



**Invitation to Negotiate (ITN) for**  
Fleet Helicopter Support Unit (FHSU) Contract

(703723450)

## Contents

This Invitation to Negotiate (ITN) sets out the requirements that Tenderers must meet to submit a valid Tender. It also contains the Contract Terms & Conditions, further related documents and forms and sets out the Authority's position with respect to the competition.

This ITN consists of the following documentation:

- **DEFFORM 47** – Invitation to Negotiate. The DEFFORM 47 sets out the key requirements that Tenderers must meet to submit a valid Tender. It also sets out the conditions relating to this competition. For ease it is broken into:
  - Section A – Introduction
  - Section B – Key Tendering Activities
  - Section C – Instructions on Preparing Tenders
  - Section D – Tender Evaluation
  - Section E – Instructions on Submitting Tenders
  - Section F – Conditions of Tendering
  - Annexes and Appendices:
    - DEFFORM 47 Annex A – Tender Submission Document (Offer)
      - Appendix 1 to DEFFORM 47 Annex A– Information on Mandatory Declarations
    - DEFFORM 47 Annex B – Technical Evaluation Criteria
    - DEFFORM 47 Annex C – Price Evaluation
      - Appendix 1 to Annex C – Price Evaluation
    - DEFFORM 47 Annex D – Commercial Compliance Matrix
    - DEFFORM 47 Annex E – ITN Deliverables Checklist
    - DEFFORM 47 Annex F – Insurance Support Table
    - DEFFORM 47 Annex G – TUPE Employee Information
    - DEFFORM 47 Annex H – DEFFORM 711
- Contract Documents (as per the contents table in the Terms and Conditions)
  - Terms and Conditions which includes the Schedule of Requirements and any additional Schedules, Annexes and/or Appendices
- DEFFORM 111 – Appendix to the Contract – Addresses and Other Information
- DEFFORM 539A – Tenderer's Sensitive Information (or SC1B Schedule 4 or SC2 Schedule 5)
- Security Aspects Letter (Schedule 10)

## **SECTION A – INTRODUCTION**

### **DEFFORM 47 Definitions**

In this ITN the following words and expressions shall have the meanings given to them below.

Capitalised terms used in this ITN but not defined herein have the meaning given to them in the Contract Terms & Conditions.

- A1. “Compliance Regime” is a legally enforceable set of rules, procedures, physical barriers and controls that, together, act to prevent the flow of sensitive or protected information to parties to whom it may give an unfair advantage.
- A2. “Conditions of Tendering” means the conditions set out in this DEFFORM 47 that govern the competition.
- A3. A “Consortium Arrangement” means two or more economic operators who have come together specifically for the purpose of bidding for this Contract and who establish a consortium agreement or special purpose vehicle to contract with the Authority.
- A4. “Contract” means a contract entered into between the successful Tenderer or consortium members and the Authority, should the Authority award a Contract as a result of this competition. Note that any other interpretation found in the Contract Terms & Conditions is not valid before any Contract is awarded by the Authority as a result of this competition.
- A5. “Contract Terms & Conditions” means the attached conditions including any schedules, annexes and appendices that will govern the Contract entered into between the successful Tenderer and the Authority, should the Authority award a Contract as a result of this competition.
- A6. Contractor Deliverables’ means the works, goods and / or the services, including packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract.
- A7. “Commercial Point of Contact” means the individual(s) as defined in Paragraph F22 of DEFFORM 47 Section F Conditions of Tendering.
- A8. Not Used.
- A9. “Defence Sourcing Portal” means the electronic platform in which Tenders are submitted to the Authority.
- A10. Not Used
- A11. “Final Tender” means the best and final offer (BAFO) you are making to the Authority following negotiations.
- A12. “Government Furnished Information” means information or data issued or made available to the Tenderer in connection with the Contract by or on behalf of the Authority.

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- A13. "Initial Tender" is the offer you are making to the Authority in response to this ITN.
- A14. "ITN" or "DEFFORM 47" means this document and its annexes and appendices.
- A15. "ITN Documentation" means this ITN and any information in any medium or form (for example drawings, handbooks, manuals, instructions, specifications and notes of pre-tender clarification meetings), issued to you, or to which you have been granted access by the Authority, for the purposes of responding to this ITN.
- A16. "ITN Material" means any other material (including patterns and samples), equipment or software, in any medium or form issued to you, or to which you have been granted access, by the Authority for the purposes of responding to this ITN.
- A17. "Preferred Tenderer" means the Tenderer the Authority intends to award the Contract to in accordance with this ITN.
- A18. The "Statement of Requirement" to be found in Schedule 1 of the Terms and Condition to Contract details the technical requirements and acceptance criteria of the Contractor Deliverables.
- A19. A "Sub-Contractor" means any party engaged or intended to be engaged by the Contractor at any level of sub-contracting to provide Contractor Deliverables for the purpose of performing this Contract.
- A20. A "Sub-Contracting Arrangement" means a group of economic operators who have come together specifically for the purpose of bidding for this Contract, where one of their number will be the party to the Contract with the Authority, the remaining members of that group being Sub-Contractors to the lead economic operator.
- A21. A "Tender" or "Tender Response" is the offer that a Tenderer makes to the Authority in accordance with this ITN and includes any Initial Tender and any Final Tender.
- A22. "Tenderer" means the economic operator submitting a response to this Invitation to Tender. Where "you" is used this means an action on you the Tenderer.
- A23. A "Third Party" is any person (including a natural person, corporate or unincorporated body (whether or not having separate legal personality)), other than the Authority, the Tenderer, or their respective employees.

**Purpose**

- A23. The purpose of this ITN is to invite you to submit a Tender, in accordance with the instructions set out in this ITN, to propose an affordable solution which meets the Authority's requirements. This documentation explains and sets out the:
- timetable for the next stages of the procurement;
  - instructions, conditions, and processes that governs this competition;
  - information you must include in your Tender and the required format;
  - administrative arrangements for the receipt and evaluation of Tenders;
  - criteria and methodology for the evaluation of Tenders; and
  - Contract Terms & Conditions.
- A24. The sections in this ITN and associated documents are structured in line with a generic procurement process and do not indicate importance / precedence.

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- A25. This opportunity was advertised by the Authority in Contracts Finder, Find a Tender and Defence Sourcing Portal dated 29 November 2023 under the following reference 703723450.
- A26. This ITN procurement is subject to the Defence and Security Public Contract Regulations (DSPCR) 2011.
- A27. This ITN has been issued to all potential Tenderers chosen during the supplier selection stage under the Competitive Negotiated procedure.
- A28. Potential Tenderers can be found on the Contract Bidders Notice as advertised on the Defence Sourcing Portal (DSP).
- A29. Funding has been approved for this requirement.

