

**Bid Pack**

**Statement of Requirements**

Contract Reference: CCCC19B05

Provision of Consultancy Support to Assist with IR35 Tax Issues

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# PURPOSE

## This document sets out the services the Department for Work and Pensions (DWP) requires to call off from the Crown Commercial Service (CCS) Management Consultancy Framework (RM 3745) Lot 4 – HR for the provision of Consultancy to assist with IR35 tax legislation in DWP.

# BACKGROUND TO THE CONTRACTING aUTHORITY

## DWP, is a major Government Department responsible for customer delivery and policy formation on all aspects of the Government's welfare to work strategy and social security provision.

## This includes the provision of welfare to work and social security benefits to individuals with health conditions and disabilities and those over working age. The Department has over 80,000 staff to deliver £165bn of payments annually, comprising of pensions, welfare to work and social security benefits.

## For more information on the work and overall objectives of the Department, please view our single business plan 2018 - 2022, which is published at:

## <https://www.gov.uk/government/publications/department-for-work-and-pensions-single-departmental-plan/department-for-work-and-pensions-single-departmental-plan--2>

# Background to requirement/OVERVIEW of requirement

## The DWP Tax Team and cross government Tax Centre of Excellence lack the capacity to support the amount of queries and issues that have surfaced and continue to arise in relation to IR35. IR35 work has been the priority over recent months and other tax work (e.g. VAT returns) has been deprioritised as a result.

## Work thus far on IR35 has been concentrated in one part of DWP i.e. Digital Group where the vast majority of workers are assigned. **REDACTED**

## In addition, some service based contracts may have been used to employ contractors, without the appropriate IR35 assessments. These service based contractors require review.

## **REDACTED**

## Earlier this year, compliance checks by the DWP Tax Team revealed potential areas of non-compliance with IR35 legislation i.e. workers that should have been assessed as in-scope (and therefore liable to pay tax and NI) were deemed to be out-of-scope.

## A small working group was formed to understand whether these compliance checks were an indication of a larger issue with IR35 compliance. A Panel comprising DWP Tax, Finance, HR, Commercial and Digital colleagues interviewed several assignment managers who are responsible for assessing IR35 using the HMRC Check Employment Status Tool (CEST). **REDACTED**

## The Government Internal Audit Agency (GIAA) also conducted a review to understand the reason for incorrectly assessing workers as out of scope. GIAA concluded, amongst other things, that because the IR35 legislation had only been published in March-2017, there was ambiguity over the CEST tool and associated guidance, particularly associated with substitution, the primary reason why workers had been assessed as out of scope.

## During the summer this year, the DWP Tax Team working as part of a cross-government Tax Centre of Excellence, produced updated guidance and case studies. During September, this guidance was used to train and upskill over 200 assignment managers and newly appointed IR35 Business Champions to ensure they had the right level of education and understanding to undertake IR35 reassessments.

## At the end of September, a rolling programme of IR35 reassessments commenced upon contract renewal with the aim of ensuring DWP was compliant with IR35 legislation going forward. This rolling programme was expected to last until summer 2020, by which time all c.700 workers would have been reassessed and their contract terms changed where necessary.

## A small number of critical projects were excluded from this process for a short duration (up to 3-months) whilst alternative commercial arrangements were put in place as a contingency in case the workers decide to leave DWP rather than working in-scope.

## In November, the rolling programme of reassessments was supplemented by an updated DWP Digital Group IR35 policy accepting that substitution will not be feasible in the DWP operating model going forward and acknowledging that control and direction is necessary in the majority of roles going forward, whilst noting there would be exceptions.

## The plan to complete reassessments upon contract renewal was also intercepted and brought forward to the 31st January 2020 for both contract renewals and existing contracts. Whilst this plan is applicable to Digital Group, plans still need to be agreed for one of the critical projects mentioned above and for contractors working in DWP that are not part of Digital Group.

## The implementation of the plan above encompasses Digital Group conducting centrally a single IR35 assessment (i.e. applying the same IR35 status assessment to all workers in Digital Group in line with the new policy), working with the Tax Centre of Excellence, on the basis that all contractors will be subject to control and direction, and substitution will not be accepted.  This aims to remove the need for further assignment manager led assessments. An exception process will operate to manage contractor appeals.

