



Department for
Digital, Culture
Media & Sport

INVITATION TO TENDER (ITT) FOR:

**CONTRACT FOR SERVICES: COST BENCHMARK REPORT NATIONAL
CITIZEN SERVICE (NCS)**

Ref. No: 100980
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SECTION 1

INFORMATION FOR TENDERERS

1. INTRODUCTION

- 1.1 The Department for Digital, Culture, Media and Sport (DCMS) ('the Department') is inviting Tenders for a contract for a Cost Benchmarking Study for the National Citizen Service (NCS). The detailed requirements are set out in the Specification of Requirements at Section 2 ('the Specification').

2. INSTRUCTIONS TO TENDERERS

- 2.1 In submitting a Tender Response, a Tenderer (i.e. a party submitting a response to this ITT) undertakes that in the event of their Tender Response (i.e. their response to this ITT) being accepted by the Department and the Department confirming in writing such acceptance to the Tenderer, the Tenderer will, upon being called to do so by the Department execute the Contract in the form set out in Appendix E of this ITT or in such amended form as may subsequently be agreed.
- 2.2 The Department reserves the right to cancel the procurement exercise at any point. The Department will accept no liability for any losses caused by any cancellation of this procurement exercise nor any decision not to award a Contract as a result of the procurement exercise.
- 2.3 Tenderers are responsible for ensuring that they have submitted a complete and accurate Tender Response and that prices quoted are arithmetically correct for the units stated. Prices provided must be submitted in £ Sterling (GBP), exclusive of VAT.
- 2.4 The Department reserves the right to discuss, for the purpose of clarification, any aspect of a Tender Response with the relevant Tenderer prior to the award of the Contract.
- 2.5 At any time prior to the deadline for receipt of Tender Responses, the Department reserves the right to amend, add to or withdraw all or any part of this ITT at any time during the procurement exercise. Any such amendments, additions, or removals will be notified in writing to all prospective Tenderers.
- 2.6 The contents of this ITT and of any other documentation sent to any Tenderer in respect of this procurement exercise are provided on the basis that they remain the property of the Department and/or any relevant body. Tenderers shall treat the contents of the ITT and any related documents (together called the 'Information') as confidential (save in so far as they are already in the

public domain) and shall take all necessary precautions to ensure that all information is treated as such and not disclosed (save as described above) or used other than for the purpose of this procurement exercise by the Tenderer.

Submission of Tenders

- 2.7 Tenders must be submitted via the Delta e-sourcing portal (see 2.19) to be received no later than the deadline for receipt of Tender Responses stated in Section 9 of this ITT document. Please ensure that you allow yourself plenty of time when responding to this invite prior to the closing date and time, especially if you have been asked to upload documents.
- 2.8 Tender Responses not received by the closing time may not be considered unless there is clear evidence that the delay in receipt was beyond the control of the Tenderer.
- 2.9 Any questions concerning aspects of the ITT should be submitted via the e-sourcing portal (see 2.19 below).
- 2.10 Prospective Tenderers are reminded that the entire contents of this invitation belong to the Department. It must only be used for the purpose for which it was issued.
- 2.11 Your Tender Response should remain valid for a period of 90 days from the tender closing date. A tender valid for a shorter period may be rejected.
- 2.12 Tenderers must not inform anyone else, even approximately, what their Tender prices are, or will be. Furthermore, Tenderers must not try to obtain any information about anyone else's tender or proposed tender.
- 2.13 Page limits are provided for each question in the Technical Submission (Part 2). All written responses should be in a minimum font size of Arial 12 point. Only the information within the set page limit will be evaluated. Additional information will not be evaluated and therefore should not be supplied. The Department will only take account of information which is specifically asked for in the ITT.
- 2.14 Failure to provide the information required or particulars for the relevant question(s) or supply documentation referred to in the Tender Response within the deadline for submission of Tender Response may result in elimination from the procurement exercise.
- 2.15 Answers must be in English. Tenderers should note that where any supplementary documents are not published in English, certified translations into English must be provided with the Tender Response (if applicable).

- 2.16 No representation, warranty or undertaking, express or implied, is or will be given by the Department or any of its agents or advisers with respect to the information contained in this ITT document, including with respect to its accuracy, adequacy or completeness.
- 2.17 All Tenderers are solely responsible for all their costs and expenses incurred in connection with this procurement process at all stages. Under no circumstances will the Department be liable for any costs or expenses borne by or on behalf of the Tenderer or any party associated with this procurement process.
- 2.18 If you do not wish to submit a tender, please notify us to that effect. It would be appreciated if the reasons for not submitting a tender are given, although there is no obligation to do so.
- 2.18.1 The information and/or documents for this opportunity are available on <https://www.delta-esourcing.com>. Access code: **ZXBQKWD874**
You must register on this site to respond. If you are already registered you will not need to register again, simply use your existing username and password. Please note there is a password reminder link on the homepage.

Tenderers must log in, go to your Response Manager and add the following Access Code: **ZXBQKWD874**. Please ensure you follow any instruction provided to you.

If you experience any technical difficulties please contact the Delta eSourcing Helpdesk on telephone number 0845 270 7050.

Selection of Successful Tender

- 2.19 Tender Responses will be checked for completeness and compliance with this ITT and only compliant Tender Responses will be evaluated. Non-compliant Tender Responses may be eliminated from the procurement exercise.
- 2.20 The Department will award the Contract(s) to the Tenderer submitting the most economically advantageous tender. Section 3 (Evaluation Criteria) sets out the full range of criteria for assessing Tender Responses.
- 2.21 The Department reserves the right to undertake a detailed financial and technical appraisal of each Tenderer and for this process to continue up to the award of the Contract(s). Further appraisal may continue if required through the duration of the Contract. This may result in the Department requiring assurances from the Tenderer/Supplier, such as Parent Company Guarantees, if required.

