



Department
for Environment
Food & Rural Affairs

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www.gov.uk/defra

Blue Marble Research
[Redacted]

Our ref: [Redacted]
Date: 26 January
2021

Dear Sir/Madam

Award of contract for the supply of Environment Agency Appraisal Guidance User Research

Following your proposal for the supply of Environment Agency Appraisal Guidance User Research to Environment Agency, we are pleased to award this contract to you.

This letter (Award Letter) and its Annexes set out the terms of the contract between Environment Agency as the Authority and Blue Marble Research as the Supplier for the provision of the Services. Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the terms and conditions of contract set out in Annex 1 to this Award Letter (the “**Conditions**”). In the event of any conflict between this Award Letter and the Conditions, this Award Letter shall prevail. Please do not attach any Supplier terms and conditions to this Award Letter as they will not be accepted by the Authority and may delay the conclusion of the Agreement.

For the purposes of the Agreement, the Authority and the Supplier agree as follows:

1. The charges for the Services shall be as set out in Annex 2 the Supplier’s tender dated 4 January 2021.
2. The specification of the Services to be supplied is as set out in Annex 3 the Supplier’s tender dated 15 December 2020
3. The Term shall commence on 18 January 2021 and the Expiry Date shall be 31 March 2021.
4. The Authority may require the Supplier to ensure that any person employed in the provision of the Services has undertaken a Disclosure and Barring Service check. The Supplier shall ensure that no person who discloses that he/she has a

conviction that is relevant to the nature of the Services, relevant to the work of the Authority, or is of a type otherwise advised by the Authority (each such conviction a “**Relevant Conviction**”), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Services.

Payment

Our preference is for all invoices to be sent electronically, quoting a valid purchase order number (PO Number), to Accounts-Payable [REDACTED], we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.

To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Authority contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment please contact our Accounts Payable section either by email to ea_procure_to_pay@gov.sscl.com

Liaison

For general liaison your contact will continue to be [REDACTED].

We thank you for your co-operation to date, and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Services. The [Authority] would be grateful if you could arrange the contract to be executed, by way of electronic signature, on behalf of Blue Marble Research.

Yours faithfully,

Execution of this award notification letter is carried out in accordance with EU Directive 99/93 (Community framework for electronic signatures) and the Electronic Communications Act 2000. The Contract will be formed on the date on which both Parties communicate acceptance of its terms on the Authority’s eSourcing System.



**Environment
Agency**

Conditions of Contract Services

October 2019

1. DEFINITIONS

1.1. In the Contract, unless the context otherwise requires the following words and expressions shall have the following meanings assigned to them.

1.1.1. Agency

The Environment Agency, its successors and assigns.

1.1.2. Agency Property

All property issued or made available for use by the Agency to the Contractor in connection with the Contract.

1.1.3. The Appendix

The Appendix to these Conditions.

1.1.4. The Contract

These Conditions including the Appendix, any Special Conditions, Specification, Pricing Schedule, Contractor's tender, acceptance letter and any relevant documents agreeing modifications exchanged before the Contract is awarded, and any subsequent amendments or variations agreed in writing.

1.1.5. The Contractor

The person, firm company or body who undertakes to supply the Services to the Agency as defined in the Contract.

1.1.6. Contract Period

The time period stated in the Appendix or otherwise provided in the Contract, for the performance of the Services.

1.1.7. Contractor Personnel

means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub-contractor engaged in the performance of its obligations under this Contract

1.1.8. Contract Price

The price exclusive of VAT set out in the Contract for which the Contractor has agreed to supply the services.

1.1.9. Contract Supervisor

Any duly authorised representative of the Agency notified in writing to the Contractor for all purposes connected with the Contract. Any Notice or other written instruction given by or made to the Contract Supervisor, shall be taken as given by or made to the Agency.

1.1.10. Contracting Authority

means any contracting authorities (other than the Environment Agency) as defined in regulation 2 of the Public Contract Regulations 2015 (SI 2015/102) (as amended).

1.1.11. Data Protection Legislation

means: (i) the General Data Protection Regulation (Regulation (EU) 2016/679) or GDPR, the Law Enforcement Directive (Directive (EU) 2016/680) ("LED") and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 1998 ("DPA 1998") and/or the Data Protection Act 2018 ("DPA 2018") to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy

1.1.12.Data Protection Schedule

The Schedule attached to this Contract describing how the Parties will comply with the Data Protection Legislation.

1.1.13.Intellectual Property Rights

All Intellectual Property Rights including without limitation, patents, patent applications, design rights, registered designs, utility models, trade and service marks and applications for same, copyright know-how, rights in semi-conductor chip topography, and in each case whether protectable at law or not, and if protectable, whether an application has been made for such protection or not, and all similar industrial, commercial, monopoly or other intellectual property rights whether present or future, vested or contingent wherever protected.

1.1.14.Law

means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply

1.1.15.Notice

Any written instruction or notice given to the Contractor by the Contract Supervisor, delivered by:

- i. fax, or hand delivery to the Contractor's registered office or other address notified for the purposes of the Contract and deemed to have been served at the date and time of delivery;

First class post to the Contractor's registered office. Such Notices are deemed to have been served 48 hours after posting.

1.1.16.Results

All things produced in performing the Services including maps, plans, photographs, drawings, tapes, statistical data, experimental results, field data, analysis of results, published and unpublished results and reports, inventions, computer programmes and user documentation.

1.1.17.The Resulting Rights

All Intellectual Property Rights in the Results that are originated, conceived, written or made by the Contractor, whether alone or with others in the performance of the Services or otherwise resulting from the Contract.

1.1.18.Permission

Express permission given in writing before the act being permitted.

1.1.19.Services

All Services detailed in the Specification including any additions or substitutions as may be requested by the Contract Supervisor.

1.1.20.Regulations

Means the Public Contract Regulations 2015 (SI 2015/102) as amended.

1.2. Except as set out above and in the Data Protection Schedule, the Contract shall be interpreted in accordance with the Interpretation Act 1988.

1.3. All headings in these Conditions are for ease of reference only, and shall not affect the construction of the Contract.

1.4. Any reference in these Conditions to a statutory provision will include all subsequent modifications.

1.5. All undefined words and expressions are to be given their normal English meaning within the context of this Contract. Any dispute as to the interpretation of such undefined words and expressions shall be settled by reference to the definition in the Shorter Oxford English Dictionary.

2. PRECEDENCE

To the extent that the following documents form the Contract, in the case of conflict of content, they shall have the following order of precedence:

- Conditions of Contract including Appendix, Data Protection Schedule and any Special Conditions;
- Specification;
- Pricing Schedule;
- Drawings, maps or other diagrams.