# definitions

|  |  |
| --- | --- |
| **Expression or Acronym:** | **Definition:** |
| **Agreement** | Means the services to be supplied as specified in the Statement of Requirements. |
| **Assignment Manager** | The person responsible for requesting the worker, directing their work, and assessing their IR35 status. |
| Contract Renewals Team | A small team in DWP Digital Group responsible for the administration of contingent labour contract renewals, checking that all renewals comply with the agreed process and instructions. |
| Cross-government Tax Centre of Excellence | The DWP Tax Team are part of a larger team of tax specialists supporting a number of government departments with tax advice and compliance checks.  |
| DWP Tax Team | A small team of responsible for ensuring DWP complies with all tax legislation e.g. IR35, VAT etc. |
| **In-scope** | The worker is classed as an employee for tax purposes and is responsible for paying tax and NI. |
| Out-of-scope | The worker is not classed as an employee for tax purposes. |
| HMRC Compliance Team | HMRC Team responsible for undertaking audits to ensure DWP and other government departments comply with tax legislation and pay the taxes that fall due. |
| **IR35** | Off-payroll legislation introduced into the public sector in April 2017. |
| IR35 Business Champion | A newly appointed group of c.20 people responsible for checking the IR35 status determined by the assignment manager, particularly out-of-scope assessments. |
| Worker | A contractor usually appointed through a personal services contract. |

# scope of requirement

# 5.1 The Potential Supplier shall be expected to do below actions:

### Review all service based contracts used to employ contractors; to confirm they have correctly followed IR35 legislation.

### There is a requirement to compile a full list of all contractors employed by DWP since April 2017 (past and present) to ensure DWP has a complete record including the payments that have been made. This record will form the basis to answer and respond to HMRC audit queries and requests to resolve the Historic Position.

### With new IR35 legislation due to come into effect from 6th April 2020, planning needs to start now for its implementation and run in parallel with the plan to implement the new Digital Group IR35 policy and to be compliant going forward by the 31st January 2021.

### Therefore, there is a requirement to support the Forward Position, drawing a line in the sand on the Historic Position, and implementing the policy and plan, and making this applicable across the whole of DWP and not just Digital Group.

### There is also a requirement to have compliant processes in place for Business as Usual activity and for legislation changes that are due to come into effect from 6th April 2020.

# The requirement

## **The Potential Supplier shall provide Tax Advice and support on the following;**

### Ensuring DWP is compliant with IR35 and prepared for 6th April 2020:

### A detailed and workable project plan to deliver below actions.

### Assess impact of IR35 legislation changes from 6th April 2020 on all DWP bodies; preparing and planning accordingly.

### c. Digital Group exceptions/appeals process.

### d. Universal Credit policy, plans and exceptions/appeals process.

### e. Security Group – upskilling with the aim of adopting the new policy and exceptions/appeals process.

### f. Applying revised contract approvals and governance for all business areas in DWP.

### g. Review of all Service based contracts from April 2017.

###  Assessing the historic position including:

### a. Compiling a list of all contractors (past and present) and what they have been paid.

### b. Assessing roles and interviewing assignment managers to see if working practices are similar to tribunal case outcomes.

### c. Calculating DWP’s view of potential tax liability.

### Complete an assessment of the potential historic tax liability from all contracts under IR35, preparing for and supporting HMRC engagements.

### **Consultant Roles**

#### **Tax Specialists**

##### To supplement and bolster the DWP Tax Team, providing in-depth tax advice, assurance, and answering queries of a technical nature.

##### Detailed knowledge and practical application of IR35 tax legislation in the public sector will be required.

## The work will take place in DWP Hubs, primarily Leeds although travel will be required to other DWP Hub locations e.g. Manchester, London and Blackpool.

