Invitation to Tender for Fossil Fuel Supply Curves

Tender Reference Number: TRN 1089/10/2015A

Deadline for Tender Responses: Friday, 27 November 2015 17:00 PM

Department of Energy and Climate Change

Date: 20/11/2015

The Department of Energy and Climate Change (“DECC”) wishes to appoint a Supplier to undertake a piece of research to help inform its fossil fuel price projections. The scope of the analysis is to depict long run global supply curves for oil, gas and coal and detail the underlying assumptions.

Enclosed are the following sections:

* Section 1 (page 3) Instructions on tendering procedures
* Section 2 (page8) Specification of requirements
* Section 3 (page28) Further information on tendering procedure
* Section 4 (page31) Declarations and information to be provided:
  + - * + Statement of Non-Collusion
        + Form of Tender
        + Conflict of Interest
        + Questions for tenderers
* Annex A: Pricing breakdown
* Annex C: Terms and Conditions for Contract
* Annex D: DECC Standard Assumptions Log Template

Q&A response to significant questions in the process will be released via contracts finder.

Please read the instructions on the tendering procedures carefully as not complying with them may invalidate your tender. Your tender must be returned by Friday, 27 November 2015 17:00 PM clearly marked as “TENDER”.

I look forward to receiving your response.

Yours sincerely,

James Steel, Head of Oil and Gas Economics,

james.steel@decc.gsi.gov.uk.

Section 1

Instructions and Information on Tendering Procedures

Invitation to Tender for: Fossil Fuel Supply Curves

Tender Reference Number:

Deadline for Tender Responses: Monday, 16 November 2015 17:00 PM

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# 1. Indicative Timetable for tender exercise

The anticipated timetable for this tender exercise is as follows. DECC reserves the right to vary this timetable. Any variations will be published on contracts finder or circulated to all organisations who have registered an interest in notifications.

|  |  |
| --- | --- |
| **Tender Timeline** | **Date** |
| Advert and full invitation to tender issued | Friday 20 November 2015 |
| Deadline for questions relating to the tender | Monday 23 November 17:00 |
| Responses to questions published | Tuesday 24 November 2015 |
| Deadline for receipt of tender | Friday 27 November 17:00 |
| [If needed] contract clarification process | Monday 30th November 2015 |
| All suppliers alerted of outcome | Wednesday 2nd December 2015 |
| Contract award on signature by both parties | Friday 11 December 2015 |
|  |  |
| Contract start date | Monday 14 December 2015 |

The contract is to be for a period of 9 months, unless terminated or extended by the Department in accordance with the terms of the contract.

# Submitting Tenders

Please **email** your proposal by the deadline of Friday, 27 November 2015 17:00 PM to james.steel@decc.gsi.gov.uk. Please also **send 3 hard copies** of your proposal and declarations by the tender deadline addressed to James Steel, Area 3D, DECC, 3 Whitehall Place, London SW1A 2AW. Envelopes/packages should bear no reference to the tenderer by name and must be clearly marked as “Tender”.

For questions on the procurement process please contact James Steel, [james.steel@decc.gsi.gov.uk](mailto:james.steel@decc.gsi.gov.uk) or 0300 068 6923.

If you require further information concerning the tender process, or the nature of the proposed contract, email [james.steel@decc.gsi.gov.uk](mailto:james.steel@decc.gsi.gov.uk). All questions must be submitted by Monday 23 November 17:00. Should questions arise during the tendering period, which in our judgement are of material significance, we will publish these questions with our formal reply by Tuesday 24 November 2015 and circulate – unnamed - to all organisations that have expressed an interest in bidding. All contractors should then take that reply into consideration when preparing their own bids.

The Department may amend the enclosed tender documents prior to the deadline for receipt of tenders. Any amendment will be numbered, dated and issued. Where amendments are significant, the Department may at its discretion extend the deadline for receipt of tenders.

Tenders will be received up to the time and date stated, and not considered after the deadline. Those received before that date and time will be retained unopened until then. Tenders should remain valid for a period indicated in the specification of requirements.

DECC shall have the right to disqualify you from the procurement if you fail to fully complete your response, or do not return all of the fully completed documentation and declarations requested in this ITT. DECC shall also have the right to disqualify you if it later becomes aware of any omission or misrepresentation in your response to any question within this invitation to tender.

You will not be entitled to claim from the Department any costs or expenses that you may incur in preparing your tender whether or not your tender is successful.

DECC reserves the right to withdraw this contract opportunity without notice and will not be liable for any costs incurred by contractors during any stage of the process. In the event a tender is considered to be fundamentally unacceptable on a key issue, regardless of its other merits, that tender may be rejected. By issuing this invitation the Department is not bound in any way and does not have to accept the lowest or any tender and reserves the right to accept a portion of any tender unless the tenderer expressly stipulates otherwise in their tender.

# Conflict of Interest

The DECC standard terms and conditions of contract refer to conflict of interest and require contractors to declare any potential conflict of interest to the Secretary of State.

For research and analysis, conflict of interest is defined the presence of an interest or involvement of the contractor, subcontractor (or consortium member) which could affect the actual or perceived impartiality of the research or analysis.

Where there may be a potential conflict of interest, it is suggested that the consortia or organisation designs a working arrangements such that the findings cannot be influenced (or perceived to be influenced) by the organisation which is the owner of a potential conflict of interest. For example, consideration should be given to the different roles which organisations play in the research or analysis, and how these can be structured to ensue maintain an impartial approach to the project is maintained.

The process by which this is managed in the procurement process is as follows:

1. **During the bidding process, organisations may contact DECC to discuss whether or not their proposed arrangement is likely to yield a conflict of interest.** Any responses given to individual organisations or consortia will be published on contract finder (in a form which does not reveal the questioner’s identity). Any organisation thinking of submitting a bid, should share their contact details with the staff member responsible for this procurement, to ensure they receive an update when any responses to questions are published.
2. **Contractors are asked to sign and return Declaration 3 to indicate whether or not any conflict of interest may be, or be perceived to be, an issue.** If this is the case, the contractor or consortium should give a full account of the actions or processes that it will use to ensure that conflict of interest is avoided. In any statement of mitigating actions, contractors are expected to outline how they propose to achieve a robust, impartial and credible approach to the research.
3. **When tenders are scored, this declaration will be subject to a pass/fail score**, according to whether, on the basis of the information in the proposal and declaration, there remains a conflict of interest which may affect the impartiality of the research.

Failure to declare or avoid conflict of interest at this or a later stage may result in exclusion from the procurement competition, or in DECC exercising its right to terminate any contract awarded.

# Terms and Conditions of Contract

The DECC Standard Terms and Conditions of Contract will apply to this contract. These are attached to this invitation to tender in Annex C.

# 7. Checklist of Documents to be Returned

The documents to be returned as part of the tender proposal response should include:

1. The proposal
2. The declarations:
   * Statement of non-collusion
   * Form of tender
   * Conflict of interest
   * Questions for tenderers
3. Price schedule (annex A)

Section 2

Specification of Requirements

Invitation to Tender for: Fossil Fuel Supply Curves

Tender Reference Number:

Deadlines for Tender Responses: Monday, 16 November 2015 17:00 PM

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# Introduction and Summary of Requirements

DECC is looking for a contractor to provide fossil fuel supply curves and projections for demand for fossil fuels as key inputs to DECC’s fossil fuel projections to be updated in 2016.

In proposing a suitable methodology, the contractor must address the objectives outlined in section 3 and the outputs required in section 5.

# Background

DECC publishes long term projections for fossil fuel prices - see <https://www.gov.uk/government/collections/fossil-fuel-price-projections>. To update the evidence base used by DECC and to inform the 2016 fossil fuel price projections DECC wishes to appoint contractor(s) that will produce a number of scenarios for the evolution of long run supply curves for oil, gas and coal. DECC’s fossil fuel price projections extend to 2040.

The framework DECC uses for its long run fossil fuel price projections assumes that fossil fuel prices in the long term can be expected to reflect the full costs of the supply sources “at the margin” that are needed to meet demand. The long term price projections therefore reflect estimates of the long run marginal costs of those supply sources, combined with projections for energy demand. From a long term perspective, with all factors of production flexible, DECC would not expect issues such as supply chain constraints to be a material driver of long run marginal costs, and would expect higher prices to incentivise exploration and development activity and bring forward supply.

DECC envisages that the shorter term (pre 2020) element of the projections will continue to be driven by spot prices and futures curves, with the longer term (post 2020) element anchored by estimates of long run marginal cost. DECC will be guided by the quality of the evidence base and the advice of its contractors as to the detailed implementation of this approach, which may vary by fuel. For example, whether to base projected prices for 2040 on estimates of supply and demand for 2040 or, if 2040 supply curves are materially more uncertain than for earlier dates, conclude it would be more appropriate to use estimates of supply and demand for an earlier date combined with an extrapolation or flatlining to 2040. Another choice where DECC will be guided by the quality of the evidence base and the advice of its contractors is over the assumed horizon for prices to converge from current spot/future prices to a long run cost anchor, in particular in the current supply context. Supply curves for 2020, or the early 2020s, which exclude sunk and committed investment costs should be helpful in providing a fundamentals approach to projecting prices over a medium term horizon, if adjustment to long run marginal costs is likely to occur over a longer time frame.

DECC may combine the supply curves with projections of fossil fuel demand provided by the contractors or may use other external sources for demand projections such as the International Energy Agency’s.

DECC expects the 2016 fossil fuel price projections to be finalised in Spring 2016.

# Aims and Objectives

The overall purpose of the analysis is to depict long run supply curves for fossil fuels, which will be combined with projections of demand to generate projections for long term fossil fuel prices consistent with the long-run costs of the marginal sources of supply, and to detail the underlying assumptions. This should include reflecting the range of uncertainty over the evolution of supply curves (and demand for fossil fuels) sufficient to construct low and high as well as central projections for long term fossil fuel prices which reflect a plausible and evidence based range and the inherent uncertainty.

# Methodology

Overall, it is envisaged that this project will primarily comprise analysis of existing data and modelling that the contractor has collected and developed.

Supply

The supply curves should be built up from breakeven costs for investment/long run marginal costs for the key categories of supply. The supply curves should reflect variation in the technical/ geological/country characteristics within the key categories below and preferably be built up from a field by field/mine by mine analysis. Breakeven costs should be categorised by country and type of resource and should exclude sunk and committed investment costs. See more detail in the outputs section.

The contractor will need to explain in some detail how they have developed that evidence base and the underlying data sources.

It will be important to be transparent about a number of parameters and assumptions likely to be embedded in the contractor’s evidence base including: cost of capital, de-risking cashflows, exchange rates, upstream capital costs, changes in industry unit costs, the value of associated production, assumptions on Hydrocarbon specific taxes and royalties (or subsidies), technology and efficiency gains, pipeline costs, decline rates and rates of discovery. These will need to be justified for example referencing to primary data sources or comparison with other external estimates. The contractor will need to demonstrate that the assumptions used can be justified as sustainable from a long term perspective.

It will also be important to be transparent and justify other constraints beyond cost and resource fundamentals that have been assumed. For countries where production is primarily state financed or controlled these might include

* + Strategic Government decisions on how rapidly they wish to exploit their resource base, or exploitation of market power. This could include any assumptions about OPEC.
  + Budgetary constraints on domestically funded investment to exploit the resource base (including investment in supporting infrastructure), or limits on national capability to deliver it.
  + Barriers to attracting foreign investment, where foreign technology or finance is required (e.g. absence of sustainable governance frameworks, unable to agree sufficient returns to foreign investors, sanctions).