3. CONTRACT SUPERVISOR

The Contractor shall strictly comply with any instruction given by the Contract Supervisor concerning or about the Contract provided such instructions are reasonable and consistent with the nature, scope and value of the Contract. All such instructions shall be in writing. The Contractor is not obliged to comply with any verbal instruction from the Contract Supervisor that is not confirmed in writing within 7 working days.

4. THE SERVICES

4.1. The Contractor shall provide all staff, equipment, materials and any other requirements necessary for the performance of the Contract using reasonable skill, care and diligence, and to the reasonable satisfaction of the Contract Supervisor.

4.2. The Contractor shall only employ in the execution and superintendence of the Contract persons who are suitable and appropriately skilled and experienced. The Contract Supervisor shall be at liberty to object to and require the Contractor to remove any person employed in or about the Contract who is unsuitable, misconducts himself, is incompetent or negligent in the performance of his duties or persists in conduct which could endanger the health or safety of others. Such persons shall not be employed again on the Contract without the Permission of the Contract Supervisor.

5. ASSIGNMENT

5.1. The Contractor shall not assign, transfer or sub-contract the Contract, or any part of it, without the Permission of the Contract Supervisor.

5.2. Any assignment, transfer or sub-contract entered into, shall not relieve the Contractor of any of his obligations or duties under the Contract.

5.3. Nothing in this Contract confers or purports to confer on any third party any benefit or any right to enforce any term of the Contract.

6. CONTRACT PERIOD

The Contractor shall perform the Services within the time stated in the Annex 2, subject to any changes arising from Condition 10 (Variations,) and/or Condition 11 (Extensions of time.).

7. PROPERTY

7.1. All property issued by the Agency to the Contractor in connection with the Contract shall remain the property of the Agency, and shall be used in the execution of the Contract, and for no other purpose whatsoever without the prior approval of the Contract Supervisor.

7.2. The Contractor shall keep all Agency Property in safe custody and good condition, set aside and clearly marked as the property of the Agency.

7.3. On expiry or earlier termination of the Contract the Contractor shall, if so required, either surrender such property to the Agency or otherwise dispose of it as instructed by the Contract Supervisor.

8. MATERIALS

8.1. The Contractor shall be responsible for establishing his own sources of supply for goods and materials and will be responsible for ensuring the reasonable and proper conduct by his suppliers and staff whilst on the Agency's premises.

8.2. The Contractor shall not place, or cause to be placed, any orders with suppliers or otherwise incur liabilities in the name of the Agency or any representative of the Agency.

9. SECURITY

9.1. The Contractor shall be responsible for the security of all goods and equipment belonging to the Agency and used by the Contractor in the provision of the Services, belonging to the Contractor, or Contractors staff, or sub-contractors whilst on Agency premises.

9.2. This Condition shall not prejudice the Agency's rights under Condition 15.

10. VARIATIONS

10.1. The Contract Supervisor may vary the Contract by adding to, deleting or otherwise modifying the Services to be supplied, by written order to the Contractor provided such variations are reasonable and consistent with the nature, scope and value of the Contract.

10.2. The value of any such variation, other than any variation arising out of Condition 10.3, shall be determined by reference to the rates contained in the Pricing Schedule. Where the Services so ordered are not covered in the Pricing Schedule, they shall be valued at a fair and reasonable rate agreed between the Contract Supervisor and the Contractor.

10.3. Where a variation is the result of some default or breach of the Contract by the Contractor or some other cause for which he is solely responsible, any additional cost attributable to the variation shall be borne by the Contractor.

10.4. The Contractor may also propose a variation to the Services but no such variation shall take effect unless agreed and confirmed in writing by the Contract Supervisor.

10.5. No variation shall have the effect of invalidating the Contract, or placing the Contract at large, if that variation is reasonably consistent with the nature, scope and value of the Contract. The Agency may vary the Contract to comply with a change in English Law. Such a change will be effected by the Contract Supervisor notifying the Contractor in writing.

10.6. The Agency may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

10.6.1. any Contracting Authority; or

10.6.2. any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Agency; or

10.6.3. any private sector body which substantially performs the functions of the Agency, provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.

10.7. Any change in the legal status of the Agency such that it ceases to be a Contracting Authority shall not affect the validity of the Contract. In such circumstances the Contract shall bind and inure to the benefit of any successor body to the Agency.

11. EXTENSIONS OF TIME

11.1. Should the performance of the Contract be directly delayed by any cause beyond the reasonable control of the Contractor, and provided that the Contractor shall first have given the Contract Supervisor written notice within five working days after becoming aware that such delay was likely to occur, then the Contract Supervisor, if satisfied that this Condition applies:

11.1.1. in the case of any delay of which the Agency is not the cause, may grant the Contractor such extension of time, as in his opinion is reasonable, having regard without limitation, to any other delays or extensions of time that may have occurred or been granted under the Contract. The Contract Price shall not increase as a result of such an extension of time.

11.1.2. in the case of any delay of which the Agency is the cause, shall grant the Contractor a reasonable extension of time to take account of the delay.

11.2. No extension of time shall be granted where in the opinion of the Agency the Contractor has failed to use reasonable endeavours to avoid or reduce the cause and/or effects of the delay.

11.3. Any extension of time granted under this Condition shall not affect the Agency's rights to terminate or determine the Contract under Conditions 13 and 14.

12. DEFAULT

12.1. The Contractor shall be in default if he:

- 12.1.1. fails to perform the Contract with due skill, care, diligence and timeliness;
- 12.1.2. refuses or neglects to comply with any reasonable written instruction given by the Contract Supervisor;
- 12.1.3. is in breach of the Contract.

12.2. Where in the opinion of the Contract Supervisor, the Contractor is in default, the Contract Supervisor may serve a Notice giving at least five working days in which to remedy the default.

12.3. If the Contractor fails to comply with such a Notice the Contract Supervisor may, without prejudice to any other rights or remedies under the Contract, take over for as such a period as is necessary the performance of the relevant part of the Contract and make other arrangements for its completion. Any extra costs arising from this action, will be paid by the Contractor or deducted from any monies owing to him.

13. TERMINATION

13.1. The Agency may immediately, without prejudice to any other rights and remedies under the Contract, terminate all or any part of the Contract by Notice in writing to the Contractor, Receiver, Liquidator or to any other person in whom the Contract may become vested, if the Contractor:

13.1.1. fails in the opinion of the Contract Supervisor to comply with (or take reasonable steps to comply with) a Notice under Condition 12.2.

13.1.2. becomes bankrupt or insolvent, or has a receiving order made against him, or makes an arrangement with his creditors or (being a corporation) commences to be wound up, not being a voluntary winding up for the purpose of reconstruction or amalgamation, or has a receiver, administrator, or administrative receiver appointed by a Court.

'Termination under the Regulations'

13.2. The Agency may terminate the Contract on written Notice to the Contractor if:

13.2.1. the contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;

13.2.2. the Contractor was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract; or

13.2.3. The Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Regulations

that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.

