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| Government Equalities OfficeSanctuary BuildingsGreat Smith StreetLondonSW1P 3BT |

To whom it may concern,

**INVITATION TO TENDER (ITT) for an International Best Practice Guide to Equality on Sexual Orientation and Gender Identity**

1 The Government Equalities Office (GEO) is a government body leading work on policy relating to gender, sexual orientation and transgender equality in the UK. The GEO is commited to promoting equality for people with minority sexual orientations and gender identities internationally and sharing best practice. It also supports the UK fulfilling its special responsibility to Commonwealth member states in areas relating to equality.

2 The Commonwealth Summit presents an opportunity to engage with elected and policy officials in other Commonwealth member states and share best practice examples of policy, legislation and practice which strive to protect and support people with a minority sexual orientation, gender identity or expression, or sex characteristics around the world. As a result, the GEO are seeking to commission an expert organisation to develop a best practice guide designed to celebrate and share these best practice examples. This guide will be launched at the Commonwealth Summit and is intended to provide practical, positive and diverse examples for policy and elected officials in other governments who are considering or open to considering reviewing their policies and laws to improve the lives of people with a minority sexual orientation, gender identity or expression, or with minority sex characteristics.

2 Your organisation along with others is invited to offer a tender for provision of the above, to the specification outlined in the attached documents. Enclosed are:

 Document 1 Instructions on the tendering procedures

Document 2 Departmental standard requirements

 Document 3 Specification of the requirement

 Document 4 Evaluation Critieria

 Document 5 Declaration and information to be provided by tenderer

 *Attachment 1 Draft Contract*

 *Attachment 2 Departmental Security Standards*

3 Please read the instructions on the tendering procedures carefully. Failure to comply with them may invalidate your tender which must be returned by the date and time given below using the address label provided.

4 A copy of your tender must be received by Mary Peart at Government Equalities Office via LGBT.tender@geo.gov.uk. Copies should be received no later than **4pm on 2nd March**. Late tenders will not be considered.

5 If having read the enclosed specification you decide not to submit a tender, I would be grateful if you could send your reasons (though you are under no obligation to do so) to the above address marked 'No Tender'.

6 Please contact mary.peart@geo.gov.uk if you have any questions about the tendering procedure.

Yours sincerely.

Mary Peart

**DOCUMENT 1**

**INSTRUCTIONS ON TENDERING PROCEDURES**

1 These instructions are designed to ensure that all tenders are given equal and fair consideration. It is important therefore that you provide all the information asked for in the format and order specified. Please contact Mary Peart mary.peart@geo.gov.uk if you have any doubts as to what is required or you have difficulty in providing the information requested. Pre-tender negotiations are notallowed.

2 Please note that references to the 'Department' throughout these documents mean Minister for Women and Equalities acting through her representatives in the DfE/Government Equalities Office.

**Contract Period**

3 The contract is to be for a period of during March/April 2018.

**Incomplete Tender**

4 Tenders may be rejected if the information asked for in the ITT and Specification is not given at the time of tendering.

**Indicative procurement timetable**

5 The indicative timetable for the procurement is:

|  |  |
| --- | --- |
| Tender documents issued | w/c 12/02/2018 |
| Last day for submission of clarifications | 21/02/2018 |
| Last day for DfE to respond to clarifications | 23/02/2018 |
| Deadline for tender responses to be received | 02/03/2018 |
| Evaluation | 05/03/2018 |
| Clarification Meetings if required | 06/03/2018 |
| Department announcement of preferred bidder | 06/03/2018 |
| 10 day standstill period ends | 16/03/2018 |
| Contract fine-tuning with preferred bidder to take account of the solution | 16/03/2018 |
| Contract commencement  | 16/03/2018 |

**Receipt of Tenders**

6 Tenders will be received up to the time and date stated. Those received before the due date will be retained unopened until then. It is the responsibility of the tenderer to ensure that their tender is delivered no later than the appointed time.

**Acceptance of Tenders**

7 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.

**Inducements**

8 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.

**Confidentiality of Tenders**

9 Please note the following requirements, you must not:

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

Failure to comply with these conditions may disqualify your tender.

**Costs and Expenses**

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

**Debriefing**

11 Following the award of contract, debriefing will be available to unsuccessful tenderers on request.

**Evaluation Criteria**

12 The tender process will be conducted in a manner that ensures tenders are evaluated fairly to ascertain the economically most advantageous tender.

13 Your capability to perform the contract will be evaluated using the criteria set out in Document 4. Only the top 3 scoring organisations in the selection stage will have their tenders assessed.

14 Your response to the tender specification will be evaluated using the criteria set out in Document 4.

**Tender Period**

15 Due to the intensive evaluation process the Department requires tenders to remain valid for a period specified.

**Basis of the Contract**

16 The specification in Document 3 (p11), and the terms and conditions in Attachment 1, together with any special requirements, will form the basis of the contract between the successful tenderer and the Secretary of State for Education.

**Format of Bids**

17 Tenderers should present their proposals in the following structure:

**Section 1 Table of Contents**

**Section 2 Experience and Subject Matter Expertise**

**Section 3 Project Management and Timetable**

**Section 4 Networks and Communication/Dissemination Strategy**

**Section 5 Security of Data**

**Section 6 Costs and Value for Money**

**Section 7 Declarations, Undertakings and Attachments** (see Document 5)

18 Each section corresponds to the evaluation criteria and we would strongly encourage tenderers to base their bids on this evaluation criteria (Document 4). You are welcome to display this structure in a way that most effectively and efficiently presents your bid (e.g. a word document).

**Conclusions**

19 Whilst every endeavour has been made to give tenderers an accurate description of the Department's requirement, tenderers should make their own assessment about the methods and resources needed to meet those requirements.

**DOCUMENT 2**

**DEPARTMENTAL STANDARD REQUIREMENTS**

**Freedom Of Information**

1 The Department is committed to open government and to meeting their responsibilities under the Freedom of Information Act 2000. Accordingly, all information submitted to the department may need to be disclosed in response to a request under the Act. If you consider that any of the information included in your tender is commercially sensitive, please identify it and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. You should be aware that, even where you have indicated that information is commercially sensitive, we may still be required to disclose it under the Act if a request is received. Please also note that the receipt of any material marked ‘confidential’ or equivalent by the department should not be taken to mean that we accept any duty of confidence by virtue of that marking. If a request is received, we may also be required to disclose details of unsuccessful tenders.

**Publication of Contract**

2 Under the Government’s Transparency requirements we are obliged to publish the contract between the Department and the successful tenderer(s) in full. The successful tenderer(s) should identify any information regarded as commercially sensitive and explain (in broad terms) what harm may result from disclosure and the time period applicable to that sensitivity. You should be aware that, even where you have indicated that information is commercially sensitive, we may still be required to disclose it if the public interest in disclosure outweighs withholding the information. See ‘[The Transparency of Suppliers and Government to the Public](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592358/TransparencyPrinciplesFebruary2017.pdf)’ for more detail.

**Information Sharing Across Government**

3 All Central Government Departments and their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement - including ensuring value for money and related aspects of good procurement practice.

4 For these purposes, the Department may disclose within Government any of the Contractor's documentation/information (including any that the Contractor considers to be confidential and/or commercially sensitive such as specific bid information) submitted by the Contractor to the Department during this Procurement. The information will not be disclosed outside Government. Contractors taking part in this competition consent to these terms as part of the competition process.”

**Cyber Essentials Scheme**

5 The Government has introduced its new Cyber Essentials Scheme in consultation with industry to mitigate the risk from common internet based threats.

6 It is mandatory for new Central Government contracts, which feature characteristics involving the handling of personal data and ICT systems designed to store or process data at the OFFICIAL level of the [Government Security Classifications scheme](https://www.gov.uk/government/publications/government-security-classifications) to comply with Cyber Essentials requirements.

7 All potential tenderers for Central Government contracts, featuring the above characteristics, should make themselves aware of [Cyber Essentials](https://www.gov.uk/government/publications/cyber-essentials-scheme-overview) and the requirements for the appropriate level of certification “or equivalent”.

8 As this requirement features the above characteristics, you are required to demonstrate in your tender response that:

* Your organisation has Cyber Essentials certification; or
* Your organisation will be able to secure Cyber Essentials certification prior to contract award; or
* Your organisation has equivalent evidence to support that you have appropriate technical and organisational measures to mitigate the risk from common internet based threats in respect to the following five technical areas:
1. Boundary firewalls and internet gateways - these are devices designed to prevent unauthorised access to or from private networks, but good setup of these devices either in hardware or software form is important for them to be fully effective.
2. Secure configuration – ensuring that systems are configured in the most secure way for the needs of the organisation
3. Access control – Ensuring only those who should have access to systems to have access and at the appropriate level.
4. Malware protection – ensuring that virus and malware protection is installed and is up to date
5. Patch management – ensuring the latest supported version of applications is used and all the necessary patches supplied by the vendor have been applied.

Any equivalent evidence must be verified by a technically competent and independent third party.

9 The successful tenderer will be required to provide evidence of Cyber Essentials or [Cyber Essentials Plus] certification “or equivalent” (i.e. demonstrate they meet the five technical areas the Cyber Essentials Scheme covers) prior to contract award.

10 The successful tenderer will be required to secure and provide evidence of [Cyber Essentials] or [Cyber Essentials Plus] re-certification [select the relevant level]“or equivalent” (i.e. demonstrate they meet the five technical areas) on an annual basis.

11 Details of certification bodies are available at: <https://www.cyberstreetwise.com/cyberessentials>

**Data Security Standards**

12 For contracts which require the holding or processing of either personal data and/or OFFICIAL data the successful contractor will need to assure the Department that they can comply with the Department’s security standards.

13 Departmental security standards are listed as contract clauses in an annex to this letter (Attachment 2).

**Prompt Payment Policy**

14 Government’s aim is to pay 80% of all correctly submitted invoices within 5 days of receipt and we are 100% committed to paying correctly submitted invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the Department.

15 The payment period will be deemed to have started when a correctly submitted invoice reaches the nominated address. Contractors can assume receipt to be two days after mailing (by first class post). The thirty day “clock” therefore commences two days after mailing first class.

16 A correct invoice is one that is:

* delivered in timing in accordance with the contract;
* that is for the correct sum;
* In respect of goods / services supplied or delivered to the required quality (or are expected to be at the required quality);
* include the date, supplier name, contact details and bank details;
* which quote the relevant purchase order / contract reference;
* which has been delivered to the nominated address.

17 Any correctly submitted invoices that are not paid within 30 days will be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998.

**Sub-contracting to Small and Medium Enterprises (SMEs)**

18 DfE is committed to removing barriers to SME participation in its contracts, and would like to also actively encourage its larger suppliers to make their sub-contacts accessible to smaller companies and implement SME-friendly policies in their supply-chains.  This can be achieved by advertising subcontracting opportunities on Contracts Finder and implementing the principles of the SME and Growth Agenda in your own organisation.

19 To help us measure the volume of business we do with SMEs, we will be asking DFE suppliers to provide us with information about the size of your own organisation and those in your supply chain.   We may ask about volumes of business that will flow from this contract down your supply chains, and ask you to quantify that for us.   This data will help us contribute towards Government targets on the use of SMEs. We may also publish success stories and examples of good practice on our website

**Armed Forces Covenant**

20 The Armed Forces Covenant is a public sector pledge from Government, businesses, charities and organisations to demonstrate their support for the armed forces community. The Covenant was brought in under the Armed Forces Act 2011 to recognise that the whole nation has a moral obligation to redress the disadvantages the armed forces community face in comparison to other citizens, and recognise sacrifices made.

21 The Covenant’s 2 principles are that:

• the armed forces community should not face disadvantages when compared to other citizens in the provision of public and commercial services

• special consideration is appropriate in some cases, especially for those who have given most such as the injured and the bereaved.