Contractors should also be explicit about any other constraints being assumed, including regulatory and environmental constraints which limit the exploitation of the resource base e.g. environmental permitting for oil sands/arctic, regulatory approval of pipelines.

Particular issues we are likely to seek detailed justification from the contractor include

* + Long term assumptions on industry unit costs, including the contractor’s analysis of how far current levels vary from a long term sustainable level.
  + Long term efficiency assumption and resource assumptions, including for tight oil and shale gas.
  + The basis for reserve growth and decline rate assumptions.
  + The basis for long term supply curves for key OPEC countries.
  + Long term assumptions on hydrocarbon specific taxes and royalties for projects at the margin.

Demand

Suppliers should explain the methodological/ modelling approach to be used, and the sensitivities that can be run e.g. on own price and prices of other fuels, on future economic growth, energy intensity, CO2 emissions, technological/ efficiency gains including of competing technologies.

Choice of time horizon

Supply and demand curves could be provided for 2020, 2030 and 2040 but suppliers are invited to propose (and justify) alternative dates if this will better meet DECC’s objectives. For example DECC is aware that estimates of supply curves in 2040 are more dependent on assumptions on yet to be discovered reserves, whereas a supply curve for 2030 might link more strongly to known projects on which FIDs might be taken over the medium term about which there is more evidence on costs and resources.

Geography

Given the regional nature of coal and gas markets, contractors will need to explain and justify the geographical scope of the analysis and how interactions with other (regional) markets have been captured. This includes assumptions on changes in regional market integration e.g. between European and Asian gas (LNG) markets that are assumed over time.

Scenarios

As well as justifying the assumptions and parameters underlying their “central” scenario/ view, contractors will also need to propose an approach for developing alternative scenarios containing a combination of sensitivities which can form the basis for “low” and “high” scenarios.

General

Contractors may suggest a variation to the suggested approach, alongside a rationale for how this will better answer the research questionsor analytical objectives*.*

In explaining their approaches to analysis, the contractor should illustrate how these will ensure a credible and impartial outcome and set out any limitations or bias.

Contractors will need to demonstrate that they will meet DECC standards for quality assurance, which are outlined in section 7.

# Outputs Required

The following outputs will be required from the project at agreed milestones, in a format suitable for publication and future use. Section 6 provides further details of stipulations regarding format, ownership and handling of data outputs.

* Agreed plan for the project
* Draft report and Final report in the DECC template for publication
* Excel files including the underlying data points and possible modelling tool
* Presentation of draft results to DECC: presentation delivery and slides

Outputs would ideally include:

Oil Supply curves

* Global supply curves for oil for both short term and longer term horizons. Supply curves could be provided for 2020, 2030 and 2040 but suppliers are invited to propose (and justify) alternative dates if this will better meet DECC’s objectives given the evidence available (see the discussion in the Background and Methodology sections).
* The supply curves should be built up from breakeven costs for investment/long run marginal costs for the key categories of oil supply. The supply curves should reflect variation in the technical/ geological/country characteristics within the key categories below and preferably be built up from a field by field analysis.
* Breakeven costs should be categorised by country and type of resource (e.g. conventional onshore crude, NGLs, offshore shelf midwater, deepwater and ultra deepwater, tight oil, oil sands, extra heavy, biofuels, GTL, CTL).
* Breakeven costs should exclude any sunk investment or committed investment costs over the time horizon for the projection.
* For countries where oil production is primarily state financed or controlled contractors will be explicit about the assumed constraints on investment and long run supply curves they have made resulting from
  + Strategic Government decisions on how rapidly they wish to exploit their resource base, or exploitation of market power. This could include any assumptions about OPEC.
  + Budgetary constraints on domestically funded investment to exploit the resource base (including investment in supporting infrastructure), or limits on national capability to deliver it.
  + Barriers to attracting foreign investment, where foreign technology or finance is required (e.g. absence of sustainable governance frameworks, unable to agree sufficient returns to foreign investors, sanctions).
* Contractors should also be explicit about any other constraints being assumed, including regulatory and environmental constraints which limit the exploitation of the resource base e.g. environmental permitting for oil sands/arctic, regulatory approval of pipelines.
* Assumptions on Hydrocarbon specific taxes and royalties should be included and separately identified and justified. Contractors should also be explicit on and justify the assumptions used for cost of capital, de-risking cashflows, exchange rates, local content share of costs, changes in industry unit costs, the value of associated production, technology and efficiency gains, decline rates, pipeline costs where necessary to take oil to market, and rates of discovery.
* Sensitivities should be presented that allows DECC to understand the relative impact of the underlying drivers. For instance these might include but not be limited to: costs of capital, tax and royalties, unit input costs, technology and efficiency gains, decline rates, strategic Government decisions, rates of discovery.
* Contractors should provide their central view and also a number of alternative scenarios for each date (including at least a “low” and a “high”) containing a combination of sensitivities agreed with DECC.
* Data should be provided in Excel with clear headings. A modelling tool, which illustrates the alternative supply curves and how they relate to their drivers, may be a useful approach to develop and provide to DECC.

Oil Demand

* Global projections for oil demand, using a consistent set of assumptions to those used for the supply curve analysis (and for other fuels as appropriate). Contractors should explain the methodological/ modelling approach used.
* Contractors will need to provide sensitivities that allows DECC to understand the relative impact of the underlying drivers e.g. from oil prices, future economic growth, CO2 emissions, technological/ efficiency gains, prices of other fuels. Contractors should provide their central view and also a number of alternative scenarios (including at least a “low” and a “high”) containing a combination of sensitivities agreed with DECC.
* Data should be provided in Excel with clear headings. A modelling tool, which illustrates the alternative demand projections and how they relate to their drivers, may be a useful approach to develop and provide to DECC.

Gas supply curves

* A range of breakeven costs for investment in key categories of natural gas supply to (North West) European markets for both short term and longer term horizons. Supply curves could be provided for 2020, 2030 and 2040 but suppliers are invited to propose (and justify) alternative dates if this will better meet DECC’s objectives given the evidence available (see the discussion in the Background and Methodology sections).
* The supply curves should be built up from breakeven costs for investment/long run marginal costs for the key categories of supply. This range should reflect variation in the technical/ geological/country characteristics within the key categories below, and preferably be built up from a field by field analysis.
* Breakeven costs should be categorised by country and type of resource (e.g. conventional, shale gas, coalbed methane, tight gas, CTG).
* Breakeven costs should include cost of transport by pipeline or LNG (including liquefaction, transport, regasification), with these different costs separately identified.
* Breakeven costs should exclude sunk and committed investment costs.
* Contractors should explain and justify the geographical scope of the analysis and how interactions with other (regional) gas markets have been captured.
* For countries where gas production is primarily state financed and controlled contractors should be explicit about assumed constraints on investment and long run supply curves resulting from
  + Strategic Government decisions on how rapidly they wish to exploit their resource base, or exploitation of market power.
  + Budgetary constraints on domestically funded investment to exploit the resource base (including investment in supporting infrastructure), or limits on national capability to deliver it.
  + Barriers to attracting foreign investment, where foreign technology or finance is required (e.g. absence of sustainable governance frameworks, unable to agree on sufficient return to foreign investors, sanctions).
* Contractors should also be explicit about any other constraints being assumed, including regulatory and environmental constraints which limit the exploitation of the resource base e.g. environmental permitting for oil sands/arctic, regulatory approval of pipelines.
* Assumptions on Hydrocarbon specific taxes and royalties should be included and separately identified and justified. Contractors should also be explicit on and justify the assumptions used for cost of capital, de-risking cashflows, exchange rates, local content share of costs, changes in industry unit costs, the value of associated production, technology and efficiency gains, decline rates, pipeline costs, and rates of discovery.
* Contractors should explain and justify the geographical scope of the analysis and how interactions with other (regional) gas markets have been captured.
* Sensitivities should be presented that allows DECC to understand the relative impact of the underlying drivers. For instance these might include but not be limited to: costs of capital, tax and royalties, unit input costs, technology and efficiency gains, strategic Government decisions, geopolitical developments, rates of discovery.
* Contractors should provide their central view and also a number of alternative scenarios (including at least a “low” and a “high”) containing a combination of sensitivities agreed with DECC.
* Data should be provided in Excel with clear headings. A modelling tool, which illustrates the alternative supply curves and how they relate to their drivers, may be a useful approach to develop and provide to DECC.

Gas Demand

* Projections for gas demand, using a consistent set of assumptions where appropriate to those used for the supply curve analysis (and for other fuels as appropriate). Contractors should explain the methodological/ modelling approach used.
* Contractors will need to provide sensitivities that allows DECC to understand the relative impact of the underlying drivers e.g. from gas prices, future economic growth, CO2 emissions, technological/ efficiency gains, prices of other fuels.
* Contractors should explain and justify the geographical scope of the analysis and how interactions with other (regional) gas markets have been captured. Including consistency between the approach used for the gas demand analysis and for constructing the gas supply curves.
* Contractors will need to provide sensitivities that allows DECC to understand the relative impact of the underlying drivers. Contractors should provide their central view and also a number of alternative scenarios (including at least a “low” and a “high”) containing a combination of sensitivities agreed with DECC.

Coal supply curves

* A range of breakeven economic costs for investment in key categories of thermal coal supply to (North West) European markets for both short term and longer term horizons. Supply curves could be provided for 2020, 2030 and 2040 but suppliers are invited to propose (and justify) alternative dates if this will better meet DECC’s objectives given the evidence available (see the discussion in the Background and Methodology sections).
* This range should reflect variation in the technical/ geological/country characteristics within the key categories below and preferably be built up from a mine by mine analysis.
* Breakeven economic costs should include all business costs incurred by the producer to realise the fair market value of the traded coal. Cost items should at least consider mining costs and physical delivery costs. Costs should be categorised by country and corrected to account for different coal qualities (preferably using 6,000 kcal/kg as benchmark).
* Breakeven costs should reflect cost of overland and/or seaborne transport (including port handling fees and shipping freights).
* Given the long-term focus of the price scenarios, the supply cost curves should reflect long run marginal costs and should therefore include a capital cost element for new mining projects and for existing projects where appropriate (i.e. to the extent that extra capital investment will be needed). However, breakeven costs should exclude sunk and committed investment costs.
* Contractors should explain and justify the geographical scope of the analysis and how interactions with other coal markets have been captured.
* Contractors should be explicit about other regulatory and environmental or other constraints which limit the exploitation of the resource base which have been assumed e.g. environmental permitting.
* Assumptions on taxes and royalties should be included and separately identified and justified. Contractors should also be explicit on and justify the assumptions used for cost of capital, de-risking cashflows, exchange rates, local content share of costs, trends in industry unit costs, fuel costs, technology and efficiency gains, transport costs, (and depletion rates and rates of discovery if appropriate).
* Sensitivities should be presented that allows DECC to understand the relative impact of the underlying drivers. For instance these might include but not be limited to: costs of capital, tax and royalties, unit input costs, technology and efficiency gains, strategic Government decisions, geopolitical developments, rates of discovery and depletion rates.
* Contractors should provide their central view and also a number of alternative scenarios (including at least a “low” and a “high”) containing a combination of sensitivities agreed with DECC.
* Data should be provided in Excel with clear headings. A modelling tool, which illustrates the alternative supply curves and how they relate to their drivers, may be a useful approach to develop and provide to DECC.