## The Potential Supplier will be expected to:

### Utilise their own office space when not required to physically be located in the base locations.

### Use their own laptops and mobile phones – to allow for flexibility in DWP offices.

### Work out of DWP offices as a minimum 3 or 4 days per week and to be virtually available on the 5th day.

# key milestones and Deliverables

## The following Contract milestones/deliverables shall apply:

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| **Milestone/Deliverable** | **Description** | **Timeframe or Delivery Date** |
| 1 | A detailed and workable project plan for all activity described in the requirement (Section 6 above) | No later than 28th February 2020  |
| 2 | IR35: Revised contract approvals and governance implemented across the Department. | No later than 31st March 2020 |
| 3 | IR35: Preparations and planning complete for the April 2020 changes in IR35 legislation | No later than 31st March 2020 |
| 4 | Historic IR35 Position: Completing an assessment of the potential historic tax liability to support discussions with HMRC  | No later than 28 February 2020 |
| 5 | Completion of project work in line with project plan as delivered in Milestone/Deliverable 1. | No later than 28th August 2020 |

#

# MANAGEMENT INFORMATION/reporting

## In addition to the provision of the Services specified, the Potential Supplier will:

### Produce a fortnightly report to be shared prior to fortnightly meetings, detailing the specific progress and contribution the Potential Supplier has made during the period.

### In addition to the report the Potential Supplier will be expected to hold regular service review meetings fortnightly with customer management in person or via Videoconferencing / Conference Call.

# volumes

## The volume of contract renewals and IR35 reassessments are forecast to be in the approximately 600 to 700 based on current engagements.

# continuous improvement

## The Potential Supplier will be expected to continually improve the way in which the required Services are to be delivered throughout the Contract duration.

## The Potential Supplier should present new ways of working to DWP during fortnightly service review meetings.

## Changes to the way in which the Services are to be delivered must be brought to DWP’s attention and agreed prior to any changes being implemented.

# quality

## Project management, PMO, and Tax Specialists work should adhere to the professional standards and conduct of the relevant professional bodies.

# PRICE

## Prices are to be submitted via the e-Sourcing Suite Attachment 4 – Price Schedule excluding VAT and including all other expenses relating to Contract delivery.

# STAFF AND CUSTOMER SERVICE

## The Potential Supplier shall provide a sufficient level of resource throughout the duration of the Contract in order to consistently deliver a quality service.

## The Potential Supplier’s staff assigned to the Contract shall have the relevant qualifications and experience to deliver the Contract to the required standard.

## The Potential Supplier shall ensure that staff understand the DWP’s vision and objectives and will provide excellent customer service to DWP throughout the duration of the Contract.

# service levels and performance

## The Potential Supplier must have sound processes for quality assurance in place.

## The Potential Supplier must also assess the key risks to the project. They should identify the most significant risks to successful completion of the programme of work, assess the degree of risk and set out strategies for minimising these risks and managing the consequences if problems occur.

## The DWP will measure the quality of the Potential Supplier’s delivery by measuring progress against the Deliverables and timescales in the Statement of Requirements.

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| **KPI/SLA** | **Service Area** | **KPI/SLA description** | **Target** |
| 1 | Delivery to schedule | Reports and deliverables delivered within agreed date | 100% |
| 2 | Quality of output | Outputs should be quality assured by the Potential Supplier and require only one iteration to update with client comments.  | 100% |

**15.** **SECURITY AND CONFIDENTIALITY REQUIREMENTS**

## 15.1 Security requirements are listed within the terms and conditions, this includes BPSS checks and non- disclosure requirements.

# payment AND INVOICING

## Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables.

## Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.

# CONTRACT MANAGEMENT

## The point of contact for this engagement is will be a DWP contract manager and will be allocated and details notified to the successful Potential Supplier.

## Attendance at Contract Review meetings shall be at the Potential Supplier’s own expense.

# Location

## The main location of the Services will be carried out at **REDACTED.** Daily rates offered will need to be inclusive of all expenses in line with the framework .

## Travel to any other venues will need to be approved by the Authority prior to any travel arrangements being booked.

## For any pre-approved travel, the Authority will pay reasonable out of pocket travel and subsistence expenses (using the most economical mode of transport), properly and necessarily incurred in the performance of the services. The expenses will be calculated at the rates, and in accordance with the DWP T&S policy.