22 The Department encourages all Tenderers, and their suppliers, to sign the Corporate Covenant, declaring their support for the Armed Forces community by displaying the values and behaviours set out therein.

23 Guidance on the various ways you can demonstrate your support through the Corporate Covenant is at [The Corporate Covenant](https://www.gov.uk/government/policies/armed-forces-covenant).

24 If you wish to register your support you can provide a point of contact for your company on this issue to the Armed Forces Covenant Team at the address below, so that the MOD can alert you to any events or initiatives in which you may wish to participate. The Covenant Team can also provide any information you require in addition to that included on the website.

Email address: covenant-mailbox@mod.uk

Address: Armed Forces Covenant Team

Zone D, 6th Floor, Ministry of Defence,

Main Building, Whitehall, London, SW1A 2HB

25 Paragraphs 20-25 above are not a condition of working with the Department now or in the future, nor will this issue form any part of the tender evaluation, contract award procedure or any resulting contract. However, the Department very much hopes you will want to provide your support.

**Conflicts of interest**

26 The Department may exclude an organisation if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.

27 Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the organisation to inform the Department, detailing the conflict in a separate Appendix. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by the Department should not represent a conflict of interest for the organisation.

**Disability Confident Scheme**

28 The Department for Education is a Disability Confident leader. Through the Disability Confident campaign, the government is working with employers to remove barriers, increase understanding and ensure that disabled people have the opportunities to fulfil their potential and realise their aspirations.

29 The Department encourage other employers to sign up to the disability confident scheme. It is open to all employers and there are three levels ranging from ‘Committed’ to ‘Leader’ with employers having to meet certain criteria to reach each level.

30 Employers who sign up to the disability confident scheme ensure that they can:

* draw from the widest possible pool of talent;
* secure and retain high quality staff who are skilled, loyal and hard working;
* save time and money on the costs of recruitment and training by reducing staff turnover;
* keep valuable skills and experience;
* reduce the levels and costs of sickness absences; improve employee morale and commitment by demonstrating that they treat all employees fairly.

31 Disability confident employers can use the disability confident branding in their communications and when advertising jobs.

32 Find out more about the aims of disability confident, why becoming a disability confident employer will be good for your business and how you will be supported through your journey to being a Disability Confident leader [here](https://www.gov.uk/guidance/disability-confident-how-to-sign-up-to-the-employer-scheme).

**DOCUMENT 3**

**SPECIFICATION**

**1 Introduction/Background**

The Government Equalities Office is seeking the development of a guide which aims to share international best practice on equality with regard to protecting against discrimination on the grounds of sexual orientation, gender identity or expression and sex characteristics. Although 36 out of 52 Commonwealth member states criminalise homosexuality, there has been progress in some parts of the Commonwealth, such as Nauru, Seychelles and Mozambique decriminalising same-sex acts in the last couple of years. But positive achievements go beyond decriminalisation of same-sex acts and a number of countries have laws protecting against discrimination in employment, allow organisations working on these issues to register, and/or have other inclusive policies. Celebrating and sharing these positive steps is vital in order to ensure this progress continues. The upcoming Commonwealth Summit presents an opportunity to engage with Commonwealth member states and continue the UK’s special responsibility to advance equality across the Commonwealth for people with minority sexual orientations and gender identities.

There is currently a gap in the literature when it comes to sharing diverse and up-to-date best practice examples of how Commonwealth member states are protecting and supporting citizens with a minority sexual orientation, gender identity or expression, or minority sex characteristics. For instance, examples of how some governments successfully decriminalised same-sex conducts, reformed their penal code, developed policy to address sexuality- and gender-related bullying and hate crime, or supported civil society to work in this area. This means there is limited information to support elected and policy officials who are pursuing different options to protect people with a minority sexual orientation, gender identity or expression, or sex characteristics. This literature gap is not due to a lack of real-life examples; an increasing number of Commonwealth countries are taking steps to advance equality in this area. However, most products focus on reviewing existing discriminatory laws or equipping activists to create change. As a result, we are seeking the development of a guide sharing best-practice, targeted towards an officials-level audience instead, and representing the diversity of options available to policy makers and government officials to improve the lives of people with a minority sexual orientation, gender identity or expression, or sex characteristics.

**2 Purpose**

The Government Equalities Office is seeking to award a short contract (during March 2018) for delivery of the guide. We expect the guide to achieve the following outcomes:

1. Support elected and policy officials in the Commonwealth to understand the need to promote equality from a policy perspective for citizens with a minority sexual orientation, gender identity or expression, or sex characteristics;
2. Increase this audience’s awareness of the number of countries in all regions of the Commonwealth and beyond that have made steps towards equality for this group;
3. Demonstrate that there are a number of different ways of effectively promoting equality for people with a minority sexual orientation, gender identity or expression, or sex characteristics.

There are a variety of ways to achieve these aims and we are open to creative proposals in the bids. However, some expectations include:

Cultural sensitivity when it comes to the approach, tone and language used in the guide;

A guide that is accessible and engaging to read. For example, an appropriate length with engaging content;

A guide that is targeted to policy and elected officials working in different governments;

The use of diverse examples from across the Commonwealth (and some examples outside the Commonwealth where this is useful for particular regions or to share best practice in a particular subject-area);

The inclusion of examples from not only legislation but also policy-making and practice.

In terms of budget, we will consider proposals which deliver value for money.

**Indicative timetable**

|  |  |
| --- | --- |
| **Date**  | **Activity**  |
| **w/c 12/02/2018**  | Tender competition opens  |
| **02/03/2018**  | Deadline for applications from bidders  |
| **06/03/2018**  | Department announces preferred bidder |
| **16/03/2018**  | Contract commencement  |
| **30/03/2018**  | Completion of the guide content |
| **13/04/2018**  | Completion of the printing, publishing and dissemination of the guide |
| **w/c 16/04/2018**  | Launch of the guide  |
| **w/c 16/04/2018** | Payment on fulfilment of the contract |

**4 Security of Data**

Please include a security plan that explains how you will ensure that departmental and personal data will be stored securely and protected.

**5 Costs**

5.1Please give a detailed breakdown of costs (excluding VAT).

5.2Payments will be made by BACS transfer following receipt of a valid invoice.

5.3The successful tenderer should provide details of discounts for prompt payment.

**6 VAT**

6.1Please state clearly when submitting prices whether or not VAT will be charged.

6.2 Where the contract price agreed between the Department and contractor is inclusive of any VAT, further amounts will not be paid by the Department should a vatable supply claim be made at any later stage.

6.3 Where the overall contract price is exclusive of VAT, the Department will pay any VAT incurred at the prevailing rate (currently 20%). If the VAT rate changes the Department will pay any VAT incurred at the new rate.

6.4 It is the responsibility of tenderers to check the VAT position with HMRC before submitting a bid.

**7 Contract Management**

7.1. The GEO reserves the right to:

* Withdraw this tender at any time without awarding a call-off contract
* Make whatever changes it sees fit to the procurement timeline.

7.2. Any communications and marketing plans promoting the guide would be subject to clearance by GEO’s communications team.

**8 Supply Chain**

8.1. As a member of a public body, the GEO is subject to the provisions of the Freedom of Information Act 2000 (FOIA) in respect of information it holds (including third party information). Any member of the public or other interested party may make a request for information.

8.2. The Authority shall treat all Suppliers’ responses as confidential during the procurement process. Requests for information received following the procurement process shall be considered on a case-by-case basis, applying the principles of FOIA, which permits certain information to be withheld, for example where disclosure would be prejudicial to a party’s commercial interests, and in accordance with the GEO’s transparency obligations.

8.3. Suppliers are therefore responsible for ensuring that any confidential or commercially sensitive information, the disclosure of which would be likely to have a negative effect on the supplier, has been clearly identified to GEO when submitting a tender. The GEO shall consider any requests from a supplier that certain information should remain confidential but shall make the final decision as to whether any such information should be disclosed pursuant to the FOIA.

**Document 4**

**Evaluation Criteria**

**Annex A: Evaluation Model**

This matrix will be used as a guide only to ensure a consistent approach is taken when scoring the bids. Evaluators will have the scope to use their own judgement and discretion when awarding scores under each evaluation criteria heading and they should make appropriate notes to validate all scores awarded. In general terms higher scores will be awarded when the evidence provided demonstrates and provides high confidence in reliable delivery of the required services. Lower scores will be given when the evidence provided doesn’t not demonstrate and/or provide confidence in reliable delivery of the requirement as specified.

|  |  |  |
| --- | --- | --- |
| **Category** | **Evidence and Detail** | **Evaluation** |
| Experience and Subject Matter Expertise | Proposals must include detail of prior experience of the development of similar products in size, scope and content. Proposals should demonstrate the bidder’s expert knowledge in international issues relating to sexual orientation, gender identity or expression or sex characteristics, and equalities more broadly. For instance, by including details of suggested content and tone of the product. Proposals should also show how this expertise will feed into the process of designing, researching, producing and disseminating the guide. | A good bid will show clear relatable experience – i.e. a high score will be given to bids that can show experience working with pots of roughly this size, with evidence of expert knowledge in the subject, and evidence of delivering on time and to standard. This will include not only showing experience of developing similar products, but successful experience with positive outcomes.A good bid will also show a thoughtful and sensitive approach to this subject. |
| Timetable and project management  | Proposals must include a detailed timetable demonstrating how the product will be delivered on time, how the project will be managed effectively (including risk mitigation) and how the bidder will communicate regularly with the GEO. | A good bid will show the breakdown of each development phase of the product and a clear timetable.A good bid will also identify risks to delivering on time and propose effective risk mitigation. |
| Communications Strategy and Networks  | Proposals should include a dissemination strategy for advertising and promoting the guide with officials across the Commonwealth and propose ways to ensure that the guide meets the needs of this audience.  | A good bid will show:1. A plan for swiftly and clearly disseminating the product
2. Ways to engage with policy and elected officials in different countries with respect to different levels of protection/discrimination for people with a minority sexual orientation, gender identity and/or expression or sex characteristics
3. Plan for targeting those with greatest scope for change
4. How to embed government values of equality and diversity
5. A strong, established network or the ability to for these networks and reach out to potential contributers when required. Since the development and distribution of the guide relies upon relationships with officials and parliamentarians on an international level, a strong bid will show an extensive, diverse network.
 |
| Security of Data  | Proposals should include information concerning how any government data or other sensitive data will be securely managed and protected, as well as how any primary data will be gathered with informed consent of participants. | A good bid will show a high degree of assurance that data will only be collected as required for reasonable purposes and that it will be managed and protected in an appropriate manner. |
| Costs and VAT  | Proposals should include details of how costs relate to benefits and outcomes. Where flexibilities in costs are offered, proposals should also show how this will impact on value for money questions.As detailed in the ITT, bids should include a clear funding proposal with a detailed breakdown of all costs relating to the project from start to completion. The proposal should include total costs as well as a breakdown of costs, and should show (fully-costed) flexibility if and where it exists. | A good bid will show clear correlation between costs and benefits to the scheme overall. Where flexibilities in cost are available/optional a good bid will also show the impact of these flexibilities on outcomes in order to facilitate decision-making. A good bid will clearly show that the product can be delivered with the budget outlined. If bids should exceed the published budget the Department reserves the right to reject the bid in its entirety and if costs are not given with the detail requested then no score will be awarded for this element.High marks will be awarded for bids that show clear VfM (cost to benefit ratio) whilst retaining a low overall budget. |