- 2.22 The Department shall be under no obligation to accept the lowest or any tender and, unless the Tenderer expressly stipulates to the contrary at the time of tendering, reserves the right to accept such portion of a tender as it decides. All Tenderers will be notified of the Contract award decision.
- 2.23 The Department may require Tenderers to present details or aspects of their tender submission to the Department and its advisors for the purposes of clarification. No marketing material should be included in the presentation. No information other than that specifically requested in writing by the Department should be included in the presentation. Tenderers are responsible for all costs or expenses incurred by tenderers associated with any presentation.

3. DESCRIPTION OF SERVICES

- 3.1 The Specification sets out the various services that may be required.
- 3.2 The Specification will form part of the eventual Contract(s).
- 3.3 Tenderers should formulate their Tender Responses based on the Specification. Any changes in the Department's requirements would be the subject of post tender discussions.
- 3.4 The Supplier (i.e. the successful Tenderer) should comply with all requirements of the Framework for Sustainable Development on the Government Estate. Environmentally friendly products where applicable should be used.

4. FORM OF AGREEMENT

- 4.1 The Contract between the Department and the Supplier will be based as closely as possible on the Draft Contract (refer to Appendix E) including its annexes and any schedules.
- 4.2 Information presently left out of the draft Contract will be derived from the Supplier's Tender Response and, if appropriate, post tender clarification.

5. FREEDOM OF INFORMATION

- 5.1 Any information submitted to the Department may need to be disclosed and/or published by the Department. Without prejudice to the foregoing generality, the Department may disclose information in compliance with the Freedom of Information Act 2000, any other law, or, as a consequence of judicial order, or order by any court or tribunal with the Department to order disclosure.

- 5.2 If the Tenderer considers that any of the information included in their completed ITT is commercially confidential then the Tenderer shall identify it and explain (in broad terms) what harm might result from disclosure and/or publication. If required, this should be provided using the template at Appendix D. It should be noted though, that even where the Tenderer has indicated that information is commercially sensitive, the Department may disclose this information where it sees fit.
- 5.3 Receipt by the Department of any material marked 'confidential' or equivalent should not be taken to mean that the Department accept any duty of confidence by virtue of that marking.
- 5.4 The UK Government is committed to greater data transparency in the public sector. Accordingly the Department reserves the right to publish its tender documents, contracts and data from invoices received and may at its discretion redact all or part of such information prior to publication. In doing so the Department may at its absolute discretion take account of the exemptions that would be available under the Freedom of Information Act 2000.

6. ELIGIBILITY OF TENDERERS (JOINT VENTURES OR CONSORTIA)

- 6.1 Tenderers may take the form of sole legal entities or may wish to combine to form consortia, joint ventures (JVs), unincorporated associations or partnerships. This may, for example, apply to entities who feel that alone they do not have the capacity or capability to address the size and scale of the Department's requirement.
- 6.2 The following additional instructions apply to Tenderers who put forward a joint approach:
- (i) A Lead Party must be identified that shall submit a ITT response on behalf of all Parties to the JV/consortium;
 - (ii) The Lead Party shall be responsible for all communication with the Department during the procurement process;
 - (iv) As part of their ITT response, the Tenderer must submit a structure diagram identifying the roles and relationships between the Parties including all relevant companies, their respective parent or ultimate holding companies. The structure should ensure that, as a minimum, the legal obligations and liabilities of the Tenderer are borne by an entity or entities which satisfy the financial and economic requirements set out in the ITT (please refer to Appendix B);
 - (v) Appendix C (Tender Submission Statement) should be completed and

signed by all Parties together with written confirmation from each Party that they authorise the Lead Party organisation to act on their behalf in relation to this procurement exercise;

- (vi) If awarded a Contract, each of the Parties shall be jointly and severally responsible for the due performance of any contract with the Department.

6.3 Tenderers must advise the Department if there is any change to their legal status and/or composition during or after the procurement process, and the Department reserves the right to disqualify Tenderers where significant or material changes occur.

7. NO MARKETING RIGHTS

7.1 Tenderers shall not and shall procure that their subcontractors, representatives, agents and/or advisors do not do any of the following without obtaining the prior written consent of the Department:

- (i) make a public statement or communicate in any form with the media in connection with this procurement process;
- (ii) use any trademarks, logos or other intellectual property rights associated with the Department and/or its stakeholders;
- (iii) represent that the Tenderer is directly or indirectly associated in any way with the Department and/or its stakeholders or that its or their respective products and/or services are in any way endorsed by the Department and/or its stakeholders; or
- (iv) do anything or refrain from doing anything which would have an adverse effect on or embarrass the Department and/or its stakeholders.

8 ADDITIONAL REQUIREMENTS

8.1 Information Sharing Across Government

All Central Government Departments and their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement - including ensuring value for money and related aspects of good procurement practice.

For these purposes, the Department may disclose within Government any of the Tenderer's documentation/information (including any that the Tenderer considers to be confidential and/or commercially sensitive such as specific bid information) submitted by the Tenderer to the Department during this procurement. The information will not be disclosed outside Government. Tenderers taking part in this competition consent to these terms as part of the competition process.