**ITN Documentation and ITN Material**

- A30. ITN Documentation, ITN Material and any Intellectual Property Rights (IPR) in them shall remain the property of the Authority or other Third-Party owners and is released solely for the purposes of enabling you to submit a Tender. You must:
- a. take responsibility for the safe custody of the ITN Documentation and ITN Material and for all loss and damage sustained to it while in your care;
  - b. not copy or disclose the ITN Documentation or any part of it to anyone other than the bid team involved in preparing your Tender, and not use it except for the purpose of responding to this ITN;
  - c. seek prior written approval from the Authority if you need to provide access to any ITN Documentation or ITN Material to any Third Party;
  - d. abide by any reasonable conditions imposed by the Authority in giving its approval under sub-paragraph A30.c, which at a minimum will require you to ensure any disclosure to a Third Party is made by you in confidence. Alternatively, due to IPR issues for example, the disclosure may be made, in confidence, directly by the Authority;
  - e. accept that any further disclosure of ITN Documentation or ITN Material (or use beyond the original purpose), or further use of ITN Documentation or ITN Material, without the Authority's written approval may make you liable for a claim for breach of confidence and / or infringement of IPR, a remedy which may involve a claim for compensation;
  - f. inform the Commercial Point of Contact if you decide not to submit a Tender;
  - g. immediately confirm destruction of (or in the case of software, that it is beyond use) all ITN Documentation, ITN Material and derived information of an unmarked nature, should you decide not to respond to this ITN, or you are notified by the Authority that your Tender has been unsuccessful; and
  - h. consult the named Commercial Point of Contact to agree the appropriate destruction process if you are in receipt of ITN Documentation and ITN Material marked 'OFFICIAL-SENSITIVE' or 'SECRET'.
- A31. Some or all of the ITN Documentation and ITN Material may be subject to one or more confidentiality agreements made between you and either the Authority or a Third Party, for example a confidentiality agreement established in the form of DEFFORM 94. The obligations contained in any such agreement will be in addition to, and not derogate from, your obligations under paragraph A30 above.

**Tender Expenses**

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- A32. You will bear all costs associated with preparing and submitting your Tender. The Authority will not be liable for the costs of any Tender, work or effort incurred by you participating in this tender process, including where the tender process is terminated or amended by the Authority, where the Authority decides not to award a Contract or where you withdraw from the tender process either directly or indirectly as costs under any other contract with the Authority.

**Consortia and Sub-Contracting Arrangements**

- A33. The Authority requires all Tenderers to identify whether any and/or which Consortium Arrangements or Sub-Contracting Arrangements will apply in the case of their Tender, and in particular specify the Consortium Arrangement or Sub-Contracting Arrangement entity or both and their workshare. In all cases, the Authority requires all Tenderers to identify the entity that will be the party to the Contract with the Authority.

**Material Change of Control**

- A34. You must inform the Authority in writing as soon as you become aware of:
- a. any material changes to any of the information, representations or other matters of fact communicated to the Authority as part of your DPQQ response or in connection with the submission of your DPQQ response;
  - b. any material adverse change in your circumstances which may affect the truth, completeness or accuracy of any information provided as part of your DPQQ response or in connection with the submission of your DPQQ response or in your financial health or that of any Consortium Arrangement member or Sub-Contracting Arrangement member;
  - c. any material changes to your financial health or that of a party to the Consortium Arrangement or Sub-Contracting Arrangement; and
  - d. any material changes to the makeup of the Consortium Arrangement or Sub-Contracting Arrangement, including:
    - i. the form of legal arrangement by which the Consortium Arrangement or Sub-Contracting Arrangement will be structured;
    - ii. the identity of Consortium Arrangement or Sub-Contracting Arrangement;
    - iii. the intended division or allocation of work or responsibilities within or between the Consortium Arrangement or Sub-Contracting Arrangement; and
    - iv. any change of control of any Consortium Arrangement or Sub-Contracting Arrangement.
- A35. If a change described in paragraph A34 occurs, the Authority may reassess you against the DPQQ selection criteria. The Authority reserves the right to require you to submit an updated/amended DPQQ response (or parts thereof) to reflect the revised circumstances so that the Authority can make a further assessment by applying the published selection criteria to the new information provided. The outcome of this further assessment may affect your suitability to proceed with the procurement.
- A36. In relation to a change described in paragraph A34, as far as is reasonably practicable, you must discuss any such proposed changes with the Authority before they occur and you must additionally highlight any changes from your DPQQ response relating to any change in the Consortium Arrangement or Sub-Contracting Arrangement or any change relating to conflicts of interest following a change, directly

or indirectly in your ownership or control or of any Consortium Arrangement or Sub-Contracting Arrangement

A37. The Authority reserves the right, at its sole discretion to disqualify any Tenderer who makes any material change to any aspects of its responses to the DPQQ if:

- a. it fails to re-submit to the Authority the updated relevant section of its DPQQ response providing details of such change in accordance with paragraph A35 as soon as is reasonably practicable and in any event no later than ten (10) business days following request from the Authority; or
- b. having notified the Authority of such change, the Authority considers that the effect of the change is such that on the basis of the evaluation undertaken by the Authority for the purpose of selecting potential providers to participate in the procurement, the Tenderer would not have pre-qualified.

## **Contract Terms & Conditions**

A38. The Contract Terms & Conditions (Reference 703723450) is attached to this ITN.

A39. The full text of Defence Conditions (DEFCONs) and Defence Forms (DEFFORMS) are available for information purposes electronically via the [Knowledge in Defence \(KiD\) website](#).

## **Other Information**

### **A40. The Armed Forces Covenant**

- a. The Armed Forces Covenant is a promise from the nation to those who serve, or who have served, and their families, to ensure that they are treated fairly and are not disadvantaged in their day to day lives, as a result of their service.
- b. The Covenant is based on two principles:
  - i. That the Armed Forces community would not face disadvantages when compared to other citizens in the provision of public and commercial services; and
  - ii. That special consideration is appropriate in some cases, especially for those who have given most, such as the injured and the bereaved.

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

- a) [The Armed Forces Covenant](#) provides guidance on the various ways you can demonstrate your support through your Covenant pledges and how by engaging with the Covenant and Armed Forces, such as employing Reservists, a company or organisation can also see real benefits in their business.
- b) 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 Authority 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: [REDACTED]

Address: Defence Relationship Management

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Ministry of Defence



- c) The provisions of paragraph A40 are not conditions of working with the Authority 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 Authority very much hopes you will want to provide your support.

A41. NOT USED

**A42. Behaviours**

The Authority expects and requires all Tenderers to act in the general spirit of the procurement process including being collaborative, acting with integrity, dealing in good faith with the Authority and not raising concerns or issues with Third Parties before properly addressing them with the Authority.

**A43. Security Aspects Letter**

A Security Aspects Letter (SAL) for this requirement can be found at Schedule 10 to the Contract Terms and Conditions.

**Section B – Key Tendering Activities**

- B1. The key dates for this procurement are currently anticipated to be as set out in the table below. The Authority reserves the right to amend the timetable below and will provide all Tenderers with notice of such changes:

<b>Stage</b>	<b>Date and Time</b>	<b>Initiated By</b>	<b>Submit to</b>
ITN issued	8th May 2024	The Authority	All Tenderers
Date for Tenderers' Conference	11 June 2024	The Authority	All Tenderers
Final date for Clarification Questions / Requests for additional information	21st June 2024	Tenderers	Defence Sourcing Portal
The Authority issues Final Clarification Answers	28th June 2024	The Authority	All Tenderers
Initial Tender submission	5th July 2024	Tenderers	Defence Sourcing Portal
Initial Tender Evaluation Complete	9th August 2024	The Authority	N/A
Negotiation Period	August - September 2024	The Authority	N/A
Final Tender submission	End of September 2024	Tenderers	Defence Sourcing Portal
Final Tender Evaluation Complete	End of October 2024	The Authority	N/A
Notification of Preferred Tenderer	February 2025	The Authority	N/A
Contract Award	February 2025	The Authority	N/A

Table 1 – Summary of Key Tendering Activities

**Tenderers' Conference**

- B2. The Authority may wish to invite all Tenderers to a Tenderers' Conference at DE&S, Abbey Wood or at a location to be confirmed by the Authority.

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- B3.A Tenderers' Conference would provide Tenderers with the opportunity to ask clarification questions about the ITN and the requirement.
- B4. Further information about any Tenderers' Conference will be confirmed following release of the ITN.
- B5. Should a Tenderer's Conference be held each Tenderer must provide the name(s) of those who wish to attend the Tenderers' Conference to the named Commercial Point of Contact, by the dates shown in the invitation, so that access to the site can be arranged. A maximum of four (4) attendees will be permitted. A copy of the presentation along with any questions raised and answers provided will be issued to all Tenderers regardless of attendance to the conference.