Coal Demand

* Projections for European coal demand, using a consistent set of assumptions where appropriate to those used for the supply curve analysis (and for other fuels as appropriate). Contractors should explain the methodological/ modelling approach used.
* Contractors will need to provide sensitivities that allows DECC to understand the relative impact of the underlying drivers e.g. from coal prices, future economic growth, CO2 emissions, technological/ efficiency gains, prices of other fuels.
* Contractors should justify the geographies used for the coal demand analysis and the consistency with the approach used for constructing the coal supply curves. The analysis should take into consideration demand variations driven by international trade dynamics across the different geographical markets.
* Contractors will need to provide sensitivities that allows DECC to understand the relative impact of the underlying drivers. Contractors should provide their central view and also a number of alternative scenarios (including at least a “low” and a “high”) containing a combination of sensitivities agreed with DECC.
* Data should be provided in Excel with clear headings. A modelling tool, which illustrates the alternative demand projections and how they relate to their drivers, may be a useful approach to develop and provide to DECC.

A final report is a required output of the project. It should be evidence-based and written in the DECC template. It must be written to a sufficiently high standard for publication. Our experience shows that this may require several drafts and this should be taken into account when considering timelines and costs. In your bid, please specify who in the project team will be responsible for drafting the report.

If the contractor is providing a modelling tool

An **Input log** completed within DECC’s standard template (annexed) or an agreed equivalent, containing details of all data that is used within the modelling tool. Frequently, data required will be a mixture of primary and constructed variables, with links in between them. Please ensure these are clearly highlighted.

An **Assumptions log** completed within DECC’s standard template (annexed) or an agreed equivalent, which is describes what assumptions have been used within the modelling tool. This should include all assumptions, including those which are implicit.

Full details of methodology, where any model parameters are derived from a collection of raw input data.

Evidence that the model is fit-for-purpose and any limitations or contexts in which it does not apply

A **‘map’ of the workings of the model**, in particular identifying discrete section of the model. This should include

* identifying sections of the code as they relate to sections of the map;
* identifying which variables are used across multiple sections of the model;
* Indicating what variables and procedures would be affected if any section of the model were replaced or updated, and how they would be affected;

**Any other information** which would be required to update the model at a later date

Referencing of the data sources and assumptions must abide by the following points:

* The chosen method of referencing should be consistent, and agreed in writing with DECC beforehand.
* The referencing must allow all data to be traced back to the original source. Examples may be found in BS ISO 690:2010
* Follow logical best-practice in variable naming, with documented & consistent convention

# 6. Information Management

# Ownership & Publication

DECC is committed to openness and transparency. Project outputs should be accessible, non-disclosive and suitable for publication and further use. The exceptions to this are where:

1. The intellectual property rights to an output (or part of an output) is owned by someone other than the contractor. Contractors should state in their tender if this is the case and indicate whether the third party copy righted materials can be redacted.
2. Data is commercial in confidence.
3. A non-anonymised dataset if required for the project.
4. The outputs are internal documents only for DECC – e.g. project updates and the research plan.

Unless otherwise stated in your tender, all outputs from a research project will assumed to be owned by DECC. The outputs, raw data and tools developed in the research will be transferred to DECC at times agreed with DECC and cannot therefore be used for contractors for purposes other than our work.

The Contractor agrees that DECC may disclose data and reports produced for DECC by the Contractor to DECC’s advisers and consultants, provided that DECC informs the recipient advisers and consultants of the confidential nature of the data and reports, and secures the agreement in writing of the recipient advisers and consultants to the requirement to keep the information in the data and reports confidential.

# Quality Assurance

Contractors should include a quality assurance plan that they will apply to all of the research tasks and modelling.

To demonstrate an effective process to produce high quality reporting, the contactor/s must ensure that quality assurance is done by individuals who were not directly involved in the research, analysis or model development.

Sign-off for the quality assurance must be done by someone of sufficient seniority within the contractor organisation to be able take responsibility for the work done. Acceptance of the work by DECC will take this into consideration. DECC reserves the right to refuse to sign off outputs which do not meet the required standard specified in this invitation to tender.

All models and modelling must be quality assured and documented.

* This QA plan should be no longer than 1 or 2 sides of A4 paper.
* The following link contains an externally accessible version of the Modelling QA guidance, and the QA log
  + <https://www.gov.uk/government/organisations/department-of-energy-climate-change/about/procurement#analytical-modelling>
* The QA log should be filled in at project completion to demonstrate the QA undertaken

Contractors must supply quality assurance evidence for any existing models they wish to submit to DECC. This must be:

* to a standard that is at least the equivalent of DECC’s internal standard, available at [https://www.gov.uk/government/organisations/department-of-energy-climate-change/about/procurement#analytical-modelling](https://www.gov.uk/government/organisations/department-of-energy-climate-change/about/procurement%23analytical-modelling)
* accepted as suitable by DECC

# Timetable

The following timetable has been developed to enable DECC to update its fossil fuel price projections in Spring 2016.

Tenders may amend the timetable as long as the final report is delivered by the specified date.

|  |  |
| --- | --- |
| **Action** | **Timing – completed by** |
| Inception steering group meeting for project | 16/12/2015 |
| Draft report of interim findings to DECC | 29/1/2016 |
| Final Report agreed | 31/3/2016 |

Contractors should allow for a total of 4-5 meetings at DECC, including the inception meeting and a presentation of the draft results.

# Working Arrangements

The successful contractor will be expected to identify one named point of contract through whom all enquiries can be filtered. A DECC project manager will be assigned to the project and will be the central point of contact.

DECC will conduct internal peer review throughout the project, and may engage external peer reviewers at key stages.

We will require weekly updates on progress by email or phone.

# Required Skills

A range of different skills are required for this research. Contractors should clearly set out the skills and expertise provided by each member of the proposed project team to meet the requirements.

The following skills and knowledge are considered particularly important for this work:

* Understanding of the global fossil fuel industry
* Evidence on fossil fuel production costs and resources
* Understanding of forecasting and modelling

Contractors should propose named members of the project team, and include the tasks and responsibilities of each team member. This should be clearly linked to the work programme, indicating the grade/ seniority of staff and number of days allocated to specific tasks.

Contractors should identify the individual(s) who will be responsible for managing the project.

# Budget

Our anticipation is that the work will cost in the region of £70-£90k for the three fuels combined.

Contractors should provide a full and detailed breakdown of costs. This should include staff (and day rate) allocated to specific tasks. A template is attached in annex A.

Cost will be part of the criterion against which bids which will be assessed.

Payments will be linked to delivery of key milestones. The indicative milestones and phasing of payments is as follows:

* Delivery of acceptable draft final report and excel data files in January 2016: 50%
* Delivery of acceptable final report and excel data files in March 2016: 50%

In submitting full tenders, contractors confirm in writing that the price offered will be held for a minimum of 60 calendar days from the date of submission. Any payment conditions applicable to the prime contractor must also be replicated with sub-contractors.

The Department aims to pay all correctly submitted invoices as soon as possible with a target of 10 days from the date of receipt and within 30 days at the latest in line with standard terms and conditions of contract.

# Evaluation of Tenders

Contractors are invited to submit full tenders of no more than 25-30 pages, excluding declarations. Tenders will be evaluated by at least three DECC staff.

## Criteria

DECC will select the bidder that scores highest against the criteria and weighting listed below:

* Conflict of interest: pass/fail. See page 5 of the ITT for further information
* Understanding requirement: Demonstrated understanding of research requirement/s (15%)
* Methodology: Ability of the design to answer the research questions and deliver high quality, robust, rigorous analysis. (20%)
* Skills and expertise: Each team members has the high-level of expertise required to deliver their assigned tasks (20%)
* Management and Delivery: Effective quality, relevance and breadth of management oversight processes, including work planning, budget control, effective working arrangements, an appropriate level of input from each skillset, quality assurance and on-going risk management/identification. The provision of a detailed delivery plan with specific reference to this project is required, including: tasks; milestones; individuals allocated to tasks, their seniority and respective numbers of days (20%)
* Cost: Price will be marked proportionately to the lowest bid. The lowest bid will receive maximum marks for the price elements and then all other bids will be marked proportionately to that bid. Where contractors indicate options, they should clearly indicate their preferred approach, which the cost and other criteria will be scored against. (25%)

## Scoring Method

Tenders will be scored against each of the criteria above, according to the extent to which they meet the requirements of the tender. The meaning of each score is outlined in the table below.

The total score will be calculated by applying the weighting set against each criterion, outlined above; the maximum number of marks possible will be 100. Should any contractor score 1 in any of the criteria, they will be excluded from the tender competition.

|  |  |
| --- | --- |
| **Score** | **Description** |
| **1** | Not Satisfactory: Proposal contains significant shortcomings and does not meet the required standard |
| **2** | Partially Satisfactory: Proposal partially meets the required standard, with one or more moderate weaknesses or gaps |
| **3** | Satisfactory: Proposal mostly meets the required standard, with one or more minor weaknesses or gaps. |
| **4** | Good: Proposal meets the required standard, with moderate levels of assurance |
| **5** | Excellent: Proposal fully meets the required standard with high levels of assurance |

## 

## Contract Clarification Process

DECC may award the contract based on applicants’ written evaluation only, if one candidate emerges from the evaluation stage as significantly stronger than the others.

DECC does not allocate extra marks via an interview process. If, following the evaluation of the bidders proposals DECC needs further clarification on information already contained within the proposals received then a ‘contract clarification’ process may be held with suppliers. This ensures that DECC understands bidder’s submissions and is able to carry out an informed evaluation of what has been offered and at what price. DECC will then award final scores against the original evaluation criteria. During the bid clarification process DECC is unable to materially change the substance of the requirement and bidder’s may not alter their submission. If any substance of DECC’s requirement is changed, then the tender will be stopped and re-started using a revised specification.

Depending on the nature of the query, bid clarification may take place by telephone, email, in writing or at a face-to-face meeting. In each case, the outcome of the clarification will be confirmed in writing and agreed by both parties

## Feedback

Feedback will be given in the unsuccessful letters or emails.

# Consortium Bids

In the case of a consortium tender, only one submission covering all of the partners is required but consortia are advised to make clear the proposed role that each partner will play in performing the contract as per the requirements of the technical specification. We expect the bidder to indicate who in the consortium will be the lead contact for this project, and the organisation and governance associated with the consortia.

Contractors must provide details as to how they will manage any sub-contractors and what percentage of the tendered activity (in terms of monetary value) will be sub-contracted.

If a consortium is not proposing to form a corporate entity, full details of alternative proposed arrangements should be provided in the Annex. However, please note DECC reserves the right to require a successful consortium to form a single legal entity in accordance with Regulation 28 of the Public Contracts Regulations 2006.

DECC recognises that arrangements in relation to consortia may (within limits) be subject to future change. Potential Providers should therefore respond in the light of the arrangements as currently envisaged. Potential Providers are reminded that any future proposed change in relation to consortia must be notified to DECC so that it can make a further assessment by applying the selection criteria to the new information provided.