**Annex B: Evaluation Matrix**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Question (all reflected in Document 2, section 4 of the tender documentation)** | **Feedback** | **Score (out of 5)** | **Weighting** | **Weighted Score** |
| **Quality (70%)** |  |  |  |  |
| Experience and Subject Matter Expertise: Does the bid show clear experience of successfully working with bids of similar size and on a related subject? Does the bid show evidence of, or access to, expert knowledge of the subject and a clear, sensible and sensitive approach which will deliver the intented outcomes?  |  |  | X2 |  |
| Project/Risk Management and Timetable: Does the bid include a clear, realistic timetable for the research, write-up, design, printing and disseminating the product? Does the bid include a clear set of proposals relating to payment, security of information, sensitivity with respect to the subject matter, due diligence, risk mitigation and evaluation? Are these proposals measurable and proportionate? |  |  | X1 |  |
| Network and Comms plans: Does the bid show evidence of existing, diverse networks in the desired areas and/or the ability to form/develop these diverse networks? Does the bid include a comprehensive communications strategy aimed at disseminating the product and engaging officials in officials in other governments with the aim of creating a positive outcome for equality? Does the bid set out how this will be achieved on time? |  |  | X1.5 |  |
| Security of Data: Does the bid include a proposal for how personal and financial data would be collected, managed and protected? Does the proposal offer a high degree of assurance around questions of data security? |  |  | X0.5 |  |
| **Cost (30%)** |  |  |  |  |
| Costs and VAT: Does the bid clearly set out final costs for this scheme, how this will be spent (staff, expenses, etc.) and detail flexibilities where they might exist? Does the overall budget fit within a reasonable cost? If not, are there clear and acceptable reasons why not?Does the bid offer a good cost to proposed benefit ratio and does it show clear correlation between costs and benefits to the scheme overall? Where flexibilities in cost are available/optional does the bid clearly show the impact of these flexibilities on outcomes and therefore on value for money? |  |  | X1 |  |
|  |  |  | **TOTAL:** |  |

Annex C Scoring System:

|  |  |
| --- | --- |
| Mark | Description |
| 1  | A score of 1 will result if no response is given and/or if the response is not acceptable and/or does not cover the required criteria.  |
| 2 | A score of 2 will reflect: either, that the bidder has not provided evidence to suggest how they will address a number of points under the evaluation criteria heading.  Tenders will in parts be sketchy with little or no detail given on how they will meet project requirementsor, that evidence provided is considered weak or inappropriate and it is unclear on how this relates to desired outcomes. |
| 3 | A score of 3 will address the majority of the points under each criteria heading but will lack some clarity or detail in how the proposed solutions will be achieved.  Evidence provided while giving generic or general statements is not specifically directed toward the aims/objectives of this project.  Any significant omission of key information as identified under each criteria heading will point towards a score of 2. |
| 4 | A score of 4 will reflect that bidders will have addressed in some detail all, or the majority of, the points listed under each criteria heading.  Evidence will have been provided to show not only what will be provided but will give some detail on how this will be achieved.  Bidders should make clear how their proposals relate directly to the aims of the project and be specific, rather than general, in the way proposed solutions will deliver the desired outcomes. |
| 5 | A score of 5 will indicate that bidders have fully addressed or exceeded all the points under each criteria heading, as well as demonstrating a deep understanding of the project.  All solutions offered are linked directly to project requirements and show how they will be delivered and the impact that they will have.  Proposals will contain novel or creative ideas which are realistic and which would enhance the service provision. To award a score of 4, bids would exceed normal expectations and should clearly be seen as offering value added solutions. |

**DOCUMENT 5**

**DECLARATIONS AND INFORMATION TO BE PROVIDED BY THE TENDERER**

**1 Grounds for mandatory exclusion**

You will be excluded from the procurement process if there is evidence of convictions relating to specific criminal offences including, but not limited to, bribery, corruption, conspiracy, terrorism, fraud and money laundering, or if you have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security obligations (except where this is disproportionate e.g. only minor amounts involved).

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the self-declaration.

|  |  |
| --- | --- |
|  2 | Grounds for mandatory exclusion |
| Question number | Question | Response |
| 2.1(a) | **Regulations 57(1) and (2)** The detailed grounds for mandatory exclusion of an organisation are set out on this [web page](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf), which should be referred to before completing these questions. Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the [webpage](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf). |
|  | Participation in a criminal organisation.  | Yes ☐No ☐If Yes please provide details at 2.1(b) |
|  | Corruption.  | Yes ☐No ☐If Yes please provide details at 2.1(b) |
|  | Fraud.  | Yes ☐No ☐If Yes please provide details at 2.1(b) |
|  | Terrorist offences or offences linked to terrorist activities | Yes ☐No ☐If Yes please provide details at 2.1(b) |
|  | Money laundering or terrorist financing | Yes ☐No ☐If Yes please provide details at 2.1(b) |
|  | Child labour and other forms of trafficking in human beings | Yes ☐No ☐If Yes please provide details at 2.1(b)  |
| 2.1(b) | If you have answered yes to question 2.1(a), please provide further details.Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction,Identity of who has been convictedIf the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents. |  |
| 2.2 | If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion ? (Self Cleaning) | Yes ☐No ☐ |
| 2.3(a) | **Regulation 57(3)**Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions? | Yes ☐No ☐ |
| 2.3(b) | If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines. |  |

Please Note: The department reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

|  |  |
| --- | --- |
| 3 | Grounds for discretionary exclusion  |
|  | Question | Response |
| 3.1 | **Regulation 57 (8)**The detailed grounds for discretionary exclusion of an organisation are set out on this [web page](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf), which should be referred to before completing these questions. Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. |
| 3.1(a) | Breach of environmental obligations?  | Yes ☐No ☐If yes please provide details at 3.2 |
| 3.1 (b) | Breach of social obligations?  | Yes ☐No ☐If yes please provide details at 3.2 |
| 3.1 (c) | Breach of labour law obligations?  | Yes ☐No ☐If yes please provide details at 3.2 |
| 3.1(d) | Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation’s assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State? | Yes ☐No ☐If yes please provide details at 3.2 |
| 3.1(e) | Guilty of grave professional misconduct? | Yes ☐No ☐If yes please provide details at 3.2 |
| 3.1(f) | Entered into agreements with other economic operators aimed at distorting competition? | Yes ☐No ☐If yes please provide details at 3.2 |
| 3.1(g) | Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure? | Yes ☐No ☐If yes please provide details at 3.2 |
| 3.1(h) | Been involved in the preparation of the procurement procedure? | Yes ☐No ☐If yes please provide details at 3.2 |
| 3.1(i) | Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions? | Yes ☐No ☐If yes please provide details at 3.2 |
| 3.1(j)3.1(j) - (i)3.1(j) - (ii)3.1(j) –(iii)3.1(j)-(iv) | Please answer the following statementsThe organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.The organisation has withheld such information. The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award. | Yes ☐No ☐If Yes please provide details at 3.2Yes ☐No ☐If Yes please provide details at 3.2Yes ☐No ☐If Yes please provide details at 3.2Yes ☐No ☐If Yes please provide details at 3.2 |

|  |  |  |
| --- | --- | --- |
| 3.2 | If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning) |  |

**Taking Account of Bidders’ Past Performance**

The Department may assess the past performance of a Supplier (through a Certificate of Performance provided by a Customer or other means of evidence). The Department may also assess whether specified minimum standards for reliability for such contracts are met.

In addition, the Department may re-assess reliability based on past performance at key stages in the procurement process (i.e. supplier selection, tender evaluation, contract award stage etc.). Suppliers may also be asked to update the evidence they provide in this section to reflect more recent performance on new or existing contracts (or to confirm that nothing has changed).

**Non-payment of taxes/social security contributions**

The Department reserves the right to use its discretion to exclude a supplier where it can demonstrate the supplier’s non-payment of taxes/social security contributions where no binding legal decision has been taken.

Please note that this section relating to tax compliance only applies where the Department has indicated that the contract is over £5million in value.

“Occasion of Tax Non-Compliance” means:

1. any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:
	* + 1. a Relevant Tax Authority successfully challenging the Supplier 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;
			2. the failure of an avoidance scheme which the Supplier 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
2. the Supplier’s tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a penalty for civil fraud or evasion.

|  |
| --- |
| From 1 April 2013 onwards, have any of your company’s tax returns submitted on or after 1 October 2012; (Please indicate your answer by marking ‘X’ in the relevant box). |
| 3.1 | Given rise to a criminal conviction for tax related offences which is unspent, or to a civil penalty for fraud or evasion; | ▢ Yes▢ No  |
| 3.2 | Been found to be incorrect as a result of:* + - HMRC successfully challenging it under the General Anti-Abuse Rule (GAAR) or the “Halifax” abuse principle; or
		- a tax authority in a jurisdiction in which the legal entity is established successfully challenging it  under any tax rules or legislation that have an effect equivalent or similar to the GAAR or the “Halifax” abuse principle; or
		- the failure of an avoidance scheme which the Supplier was involved in and which was, or should have been, notified under the Disclosure of Tax Avoidance Scheme (DOTAS) or any equivalent or similar regime in a jurisdiction in which the Supplier is established.
 | ▢ Yes▢ No  |
| If answering “Yes” to either 3.1 or 3.2 above, the Supplier may provide details of any mitigating factors that it considers relevant and that it wishes the Department to take into consideration.  This could include, for example: * + Corrective action undertaken by the Supplier to date;
	+ Planned corrective action to be taken;
	+ Changes in personnel or ownership since the Occasion of Non-Compliance (OONC); or
	+ Changes in financial, accounting, audit or management procedures since the OONC.

In order that the Department can consider any factors raised by the Supplier, the following information should be provided:* A brief description of the occasion, the tax to which it applied, and the type of “non-compliance” e.g. whether HMRC or the foreign tax authority has challenged pursuant to the GAAR, the “Halifax” abuse principle etc.
* Where the OONC relates to a DOTAS, the number of the relevant scheme.
* The date of the original “non-compliance” and the date of any judgement against the Supplier, or date when the return was amended.
* The level of any penalty or criminal conviction applied.

  |

**Defining Different Types of Organisations**

The Government Equalities Office is keen to collect information about SMEs. We are particularly interested in discovering how many SMEs apply for our contracts through the tendering process. Completion of the table below is for departmental information purposes only and will have no effect on the evaluation process outcomes. Government is committed to changing how it does business to make sure that small companies, charities and voluntary sector organisations are included and encouraged to compete for our contracts.

A voluntary sector organisation may also be a SME if it has the same attributes.

Defn; A SME must be autonomous, an EU Company not owned or controlled by a non EU parent, and employ less than 250 staff and have sales below €50million

*Source -*http://ec.europa.eu/enterprise/policies/sme/files/sme\_definition/sme\_report\_2009\_en.pdf

Please complete the table below.

|  |
| --- |
| **Describe your Organisation** |
| **What type of supply arrangement best describes you in relation to this bid.**  | **Delete as appropriate**  |
| 1. | We are a SME by definition  | Yes/No  |
| 2. | We are a Charity or Voluntary Sector Organisation (VSO) | Yes /No |
| 3. | We are a mutual organisation | Yes/No |
| 4. | We anticipate using a supply chain to deliver against this service.  | Yes/No |
| 5. | We estimate that that our service delivery will be i.e. 40% delivered by VSO’s/SMEs  | …….% |
| 6. | If none of the above applies please describe the type of organisation you are:  |
| 7. | Please provide us with your Dun and Bradstreet Number, or a consortium, the lead bidder’s number. <http://www.dnb.co.uk/dandb-duns-number> |  |

The Department uses Dun and Bradstreet Numbers to manage its data around suppliers; we strongly encourage all suppliers to apply for a free Dunn’s numbers. The link to apply is:-<http://www.dnb.co.uk/myduns> - add ‘GOVERNMENT SUPPLIER’ as a reason for requesting your D&B DUNS number.

Do not delay returning your tender if you do not already have a Dun and Bradstreet number, returning your tender within the deadline is more important.

