

Environment Agency

NEC4 professional services contract (PSC)

Scope

Project / contract Information

Project name	EA CSF North East Service Manager / Cost Manager
Project SOP reference	ENV0000546C
Contract reference	project_37541
Date	20/10/22
Version number	1.0
Author	Hannah Birch/Edward Sorfleet

Revision history

Revision date	Summary of changes	Version number
14/09/22	Draft	1
20/10/22	Final	Final

This Scope should be read in conjunction with the version of the Minimum Technical Requirements current at the Contract Date. In the event of conflict, this Scope shall prevail. The *Services* are to be compliant with the following version of the Minimum Technical Requirements:

Document	Document Title	Version No	Issue date
412_13_SD01	Minimum Technical Requirements	10	May 20

Details of the Services

Details of the Services are:

1. Description of the work:

Objective

The *Consultant* is to provide Cost Management and a Service Manager to support the *Client* in the contract management for a number of projects and packages in the *Client's* North East FCRM programme up to the expiry of the Client Support Framework (CSF). Currently there are over 20 live contracts which are a mix of NEC3 PSC and NEC4 PSC Option E. Some of these contracts will need to be closed down, the rest will require ongoing management.

It is understood that the *Consultant* will be working on contracts where a conflict of interest may occur. Decision making on the awarding of work will remain with the *Client* and this role is to provide support only.

The *Consultant* is initially required for 2.5 days per week FTE (20 hours per week). The time associated with the Service Manager role will be carrying out administration of existing contracts. Cost Management will be necessary to check quotations and rates and carrying out cost transfers. On mutual agreement with both the *Client* and *Consultant* there may be further projects added to this commission up to a full-time equivalent (FTE) post (40 hours per week) up to (and potentially beyond) the expiry of the Client Support Framework (CSF). The Completion Date of the Services will be 31/03/2023 – estimated hours for tender returns – 500 hrs.

The majority of this work can be carried out remotely, however there may be some travel to the *Client's* Leeds office. This will be one visit per month at the most.

Outcome Specification

This service will include, but is not limited to:

- Undertake all elements of the Service Manager (SM) role as defined by the NEC4 Contract.
- Liaise with the *Client's* project managers across the Contracts to ensure that all Service Manager Assessments are accepted prior to upload to FastDraft.
- Liaise with the *Client's* project managers across the Contracts to ensure all periods for reply against all contract communications are met or extensions agreed.
- Where contracts are allocated to numerous projects, the SM is to monitor and arrange transfer of costs to the correct SOP code.
- Where Cost Manager Resource is necessary, this will be undertaken by the Cost Manager. This will include auditing rates and number of hours against work completed. It will also include carrying out cost transfers between projects to ensure the correct costs are booked to the right codes.
- Report forecast costs to the *Client's* Project Managers so they can track against their project forecast and FSoD requirements.

Definition of Completion and Defects

- a) Completion is only achieved when all the services have been provided and accepted by the *Client*.

- b) A Defect is any service provided which is not in accordance with the Scope, the law or acceptable good practice in the industry. This includes any *service* which is not in accordance with the work practices stated as being employed by the *Consultant* to ensure the quality of their *services* is consistent with their quality plan.

2. Specifications of standards to be used

In assisting the *Client* and the *Client* Project Manager(s) in contract management, the *Consultant* shall make full use of the *Client's* PSC standard commercial and contract forms that have been developed for this purpose.

Other standards to be achieved:

a) Health and Safety

Health, safety and welfare is of paramount importance to the *Client* and one of the objectives for the project is that the works should be undertaken in a manner that achieves the highest possible standards. Health, safety and welfare provisions must be seen as integral parts of carrying out the works and not as stand-alone considerations. The project cost manager shall support the *Client* and project team in achieving these standards.

3. Constraints on how the *Consultant* provides the services

- a) The *Consultant* will not contact or engage with any third parties without prior agreement of the *Client*.
- b) The *Consultant* will work in accordance with their own companies and the Environment Agency's COVID working arrangements, whichever is more onerous.

4. Requirements of the programme

- a) The programme complies with the requirement of Clause 31.