14. DETERMINATION

14.1. Without prejudice to any other rights or remedies under the Contract, the Agency reserves the right to determine the Contract at any time by giving not less than one month's Notice, (or such other time period as may be appropriate).

14.2. The Agency shall pay the Contractor such amounts as may be necessary to cover his reasonable costs and outstanding and unavoidable commitments necessarily and solely incurred in properly performing the Contract prior to determination.

14.3. The Agency will not pay for any costs or commitments that the Contractor is able to mitigate and shall only pay those costs that the Agency has validated to its satisfaction. The Agency's total liability under this Condition shall not in any circumstances exceed the Contract Price that would have been payable for the Services if the Contract had not been determined.

15. INDEMNITY

15.1. Without prejudice to the Agency's remedies for breach of Contract, the Contractor shall fully indemnify the Agency and its staff against any legally enforceable and reasonably mitigated liability, loss, costs, expenses, claims or proceedings in respect of:

15.1.1. death or injury to any person;

15.1.2. loss or damage to any property excluding indirect and consequential loss;

15.1.3. infringement of third party Intellectual Property Rights which might arise as a direct consequence of the actions or negligence of the Contractor, his staff or agents in the execution of the Contract.

15.2. This Condition shall not apply where the damage, injury or death is a direct result of the actions, or negligence of the Agency or its staff.

16. LIMIT OF CONTRACTOR'S LIABILITY

16.1. The limit of the Contractor's liability for each and every claim by the Agency, other than for death or personal injury, whether by way of indemnity or by reason of breach of contract, or statutory duty, or by reason of any tort shall be:

16.1.1. the sum stated in the Appendix [DRAFTING NOTE – INSERT SUM and consider personal data risk];

16.1.2. if no sum is stated, the Contract Price or five million pounds whichever is the greater.

17. INSURANCE

17.1. The Contractor shall insure and maintain insurance against liabilities under Condition 15 (Indemnity) in the manner and to the values listed in the Appendix to these Conditions [DRAFTING NOTE – CHECK SUM and consider personal data risk]. If no sum is stated, the value insured shall be £5M (five million pounds.)

17.2. If specifically required by the Agency, nominated insurances shall be in the joint names of the Contractor and the Agency.

17.3. The Contractor shall, upon request, produce to the Contract Supervisor documentary evidence that the insurances required are fully paid up and valid for the duration of the Contract.

18. PREVENTION OF FRAUD AND CORRUPTION

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

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

18.3. If the Contractor or the Contractor's staff engages in conduct prohibited by this clause 18 or commits fraud in relation to the Contract or any other contract with the Crown (including the Agency) the Agency may:

18.3.1. terminate the Contract and recover from the Contractor the amount of any loss suffered by the Agency resulting from the termination, including the cost reasonably incurred by the Agency of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Agency throughout the remainder of the Contract; or

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

18.4. The Contractor shall not, directly or indirectly through intermediaries commit any offence under the Bribery Act 2010 (as amended), in any of its dealings with the Agency.

19. MONITORING AND AUDIT

19.1. The Contract Supervisor may inspect and examine the Services being carried out on the Agency's premises, or elsewhere at any reasonable time. Where the Services are being performed on other than the Agency's premises, reasonable notice to inspect shall be given to the Contractor. The Contractor shall give all such facilities as the Contract Supervisor may reasonably require for such inspection and examination.

20. CONTRACT PRICE

20.1. The Contract Price will be paid by the Agency to the Contractor as amended by any Variations ordered under Condition 10 (Variations).

20.2. In addition to the Contract Price, the Agency will pay to the Contractor such Value Added Tax (if any) as may properly be chargeable at rates ruling at the time of invoice.

21. INVOICING AND PAYMENT

21.1. Invoices shall only be submitted for work already satisfactorily completed, and accompanied by such information as the Contract Supervisor may reasonably require to verify the Contractor's entitlement to payment. Such invoices will be paid in 30 days from receipt by the Agency.

21.2. If any sum is payable under the Contract by the Contractor to the Agency, whether by deduction from the Contract or otherwise, it will be deducted from the next available invoice.

21.3. If the Contractor enters into a sub-contract with a supplier for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in the sub-contract which requires payment to be made of all sums due from it to the sub-contractor within 30 days from the receipt of a valid invoice.

22. INTELLECTUAL PROPERTY RIGHTS

22.1. All Prior Rights used in connection with the Services shall remain the property of the party introducing them. Details of each party's Prior Rights are set out in the Prior Right Schedule to this contract.

22.2. All Results shall be the property of the Agency.

22.3. The Resulting Rights in any Results, and any interim results shall, from the time they arise, be the property of the Agency and the Agency shall be free, should it so wish, to apply at its own expense for patent or other protection in respect of the Results or any interim results. The Agency's intention to apply for such patent or other protection shall be notified to the Contractor. Such applications for patents or other registered intellectual property rights shall be filed in the name of the Agency.

Unless otherwise agreed in writing between the Contractor and the Agency, the Contractor hereby:

22.3.1. assigns to the Agency all Resulting Rights

22.3.2. grants the Agency a non-exclusive, non-transferable (save for the purposes of sub-licensing, reorganisation or transfer to a successor body, for the purposes of all the successor body's normal business use), irrevocable, royalty free perpetual licence to the Agency in respect of all the Contractor's Prior Rights necessary in order for the Agency to use or exploit the Resulting Rights.

22.4. The Contractor undertakes to the Agency not to use, exploit or deal with any of the Agency's Prior Rights, other than in the performance of the Contract unless the Contractor has first obtained a written licence from the Agency, in specific terms to do so.

22.5. The Agency undertakes to the Contractor not to use or exploit the Contractor's Prior Rights, save as provided in Condition 22.3.2.

22.6. The Contractor warrants to the Agency that the performance of the Services, the Contractor's Prior Rights and the Results shall not in any way infringe any intellectual property rights of any third party.

22.7. If the Contractor is prevented from carrying out his obligations under the Contract due to any infringement or alleged infringement of any Intellectual Property Rights, the Agency may without prejudice to any other rights and remedies under the Contract, exercise the powers and remedies available to it under Conditions 13 and 14, Termination and Determination respectively.

22.8. The Contractor shall not be liable if such infringement arises from the use of any design, technique or method of working provided by or specified by the Agency.

22.9. The Contractor waives in favour of the Agency its rights to object to derogatory treatment of the Results of the Work and the Contractor also agrees that he will not assert or seek to enforce against the Agency and/or any other person, firm or company any of its moral rights as defined in the Copyright Designs and Patents Act 1988 (as amended) without the prior agreement of the Agency.

22.10. The Contractor shall not be liable for any consequential losses, damage or injuries arising from third party misuse of the Results, of which the Contractor is not aware.

23. WARRANTY

The Contractor warrants that the Services supplied by him will be discharged with reasonable skill, care and diligence.

