



Infrastructure
and Projects
Authority

INVITATION TO TENDER

FOR

**NATIONAL INFRASTRUCTURE AND CONSTRUCTION PIPELINE DATA
PUBLICATION AND SERVICES**

Date: June 2017

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INTRODUCTION

- 1.1 This Invitation to Tender relates to the Procurement to award a contract to provide National Infrastructure and Construction Pipeline Data Publication and Services
- 1.2 This ITT contains the information and instructions the Potential Provider needs to submit a Tender.
- 1.3 The contract will be until 30th June 2020, with the possibility of an extension for up to a further two years (except in circumstance specified in Appendix B - 9.9 details breakout clause)
- 1.4 This Contract is being offered by the Infrastructure and Projects Authority (“IPA”). The contract terms and conditions will govern any resultant contract.
- 1.5 The IPA is using Contracts Finder to manage this Procurement. Your tender must be submitted via email to: Maxine.maatsankofa@ipa.gov.uk

2. OVERVIEW OF INVITATION TO TENDER

- 2.1 The following appendices are included within this ITT:
 - 2.1.1 **Appendix A – Terms of the Procurement**
Sets out rights and obligations which apply to the Potential Provider and the Infrastructure and Projects Authority during this Procurement.
 - 2.1.2 **Appendix B – Scope of Services**
A detailed description of the services that the Service Provider will be required to supply to the Infrastructure and Projects Authority.
 - 2.1.3 **Appendix C – Terms and Conditions of Contract**
Sets out the terms and conditions of Contract that will exist between the Infrastructure and Projects Authority and the Service Provider.
 - 2.1.4 **Appendix D – Response Guidance**
A template containing questions which the Potential Provider is required to respond to.

3. TENDER RESPONSES

- 3.1 Potential Providers **must** submit their proposals/answer all questions via Contracts Finder as outlined in Appendix D – Response Guidance.
- 3.2 Potential Providers **must not** submit any additional information with their Tender other than that specifically requested in Appendix B – Service Description or Appendix D – Response Guidance.

4. PROCUREMENT TIMETABLE

- 4.1 The timetable for this Procurement is set out in the table below.
- 4.2 This timetable may be changed by the IPA at any time. The Potential Provider will be informed through Contracts Finder if changes to this timetable are necessary.

DATE	ACTIVITY
Wednesday 28 th June 2017	National Infrastructure and Construction Pipeline Data Publication and Services invitation to Tender goes live.
Wednesday 28 th June 2017	Clarification period starts

DATE	ACTIVITY
Friday 7 th July 2017	Clarification period closes (“ Tender Clarifications Deadline ”)
Friday 21 st July 2017	Deadline for submission of a Tender to the IPA (“ Tender Submission Deadline ”)
Friday 28 th July 2017	Evaluation Period
Monday 31 st July 2017	Placeholder for potential Presentations/Interviews
Tuesday 1 st August 2017	Expected award date of contract
Wednesday 2 nd August 2017	Anticipated contract commencement date

- 4.3 The IPA reserves the right to interview / invite to presentations up to the top three Potential Providers based on their overall score.

5. QUESTIONS AND CLARIFICATIONS

- 5.1 Potential Providers may raise questions or seek clarification regarding any aspect of this Procurement at any time prior to the Tender Clarification Deadline. Questions must be submitted via email to Maxine Ma’atSankofa at maxine.maatsankofa@ipa.gov.uk.
- 5.2 The IPA will not enter into exclusive discussions regarding the requirements of this Procurement with Potential Providers.
- 5.3 To ensure that all Potential Providers have equal access to information regarding this Procurement, the IPA will publish on contracts finder all its responses to questions raised by Potential Providers on an anonymous basis.
- 5.4 If required, the IPA may issue communications to the email address for the tender contact provided in Appendix D (Response Guidance), therefore please ensure that this mailbox is reviewed on a regular basis.

6. PRICE

- 6.1 **This service will be offered on a no-fee basis.**
- 6.2 The IPA believes that both the Service Provider and the IPA should benefit from this contract, and this is reflected by the no-fee arrangement and the opportunity for the Service Provider to use HM Government logo in their marketing.

7. SUBMITTING A TENDER

- 7.1 Potential Providers should submit their completed Tender to Maxine Ma’atSankofa via email: Maxine.maatsankofa@ipa.gov.uk
- 7.2 If Potential Providers experience any technical difficulties with Contracts Finder and viewing details of the Tender Maxine Ma’atSankofa should be contacted immediately (contact details are telephone: 07702 820765, or email: maxine.maatsankofa@ipa.gov.uk
- 7.3 Potential Providers are responsible for all costs incurred in submitting a tender for this requirement irrespective of a contract award.

