

# Transfer of Undertakings Protection Employment (TUPE)

## Letter Seeking Employee Information

1. As you are aware you are currently providing ..... services for ..... to ....., under contract ..... dated ..... You [have been / are\*] advised of the intention by the Authority to [re-compete [the][an amended] requirement / consider taking the activity into MOD / place the activity with a different provider\*] [Include a brief summary of the new requirement if necessary]. The purpose of this letter is to request your assistance in providing information about your employees (and those of your sub-contractors / third parties) who may be affected.
2. The MOD's policy is set out in the Code of Practice for Staff Transfers in MOD Contracts jointly signed by its recognised Trades Unions, the CBI, Defence Manufacturer's Association and Business Services Association. It identifies that comprehensive, accurate and timely information about potential staff transfers arising from the application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) should be available to promote clarity and certainty about the treatment of staff and, where an activity is competed, to maintain the integrity of the contractual process and equality of treatment between bidders.
3. I would be grateful if you could provide the information outlined below and in para 4 by [date] for the purposes of [understanding current costs and liabilities of those staff] [and]\* release of that information to prospective service providers with a tender document. A spreadsheet for providing this data is attached.
  - a. The total number of employees (including third party / sub-contractor employees) that are currently wholly or mainly assigned, other than on a temporary basis, to an organised grouping (situated in Great Britain) which has as its principal purpose the carrying out of the activities indicated in paragraph 1. Totals may be broken down to show different branches and functions.
  - b. The total number of posts or proportion of posts expressed as a full time equivalent value, which currently undertake the work covered by the requirements indicated at paragraph 1. Totals may be broken down to show different branches and functions.
  - c. Preceding 12 months total pay costs – e.g. pay, employee / employer ERNIC and Overtime.
  - d. Total redundancy liability costs of the employees identified at 3.a.
4. In respect of those employees included in the totals at paragraph 3 the information detailed below is required. It is understood that this information will not identify an individual member of staff by name or other unique personal identifier so that the provisions of the Data Protection Act are not infringed.
  - a. Grade / Function. (Care should be taken if including a singleton Grade / Pay Band as this would identify the subsequent information as relating to an individual).
  - b. Location. (If services currently provided are conducted at several geographical sites care should be taken if there is only one employee is on a site or an employee in a singleton Grade / Function is on site as this would identify the subsequent information as relating to an individual).

- c. Age in years (not date of birth).
  - d. Employment status (i.e. fixed term, casual, permanent).
  - e. Length of current period of continuous employment (in years / months).
  - f. Weekly conditioned hours of attendance (gross).
  - g. Standard Annual Leave Entitlement (not the 'in year' leave total that may contain carry over or deficit from the previous leave year).
  - h. Detail of current employer provided Pension Scheme Membership. (Name of scheme identifying whether it is a Defined Benefit, Defined Contribution or Stakeholder arrangement, including employee contribution rate (to ensure that the requirements of the Pensions Act 2004 can be met). In addition, please indicate if the employee is a former Civil Servant participating in a pension scheme that has been the subject of certification for "broad comparability" by the Government Actuary's Department.)
  - i. Redundancy liability information (Statutory or Enhanced Company scheme and £).
  - j. Annual Salary.
  - k. Details of any regular overtime commitments (these may be weekly, monthly or annual commitments for which staff may receive an overtime payment).
  - l. Details of attendance patterns that attract enhanced rates of pay or allowances (i.e. shift or rostered attendance).
  - m. Regular or recurring allowances.
  - n. Outstanding financial claims arising from employment (i.e. season ticket loans, transfer grants – noting that these will only give an indication of the type and value of loan balances and that these will change during the bid period).
  - o. Additional information about factors influencing staffing levels and costs.
5. You are also requested to make the following information available to prospective service providers in a convenient form, e.g. reference documents, notices, handbooks, instructions or electronic media.
- a. Employment terms and conditions applicable to those members of staff who may be transferred, (for example: probationary periods, retirement age, periods of notice, current pay agreements, working hours, entitlement to annual sick leave, maternity and paternity special leave, terms of mobility, loan or leasing schemes, occupational welfare, facility time arrangements, competencies, job descriptions and additional employment benefits).
  - b. Relevant collective agreements.
  - c. Details of the pension schemes.
6. Please note that in the event that the Authority decides to appoint a different service provider and there is a relevant transfer to which the TUPE Regulations apply, you will need to meet the requirements of Regulation 11 to provide Employee Liability Information to any new employer (the transferee). The provision of the information requested in this letter to the MOD is not to be taken as discharging your obligations under Regulation 11 of the TUPE Regulations.
7. If you wish to discuss any matters relating to this request, please do not hesitate to contact me.

\*Delete as necessary