5. Services and other things provided by the *Client*

a) ASite and Sharepoint

The *Client* will provide access to and training on their web based Project Collaboration Tool (ASite and Sharepoint).

b) Contract to be administered on FastDraft.

c) Data and Information Management and intellectual property rights

All of the data listed as being supplied to the *Consultant* as part of this study remains the Intellectual Property of the *Client*.

d) Data Custodianship

The data custodian for project deliverables from this commission will be the area PSO team.

e) Data Security

All model and survey information will be provided to the *Consultant* in an encrypted format (using WinZip 128 bit encryption) according to *Client's* data security policy. It is expected that once the commission is completed, all the original data sent to the *Consultant*, which is

classed as commercially sensitive, is returned in an encrypted format using WinZip 128 bit encryption.

Project deliverables such as model files, survey data or anything of a personal nature such as questionnaires or address data must also be returned in an encrypted format using WinZip 128 bit encryption.

Further details regarding security measures will be discussed at the start-up meeting for this commission.

f) Timesheets

Timesheets as normally utilised by the *Consultants* shall be submitted with fee notes unless otherwise agreed with the *Client's* project manager(s). Electronic submissions would be acceptable.

g) Payment Procedure

Payment is subject to the procedure agreed in or under the framework.

h) Quality

The quality management system complies with the requirements of ISO9001 and ISO14001.

Please detail any other requirements of the Quality Plan

PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework CONTRACT DATA

Project Name CSF – NE – Service Manager / Cost Manager

Project Number TBC

This contract is made on
between the *Client* and the *Consultant*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 1 June 2017 to the Client Support Framework. The entire Agreement and the following schedules are incorporated into this contract by reference
- Schedules 1 through to 14 inclusive of the Framework schedules are relied upon with
- The following documents are incorporated into this contract by reference

Part One - Data provided by the *Client*

Statements given in all Contracts

1 General

The *conditions of contract* are the core clauses and the clauses for the following main C Options of the NEC4 Professional Service Contract June 2017.

Main
Option

Option for resolving and
avoiding disputes

W2

Secondary Options

X2: Changes in the law

X9: Transfer of rights

X10: Information modelling

X11: Termination by the *Client*

X18: Limitation of liability

Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996

Y(UK)3: The Contracts (Rights of Third Parties) Act 1999

Z: *Additional conditions of contract*

The *service* is

To provide Cost Management and a Service Manager to support the Client's packages in the C

The *Client* is

Environment Agency

Address for communications

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications

[REDACTED]

The *Service Manager* is

[REDACTED]

Address for communications

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications

[REDACTED]

The Scope is in

[REDACTED]

The *language of the contract* is English

The *law of the contract* is

the law of England and Wales, subject to the jurisdiction of the courts of England and W

The *period for reply* is

2 weeks

The *period for retention* is

6 years

following Completion or earlie

The following matters will be included in the Early Warning Register

Early warning meetings are to be held at intervals no longer than

2 The *Consultant's* main responsibilities

The *key dates* and *conditions* to be met are
condition to be met

'none set'

'none set'

'none set'

'none set'

'none set'

'none set'

The *Consultant* prepares forecasts of the total Defined Cost plus Fee
and *expenses* at intervals no longer than

3 Time

The *starting date* is

The *Client* provides access to the following persons, places and things access

████	████████████████████
████████	████████████████████
██████████	████████████████████
████████████	████████████████████

The *Consultant* submits revised programmes at intervals no longer than 4 weeks

The *completion date* for the whole of the *service* is ██████████

The period after the Contract Date within which the *Consultant* is to submit a first programme for acceptance is 4 weeks

4 Quality management

The period after the Contract Date within which the *Consultant* is to submit a quality policy statement and quality plan is 4 weeks

The period between Completion of the whole of the *service* and the *defects date* is 26 weeks

5 Payment

The *currency of the contract* is the £ sterling

The *assessment interval* is Monthly

The *expenses* stated by the *Client* are as stated in Schedule 6.