Section 3

Further Information on Tender Procedure

Invitation to Tender for: Fossil Fuel Supply Curves

Tender Reference Number:

Deadlines for Tender Responses:

[1. Definitions used in this document 23](#_Toc433296585)

[2. Data Security 23](#_Toc433296586)

[3. Non-Collusion 24](#_Toc433296587)

# Definitions used in this document

Please note that references to the "Department" throughout these documents mean The Secretary of State of Energy and Climate Change acting through his/her representatives in the Department of Energy and Climate Change.

The Freedom of Information Act 2000 (“FOIA”) and the Environmental Information Regulations 2004 (“EIR”) apply to the Department. You should be aware of the Department’s obligations and responsibilities under FOIA or EIR to disclose, on written request, recorded information held by the Department. Information provided in connection with this procurement exercise, or with any contract that may be awarded as a result of this exercise, may therefore have to be disclosed by the Department in response to such a request, unless the Department decides that one of the statutory exemptions under the FOIA or the exceptions in the EIR applies. If you wish to designate information supplied as part of this response as confidential, of if you believe that its disclosure would be prejudicial to any person’s commercial interests, you must provide clear and specific detail as to the precise information involved and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. Such designation alone may not prevent disclosure if in the Department’s reasonable opinion publication is required by applicable legislation or Government policy or where disclosure is required by the Information Commissioner or the First-tier Tribunal (Information Rights).

Additionally, the Government’s transparency agenda requires that tender documents (including ITTs such as this) are published on a designated, publicly searchable web site. The same applies to other tender documents issued by the Department (including the original advertisement and the pre-qualification questionnaire (if used)), and any contract entered into by the Department with its preferred supplier once the procurement is complete. By submitting a tender you agree that your participation in this procurement may be made public. The answers you give in this response will not be published on the transparency web site (but may fall to be disclosed under FOIA or EIR (see above)). Where tender documents issued by the Department or contracts with its suppliers fall to be disclosed the Department will redact them as it thinks necessary, having regard (inter alia) to the exemptions/exceptions in the FOIA or EIR.

# Data Security

The successful tenderer must comply with the Data Protection Act (DPA) 1998 and any information collected, processed and transferred on behalf of DECC, and in particular personal information, must be held and transferred securely. **Contractors must provide assurances of compliance with the DPA and set out in their proposals details of the practices and systems they have in place for handling data securely including transmission between the field and head office and then to DECC**. Contractors will have responsibility for ensuring that they and any subcontractor who processes or handles information on behalf of DECC is conducted securely. The sorts of issues which must be addressed satisfactorily and described in contractors’ submissions include:

* procedures for storing both physical and system data;
* data back-up procedures;
* procedures for the destruction of physical and system data;
* how data is protected;
* data encryption software used;
* use of laptops and electronic removable media;
* details of person/s responsible for data security;
* policies for unauthorised staff access or misuse of confidential/personal data;
* policies for staff awareness and training of DPA;
* physical security of premises.
* How research respondents will be made aware of all potential uses of their data.

# Non-Collusion

No tender will be considered for acceptance if the contractor has indulged or attempted to indulge in any corrupt practice or canvassed the tender with an officer of DECC. Section 4 contains a "Statement of non-collusion" (declaration 1); any breach of the undertakings covered under items 1 - 3 inclusive will invalidate your tender. If a contractor has indulged or attempted to indulge in such practices and the tender is accepted, then grounds shall exist for the termination of the contract and the claiming damages from the successful contractors. You must not:

* Tell anyone else what your tender price is or will be, before the time limit for delivery of tenders.
* Try to obtain any information about anyone else's tender or proposed tender before the time limit for delivery of tenders.
* Make any arrangements with another organisation about whether or not they should tender, or about their or your tender price.

Offering an inducement of any kind in relation to obtaining this or any other contract with the Department will disqualify your tender from being considered and may constitute a criminal offence.

Section 4

Declarations to be submitted by the Tenderer

Invitation to Tender for: Fossil Fuel Supply Curves

Tender Reference Number:

Deadlines for Tender Responses:

[1. Statement of non-collusion 26](#_Toc433296588)

[2. Form of Tender 27](#_Toc433296589)

[3. Conflict of Interest 28](#_Toc433296590)

[4. Questions for Tenderers 30](#_Toc433296591)

# Statement of non-collusion

To: The Department of Energy and Climate Change

1. We recognise that the essence of competitive tendering is that the Department will receive a bona fide competitive tender from all persons tendering. We therefore certify that this is a bona fide tender and that we have not fixed or adjusted the amount of the tender or our rates and prices included therein by or in accordance with any agreement or arrangement with any other person.
2. We also certify that we have not done and undertake not to do at any time before the hour and date specified for the return of this tender any of the following acts:
   1. communicate to any person other than the Department the amount or approximate amount of our proposed tender, except where the disclosure, in confidence, of the approximate amount is necessary to obtain any insurance premium quotation required for the preparation of the tender;
   2. enter into any agreement or arrangement with any other person that he shall refrain for submitting a tender or as to the amount included in the tender;
   3. offer or pay or give or agree to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person doing or having done or causing or having caused to be done, in relation to any other actual or proposed tender for the contract any act, omission or thing of the kind described above.
3. In this certificate, the word “person” shall include any person, body or association, corporate or unincorporated; and “any agreement or arrangement” includes any such information, formal or informal, whether legally binding or not.

……………………………………………………………………………….….

Signature (duly authorised on behalf of the tenderer)

……….………………………………………………………………………….

Print name

…………………………………………………………….…………………….

On behalf of (organisation name)

…………………………………………………………………….…………….

Date

# Form of Tender

To: The Department of Energy and Climate Change

1. Having considered the invitation to tender and all accompanying documents (including without limitation, the terms and conditions of contract and the Specification) we confirm that we are fully satisfied as to our experience and ability to deliver the goods/services in all respects in accordance with the requirements of this invitation to tender.
2. We hereby tender and undertake to provide and complete all the services required to be performed in accordance with the terms and conditions of contract and the Specification for the amount set out in the Pricing Schedule.
3. We agree that any insertion by us of any conditions qualifying this tender or any unauthorised alteration to any of the terms and conditions of contract made by us may result in the rejection of this tender.
4. We agree that this tender shall remain open to be accepted by the Department for 8 weeks from the date below.
5. We understand that if we are a subsidiary (within the meaning of section 1159 of (and schedule 6 to) the Companies Act 2006) if requested by the Department we may be required to secure a Deed of Guarantee in favour of the Department from our holding company or ultimate holding company, as determined by the Department in their discretion.
6. We understand that the Department is not bound to accept the lowest or any tender it may receive.
7. We certify that this is a bona fide tender.

…………………………………………………………………………........

Signature (duly authorised on behalf of the tenderer)

…………………………………………………………………………………

Print name

………………………………………………………………………….

On behalf of (organisation name)

………………………………………………………………………….

Date

# Conflict of Interest

I have nothing to declare with respect to any current or potential interest or conflict in relation to this research (or any potential providers who may be subcontracted to deliver this work, their advisers or other related parties). By conflict of interest, I mean, anything which could be reasonably perceived to affect the impartiality of this research, or to indicate a professional or personal interest in the outcomes from this research.

Signed …………………………………….

Name …………………………………….

Position …………………………………….

OR

I wish to declare the following with respect to personal or professional interests related to relevant organisations\*;

* X…
* Y…

Where a potential conflict of interest has been declared for an individual or organisation within a consortia, please clearly outline the role which this individual or organisation will play in the proposed project and how any conflict of interest has or will be mitigated.

* X…
* Y…

Signed ……………………………………

Name ……………………………………

Position ……………………………………

Please complete this form and return this with your ITT documentation - Nil returns are required.

\* These may include (but are not restricted to);

* A professional or personal interest in the outcome of this research
* For evaluation projects, a close working, governance, or commercial involvement in the project under evaluation
* Current or past employment with relevant organisations
* Payment (cash or other) received or likely to be received from relevant organisations for goods or services provided (Including consulting or advisory fees)
* Gifts or entertainment received from relevant organisations
* Shareholdings (excluding those within unit trusts, pension funds etc) in relevant organisations
* Close personal relationship or friendships with individuals employed by or otherwise closely associated with relevant organisations

**All of the above apply both to the individual signing this form and their close family / friends / partners etc.**

If your situation changes during the project in terms of interests or conflicts, you must notify DECC straight away.

A DECLARATION OF INTEREST WILL NOT NECESSARILY MEAN THE INDIVIDUAL OR ORGANISATION CANNOT WORK ON THE PROJECT; BUT IT IS VITAL THAT ANY INTEREST OR CONFLICT IS DECLARED SO IT CAN BE CONSIDERED OPENLY.

# Questions for Tenderers

In some circumstances the Department is required by law to exclude you from participating further in a procurement. If you cannot answer ‘no’ to every question in this section it is very unlikely that your application will be accepted, and you should contact us for advice before completing this form.

Please state ‘Yes’ or ‘No’ to each question.

|  |  |
| --- | --- |
| **Has your organisation or any directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?** | **Answer** |
| 1. conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA; |  |
| 1. corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906; where the offence relates to active corruption; |  |
| 1. the offence of bribery, where the offence relates to active corruption; |  |
| 1. bribery within the meaning of section 1 or 6 of the Bribery Act 2010; |  |
| 1. fraud, where the offence relates to fraud affecting the European Communities’ financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities, within the meaning of: |  |
| * 1. the offence of cheating the Revenue; |  |
| * 1. the offence of conspiracy to defraud; |  |
| * 1. fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978; |  |
| * 1. fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006; |  |
| * 1. fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994; |  |
| * 1. an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993; |  |
| * 1. destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969; |  |
| * 1. fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or |  |
| * 1. making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of the Fraud Act 2006; |  |
| 1. money laundering within the meaning of section 340(11) of the Proceeds of Crime Act 2002; |  |
| 1. an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996; or |  |
| 1. an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or |  |
| 1. any other offence within the meaning of Article 45(1) of Directive 2004/18/EC as defined by the national law of any relevant State. |  |

**Annex A: Pricing breakdown**

Please provide costs exclusive of VAT. Contractors are requested to explain and justify how their overall bid is built up by individual fuel and supply/demand split as in the table below.