8.2 Government Security Classifications

The Government has introduced its new Government Security Classifications (GSC) classification scheme to replace the current Government Protective Marking System (GPMS). A key aspect of this is the reduction in the number of security classifications used. All potential Tenderers are encouraged to make themselves aware of the changes and identify any potential impacts in their tender, as the protective marking and applicable protection of any material passed to, or generated by, you during the tender process or pursuant to any contract awarded to you as a result of this tender process will be subject to the new GSC. The link below to the Gov.uk website provides information on the new GSC:

<https://www.gov.uk/Government/publications/Government-security-classifications>

The Department reserves the right to amend any security related term or condition of the draft contract accompanying this ITT to reflect any changes introduced by the GSC.

8.3 Cyber Essentials Scheme

It is mandatory for Suppliers to demonstrate that they meet the technical requirements prescribed by Cyber Essentials for those contracts featuring any of the characteristics set out below.

The requirements can be found at:

<https://www.cyberaware.gov.uk/cyberessentials/>

Any of the following characteristics will necessitate the requirements prescribed by Cyber Essentials:

- i) Where personal information of citizens, such as home addresses, bank details, or payment information is handled by a Supplier.
- ii) Where personal information of HMG employees, Ministers and Special Advisors such as payroll, travel booking or expenses information is handled by a Supplier.

iii) Where ICT systems and services are supplied which are designed to store, or process, data at the OFFICIAL level of the Government Protective Marking scheme.

Where any of the above apply, assurance will be required that Suppliers themselves exercise good cyber security practice, holding Cyber Essentials as a minimum by contract commencement.

Potential Suppliers are required to implement appropriate arrangements for data security at all times, particularly relating to the transmission and storage of personal data. Such procedures must meet the standards outlined in the Data Protection Act.

8.3 CE marking

Any applicable product provided as part of your response must comply with EU safety, health and environmental requirements and bear CE marking in line with the following guidance: <https://www.gov.uk/guidance/ce-marking>.

9. DRAFT TIMETABLE

This timetable is provided as a guideline only and is subject to change.

Description	Date
Issue of ITT	30 October 2017
Deadline for clarification questions to be issued to the Department	6 November 2017 at 12:00 (GMT)
Deadline for receipt of Tender Responses	10 November at 12:00 (GMT)
Contract award notification	14 November 2017
Contract award	15 November 2017
Contract commencement	15 November 2017
Start up meeting	16 November 2017
Implementation period (if required)	November 2017
Service commencement	November 2017
Contract end date	January 2018

10. RESPONSE CHECKLIST

Please ensure you have provided all the relevant documents in the table below when sending your Tender Response. The following documentation will form your Tender Response and should be provided via the Delta e-sourcing portal by the deadline 10 November 12:00pm

Document description	Mandatory to provide?	Format	File name (please name your documents as below when uploading to Delta)
Part 1			
Technical Submission	Mandatory	Word/PDF (single document containing responses to Questions (1-3))	"Tenderer name_Technical Submission"
Part 2			
Appendix A: Pricing Schedule	Mandatory	Excel spreadsheet or PDF (template at Appendix A)	"Tenderer name_Pricing Schedule"
Other Appendices			
Appendix B: Company Information	Mandatory	Word/PDF (template at Appendix B)	"Tenderer name_Appendix B"
Appendix C: Tender Submission Statement	Mandatory	Word/PDF (signed) (template at Appendix C)	"Tenderer name_Appendix C"
Appendix D: Commercially Sensitive Information	Only if desired	Word/PDF (template at Appendix D)	"Tenderer name_Appendix D"
Appendix F: Contract Comments	Only if desired	Word/PDF (template at Appendix F)	"Tenderer name_Appendix F"

SECTION 2

SPECIFICATION OF REQUIREMENTS ('Specification')

1. INTRODUCTION

1.1. The Department for Digital, Culture, Media and Sport is seeking to appoint a Provider to undertake a benchmarking study to look at the costs of elements of delivery of the National Citizen Service (NCS) programme against private sector and industry comparisons.

1.2. NCS is the Government's flagship youth programme. The programme is funded by the Department for Digital, Culture, Media & Sport (DCMS) and delivered by the NCS Trust - an independent community interest company.

1.3. This benchmarking study will have a two fold purpose. The first will be to fulfil a public commitment to the PAC Committee, who requested that this exercise should take place. The second will be to provide our delivery organisation - the NCS Trust - with comparative information on the relative cost of elements of NCS that can be factored into the Trust's re-commissioning of its provider network that will start in 2018.

1.4. The Provider is required to deliver a written, publishable report that sets out the cost of different elements of the NCS programme versus private sector and industry comparisons.

2. BACKGROUND AND PURPOSE

2.1. The Department for Digital, Culture, Media & Sport (DCMS) helps to drive growth, enrich lives and promote Britain abroad. The Department protects and promotes Britain's cultural and artistic heritage and help businesses and communities to grow by investing in innovation and highlighting Britain as a fantastic place to visit. The Department helps to give the UK a unique advantage on the global stage, striving for economic success.

2.2. The Office for Civil Society (OCS) directorate sits within DCMS and is responsible for growing volunteering, social action, community action and philanthropy; creating the conditions for a more independent and resilient voluntary, community and social enterprise sector; promoting social investment and social impact bonds, helping to develop a capital market that supports social impact; leading across government on the development of mutuals; supporting youth policy, leading on the creation of opportunities outside school for young people to develop skills and have a stake in society; and expanding the National Citizen Service.

2.3. OCS is therefore committed to taking forward the Government's commitment to building a stronger civil society – one in which people are supported to come together and improve their own lives.