The *interest rate* is 2.00% per annum (not less than 2) %
Base rate of the Bank of England

The locations for which the *Consultant* provides a charge for the cost of support people and office overhead are

The *exchange rates* are those published in on

6 Compensation events

These are additional compensation events

1. 'not used'
2. 'not used'
3. 'not used'
4. 'not used'
5. 'not used'

8 Liabilities and insurance

These are additional *Client's* liabilities

1. 'not used'
2. 'not used'
3. 'not used'

The minimum amount of cover and the periods for which the *Consultant* maintains insurance

EVENT	MINIMUM AMOUNT OF	PERIOD FOLLOWING COMPLETION
The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the <i>service</i>	£5 million in respect of each claim, without limit to the number of claims	12 years
Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i>) arising from or in connection with the <i>Consultant</i> Providing the Service	Which ever is the greater of £5m or the amount required by law in respect of each claim, without limit to the number of claims	12 months
Death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	Which ever is the greater of £5m or the amount required by law in respect of each claim, without limit to the number of claims	For the period required by law

The *Consultant's* total liability to the *Client* for all matters arising under or in connection with the contract, other than the excluded matters is limited to £5 million

Resolving and avoiding disputes

The *tribunal* is lit

The *Adjudicator* is 'to be confirmed'

Address for communications 'to be confirmed'

Address for electronic communications ['to be confirmed'](#)

The *Adjudicator nominating body* is The Institution of Civil Engine

Z Clauses

Z1 Disputes

Delete existing clause W2.1

Z2 Prevention

The text of clause 18 Prevention is deleted.

Delete the text of clause 60.1(12) and replace with:

The *service* is affected by any of the following events

- War, civil war, rebellion, revolution, insurrection, military or usurped power;
- Strikes, riots and civil commotion not confined to the employees of the *Consultant* and sub consultants,
- Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of
- Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device,
- Natural disaster,
- Fire and explosion,
- Impact by aircraft or other aerial device or thing dropped from them.

Z3 Disallowed Costs

In second bullet of 11.2 (18) add:

(including compensation events with the Subcontractor, i.e. payment for work that should not have been undertaken
Add the following additional bullets after 'and the cost of ' :

- Mistakes or delays caused by the *Consultant's* failure to follow standards in Scopes/quality plans.
- Reorganisation of the *Consultant's* project team.
- Additional costs or delays incurred due to *Consultant's* failure to comply with published and known guidance or do
- Exceeding the Scope without prior instruction that leads to abortive cost
- Re-working of documents due to inadequate QA prior to submission, i.e. grammatical, factual arithmetical or design
- Production or preparation of self-promotional material.
- Excessive charges for project management time on a commission for secondments or full time appointments (greater
- Any hours exceeding 8 per day unless with prior written agreement of the *Service Manager*
- Any hours for travel beyond the location of the nearest consultant office to the project unless previously agreed with
- Attendance of additional individuals to meetings/ workshops etc who have not been previously invited by the *Service*
- Costs associated with the attendance at additional meetings after programmed Completion, if delay is due to *Consultant*
- Costs associated with rectifications that are due to *Consultant* error or omission.
- Costs associated with the identification of opportunities to improve our processes and procedures for project delivery
- Was incurred due to a breach of safety requirements, or due additional work to comply with safety requirements
- Was incurred as a result of the *Client* issuing a Yellow or Red Card to prepare a Performance Improvement Plan
- Was incurred as a result of rectifying a non-compliance with the Framework Agreement and/or any call off contracts

Z5 Secondments

When appointing *Consultants* on a secondment basis only:

Add clause 19

19.1 The *Client* will from starting date to Completion Date indemnify the *Consultant* against any and all liabilities, pr or indirectly out of the activities of the *Consultant* in providing the services save where such claims, in the reasonab

19.1.1 Misrepresentation or negligence by or on behalf of the *Consultant* ;

or

19.1.2 The *Consultant* has acted contrary to the *Service Manager's* reasonable instructions or wholly outside the sc

Z6 The Schedule of Cost Components

The Schedule of Cost Components are as detailed in the Framework Schedule 6.

Z7 Linked contracts

Issues requiring redesign or rework on this contract due to a fault or error of the *Consultant* under this contract or a any subsequent contract, nor will it be a Compensation event under this contract or any subsequent contract under t

Z8 Requirement for Invoice

Insert the following sentence at the end of clause 51.1:

The Party to which payment is due submits an invoice to the other Party for the amount to be paid within one week

Delete existing clause 51.2 and insert the following:

51.2 Each certified payment is made by the later of

- one week after the paying Party receives an invoice from the other Party and
- three weeks after the assessment date, or, if a different period is stated in the Contract Data, within the period sta

If a certified payment is late, or if a payment is late because the *Service Manager* has not issued a certificate which from the date by which the late payment should have been made until the date when the late payment is made, and

Z9 Conflict of Interest

The *Consultant* immediately notifies the *Client* of any circumstances giving rise to or potentially giving rise to confli reputation and standing) and/or the *Client* of which it is aware or which it anticipates may justify the *Client* taking a conflict of interest to the satisfaction of the *Client*, the *Client*, in its sole discretion, may terminate this Contract.