**Task breakdown (provide more than one table if needed)**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Task** | **Team member A - days** | **Team member B - days** | **Team member C - days** | **Expenses / non-labour costs** | **Total** | **Notes (if needed)** |
| **Oil Supply Curves** |  |  |  |  |  |  |
| **Oil Demand** |  |  |  |  |  |  |
| **Gas Supply Curves** |  |  |  |  |  |  |
| **Gas Demand** |  |  |  |  |  |  |
| **Coal Supply Curves** |  |  |  |  |  |  |
| **Coal Demand** |  |  |  |  |  |  |
| **Total** |  |  |  |  |  |  |

**Staffing day rates**

|  |  |  |
| --- | --- | --- |
| **Name** | **Grade and job description** | **Day rate** |
|  |  |  |
|  |  |  |
|  |  |  |

Annex C

Terms and Conditions for Contract

Invitation to Tender for: Fossil Fuel Supply Curves

Tender Reference Number:

Deadlines for Tender Responses: PM

**DECC DPF31 - DECC STANDARD TERMS AND CONDITIONS OF CONTRACT FOR SERVICES**

**(including Hire, Lease and Facilities Management)**

|  |  |
| --- | --- |
|  |  |
| **Clauses** | **Index** |
| 1 | [**Definitions and Interpretation**](http://www.dti.gov.uk/about/procurement/#1. Definitions and Interpretation) |
| 2 | [**Acts by the Authority**](http://www.dti.gov.uk/about/procurement/#2. Acts by the Authority) |
| 3 | [**Service of Notices and Communications**](http://www.dti.gov.uk/about/procurement/#3. Service of Notices and Communications) |
| 4 | [**Assignment and Sub-contracting**](http://www.dti.gov.uk/about/procurement/#4. Assignment and Sub-contracting) |
| 5 | [**Entire Agreement**](http://www.dti.gov.uk/about/procurement/#5. Entire Agreement) |
| 6 | [**Waiver**](http://www.dti.gov.uk/about/procurement/#6. Waiver) |
| 7 | [**Severability**](http://www.dti.gov.uk/about/procurement/#7. Severability) |
| 8 | [**Confidentiality**](http://www.dti.gov.uk/about/procurement/#8. Confidentiality) |
| 9 | **Freedom of Information** |
| 10 | [**Amendments and Variations**](http://www.dti.gov.uk/about/procurement/#9. Amendments and Variations) |
| 11 | [**Invoices and Payment**](http://www.dti.gov.uk/about/procurement/#10. Invoices and Payment) |
| 12 | [**Accounts**](http://www.dti.gov.uk/about/procurement/#11. Accounts) |
| 13 | [**Recovery of Sums Due**](http://www.dti.gov.uk/about/procurement/#12. Recovery of Sums Due) |
| 14 | [**Value Added Tax**](http://www.dti.gov.uk/about/procurement/#13. Value Added Tax) |
| 15 | [**Provision of Services**](http://www.dti.gov.uk/about/procurement/#14. Provision of the Services) |
| 16 | [**Progress Report**](http://www.dti.gov.uk/about/procurement/#15. Progress Report) |
| 17 | [**Contractor’s Personnel**](http://www.dti.gov.uk/about/procurement/#16. Contractors Personnel) |
| 18 | [**Indemnities and Insurance**](http://www.dti.gov.uk/about/procurement/#17. Indemnities and Insurance) |
| 19 | [**Termination for Insolvency or Change of Control**](http://www.dti.gov.uk/about/procurement/#18 Termination for Insolvency or Change of Control.) |
| 20 | [**Termination of Breach of Contract**](http://www.dti.gov.uk/about/procurement/#19. Termination for Breach of Contract) |
| 21 | [**Cancellation**](http://www.dti.gov.uk/about/procurement/#20. Cancellation) |
| 22 | [**Dispute Resolution**](http://www.dti.gov.uk/about/procurement/#21. Dispute Resolution) |
| 23 | [**Bribery and corruption**](http://www.dti.gov.uk/about/procurement/#22. Corrupt Gifts and Payments of Commission) |
| 24 | [**Official Secrets**](http://www.dti.gov.uk/about/procurement/#23. Official Secrets) |
| 25 | [**Special Provisions**](http://www.dti.gov.uk/about/procurement/#24. Special Provisions) |
| 26 | [**Conflict of Interest**](http://www.dti.gov.uk/about/procurement/#25. Conflict of Interest) |
| 27 | [**Intellectual Property Rights**](http://www.dti.gov.uk/about/procurement/#26. Intellectual Property Rights) |
| 28 | [**Rights of Third Parties**](http://www.dti.gov.uk/about/procurement/#27. Rights of Third Parties) |
| 29 | [**Government Property**](http://www.dti.gov.uk/about/procurement/#28.Government Property) |
| 30 | [**Data Protection**](http://www.dti.gov.uk/about/procurement/#29. Data Protection) |
| 31 | [**Payment of taxes: income tax and NICs**](http://www.dti.gov.uk/about/procurement/#30. Non-discrimination) |
| 32 | **Payment of taxes: Occasions of Tax Non-compliance** |
| 33 | **Equality and non-discrimination** |
| 34 | **Welsh Language Act** |
| 35 | **Sustainable Procurement** |
| 36 | [**Other Legislation**](http://www.dti.gov.uk/about/procurement/#32.Other Legislation) |
| 37 | [**Contractor Status**](http://www.dti.gov.uk/about/procurement/#33. Contractor Status) |
| 38 | [**Transfer of Services**](http://www.dti.gov.uk/about/procurement/#34.  Transfer of Services) |
| 39  40  41  42 | [**Law and Jurisdiction**](http://www.dti.gov.uk/about/procurement/#35. Law and Jurisdiction)  **Transparency**  **Monitoring and Management Information**  **Information confidential to the Contractor** |

**DECC STANDARD TERMS AND CONDITIONS OF CONTRACT FOR SERVICES**

(including Hire, Lease and Facilities Management)

**1. Definitions and Interpretation**

(1) In these terms and conditions of contract for services (“Conditions”):

“Authority” means the Secretary of State for Energy and Climate Change, acting as part of the Crown;

“Authority’s Premises” means land or buildings owned or occupied by the Authority;

“Confidential Information”:

1. means all information obtained by the Contractor from the Authority or any other department or office of Her Majesty's Government relating to and connected with the Contract and the Services; but
2. does not include the Contract itself and the provisions of the Contract where, or to the extent that, the Authority publishes them by virtue of Condition 40;

the “Contract” means the agreement concluded between the Authority and the Contractor for the supply of Services, including without limitation these Conditions (to the extent that they are not expressly excluded or modified), all specifications, plans, drawings and other documents which are incorporated into the agreement;

the “Contractor” means the person who agrees to supply the Services and includes any person to whom all or part of the Contractor’s obligations are assigned pursuant to Condition 4;

“the Charges” means the price agreed in respect of the Services, excluding Value Added Tax:

"Government Property” means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Authority, including but not limited to documents, papers, data issued in electronic form and other materials;

“Intellectual Property Rights” means patents, trade marks, service marks, design rights (whether registrable or not), applications for any of those rights, copyright, database rights, trade or business names and other similar rights or obligations, whether registrable or not, in any country, including but not limited to, the United Kingdom;

“Purchase Order” means the document so described by the Authority to purchase the Services which makes reference to the Conditions;

the “Services" means the services to be supplied under the Contract.

(2) The interpretation and construction of the Contract shall be subject to the following provisions:

(a)   a reference to any statute, enactment, order, regulation or similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;

(b)   the headings in these Conditions are for ease of reference only and shall not affect the interpretation or construction of the Contract;

1. references to “person”, where the context allows, includes a corporation or an unincorporated association.

**2. Acts by the Authority**

Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either expressly or impliedly, by the Authority to take or do that decision, act or thing.

**3. Service of Notices and Communications**

Any notice or other communication that either party gives under the Contract shall be made in writing and given either by hand, first class recorded postal delivery or facsimile transmission. Notice given by hand shall be effective immediately, notice given by recorded postal delivery shall be effective two working days after the date of posting, notice given by facsimile transmission shall be effective the working day after receipt by the notifying party of a transmission slip showing that the transmission has succeeded.

**4. Assignment and Sub-contracting**

(1) The Contractor shall not give, bargain, sell, assign, sub-contract or otherwise dispose of the Contract or any part thereof without the previous agreement in writing of the Authority.

(2) The Contractor shall not use the services of self-employed individuals in connection with the Contract without the previous agreement in writing of the Authority.

(3) If the Contractor uses a sub-contractor for the purpose of performing the Services or any part of it, the Contractor shall include in the relevant contract a provision which requires the Contractor to pay for those goods or services within 30 days of the Contractor receiving a correct invoice from the sub-contractor.

(4) The Contractor shall be responsible for the acts and omissions of his sub-contractors as though they were his own.

(5) The Authority shall be entitled to assign any or all of its rights under the Contract to any contracting authority as defined in Regulation 2(1) of the Public Services Contracts Regulations 2006, provided that such assignment shall not materially increase the burden of the Contractor’s obligations under the Contract.

**5. Entire Agreement**

The Contract constitutes the entire agreement and understanding between the parties and supersedes all prior written and oral representations, agreements or understandings between them relating to the subject matter of the Contract provided that neither party excludes liability for fraudulent misrepresentations upon which the other party has relied.

**6. Waiver**

(1) The failure by either party to exercise any right or remedy shall not constitute a waiver of that right or remedy.

(2) No waiver shall be effective unless it is communicated to the other party in writing.

(3) A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

**7. Severability**

If any Condition, clause or provision of the Contract not being of a fundamental nature is held to be unlawful, invalid or unenforceable by a court or tribunal in any proceedings relating to the Contract, the validity or enforceability of the remainder of the Contract shall not be affected. If the court finds invalid a provision so fundamental as to prevent the accomplishment of the purpose of the Contract, the parties shall immediately commence negotiations in good faith to remedy the invalidity.

**8. Confidentiality**

(1) The Contractor agrees not to disclose any Confidential Information to any third party without the prior written consent of the Authority. To the extent that it is necessary for the Contractor to disclose Confidential Information to its staff, agents and sub-contractors, the Contractor shall ensure that such staff, agents and sub-contractors are subject to the same obligations as the Contractor in respect of all Confidential Information.

(2) Condition 8(1) shall not apply to information which:

(a)    is or becomes public knowledge (otherwise than by breach of these Conditions or a breach of an obligation of confidentiality);

(b)   is in the possession of the Contractor, without restriction as to its disclosure, before receiving it from the Authority or any other department or office of Her Majesty's Government;

1. is required by law to be disclosed;
2. was independently developed by the Contractor without access to the Confidential Information.

(3) The obligations contained in this Condition shall continue to apply after the expiry or termination of the Contract.

(4) The Contractor shall not handle or examine any document or thing bearing a Government security classification of “Confidential”, “Secret” or “Top Secret” other than in a Government establishment and the Contractor shall not remove any such document or thing from such Government establishment without the prior written consent of the Authority.

(5) The Contractor shall not communicate with representatives of the general or technical press, radio, television or other communications media, with regard to the Contract, unless previously agreed in writing with the Authority.

(6) Except with the prior consent in writing of the Authority, the Contractor shall not make use of the Contract or any Confidential Information otherwise than for the purposes of carrying out the Services.

**9 Freedom of Information**

(1) The Contractor acknowledges that the Authority is subject to the requirements of the Freedom of Information Act 2000 (“FOIA”) and the Environmental Information Regulations SI 2004 No. 3391 (“EIR”) and shall assist and cooperate with the Authority, at the Contractor’s expense, to enable the Authority to comply with these information disclosure requirements.

(2) In this Condition:-

“Information” has the meaning ascribed to it in section 84 of the FOIA;

“Request for Information” has the meaning ascribed to it in section 8 of the FOIA, or any apparent request for information under the FOIA or EIR.

(3) The Contractor shall (and shall procure that its subcontractors shall):-

(a) Transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within two working days;

(b) Provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five working days (or such other period as the Authority may specify) of the Authority requesting that Information;

(c) Provide all necessary assistance as reasonably requested by the Authority to enable it to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.

(4) The Authority shall be responsible for determining, at its absolute discretion, whether any Information:-

(a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIR;

(b) is to be disclosed in response to a Request for Information.

In no event shall the Contractor respond directly to a Request of Information unless expressly authorised to do so in writing by the Authority.

(5) The Contractor acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs’ Code of Practice on the discharge of public authorities’ functions under Part 1 of the FOIA (issued under section 45 of the FOIA in November 2004), be obliged under the FOIA or the EIR to disclose Information unless an exemption applies. The Authority may at its discretion consult the Contractor with regard to whether the FOIA applies to the Information and whether an exemption applies.