2.4. Supporting this vision is the National Citizen Service (NCS), the Government's flagship programme for young people aged 15-17, giving young people the chance to undertake a programme of personal and social development and community action intended to achieve three societal purposes: social mobility, social cohesion and social engagement. Nearly

400,000 young people have taken part to date and we anticipate that over 100,000 will take part in 2017 alone.

2.5. During NCS, young people participate in a part-residential, three phased programme centred around fun and discovery with peers that they will not have met before and undertake an outward bounds phase, a skills phase and a social action phase. During the social action phase, they spend 60 hours designing and delivering a social action programme to support their local community. Many participants continue this engagement after graduating the programme, contributing an additional 4 hours volunteering per month compared to their peers.

2.6. Since 2013, the NCS Trust - currently an independent Community Interest Company - has been funded by Government to deliver the programme. The Trust contract with eight Regional and around two hundred Local Delivery Partners to run the programme in across the country.

2.7. Further information on the aims and structure of the NCS programme and the NCS Trust can be found at www.ncsyes.co.uk and www.facebook.com/ncs.

2.8. Independent evaluations have been commissioned in each year to assess the impact and value for money of the programme. In 2015, OCS commissioned a 2 Year On evaluation, looking at the sustained impact of NCS participation on the 2013 cohort. All previous evaluations are published at: <http://www.ncsyes.co.uk/about-us>, including the most recently published 2015 NCS Evaluation and the 2013 2 Years On Evaluation as well as the NCS Trust commissioned 2015 Wellbeing and Higher Education Impact Report.

2.9. The programme was recently reviewed by the National Audit Office (NAO) and Public Accounts Committee, and the value for money of the programme was scrutinised. The PAC Report can be found at <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubacc/955/955.pdf> and the NAO report at <https://www.nao.org.uk/report/national-citizen-service/> While the aforementioned independent evaluation of the programme by Ipsos MORI highlighted that for every £1 spent on the summer 2015 programme £1.50 of benefits are realised, the Committee in particular highlighted the need for a benchmarking of costs to be carried out. The goal of this exercise would be to compare the price of elements of NCS delivery to industry and market competitors to ensure that full value for money is being achieved, especially as the NCS Trust will begin the recommissioning of its provider network in 2018. For example, it could be that the NCS activity week could be compared to holidays provided by private operators such as PGL and NCS residential weeks with university conference accommodation.

2.10. DCMS committed to commissioning this study in a Treasury Minute Response to the PAC Committee's report on NCS (published on 12th October 2017) and has set a publication date of January 2018 for the publication of the report being compiled off the back of this study.

2.11. To this end, DCMS is looking to commission an independent benchmarking study to look at the cost of elements of NCS delivery against similar market/sector comparisons and publish this information in report form by January 2018.

3. SCOPE OF REQUIREMENT

3.1. The overall aim of this study is to produce a publishable report that sets out the cost of elements of NCS delivery and private sector/industry comparisons.

3.2. The report will fulfil a commitment that the department has made to the PAC committee to consider how the cost of NCS compares to other youth provision and private sector delivery. It will also provide the NCS Trust with information on costs that will help inform its recommissioning of the programme's provider network that will commence in 2018.

Overview of Requirements

3.3. The overall requirements of this work are as follows:

- To determine the components of NCS delivery that can be meaningfully benchmarked and used in this study. This decision will be based on an understanding of the structure and delivery of NCS and the availability of component level cost data.
- To use knowledge of the youth, volunteering and private sectors to establish the comparisons that the study should make. The PAC Committee highlighted the cost of NCS compared to Scout troop places in its report, and we anticipate that the Provider may want to additionally compare NCS to outdoor activity based holidays, other youth programmes and university/college accommodation. However, this list is by no means exhaustive, and we are prepared to be guided by the Provider and their research and experience in delivering similar studies.
- To obtain NCS Trust signoff on the factual accuracy of data, analysis and interpretation.
- To outline clearly and in detail, for each benchmarked cost component, which activities and impact outcomes are delivered by NCS versus the chosen benchmarks, and report on any differences that may explain cost differentials.
- To produce a final report that sets out the cost of elements of NCS delivery compared to private sector and industry comparisons.
- To construct a report narrative to explain why these particular comparisons have been chosen, including reference to potential comparisons that were explored and the reasons why these were not selected.

3.4 The Provider is not expected to provide cost benchmarking for cost elements that have no equivalent in the private sector or youth and volunteering sector.

4. OUTPUTS

4.1. Expected outputs are detailed in the timetable in Section 5.

4.2. All outputs should be sent to OCS prior to publication for approval and discussion with the NCS Trust. OCS will provide comments where necessary which should be integrated into final versions of these documents. It should be noted that OCS and NCS Trust will require opportunity to read and comment on the outputs, therefore additional clearance should be built into timescales in order to accommodate this activity.

5. TIMETABLE

5.1. It is expected that the contractor should be available to start immediately upon the award of the contract. The following indicative timetable sets out the proposed key stages of the benchmarking study:

Key Stages/Outputs	Date
Provider appointed	w/c 13th November
Contractor to meet with OCS and the NCS Trust at a project inception meeting. The contractor will discuss which elements of programme delivery have been considered for inclusion in the study. The contractor will work with NCS Trust to identify the correct cost data, as well as the activities and outcomes NCS delivers for each cost component	w/c 20th November
Contractor to produce refinement report based on data gleaned from NCS Trust outlining the approach to the study, the comparisons that will be used and the sectors that will be considered. (note the data from the NCS report will be provided after contract award and not available for information at this stage.	w/c 27th November
Draft report to be shared with OCS and NCS Trust for factual accuracy check and comment. Incorporate feedback and update the report accordingly. Reiterations to be completed as required.	w/c 18 December
Final publishable report to be shared with DCMS to submit to the PAC in the second week of January.	w/c 1st January

6. SERVICE LEVELS & PERFORMANCE

6.1. OCS will measure the quality of the Provider's delivery against the achievement of key milestones. Milestone dates (as per table 5.1) are indicative and will be agreed between OCS and the Provider during the project initiation meeting.