8. TENDER EVALUATION

- 8.1 Tenders will be evaluated in line with the Marking Scheme set out in Appendix D (Response Guidance).

- 8.2 The Total Score Available for each question is set out in Appendix D (Response Guidance), and is as follows:

QUESTION NUMBER	QUESTION	TOTAL SCORE AVAILABLE	WEIGHTINGS %
1	Company Information	Information Only	N/A
2	Tender Contact	Information Only	N/A
3	Mandatory Requirements	Pass / Fail	N/A
4	Conflicts of Interest	Information Only	N/A
5	Capability, Service Delivery and Approach	100	100
Total		100	100%

9. CONTRACT AWARD

- 9.1 The Potential Provider that achieves the highest total score will be awarded the Contract.
- 9.2 If two or more Potential Providers obtain scores within 10 points of each other, the IPA reserves the right to interview / invite to presentations those Potential Providers. At this stage, equal information regarding the interview / presentations would be provided to those Potential Providers.
- 9.3 If the IPA receives only one Tender in relation to this Procurement, the Potential Provider will be awarded the Contract provided that they score at least 60% of the total available score.

10. PROCUREMENT CONTACT

- 10.1 The procurement lead for this requirement is:

- 10.1.1 Maxine Ma'atSankofa
- 10.1.2 07702 820765
- 10.1.3 Maxine.maatsankofa@ipa.gov.uk

11. GLOSSARY

- 11.1 In this ITT the following words and phrases have the following meanings:

“**IPA**” means the Infrastructure and Projects Authority. The IPA is the government’s centre of expertise for infrastructure and major projects, reporting to the Cabinet Office and HM Treasury. IPA is part of the [Cabinet Office](#) and [HM Treasury](#).

“**Contract**” has the meaning set out in Appendix C (Terms and Conditions of Contract);

“**Contracts Finder**” means the online tender management system which is being used by the IPA for this Procurement which can be found at:

<https://www.contractsfinder.service.gov.uk/Search>

“**Invitation to Tender**” or “**ITT**” means this invitation to tender document and all related documents published by the IPA in relation to this Procurement;

“Marking Scheme” means the range of marks that may be given to a Potential Provider depending on the quality of its response to a question which is located in the boxes below the applicable question;

“Minimum Total Score” means the minimum score that the Potential Provider must obtain in order to be awarded the Contract;

“Total Score Available” means the maximum potential score that can be awarded for a response to a question;

“Potential Provider” means a company that submits a Tender in response to the Invitation to Tender;

“Procurement” means the process used to establish a contract for an Executive Search Agency;

“Service Provider” means the Potential Provider with whom the Infrastructure and Projects Authority has concluded the Contract;

“Tender Clarifications Deadline” means the time and date set out in paragraph 4.2 for the latest submission of clarification questions;

“Tender Submission Deadline” means the time and date set out in paragraph 4.2 for the latest uploading of Tenders; and

“Tender” means the Potential Provider’s formal offer in response to the Invitation to Tender.

APPENDIX A: Terms of Procurement

1. INTRODUCTION

- 1.1 These Terms of the Procurement regulate the conduct of the Potential Provider and the IPA throughout the Procurement. These terms also grant the IPA specific rights and limit its liability.
- 1.2 Except for the words and expressions set out below, the capitalised words and expressions used in these Terms of the Procurement shall have meanings given to them in the Invitation to Tender:
- “**FoIA**” means the Freedom of Information Act 2000 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
- “**EIR**” means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;
- 1.3 In these Terms of the Procurement any reference to 'person' includes, but is not limited to, any person, firm, body or association, corporate or incorporate.

2. CONDUCT

The Potential Provider agrees to abide by these Terms of the Procurement and any instructions given in the Invitation to Tender and agrees to ensure that any of its staff, contractors, subcontractors, consortium members and advisers involved or connected with the Procurement abides by the same.

2.1 Contact during the Procurement exercise and canvassing

The Potential Provider must not directly or indirectly canvass any Minister, public sector employee or agent regarding this Procurement or attempt to procure any information from the same regarding the Procurement (except where permitted by the Invitation to Tender). Any attempt to do so may result in the Potential Provider's disqualification from this Procurement.

2.2 Collusive Behaviour

2.2.1 The Potential Provider must not (and shall ensure that its subcontractors, consortium members, advisors or companies within its Group do not):

2.2.1.1 fix or adjust any element of the Tender by agreement or arrangement with any other person;

2.2.1.2 enter into any agreement or arrangement with any other person, so that person refrains from submitting a Tender;

2.2.1.3 share, permit or disclose to another person, access any information relating to the Tender (or another Tender to which it is party) with any other person; or

2.2.1.4 offer or agree to pay or give or does pay or give any sum or sums of money, inducement or valuable consideration directly or indirectly to any

APPENDIX A: Terms of Procurement

other person for doing or having done or causing or having caused to be done in relation to the Tender any other Tender or proposed Tender, any act or omission,

except where such prohibited acts are undertaken with persons who are also participants in the Potential Provider's Tender, such as subcontractors, consortium members, advisors or companies within its group, or where disclosure to such person is made in confidence in order to obtain quotations necessary for the preparation of the Tender or obtain any necessary security.