24. STATUTORY REQUIREMENTS

The Contractor shall fully comply with all relevant statutory requirements in the performance of the Contract, including, but not limited to the giving of all necessary notices and the paying of all fees.

25. ENVIRONMENT, SUSTAINABILITY AND DIVERSITY

25.1. The Contractor in the performance of this Contract should adopt a sound proactive environmental approach, designed to minimise harm to the environment, to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of single-use plastic, ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and/or the environment, and be able to provide proof of so doing to the Agency on demand.

25.2. The Agency is committed to ensuring that workers employed within its supply chains are treated fairly, humanely and equitably. The Agency expects the Contractor to share this commitment and to understand any areas of risk associated with this and work to ensure they are meeting International Labour Standards. The Contractor ensures that it and its sub-contractors and its supply chain:

25.2.1. comply with the provisions of the Modern Slavery Act 2015;

25.2.2. pay staff fair wages (and pays its staff in the UK not less than the Foundation Living Wage Rate); and

25.2.3. Implement fair shift arrangements, providing sufficient gaps between shifts, adequate rest breaks and reasonable shift length, and other best practices for staff welfare and performance.

25.3. The Contractor should support the Agency to achieve its Public Sector Equality Duty by complying with the Agency's policies (as amended from time to time) on Equality, Diversity and Inclusion (EDI). This includes ensuring that the Contractor (and their sub-contractors) in the delivery of its obligations under this Contract:

25.3.1. eliminates discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

25.3.2. advances equality of opportunity between people who share a protected characteristic and those who do not; and

25.3.3. fosters good relations between people who share a protected characteristic and those who do not.

25. PUBLICITY

The Contractor shall not advertise or publicly announce that he is supplying Services or undertaking work for the Agency without the Permission of the Contract Supervisor.

26. LAW

This Contract shall be governed and construed in accordance with the Law, and subject to the jurisdiction of the courts of England.

27. WAIVER

27.1. No delay, neglect or forbearance by the Agency in enforcing any provision of the Contract shall be deemed to be a waiver, or in any other way prejudice the rights of the Agency under the Contract.

27.2. No waiver by the Agency shall be effective unless made in writing.

27.3. No waiver by the Agency of a breach of the Contract shall constitute a waiver of any subsequent breach.

28. ENFORCEABILITY AND SURVIVORSHIP

28.1. If any part of the Contract is found by a court of competent jurisdiction or other competent authority to be invalid or legally unenforceable, that part will be severed from the remainder of the Contract which will continue to be valid and enforceable to the fullest extent permitted by law.

28.2. The following clauses shall survive termination of the Contract, howsoever caused: 13, 14, 15, 22, 23, 24, 27, 29, 30, 31, 32 and 33.

29. DISPUTE RESOLUTION

29.1. All disputes under or in connection with this agreement shall be referred first to negotiators nominated at a suitable and appropriate working level by the Agency and the Contractor.

29.2. If the parties' negotiators are unable to resolve the dispute within a period of forty five days from its being referred to them, the dispute shall be referred at the instance of either party to the parties' respective senior managers or directors (supported as necessary by their advisers).

29.3. If the parties' respective senior managers or directors are unable to resolve the dispute within forty five days the dispute shall be referred to the Centre for Dispute Resolution who shall appoint a mediator and the parties shall then submit to the mediator's supervision of the resolution of the dispute.

29.4. Recourse to this dispute resolution procedure shall be binding on the parties as to submission to the mediation but not as to its outcome. Accordingly all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings. Except for any party's right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until forty five days after the appointment of the mediator.

29.5. If, with the assistance of the mediator, the parties reach a settlement, such settlement shall be put in writing and, once signed by a duly authorised representative of each of the parties, shall remain binding on the parties.

29.6. The parties shall bear their own legal costs of this dispute resolution procedure, but the costs and expenses of mediation shall be borne by the parties equally.

29.7. Any of the time limits in Conditions 30 may be extended by mutual agreement. Such agreed extension shall not prejudice the right of either party to proceed to the next stage of resolution.

30. GENERAL

30.1. Neither party to the Contract will be liable to the other for any delay in performing or failing to perform its obligations (other than a payment obligation) under the Contract because of any cause outside its reasonable control. Such delay or failure will not constitute a breach of the Contract and the time for performance of the affected obligation will be extended by a reasonable period.

30.2. The Contract contains the whole agreement between the parties and supersedes all previous communications, representations and arrangements, written or oral. It is accepted that the Contract has not been entered into on the basis of any representations that are not expressly contained in the Contract.

31. FREEDOM OF INFORMATION ACT

31.1. The Agency is committed to open government and to meeting its responsibilities under the Freedom of Information Act 2000 (as amended) ('Act') and the Environmental Information Regulations 2004 (as amended) (Regulations').

31.2. The Contractor agrees that:

31.2.1. All information submitted to the Agency may need to be disclosed by the Agency in response to a request under the Act or the Regulations; and

31.2.2. The Agency may include information submitted (in whole or in part) in the publication scheme which it maintains under the Act or publish the Contract, including from time to time agreed changes to the Contract, to the public.

31.3. If the Contractor considers that any of the information included in its tender, or that it has submitted to the Agency or that is otherwise contained in the Contract, is commercially sensitive, it shall identify and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. The Contractor acknowledges that if it has indicated that information is commercially sensitive, such information may still be required to be disclosed by the Agency under the Act or the Regulations. The receipt of any material marked 'confidential' or equivalent by the Agency shall not be deemed to infer that the Agency agrees any duty of confidentiality by virtue of that marking.

32. DATA PROTECTION

32.1. In the event that the Contract requires data to be processed within the meaning of the Data Protection Legislation the Data Protection Schedule shall be completed by the Parties and provisions and definitions therein shall apply and bind the Parties as part of this Contract.

33. CONFIDENTIALITY

33.1 For the purpose of this Agreement the following shall be deemed to be "Confidential Information":

33.1.1 all information identified by a Party as being confidential; and

33.1.2 information which ought reasonably to be regarded as confidential which shall include but is not limited to IPR, know-how and trade secrets and financial and other commercial or business information of a Party and all personal data within the meaning of the Data Protection Act 1998.

33.2 Confidential Information shall not include information that:

33.2.1 is or becomes generally available to the public or is in the public domain other than as a result of disclosure by either Party or their staff or contractors in breach of its responsibilities of confidentiality;

33.2.2 is already known to the receiving Party (as evidenced by written records) at the time of its disclosure by the Party disclosing it and was not subject to any duty of confidence when acquired by the receiving Party;

33.2.3 is or becomes available to the receiving Party from a third party having a right to disclose it free of any restriction as to the use or disclosure;

33.2.4 is independently developed by the receiving Party (as evidenced by written records) outside the terms of this Agreement;

33.2.5 is required to be disclosed by operation of law, statute or regulation (which shall include but is not limited to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or the order of any authority competent to make such an order provided that where practicable and where required for compliance with the relevant law, statute, regulation or order the Party intending to disclose the information gives to the Party who originally provided the information reasonable advance notice of the intended disclosure and a reasonable opportunity to make representations regarding such disclosure; or

33.2.6 where the disclosing Party is entitled to and does expressly waive the confidentiality in the information disclosed at the time of disclosure.