6.2. The successful Provider should respond to all queries within 24 hours.

6.3. These key milestones are material to the Contract. As such, an appropriate delay payment regime in the form of service credits shall be agreed between OCS and the Provider on award of the contract.

7. LOCATION

7.1 The Services will be carried out at the Supplier's premises. OCS is based in Whitehall and therefore the successful Provider should also be able to attend a project initiation meeting in Whitehall.

8. BUDGET

The budget is not disclosed to tenderers, the contract is for a fixed and firm price based on number of consultancy days. The provider should ask clarification questions if the requirements are not sufficiently clear.

Prices must be inclusive of all fees, costs and expenses, and exclusive of VAT.

SECTION 3

EVALUATION CRITERIA

Questionnaire and Evaluation Criteria

The elements of the Tender Response to be evaluated will be made up of 2 parts as shown below:

Part	Description	Weighting
PART 1:	Technical Submission	60%
PART 2:	Pricing Schedule	40%
Total:		100%

These are described in more detail below, together with information on how they will be assessed.

PART 1: Technical Submission

The questions in Part 1 are weighted, showing the relative importance of each criteria (expressed as a percentage). The total weighting for this section is **60%**. This is made up of the below questions:

Question	Weighting
1: Conflict of Interest	Pass/Fail
2: Skills, expertise and capacity	15%
3: Methodology	25%
4: Understanding of the sector	20%
TOTAL FOR TECHNICAL SUBMISSION:	60%

Each question response will be evaluated and marked on a scale of 0-4 where:

- 0 – Serious concerns:** e.g. does not meet requirements, and/or raises serious concerns
- 1 – Minor concerns:** e.g. meets some requirements but with gaps and/or some concerns
- 2 – Adequate confidence:** e.g. meets most/all requirements, but lacks sufficient detail in some areas
- 3 – Good confidence:** e.g. meets all requirements and provides a detailed response

4 – Excellent confidence: e.g. meets all requirements and provides a detailed response which also exceeds expectations in some areas and/or demonstrates a particularly strong understanding of the requirements

Your score will be determined by the marks awarded for each question (out of 4), in accordance with the applicable weighting.

For example, if the weighting for a question is 10%, a mark of 4 for that question would lead to a score of 10%. A mark of 3 would lead to a score of 7.5%, a mark of 2 would lead to a score of 5%, a mark of 1 would lead to a score of 2.5%, and mark of 0 would lead to a score of 0%.

The questions for the Technical Submission along with the evaluation criteria for each, are shown below:

Question	Response Requirements	Weighting
<p>Question 1: Conflict of Interest</p>	<p>Please advise if there is any actual or perceived conflict of interest with regards to this contract and your organisation including members of staff.</p> <p>Pass/Fail scoring criteria as follows:</p> <p>The Department's opening panel will meet with the Department's legal department and representatives from the technical evaluation panel to discuss any actual or potential conflict of interest issues that have been disclosed by a Tenderer. The attendees at this meeting will decide whether the Tenderer's internal management processes and controls are satisfactory to safeguard against the actual or potential conflict of interest.</p> <p>If the team agree that a Tenderer's internal management processes and controls are insufficient to safeguard against any conflict of interest issues. The team will make a recommendation to the Head of Procurement to exclude that Tenderer from the procurement exercise.</p>	Pass/Fail
<p>Question 2: Skills, expertise and capacity</p>	<p>Please demonstrate the relevant skills and expertise of your organisation and staff, to undertake this work. Please provide CV details (key information, not full CVs) for Key Persons who will be responsible for delivering this work. Please include an organogram showing a summary of roles and responsibilities, and the amount of each person's time to be dedicated to this project. Please also demonstrate that you have sufficient capacity to carry out this work. If the team includes any</p>	15%

	<p>staff who are not permanently employed by your organisation please include details and advise how they will be secured and managed for the duration of the Contract.</p> <p>Evaluation criteria:</p> <p>Your response should provide evidence that the Tenderer and Tenderer's team has excellent and relevant skills, expertise and experience to enable successful delivery of the project, with appropriate knowledge of the subject matter area. The response should demonstrate appropriate allocation of senior/junior resource and give confidence that appropriate Key Persons will dedicate sufficient time to the Contract. The response should demonstrate there is sufficient capacity to carry out this work, and manage this project as a priority alongside any other current work.</p> <p>Page limit: 3 A4 sides (including CV details and organogram)</p>	
<p>Question 3: Methodology</p>	<p>Please provide details of your methodology for the project, from contract commencement to contract completion.</p> <p>This should include:</p> <ul style="list-style-type: none"> - Proposed methodology for how you will carry out the work including key tasks and activities - Rationale for your proposed approach - High level project plan - How you will meet the timescales required, and ensure the timings and contract price are not exceeded - Key risks you feel may arise and how you will overcome these <p>Evaluation Criteria:</p> <p>Your response should:</p> <ul style="list-style-type: none"> - Demonstrate a clear and appropriate methodology for delivering the contract requirements, with clear rationale - Provide confidence in your approach and ability to deliver the scope of the project, in an appropriate manner 	<p>25%</p>