2.2.2 If the Potential Provider breaches paragraph 2.2.1, the IPA may (without prejudice to any other criminal or civil remedies available to it) disqualify the Potential Provider from further participation in the Procurement.

2.2.3 The IPA may require the Potential Provider to put in place any procedures or undertake any such action(s) that the IPA in its sole discretion considers necessary to prevent or curtail any collusive behaviour.

3. COMPLIANCE

The Potential Provider agrees that in cases where their Tender is deemed non-complaint when compared with the requirements set out within the Invitation to Tender (e.g. terms and conditions) they will be excluded from the Procurement.

4. RIGHT TO CANCEL OR VARY THE PROCUREMENT

4.1 The IPA reserves the right:

4.1.1 to amend, clarify, add to or withdraw all or any part of the Invitation to Tender at any time during the Procurement;

4.1.2 to vary any timetable or deadlines set out in the Invitation to Tender;

4.1.3 not to conclude a contract for some or all of the goods and/or services (as applicable) for which Tenders are invited; and

4.1.4 cancel all or part of the Procurement at any stage at any time.

4.2 The Potential Provider accepts and acknowledges that by issuing the Invitation to Tender, the IPA is not bound to accept a Tender or obliged to conclude a contract with the Potential Provider at all.

4.3 The Potential Provider accepts and acknowledges that they are responsible for any and all costs incurred in their participation in this Invitation to Tender, regardless of a contract award being made.

5. CONCLUDING THE CONTRACT

5.1 The Potential Provider undertakes that, in the event of the Tender being accepted by the IPA and the IPA confirming in writing such acceptance to the Potential Provider, the Potential Provider will execute the contract as amended to accommodate aspects of the Tender within 30 days of being called upon to do so by the IPA.

5.2 In cases where the Potential Provider fails to:

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- 5.2.1 agree, without caveats or limitations, that in the event they are successful in this Procurement, they will unreservedly sign the Terms and Conditions of Contract as set out at Appendix C;
- 5.2.2 execute the contract by signing it when requested to do so by the IPA; or
- 5.2.3 execute the contract within 30 days of being called to do so;

the IPA reserves the right to deem the Potential Provider's Tender non-compliant and award the contract to the next ranked Potential Provider (who has achieved the Minimum Pass Score).

6. CONFIDENTIALITY

- 6.1 The contents of the Invitation to Tender are being made available by the IPA on the condition that the Potential Provider:
 - 6.1.1 treats the Invitation to Tender (together called the **"Information"**) as confidential at all times, unless it is already in the public domain;
 - 6.1.2 does not disclose, copy, reproduce, distribute or pass any of the Information to any other person at any time or allow any of these things to happen, except where, and to the extent that, the Information has been publicised in accordance with paragraph 7 (Freedom of Information) or paragraph 8 (Transparency);
 - 6.1.3 only uses the Information for the purposes of preparing a Tender (or deciding whether to respond); and
 - 6.1.4 does not undertake any promotional or similar activity related to the Procurement within any section of the media during the Procurement process.
- 6.2 The IPA disclose information submitted by the Potential Provider during the Procurement to its officers, employees, agents or advisers or other government departments who are stakeholders in this Procurement exercise.

7. FREEDOM OF INFORMATION

- 7.1 In accordance with the obligations and duties placed upon public authorities by the FoIA and the EIR, all information submitted to the IPA may be disclosed in Tender to a request for information made pursuant to the FoIA and the EIR.
- 7.2 The Potential Provider should note that the information disclosed in Tender to a FoIA or EIR request may include, but is not limited to, the disclosure of its Tender (including any attachments or embedded documents) and/or any score or details of the evaluation of a Tender.
- 7.3 If the Potential Provider considers any part of its Tender or any other information it submits to be confidential or commercially sensitive, the Potential Provider should:
 - 7.3.1 clearly identify such information as confidential or commercially sensitive;
 - 7.3.2 explain the potential implications of disclosure of such information; and
 - 7.3.3 provide an estimate of the period of time during which it believes that such information will remain confidential or commercially sensitive.
- 7.4 If the Potential Provider identifies that part of its Tender or other information it submits is confidential or commercially sensitive, the IPA will consider withholding it from publication. The Potential Provider should note that, even where information is identified as confidential

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or commercially sensitive, the IPA may be required to disclose such information in accordance with the FoIA or the EIR.