33.3 Each Party shall maintain the confidentiality of all Confidential Information provided to it and shall not disclose the same to any third party either during the Term or at any time thereafter save where and to the extent such disclosure is necessary for the purposes of the Project.

33.4 In the event that disclosure of Confidential Information as permitted by Condition above clause 33.3 is necessary the Party making such disclosure shall ensure that any third party to whom such disclosure is made enters into appropriate undertakings of confidentiality at least equivalent to those contained in this Agreement prior to the disclosure.

Introduction

Blue Marble would be delighted to support the Environment Agency on this fascinating and important project.

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1) Background and objectives

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Overarching business objective

Specific research objectives

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2) Our approach

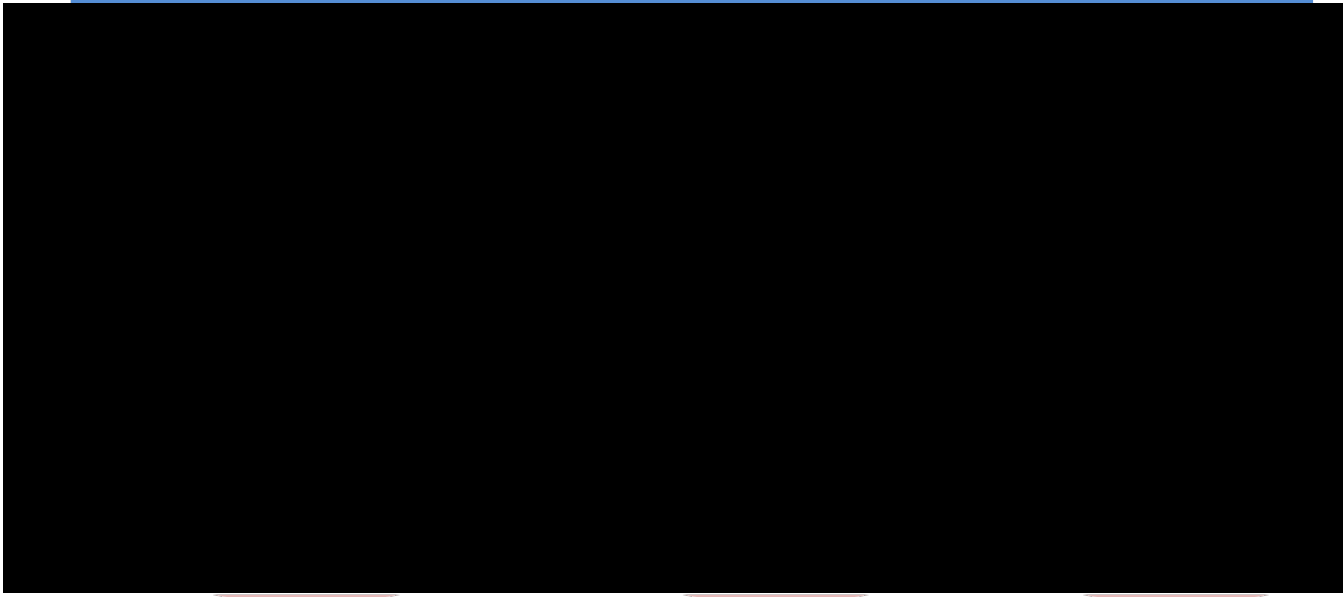
Overview

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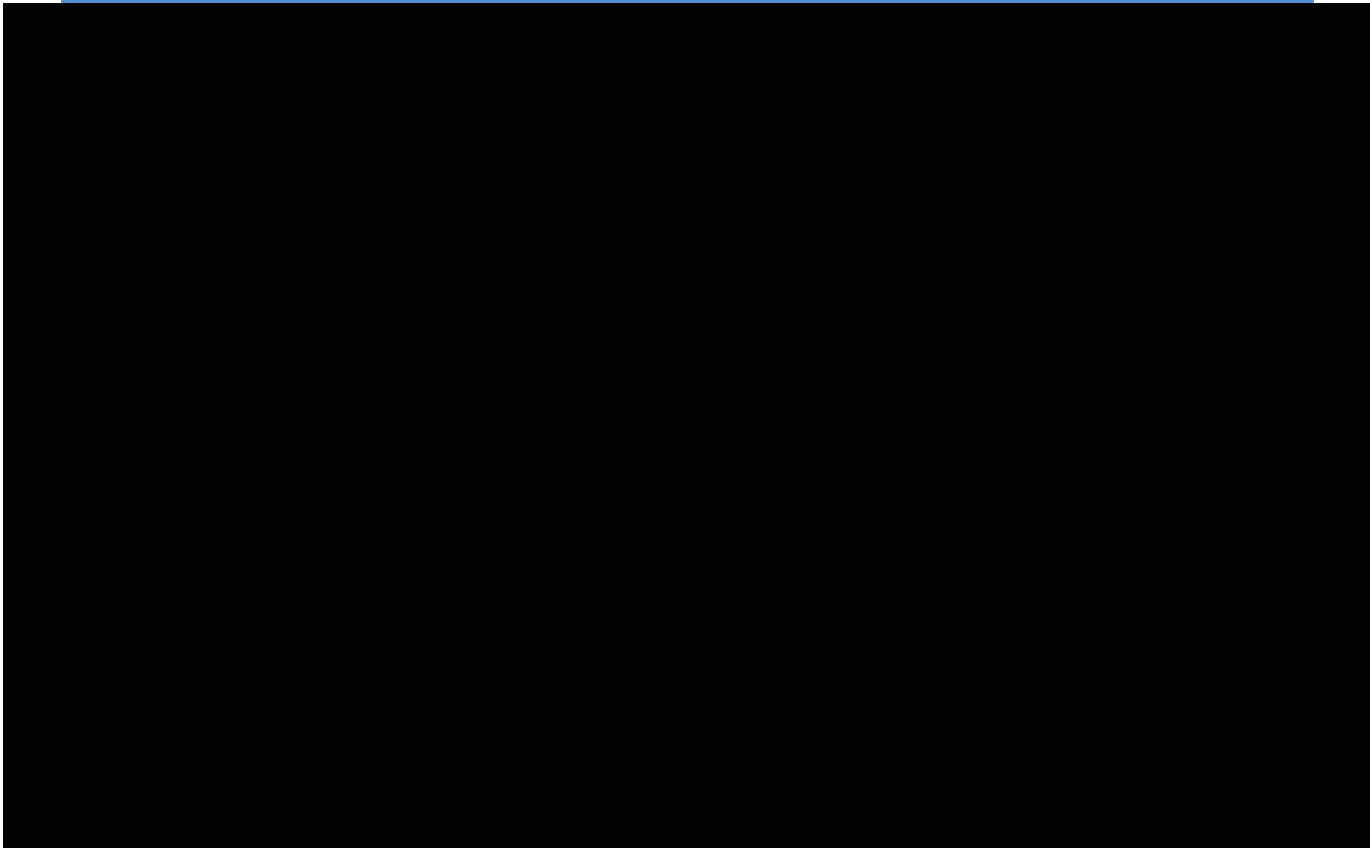
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ANALYSIS AND REPORTING