(6) The Contractor shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

(7) The Contractor acknowledges that any lists or schedules provided by it outlining information it deems confidential or commercially sensitive are of indicative value only and that the Authority may nevertheless be obliged to disclose information which the Contractor considers confidential in accordance with Conditions 9(4) and (5).

**10. Amendments and Variations**

Subject to Condition 18(7) no amendment or variation to the terms of the Contract shall be valid unless previously agreed in writing between the Authority and the Contractor.

**11. Invoices and Payment**

(1) The Contractor shall submit invoices at times or intervals agreed by the Authority in the Contract or otherwise. The Contractor shall ensure that any invoice it submits sets out the Authority’s Purchase Order or contract number, the Charges and, where not all of the Services have been completed, the relevant part of the Charges with an appropriate breakdown of time worked, the part of the Services (if all the Services have not been completed) and period to which the invoice relates, and its confirmation that the Services (or relevant part of the Services referred to on the invoice) have been fully performed.

(2) In consideration of the provision of the Services by the Contractor, the Authority shall pay the Charges after receiving a correctly submitted invoice as set out in Condition 11(1). Such payment shall normally be made within 30 days of receipt of the correctly submitted invoice.

(3) The Contractor shall not be entitled to charge for the provision of any services that are not part of the Services agreed within the Contract, unless the Contract has been properly varied in advance in accordance with Condition 10.

(4) The Authority may reduce payment in respect of any Services that the Contractor has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the Authority.

(5) If the Contractor believes that payment for a correctly submitted invoice is overdue, he should, in the first instance, speak to the named contact on the face of the Contract. In the event that the problem is not resolved to his satisfaction, he should write to the Head of Procurement at the Department of Energy and Climate Change setting out his case. The Head of Procurement shall ensure that the complaint is dealt with by an official who is independent of the main contact and that the Contractor is not treated adversely in future for having made a complaint.

(6) For the purpose of calculating any statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998, the relevant date for the payment of the debt shall be deemed to be the last day of a period of 30 days commencing on the day when the Authority received the invoice, or, if the Contractor had not completed the Services (or the part of the Services to which the invoice relates) before submitting the invoice, the last day of a period of 30 days commencing on the day when the Contractor completed the Services, (or the part of the Services to which the invoice relates).

**12. Accounts**

(1) The Contractor shall keep full and proper accounts, records and vouchers relating to all expenditure reimbursed by the Authority and all payments made by the Authority in respect of the Services.

(2) The Contractor shall permit the Authority acting by its officers, servants and agents or independent auditor on request and at all reasonable times to examine all accounts, records and vouchers at the offices of the Contractor or at such other places as the Authority shall direct, and to take copies of such accounts, records and vouchers and the Contractor shall provide the Authority or its independent auditor with such explanations relating to that expenditure as the Authority may request.

(3) The Contractor shall ensure that the said accounts, records and vouchers are available for a period of six years after termination or expiry of the Contract.

**13. Recovery of Sums Due**

(1) Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, such sum may be deducted from any amount then due, or which at any time thereafter may become due, to the Contractor under this Contract or any other agreement or arrangement with the Authority or with any other department or office of Her Majesty's Government.

(2) Any over-payment by the Authority to the Contractor whether in respect of the Charges or Value Added Tax shall be a sum of money recoverable from the Contractor pursuant to Condition 13(1) above or otherwise.

**14. Value Added Tax**

(1) The Authority shall pay to the Contractor, in addition to the Charges, a sum equal to the Value Added Tax chargeable on the value of the Services provided in accordance with the Contract.

(2) Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if he is a taxable person, be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the Value Added Tax Act 1994.

(3) The Contractor shall, if so requested by the Authority, furnish such information as may reasonably be required by the Authority relating to the amount of Value Added Tax chargeable on the Services.

**15. Provision of Services**

(1) The Contractor shall provide the Services in accordance with and as specified in the Contract to the satisfaction of the Authority whose decision shall be final and conclusive. The Authority shall have the power to inspect and examine the performance of the Services at the Authority's Premises at any reasonable time or, provided that the Authority gives reasonable notice to the Contractor, at any other premises where any part of the Services is being performed.

(2) If the Authority informs the Contractor that the Authority considers any part of the Services to be inadequate or in any way differing from the Contract, and this is other than as a result of default or negligence on the part of the Authority, the Contractor shall at his own expense re-schedule and perform the work correctly within such reasonable time as may be specified by the Authority.

(3) The Authority may at any time demand that the Contractor suspend the provision of the Services. If the Authority exercises such right to suspend the provision of the Services or any part of them, or if the Contractor is delayed in proceeding with the provision of the Services by the Authority (otherwise than as a consequence of a breach of the Contract, or a breach of duty or fault or negligence on the part of the Contractor), the Authority shall be responsible for loss incurred by the Contractor as a result of such suspension or delay. Subject to the Contractor taking reasonable steps to mitigate its loss, the Contractor will be able to recover from the Authority under this Condition only for those losses which:

(a) were reasonably foreseeable by the Authority as arising as a direct result of the suspension or delay; and

(b) relate to the cost of any commitments entered into by the Contractor which cannot be met as a result of the suspension or delay and in respect of which the Contractor cannot obtain a refund (where the Contractor has already paid in relation to the commitment) or is obliged to pay (where the Contractor has not already paid in relation to the commitment).

The provisions of this Condition shall not apply where the reason for the suspension of the Services arises from circumstances beyond the control of the Authority.

(4) If the performance of the Contract by the Contractor is delayed by reason of any act on the part of the Authority or by industrial dispute (other than by an industrial dispute occurring within the Contractor’s or its sub-contractor’s organisation) or any other cause which the Contractor could not have prevented then the Contractor shall be allowed a reasonable extension of time for completion. For the purposes of this Condition, the Contractor shall be deemed to have been able to prevent causes of delay that are within the reasonable control of the Contractor’s staff, agents and sub-contractors.

(5) Timely provision of the Services shall be of the essence of the Contract, including in relation to commencing the provision of the Services within the time agreed or on a specified date.

(6) The Contractor warrants that it shall provide the Services with all due skill, care and diligence, and in accordance with good industry practice and legal requirements.

(7) Without prejudice to the provision of Condition 13(1), the Contractor shall reimburse the Authority for all reasonable costs incurred by the Authority which have arisen as a direct consequence of the Contractor’s delay in the performance of the Contract which the Contractor had failed to remedy after being given reasonable notice by the Authority.

**16. Progress Report**

(1) Where formal progress reports are required by the Contract, the Contractor shall render such reports at such time and in such form as may be specified by the Authority, or as otherwise agreed between the Contractor and the Authority.

(2) The submission and acceptance of progress reports shall not prejudice any rights of the Authority under the Contract.

**17. Contractor's Personnel**

(1) The Authority reserves the right to refuse to admit to the Authority’s Premises any person employed by the Contractor or its sub-contractors, whose admission would be undesirable in the opinion of the Authority.

(2) If and when requested by the Authority, the Contractor shall provide a list of the names and addresses of all persons who may at any time require admission in connection with the performance of the Services to the Authority’s Premises, specifying the role in which each such person is concerned with the Contractor and giving such other particulars as the Authority may require.

(3) If and when requested by the Authority, the Contractor shall procure from each person identified by the request, a signed statement that he understands that the Official Secrets Acts 1911 to 1989 applies to him both during the carrying out and after expiry or termination of the Contract and that he will comply with the provisions of those Acts in so far as they apply to the work he is performing under the Contract.

(4) If and when requested by the Authority the Contractor agrees that it will submit any person employed by the Contractor or its sub contractors to the Authority’s security vetting procedure. The Contractor further agrees that any individual who refuses to submit to such vetting procedure or does not attain the clearance it affords will not carry out any work on the Contract which the Authority certifies as suitable only for people who have passed its security vetting procedure.

(5) If the Contractor fails to comply with paragraph (2) (3) or (4) of this Condition and the Authority decides that such failure is prejudicial to its interests, the Authority may immediately terminate the Contract by notice in writing to the Contractor, provided that such termination shall be without prejudice to any accrued rights of, or to any rights that shall accrue thereafter to, the Authority.

**18. Indemnities and Insurance**

(1) The Contractor shall hold harmless and indemnify the Authority on demand from and against all claims, demands, proceedings, actions, damages, costs (including legal costs), expenses and any other liabilities arising from claims made by the Authority’s staff or agents, or by third parties, in respect of any death or personal injury, or loss or destruction of or damage to property, or any other loss, destruction or damage, including but not limited to financial losses which are caused, whether directly or indirectly, by the breach of contract or breach of duty (whether in negligence, tort, statute or otherwise) of the Contractor, its employees, agents or sub-contractors.

(2) The Contractor shall be liable to the Authority for any loss, damage, destruction, injury or expense, whether direct or indirect, (and including but not limited to loss or destruction of or damage to the Authority’s property, which includes data) arising from the Contractor’s breach of contract or duty (whether arising in negligence, tort, statute or otherwise).

(3) The Contractor shall effect with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor in respect of the indemnities provided under the Contract, which in any event shall not be less than £1,000,000, and shall at the request of the Authority produce the relevant policy or policies together with receipt or other evidence of payment of the latest premium due there under.

(4) Nothing in these Conditions nor in any part of the Contract shall impose any liability on any member of the staff of the Authority or its representatives in their personal capacity.

(5) The Contractor shall indemnify the Authority against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third party’s Intellectual Property Rights used by or on behalf of the Contractor for the purpose of the Contract, providing that any such infringement or alleged infringement is not knowingly caused by, or contributed to, by any act of the Authority.

(6) The Authority shall indemnify the Contractor against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third party’s Intellectual Property Rights used at the request of the Authority by the Contractor in the course of providing the Services, providing that any such infringement or alleged infringement is not knowingly caused by, or contributed to by, any act of the Contractor.

(7) Except in relation to death or personal injury as referred to in Condition 18(1), and subject to Conditions 18(5) and 30(6) the amount of liability under this clause shall be limited to a sum of £4,000,000 or twice the contract value, whichever is the greater, or such other sum as may be agreed in writing between the Head of Procurement on behalf of the Authority and the Contractor.

**19 Termination for Insolvency or Change of Control**

(1) The Contractor shall notify the Authority in writing immediately upon the occurrence of any of the following events:

a) where the Contractor is an individual, if a petition is presented for his bankruptcy, or he makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage his affairs; or

b) where the Contractor is not an individual but is a firm or a number of persons acting together, if any event in Condition 19(1)(a) or (c) occurs in respect of any partner in the firm or any of those persons, or if a petition is presented for the Contractor to be wound up as an unregistered company; or

c) where the Contractor is a company or limited liability partnership, if the company or limited liability partnership enters administration or passes a resolution to wind up or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge; or

d) the Contractor undergoes a change of control, where “control” is interpreted in accordance with Section 1124 of the Corporation Tax Act 2010.

(2) After receipt of the notice under paragraph (1) above or earlier discovery by the Authority of the occurrence of any of the events described in that paragraph, the Authority may, by notice in writing to the Contractor, terminate the Contract with immediate effect without compensation to the Contractor and without prejudice to any right or action or remedy which may accrue to the Authority thereafter. The Authority’s right to terminate the Contract under Condition 19(1)(d) will exist until the end of a period of three months starting from receipt of the notice provided by the Contractor pursuant to Condition 19(1), or such other period as is agreed by the parties.