- 7.5 The IPA is required to form an independent judgement upon whether the information is exempt from disclosure under the FoIA or the EIR and whether the public interest favours disclosure or not. The IPA cannot guarantee that any information indicated as being “confidential” or “commercially sensitive” by the Potential Provider will be withheld from publication.
- 7.6 If the Potential Provider receives a request for information under the FoIA or the EIR during the Procurement process, it should be immediately referred to the IPA.

8. TRANSPARENCY

- 8.1 In accordance with the Government's policy on transparency, the IPA reserves the right to make all or part of the Information publicly available (subject to any redactions made at the discretion of the IPA by considering and applying relevant exemptions under the FoIA).
- 8.2 A Tender will not be published unless such disclosure is required in accordance with paragraphs 7.1 or 8.3.
- 8.3 The Potential Provider should note that the terms and conditions of contract will permit the IPA to publish the full text of the contract concluded with the Potential Provider, after considering (at the IPA's sole discretion) any representations made by the Potential Provider regarding the application of any relevant FoIA or EIR exemptions.
- 8.4 The Potential Provider acknowledges and agrees that information contained within its Tender may be incorporated by the IPA into any contract awarded to it and as a result, it may be published in accordance with this paragraph 8.

APPENDIX B: Scope of Services

1. INTRODUCTION

- 1.1 The Infrastructure and Projects Authority (IPA) is the government's centre of expertise for infrastructure and major projects, reporting to the Cabinet Office and HM Treasury. The IPA supports the successful delivery of all types of infrastructure and major projects: ranging from railways, schools, hospitals and housing, to defence, IT and major transformation programmes.
- 1.2 The IPA works with government and industry to ensure infrastructure and major projects are delivered efficiently and effectively, and to improve performance over time. Its purpose is to continuously improve the way infrastructure and major projects are delivered, in order to support government priorities and improve people's lives. The IPA was formed on 1 January 2016 when it brought together Infrastructure UK (IUK) and the Major Projects Authority (MPA). Further information can be found at: <https://www.gov.uk/government/organisations/infrastructure-and-projects-authority>.
- 1.3 The IPA publishes the National Infrastructure and Construction Pipeline (NICP). The NICP is a forward-looking assessment of the planned investment in infrastructure across the public and private sectors. It contains over 700 projects and programmes with a total value of more than £500 billion. It is generally published every six months, and the latest version of the NICP can be viewed here: <https://www.gov.uk/government/publications/national-infrastructure-and-construction-pipeline-2016>. The NICP was also published externally by Barbour ABI, and can be viewed here: <http://www.barbour-abi.com/government-construction-infrastructure-pipeline/>

2. TENDER REQUIREMENTS

- 2.1 The Infrastructure and Projects Authority (IPA) are seeking a Service Provider to support the IPA in publishing and disseminating the National Infrastructure and Construction Pipeline (NICP), through providing online publishing services, data visualisation and analytics, and supporting the IPA in engaging with stakeholders.
- 2.2 The Service Provider would work alongside the IPA's Strategy and Policy team, who are responsible for publishing the NICP. The IPA are the ultimate owners of the NICP data, and are responsible for the data collection, analysis, and publication of the NICP on the government website.

3. OBJECTIVE

The Service Provider shall provide online publishing services, data visualisation, and analytical expertise to the IPA to ensure that the NICP data is accessible and used by key stakeholders, including the construction industry and potential investors. The Service Provider shall also host an annual stakeholder engagement event to gather views on the Pipeline from key stakeholders.

The objective of this service is to support the IPA presenting the NICP in an informative, and easy to navigate format, for industry and interested members of the public. IPA is keen for the Service Provide to provide intelligent analysis of the large data set and develop

APPENDIX B: Scope of Services

appropriate maps, tools and infographics to achieve this aim. The Service Provider shall also support the IPA in understanding how well the publication meets the needs of its key stakeholders.

4. CONTRACT DURATION

4.1 The contract will run for three years, with the potential to extend for up to two additional years.

4.2 The IPA reserves the right to:

4.2.1 Amend, clarify, add to or withdraw all or part of the contract during the life of the contract

4.2.2 Vary any timetable or deadline set out in the contract

4.2.3 Cancel all or part of the contract at any stage at any time.

5. SPECIFIC SERVICES

The Service Provider shall provide the following specific services:

5.1 Reporting and Defining the Scope of Work

5.1.1 Produce annually a **NICP Pipeline Data Publication and Services report** detailing the outputs for the previous 12 months, lessons learned, plus options for improvement and development, plus a work plan for the next 12 months. For the first year, the Supplier shall produce a **NICP Pipeline Data Publication and Services Plan**.

5.1.2 The approach to managing data security, integrity and quality checks will be in accordance with a **Data Security and Quality Plan** to be agreed between the parties.