**Clarification Questions and Messages**

- B6. All Tenderer clarification questions are to be raised via the messages tab on DSP.
- B7. The Authority will copy clarification questions and answers to all Tenderers, removing the names of those who have raised the clarification questions. If you wish the Authority to treat the clarification as confidential and not issue the response to all Tenderers, you must state this when submitting the clarification question and provide justification. If, in the opinion of the Authority, the clarification is not confidential, the Authority will inform the relevant Tenderer, who will have an opportunity to withdraw the question. If the clarification question is not withdrawn, the response will be issued to all Tenderers.
- B8. The 'messages' tab within the DSP displays all messages and clarifications exchanged between the Authority and the Tenderer. Messages provide a secure method for the Authority and Tenderers to communicate during the procurement process and will be used as the only means of communication with Tenderers regarding the process. Tenderers should note that, when the Final date for Clarification Questions has occurred, the DSP messaging feature will still be available to Tenderers as they may need to communicate with the Authority e.g., if they have any technical issues submitting their Tender Response.

**Tender Return**

- B9. The Authority may, in its own absolute discretion extend the deadline for receipt of Tenders and in such circumstances the Authority will notify all Tenderers of any change.

## **Section C – Instructions on Preparing Tenders**

### **Construction of Tenders**

- C1. Your Tender must be written in English, using Arial font size 11 with a total maximum page cap of 200 A4 sheets double-side. Pages will be counted sequentially in order of the question / deliverable number (any pages after this will not be evaluated). Tenderers are requested to be cognisant of the weightings for the Technical Evaluation Criteria in Annex B to the Contract. This page count does not apply to:
- a. Commercial Deliverables listed at Annex E 1 to 16 inclusive; and
  - b. the MRP Compliance or the complete Schedule 2 MRP Compliance Matrix response.; and
  - c. Continuing Airworthiness Management Exposition
- C2. Your Tender must include pricing in GBP (£) excluding VAT. Prices must be Firm and Fixed in accordance with the attached instructions at Annex C (and Appendix 1 to Annex C) to this DEFFORM 47. A price breakdown is not required in the Tender.
- C3. To assist the Authority's evaluation, you must set out your Tender in accordance with Section D (Tender Evaluation). Any pages submitted that exceed the maximum page cap stipulated will not be evaluated by the Authority. However, the Authority reserves the right to request the Tenderer to submit, supplement, clarify or complete relevant information or documentation in accordance with the DSPCR 2011.
- C4. Tenderers shall provide details of any assumptions, dependencies and exclusions made in the construction of their Tenders and clearly detail those in a list by filling out the form at Schedule 4 to the Contract Terms and Conditions.
- C5. Should the Tenderer provide marketing material, it shall not be considered and/or evaluated by the Authority.

### **Validity**

- C6. Your Tender must be valid and open for acceptance for 240 calendar days from the Tender return date. In addition, the Preferred Tenderer must hold its Tenders open for acceptance for a further thirty (30) calendar days once the Authority announces its decision to award the Contract. In the event that legal proceedings challenging the award of the Contract are instituted, before entry into Contract, the Preferred Tenderer must hold its Tenders open for acceptance during this period, and for up to fourteen (14) calendar days after any legal proceedings have concluded.

## **Section D – Tender Evaluation**

### **D1. Tender Evaluation Overview**

The Tender Evaluation stages detailed at D2 can be summarised as follows:

- Initial Review
- Tender Evaluation
  - Pass/Fail Assessment
  - Confidence Scored Assessment
- Ranking of Tender Returns
- Negotiation Phase with leading three Tenderers (if applicable)
- Final Tender (if applicable)
- Selection of Preferred Tenderer

Each Tender Response will be evaluated using a best technically affordable Tender methodology to establish the Most Economically Advantageous Tender (MEAT).

NOTE: The Confidence Scored Assessment shall assess those questions in Annex B to this DEFFORM 47 that have scores and weightings; these are known as the Confidence Scored Questions. All other questions are pass/fail which are assessed as at Paragraph 2.4 below.

### **D2. Tender Evaluation Stages**

#### **Stage 1 – Initial Review**

The Authority will conduct an initial review of the Tender Response which shall consist of checking whether:

- the Tenderer has complied with the instructions set out in this DEFFORM 47; and
- the Tender Response contains all deliverables requested by the Authority in DEFFORM 47 Annex E ITN Deliverables Checklist.

The Authority reserves the right to request the Tenderer to submit, supplement, clarify or complete relevant information or documentation in accordance with the DSPCR 2011. The Authority shall provide such requests in writing and shall notify the timescale in which a response from the Tenderer is required. If the Tenderer fails to provide the missing deliverables after this period, the Tender Response shall be deemed to not be Compliant.

For the avoidance of doubt, to be deemed Compliant at Stage 1 (Initial Review), Tenderers must have complied with the instructions set out in this ITN and their Tenderer Response must contain all deliverables requested by the Authority in DEFFORM 47 Annex E ITN Deliverables Checklist.

Should the Tender Response be deemed Compliant at Stage 1 (Initial Review), the Tenderer shall progress to Stage 2 (Tender Evaluation). Should the Tender Response be deemed to be not Compliant at Stage 1 (Initial Review) the Tenderer shall not progress to Stage 2 (Tender Evaluation) and shall be excluded from the procurement process.

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**Stage 2 – Tender Evaluation**

The Authority shall evaluate the Tender Response against the Technical Evaluation Criteria set out in DEFFORM 47 Annex B along with the Price Evaluation set out in DEFFORM 47 Annex C to generate an Overall Tender Score (this is the VFM Value as defined at Paragraph 2.3 below).

**2.1 Technical Evaluation Criteria Assessment**

The evaluators who will conduct the Technical Evaluation Criteria assessment shall be Authority Project Staff (i.e. staff employed by the Authority who are working to deliver the Fleet Helicopter Support Unit requirement), and contractors, representatives from the Royal Navy and Subject Matter Experts.

Each evaluator shall independently and individually award a score for the relevant Confidence Scored Question response.

The evaluators will send their scores and evaluation reports to a moderator for review.

Once the completed evaluation reports have been reviewed by the moderator a meeting shall be held between the evaluators and the moderator, unless both evaluators and the moderator are in full agreement in which case no meeting will be held.

The meeting will be chaired by the moderator and the purpose of the meeting is for the evaluators to agree a consensus score for each of the Confidence Scored Question responses.

In the event of a deadlock between evaluators present in the moderation meeting (having used best efforts to reach a consensus including by taking time out to adjourn and have lengthy discussions), the deadlock shall be resolved by the moderator making the final decision as to the score Confidence Scored Question response.:

In respect of the Final Tender, Tenderers may confirm that its response to a particular Confidence Scored Question is identical (meaning zero changes, however minor) to the response the Tenderer gave to such Confidence Scored Question as part of its Initial Tender. If a Tenderer so confirms, the relevant response will not be re-evaluated for the purpose of the Final Tender and the Tenderer shall receive the same weighted confidence / pass fail consensus score in respect of the relevant Confidence Scored Question as it did for its Initial Tender. If, in its Final Tender, a Tenderer makes a change to a response to a Confidence Scored Question, the Authority will evaluate such response following the steps set out in Stages 1-3 without reference to the response the relevant Tenderer gave in its Initial Tender.

