be found in statutory guidance.</p>		<p>It is entirely appropriate for reporting guidance to suggest that contractors may wish to obtain legal advice where a reporting obligation requires a legal assessment of contract-specific terms or circumstances.</p>	
<p>We believe the term “framework” agreement might encompass a number of “contract” types. Some may simply set out common terms and conditions that may be used on a range of “contracts” subsequently let. Some may be of a “call off” nature.</p> <p>To discuss some of these differences:</p> <ul style="list-style-type: none"> • Is a framework that sets out terms and conditions, to be used in the future, when contracting differing deliverables, a contract in its own right? 		<p>The Act and Regulations do not distinguish between different types of framework agreement and this is therefore the approach adopted in the proposed guidance.</p> <p>Application of the regime to framework agreements is by reference to whether the definition of a QDC or QSC in sections 14 or 28 of the Act, respectively, is satisfied. This is the case irrespective of the ‘type’ of framework agreement. The specific contracting scenarios referred to would each need to be assessed in this way.</p>	

Comment	Draft guidance	SSRO response	Final guidance
<ul style="list-style-type: none">• Would contracts that are for differing requirements, but that use a shared framework agreement of T&C's be seen as separate contracts and Regulation 5 aggregation only apply to those contracts that were with the same parties for the same requirements?• Framework contracts that are in fact "call off contracts" for the same goods and services would be subject to aggregation under Regulation 5.• How is a framework "contract", as in the example for £1, to be considered against Regulation 5(8A) £1 million test?			