5.1.3 The IPA are also interested to hear further ideas from interested Service Providers regarding how they would further promote and disseminate the NICP.

5.2 Data Services

5.2.1 Data integrity and quality checks are essential prior to publication. Whilst the majority of the data compilation and checking will be completed by the IPA, the Service Provider will also review and assess:

- Number format and consistency
- Date validity, format and consistency
- Location and GIS information validity and format

5.3 Pipeline Publication

5.3.1 The Service Provider shall develop and maintain a NICP Webpage (or micro-website) and Interactive Map to present the data within each publication of the National Infrastructure and Construction Pipeline (NICP) in an accessible and informative way (note that the products produced may also be published on the .gov.uk website, with full credit given to the Service Provider). This should:

- Present the data in a range of meaningful formats, including through the use of infographics and timelines, and an interactive map (see showing the specific pipeline projects)
- Directly link to the Government publication of the Pipeline (the Service Provider should note that the products produced may also be published on the government .gov.uk website, with **full credit given to the Service Provider**).
- Monitor activity on the webpage or microsite, including key analytics such as number of unique visitors, and length of time spent on the site, in order to measure use of the site.
- Work with the IPA team to produce further analysis, as agreed by both parties.

5.3.2 The Interactive Map should

- Overlay all Pipeline projects onto a map of the UK
- Include the capability to map linear assets (e.g. roads), and regional projects.
- Enable users to view details for each project or group of projects on the map
- Include other features as agreed by the Service Provider and the IPA.

5.3.3 Promote the Pipeline publication through its own channels and networks, including print and web media, to ensure that it reaches a wide and appropriate audience.

5.4 Stakeholder Engagement

5.4.1 The Service Provider shall work with the IPA to gather views and feedback from industry regarding the NICP. Specifically, coordinate and host an annual stakeholder engagement meeting to gather views on the Pipeline from industry and others who use the data, drawing upon their own networks.

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6. SCOPE OF WORK - PLANNED TIMELINES (NOTE, THIS TIMETABLE MAY BE SUBJECT TO CHANGE DEPENDANT ON FUTURE NICP PUBLICATION DATES)

6.1 After contract award:

6.1.1 The IPA team will meet with the Service Provider for a contract kick-off meeting to discuss specific outputs and work plans.

6.2 Six weeks after the contract award:

6.2.1 The Supplier shall present a **Draft Data Security and Quality Plan** and a **Draft NICP Pipeline Data Publication and Services Plan** for the first year.

6.2.2 The Service Provider shall present the IPA with a sample website and interactive map, based on existing data to be provided by the IPA, for review and feedback by the IPA.

6.2.3 Changes should be agreed between the IPA and Service Provider within a further six weeks and implemented prior to publication of the NICP. This will then form the agreed:

- Data Security and Quality Plan
- NICP Pipeline Data Publication and Services Plan
- NICP webpage and interactive map

6.2.4 Six-monthly:

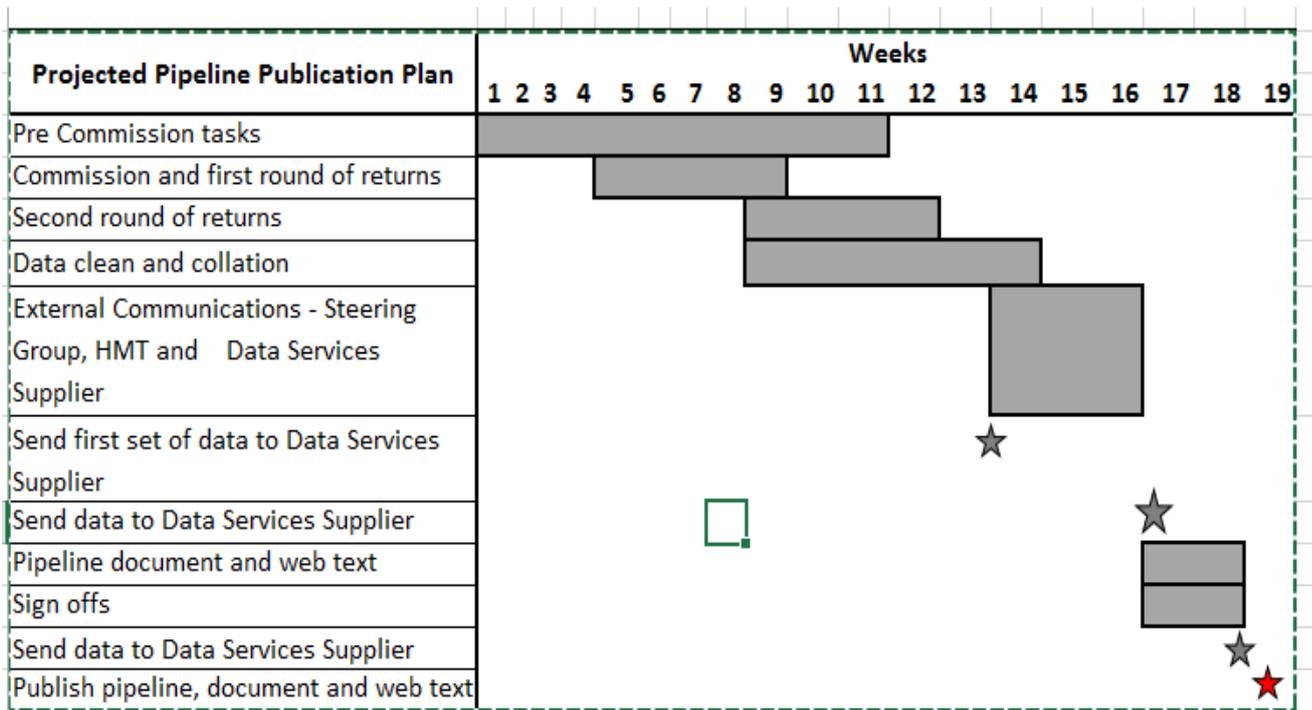
- The Service Provider shall publish and disseminate the NICP, including updating the website, map, infographics, and other tools, based on the raw Pipeline data provided by the IPA team. The Service Providers' publication of the NICP should go live shortly (for example, 1 - 3 days) after the external publication of the Pipeline data by the IPA.
- The IPA team would provide the data to the Service Provider in advance of external publication to allow the Service Provider to prepare the website, information products, and any analysis. This data must be kept confidential and must not be used for commercial gain by the Service Provider.