Z10 Change in Control

The *Consultant* shall notify the *Client* as soon as reasonably practicable, in writing, of any agreement, proposal or n shall give further notice to the *Client* when any Change in Control has occurred. The *Client* may terminate this cont the *Consultant* within six (6) months of being notified that a Change of Control has occurred, or, where no notificatio of Control, but shall not be permitted to terminate where the Client's prior written acceptance was granted prior to t Agreement, Z14.4.

Z12 Waiver

No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party by the express reference to Clause Z12. The failure of either party to insist upon strict performance of the Contract, or any waiver or dimunition of the obligations established by the Contract.

and 02nd day of July 2019 between the *Client* and the *Consultant* in relation
s are incorporated into this contract by reference

in this contract.

Option, the Option for resolving and avoiding disputes and secondary

support the Client in the contract management for a number of projects and
Client's North East FCRM programme

it-agency.gov.uk

it-agency.gov.uk

/ales

or termination

2 weeks

key date

4 weeks

Rev 1.8.4a

[REDACTED]

access date

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

above the

All UK Offices

irance are

ETION OF THE WHOLE OF THE *SERVICE* OR TERMINATION

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th the *Service Manager*
ice Manager
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ery through the *Consultant*'s involvement

racts following an audit

proceedings, costs, losses, claims and demands whatsoever arising directly in the opinion of the *Client*, arise from or are contributed to by:

scope of the *Consultant's* duties as defined by the *Service Manager*.

a previous contract will neither be an allowable cost under this contract or this project or programme.

of the *Service Manager's* certificate.

ited.

should be issued, interest is paid on the late payment. Interest is assessed and is included in the first assessment after the late payment is made

acts of interest relating to the *Consultant* (including without limitation its action to protect its interests. Should the Parties be unable to remove the

negotiations which will or may result in a *Consultant* Change in Control and shall take effect with immediate effect by notice in writing and without compensation to the *Client* if no action has been made, the date that the *Client* becomes aware of the Change in Control. A Change of Control is defined as per the Deed of

Service Manager in writing in accordance with the Contract, and with any failure or delay in exercising any right or remedy shall not constitute a

Secondary Options

OPTION X2: Changes in the law

The *law of the project* is the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

OPTION X10: Information modelling

The period after the Contract Date within which the *Consultant* is to submit a first Information Execution Plan for acceptance is 2 weeks

OPTION X18: Limitation of liability

The *Consultant's* liability to the *Client* for indirect or consequential loss is limited to £1,000

The *Consultant's* liability to the *Client* for Defects that are not found until after the *defects* limited to £5,000

The *end of liability date* is 6 years after the Completion of the whole of the *service*

Y(UK2): The Housing Grants, Construction and Regeneration Act 1996

The period for payment is 14 Days after the date on which payment becomes

Y(UK3): The Contracts (Rights of Third Parties Act) 1999

term beneficiary

not used not used

æks

██████

date is

██████

due

Part Two - Data provided by the Consultant

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

1 General

The Consultant is

Name and company number

Address for communications

Address for electronic communications

The fee percentage is

The key persons are

Name (1)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (2)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (3)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (4)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (5)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (6)
Job
Responsibilities
Qualifications
Experience

The *key persons* are

Name (7)
Job
Responsibilities
Qualifications
Experience

The following matters will be included in the Early Warning Register

Managing and mitigating the impact of Covid 19 and working

3 Time

The programme identified in the Contract Data is

[REDACTED]

5 Payment

The *activity schedule* is

The forecast of the Prices is
£26,984.46

Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1) [REDACTED]
Address for communications

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications

[REDACTED]

Name (2) [REDACTED]
Address for communications

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Address for electronic communications

X10: Information Modelling

The *information execution plan* identified in the Conti

in accordance \

;

ract Data is

***Client* execution**

for and on behalf of the Environment Agency

Date

Role

Signed as Underhand by [PRINT NAME]

for and on behalf of

Date _____

Role

cy