**2.2 Price Evaluation**

The Price Evaluation, as detailed in DEFFORM 47 Annex C (Price Evaluation), will be based on a combination of:

- a) The total Firm price of Pricing Period 1 (Schedule of Requirements Item Numbers 1 and 2)
- b) The total Fixed price of Pricing Period 2 (Schedule of Requirements Item Number 3)
- c) Total Fixed price of all Option Years
- d) Together with a price for:

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- I. 10% Overfly for each year of support (years 1-10 including Option Years)
  - II. 10% Underfly for each year of support (years 1-10 including Option Years)
- e) Firm and Fixed prices provided to support Additional Tasks

The Authority reserves the right to adjust the Tenderer's bid costs for any Authority cost of GFX required to enable the solution over and above the GFA which is offered in the GFA Register in Schedule 5. The Authority shall consult with the Tenderer where such an adjustments is required.

The Authority reserves the right to adjust the Tenderer's bid costs for any changes in the costs for Ship Air Integration that may be required by any proposed introduction of an aircraft type other than an AW139. The Authority shall consult with the Tenderer where such an adjustments is required.

For any Tender to be accepted by the Authority it must also be affordable. The Authority will wish to discuss affordability with the Tenderer for any Initial Tender that is not considered affordable should that Tender reach Stage 4 Negotiation. Any Final Tender that is not affordable shall be rejected and Tenderer will not be selected as the Preferred Bidder.

## **2.3 Overall Tender Score**

Each Tender will be evaluated using a Value for Money Index calculation to establish the Most Economically Advantageous Tender (MEAT). This is a comparative score with the scoring method worked out using equation below:

$$VFM\ Value = (Total\ Technical\ Score \div Evaluation\ Price\ (£))$$

- a. Evaluation Price calculated in accordance with the Price evaluation section detailed at D3 and Annex C to this DEFFORM 47;
- b. The Tender's Technical Score is the score in the range of 0 to 100 calculated in accordance with the Technical Evaluation section detailed at D2 and Annex B to this DEFFORM 47.

All Tenders will be ranked using this rating, the Tender with the highest VFM Value rating being the one favoured by the Authority.

Should one or more Tenders have the same VFM Value, the Tender with the highest technical score will be ranked higher.

## **2.4 Pass/Fail Assessment**

The Authority will use the consensus scores to conduct a Pass/Fail assessment against the Pass/Fail Confidence Scored Question.

If no "Fail" scores have been assigned to the relevant Tenderer, the Authority shall continue to Stage 2.5 (Confidence Scored Assessment) in relation to that Tenderer.

Following submissions of Initial Tenders or the Final Tender pursuant to this ITN, should a Tender Response "Fail" any element of the Pass/Fail assessment, this will mean that the Tender Response does not meet the required standard. The Authority reserves the right, at

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its sole discretion, to cease the evaluation and exclude the Tender from the remainder of the selection process.

## **2.5 Confidence Scored Assessment**

The Authority will conduct a confidence scored assessment against the Confidence Scored Questions in accordance with Annex B to this DEFFORM 47.

### **Stage 3 – Ranking of Tender Returns**

The consensus scores for each of the Confidence Scored Questions shall then be multiplied by the weighting allocated to the Confidence Scored Question as detailed in Annex B (Technical Evaluation Criteria) to create a weighted consensus score for each Confidence Scored Question.

The weighted consensus scores for each Confidence Scored Question will be added together to produce a total score (the “Total Technical Score”) which shall be used (in combination with the Evaluation Price) to calculate the VFM Value (please see the formula in 2.3 above) to assign a ranking to each of the Tenderers.

Once this is complete, the Authority shall notify the outcomes to each of the Tenderers.

The Authority reserves the right to select a Preferred Tenderer and award the Contract to the Tenderer with the highest VFM Value following submission of Initial Tenders provided that such Tenderer’s Initial Tender:

- is Compliant at Stage 1 (Initial Review); and
- Has not scored a 0 in relation to any Confidence Scored Question; and
- has passed all the Pass/Fail assessment questions at Stage 2.4 (Pass/Fail Assessment); and
- has achieved a total weighted score (in relation to the Confidence Scored Questions) of 70%,

provided that no other Initial Tender meets such requirements.

The Authority may only exercise its right to select a Preferred Tenderer and award the Contract to the Tenderer with the highest VFM Value following submission of Initial Tenders where there is no realistic prospect (in the Authority’s reasonable opinion) of any other Tenderer making up the shortfall in VFM Value at Stage 5 (Final Tender).

If the Authority elects not to, or is not able to, select a Preferred Tenderer based on the Initial Tenders, the Authority will progress to Stage 4 (Negotiation Phase).

The three Tenders with the highest VFM Value and no Fail or 0% marks awarded during the Confidence Scored Assessment will be invited to Stage 4 (Negotiation Phase). Should there be fewer than three Tenders that meet these criteria then, should there be any Tenders that have been awarded Fail or 0% marks during the Confidence Scored Assessment, then the balance will be filled by the highest scoring of such Tenders in order of high scores; i.e. highest

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VFM Value first. All other Tender Responses shall be excluded from the competition and shall not go on to Stage 4 (Negotiation).

Any Tenderer not invited to Stage 4 (Negotiation Phase), because of the Authority exercising its rights detailed in this ITN, will be provided with feedback on its Initial Tender, informed that they have been unsuccessful and removed from the remainder of this procurement process.

**Stage 4 – Negotiation Phase****Negotiation Phase Overview**

Stage 4 (Negotiation Phase) provides an opportunity for the Authority and each of the remaining Tenderers to engage in discussions and negotiation, with the overall aim of improving on their Initial Tender.

If, following the Initial Review detailed in Step 3 at D1, Tenderer's are invited to Negotiate, the Authority reserves the right to negotiate on the following matters:

- a. Tenderer's Fail Mark and / or 0% score. Note here the intent is that the Authority is prepared to assist the Tenderer in understanding to improve their scores.
- b. SoR
- c. Price and Rates
- d. Risk and liability
- e. Key Performance Indicators
- f. Dependencies, Assumptions and Exclusions
- g. Payment Plan
- h. Tenderer's proposed solution

Stage 4 (Negotiation Phase) shall consist of separate meetings between each Tenderer and the Authority.

In advance of the first negotiation meeting, the Authority will provide each Tenderer with feedback on its Initial Tender in accordance with DSPCR 2011.

**Outline Agendas for Negotiation Meetings**

Agendas for the negotiation meetings will be specific to each Tenderer. At least five working days prior to each meeting, the Tenderers shall provide an agenda and identify discussion topics.

This does not preclude further areas being raised during the negotiation meetings but will afford the Authority an opportunity to prepare and enable a more developed discussion during the meeting.

The Authority may also suggest agenda items and will, if so, communicate those to the relevant Tenderer in advance of the meeting.

Throughout Stage 4 (Negotiation Phase) the principles of equality, non-discrimination and transparency shall apply to both the Authority and the Tenderers.

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**Recording Negotiation Meetings**

- The Authority will log key points raised in the negotiation meetings. These items will be classified under one of the following three headings:
  - Clarifications (which must subsequently be raised by the Tenderer in accordance with this ITN);
  - Decisions; or
  - Actions.
- Logged issues may require further discussion or negotiation and the outcomes of which will be recorded.
- Logged items pertaining to the negotiation meeting will be sent to the Tenderer as a confidential correspondence item for the Tenderer to review for accuracy and completeness following the negotiation meeting.
- Tenderers should provide confirmation of their acceptance as an accurate record of the discussions within two (2) working days of issue by the Authority.
- Where the Tenderer considers that it does not accurately reflect discussions and agreement between the Parties it shall provide alternative drafting to the Authority. Any such comments will be considered by the Authority and either accepted or contested as an accurate note. Where it is not possible to reach agreement on any aspect of the minutes, such points will be recorded as points raised and reserved by the Tenderer and logged as outstanding.
- No further negotiation will be permitted once Stage 4 (Negotiation Phase) has been formally closed.