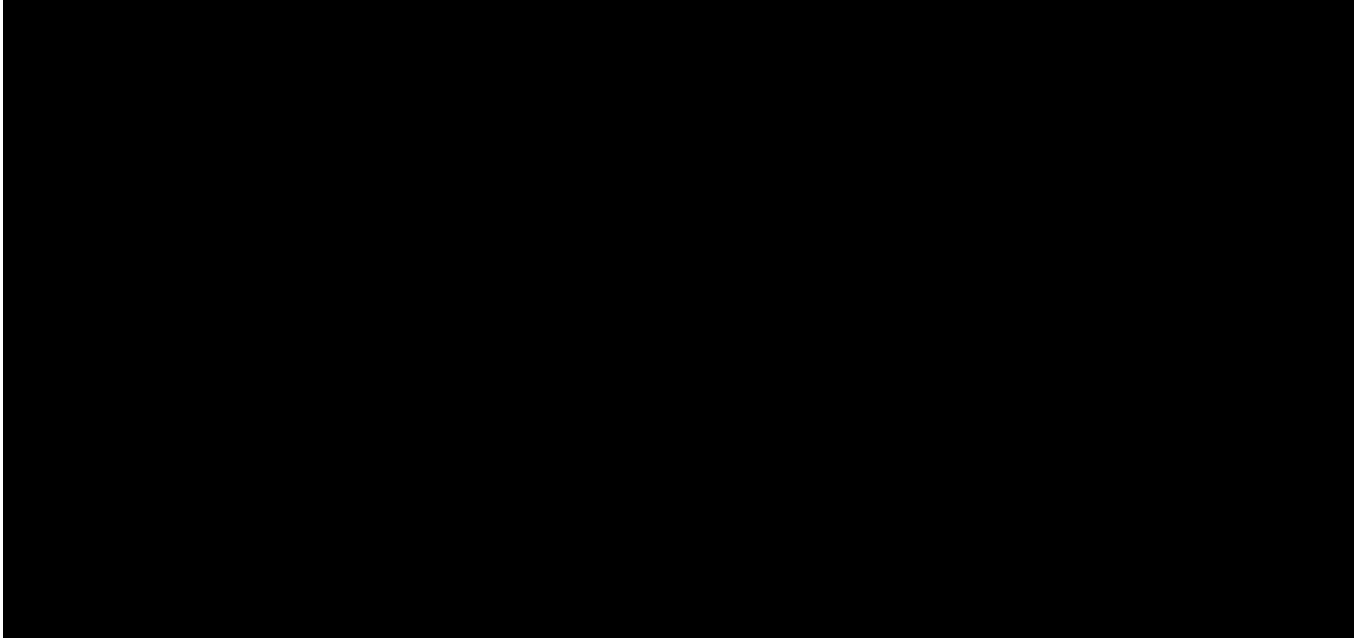


Approach in detail



WORK PACKAGE 1

WORK PACKAGE 2



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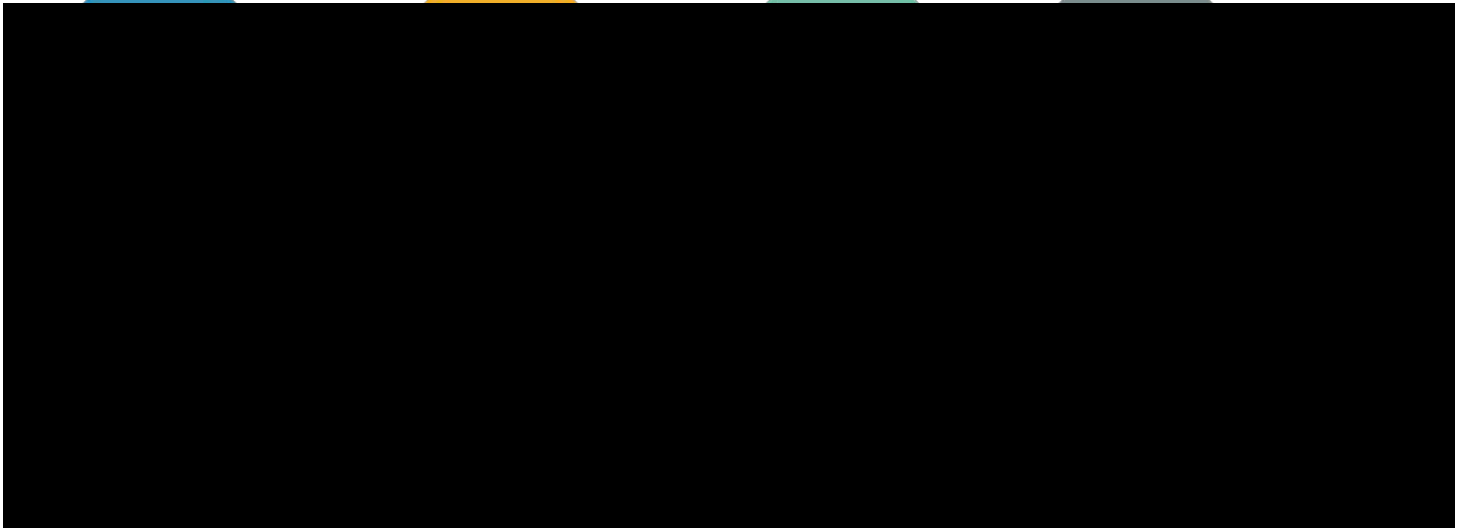
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WORK PACKAGE 3

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Deliverables

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Upon completion of the project, we will deliver:

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3) Meeting timely deadlines

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Our ability to respond to urgent customer requests

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amount

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Skills and experience

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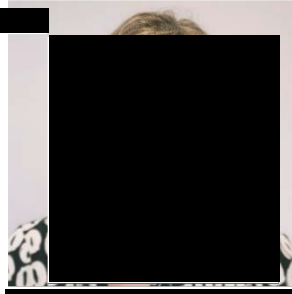
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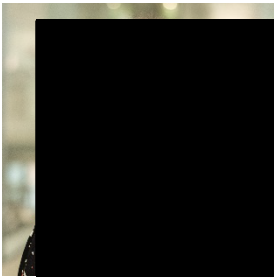
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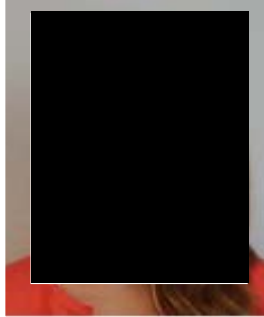
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Project Challenger: [Redacted]

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5) Costs

The costs below are based on the project specification outlined above.