	<ul style="list-style-type: none"> - Provide confidence that the timescales and price will not be exceeded - Identify key risks and propose appropriate mitigation strategies <p>Page limit: 3 A4 sides</p>	
Question 4: Understanding of the Sector	<p>Please demonstrate your understanding of the relevant sector and subject matter area for this Contract, and potential challenges that may be faced within this industry.</p> <p>Evaluation criteria:</p> <p>Your response should demonstrate that the Tenderer has a sound understanding and knowledge of the youth and volunteering sectors and private sector provision aimed at young people to enable successful delivery of the Contract. This should include awareness of relevant current issues including a good understanding of the issues raised in the Public Accounts Committee’s report on NCS</p> <p>Page limit: 2 A4 side</p>	20%
TOTAL FOR PART 1:		60%

Note: Please do not include any financial or pricing information in your Technical Submission.

The Department reserves the right to reject any Tenderer who scores ‘0’ in any of the questions in Part 1, and/or achieves an overall score of less than 30% in Part 1.

PART 2 Pricing Schedule

Part 2 is weighted, with a total weighting of 40% for this section.

1. Completion of the Pricing Schedule

Tenderers should complete the Pricing Schedule as per Appendix A to this ITT.

Prices quoted should be in GBP £ Sterling, and should include all costs and expenses, and exclude VAT.

2. Evaluation of the Pricing Schedule

The commercial evaluation will be carried out by establishing the assessed price of each Tender, taken from each completed Pricing Schedule. The assessment will be conducted against the fixed prices tendered in the Pricing Schedule.

The maximum marks available for this part of the Tender will be 40% and will be awarded to the Tenderer submitting the lowest price. The remaining Tenderers will receive marks on a pro rata basis from the lowest to the highest price.

The calculation used is the following:

$$\text{Score} = \frac{\text{Lowest Tender Price}}{\text{Tender Price}} \times 40 \text{ (Maximum available marks)}$$

For example, if three Tender Responses are received and Tenderer A has quoted £3,000 as their total price, Tenderer B has quoted £5,000 and Tenderer C has quoted £6,000 then the calculation will be as follows:

$$\text{Tenderer A Score} = (\text{£}3000/\text{£}3000) \times 40 \text{ (Maximum available marks)} = 40\%$$

$$\text{Tenderer B Score} = (\text{£}3000/\text{£}5000) \times 40 \text{ (Maximum available marks)} = 24\%$$

$$\text{Tenderer C Score} = (\text{£}3000/\text{£}6000) \times 40 \text{ (Maximum available marks)} = 20\%$$

3. Abnormally low tenders

Tenders with abnormally low prices may be rejected by the Department. Prices that are suspiciously low in the opinion of the Department will be considered further before a decision is taken as to whether the price is abnormally low. This will include clarification with the relevant Tenderer.

4. Total Scores and Award decision

The Department will award the Contract to the Tenderer submitting the most economically advantageous offer from the point of view of the Department.

The most economically advantageous offer will be the Tender that achieves the highest combined final score (out of 100%), made up from the Technical Submission score (max score = 60) and the Pricing score (max score = 40).

The Department will notify all Tenderers of its contract award decision.

**APPENDIX A
PRICING SCHEDULE**

Please complete and upload as part of your Tender Response.

Tenderer Name: _____

Activity / Milestone Description	Price:
Milestone 1 Contractor to produce refinement report based on data gleaned from NCS Trust outlining the approach to the study, the comparisons that will be used and the sectors that will be considered. (note the data from the NCS report will provided after contract award and not available for information at this stage.	£
Milestone 2 Draft report to be shared with OCS and NCS Trust for factual accuracy check and comment. Incorporate feedback and update the report accordingly. Reiterations to be completed as required.	£
Milestone 3 Final publishable report to be shared with DCMS to submit to the PAC in the second week of January.	£
Total Fixed Tender Price (total of the above)	£

The above milestone payments should be broken down with further information to be detailed in an excel spreadsheet.

	Rol e 1	Rol e 2	Rol e 3	Rol e 4	Rol e 5	Role 6	Total days per activity :	Total cost per activity:
Job Title:	[Job Titl e]	[Job Title]						
Rate per day:	£	£	£	£	£	£		
[Activity description]								£
[Activity description]								£
[Activity description]								£
[Activity description]								£

[Activity description]								£
[Activity description]								£
[Activity description]								£
[Activity description]								£
Total days per job title:								
Total Fixed Tender Price (total of the above)								£

All pricing shall be exclusive of VAT.

Please note that a day rate must be provided for all roles. Day rates shall include expenses, and shall provide a baseline for any contract variations or extensions.

Pricing shall be shall be a Fixed & Firm Price for delivering the full scope of work, including all fees, costs and expenses. This shall include incorporating comments and feedback from DCMS and our stakeholders, where appropriate.

Payment will be in arrears, on completion of all deliverables to the satisfaction of DCMS.

**APPENDIX B
COMPANY INFORMATION**

Please complete and upload as part of your Tender Response.

Tender reference:	100980 NCS Cost Benchmarking Study
Tenderer organisation name (company name).	
Company registration number (as listed with Companies House).	
Company registered address (as listed with Companies House) or official legal address.	
Postal / trading address, if different.	
DUNS number if applicable.	
Date the organisation was established / incorporated?	
If your organisation is a subsidiary of another organisation, please provide the name and address or registered office and company registration number of the holding or parent organisation and the ultimate parent (if applicable). Please provide a diagrammatic illustration of the ownership structure of the Tenderer including relations to any parent or other group or holding companies. Please name the file "Tenderer name_Parent Co".	