**Attendance and Roles at Negotiation Meetings**

- The representatives from the Authority's team will be drawn from the Authority Project Staff, contractors and external advisers. Tenderers will be advised of the names and positions of the Authority's representatives at least two (2) working days prior to the negotiation meetings; note that such information is subject to change if the Authority requires.
- The Tenderer's negotiation team attending the negotiation meeting shall consist of an appropriate number of suitably constituted and empowered representatives.
- Any negotiation meeting shall take place at a mutually satisfactory date in August 2024.
- Tenderers are required to provide the names and positions of their representatives at least two (2) working days before the negotiation meeting. Any changes to the individuals involved are to be notified to the Authority.

**Concluding the Negotiation Phase**

Following completion of Stage 4 (Negotiation Phase), the Authority shall formally close Stage 4 (Negotiation Phase) and proceed to Stage 5 (Final Tender).

The Tenderers should note that:

- the Authority reserves the right to shorten, lengthen and close Stage 4 (Negotiation Phase) at its sole discretion;
- Tenderers will be permitted to raise clarification questions in accordance with sections B6 - B8 of this DEFFORM 47 during Stage 4 (Negotiation);

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- nothing said or intimated by the Authority, or its advisers, during the negotiation meetings will constitute any transfer of risk to the Authority or grants any approvals for Tender Responses in relation to their adequacy in meeting the Authority requirements;
- the negotiation meetings themselves are not evaluated; and
- the Tenderers and Authority shall place no reliance on any representations made in the negotiations and any such representations will be non-binding and shall not impact upon the evaluation.

**Stage 5 – Final Tender**

Following close of Stage 4 (Negotiation Phase), the remaining Tenderers shall be invited to revise their Initial Tender and submit a Final Tender.

Should the Authority wish to revise any of its requirements or details of the original ITN then a revised ITN (including such changes) shall be issued to all Tenderers that have not been excluded from the competition.

The Authority will evaluate the Final Tenders in accordance with the process set out in Stage 1 (Initial Review) to Stage 3 (Ranking of Tenderer Returns) to identify the Preferred Tenderer.

**Stage 6 - Selection of Preferred Tenderer**

The Tenderer with the highest VFM Value for its Final Tender will be selected as Preferred Tenderer and awarded a Contract subject to all relevant approvals provided that its Final Tender:

- is Compliant at Stage 1 (Initial Review);
- has passed the Pass/Fail assessment at Stage 2.1 (Pass/Fail Assessment); and
- has not received a zero score for any of the Confidence Scored Questions.

If two or more Tenderers share the highest weighted score for its Final Tender and meet the criteria set out above, the Preferred Tenderer shall be selected as follows:

- Step 1: the Tenderer with the highest Total Technical Score will be the Preferred Tenderer.

As set out in Section F14, the Authority will conduct a mandatory ten (10) day standstill period following announcement of the Preferred Tenderer in accordance with the DSPCR 2011. The Authority will not award a Contract until conclusion of this period.

## **Section E – Instructions on Submitting Tenders**

### **Submission of your Tender**

- E1. Your Tender and any ITN Documentation must be submitted electronically via the Defence Sourcing Portal (DSP) by **17:00:00 on Friday 5th July 2024 (GMT)**. The Authority reserves the right to reject any Tender received after the stated date and time. Hard copy, paper or delivered digital Tenders (e.g. email, DVD) at OFFICIAL SENSITIVE classification are no longer required and will not be accepted by the Authority. Tenderers are required to submit an electronic online Tender response to ITN RFQ Number 703723450.
- E2. Your priced Tender and priced ITN Documentation must only be submitted to the commercial envelope of the DSP ITN. You must ensure that there are no prices present in the technical or qualification (if applicable) envelopes of the DSP ITN. The Authority has the right to request, at its discretion, that any pricing information found in the technical or qualification (if applicable) envelopes is redacted in accordance with paragraph E3.
- E3. The Authority may, in its own absolute discretion allow the Tenderer to rectify any irregularities identified in the Tender by the Authority or provide clarification after the Tender return date. For example, this may include, but is not limited to, redacting pricing information in the unpriced copy of the Tender, rectifying, or providing clarification in relation to a corrupt or blank document. Tenderers will be provided with instructions via the DSP on how they can correct such irregularities which must be completed by the deadline set. The Authority will cross reference the amended Tender with the original Tender submitted to the DSP before the Tender return date to ensure that no other amendments, other than in relation to the specific irregularity/clarification communicated by the Authority, have been made. Should Tenderers make additional amendments to the Tender other than those relating to the specific irregularity/clarification communicated to the Tenderer by the Authority, this will result in a Tender that is not Compliant.
- E4. The DSP is accredited to OFFICIAL SENSITIVE. Material that is protectively marked above this classification must not be uploaded to the DSP. Please raise a Clarification Question via the DSP and contact the Commercial Point of Contact if you have a requirement to submit documents above OFFICIAL SENSITIVE.
- E5. You must not upload any ITAR or Export Controlled information as part of your Tender or ITN documentation into the DSP. You must raise a Clarification Question via the DSP and contact the Commercial Point of Contact to discuss any exchange of ITAR or Export Controlled information. You must ensure that you have the relevant permissions to transfer information to the Authority.
- E6. You must ensure that your DEFFORM 47 Annex A is signed, scanned and uploaded to DSP with your Tender as a PDF (it must be a scanned original). The remainder of your Tender must be compatible with MS Word and other MS Office applications.

### **Lots**

- E7. This requirement has not been split into lots.

### **Variant Bids**

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E8. The Authority will not accept variant bids.

**Samples**

E9. Samples are not required.

## **Section F – Conditions of Tendering**

- F1. The issue of ITN Documentation or ITN Material is not a commitment by the Authority to place a Contract as a result of this competition or at a later stage. Neither does the issue of this ITN or subsequent Tender submission create any implied Contract between the Authority and any Tenderer, and any such implied Contract is expressly excluded.
- F2. The Authority may:
- a. vary the terms of this ITN in accordance with applicable law;
  - b. seek clarification or additional documents in respect of a Tenderer's submission during the Tender evaluation where necessary for the purpose of carrying out a fair evaluation. Tenderers are asked to respond to such requests promptly;
  - c. visit your site;
  - d. disqualify any Tenderer that submits a Tender which is not Compliant in accordance with the instructions or conditions of this ITN;
  - e. disqualify any Tenderer that is guilty of misrepresentation in relation to its Tender, expression of interest, the dynamic DPQQ or the tender process;
  - f. re-assess your suitability to remain in the competition, for example where there is a material change in the information submitted in and relating to the DPQQ response in accordance with this ITN;
  - g. withdraw this ITN at any time, or choose not to award any Contract as a result of this tender process, or re-invite Tenders on the same or any alternative basis;
  - h. re-issue this ITN on a single source basis, in the event that this procurement does not result in a 'competitive process' as defined in the Single Source Contract Regulations 2014, making such adjustments as would be required by the application of the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014;
  - i. choose not to award any Contract as a result of this procurement process;
  - j. where it is considered appropriate, ask for an explanation of the costs or price proposed in the Tender where the Tender appears to be abnormally low in accordance with the DSPCR 2011.
- F3. The Contract will be effective when both parties sign the Contract. The Contract will be issued by the Authority via a DEFFORM 8, to the address you provide, on or before the end of the validity period specified in paragraph C6.