Element	Cost (£ excl. VAT)
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Total	34,800

Further information:

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		Director	Director
	Background reading, set-up Total		
Work Package 1	Project management		
	Discovery workshop (preparation		
	Survey design & programming		
	Survey analysis		
	30 Depth interviews		
	Analysis		
	Reporting: customer journeys & I		
	Total		
Work Package 2	Project management		
	Discovery workshop (preparation		
	Survey design & programming		
	Survey analysis		
	30 Depth interviews		
	Analysis		
	Reporting: customer journeys & I		
	Total		
Work Package 3	Reviewing documents		
	Summary report		
	Total		
Final reporting	Reporting		
	Debriefs		
	Total		
GRAND TOTAL			

	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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APPRAISAL GUIDANCE USER RESEARCH PROJECT

FULL BRIEF AND REQUIREMENTS

AIM

The aim of this project is to understand how existing appraisal guidance is used by staff and capture how environmental impacts are considered in appraisal, in order to improve appraisal accessibility and staff capability. This project aims to understand how staff in Environment & Business (E&B) use existing guidance materials to complete an entire business case, while for Flood & Coastal Erosion Risk Management (FCERM) practitioners, this project aims to identify those environmental impacts that result from FCERM appraisal.

This user research phase of the project aims to set the foundation for cross-comparing appraisal and environmental valuation in E&B and FCERM to provide greater consistency and delivery of integrated outcomes.

BACKGROUND

This procurement project forms part of a programme of work being delivered by the Environment Agency to improve appraisal guidance for capital projects and incorporate wider environmental valuation into the day job of colleagues in the EA, especially when it comes to building business cases for investment.

1. E&B USER RESEARCH

Within FCERM, there is detailed Appraisal Guidance which forms part of a mature, standardised process through which the robustness of capital projects is assessed and funds are directed predominately to the most economically worthwhile projects. In theory—and mostly in practice—this enables efficient allocation and prioritisation of resources.

However, within E&B, there is no standardised guidance to follow and the process of appraisal assessment is not as well developed. There are good historical reasons for this; chief among them the wide variety of work that E&B does compared to FCERM and the fact that most of E&B's funding comes through charges, which to some extent, negates the need to build business cases.

The reduced funding available as a result of the austerity programme of the last decade has led to better justification of some work areas, but there is still difficulty in explaining precisely what is needed and why in terms that Treasury, in particular, will understand. There have been efforts to develop appraisal guidance and business case instruction for various work areas within E&B, however, these resources are fragmented and seemingly not well-understood by writers of business cases.

The ultimate aim of this project is to produce dynamic appraisal guidance for E&B that will provide best practice instructions on both conducting project appraisal and constructing a business case. However, we first need to determine the processes and needs of E&B staff who write business cases, which is the crux of this phase of the project.

2. FCERM USER RESEARCH

In March 2020, the Treasury agreed a £5.2 billion settlement for FCERM capital investment in England from 2021-27. These funds will be allocated according to a new partnership funding formula. The Environment Agency's FCERM Investment Strategy team is taking this opportunity to review the Appraisal Guidance.

Since the publication of the 2010 FCERM Appraisal Guidance there have been significant developments in:

- Legislation, government policy and FCERM strategy;
- Guidance on appraisal of public sector expenditure;
- Environmental valuation studies and tools.

It is necessary to review how environmental impacts are assessed in the FCERM Capital Programme 2021-27. This requirement has become more critical due to a long list of developments in the law, appraisal guidance, valuation studies and tools to capture environmental and social costs and benefits.

The second phase of the FCERM appraisal guidance project (to be informed by this consultancy phase) will review and, if necessary, rewrite the supplementary guidance on valuing the environment in FCERM Business Cases. These changes are needed to ensure that environmental impacts are included in the Economic Case in a way that addresses the developments detailed above and does so in a way that uses resources proportionately and efficiently.

The objective for this consultancy phase is to determine how environmental impacts are assessed in FCERM appraisal—these impacts could be considered as changes to the environment due to certain interventions (e.g. changes in water quality, impacts to health, etc.). This will involve collecting information from FCERM staff regarding how interventions lead to changes in environmental and social impacts, in both natural and built assets, and subsequently determining the value of services that flow from these assets.

This will initially inform a longlist of signposted FCERM environmental valuation tools which practitioners can use to value these environmental impacts. In the second phase of the project, this longlist will inform a shortlist of tools that FCERM recommends as best-practice for environmental valuation in appraisal.

KEY OBJECTIVES AND REQUIREMENTS

The successful supplier will be required to fulfil the following key objectives, as organised into three work packages:

WORK PACKAGE 1: E&B Customer Journeys

1. Determine which appraisal guidance and business case instruction is used by staff within E&B through interviews, workshops, or surveys; possibly using a Discovery workshop approach (supplier can and should propose other data collection route). This includes eliciting information about the environmental valuation used in E&B appraisal.

2. Determine the different "customer journeys" of E&B staff who write business cases. (That is, who is using the materials, which appraisal materials do they use, what do they use them for, and what resources or guidance are they missing in order to complete appraisal successfully?) This should include information on environmental valuation in E&B appraisal (see Annex 2).
3. Recommend how to improve these customer journeys in order to ensure that staff are fully equipped with the tools they need to write a quality business case.

The outputs should be easily transferable to the next phase of the project: designing effective customer journeys through the Building Better Business Cases site, (which will ultimately constitute the E&B Appraisal Guidance) and trialling an integrated appraisal approach. This will involve surveying roughly 30 members of E&B staff.

WORK PACKAGE 2: Identify FCERM Environmental and Social Impacts

1. Determine how environmental and social impacts are considered in FCERM appraisal through interviews or surveys with practitioners. This could include asking the following survey questions (please see Annex 2):
 - What environmental impacts are arising from your schemes/projects?
 - Do you consider the impacts across the short, medium and long term?
 - How are you qualitatively assessing which are significant?
 - Are you able to physically quantify these impacts?
 - Have you monetised any of these?
 - If so, what tools, approaches and resources are you using?
 - Do you consider the impacts under the Do Nothing scenario, and if not are there environmental and social impacts that you have not considered?
2. Organise these impacts into a categorised list.

The outputs will inform the aforementioned longlist of signposted FCERM environmental valuation tools, and should be easily interpretable for that work. This will involve surveying roughly 30 practitioners.