Comment	Draft guidance	SSRO response	Final guidance
<p>Regulation 5(8A) explains a contract with a value of less than £1 million shall not be a qualifying contract unless the authority is satisfied the contract has been subdivided. In the case of a “framework” contract, that is a “call off” contract for the same goods and services, with the same parties, the assessment of value would be for the likely total “call off” value. However, in the case of a framework that is not a “call off” arrangement, but an agreed set of common T&C’s to be used when differing requirements/ contracts are let, is aggregation under Regulation 5 required at the point of framework agreement, or is the Regulation 5 valuation for threshold test be applied when the subsequent contracts are let?</p>	<p>[contract reporting guidance, Table 7, row titled ‘Total Contract Price’].</p> <p>The total contract price should be entered to three decimal places. The term contract price is defined in Regulation 2(1). It is either:</p> <ul style="list-style-type: none"> the price resulting from application of the pricing formula in regulation 10 ((Allowable Costs x Contract Profit Rate) + Allowable Costs); or if there have been one or more pricing amendments, then the total contract price will be the most recent amended price, i.e. the price last determined by applying regulation 14 and the Schedule to the Regulations. <p>When identifying the contract price of a framework agreement, contractors should refer to paragraphs 3.29 to 3.31.</p> <p>The pricing formula does not provide for the addition of Value Added Tax (VAT). Output VAT should not be added to a price determined by application of the formula.</p>	<p>The Contracting Authority is required to determine the value of the proposed contract in accordance with regulation 5. This describes when the value is to be determined, and what must be included in and excluded from the calculation. It includes a requirement in certain cases to aggregate the value of the contract being assessed with the value of other contracts and proposed contracts, each of which may include subsequent purchases made under a framework agreement. Paragraphs 3.38 and 3.39 of the guidance describes aggregation requirements for sub-contracts, however the same principles apply for framework agreements.</p>	<p>[contract reporting guidance, Table 7, row titled ‘Total Contract Price’].</p> <p>The total contract price should be entered to three decimal places. The term contract price is defined in Regulation 2(1). It is either:</p> <ul style="list-style-type: none"> the price resulting from application of the pricing formula in regulation 10 ((Allowable Costs x Contract Profit Rate) + Allowable Costs); or if there have been one or more pricing amendments, then the total contract price will be the most recent amended price, i.e. the price last determined by applying regulation 14 and the Schedule to the Regulations. <p>When identifying the contract price of a framework agreement, contractors should refer to paragraphs 3.29 to 3.31.</p> <p>The pricing formula does not provide for the addition of Value Added Tax (VAT). Output VAT should not be added to a price determined by application of the formula.</p>
<p>Please see previous comments about values. ‘Contract value’ should be ‘expected value’. We do not agree or support the SSRO’s definitions of ‘contract price’ and ‘price committed to pay’, the two are the same thing (DSAG’s definition of ‘contract price’). Under a framework agreement, the contract price is how much the MoD have required/authorised to be performed, that is the same as ‘price committed to pay’.</p>	<p>[contract reporting guidance, Table 7, row titled ‘Total Price Committed to Pay’].</p> <p>The price the contracting authority is committed to paying is the price that the contracting authority is contractually bound to pay at the initial reporting date. This amount may be the same as the contract price.</p> <p>When identifying the price committed to pay of a framework agreement, contractors should refer to paragraphs 3.29 to 3.31.</p>	<p>The draft guidance has been prepared to reflect the requirements of the current legislation, including the definition of contract value under regulation 5 and so the issue raised in relation to this is outside the scope of this consultation. We welcome discussion in due course on the respondent’s suggested changes as part of the ongoing review of the legislative framework that is being undertaken by the MOD.</p>	<p>[contract reporting guidance, Table 7, row titled ‘Total Price Committed to Pay’].</p> <p>The price the contracting authority is committed to paying is the price that the contracting authority is contractually bound to pay at the initial reporting date. This amount may be the same as the contract price.</p> <p>When identifying the price committed to pay of a framework agreement, contractors should refer to paragraphs 3.29 to 3.31.</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>We do not see any differentiation. Further we believe that separating the two will lead to confusion and error in reporting.</p> <p>In line with comments above is highly confusing. The SSRO have now introduced 'nominal agreed contract price' and 'nominal price that the contracting authority has committed to pay', further confusing with terms that are new. This section requires deletion.</p> <p>'The price the contracting authority is committed to paying is the price that the contracting authority is contractually bound to pay at the initial reporting date. This amount may be the same as the contract price'. DSAG believes this will always be the case. This bifurcation creates confusion and complexity and should be deleted.</p>	<p>The amount that the contracting authority is contractually bound to pay will depend on the terms of the contract, the pricing method used and how any other pricing mechanisms operate. However, there may be some contracts in respect of which some or all of the contract price only becomes committed upon some action or election by the contracting authority.</p> <p>An example of where the contract price and total price committed to pay may differ is where the contracting parties have committed to a limitation of liability cap, but the estimated contract price for a cost-plus contract at the initial reporting date is higher than that commitment.</p> <p>The contractor should consider taking legal advice to understand what the contracting authority is committed to pay. If the amount the contracting authority is committed to pay is indeterminate in amount at the initial reporting date, the contractor should discuss with the MOD the appropriate amount to report and it may be appropriate in such circumstances to report the same amount as the contract price.</p>	<p>The SSRO accepts that the use of the word "nominal" may be confusing, and has deleted these references from the final guidance.</p> <p>The SSRO consulted in 2020 on the requirement to report the total price committed to pay. We acknowledged that the amount reported may be the same as the contract price, but also provided examples of where we considered the two amounts may be different. Pages 24 – 25 of the following consultation response document refers: Appendix 1: Consultation responses and final guidance changes.</p> <p>This is reflected in the current reporting guidance under Table 7, row titled 'Total Price Committed to Pay'. The proposed guidance refers to additional text to support contractors in complying with these reporting requirements for framework agreements.</p> <p>We are aware of instances where the contracting parties have committed to a limitation of liability cap that is lower than the contract price at the initial reporting date. We are therefore unable to accept the respondent's assertion that this cannot be the case.</p>	<p>The amount that the contracting authority is contractually bound to pay will depend on the terms of the contract, the pricing method used and how any other pricing mechanisms operate. However, there may be some contracts in respect of which some or all of the contract price only becomes committed upon some action or election by the contracting authority.</p> <p>An example of where the contract price and total price committed to pay may differ is where the contracting parties have committed to a limitation of liability cap, but the estimated contract price for a cost-plus contract at the initial reporting date is higher than that commitment.</p> <p>The contractor may consider taking legal advice to understand what the contracting authority is committed to pay. If the amount the contracting authority is committed to pay is indeterminate in amount at the initial reporting date, the contractor should discuss with the MOD the appropriate amount to report and it may be appropriate in such circumstances to report the same amount as the contract price.</p>

Comment	Draft guidance	SSRO response	Final guidance
<p>'An example of where the contract price and total price committed to pay may differ is where the contracting parties have committed to a limitation of liability cap, but the estimated contract price for a cost-plus contract at the initial reporting date is higher than that commitment.' This cannot be the case, the contract price cannot exceed the limit of liability, the MoD have no requirement to pay any excess.</p>			