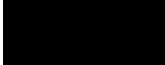
## **Conforming to the Law**

- F4. You must comply with all applicable UK legislation and any equivalent legislation in a third state.
- F5. Your attention is drawn to legislation relating to the canvassing of a public official, collusive behaviour and bribery. If you act in breach of this legislation your Tender may be disqualified from this procurement. Disqualification will be without prejudice to any civil remedy available to the Authority or any criminal liability that your conduct may attract.

## **Bid Rigging and Other Illegal Practices**

- F6. You must report any bid rigging, fraud, bribery, corruption, or any other dishonest irregularity in connection to this tendering exercise to:

Defence Regulatory Reporting Cell Hotline

 or  
(Overseas)

## **Conflicts of Interest**

- F7. Any attempt by Tenderers or their advisors to influence the Contract award process in any way may result in the Tenderer being disqualified. Specifically, Tenderers shall not directly or indirectly at any time:
- devise or amend the content of their Tender in accordance with any agreement or arrangement with any other person, other than in good faith with a person who is a proposed partner, supplier, consortium member or provider of finance;
  - enter into any agreement or arrangement with any other person as to the form or content of any other Tender, or offer to pay any sum of money or valuable consideration to any person to effect changes to the form or content of any other Tender;
  - enter into any agreement or arrangement with any other person that has the effect of prohibiting or excluding that person from submitting a Tender;
  - canvass the Authority or any employees or agents of the Authority in relation to this procurement; or
  - attempt to obtain information from any of the employees or agents of the Authority or their advisors concerning another Tenderer or Tender.
- F8. Where you have advised the Authority in relation to this procurement procedure or otherwise have been or are involved in any way in the preparation or conduct of this procurement procedure or where any other actual or potential conflict of interest (COI) exists or arises at any point before the Contract award decision, you must notify the Authority immediately.
- F9. Where an actual or potential COI exists or arises, you must provide a proposed Compliance Regime within seven (7) calendar days of notifying the Authority of the

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actual or potential COI. The proposal must be of a standard which, in the Authority's sole opinion, appropriately manages the conflict, provides sufficient separation to prevent distortion of competition and provides full details listed in F9 a to g below. Where the Contract is awarded and the COI is still relevant post-Contract award decision, your proposed Compliance Regime will become part of the Contract. As a minimum, the Compliance Regime must include:

- a. the manner of operation and management;
- b. roles and responsibilities;
- c. standards for integrity and fair dealing;
- d. levels of access to and protection of competitors' sensitive information and Government Furnished Information;
- e. confidentiality and/or non-disclosure agreements (e.g. DEFFORM 702);
- f. the Authority's rights of audit; and
- g. physical and managerial separation.

- F10. Tenderers are ultimately responsible for ensuring that no COI exist between the Tenderer and its advisers, and the Authority and its advisers. Any Tenderer who fails to comply with this requirement described at paragraphs F7 to F10 (including where the Authority does not deem the proposed Compliance Regime to be of a standard which appropriately manages the conflict) may be disqualified from the procurement at the discretion of the Authority.

**Government Furnished Assets**

- F11. Where the Authority provides Government Furnished Assets (GFA) in support of this competition, you must include details of the GFA in your Public Store Account and treat it in accordance with DEFSTAN 05-099. If unsuccessful in this competition, you must seek instructions for the GFA from the named Commercial Officer.

**Standstill Period**

- F12. The Authority is allowing a space of ten (10) calendar days between the date of dispatch of the electronic notice of its decision to award a Contract to the successful Tenderer before entering into a Contract, known as the standstill period. The standstill period ends at 23:59 on the 10th day after the date the DEFFORM 158s are sent. If the 10th day is not a business day, the standstill period ends at 23:59 of the next business day.

**Publicity Announcements**

- F13. If you wish to make an announcement regarding this procurement, you must seek approval from the Commercial Point of Contract and Press Office and such permission will only be given at the sole discretion of the Authority. Requests must be made in writing to the Commercial Point of Contact and a copy of the draft announcement provided. This shall then be forwarded to the Press Office and their contact details will be provided for further follow up.
- F14. Under no circumstances should you confirm to any Third Party the Authority's Contract award decision before the Authority's announcement of the award of Contract.

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**Sensitive Information**

- F15. 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-governmental role delivering overall Government policy on public procurement, including ensuring value for money, related aspects of good procurement practice and answering Freedom of Information requests.
- F16. For these purposes, the Authority may share within Government any of the Tenderer's documentation/information (including any that the Tenderer considers to be confidential and/or commercially sensitive such as specific bid information) submitted by the Tenderer to the Authority during this procurement. Tenderers taking part in this competition must identify any sensitive material in the DEFFORM 539A (or SC1B Schedule 4 or SC2 Schedule 5) and consent to these terms as part of the competition process. This allows the Authority to share information with other Government Departments while complying with our obligations to maintain confidentiality.
- F17. Where required, the Authority will disclose on a confidential basis any information it receives from Tenderers during the tender process (including information identified by the Tenderer as Commercially Sensitive Information in accordance with the provisions of this ITN) to any Third Party engaged by the Authority for the specific purpose of evaluating or assisting the Authority in the evaluation of the Tenderer's Tender. In providing such information the Tenderer consents to such disclosure.

**Reportable Requirements**

- F18. Listed in the DEFFORM 47 Annex A (Offer) are the Mandatory Declarations. It is a Condition of Tendering that you complete and attach the returns listed in the Annex and, where you select yes, you attach the relevant information.
- F19. Your Tender will be deemed to be not Compliant and excluded from the tender process if you fail to complete the Annex in full and attach relevant information where required.

## **Russian and Belarusian Suppliers, Products and Services**

F20. Except as set out in PPN 01/22, the Authority will not be accepting Tenders that:

- a. contain any Russian / Belarusian products and/or services; and/or
- b. are linked to entities who are constituted or organised under the law of Russia or Belarus, or under the control (full or partial) of a Russian / Belarusian person or entity. Please note that this does not include companies:
  1. registered in the UK or in a country with which the UK has a relevant international agreement with reciprocal rights of access in the relevant field of public procurement; and/or
  2. which have significant business operations in the UK or in a country the UK has a relevant international agreement with reciprocal rights of access in the relevant field of public procurement.

F21. Tenderers must confirm in writing that their Tender, including any element that may be provided by any part of the Contractor's supply chain, does not contain any Russian / Belarusian products and/or services.

F22. Tenderers must include provisions equivalent to those set out in this clause in all relevant Sub-Contracting Arrangements.

## **Specific Conditions of Tendering**

The Tenderers' attention is drawn to the following:

### **F22. Commercial Point of Contact**

The Authority Commercial Point of Contact email address is [REDACTED] or [REDACTED].

### **F23. Tenderers Point of Contact**

The Tenderer is required to nominate a single, specified individual to act as the focal point for all communications with the Authority in connection with this ITN. The name, designation, postal address, email address, telephone number and the fax number of the nominee should be advised via the DSP to the Commercial Point of Contact.

### **F24. NOT USED**

### **F25. Tenderers Assumptions, Exclusions and Dependencies**

Please note that any assumptions, exclusions and/or dependencies provided as part of the Tenderer's Response shall not provide the Contractor with any relief and/or ability to amend the Contract Price.

### **F26. NOT USED**

**F27. Commercial Compliance Matrix**

As part of your Tender response, you are to complete the Commercial Compliance Matrix at Annex D, marking your compliance accordingly.

The Authority reserves the right to reject a Tenderer who does not provide a satisfactory rationale or justification for any Partial Compliances. Lack of justification of the value accruing to the Authority in return for any Partial Compliance shall be judged as non-compliant.

**F28. DSP**

After ITN publication, all Tenderers can login to the DSP to view the ITN details and complete the response envelopes before submitting their Tender Responses.