6.2.5 Annually:

- Coordinate and host the annual stakeholder engagement meeting.
- Produce the NICP Pipeline Data Publication and Services report and agree the forward plan for the next 12 months.
- Hold an annual review meeting with the IPA, to agree the ICP Pipeline Data Publication and Services report.

A sample timeline for each iteration of the NICP can be seen below:

APPENDIX B: Scope of Services



APPENDIX C: Terms and Conditions of Contract

1 INTERPRETATION

1.1 In these terms and conditions:

“Agreement”	means the contract between (i) the Customer acting as part of the IPA and (ii) the Service Provider constituted by the Service Provider’s countersignature of the Award Letter and includes the Award Letter;
“Award Letter”	means the letter (including the Annexes thereto) from the Customer to the Service Provider via the e-Sourcing Suite at the point of award;
“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: (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 Service Provider in writing;
“Party”	means the Service Provider 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 Service Provider 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;

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“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 Service Provider 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;
“Start Date”	means the commencement date of the Agreement as set out in the Award Letter;
“Staff”	means all directors, officers, employees, agents, consultants and contractors of the Service Provider and/or of any sub-contractor of the Service Provider engaged in the performance of the Service Provider’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 Service Provider from time to time;
“Service Provider”	means the person named as Service Provider 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 Service Provider on receipt by the Customer, within [7] days of the date of the award letter, of a copy of the Award Letter countersigned by the Service Provider.
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3 SUPPLY OF SERVICES

- 3.1 In consideration of the Customer's agreement to pay the Charges, the Service Provider 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 Service Provider 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 Service Provider'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 Service Provider's obligations are fulfilled in accordance with the Agreement;
 - 3.2.4 ensure that the Services shall conform with all descriptions, requirements, service levels 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 Service Provider at any time request a variation to the scope of the Services. In the event that the Service Provider 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 Service Provider.

4 TERM

- 4.1 The Agreement shall take effect on the Start Date 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 Service Provider 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 Service Provider 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 Service Provider directly or indirectly incurred in connection with the performance of the Services.
- 5.2 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 Service Provider a sum equal to the VAT chargeable in respect of the Services.
- 5.3 The Service Provider 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.
- 5.4 In consideration of the supply of the Services by the Service Provider, the Customer
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APPENDIX C: Terms and Conditions of Contract

shall pay the Service Provider the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and 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.

- 5.5 If the Customer fails to consider and verify an invoice in a timely fashion the invoice shall be regarded as valid and undisputed for the purpose of paragraph 5.4 after a reasonable time has passed.
- 5.6 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Service Provider shall not suspend the supply of the Services unless the Service Provider 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.
- 5.7 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Service Provider interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.8 Where the Service Provider enters into a sub-contract, the Service Provider shall include in that sub-contract:
- 5.8.1 provisions having the same effects as clauses 5.3 to 5.7 of this Agreement; and
 - 5.8.2 a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as 5.3 to 5.8 of this Agreement.
 - 5.8.3 In this clause 5.8, “sub-contract” means a contract between two or more Service Providers, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
- 5.9 If any sum of money is recoverable from or payable by the Service Provider under the Agreement (including any sum which the Service Provider 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 Service Provider under the Agreement or under any other agreement or contract with the Customer. The Service Provider 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 Service Provider 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 Service Provider or the Staff shall be at the Service Provider’s risk.
- 6.2 If the Service Provider 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 Service Provider shall vacate the Customer’s premises, remove the Service Provider’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 Service Provider shall be solely responsible for making good any damage to the Customer’s premises or any objects contained on the
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Customer's premises which is caused by the Service Provider or any Staff, other than fair wear and tear.