*For internal official use only.*

*Please return this form at the end of the evaluation period to the* *Commercial Contact Point**.*

Declarations

1 ...............................................……………………………. (Name of tenderer) declares that we accept the Department’s standard terms and conditions included at Attachment 1 as the basis of the contract; and

2 agree that the Department may disclose the Contractor's information/documentation (submitted to the Department during this Procurement) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes.

3 declare that we have not communicated to any other party the amount or approximate amount of the tender price other than in confidence and for the express purpose of obtaining insurances or a bond in connection with this tender. The tender price has not been fixed nor adjusted in collusion with any third party, and

4 declare that the tender will remain valid until *(insert a date)* and that we are not entitled to claim from the Department any costs or expenses incurred in preparing the tender or subsequent negotiations whether or not the tender is successful.

signed on behalf of the Tenderer ..................................................................................

.

**Attachment 1**

**Draft Terms and Conditions**

**CONTRACT FOR...\*\*\****Insert the Contract Title Here***\*\*\***

 **THIS CONTRACT IS DATED ..\*\*\****Insert Date, in manuscript, the Department Signed the Contract Here***\*\*\***

 **Parties**

 **1) The Secretary of State for Education whose Head Office is at Sanctuary Buildings, Great Smith Street, London, SW1P 3BT acting as part of the Crown (“the Department”); and**

\*\*\**Choose the appropriate paragraph 2 from those below, then delete the others.\*\*\**

 **2)** \*\*\**enter company name and registered number*\*\*\* **whose registered office is at \*\*\****enter the full address***\*\*\* (“the Contractor”)**

 **2) \*\*\****enter full local authority name***\*\*\* of \*\*\****enter the full address***\*\*\* (“the Contractor”).**

 **2) \*\*\****enter the name of the university or further education college***\*\*\* of \*\*\****enter the full address***\*\*\* (“the Contractor”).**

**2)** \*\*\**enter individual's name*\*\*\* **(a partner in the partnership of \*\*\****enter the name of the partnership***\*\*\* of \*\*\****enter the full address***\*\*\* (“the Contractor”)**

 **2)** \*\*\**enter individual's name*\*\*\* **(trading as \*\*\****enter the trading name***\*\*\*) of \*\*\****enter the full address***\*\*\* (“the Contractor”)**

 **Recitals**

 The Contractor has agreed to \*\*\**briefly state the nature of the services*\*\*\* on the terms and conditions set out in this Contract.

 The Department's reference number for this Contract is \*\*\**enter a unique reference no.*\*\*\*.

**1 Interpretation**

**1.1** In this Contract the following words shall mean:-

|  |  |
| --- | --- |
| “the Services”" | the services to be performed by the Contractor as described in Schedule 1; |
| "Affiliate" | in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time; |
| “Central Government Body”“the Contract Manager” | means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:(a) Government Department;(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);(c) Non-Ministerial Department; or(d) Executive Agency;\*\*\**name and full address of the Department's Contract manager*\*\*\* |
| "Contractor Personnel" | all employees, agents, Contractors and contractors of the Contractor and/or of any Sub-contractor; |
| “the Contractors Contract Manager | *\*\*\* name of the Contractors Contract Manager\*\*\** |
|  “Confidential Information” | the Department's Confidential Information and/or the Contractor's Confidential Information; |
| "Contracting Department" | any contracting Department as defined in Regulation 5(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations 2000 other than the Department; |
| "Contractor Personnel" | all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor; |
| "Control" | means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **"Controls"** and **"Controlled"** shall be interpreted accordingly; |
| **“**Crown” | means Queen Elizabeth II and any successor |
| "Crown Body" | any department, office or agency of the Crown; |
| "Department’s Confidential Information" | all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Department, including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential; |
| "Environmental Information Regulations" | the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant Government Department in relation to such regulations; |
| "FOIA" | the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation; |
| “Her Majesty's Government” | means the duly elected Government for the time being during the reign of Her Majesty and/or any department, committee, office, servant or officer of such Government |
| "Information" | has the meaning given under section 84 of the Freedom of Information Act 2000;  |
| "Personal Data" | shall have the same meaning as set out in the Data Protection Act 1998; |
| “Property”  | means the property, other than real property, issued or made available to the Contractor by the Client in connection with the Contract. |
| “Regulatory Bodies” | those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Department and **"Regulatory Body"** shall be construed accordingly. |
| "Request for Information" | a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations; |
| "SME" | means a micro, small or medium-sized enterprise defined in accordance with the European Commission Recommendation 2003/361/EC and any subsequent revisions. |
| "Sub-contractor" | the third party with whom the Contractor enters into a Sub-contract or its servants or agents and any third party with whom that third party enters into a Sub-contract or its servants or agents; |
| "Working Day" | any day other than a Saturday, Sunday or public holiday in England and Wales. |

**1.2** References to “Contract” mean this contract (and include the Schedules). References to “Clauses” and “Schedules” mean clauses of and schedules to this Contract. The provisions of the Schedules shall be binding on the parties as if set out in full in this Contract.

**1.3** Reference to the singular include the plural and vice versa and references to any gender include both genders. References to a person include any individual, firm, unincorporated association or body corporate.

**2 Commencement and Continuation**

 The Contractor shall commence the Services on \*\*\**enter start date*\*\*\* and, subject to Clause 10.1 shall complete the Services on or before \*\*\**enter end date*\*\*\*

\*\*\**Add the following line if the contract will be signed late after the start date of the contract*\*\*\*

This Contract shall be deemed to have been effective from \*\*\**enter same start date as above*\*\*\*.

**3 Contractor's Obligations**

**3.1** The Contractor shall promptly and efficiently complete the Services in accordance with the provisions set out in Schedule 1,\*\*\**Include the following lines if you will have a schedule 3*.\*\*\* and the special conditions set out in Schedule 3. Where there is any conflict between the terms of this Contract and the special conditions set out in Schedule 3, the special conditions shall prevail.

**3.2** The Contractor shall comply with the accounting and information provisions of Schedule 2.

**3.3** The Contractor shall comply with all statutory provisions including all prior and subsequent enactments, amendments and substitutions relating to that provision and to any regulations made under it.

**4 Departments Obligations**

 The Department will comply with the payment provisions of Schedule 2 provided that the Department has received full and accurate information and documentation as required by Schedule 2 to be submitted by the Contractor for work completed to the satisfaction of the Department.

**5 Changes to the Department's Requirements**

**5.1** The Department shall notify the Contractor of any material change to the Department's requirement under this Contract.

**5.2** The Contractor shall use its best endeavours to accommodate any changes to the needs and requirements of the Department provided that it shall be entitled to payment for any additional costs it incurs as a result of any such changes. The amount of such additional costs to be agreed between the parties in writing.

**6 Management**

**6.1** The Contractor shall promptly comply with all reasonable requests or directions of the Contract Manager in respect of the Services.

**6.2** The Contractor shall address any enquiries about procedural or contractual matters in writing to the Contract Manager. Any correspondence relating to this Contract shall quote the reference number set out in the Recitals to this Contract.

**7 Contractor's Employees and Sub-Contractors**

**7.1** Where the Contractor enters into a contract with a supplier or contractor for the purpose of performing its obligations under the Contract (the “**Sub-contractor**”) it shall ensure prompt payment in accordance with this clause 7.1. Unless otherwise agreed by the Department in writing, the Contractor shall ensure that any contract requiring payment to a Sub-contractor shall provide for undisputed sums due to the Sub-contractor to be made within a specified period from the receipt of a valid invoice not exceeding:

7.1.1 10 days, where the Sub-contractor is an SME; or

7.1.2 30 days either, where the sub-contractor is not an SME, or both the Contractor and the Sub-contractor are SMEs,

The Contractor shall comply with such terms and shall provide, at the Department’s request, sufficient evidence to demonstrate compliance.

**7.2** The Department shall be entitled to withhold payment due under clause 7.1 for so long as the Contractor, in the Department’s reasonable opinion, has failed to comply with its obligations to pay any Sub-contractors promptly in accordance with clause 7.1. For the avoidance of doubt the Department shall not be liable to pay any interest or penalty in withholding such payment. .

**7.3** The Contractor shall take all reasonable steps to satisfy itself that its employees or sub-contractors (or their employees) are suitable in all respects to perform the Services.

**7.4** The Contractor shall immediately notify the Department if they have any concerns regarding the propriety of any of its sub-contractors in respect of work/services rendered in connection with this Contract.

**7.5** The Contractor, its employees and sub-contractors (or their employees), whilst on Departmental premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time.

**7.6** The Contractor shall ensure the security of all the Property whilst in its possession, during the supply of the Services, in accordance with the Department’s reasonable security requirements as required from time to time.

**8 Copyright**

*\*\*\*include the following if Copyright will be an issue in this Contract otherwise delete. Note that if this Contract involves copyright in IT based developments then the more formal copyright/intellectual property rights clause contained in the Library should be used.\*\*\**

 Copyright in all reports and other documents and materials arising out of the performance by the Contractor of their duties under this Contract are to be assigned to and shall vest in the Crown absolutely. This condition shall apply during the continuance of this Contract and after its termination howsoever arising.

**9 Warranty and Indemnity**

**9.1** The Contractor warrants to the Department that the obligations of the Contractor under this Contract will be performed by appropriately qualified and trained personnel with reasonable skill, care and diligence and to such high standards of quality as it is reasonable for the Department to expect in all the circumstances. The Department will be relying upon the Contractor's skill, expertise and experience in the performance of the Services and also upon the accuracy of all representations or statements made and the advice given by the Contractor in connection with the performance of the Services and the accuracy of any documents conceived, originated, made or developed by the Contractor as part of this Contract. The Contractor warrants that any goods supplied by the Contractor forming a part of the Services will be of satisfactory quality and fit for their purpose and will be free from defects in design, material and workmanship.

**9.2** Without prejudice to any other remedy, if any part of the Services is not performed in accordance with this Contract then the Department shall be entitled, where appropriate to:

**9.2.1** require the Contractor promptly to re-perform or replace the relevant part of the Services without additional charge to the Department; or

**9.2.2** assess the cost of remedying the failure (“the assessed cost”) and to deduct from any sums due to the Contractor the Assessed Cost for the period that such failure continues.

**9.3** The Contractor shall be liable for and shall indemnify the Department in full against any expense, liability, loss, claim or proceedings arising under statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to property whether belonging to the Department or otherwise arising out of or in the course of or caused by the provision of the Services.

**9.4** The Contractor shall be liable for and shall indemnify the Department against any expense, liability, loss, claim or proceedings arising as a result of or in connection with any breach of the terms of this Contract or otherwise through the default of the Contractor

**9.5** All property of the Contractor whilst on the Department's premises shall be there at the risk of the Contractor and the Department shall accept no liability for any loss or damage howsoever occurring to it.

**9.6** The Contractor shall ensure that it has adequate insurance cover with an insurer of good repute to cover claims under this Contract or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with this Contract. The Contractor shall upon request produce to the Department, its policy or policies of insurance, together with the receipt for the payment of the last premium in respect of each policy or produce documentary evidence that the policy or policies are properly maintained.

**10 Termination**

**10.1** This Contract may be terminated by either party giving to the other party at least \*\*\**enter notice period e.g. 7days, 30 days. 3 months etc.*\*\*\* notice in writing.

**10.2** In the event of any breach of this Contract by either party, the other party may serve a notice on the party in breach requiring the breach to be remedied within a period specified in the notice which shall be reasonable in all the circumstances. If the breach has not been remedied by the expiry of the specified period, the party not in breach may terminate this Contract with immediate effect by notice in writing.

**10.3** In the event of a material breach of this Contract by either party, the other party may terminate this Contract with immediate effect by notice in writing.