**20. Termination for Breach of Contract**

 If either party commits a material breach of the Contract which is either not capable of remedy, or, if it is capable of remedy, he fails to remedy such breach within 28 days of being notified by the other party in writing to do so, that other party shall be entitled to terminate the Contract with immediate effect by notice in writing to the party that committed the material breach and without prejudice to any other rights or remedies of either party in respect of the breach concerned or any other breach of the Contract.

**21. Cancellation**

 The Authority shall be entitled to terminate the Contract, or to terminate the provision of any part of the Services, by giving to the Contractor not less than 28 days' notice in writing to that effect. Once it has given such notice, the Authority may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided by the Contractor during the period of extension.

**22. Dispute Resolution**

 (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 Contract.

(2) If the parties cannot resolve the dispute pursuant to paragraph (1) of this Condition, the dispute may, by agreement between the parties, be referred to mediation pursuant to paragraph (4) of this Condition.

(3) The performance of the Services shall not cease or be delayed by the reference of a dispute to mediation pursuant to paragraph (2) of this Condition.

(4) If the parties agree to refer the dispute to mediation:

(a) in order to determine the person who shall mediate the dispute (the “Mediator”) the parties shall by agreement choose a neutral adviser or mediator from one of the dispute resolution providers listed by the Government Procurement Service on its website or in its printed guidance on dispute resolution within 30 days after agreeing to refer the dispute to mediation;

(b) the parties shall within 14 days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from the Government Procurement Service to provide guidance on a suitable procedure;

(c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;

(d) if the parties reach agreement on the resolution of the dispute within 60 days of the Mediator being appointed, or such longer period as may be agreed between the parties, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by both the Authority and the Contractor;

(e) failing agreement within 60 days of the Mediator being appointed, or such longer period as may be agreed between the parties, either of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both parties.

(5) If the parties do not agree to refer the dispute to mediation, or if the parties fail to reach agreement as to who shall mediate the dispute pursuant to Condition 22(4)(a) or if they fail to reach agreement in the structured negotiations within 60 days of the Mediator being appointed or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the courts.

**23. Bribery and corruption**

(1) The Contractor shall not, and shall ensure that its staff, sub-contractors and agents do not:

1. offer or promise, to any person employed by or on behalf of the Authority any financial or other advantage as an inducement or reward for the improper performance of a function or activity, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority;
2. agree to receive or accept any financial or other advantage as an inducement or reward for any improper performance of a function or activity in relation to this Contract or any other contract with the Authority; or
3. enter into the Contract or any other contract with the Authority or any other department or office of Her Majesty's Government in connection with which commission has been paid, or agreed to be paid by him or on his behalf, or to his knowledge, unless, before the Contract is made, particulars of any such commission and the terms and conditions of any agreement for the payment thereof, have been disclosed in writing to any person duly authorised by the Authority to act as its representative for the purpose of this Condition.

Nothing contained in this Condition shall prevent the Contractor paying such commission or bonuses to his own staff in accordance with their agreed contracts of employment.

(2) Any breach of this Condition by the Contractor, or by any person employed or engaged by him or acting on his behalf (whether with or without his knowledge), or any act or omission by the Contractor, or by such other person, in contravention of the Bribery Act 2010 or any other anti-corruption law, in relation to this Contract or any other contract with the Authority, shall entitle the Authority to terminate the Contract with immediate effect by notice in writing and to recover from the Contractor the amount of any loss resulting from such termination and the amount of the value of any such gift, consideration or commission as the Authority shall think fit.

(3) Where the Contract has been terminated under paragraph (2) of this Condition, there shall be deemed to be a failure to commence the provision of the Services, enabling the Authority to terminate the Contract with immediate effect and the Authority will not be obliged to pay the Charges.

(4) In any dispute, difference or question arising in respect of:

a) the interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under paragraph (2) of this Condition in respect of any loss resulting from such determination of the Contract); or

b) the right of the Authority to determine the Contract; or

c) the amount or value of any gift, consideration or commission,

the decision of the Authority shall be final and conclusive.

**24. Official Secrets**

The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911 to 1989. The Contractor shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed in connection with the Contract have notice that these statutory provisions apply to them and will continue so to apply after the expiry or earlier termination of the Contract.

**25. Special Provisions**

In the case of any conflict or inconsistency between these general Conditions and any specific terms of the Contract, the latter shall prevail.

**26. Conflict of Interest**

(1) The Contractor shall ensure that there is no conflict of interest as to be likely to prejudice his independence and objectivity in performing the Contract and undertakes that upon becoming aware of any such conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) he shall immediately notify the Authority in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the Authority may reasonably require.

(2) Where the Authority is of the opinion that the conflict of interest notified to it under paragraph (1) above is capable of being avoided or removed, the Authority may require the Contractor to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:

a) if the Contractor fails to comply with the Authority’s requirements in this respect; or

b) if, in the opinion of the Authority, it is not possible to remove the conflict,

the Authority may terminate the Contract immediately and recover from the Contractor the amount of any loss resulting from such termination.

(3) Notwithstanding Condition 26(2), where the Authority is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Contractor of due diligence and ought to have been disclosed as required by the tender documents pertaining to it, the Authority may terminate the Contract immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Contractor the amount of any loss resulting from such termination.

**27. Intellectual Property Rights**

(1) Subject to any pre-existing rights of third parties and of the Contractor, the Intellectual Property Rights (other than copyright) in all reports, documents and other materials which are generated or acquired by the Contractor (or any of its sub-contractors or agents) (“the Contractor Materials”) in the performance of the Services shall belong to and be vested automatically in the Authority.

(2) The Contractor hereby assigns any copyright that it owns in the Contractor Materials to the Crown. The Contractor waives all moral rights relating to the Contractor Materials.

(3) The Contractor warrants to the Authority that all of their staff, agents and sub-contractors are and will be engaged in relation to the Contract on terms which do not entitle any of them to any Intellectual Property Rights in the Contractor Materials, and which require them to waive all moral rights.

(4) If the Contractor in providing the Services uses any materials in which there are pre-existing Intellectual Property Rights owned by itself, its agents, sub-contractors or third parties, it shall itself provide, or procure from such agent, subcontractor or third party a non-exclusive licence for, or, if the Contractor is itself a licensee of those Intellectual Property Rights, it shall grant a sub-licence to, the Authority to use, reproduce, modify, adapt and enhance the material as the Authority sees fit. Such licence or sub-licence shall be perpetual and irrevocable and granted at no cost to the Authority.

(5) The Authority shall have the sole right to use any information (whether or not it is Confidential Information) collected or collated pursuant to the Contract (excluding any information which in the opinion of the Authority is confidential to the Contractor or which has been communicated to the Contractor under a condition that it shall be confidential to the Contractor), and all original documents in whatever form which contain that information, including any computer tape or disk, any voice recording and any special computer program written to give access to the information, shall on request be deposited with the Authority.

(6) Nothing in this Contract or done under the Contract shall be taken to diminish any Crown copyright, patent rights or any other Intellectual Property Rights which would, apart from this Contract, vest in the Crown or Authority.

(7) The Contractor shall ensure that all royalties licence fees or similar expenses in respect of Intellectual Property Rights in materials used in connection with the Contract have been paid and are included in the Charges.

(8) If the Authority reimburses the Contractor for the cost of any equipment, such equipment shall become the property of the Authority and the Contractor shall on request deliver such equipment to the Authority. The Contractor shall keep a proper inventory of such equipment and shall deliver that inventory to the Authority on request and on completion of the Services.

**28. Rights of Third Parties**

It is not intended that the Contract, either expressly or by implication, shall confer any benefit on any person who is not a party to the Contract and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.

**29. Government Property**

(1) All Government Property shall remain the property of the Authority and shall be used in the execution of the Contract and for no other purpose whatsoever except with the prior agreement in writing of the Authority.

(2) All Government Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless he notifies the Authority to the contrary within 14 days or such other time as is specified in the Contract.

(3) The Contractor undertakes to return any and all Government Property on completion of the Contract or on any earlier request by the Authority.

(4) The Contractor shall, except as otherwise provided for in the Contract, repair or replace or, at the option of the Authority, pay compensation for all loss, destruction or damage occurring to any Government Property caused or sustained by the Contractor, or by his servants, agents or sub-contractors, whether or not arising from his or their performance of the Contract and wherever occurring, provided that if the loss, destruction or damage occurs at the Authority’s Premises or any other Government premises, this Condition shall not apply to the extent that the Contractor is able to show that any such loss, destruction or damage was not caused or contributed to by his negligence or default or the neglect or default of his servants, agents, or sub-contractors.

(5) Where the Government Property comprises data issued in electronic form to the Contractor (including personal data as defined in Condition 30(1) below) the Contractor shall not store, copy, disclose or use such electronic data except as necessary for the performance by the Contractor of its obligations under the Contract (including its obligation to back up electronic data as provided in Condition 29(6) below) or as otherwise expressly authorised in writing by the Authority.

(6) The Contractor shall perform secure back ups of all such electronic data in its possession and shall ensure that an up to date back up copy is securely stored at a site other than that where any original copies of such electronic data are being stored.

(7) The Contractor shall, and shall procure that its sub-contractors, agents and personnel, shall observe best practice when handling or in possession of any such electronic data. By way of example if the Contractor removes any such data or information from a Government establishment, or is sent such data or information by the Authority it shall ensure that the data and any equipment on which it is stored or is otherwise being processed is kept secure at all times. The Contractor shall impress on any of its sub-contractors, agents and personnel who are required to handle or have possession of such electronic data that they must safeguard it all times, and shall not place it in jeopardy for example by leaving it unattended in a vehicle or on public transport or by transmitting or posting it by insecure means.

(8) If at any time the Contractor suspects or has reason to believe that such electronic data has or may become corrupted, lost, destroyed, altered (other than to the extent that the Contractor alters it by lawful processing in accordance with its obligations under this contract) or so degraded as a result of the Contractor’s default so as to be unusable then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

(9) The Contractor shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith arising from the corruption, loss, destruction, alteration (other than by lawful processing permitted by this Contract) or degradation of electronic data which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor or sub-contractors, agents and personnel and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in such corruption, loss or degradation.

**30. Data Protection**

(1) In this condition references to “personal data”, “ data subjects” and “data processor” are to be interpreted as defined in the Data Protection Act 1998 (“the Act”). The Contractor shall comply with all relevant provisions of the Act and do nothing which causes, or may cause, the Authority to be in breach of its obligations under the Act. In particular, to the extent that the Contractor acts as a data processor in respect of any personal data pursuant to the Contract, the Contractor shall only process such personal data as is necessary to enable it to fulfil its obligations under this Contract.

(2) The Contractor warrants that it has appropriate technical and organisational measures in place to protect any personal data it is processing on the Authority’s behalf against any unauthorised or unlawful processing and against any accidental loss, destruction or damage and undertakes to maintain such measures during the course of this Contract. The Contractor shall also take all reasonable steps to ensure the reliability of its staff having access to any such personal data.

(3) Upon reasonable notice the Contractor shall allow the Authority access to any relevant premises owned or controlled by it to enable the Authority to inspect its procedures described at Condition 30(2) above and will upon the Authority’s request from time to time prepare a report for it on the technical and organisational measures it has in place to protect the personal data it is processing on the Authority’s behalf.