- 6.3 If the Service Provider 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 Service Provider 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 Service Provider's premises, the Service Provider 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 Service Provider 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 Service Provider shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Service Provider or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Service Provider 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 Service Provider:
 - 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;
 - 7.1.2 direct the Service Provider to end the involvement in the provision of the Services of the relevant person(s); and/or
 - 7.1.3 require that the Service Provider 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 Service Provider shall comply with any such notice.
 - 7.2 The Service Provider 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, parental leave and 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
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replaced and be suitable for the responsibilities of that person in relation to the Services.

8 ASSIGNMENT AND SUB-CONTRACTING

- 8.1 The Service Provider 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 Service Provider 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 Customer has consented to the placing of sub-contracts, the Service Provider shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 8.3 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Service Provider provided that such assignment, novation or disposal shall not increase the burden of the Service Provider's obligations under the Agreement.

9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 All intellectual property rights in any materials provided by the Customer to the Service Provider for the purposes of this Agreement shall remain the property of the Customer or the respective owner of such intellectual property rights but the Customer hereby grants the Service Provider 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 Service Provider to perform its obligations under the Agreement.
- 9.2 All intellectual property rights in any materials created or developed by the Service Provider pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Service Provider. 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 Service Provider 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 Service Provider 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, 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 Service Provider 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 Service Provider shall indemnify, and keep indemnified, the Customer in full against
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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 Service Provider or any Staff.

10 GOVERNANCE AND RECORDS

10.1 The Service Provider 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 Service Provider 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 Service Provider 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 Service Provider, to the Staff on a need to know basis to enable performance of the Service Provider's obligations under the Agreement provided that the Service Provider shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Service Provider's confidentiality obligations under the Agreement; and

11.2.6 where the receiving Party is the Customer:

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- (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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider 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 Service Provider acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning
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the Service Provider or the Services (including commercially sensitive information) without consulting or obtaining consent from the Service Provider. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Service Provider advance notice, or failing that, to draw the disclosure to the Service Provider'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 Service Provider 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 Service Provider 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 Service Provider is processing Personal Data for the Customer as a data processor (as defined by the DPA) the Service Provider 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 Service Provider 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 Service Provider shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Service Provider from time to time.

14 LIABILITY

- 14.1 The Service Provider 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 Service Provider 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

APPENDIX C: Terms and Conditions of Contract

duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Service Provider; and

14.2.2 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Service Provider 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 Service Provider'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 Party affected. 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 Service Provider 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 Service Provider with immediate effect if the Service Provider:

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 Service Provider 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;

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- 16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Service Provider (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 Service Provider's assets or business, or if the Service Provider 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; or
 - 16.2.7 fails to comply with legal obligations in the fields of environmental, social or labour law.
- 16.3 The Service Provider 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 Service Provider 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 Service Provider shall:
- 16.6.1 give all reasonable assistance to the Customer and any incoming Service Provider 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 Service Provider 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 Service Provider of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Service Provider in the performance of its obligations under the Agreement.
- 17.2 The Service Provider 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 Service Provider 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 Service Provider 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 Service Provider shall supply the Services in accordance with the Customer's environmental policy as provided to the Service Provider from time to time.
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17.5 The Service Provider 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 Service Provider 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 Service Provider shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Service Provider (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 Service Provider 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 IPA (including the Customer) the Customer may:

18.3.1 terminate the Agreement and recover from the Service Provider 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 Service Provider 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.

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- 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 D: Response Guidance

1 INTRODUCTION

- 1.1 This Appendix D sets out the questions that will be evaluated as part of this Procurement.
- 1.2 The following information has been provided in relation to each question (where applicable):
- 1.2.1 Weighting – highlights the relative importance of the question.
- 1.2.2 Guidance – sets out information for the Potential Provider to consider when preparing a response.
- 1.2.3 Marking Scheme – details the marks available to evaluators during evaluation.

2 DOCUMENT COMPLETION

- 2.1 You **must** provide a response to every question. Please provide your response as a separate document at each question. All responses must be provided as either Word or PDF documents, with font no less than size 11.
- 2.2 You **must not** submit any additional information with your Tender other than that specifically requested in this document or Appendix B – Service Description.