Appendix 3 – Supplier reporting general requirements

Comment	Draft guidance	SSRO response	Final guidance
I have no comments. The content looks to be consistent with the reporting requirements set out in Part 6.	New paragraph at 2.2 in the supplier report guidance.	The SSRO is aware that the MOD may be considering the definition of 'financial year' in relation to supplier report submissions as part of its legislative review. However, the Table of regulation 33 general requirements is consistent with the current legislation and, if there are changes made following the legislative review, the SSRO will make the appropriate consequential updates to its guidance.	2.2 Regulation 33 sets out general requirements for all Part 6 reports. Some of these requirements identify information which needs to be included in each Part 6 report or named reports. Table 1 below provides guidance on how to meet the requirements where information is required in reports.
33(1)(d). The issue of financial year (FY) is currently being changed in the draft of the primary legislation, and work on definition in the Regulations will follow. We believe that making any changes to guidance at this time is premature and should wait for the conclusion of legislative amendments.	Regulation 33 sets out general requirements for all Part 6 reports. Some of these requirements identify information which needs to be included in each Part 6 report or named reports. Table 4 below provides guidance on how to meet the requirements where information is required in reports.	The table has been renamed as Table 1.	
33(2)(b). Again, await the conclusion of legislative change in this area.			
The guidance is helpful.			
The proposed table for use in Para 2.2 is likely to become the first table in the Supplier Reports guidance document. This will become Table 1 with all other tables relabelled as necessary. There are no issues with the introduction of this table as this aligns to the contract reports requirement.			

Table 1 – General requirements where information is required in Part 6 reports

Regulation	Data required	Guidance
33(1)(a)(i)	The name, position and contact details of the individual submitting the report	These fields will not be visible when the report is being completed by the contractor, but will be populated by DefCARS when the report has been submitted and visible when the report is viewed after submission.
33(1)(a)(ii)	The name, position and contact details of an individual to be notified if any compliance notice or penalty notice is given in relation to the report	The name, position and contact details of the person who should be contacted if there are any compliance and penalty notices given in relation to the report which is being submitted. This data should be provided in the Report Submission Admin page of the report.
33(1)(b)	The date the report is due	The Regulations require the report to contain the date that the report is due. Appendix 1 provides guidance and examples on how the date the report is due can be identified. The date can be selected from the calendar provided or typed. This data should be provided in the Report Submission Admin page of the report.
33(1)(c)	The date the report is submitted	This field will not be visible when the report is being completed by the contractor, but will be populated by DefCARS when the report has been submitted. The field will become visible to the contractor after report submission. This data will be provided in the Report Submission Admin page of the report.
33(1)(d)	The relevant financial year to which the report relates	The SSRO provides a definition of the Relevant Financial Year at paragraph 2.16. The examples on Page 13 to 20 can assist to ensure the correct Relevant Financial Year is identified. The contractor should select the correct financial year from those provided in the drop-down list. This data should be provided in the Report Submission Admin page of the report.
33(2)(a)	A report provided under any of regulations 34 to 39 must contain the name of the QBU to which it relates.	For all Part 6 reports excluding the Strategic Industry Capacity Report and Small or Medium Enterprises Report, the name of the Qualifying Business Unit should be included. Paragraphs 2.9 to 2.14 explain what a Qualifying Business Unit is. This data will be provided in the Business Unit page of the report.
33(2)(b)	A report provided under any of regulations 34 to 39 must contain the relevant accounting period to which the report relates	For all Part 6 reports except the Strategic Industry Capacity Report and Small or Medium Enterprises Report, the relevant accounting period must be confirmed. Paragraph 2.17 explains the term Relevant Accounting Period. The contractor is asked to confirm the last day of the most recent completed Business Unit Relevant Accounting Period, from which the Relevant Accounting Period can be identified. The examples on Page 13 to 20 can assist to ensure the correct Relevant Accounting Period is identified. This data will be provided in the Business Unit page of the report.