**10.4** This Contract may be terminated by the Department with immediate effect by notice in writing if at any time:-

\*\*\**Use this set of termination clauses if the Contractor is a Company.*\*\*\*

**10.4.1** the Contractor passes a resolution that it be wound-up or that an application be made for an administration order or the Contractor applies to enter into a voluntary arrangement with its creditors; or

**10.4.2** a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Contractor's property, assets or any part thereof; or

**10.4.3** the court orders that the Contractor be wound-up or a receiver of all or any part of the Contractor's assets be appointed; or

**10.4.4** the Contractor is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986.

**10.4.5** there is a change in the legal or beneficial ownership of 50% or more of the Contractor's share capital issued at the date of this Contract or there is a change in the control of the Contractor, unless the Contractor has previously notified the Department in writing. For the purpose of this Sub-Clause 10.4.5 “control” means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person by means of the holding of shares or the possession of voting power.

**10.4.6** the Contractor is convicted (or being a company, any officers or representatives of the Contractor are convicted) of a criminal offence related to the business or professional conduct

**10.4.7** the Contractor commits (or being a company, any officers or representatives of the Contractor commit) an act of grave misconduct in the course of the business;

**10.4.8** the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to the payment of Social Security contributions;

**10.4.9** the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to payment of taxes;

**10.4.10** the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to disclose any serious misrepresentation in supplying information required by the Department in or pursuant to this Contract.

**10.5** Nothing in this Clause 10 shall affect the coming into, or continuance in force of any provision of this Contract which is expressly or by implication intended to come into force or continue in force upon termination of this Contract.

\*\*\**Use this set of termination clauses if the Contractor is an individual or a partnership.*\*\*\*

**10.4.1** in England and Wales, a petition is presented for the Contractor's bankruptcy or a criminal bankruptcy order is made against the Contractor or he or she makes any composition or arrangement with or for the benefit of creditors or makes any conveyance or assignment for the benefit of creditors; or

**10.4.2** in Scotland, if the Contractor becomes apparently insolvent within the meaning of Section 7 of the Bankruptcy (Scotland) act 1985; or

**10.4.3** where the Contractor is a firm or a number of persons acting together in any capacity (including as trustees), any event referred to in Sub-Clauses 10.4.1 or 10.4.2 occurs in respect of any partner in the firm or any of those persons (including any trustees);

**10.4.4** the Contractor is convicted (or being a company, any officers or representatives of the Contractor are convicted) of a criminal offence related to the business or professional conduct;

**10.4.5** the Contractor commits (or being a company, any officers or representatives of the Contractor commit) an act of grave misconduct in the course of the business;

**10.4.6** the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to the payment of Social Security contributions;

**10.4.7** the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to payment of taxes;

**10.4.8** the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to disclose any serious misrepresentation in supplying information required by the Department in or pursuant to this Contract.

**10.5** Nothing in this Clause 10 shall affect the coming into, or continuance in force of any provision of this Contract which is expressly or by implication intended to come into force or continue in force upon termination of this Contract.

**11 Status of Contractor**

**11.1** In carrying out its obligations under this Contract the Contractor agrees that it will be acting as principal and not as the agent of the Department.

**11.2** The Contractor shall not say or do anything that may lead any other person to believe that the Contractor is acting as the agent of the Department.

**12 Confidentiality**

**12.1** Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:

**12.1.1** treat the other party's Confidential Information as confidential and safeguard it accordingly; and

**12.1.2** not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

**12.2** Clause12 shall not apply to the extent that:

**12.2.1** such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Clause 13 (Freedom of Information);

**12.2.2** such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

**12.2.3** such information was obtained from a third party without obligation of confidentiality;

**12.2.4** such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or

**12.2.5** it is independently developed without access to the other party's Confidential Information.

**12.3** The Contractor may only disclose the Department's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Project and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.

**12.4** The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Department's Confidential Information received otherwise than for the purposes of this Contract.

**[12.5** *\*\*\*Include one of these options and then delete this drafting note.\*\*\**

The Contractor shall ensure that their employees, servants or such professional advisors or consultants sign a confidentiality undertaking before commencing work in connection with the Contract. *\*\*\*OR\*\*\** The Contractor shall ensure that their employees, servants or such professional advisors or consultants are aware of the Contractor’s obligations under this Contract.**]**

**12.6** Nothing in this Contract shall prevent the Department from disclosing the Contractor's Confidential Information:

**12.6.1** on a confidential basis to any Central Government Body for any proper purpose of the Department or of the relevant Central Government Body;

**12.6.2** to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

**12.6.3** to the extent that the Department (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

**12.6.4** on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 12.6.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;

**12.6.5** on a confidential basis for the purpose of the exercise of its rights under this Contract, including audit rights, step-in rights and exit management rights; or

**12.6.6** 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 this Contract.

**12.7** The Department shall use all reasonable endeavours to ensure that any Central Government Body, Contracting Department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause 12 is made aware of the Department's obligations of confidentiality.

**12.8** Nothing in this clause 12 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.

**12.9** The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Department shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

**12.10** Subject to Clause 12.9, the Contractor hereby gives its consent for the Department to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.

**12.11** The Department may consult with the Contractor to inform its decision regarding any redactions but the Department shall have the final decision in its absolute discretion.

**12.12** The Contractor shall assist and cooperate with the Department to enable the Department to publish this Contract.

**13 Freedom of Information**

**13.1** The Contractor acknowledges that the Department is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Department to enable the Department to comply with its information disclosure obligations.

**13.2** The Contractor shall and shall procure that its Sub-contractors shall:

13.2.1 transfer to the Department all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

13.2.2 provide the Department with a copy of all Information in its possession, or power in the form that the Department requires within five Working Days (or such other period as the Department may specify) of the Department's request; and

13.2.3 provide all necessary assistance as reasonably requested by the Department to enable the Department to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

**13.3** The Department shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

**13.4** In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Department.

**13.5** The Contractor acknowledges that (notwithstanding the provisions of Clause 13) the Department may, acting in accordance with the Ministry of Justice’s Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (**“the Code”**), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Project:

13.5.1 in certain circumstances without consulting the Contractor; or

13.5.2 following consultation with the Contractor and having taken their views into account;

provided always that where 13.5.1 applies the Department shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor’s attention after any such disclosure.

**13.6** The Contractor shall ensure that all Information is retained for disclosure and shall permit the Department to inspect such records as requested from time to time.

**14 Access and Information**

 The Contractor shall provide access at all reasonable times to the Department's internal auditors or other duly authorised staff or agents to inspect such documents as the Department considers necessary in connection with this Contract and where appropriate speak to the Contractors employees.

**15 Transfer of Responsibility on Expiry or Termination**

**15.1** The Contractor shall, at no cost to the Department, promptly provide such assistance and comply with such timetable as the Department may reasonably require for the purpose of ensuring an orderly transfer of responsibility upon the expiry or other termination of this Contract. The Department shall be entitled to require the provision of such assistance both prior to and, for a reasonable period of time after the expiry or other termination of this Contract.

**15.2** Such assistance may include (without limitation) the delivery of documents and data in the possession or control of the Contractor which relate to this Contract, including the documents and data, if any, referred to in the Schedule.

**15.3** The Contractor undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of the Department to ensure an orderly transfer of responsibility.

**16** **Tax Indemnity**

**16.1** Where the Contractor is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.

**16.2** Where the Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.

**16.3** The Department may, at any time during the term of this contract, ask the Contractor to provide information which demonstrates how the Contractor complies with Clauses 16.1 and 16.2 above or why those Clauses do not apply to it.

**16.4** A request under Clause 16.3 above may specify the information which the Contractor must provide and the period within which that information must be provided.

**16.5** The Department may terminate this contract if-

(a) in the case of a request mentioned in Clause 16.3 above if the Contractor:

(i) fails to provide information in response to the request within a reasonable time, or

(ii) provides information which is inadequate to demonstrate either how the Contractor complies with Clauses 16.1 and 16.2 above or why those Clauses do not apply to it;

(b) in the case of a request mentioned in Clause 16.4 above, the Contractor fails to provide the specified information within the specified period, or

(c) it receives information which demonstrates that, at any time when Clauses 16.1 and 16.2 apply, the Contractor is not complying with those Clauses.

**16.6** The Department may supply any information which it receives under Clause 16.3 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.

\*\*\**Use this set of tax clauses if the Contractor is a Company.*\*\*\*

**16.7** The Contractor warrants and represents to the Department that it is an independent contractor and, as such, bears sole responsibility for the payment of tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this Contract or in relation to any payments made by the Contractor to its officers or employees in connection with this Contract.

**16.8** The Contractor will account to the appropriate authorities for any income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Contractor under this Contract or in relation to any payments made by the Contractor to its officers or employees in connection with this Contract.

**16.9** The Contractor shall indemnify Department against any liability, assessment or claim made by the HM Revenue and Customs or any other relevant authority arising out of the performance by the parties of their obligations under this Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by Department in connection with any such assessment or claim.

**16.10** The Contractor authorises the Department to provide the HM Revenue and Customs and all other departments or agencies of the Government with any information which they may request as to fees and/or expenses paid or due to be paid under this Contract whether or not Department is obliged as a matter of law to comply with such request.

\*\*\**Use this set of tax clauses if the Contractor is an individual or a partnership.*\*\*\*

**16.7** The Contractor warrants and represents to the Department that he is an independent contractor and, as such, bears sole responsibility for the payment of tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this Contract. The Contractor shall promptly and regularly pay all National Insurance Contributions due from it as a self-employed person and shall account to the HM Revenue and Customs for all taxes due from it in respect of the payments made to it under this Contract.

**16.8** If, notwithstanding Clause 7, the HM Revenue and Customs and/or any other appropriate agency consider that the Contractor is an employee of the Department for the purposes of tax and/or national insurance contributions; then the Department shall be entitled to terminate this Contract immediately and deduct from the payments payable to the Contractor under the terms of this Contract, such sums as the HM Revenue and Customs and/or other agencies require in respect of income tax and employee national insurance contributions. The deduction of such tax and national insurance contributions will not affect the status of the Contractor as self-employed for all other purposes.

**16.9** Without prejudice to the provisions of Clause 16.8 above, the Contractor shall indemnify the Department against any liability, assessment or claim made by the HM Revenue and Customs or any other relevant authority arising out of the performance by the parties of their obligations under this Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by the Department in connection with any such assessment or claim.

**16.10** The Contractor authorises the Department to provide the HM Revenue and Customs and all other departments or agencies of the Government with any information which they may request as to fees and/or expenses paid or due to be paid under this Contract whether or not the Department is obliged as a matter of law to comply with such request.

**16.11** The Contractor shall register for value added tax if and when required by law and shall promptly notify the Department for Work and Pensions of its liability for Class 2 and, where appropriate, Class 4 national insurance contributions.

**17 Data Protection Act**

**17.1** With respect to the parties' rights and obligations under this Contract, the parties agree that the Department is the Data Controller and that the Contractor is the Data Processor. For the purposes of this Clause 17, the terms “Data Controller”, “Data Processor”, “Data Subject”, “Personal Data”, “Process” and “Processing shall have the meaning prescribed under the DPA.