3 RESPONSE GUIDANCE

1 COMPANY INFORMATION	
1.1	Please state your full company name.
1.2	Please state your registered office address.
1.3	Please state your company or charity registration number.
1.4	Please state whether your company is a SME.
1.5	Please state whether your company is a voluntary, community or social enterprise organisation.
1.6	Please state the name of your immediate parent company.

2 TENDER CONTACT	
2.1	Please state the contact's name.
2.2	Please state the contact's address, postcode and country.
2.3	Please state the contact's telephone number.
2.4	Please state the contact's mobile number.
2.5	Please state the contact's e-mail address.

APPENDIX D: Response Guidance

3 Mandatory Requirements		Pass/Fail
<p>Please Note: The following question is a Pass / Fail question, therefore if a Potential Provider cannot or is unwilling to answer 'Yes', their Tender will be deemed non-compliant and they will be unable to be considered for this requirement. The Potential Provider should confirm by deleting the inappropriate answer.</p>		
3.1	Do you agree, without caveats or limitations, that in the event you are successful in this Procurement, you will unreservedly sign the Terms and Conditions of Contract as set out at Appendix C upon award of the Contract? YES/NO	
3.2	Price	
	Please confirm that you will undertake the delivery of the services outlined in this Tender document at no fee? YES/NO	
4 Conflict of Interests		Information
<p>Please Note: The following question is for information only. Any submitted responses will not affect the outcome or preclude you from inclusion within the tender process. The Potential Provider should confirm by deleting the inappropriate answer, where the response is 'yes' details should be presented in the text box.</p>		
4.1	We require that any potential, actual or perceived conflicts of interest in respect of this mandate are identified in writing that companies outline what safeguards would be put in place to mitigate the risk of actual or perceived conflicts arising during the delivery of these services. Do you agree? YES/NO	

5 Service Delivery and Approach		Weighting 70%	
Guidance:			
<ul style="list-style-type: none"> Potential Providers should attach one document at the questionnaire level that forms their response to the set questions below, relating to the Specific Services provided in Appendix B: Scope of Services. The attachment and the document must not exceed a 3,000 word limit and be submitted in Word / PDF format. The maximum score available for this questionnaire is 80. 			
Question:		Max Score	Weighting %
5.1	Potential Providers are requested to provide examples of their experience on previous projects relevant to this scope of services.	20	20%
5.2	Potential Providers are asked to set how they will provide appropriate data services, and support the IPA in the publication of the Pipeline (see Appendix B: Scope of Services, 5.2 and 5.3)	30	30%

APPENDIX D: Response Guidance

5.3	Potential Providers are asked to provide an outline of how they would engage with stakeholders to ensure the NICP meets their needs (see Appendix B: Scope of Services, 5.4)	20	20%
5.4	Potential Providers are asked to provide an outline of any other ways that they believe they could further promote and support publication and dissemination of the NICP (see Appendix B: Scope of Services, 5.1)	10	10%

6 Capability		Weighting 70%	
Guidance:			
<ul style="list-style-type: none"> Potential Providers should attach one document at the questionnaire level that forms their response to the set question below. The attachment must be submitted in Word / PDF format. The maximum score available for this questionnaire is 20. 			
Question:		Max Score	Weighting %
6.1	Potential Providers are requested to describe their planned approach to engagement with the IPA for provision of these services. This should include outlining the relevant skills and experience of key personnel who will deliver the scope of work, and their planned role in delivery of the services (see Appendix B: Scope of Services).	20	20%

Marking Scheme:		
The following marking scheme will be used to assess the response provided to the technical / quality questionnaire set out above:		
Grade	Score	Interpretation
Excellent	100%	Exceeds the requirement. Excellent demonstration by the Potential Provider of the relevant ability, understanding, experience, skills, resources and quality measures required. Evidence identifies factors that will offer significant added value.
Good	80%	Satisfies the requirement and offers some additional benefits. Above average demonstration by the Potential Provider of the relevant ability, understanding, experience, skills, resources and quality measures required. Evidence identifies factors that will offer some added value.
Acceptable	60%	Satisfies the requirement. Demonstration by the Potential Provider of the relevant ability, understanding, experience, skills, resources and quality measures required.
Minor Reservations	40%	Satisfies the requirement, with some minor reservations. Some minor reservations about the Potential Provider's relevant ability, understanding, experience, skills, resources and quality measures required.
Major Reservations	20%	Satisfies the requirement, with major reservations. Serious concerns about the Potential Provider's relevant ability, understanding, experience, skills, resources and quality measures required.

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Unacceptable	0%	Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the Potential Provider has the relevant ability, understanding, experience, skills, resources and quality measures required. Little or no evidence to support the response.
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