Regulation	Data required	Guidance
33(2)(c)	An address to which correspondence relating to the report may be sent.	This will be the address for correspondence and may be the same as the registered address of the Qualifying Business Unit. This data will be provided in the Business Unit page of the report.
33(3)	<p>Where a report requires an analysis of staffing costs, that must include -</p> <ul style="list-style-type: none"> a. the total number of employees; b. the proportion of the cost of employing those employees recovered through cost recovery rates, and the proportion recovered through direct costs; c. the total number of contractors; and d. the proportion of the cost of engaging those contractors recovered through cost recovery rates, and the proportion recovered through direct costs. 	An analysis of staffing costs is required only in the QBUCAR and there are structured data fields to collect this data. Please see Chapter 5 for guidance on the QBUCAR.

Appendix 4 – Company registration numbers for overseas contractors

Comment	Draft guidance	SSRO response	Final guidance
No comments	Table 5 (Supplier details) of the contract reporting guidance	The guidance in relation to EU countries was intended for EU members only and not all of Europe. We have added a sentence to clarify that companies registered in jurisdictions other than those listed should report the equivalent number of their own regulatory authority.	Table 5 (Supplier details) of the contract reporting guidance
The guidance considers Europe in terms of membership of the EU only, the SSRO needs to consider non-EU European countries.	<p>Company registration for overseas contractors</p> <p>It is expected that a company awarded a QDC or QSC will have a unique identifying number, which the Regulations refer to as the company's registered number. The registered number can consist of numbers and letters. For UK-registered companies, this will be the number allocated by Companies House. Companies registered in the following jurisdictions should consider using the indicated numbers:</p> <p>United States: the Employer Identification Number (EIN), also known as the Federal Tax Identification Number, provided by the Internal Revenue Service (IRS), which is a 9-digit number.</p> <p>Canada: the corporation number assigned by Corporations Canada, which is usually a 7-digit number, or the provincial corporation number provided when a company registers under the Business Corporations Act.</p> <p>EU: the company number shown on the European e-Justice Portal.</p> <p>Australia: the Australian Company Number (ACN) which is a nine-digit number assigned when the company is registered.</p>		<p>Company registration for overseas contractors</p> <p>It is expected that a company awarded a QDC or QSC will have a unique identifying number, which the Regulations refer to as the company's registered number. The registered number can consist of numbers and letters. For UK-registered companies, this will be the number allocated by Companies House. Companies registered in the following jurisdictions should consider using the indicated numbers:</p> <p>United States: the Employer Identification Number (EIN), also known as the Federal Tax Identification Number, provided by the Internal Revenue Service (IRS), which is a 9-digit number.</p> <p>Canada: the corporation number assigned by Corporations Canada, which is usually a 7-digit number, or the provincial corporation number provided when a company registers under the Business Corporations Act.</p> <p>EU: the company number shown on the European e-Justice Portal.</p> <p>Australia: the Australian Company Number (ACN) which is a nine-digit number assigned when the company is registered.</p> <p>Countries not included in the jurisdictions above should refer to their own regulatory authorities for the equivalent registered number.</p>
The SSRO needs to add a general note to cover countries not included in the list. This should reference the relevant country's regulatory authorities.			
We agree with that proposed. We suggest Table 5 might recognise not all European countries are in the EU.			

Appendix 5 – Minor and uncontroversial changes

Comment	Draft guidance	SSRO response	Final guidance
<p><i>Contract reporting guidance</i></p> <p>Value assessment and Interim Contract Reports</p> <p>We recommend the term “value” is clarified by consistent use of a term, different to “price”, such as “contract value for threshold purposes” or some other easily understood alternative.</p>	<p>6.3 There are two different sets of requirements for an ICR, depending on the contract value as determined by Regulation 5. A lower value ICR will be submitted for a QDC or QSC with a value of less than £50 million and a higher value ICR for those valued at greater than or equal to £50 million. If the value for threshold purposes is below £50 million when the assessment is made and the value of the contract increases at a later time to £50 million or greater, then the contractor who would have been expected to provide lower value ICRs continues to provide those types of report. The contractor would not submit a higher value ICR as they would also not be required to submit QCRs (see paragraph 5.7). All ICRs must contain the information required by Regulation 27(4). Lower value ICRs must additionally contain the information required by Regulation 27(5). DefCARS has been designed to assist contractors to meet these requirements. Reference is made to the two different sets of requirements, as appropriate, in this guidance.</p>	<p>The SSRO considers that the proposed guidance at paragraph 6.3 accurately reflects regulations 5 and 27, which rely on the term ‘value’. We will, however, log the comment and review the remainder of the guidance document in due course to ensure consistent use of terminology.</p> <p>No change has been made to the proposed guidance for this comment.</p>	<p>6.3 There are two different sets of requirements for an ICR, depending on the contract value as determined by Regulation 5. A lower value ICR will be submitted for a QDC or QSC with a value of less than £50 million and a higher value ICR for those valued at greater than or equal to £50 million. If the value for threshold purposes is below £50 million when the assessment is made and the value of the contract increases at a later time to £50 million or greater, then the contractor who would have been expected to provide lower value ICRs continues to provide those types of report. The contractor would not submit a higher value ICR as they would also not be required to submit QCRs (see paragraph 5.7). All ICRs must contain the information required by Regulation 27(4). Lower value ICRs must additionally contain the information required by Regulation 27(5). DefCARS has been designed to assist contractors to meet these requirements. Reference is made to the two different sets of requirements, as appropriate, in this guidance.</p>