Envelopes

Response envelopes are used to gather information from Tenderers. The DSP has three envelopes titled Qualification, Technical and Commercial which the Authority has populated with a set of questions. The envelopes have been configured by the Authority, depending on the type of information we require Tenderers to provide as part of their Tender Response. Envelopes can include structured questionnaires and/or require Tenderers to upload documentation in the form of file attachments.

Qualification envelopes are used to gather information in order to confirm compliance by the Tenderers whilst also being used to get Tenderers to confirm understanding.

Technical envelopes are used to gather detailed technical information about the range, quality of products that Tenderers can offer including what service options Tenderers can provide.

Commercial envelopes are designed to gather prices and commercial compliance evidence from Tenderers.

ITN Attachments

The attachments page displays a list of all the files saved to the ITN by the Authority. Tenderers can access the attachments sections within the ITN by navigating to the Details tab and clicking Attachments in the sub-menu.

The Authority has used the attachments page to share all applicable documentation related to the ITN with Tenderers.

Downloading of individual files can be monitored by the Authority, allowing the Authority to verify the date and time at which each Tenderer has viewed each file.

General Attachments

The general attachments allowed setting on each envelope has been activated to allow Tenderers to attach any number of files in response to the envelope.

Tenderers are requested to note that the Authority requests that Tenderers do not upload attachments that are not necessarily relevant to the ITN and pay particular attention to avoid accidentally loading attachments into the wrong envelope.

#### Mandatory Attachment

Mandatory attachment questions have been used for all envelopes to request that Tenderers provide a specific attachment as a response to a particular question. With attachment type questions, Tenderers will need to upload a single file or a zip file into the appropriate envelope.

#### DSP Supplier User Guide

Tenderers can access the DSP user guide via [Defence Sourcing Portal - Supplier User Guide.pdf](#) which provides detailed instructions on how to use the DSP from a Tenderers perspective. If you require and need assistance with the DSP, please contact the E-Sourcing Helpdesk:

UK HELPDESK: [REDACTED]

## **F29 TUPE**

### **Applicability Of TUPE**

Your attention is drawn to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), as amended and /or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006, as amended from time to time. The Authority would be neither transferor nor transferee of the employees in the circumstances of any contract awarded as a result of this invitation and it is your responsibility to consider whether or not TUPE applies to this re-let and to tender accordingly. Notwithstanding this, you will wish to note that it is the Authority's view that TUPE is likely to be applicable if this Invitation to Tender results in a Contract being placed, although the Authority shall not be liable for the opinion expressed above. In these circumstances the Authority will wish to satisfy itself that your proposals are responsibly based and take full account of your likely TUPE obligations.

If you have a contrary view to that of the Authority on the applicability of TUPE you are strongly encouraged to submit both a TUPE and non-TUPE tender, providing a full explanation to support your view. If the Authority is satisfied by your explanation, the non-TUPE tender will be considered, otherwise the tender conforming to the Authority's view will be considered.

### **TUPE Information Provided for Tendering Purposes**

TUPE information in respect of the current employees is provided at Annex G. This information may be updated prior to contract award in which event the short-listed tenderers will be given an opportunity to revise or confirm tendered prices.

The information detailed at Annex G has been obtained from the contractor currently undertaking this task. The accuracy and completeness of this information cannot be warranted by the Authority. It remains your responsibility to ensure that your tender takes full account of all the relevant circumstances of this contract re-let and tender accordingly. You are required

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to confirm when responding that you will not make any claim or demand or take any actions or proceedings against the Authority (nor seek to avoid any contract or seek any amendment to a contract placed with the contractor by the Authority) arising from or relating to the provision of the information, whether or not you are awarded a contract as a result of this Invitation to Tender. Failure to provide clear and unequivocal confirmation may result in your tender being deemed non-compliant.

# **DEFFORM 47 Annex A**

## **Tender Submission Document (Offer)**

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**Ministry of Defence****Tender Submission Document (Offer) – Contract Ref Number 703723450**

**To the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (hereafter called “the Authority”)**

The undersigned Tenderer, having read the ITN Documentation and ITN Material, offers to supply the Contractor Deliverables at the stated price(s), in accordance with any referenced drawings and / or specifications, subject to the Conditions of Tendering. It is agreed that only the Contract or any amendments issued by the Authority shall apply.

<b>Applicable Law</b>				
I agree that any Contract resulting from this competition shall be subject to English Law				Yes / No
<b>Total Value of Tender (excluding VAT)</b>				
£ .....				
WORDS .....				
<b>UK Value Added Tax</b>				
If registered for Value Added Tax purposes, please insert:				
a. Registration No .....				
b. Total amount of Value Added Tax payable on this Tender (at current rate(s)) £.....				
<b>Location of work (town / city) where contract will be performed by Prime:</b>				
Where items which are subject of your Tender are not supplied or provided by you, state location in town / city to be performed column (continue on another page if required)				
Tier 1 Sub-contractor Company Name	Town / city to be Performed	Contractor Deliverables	Estimated Value	SME Yes / No
<b>Mandatory Declarations</b> (further details are contained in Appendix 1 (Information on Mandatory Declarations) to DEFFORM 47 Annex A (Tender Submission Document - Offer)):			<b>Tenderer's Declaration</b>	
Are the Contractor Deliverables subject to IPR that has been exclusively, or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding?			Yes* / No	
Have you completed and attached a DEFFORM 711 – Notification of Intellectual Property Rights (IPR) Restrictions?			Yes*/No	
Are the Contractor Deliverables subject to Foreign Export Control and Security Restrictions? If the answer is Yes, please complete and attach DEFFORM 528.			Yes* / No	
Have you obtained the foreign export approval necessary to secure IP user rights in the Contractor Deliverables for the Authority, including technical data, as determined in the Draft Contract?			Yes* / No	
Have you provided details of how you will comply with all regulations relating to the operation of the collection of custom import duties, including the proposed Customs procedure to be used and an estimate of duties to be incurred or suspended?			Yes* / No	
Have you completed a Supplier Assurance Questionnaire on the Supplier Cyber Protection Service, together with a Cyber Implementation Plan as appropriate?			Yes* / No / N/A	
Have you completed Form 1686 for sub-contracts?			Yes / No	
Have you completed the compliance matrix/ matrices?			Yes / No / Not Required	
Are you a Small Medium Sized Enterprise (SME)?			Yes / No	
Have you and your sub-contractors registered with the Prompt Payment Code with regards to SMEs?			Yes / No	