**17.2** The Contractor shall:

17.2.1 Process the Personal Data only in accordance with instructions from the Department (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Department to the Contractor during the period of the Contract);

17.2.2 Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by law or any Regulatory Body;

17.2.3 Implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

17.2.4 Take reasonable steps to ensure the reliability of any Contractor Personnel who have access to the Personal Data;

17.2.5 Obtain prior written consent from the Department in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;

17.2.6 Ensure that all Contractor Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause17;

17.2.7 Ensure that none of Contractor Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Department;

17.2.8 Notify the Department within five Working Days if it receives:

17.2.8.1 a request from a Data Subject to have access to that person's Personal Data; or

17.2.8.2 a complaint or request relating to the Department's obligations under the Data Protection Legislation;

17.2.9 Provide the Department with full cooperation and assistance in relation to any complaint or request made, including by:

17.2.9.1 providing the Department with full details of the complaint or request;

17.2.9.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Department's instructions;

17.2.9.3 providing the Department with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Department); and

17.2.9.4 providing the Department with any information requested by the Department;

17.2.10 Permit the Department or the Department’s Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Contractor's data processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Department to enable the Department to verify and/or procure that the Contractor is in full compliance with its obligations under this Contract;

17.2.11 Provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by the Department); and

17.2.12 Not Process or otherwise transfer any Personal Data outside the European

 Economic Area. If, after the Commencement Date, the Contractor (or any

 Sub-contractor) wishes to Process and/or transfer any Personal Data

 outside the European Economic Area, the following provisions shall apply:

17.2.12.1 the Contractor shall submit a request for change to the Department which shall be dealt with in accordance with any Change Control Procedure

17.2.12.2 the Contractor shall set out in its request for change details of the following:

(a) the Personal Data which will be Processed and/or transferred outside the European Economic Area;

(b) the country or countries in which the Personal Data will be Processed and/or to which the Personal Data will be transferred outside the European Economic Area;

(c) any Sub-contractors or other third parties who will be Processing and/or transferring Personal Data outside the European Economic Area; and

(d) how the Contractor will ensure an adequate level of protection and adequate safeguards (in accordance with the Data Protection Legislation and in particular so as to ensure the Department’s compliance with the Data Protection Legislation) in respect of the Personal Data that will be Processed and/or transferred outside the European Economic Area;

17.2.12.3 in providing and evaluating the request for change, the parties shall ensure that they have regard to and comply with then-current Department, Government and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing and/or transfers of Personal Data outside the European Economic Area and/or overseas generally; and

17.2.12.4 the Contractor shall comply with such other instructions and shall carry out such other actions as the Department may notify in writing, including:

(a) incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) in this Contract or a separate data processing agreement between the parties; and

(b) procuring that any Sub-contractor or other third party who will be Processing and/or transferring the Personal Data outside the European Economic Area enters into a direct data processing agreement with the Authority on such terms as may be required by the Department, which the Contractor acknowledges may include the incorporation of standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation).”

**17.3** The Contractor shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Department to breach any of its applicable obligations under the Data Protection Legislation.

**18 Amendment and variation**

 No amendment or variation to this Contract shall be effective unless it is in writing and signed by or on behalf of each of the parties hereto. The Contractor shall comply with any formal procedures for amending or varying contracts which the Department may have in place from time to time.

**19 Assignment and Sub-contracting**

 The benefit and burden of this Contract may not be assigned or sub-contracted in whole or in part by the Contractor without the prior written consent of the Department. Such consent may be given subject to any conditions which the Department considers necessary. The Department may withdraw its consent to any sub-contractor where it no longer has reasonable grounds to approve of the sub-contractor or the sub-contracting arrangement and where these grounds have been presented in writing to the Contractor.

**20** **The Contract (Rights of Third Parties) Act 1999**

This Contract is not intended to create any benefit, claim or rights of any kind whatsoever enforceable by any person not a party to the Contract.

**21 Waiver**

 No delay by or omission by either Party in exercising any right, power, privilege or remedy under this Contract shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy.

**22 Notices**

 Any notices to be given under this Contract shall be delivered personally or sent by post or by facsimile transmission to the Contract Manager (in the case of the Department) or to the address set out in this Contract (in the case of the Contractor). Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, 48 hours after posting or, if sent by facsimile transmission, 12 hours after proper transmission.

**23 Dispute resolution**

**23.1** The Parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the continuance of this Contract.

**23.2** Any dispute not capable of resolution by the parties in accordance with the terms of Clause 23 shall be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.

**23.3** No party may commence any court proceedings/arbitration in relation to any dispute arising out of this Contract until they have attempted to settle it by mediation, but any such mediation may be terminated by either party at any time of such party wishing to commence court proceedings/arbitration.

**24 Discrimination**

**24.1** The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.

**24.2** The Contractor shall take all reasonable steps to secure the observance of Clause 24.1 by all servants, employees or agents of the Contractor and all suppliers and sub-contractors employed in the execution of the Contract.

**25 Law and Jurisdiction**

 This Contract shall be governed by and interpreted in accordance with English Law and the parties submit to the jurisdiction of the English courts.

 As witness the hands of the parties

Authorised to sign for and on Authorised to sign for and on

behalf of the Secretary of behalf of \*\*\**insert full name*

State for Education *of Contractor*\*\*\*

Signature Signature

Name in CAPITALS Name in CAPITALS

Position in Organisation Position in Organisation

Address in full Address in full

Date Date

**Schedule 1**

[The agreed specification and/or work schedule will be included here]**Schedule 2**

**1** Table

\*\*\**Example Table*\*\*\*

|  |  |  |  |
| --- | --- | --- | --- |
| **Task** | **Cost** | **Total** | **Invoice date** |
| Attendance at management/editorial meeting. | 1 day @ £200 p.d. | £200 | 31/03/0X |
| Attendance at meeting with Departmental staff | 1 day @ £200 p.d. | £200 | 31/03/0X |
| Preparation of timetable showing all key stages. | 1.5 days @ £175 p.d. | £262.50 | 31 25/03/0X |
| Issuing an introductory letter to all agreed contributors outlining aims, objectives and copy deadlines. | 0.5 days @ £175 p.d. | £87.50 | 31/03/0X |
| **Step1.** To research and write the first 8 page A4 newsletter (500 words per page approx).To chase and collate and edit material from agreed contributors. | 9 days @ £200 p.d.Articles @ £1000 per issuePhotos and Drgs. £1000 per issueTravel per issue. | £1800£1000£1000£100 | First Edition31/04/0X |
| **Step 2.** Submission of draft newsletter for Departmental approval (on 3.5" disk). | 0.5 days @ £175 p.d. | £87.50 | First Edition31/04/0X |
| **Step 3.** To respond to the Department's comments and send disk to Information Branch. | 2 days @ £200 p.d. | £400 | First Edition31/05/0X |
| **Step 4.** To undertake final proofreading and checking. | 1 day @ £175 p.d. | £175 | First Edition31/05/0X |
| **Step 5.** To deliver a half day workshop on newsletter production | 1 day @ £175 p.d. | £175 | First Edition31/05/0X |
| For Issue 2 repeat task steps 1 to 4. |  | £4562.5 | As agreed in the timetable |
| For Issue 3 repeat task steps 1 to 4 |  | £4562.5 | As agreed in the timetable |
| For Issue 4 repeat task steps 1 to 4 |  | £4562.5 | As agreed in the timetable |
| To invite and monitor reader's comments on the newsletter. | 1 day @ £200 p.d. | £200 | As agreed in the timetable |
| To evaluate the Service to ascertain its benefit to Service promoters. | 4 days @ £200 p.d. | £800 | In the final Invoice. |
| **Grand Total (excluding VAT)** | £20,175 | . |

\*\*\*'VAT will be payable at the prevailing rate' *or* 'the above prices are inclusive of VAT' *delete as appropriate*\*\*\*

\*\*\**end of example*\*\*\*

**2** Funds allocated to a particular expenditure heading in the table at paragraph 1 ("the Table") are available for that expenditure heading only. Funds allocated to a particular accounting year are available for that accounting year only. The allocation of funds in the Table may not be altered except with the prior written consent of the Department.

**3** The Contractor shall maintain full and accurate accounts for the Service against the expenditure headings in the Table. Such accounts shall be retained for at least 6 years after the end of the financial year in which the last payment was made under this Contract. Input and output VAT shall be included as separate items in such accounts.

**4** The Contractor shall permit duly authorised staff or agents of the Department or the National Audit Office to examine the accounts at any reasonable time and shall furnish oral or written explanations of the account if required. The Department reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Contractor has used the Department's resources in the performance of this Contract.

 \*\*\* *Where funding does not include a contribution from the European Social Fund delete paragraph 4.1*\*\*\*

**4.1** The Contractor shall also permit persons duly authorised by the European Court of Auditors and the European Commission to examine the accounts at any reasonable time and shall furnish oral or written explanation of the accounts if required.

 \*\*\**Choose the appropriate Clause 5 for when you are making either a single payment or several payments*\*\*\*

**5** One invoice shall be prepared by the Contractor on completion of the Service and shall be detailed against the expenditure headings set out in the Table. The Contractor or his or her nominated representative or accountant shall certify on the invoice that the amounts claimed were expended wholly and necessarily by the Contractor on the Service in accordance with the Contract and that the invoice does not include any costs being claimed from any other body or individual or from the Department within the terms of another contract.

**5** Invoices shall be prepared by the Contractor \*\*\**either state a period of time (e.g. monthly) or insert the term* 'on the invoice dates specified in the Table' \*\*\* in arrears and shall be detailed against the expenditure headings set out in the Table. The Contractor or his or her nominated representative or accountant shall certify on the invoice that the amounts claimed were expended wholly and necessarily by the Contractor on the Service in accordance with the Contract and that the invoice does not include any costs being claimed from any other body or individual or from the Department within the terms of another contract.

 \*\*\**Choose the appropriate Clause 6 for when you are making either a single payment or several payments*\*\*\*

**6** The invoice shall be sent, within 30 days of the end of the Project to SSCL Accounts Payable Team, Room 6124, Tomlinson House, Norcross, Blackpool FY5 3TA, quoting the Contract reference number. The Department undertakes to pay correctly submitted invoices within 5 days of receipt. The Department is obliged to pay invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the Department. Any correctly submitted invoices that are not paid within 30 days will be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998. A correct invoice is one that: is delivered in timing in accordance with the contract; is for the correct sum; in respect of goods/services supplied or delivered to the required quality (or are expected to be at the required quality); includes the date, supplier name, contact details and bank details; quotes the relevant purchase order/contract reference and has been delivered to the nominated address. If any problems arise contact the Department's Contract Manager. The Department aims to reply to complaints within 10 working days. The Department shall not be responsible for any delay in payment caused by an incomplete or illegible invoice.

**6** Invoices shall be sent, within \*\**\*enter period of time (e.g. within 30 days)*\*\*\* of the end of the relevant \*\*\**enter period (e.g. month)*\*\*\* to SSCL Accounts Payable Team, Room 6124, Tomlinson House, Norcross, Blackpool FY5 3TA, quoting the Contract reference number. The Department undertakes to pay correctly submitted invoices within 5 days of receipt. The Department is obliged to pay invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the Department. Any correctly submitted invoices that are not paid within 30 days will be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998. A correct invoice is one that: is delivered in timing in accordance with the contract; is for the correct sum; in respect of goods/services supplied or delivered to the required quality (or are expected to be at the required quality); includes the date, supplier name, contact details and bank details; quotes the relevant purchase order/contract reference and has been delivered to the nominated address.. If any problems arise, contact the Department's Contract Manager. The Department aims to reply to complaints within 10 working days. The Department shall not be responsible for any delay in payment caused by incomplete or illegible invoices.

**7** The Contractor shall have regard to the need for economy in all expenditure. Where any expenditure in an invoice, in the Department's reasonable opinion, is excessive having due regard to the purpose for which it was incurred, the Department shall only be liable to reimburse so much (if any) of the expenditure disallowed as, in the Department's reasonable opinion after consultation with the Contractor, would reasonably have been required for that purpose.

**8** If this Contract is terminated by the Department due to the Contractors insolvency or default at any time before completion of the Service, the Department shall only be liable under paragraph 1 to reimburse eligible payments made by, or due to, the Contractor before the date of termination.

\*\*\**Use the following Clauses 9 and 10 when you are making a single payment\*\*\**

**9** The Department shall not be obliged to pay the invoice until the Contractor has carried out all the elements of the Service specified as in Schedule 1.

**10** It shall be the responsibility of the Contractor to ensure that the invoice covers all outstanding expenditure for which reimbursement may be claimed. On payment of the invoice by the Department all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the Department shall have no further liability to make reimbursement of any kind.