Comment	Draft guidance	SSRO response	Final guidance
<p><i>DefCARS functionality guidance</i></p> <p>Proposed user permissions</p> <p>If “download reports” means the ability to export an excel version of a report, we would recommend anyone who has been given access to the DefCARS system is allowed this facility.</p>	<p>New table on user permissions.</p>	<p>The guidance has been drafted to reflect the current functionality of the system. The respondent’s comment will be logged to be taken into account during a future review of the system.</p> <p>No change has been made to the proposed guidance for this comment.</p>	<p>See table detailed at the end of this appendix.</p>
<p><i>DefCARS functionality guidance</i></p> <p>Searching for contracts</p> <p>The proposal states a search can be performed using either the contract reference number or the contract name. Could a search also be facilitated by use of a drop down list too?</p>	<p>On the DefCARS homepage, users can search for a contract within their contracting company using the contract reference number or contract title. Admin Users can also search in contract administration using the number and title.</p>	<p>The guidance has been drafted to reflect the current functionality of the system. The respondent’s comment will be logged to be taken into account during a future review of the system.</p> <p>No change has been made to the proposed guidance for this comment.</p>	<p>On the DefCARS homepage, users can search for a contract within their contracting company using the contract reference number or contract title. Admin Users can also search in contract administration using the number and title.</p>
<p><i>DefCARS functionality guidance</i></p> <p>Closing issues in previously submitted reports</p> <p>The proposal suggests that both the SSRO and the MoD have a status of reviews complete. Could these be independently flagged?</p>	<p>If no issues have been raised by the SSRO or the MOD, the status will be changed to ‘No current issues’ by the SSRO, and ‘MOD verification complete’ by the MOD. When a correction report has been submitted, reviewed, and set to ‘No current issues’ by the SSRO, and ‘MOD verification complete’ by the MOD, any previous submissions will automatically be updated to reflect the status of the correction report set.</p>	<p>The SSRO and MOD reviews are already independently flagged within the system, with the two status notifications being ‘No current issues’ by the SSRO, and ‘MOD verification complete’ by the MOD when triggered.</p> <p>No change has been made to the proposed guidance for this comment.</p>	<p>If no issues have been raised by the SSRO or the MOD, the status will be changed to ‘No current issues’ by the SSRO, and ‘MOD verification complete’ by the MOD. When a correction report has been submitted, reviewed, and set to ‘No current issues’ by the SSRO, and ‘MOD verification complete’ by the MOD, any previous submissions will automatically be updated to reflect the status of the correction report set.</p>

Table on user permissions to replace current exhibit 12 from the reporting guidance on DefCARS functionality

Action		Administrator	Submitter	Editor	Reviewer
Compliance	Respond to issues/queries	•	•	•	
	Approve responses to issues/queries	•	•		
	Delete responses to issues/queries prior to approval	•	•	•	
QDC/supplier report data	View report data	•	•	•	•
	Create/edit report data	•	•	•	
	Submit reports	•	•		
	Download report	•			
	Download reports in DefCARS1	•			
	Draft general comments	•	•	•	
	Add support files	•	•	•	
	Approve general comments	•	•		
	Approve supporting files	•	•		
	Delete (reject) general comments prior to approval	•	•	•	
	Deleting supporting files prior to approval	•	•	•	
	Delete approved comments, responses and supporting files prior to report submissions	•	•		
Administration	Create/manage users (own organisation)	•			