WORK PACKAGE 3: Comparative Element

1. Identify gaps in information, inconsistencies, or duplication between existing E&B appraisal guidance—given that the existing guidance is fragmented and not well-understood. There are roughly 40 appraisal guidance documents to be compared (numbering an estimated ~500 total pages).
2. Based on the customer journey information for E&B, and the provided customer journey information for FCERM, compare the two journey processes and identify areas of overlap and divergence.

The output should allow for high-level comparison between the appraisal processes in E&B versus FCERM. This aim of this work package is to set the foundation for enabling greater consistency and better delivery of integrated environmental outcomes.

OUTPUTS

1. List of Environmental and Social Impacts Used in FCERM—By 19/02/2021
A survey of practitioners which elicits the main environmental and social impacts assessed in FCERM appraisal. Please estimate surveying no more than 30 practitioners. The most

appropriate data collection will be agreed upon with the EA project manager, but could be in the form of short interviews.

- a. This should be a well-organised list which can be easily interpreted by the project team, who will use it to inform longlist of FCERM environmental valuation tools. Annex 2 provides an example of a possible way to organise the collected survey data.
 - b. Environmental valuation elicited from E&B staff should be included in this list, see 2.b.
2. Report and Pictorial Representation of E&B Customer Journeys—By 31/03/2021
An explanation of the different journeys customers take through the existing appraisal landscape. This will be informed by consultation with E&B staff. The successful supplier will have the opportunity to work with the EA project manager in order to agree on the most effective approach to collect this information from E&B. Please estimate surveying around 30 people.
- a. This output should be in the form of a report, as well as a pictorial representation of the customer journeys. The visual representation should show the journeys of different types of users, as well as different types of appraisal (e.g. purely qualitative, quantitative, monetary appraisal).
 - b. The environmental valuation element of this output should be reported in the same manner as the list of impacts described above and in Annex 2.
 - c. The report should include a set of recommendations on how to improve the customer journeys, addressing both technical information gaps and the process of undertaking integrated appraisal. This report should recommend the most effective way to organise and produce a dynamic appraisal guidance in E&B which is more accessible for users.
3. Comparative Element—By 31/03/2021
A report which scans existing E&B appraisal guidance resources (provided by the project team), eliciting areas of commonality and divergence. Please estimate assessing 500 total pages of information. This output should also assess the commonality and divergence between the FCERM and E&B user journeys.
- a. This should be a brief report. The project manager will work with the successful supplier to identify the most effective way to organise this information.

BUDGET

We do not currently plan to spend more than ██████████ conduct this work. This accounts for both the reports as well as any pictorial outputs.

We will ask interested suppliers to provide a budget breakdown based on the project costs; e.g. to 1) collect information from E&B and FCERM staff (estimated at 50 users) and identify the environmental impacts and customer appraisal journeys; 2) identify the gaps in information, inconsistencies, or duplication between existing guidance (estimated 500 pages) and compare customer journeys between FCERM and E&B; 3) produce recommendations, etc.; plus a separate line for fixed project costs.

TIMESCALES

We anticipate awarding the contract in late December 2020 or early January 2021. The deadline for a completed project will ideally be 31st March 2021.

We require the FCERM environmental impact categories to be completed by 19th of February, 2021, in order to advance the second phase of that work. A draft of the other outputs should be completed by the last week of February or first week of March, giving time for the project steering committee to review the outputs and propose changes.

EVALUATION

The EA will allocate

- 60% of the score to quality of response and
- 40% of the score to price.

Quality – 60%:

As part of your Invitation to Tender, your company will be required to demonstrate their ability to meet the following quality criteria (1-3), providing evidence where available to substantiate their claims.

The maximum marks available will be 60% and will the weighting of each criteria is outlined below. The breakdown of how quality is assessed is outlined in appendix 1.

Criteria	Essential evidence to provide us	Criteria weighting
1. Skills and Experience	<ul style="list-style-type: none"> • Evidence that your team has the skills and experience to undertake your chosen methodology/ies • Evidence that your team has the resource to deliver a visual representation of the customer journey • How you will identify the gaps in information, inconsistencies, or duplication between existing guidance; • Details on similar projects/workshops you have worked on where you have produced further recommendations 	60%
2. Meeting timely deadlines	<ul style="list-style-type: none"> • Please provide evidence of your ability to respond in an accelerated timescale (within a week) to meet urgent customer requests. • Details on how will produce a draft of the outputs by the last week of February 2021 or first week of March, giving time for the project steering committee to review the outputs and propose changes 	40%

Price – 40%:

The maximum marks available will be 40% and will be awarded to the lowest price submitted by a Tenderer. The remaining Tenderers will receive marks on a pro rata basis from the lowest to the highest price.

Item	Essential evidence to provide us	Item weighting
1. Rate Card	Provide a budget breakdown based on the project costs: 1) collect information from E&B and FCERM staff (for example, 50 to 100 users) and identify the customer appraisal journeys and environmental impacts assessed; 2) identify the gaps in information, inconsistencies, or duplication between existing guidance; 3) produce recommendations, etc.; plus a separate line for fixed project costs.	100%

We will evaluate how well you have met our criteria as follows:

100	Exceptional	The response is significantly above the Authority's requirements and provides a high degree of confidence that the supplier can deliver to an exceptionally high standard.
70	Exceeds requirements	The response exceeds the Authority's requirements and provides confidence that the supplier can deliver a high standard.
50	Meets requirements	The response meets all the Authority's requirements and provides confidence that the supplier can deliver to the required standard.
20	Below requirements	The response partially meets the Authority's requirements but has weakness that does give the Authority limited confidence that the supplier will be able to deliver to the required standard.
0	Unacceptable	The response fails to meet the Authority's requirements. The response includes errors, weaknesses, inconsistencies, omissions or general risks. The tender provides the Authority with little or no confidence that the supplier can deliver to the required standard.

ANNEX 1: CONTRACT REQUIREMENTS

- The winning Contractor shall be responsible for delivering the commissioned research under this contract, under the Terms and Conditions and against each tasking's unique set of requirements.
- The winning Contractor shall ensure that they can fully meet their contractual obligations within the Performance, Cost and Time envelope of each tasking.
- The data from this exercise will be made available under Crown Copyright to Defra upon request.

- The winning Contractor shall be committed throughout the Contract duration to identify and deliver efficiencies where possible and practical. All efficiencies identified through this Contract shall be reported to and flowed down to the EA.

ANNEX 2: EXAMPLE OF SURVEY DATA COLLECTION

	Environmental impact category	Description of impact category	When have you measured this?	Physical metric	Valuation metric	Source of Value	Tool or approach used	Who benefits from this impact
Example response	Water quality	The change in quality of surface water due to intervention	Cost of pollutants entering waterway	Cubic metres gained	£/cubic metre	NWEBS study	ORVAL, ENCA	Public, Private, Individual