\*\*\**Use the following Clauses 9, 10 and 11 when you are making several payments\*\*\**

**9** On completion of the Service or on termination of this Contract, the Contractor shall promptly draw-up a final invoice, which shall cover all outstanding expenditure incurred for the Service. The final invoice shall be submitted not later than 30 days after the date of completion of the Service.

**10** The Department shall not be obliged to pay the final invoice until the Contractor has carried out all the elements of the Service specified as in Schedule 1.

**11** It shall be the responsibility of the Contractor to ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. Provided that all previous invoices have been duly paid, on due payment of the final invoice by the Department all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the Department shall have no further liability to make reimbursement of any kind.

 **End of Schedule 2**

**Attachment 2**

**Departmental Security Standards**

1. **Departmental Security Standards for Business Services and ICT Contracts**

|  |  |
| --- | --- |
| “BPSS”“Baseline Personnel Security Standard” | a level of security clearance described as pre-employment checks in the National Vetting Policy. Further information can be found at: <https://www.gov.uk/government/publications/government-baseline-personnel-security-standard> |
| “CCSC”“Certified Cyber Security Consultancy” | is NCSC's approach to assessing the services provided by consultancies and confirming that they meet NCSC's standards. This approach builds on the strength of CLAS and certifies the competence of suppliers to deliver a wide and complex range of cyber security consultancy services to both the public and private sectors. See website:<https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy>  |
| “CCP”“Certified Professional” | is a NCSC scheme in consultation with government, industry and academia to address the growing need for specialists in the cyber security profession and are building a community of recognised professionals in both the UK public and private sectors. See website:<https://www.ncsc.gov.uk/scheme/certified-professional>  |
| “CC”“Common Criteria” | the Common Criteria scheme provides assurance that a developer’s claims about the security features of their product are valid and have been independently tested against recognised criteria.  |
| “CPA”“Commercial Product Assurance”[formerly called “CESG Product Assurance”] | is an ‘information assurance scheme’ which evaluates commercial off the shelf (COTS) products and their developers against published security and development standards. These CPA certified products can be used by government, the wider public sector and industry. See website: <https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa>  |
| “Cyber Essentials”“Cyber Essentials Plus” | Cyber Essentials is the government backed, industry supported scheme to help organisations protect themselves against common cyber-attacks. Cyber Essentials and Cyber Essentials Plus are levels within the scheme. There are a number of certification bodies that can be approached for further advice on the scheme; the link below points to one of these providers: <https://www.iasme.co.uk/apply-for-self-assessment/>  |
| “Data”“Data Controller”“Data Processor”“Personal Data”“Sensitive Personal Data” “Data Subject”, “Process” and “Processing” | shall have the meanings given to those terms by the Data Protection Act 1998 |
| "Department’s Data"“Department’s Information” | is any data or information owned or retained in order to meet departmental business objectives and tasks, including:(a) any data, text, drawings, diagrams, images or sounds (together with any repository or database made up of any of these components) which are embodied in any electronic, magnetic, optical or tangible media, and which are:(i) supplied to the Contractor by or on behalf of the Department; or (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or(b) any Personal Data for which the Department is the Data Controller; |
| “DfE”“Department” | means the Department for Education/Government Equalities Office |
| “Departmental Security Standards” | means the Department’s security policy or any standards, procedures, process or specification for security that the Contractor is required to deliver. |
| “Digital Marketplace / GCloud” | the Digital Marketplace is the online framework for identifying and procuring cloud technology and people for digital projects. Cloud services (e.g. web hosting or IT health checks) are on the G-Cloud framework. |
| “FIPS 140-2” | this is the Federal Information Processing Standard (FIPS) Publication 140-2, (FIPS PUB 140-2), entitled ‘Security Requirements for Cryptographic Modules’. This document is the de facto security standard used for the accreditation of cryptographic modules. |
| “Good Industry Practice”“Industry Good Practice” | means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector. |
| “Good Industry Standard”“Industry Good Standard” | means the implementation of products and solutions, and the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector. |
| “GSC”“GSCP” | means the Government Security Classification Policy which establishes the rules for classifying HMG information. The policy is available at: <https://www.gov.uk/government/publications/government-security-classifications>  |
| “HMG” | means Her Majesty’s Government |
| “ICT” | means Information and Communications Technology (ICT) is used as an extended synonym for information technology (IT), used to describe the bringing together of enabling technologies used to deliver the end-to-end solution |
| “ISO/IEC 27001” “ISO 27001” | is the International Standard for Information Security Management Systems Requirements |
| “ISO/IEC 27002” “ISO 27002” | is the International Standard describing the Code of Practice for Information Security Controls. |
| “ISO 22301” | is the International Standard describing for Business Continuity |
| “IT Security Health Check (ITSHC)”“IT Health Check (ITHC)”“Penetration Testing” | means an assessment to identify risks and vulnerabilities in systems, applications and networks which may compromise the confidentiality, integrity or availability of information held on that IT system. |
| “Need-to-Know” | the Need-to-Know principle is employed within HMG to limit the distribution of classified information to those people with a clear ‘need to know’ in order to carry out their duties. |
| “NCSC” | The National Cyber Security Centre (NCSC) formerly CESG is the UK government’s National Technical Authority for Information Assurance. The NCSC website is <https://www.ncsc.gov.uk>  |
| “OFFICIAL”“OFFICIAL-SENSITIVE”  | the term ‘OFFICIAL’ is used to describe the baseline level of ‘security classification’ described within the Government Security Classification Policy (GSCP) which details the level of protection to be afforded to information by HMG, for all routine public sector business, operations and services. the ‘OFFICIAL–SENSITIVE’ caveat is used to identify a limited subset of OFFICIAL information that could have more damaging consequences (for individuals, an organisation or government generally) if it were lost, stolen or published in the media, as described in the Government Security Classification Policy. |
| “Secure Sanitisation” | Secure sanitisation is the process of treating data held on storage media to reduce the likelihood of retrieval and reconstruction to an acceptable level. Some forms of sanitisation will allow you to re-use the media, while others are destructive in nature and render the media unusable. Secure sanitisation was previously covered by “Information Assurance Standard No. 5 - Secure Sanitisation” (“IS5”) issued by the former CESG. Guidance can now be found at: <https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media> The disposal of physical documents and hardcopy materials advice can be found at: <https://www.cpni.gov.uk/secure-destruction> |
| “Security and Information Risk Advisor” “CCP SIRA”“SIRA” | the Security and Information Risk Advisor (SIRA) is a role defined under the NCSC Certified Professional (CCP) Scheme. See also:<https://www.ncsc.gov.uk/articles/about-certified-professional-scheme>  |
| “SPF”“HMG Security Policy Framework” | This is the definitive HMG Security Policy which describes the expectations of the Cabinet Secretary and Government’s Official Committee on Security on how HMG organisations and third parties handling HMG information and other assets will apply protective security to ensure HMG can function effectively, efficiently and securely. <https://www.gov.uk/government/publications/security-policy-framework>  |
| ”Tailored Assurance”[formerly called “CTAS”, or,”CESG Tailored Assurance”] | is an ‘information assurance scheme’ which provides assurance for a wide range of HMG, MOD, Critical National Infrastructure (CNI) and public sector customers procuring IT systems, products and services, ranging from simple software components to national infrastructure networks. <https://www.ncsc.gov.uk/documents/ctas-principles-and-methodology>  |

* 1. The Contractor shall comply with Departmental Security Standards for Contractors which include but are not constrained to the following clauses.
* *(Guidance: Providers on the HMG Digital Marketplace / GCloud or Public Service Network (PSN) that have demonstrated compliance, as part of their scheme application, to the relevant scheme’s security framework, such as the HMG Cloud Security Principles for the HMG Digital Marketplace / GCloud, may on presentation of suitable evidence of compliance be excused from compliance to similar clauses within the DfE Security Clauses detailed in this section (Section 12).)*
	1. Where the Contractor will provide ICT products or services or otherwise handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy Note – Use of Cyber Essentials Scheme certification - [Action Note 09/14](https://www.gov.uk/government/publications/procurement-policy-note-0914-cyber-essentials-scheme-certification) 25 May 2016, or any subsequent updated document, are mandated; that “contractors supplying products or services to HMG shall have achieved, and retain certification at the appropriate level, under the HMG Cyber Essentials Scheme”. The certification scope must be relevant to the services supplied to, or on behalf of, the Department.
* *(Guidance: Details of the acceptable forms of equivalence are stated at Section 9 of Annex A of the* [*Action Note 09/14*](https://www.gov.uk/government/publications/procurement-policy-note-0914-cyber-essentials-scheme-certification) *25 May 2016).*
* *(Guidance: The Department’s expectation is that the certification scope will be relevant to the services supplied to, or on behalf of, the Department. However, where a contractor or (sub) contractor is able to evidence a valid exception or certification to an equivalent recognised scheme or standard, such as ISO 27001, then certification under the Cyber Essentials scheme could be waived and this clause may be removed. Changes to the Cabinet Office Procurement Policy Note – Use of Cyber Essentials Scheme certification - Action Note 09/14 25 May 2016 will be tracked by the DfE)*
* *(Guidance: The terms OFFICIAL and OFFICIAL-SENSITIVE are taken from the Government Security Classification Policy (GSCP). The Department’s expectations are that all contractors shall handle the Department’s information in a manner compliant with the GSCP – see 12.4 below. Details of the GSCP can be found on the GOV.UK website at:* [*https://www.gov.uk/government/publications/government-security-classifications*](https://www.gov.uk/government/publications/government-security-classifications)*.)*

 *[Use the appropriate Clause 12.3 below]*

*[Either]*

12.3 The Contractor shall be able to demonstrate conformance to, and show evidence of such conformance to the ISO/IEC 27001 (Information Security Management Systems Requirements) standard, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).

*(Guidance: The Department’s expectation is that suppliers demonstrating conformance to ISO/IEC 27001 will be able to provide the Department with copies of their Scope of Conformance and Statement of Applicability.)*

*[Or, for contracts involving the processing of particularly sensitive data]*

12.3 The Contractor shall have achieved, and be able to maintain, independent certification to ISO/IEC 27001 (Information Security Management Systems Requirements). The ISO/IEC 27001 certification must have a scope relevant to the services supplied to, or on behalf of, the Department. The scope of certification and the statement of applicability must be acceptable, following review, to the Department, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).