<p>If you are tendering as a Joint Venture or Consortium, please provide details here and submit a structure diagram identifying the roles and relationships between the Parties including all relevant companies, their respective parent or ultimate holding companies. The structure should ensure that, as a minimum, the legal obligations and liabilities of the Tenderer are borne by an entity or entities which satisfy the financial and economic requirements set out in the ITT. Please name the file "Tenderer name_JV".</p>	
<p><i>The below information will not be used in any way to affect the selection process. It is collected to enable DCMS to monitor its procurement processes and ensure they are fair and non-discriminatory.</i></p>	
<p>Does the Tenderer's business (including parent company if relevant) fall under the European definition of a Small or Medium sized enterprise (SME)? Criteria can be found here: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm</p>	
<p>If yes, please state which one: Medium enterprise / Small enterprise / Micro enterprise</p>	
<p>Is the Tenderer a voluntary, community and social enterprise (VCSE) organisation?</p>	
<p>Is the Tenderer a business which has a majority (51% or more) ownership by individuals who are from Black, Asian or other non-white minority ethnic (BAME) groups?</p>	
<p>Is the Tenderer a business which has a majority (51% or more) ownership by women?</p>	
<p>Is the Tenderer a business which has a majority (51% or more) ownership by disabled people?</p>	

**APPENDIX C
TENDER SUBMISSION STATEMENT**

(Please print, sign, scan and upload as part of your Tender Response)

TENDERER NAME: _____

MAIN ADDRESS: _____

ITT ISSUE DATE: 30 October 2017

RETURN TO BE RECEIVED - 12:00pm 10 November 2017

INVITATION TO TENDER – Ref. 100980 Cost Benchmark Report National Citizen Service

- 1 We the undersigned, having read the Invitation to Tender which includes a model agreement and related annexes, hereby offer to supply the services specified therein (to the extent that the Department may decide on considering our bid) at the price(s) stated in our tender and subject to the terms and conditions as set out in the said model agreement and related annexes.
- 2 We agree that any other terms and conditions of contract or any general reservations which may be printed on any correspondence emanating from the tenderer in connection with this bid or with any contract resulting from the bid shall not be applicable to this bid or the contract.
- 3 We certify this is a Bona Fide and that we have not fixed or adjusted the amount of the tender by, or under or in accordance with any agreement or arrangement with any other person. We also certify that we have not at any time before the specified date and time for the return of the tender undertaken any of the following acts:
 - Communicated to any person other than the person calling for the tender the amount or approximate amount of the proposed tender other than for the purpose of obtaining a quotation of an insurance premium required for the purpose of the tender;
 - entered into any agreement or arrangement with any other person so that he shall refrain from tendering or as to the amount of any tender to be submitted;
 - Offering, paying, giving or agreeing to pay or give consideration directly or indirectly to any person for having done or for doing in relation to another

tender or proposed tender for the paid work or any act or forbearance of the sort described above.

- 4 The word “person” includes any person, body or association corporate or otherwise. The phrase “any agreement or arrangement” includes any such transaction, formal or informal, and whether legally binding or otherwise.
- 5 We **wish / do not wish (delete as appropriate)** to advance reasons why the provisions of Regulation 50 of The Public Contracts Regulations 2015 (SI 2015/102) should not apply to the information contained in our tender. These are enclosed.

Signature	_____
Date	_____
Name	_____
Position	_____
Telephone No	_____
Fax No	_____
E-mail	_____

Note: In the case of JV/Consortium responses this should be completed and signed by all Parties together with written confirmation from each Party that they authorise the Lead Party organisation to act on their behalf in relation to this procurement exercise.

**APPENDIX D
COMMERCIALLY SENSITIVE INFORMATION**

(Only if desired: please complete and upload as part of your Tender Response)

Please refer to Paragraph 5 of Section 1 of the ITT (Freedom of Information).

Page Number (in your tender)	Clause/paragraph numbered (or other identification)	Explanation of harm which may result from disclosure and time period applicable to any sensitivity

**APPENDIX E
DRAFT TERMS AND CONDITIONS**

(For information)

1 Interpretation

1.1 In these terms and conditions:

“Agreement”	means the contract between (i) the Customer acting as part of the Crown and (ii) the Supplier constituted by the Supplier’s countersignature of the Award Letter;
“Award Letter”	means the letter from the Customer to the Supplier printed above these terms and conditions;
“Central Government Body”	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none">(a) Government Department;(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);(c) Non-Ministerial Department; or(d) Executive Agency;
“Charges”	means the charges for the Services as specified in the Award Letter;
“Confidential Information”	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
“Customer”	means the person named as Customer in the Award Letter;
“DPA”	means the Data Protection Act 1998;
“Expiry Date”	means the date for expiry of the Agreement as set out in the Award Letter;
“FOIA”	means the Freedom of Information Act 2000;
“Information”	has the meaning given under section 84 of the FOIA;
“Key Personnel”	means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Supplier in writing;
“Party”	means the Supplier or the Customer (as appropriate) and “Parties” shall mean both of them;

“Personal Data”	means personal data (as defined in the DPA) which is processed by the Supplier or any Staff on behalf of the Customer pursuant to or in connection with this Agreement;
“Purchase Order Number”	means the Customer’s unique number relating to the supply of the Services;
“Request for Information”	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);
“Services”	means the services to be supplied by the Supplier to the Customer under the Agreement;
“Specification”	means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;
“Staff”	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;
“Staff Vetting Procedures”	means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer’s procedures for the vetting of personnel as provided to the Supplier from time to time;
“Supplier”	means the person named as Supplier in the Award Letter;
“Term”	means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
“Working Day”	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and

1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

2 Basis of Agreement

2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.