(4) The Contractor shall at its own cost, at the Authority’s request, assist the Authority to comply with any requests for access to personal data under Section 7 of the Act and in particular shall respond to any such request promptly to enable the Authority to comply with its obligations under the Act. When requested by the Authority the Contractor shall at its own cost promptly provide it with any personal data relating to this Contract.

(5) If the Contractor fails to comply with any provision of this condition, the Authority may terminate the Contract immediately in which event the provisions of

Condition 20 shall apply.

(6) The Contractor shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith, made or brought against the Authority by any person in respect of the Act or equivalent applicable legislation in any other country which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor or its sub-contractors and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in the Authority being in breach of its obligations under the Act or equivalent applicable legislation in any other country.

(7) The Contractor warrants that it has submitted, pursuant to Section 18(1) of the Act, a notification to the Information Commissioner and shall keep that notification up to date.

(8) The Contractor shall not transfer any personal data outside the European Economic Area unless authorised in writing to do so by the Authority.

(9) Upon the termination of this Contract for whatever reason the Contractor shall, unless notified otherwise by the Authority or required by law, immediately cease any processing of the personal data on the Authority’s behalf and as requested by the Authority destroy or provide the Authority with a copy on suitable media.

(10) The Contractor shall promptly carry out any request from the Authority requiring it to amend, transfer or delete the personal data or any part of the personal data.

(11) Where the Contractor is required to collect any personal data on behalf of the Authority, it shall ensure that it provides the data subjects from whom the personal data are collected with a data protection notice in a form to be agreed with the Authority.

**31. Payment of taxes: income tax and NICs**

1. Where the Contractor is liable to be taxed in the UK in respect of consideration received under the Contract, the Contractor shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.
2. Where the Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under the Contract, the Contractor shall at all times comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.
3. The Authority may, at any time during the term of the Contract, require the Contractor to provide information to demonstrate that:
4. the Contractor has complied with paragraphs (1) and (2) above; or
5. the Contractor or its staff are not liable to the relevant taxes.
6. A request under paragraph (3) above may specify the information which the Contractor must provide and a reasonable deadline for response.
7. The Authority may supply any information which it receives under paragraph (3) to the Commissioners of Her Majesty’s Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.
8. The Contractor shall ensure that any sub-contractors (including consultants) and agents engaged by the Contractor for the purpose of the Services are engaged on, and comply with, conditions equivalent to those in paragraphs (1) to (5) above and this paragraph (6), and the Contractor shall, on request, provide the Authority with evidence to satisfy the Authority that the Contractor has done so. Those conditions shall provide both the Contractor and the Authority with the right to require the sub-contractor or agent to provide information to them equivalent to paragraph (3), and the Contractor shall obtain that information where requested by the Authority.
9. The Authority may terminate the Contract with immediate effect by notice in writing where:
10. the Contractor does not comply with any requirement of this Condition 31; or
11. the Contractor’s sub-contractors or agents do not comply with the conditions imposed on them under paragraph (6) above.
12. In particular (but without limitation), the Authority may terminate the Contract under paragraph (7) above:
13. in the case of a request under paragraph (3):
14. the Contractor fails to provide information in response to the request within the deadline specified; or
15. the Contractor provides information which is inadequate to demonstrate how the Contractor or (where relevant) its sub-contractors and agents have complied with the conditions set out or referred to in paragraphs (1) to (6);

or

1. the Authority receives information which demonstrates, to its reasonable satisfaction, that the Contractor, its sub-contractors or agents, are not complying with those conditions.

**32. Payment of taxes: Occasions of Tax Non-compliance**

1. This Condition 32 applies where the consideration payable by the Contractor under the Contract equals or exceeds £5,000,000 (five million pounds).
2. The Contractor represents and warrants that it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non Compliance.
3. If, at any point during the term of the Contract, an Occasion of Tax Non-Compliance occurs, the Contractor shall:
4. notify the Authority in writing of such fact within 5 working days of its occurrence; and

1. promptly provide to the Authority:
2. details of the steps which the Contractor is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
3. such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
4. In the event that:
5. the warranty given by the Contractor pursuant to paragraph (2) of this Condition is materially untrue;
6. the Contractor commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by paragraph (3) of this Condition; or
7. the Contractor fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Authority, are acceptable,

the Authority may terminate the Contract with immediate effect by notice in writing.

1. In this condition 32, “Occasion of Tax Non-Compliance” means:
2. any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
3. a Relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
4. the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime;

and/or

1. any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the commencement of the Contract or to a penalty for civil fraud or evasion.
2. For the purpose of paragraph (5):
3. “DOTAS” means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;
4. “General Anti-Abuse Rule” means:
5. the legislation in Part 5 of the Finance Act 2013; and
6. any future legislation introduced into Parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
7. “Halifax Abuse Principle” means the principle explained in the CJEU Case C-255/02 Halifax and others; and
8. “Relevant Tax Authority” means HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

**33. Equality and non-discrimination**

(1) The Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and any other anti-discrimination legislation in relation to the provision of the Services or otherwise and shall take all reasonable steps to ensure that its staff, sub-contractors and agents do not do so

(2) The Contractor shall comply with the Authority’s equality scheme as published on the Authority’s website, and shall take all reasonable steps to ensure that its staff, sub-contractors and agents do so.

(3) The Authority may (without prejudice to its other rights under the Contract) terminate the Contract with immediate effect by notice in writing where the Contractor fails (or the Contractor’s staff, sub-contractors or agents fail) to comply with paragraphs (1) or (2) of this Condition.

**34. Welsh Language Act**

The Contractor shall for the term of the Contract comply with the principles of the Authority’s Welsh Language Scheme.

**35. Sustainable Procurement**

1. The Contractor shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services. Without prejudice to the generality of the foregoing, the Contractor shall promptly provide all such information regarding the environmental impact of the Services as may reasonably be requested by the Authority.
2. The Contractor shall meet all reasonable requests by the Authority for information evidencing compliance with the provisions of this Clause by the Contractor.
3. All written outputs, including reports, produced in connection with the Contract shall (unless otherwise specified) be produced on recycled paper containing at least 80% post consumer waste and used on both sides where appropriate.

**36. Other Legislation**

The Contractor shall, and shall procure that its sub-contractors, agents and personnel, comply with all other applicable law.

**37. Contractor Status**

Nothing in the Contract shall create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the Authority and the Contractor.

**38. Transfer of Services**

 (1) Where the Authority intends to continue with services equivalent to any or all of the Services after termination or expiry of the Contract, either by performing them itself or by the appointment of a replacement contractor, the Contractor shall (both during the term of the Contract and, where relevant, after its expiry or termination):

1. provide all information reasonably requested to allow the Authority to conduct the procurement for any replacement services; and
2. use all reasonable endeavours to ensure that the transition is undertaken with the minimum of disruption to the Authority.

(2) Without prejudice to the generality of paragraph (1) of this Condition, the Contractor shall, at times and intervals reasonably specified by the Authority, provide the Authority (for the benefit of the Authority, any replacement Contractor and any economic operator bidding to provide the replacement services) such information as the Authority may reasonably require relating to the application or potential application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 including the provision of employee liability information.

(3) Without prejudice to the generality of paragraph (1) of this Condition, the contractor shall co-operate fully during the transition period and provide full access to all data, documents, manuals, working instructions, reports and any information, whether held in electronic or written form, which the Authority considers necessary.

**39. Law and Jurisdiction**

 The Contract shall be governed by and construed in accordance with English Law and shall be subject to the exclusive jurisdiction of the courts of England and Wales.

**40. Transparency**

(1) In order to comply with the Government’s policy on transparency in the areas of procurement and contracts, the Authority will, subject to Conditions 40(2) and (3), publish the Contract and the tender documents issued by the Authority which led to its creation on a designated web site.

(2) The entire Contract and all the tender documents issued by the Authority will be published on that web site save where the Authority, in its absolute discretion, considers that the relevant documents, or their contents, would be exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000.

(3) Where the Authority considers that any such exemption applies, the Authority will redact the relevant documents to the extent that the Authority considers the redaction is necessary to remove or obscure the relevant material, and those documents will be published on the designated web site subject to those redactions.

(4) Where the Parties later agree changes to the contract, the Authority will publish those changes, and will consider any redaction, on the same basis.

(5) In Condition 40(1) the expression “tender documents” means the advertisement issued by the Authority seeking expressions of interest, the pre qualification questionnaire and the invitation to tender and the contract includes the Contractor’s proposal.

**41. Monitoring and Management Information**

(1) Where requested by the Authority, the Contractor shall supply to the Authority and/or to the Cabinet Office such information relating to the Services and to the Contractor’s management and performance of the Contract as they may require.

(2) The information referred to in Condition 41(1) may include, but is not limited to, the following: Line Item Amount, Invoice Line Description, Invoice Line Number, Currency Code, Order Date, VAT Inclusion Flag, VAT Rate, List Price, Number of Items, Unit of Purchase Quantity, Price per Unit, Supplier Service Code, Service description and/or name, UNSPSC Code, Taxonomy Code and/or Name, Geographical, Project Code, Project description, Project Start Date, Project Delivery Date (Estimate and Actual), Total project cost and Project Stage. The information may also, without limitation, include information relating to the capability of the Contractor (and any key sub-Contractor) to continue to perform the Contract (including information on matters referred to in regulations 23 to 27 of the Public Contracts Regulations 2006).(3) The information referred to in Condition 41(1) shall be supplied in such form and within such timescales as the Authority or the Cabinet Office may reasonably require.

(4) The Contractor agrees that the Authority may provide the Cabinet Office, any other government department or agency or any other person or entity referred to in Condition 42(2) (Information Confidential to the Contractor), with information obtained under this Condition 41 and any other information relating to the Services procured and any payments made under the Contract.

(5) Upon receipt of the information supplied by the Contractor in response to a request under Condition 41(1) or receipt of information provided by the Authority to the Cabinet Office under Condition 41(4) the Contractor hereby consents to the Cabinet Office (acting through the Government Procurement Service):

a) storing and analysing the information and producing statistics; and

b) sharing the information or any statistics produced using the information, with any person or entity referred to in Condition 42(2).

(6) The Authority may make changes to the type of information which the Contractor is required to supply and shall give the Contractor at least one calendar month’s written notice of any such changes.

**42. Information confidential to the Contractor**

(1) Unless agreed expressly by both parties in writing, in a confidentiality agreement identifying the relevant information, information obtained by the Authority from the Contractor shall not constitute confidential information relating to the Contractor.

(2) Where any information held by the Authority does constitute confidential information relating to the Contractor, the Authority shall nonetheless have the right to disclose that information:

1. on a confidential basis to any other government department or agency for any proper purpose of the Authority or of that department or agency;
2. to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
3. to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
4. on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in sub-paragraph a) (including any benchmarking organisation) for any purpose relating to or connected with the Contract or the Services;
5. on a confidential basis for the purpose of the exercise of its rights under the Contract; or
6. on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract.
7. For the purpose of paragraph (2) of this Condition, references to disclosure on a confidential basis mean disclosure subject to a confidentiality agreement.

Annex D

DECC Standard Assumptions Log Template

Invitation to Tender for: Fossil Fuel Supply Curves

Tender Reference Number:

Deadlines for Tender Responses: PM

See attached Excel file “DECC Model Assumptions Log”.