* *(Guidance: The Department’s expectation is that suppliers claiming certification to ISO/IEC 27001 shall provide the Department with copies of their Scope of Certification, Statement of Applicability and a valid ISO/IEC 27001 Certificate issued by an authorised certification body. Where the provider is an SME that has a valid Cyber Essentials certification then certification under the ISO/IEC 27001 scheme could be waived and this clause may be removed.)*
	1. The Contractor shall follow the UK Government Security Classification Policy (GSCP) in respect of any Departmental Data being handled in the course of providing this service, and will handle this data in accordance with its security classification. (In the event where the Contractor has an existing Protective Marking Scheme then the Contractor may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Departmental Data).
* *(Guidance: The Department’s expectations are that all contractors shall handle the Department’s information in a manner compliant with the GSCP. Details of the GSCP can be found on the GOV.UK website at:* [*https://www.gov.uk/government/publications/government-security-classifications*](https://www.gov.uk/government/publications/government-security-classifications)*.)*
* *(Guidance: Compliance with the GCSP removes the requirement for the department to issue a Security Aspects Letter (SAL) to the contractor).*
	1. Departmental Data being handled in the course of providing an ICT solution or service must be segregated from all other data on the Contractor’s or sub-contractor’s own IT equipment to protect the Departmental Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Departmental Data then the Contractor and any sub-contractor shall be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 12.14.
* *(Guidance: Advice on HMG secure sanitisation policy and approved methods are described at* [*https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media*](https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media)*)*
	1. The Contractor shall have in place and maintain physical security, in line with those outlined in ISO/IEC 27002 including, but not limited to, entry control mechanisms (e.g. door access) to premises and sensitive areas
* *(Guidance: Where the contractor’s and sub-contractor services are wholly carried out within Departmental premises and all access to buildings or ICT systems is managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause and it need not be included.)*
	1. The Contractor shall have in place and maintain an access control policy and process for the logical access (e.g. identification and authentication) to ICT systems to ensure only authorised personnel have access to Departmental Data.
* *(Guidance: Where the contractor’s and sub-contractor services are wholly carried out within Departmental premises and all access to buildings or ICT systems is managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause and it need not be included.)*
	1. The Contractor shall have in place and shall maintain procedural, personnel, physical and technical safeguards to protect Departmental Data, including but not limited to: physical security controls; good industry standard policies and process; anti-virus and firewalls; security updates and up-to-date patching regimes for anti-virus solutions; operating systems, network devices, and application software, user access controls and the creation and retention of audit logs of system use.
* *(Guidance: Where the contractor’s and sub-contractor services are wholly carried out using Departmental ICT resources or locations managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause and it need not be included.)*
	1. Any data in transit using either physical or electronic transfer methods across public space or cyberspace, including mail and couriers systems, or third party provider networks must be protected via encryption which has been certified to FIPS 140-2 standard or a similar method approved by the Department prior to being used for the transfer of any Departmental Data.
* *(Guidance: The terms “public space” and “cyberspace” are used to describe the internet and any commercially provided third party network used to transmit Departmental information. Even where the contractor’s and sub-contractor services are wholly carried out using Departmental ICT resources managed directly by the Department as part of the service, if there is still the possibility of emails being sent to external addresses, this clause should be included.)*
	1. Storage of Departmental Data on any portable devices or media shall be limited to the absolute minimum required to deliver the stated business requirement and shall be subject to Clause 12.11 and 12.12 below.
	2. Any portable removable media (including but not constrained to pen drives, flash drives, memory sticks, CDs, DVDs, or other devices) which handle, store or process Departmental Data to deliver and support the service, shall be under the control and configuration management of the contractor or (sub-)contractors providing the service, shall be both necessary to deliver the service and shall be encrypted using a product which has been certified to FIPS140-2 standard or another encryption standard that is acceptable to the Department.
* *(Guidance: Where the use of removable media as described at Clause 12.10 above is either prohibited or not required in order to deliver the service this clause shall be revised as follows: - ‘The use of removable media in any form is not permitted’.)*
	1. All portable ICT devices, including but not limited to laptops, tablets, smartphones or other devices, such as smart watches, which handle, store or process Departmental Data to deliver and support the service, shall be under the control and configuration management of the contractor or sub-contractors providing the service, and shall be necessary to deliver the service. These devices shall be full-disk encrypted using a product which has been certified to FIPS140-2 standard or another encryption standard that is acceptable to the Department.
* *(Guidance: Where there is no suitable FIPS140-2 encryption product available to provide the necessary full-disk encryption, the Department shall agree a suitable alternative product that meets ‘industry good practice’ in this area with the contractor or sub-contractor. Where the contractor’s and sub-contractor services are wholly carried out using Departmental ICT resources managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause and it need not be included.)*
	1. Whilst in the Contractor’s care all removable media and hardcopy paper documents containing Departmental Data must be handled securely and secured under lock and key when not in use and shall be securely destroyed when no longer required, using either a cross-cut shredder or a professional secure disposal organisation.
* *(Guidance: The term ‘lock and key’ is defined as: “securing information in a lockable desk drawer, cupboard or filing cabinet which is under the user’s sole control and to which they hold the keys”.)*
* *(Guidance: Further advice on appropriate destruction and disposal methods for physical and hardcopy documents can be found at:* [*https://www.cpni.gov.uk/secure-destruction*](https://www.cpni.gov.uk/secure-destruction)*)*
	1. When necessary to hand carry removable media and/or hardcopy paper documents containing Departmental Data, the media or documents being carried shall be kept under cover and transported in such a way as to ensure that no unauthorised person has either visual or physical access to the material being carried. This clause shall apply equally regardless of whether the material is being carried inside or outside of company premises.
* *(Guidance: The term ‘under cover’ means that the information is carried within an opaque folder or envelope within official premises and buildings and within a closed briefcase or other similar bag or container when travelling outside of official premises or buildings).*
	1. At the end of the contract or in the event of equipment failure or obsolescence, all Departmental information and data, in either hardcopy or electronic format, that is physically held or logically stored on the Contractor’s ICT infrastructure must be securely sanitised or destroyed and accounted for in accordance with the current HMG policy using a NCSC approved product or method. Where sanitisation or destruction is not possible for legal, regulatory or technical reasons, such as a Storage Area Network (SAN) or shared backup tapes, then the Contractor or sub-contractor shall protect the Department’s information and data until the time, which may be long after the end of the contract, when it can be securely cleansed or destroyed.
* *(Guidance: Where no departmental information or data shall be held by the Contractor or sub-contractor, in either physical or logical form this clause may be removed.)*
* *(Guidance: Where there is no acceptable secure sanitisation method available for a piece of equipment, or it is not possible to sanitise the equipment due to an irrecoverable technical defect, the storage media involved shall be destroyed using an HMG approved method described at* [*https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media*](https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media)*.)*
* *(Guidance: Further advice on appropriate destruction and disposal methods for physical and hardcopy documents can be found at:* [*https://www.cpni.gov.uk/secure-destruction*](https://www.cpni.gov.uk/secure-destruction) *)*
* *(Guidance: The term ‘accounted for’ means that assets and documents retained, disposed of or destroyed should be listed and provided to the department as proof of compliance to this clause.)*
	1. Access by Contractor or sub-contractor staff to Departmental Data shall be confined to those individuals who have a “need-to-know” in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS); or hold an appropriate National Security Vetting clearance as required by the Department. All Contractor or sub-contractor staff must complete this process before access to Departmental Data is permitted.
* *(Guidance: Further details of the requirements for HMG BPSS clearance are available on the website at:* [*https://www.gov.uk/government/publications/government-baseline-personnel-security-standard*](https://www.gov.uk/government/publications/government-baseline-personnel-security-standard))
* *(Guidance: Further details of the requirements for National Security Vetting, if deemed necessary for this contract are available at:* [*https://www.gov.uk/government/publications/hmg-personnel-security-controls*](https://www.gov.uk/government/publications/hmg-personnel-security-controls))
	1. All Contractor or sub-contractor employees who handle Departmental Data must have annual awareness training in protecting information.
	2. The Contractor shall, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the contract is not adversely affected in the event of an incident. An incident shall be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the services delivered. If a ISO 22301 certificate is not available the supplier will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the Contractor has tested or exercised these plans within the last 12 months and produced a written report of the outcome, including required actions.
* *(Guidance: The business continuity and disaster recovery plans should be aligned with industry good practice and it is the Department’s expectation that all vendors providing services or infrastructure to the Department will have plans that are aligned to the ISO 22301 standard in place. Further information on the requirements of ISO 22301 may be found in the standard.)*
	1. Any suspected or actual breach of the confidentiality, integrity or availability of Departmental Data being handled in the course of providing this service, or any non-compliance with these Departmental Security Standards for Contractors, or other Security Standards pertaining to the solution, shall be investigated immediately and escalated to the Department by a method agreed by both parties.
* *(Guidance: The Department’s expectation is that any suspected or actual breach of the confidentiality, integrity or availability of the Department’s Data, or non-compliances, shall be reported as incidents through the Department’s nominated system or service owner and investigated by the vendor with outcomes being notified to the Department.)*
	1. The Contractor shall ensure that any IT systems and hosting environments that are used to handle, store or process Departmental Data shall be subject to independent IT Health Checks (ITHC) using a NCSC approved ITHC provider before go-live and periodically (at least annually) thereafter. The findings of the ITHC relevant to the service being provided are to be shared with the Department and all necessary remedial work carried out. In the event of significant security issues being identified, a follow up remediation test may be required.
* *(Guidance: Further information on IT Health Checks and the NCSC CHECK Scheme which enables penetration testing by NCSC approved companies can be found on the NCSC website at:* [*https://www.ncsc.gov.uk/scheme/penetration-testing*](https://www.ncsc.gov.uk/scheme/penetration-testing)*.)*
	1. The Contractor or sub-contractors providing the service will provide the Department with full details of any storage of Departmental Data outside of the UK or any future intention to host Departmental Data outside the UK or to perform any form of ICT management, support or development function from outside the UK. The Contractor or sub-contractor will not go ahead with any such proposal without the prior written agreement from the Department.
* *(Guidance: The offshoring of HMG information outside of the UK is subject to approval by the Departmental SIRO.*
	1. The Department reserves the right to audit the Contractor or sub-contractors providing the service within a mutually agreed timeframe but always within seven days of notice of a request to audit being given. The audit shall cover the overall scope of the service being supplied and the Contractor’s, and any sub-contractors, compliance with the clauses contained in this Section.
	2. The Contractor shall contractually enforce all these Departmental Security Standards for Contractors onto any third-party suppliers, sub-contractors or partners who could potentially access Departmental Data in the course of providing this service.
	3. The Contractor and sub-contractors shall undergo appropriate security assurance activities as determined by the Department. Contractor and sub-contractors shall support the provision of appropriate evidence of assurance and the production of the necessary security documentation such as completing the DfE Security Assurance Model (DSAM) process or the Business Service Assurance Model (BSAM). This will include obtaining any necessary professional security resources required to support the Contractor’s and sub-contractor’s security assurance activities such as: a NCSC Certified Cyber Security Consultancy (CCSC) or NCSC Certified Professional (CCP) Security and Information Risk Advisor (SIRA)
* *(Guidance: It is Departmental policy that suppliers of business services shall provide evidence of an acceptable level of security assurance concerning their organisation. Further advice and guidance on the Department’s DSAM and BSAM processes can be supplied on request. Information about the HMG Supplier Assurance Framework can be found at:* [*https://www.gov.uk/government/publications/government-supplier-assurance-framework*](https://www.gov.uk/government/publications/government-supplier-assurance-framework)
* *(Guidance: Further information on the CCP and CCSC roles described above can be found on the NCSC website at:* [*https://www.ncsc.gov.uk/scheme/certified-professional*](https://www.ncsc.gov.uk/scheme/certified-professional) *and* [*https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy*](https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy)*)*

***\*\*\* ICT-SPECIFIC CLAUSE ONLY \*\*\****

***(This ICT-specific clause should be removed for Business Service Contracts)***

* 1. Where the Contractor is delivering an ICT solution to the Department they shall design and deliver solutions and services that are compliant with the HMG Security Policy Framework in conjunction with current NCSC Information Assurance Guidance and Departmental Policy. The Contractor will provide the Department with evidence of compliance for the solutions and services to be delivered. The Department’s expectation is that the Contractor shall provide written evidence of:
* Existing security assurance for the services to be delivered, such as: PSN Compliance as a PSN Customer and/or as a PSN Service; NCSC (formerly CESG) Tailored Assurance (CTAS); inclusion in the Common Criteria (CC) or Commercial Product Assurance Schemes (CPA); ISO/IEC 27001 / 27002 or an equivalent industry level certification. Documented evidence of any existing security assurance or certification shall be required.
* Existing HMG security accreditations or assurance that are still valid including: details of the body awarding the accreditation; the scope of the accreditation; any caveats or restrictions to the accreditation; the date awarded, plus a copy of the residual risk statement. Documented evidence of any existing security accreditation shall be required.
* Documented progress in achieving any security assurance or accreditation activities including whether documentation has been produced and submitted. The Contractor shall provide details of who the awarding body or organisation will be and date expected.
* *(Guidance: Where the contract does not involve the delivery of an ICT solution dedicated to the Department security assurance will be achieved through the use of the BSAM process (see 12.24) and this clause can be removed.)*