2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Supplier on receipt by the Customer of a copy of the Award Letter countersigned by the Supplier within [7] days of the date of the Award Letter.

3 Supply of Services

3.1 In consideration of the Customer's agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.

3.2 In supplying the Services, the Supplier shall:

3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;

3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;

3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;

3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;

3.2.5 comply with all applicable laws; and

3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.

3.3 The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier.

4 Term

- 4.1 The Agreement shall take effect on the date specified in Award Letter and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.
- 4.2 The Customer may extend the Agreement for a period of up to 6 months by giving not less than 10 Working Days' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.

5 Charges, Payment and Recovery of Sums Due

- 5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 5.2 The Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.3 In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.4 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.

- 5.6 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.7 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

6 Premises and equipment

- 6.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Supplier or the Staff shall be at the Supplier's risk.
- 6.2 If the Supplier supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Supplier or any Staff, other than fair wear and tear.
- 6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.

- 6.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 6.7 The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

7 Staff and Key Personnel

- 7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:
 - 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;
 - 7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
 - 7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,

and the Supplier shall comply with any such notice.

- 7.2 The Supplier shall:
 - 7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;
 - 7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and
 - 7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.

- 7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.
- 7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

8 Assignment and sub-contracting

- 8.1 The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 8.2 Where the Supplier enters into a sub-contract for the purpose of performing its obligations under the Agreement, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- 8.3 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 8.4 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

9 Intellectual Property Rights

- 9.1 All intellectual property rights in any materials provided by the Customer to the Supplier for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-

transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.

9.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).

9.3 The Supplier hereby grants the Customer:

9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and

9.3.2 a perpetual, a royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:

(a) any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and

(b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,

(including any modifications to or derivative versions of any such intellectual property rights which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.)

9.4 The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

10 Governance and Records

10.1 The Supplier shall:

10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and

10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

11 Confidentiality, Transparency and Publicity

11.1 Subject to clause 11.2, each Party shall:

11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:

11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

11.2.2 to its auditors or for the purposes of regulatory requirements;

11.2.3 on a confidential basis, to its professional advisers;

11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

11.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis

to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and

11.2.6 where the receiving Party is the Customer:

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;
- (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 11.

11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

11.4 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the

Agreement in any way, except with the prior written consent of the Customer.

12 Freedom of Information

12.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:

12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;

12.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and

12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.

12.2 The Supplier acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

13 Protection of Personal Data and Security of Data

13.1 The Supplier shall, and shall procure that all Staff shall, comply with any notification

requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.

13.2 Notwithstanding the general obligation in clause 13.1, where the Supplier is processing Personal Data for the Customer as a data processor (as defined by the DPA) the Supplier shall:

13.2.1 ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA;

13.2.2 provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA;

13.2.3 promptly notify the Customer of:

(a) any breach of the security requirements of the Customer as referred to in clause 13.3; and

(b) any request for personal data; and

13.2.4 ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer's obligations under the DPA.

13.3 When handling Customer data (whether or not Personal Data), the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Supplier from time to time.

14 Liability

14.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.

14.2 Subject always to clauses 14.3 and 14.4:

14.2.1 the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement,

the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier; and

14.2.2 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Supplier be liable to the Customer for any:

- (a) loss of profits;
- (b) loss of business;
- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); and/or
- (f) any indirect, special or consequential loss or damage.

14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

14.3.1 death or personal injury caused by its negligence or that of its Staff;

14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or

14.3.3 any other matter which, by law, may not be excluded or limited.

14.4 The Supplier's liability under the indemnity in clause 9.4 and 18.3 shall be unlimited.

15 Force Majeure

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Supplier. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

16 Termination

16.1 The Customer may terminate the Agreement at any time by notice in writing to the

Supplier to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.

- 16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:
- 16.2.1 (without prejudice to clause 16.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;
 - 16.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
 - 16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
 - 16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
 - 16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17; or
 - 16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction.
- 16.3 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause 16.2.4 or any potential such change of control.
- 16.4 The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.
- 16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12,

13, 14, 16.6, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.

16.6 Upon termination or expiry of the Agreement, the Supplier shall:

16.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Services; and

16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

17 Compliance

17.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Supplier in the performance of its obligations under the Agreement.

17.2 The Supplier shall:

17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and

17.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

17.3 The Supplier shall:

17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Supplier from time to time; and

17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by all Staff.

17.4 The Supplier shall supply the Services in accordance with the Customer's environmental policy as provided to the Supplier from time to time.

17.5 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

17.5.1 the Official Secrets Acts 1911 to 1989; and

17.5.2 section 182 of the Finance Act 1989.

18 Prevention of Fraud and Corruption

18.1 The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

18.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

18.3 If the Supplier or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:

18.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or

18.3.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

19 Dispute Resolution

19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

- 19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “**Mediator**”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

20 General

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall

have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

- 20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

21 Notices

- 21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 21.3, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:
- 21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.
- 21.3 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

22 Governing Law and Jurisdiction

The validity, construction and performance of the Agreement, and all contractual and non contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

**APPENDIX E
CONTRACT COMMENTS**

Only if desired: If you would like to comment on the Draft Contract (Appendix D) please use the below template to provide your comments and/or any proposed non-material changes. Please complete and upload with your Tender Response.

Please note that no material changes to the contract will be accepted.

Clause number	Comment / proposed change	Rationale and impact (including any cost adjustment)