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Have you completed and attached Tenderer's Commercially Sensitive Information Form?	Yes* / No
If you have not previously submitted a Statement Relating to Good Standing, within the last 12 months, or circumstances have changed have you attached a revised version?	Yes* / No / N/A
Do the Contractor Deliverables or any item provided in accordance with the Terms and Conditions of the Contract contain Asbestos, as defined by the control of Asbestos Regulations 2012?	Yes* / No
Have you completed and attached a DEFFORM 68 - Hazardous Articles, Deliverables materials or substances statement?	Yes* / No
Do the Contractor Deliverables or any item provided in accordance with the Terms and Conditions of the Contract (including Packaging) use Substances that deplete the Ozone Layer, as defined in Regulation (EC) 1005/2009, as it applies in Great Britain as retained EU law, and as it applies in Northern Ireland directly	Yes* / No
Do the Contractor or any item provided in accordance with the Terms and Conditions of the Contract contain Asbestos, as defined by the control of Asbestos Regulations 2012?	Yes* / No
Where you have been informed that a Bank or Parent Company Guarantee is required, will you provide one during the standstill period, before Contract award, if you are identified as the winning Tenderer?	Yes / No / Not Required
Have you complied with the requirements of the Defence Safety Authority Regulatory Articles?	Yes / No / Not Required
Have you completed the additional Mandatory Requirements (as per paragraph F20) stated in this ITN?	Yes / No / Not Required
*If selecting Yes to any of the above questions, attach the information detailed in Appendix 1 (Information on Mandatory Declarations) to DEFFORM 47 Annex A (Tender Submission Document - Offer).	
<b>Tenderer's Declaration of Compliance with Competition Law</b>	
<p>We certify that the offer made is intended to be genuinely competitive. No aspect of the price has been fixed or adjusted by any arrangement with any Third Party. Arrangement in this context includes any transaction, or agreement, private or open, or collusion, formal or informal, and whether or not legally binding. In particular:</p> <ul style="list-style-type: none"> <li>a. the offered price has not been divulged to any Third Party,</li> <li>b. no arrangement has been made with any Third Party that they should refrain from tendering,</li> <li>c. no arrangement with any Third Party has been made to the effect that we will refrain from bidding on a future occasion,</li> <li>d. no discussion with any Third Party has taken place concerning the details of either's proposed price, and</li> <li>e. no arrangement has been made with any Third Party otherwise to limit genuine competition.</li> </ul> <p>We understand that any instances of illegal cartels or market sharing arrangements, or other anti-competitive practices, suspected by the Authority will be referred to the Competition and Markets Authority for investigation and may be subject to action under the Competition Act 1998 and the Enterprise Act 2002.</p> <p>We understand that any misrepresentations may also be the subject of criminal investigation or used as the basis for civil action.</p> <p>We agree that the Authority may share the Contractor's information / documentation (submitted to the Authority during this Procurement) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. We certify that we have identified any sensitive material in the Tenderer's Commercially Sensitive Information Form (DEFFORM 539A).</p>	
Dated this..... day of ..... Year .....	
Signature:	In the capacity of
(Must be scanned original)	..... (State official position e.g. Director, Manager, Secretary etc.)
<b>Name:</b> (in BLOCK CAPITALS)  <b>duly authorised to sign this Tender for and on behalf of:</b> (Tenderer's Name)	<b>Postal Address:</b>  <b>Telephone No:</b> <b>Registered Company Number:</b> <b>Dunn And Bradstreet number:</b>

## **Annex A - Appendix 1 - Information on Mandatory Declaration**

### **IPR Restrictions**

1. You must complete and attach DEFFORM 711 (Notification of Intellectual Property Rights (IPR) Restrictions) as part of your Tender. You must provide details of any information / technical data that is deliverable or delivered under the Contract where it is, or may be, subject to any IPR restrictions (or any other type of restriction which may include export restrictions) affecting the Authority's ability to use or disclose the Information / technical data in accordance with the conditions of any resulting Contract. You must also identify any Contractor Deliverables subject to IPR which have been funded exclusively or in part by private venture, foreign investment or otherwise than by the Authority.
2. In particular, you must identify:
  - a. any restriction on the provision of information to the Authority; any restriction on disclosure or the use of information by, or on behalf of, the Authority; any obligations to make payments in respect of IPR, and any Patent or Registered Design (or application for either) or other IPR (including unregistered Design Right) owned or controlled by you or a Third Party;
  - b. any allegation made against you, whether by claim or otherwise, of an infringement of Intellectual Property Rights (whether a Patent, Registered Design, unregistered Design Right, Copyright or otherwise) or of a breach of confidence, which relates to the performance of any resultant Contract or subsequent use by or for the Authority of any Contractor Deliverables;
  - c. the nature of any allegation referred to under sub-paragraph 2.b., including any obligation to make payments in respect of the Intellectual Property Right of any confidential information; and / or
  - d. any action you need to take, or the Authority is required to take to deal with the consequences of any allegation referred to under sub-paragraph 2.b.
3. You must provide the Authority with details of every restriction and obligation referred to in paragraphs 1 and 2. The Authority will not acknowledge any such restriction unless so notified using DEFFORM 711 or as otherwise agreed under any resultant Contract. You must also provide, on request, any information required for authorisation to be given under Section 2 of the Defence Contracts Act 1958.
4. You should refer to the DEFFORM 711 Explanatory Notes for further information on how to complete the form.

### **Notification of Foreign Export Control Restrictions**

5. If, in the performance of the Contract, you need to import into the UK or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK import or export licence is required, you will be responsible for applying for the licence. The Authority will provide you with all reasonable assistance in obtaining any necessary UK import or export licence.
6. In respect of any Contractor Deliverables, likely to be required for the performance of any resultant Contract, you must provide the following information in your Tender:

Whether all or part of any Contractor Deliverables are or will be subject to:

  - a. a non-UK export licence, authorisation or exemption; or
  - b. any other related transfer control that restricts or will restrict end use, end user, re-transfer or disclosure.

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You must complete DEFFORM 528 (or other mutually agreed alternative format) in respect of any Contractor Deliverables identified at paragraph 6 and return it as part of your Tender. If you have previously provided this information you can provide details of the previous notification and confirm the validity.

7. You must use reasonable endeavours to obtain sufficient information from your potential supply chain to enable a full response to paragraph 6. If you are unable to obtain adequate information, you must state this in your Tender. If you become aware at any time during the competition that all or part of any proposed Contractor Deliverable is likely to become subject to a non-UK Government Control through a Government-to-Government sale only, you must inform the Authority immediately by updating your previously submitted DEFFORM 528 or completing a new DEFFORM 528.

8. This does not include any Intellectual Property specific restrictions mentioned in paragraph 2.

9. You must notify the named Commercial Officer immediately if you are unable for whatever reason to abide by any restriction of the type referred to in paragraph 6.

10. Should you propose the supply of Contractor Deliverables of US origin the export of which from the USA is subject to control under the US International Traffic in Arms Regulations (ITAR), you must include details on the DEFFORM 528. This will allow the Authority to make a decision whether the export can or cannot be made under the US-UK Defence Trade Co-operation Treaty. The Authority shall then convey its decision to the Tenderer. If the Authority decides that use of the Treaty for the export is permissible, it is your responsibility to make a final decision whether you want to use that route for the export concerned if you are awarded the Contract.

**Import Duty**

11. United Kingdom (UK) legislation permits the use of various procedures to suspend customs duties.

12. For the purpose of this competition, for any deliverables not yet imported into the UK, you are required to provide details of your plans to address customs compliance, including the Customs procedures to be applied (together with the procedure code) and the estimated Import Duty to be incurred and/or suspended.

13. You should note that it is your responsibility to ensure compliance with all regulations relating to the operation of the accounting for import duties. This includes but is not limited to obtaining the appropriate His Majesty's Revenue & Customs (HMRC) authorisations.

**Cyber Risk**

14. Cyber risk has been considered and in accordance with the Cyber Security Model resulted in a Cyber Risk Profile of 'Very Low'. The Risk Assessment Reference is RAR-803565955. Tenderers are required to complete the Supplier Assurance Questionnaire on the Supplier Cyber Protection Service and submit this as part of their Tender response, together with a Cyber Implementation Plan as appropriate.

## **Sub-Contracts Form 1686**

14. Form 1686 (also known as Appendix 5) is to be used in all circumstances where contractors wish to place a Sub-Contract at OFFICIAL-SENSITIVE with a contractor outside of the UK, or where the release of SECRET or above information is involved within the UK or overseas. The process will require submission of the single page document either directly to the MOD Project Team or, where specified, to the DE&S Security Advice Centre. Form 1686 and further guidance can be found in the Cabinet Office's [Contractual Process](#).

## **Small and Medium Enterprises**

15. The Authority is committed to supporting the Government's Small and Medium-sized Enterprise (SME) policy, and we want to encourage wider SME participation throughout our supply chain. Our goal is that 25% of the Authority's spending should be spent with SMEs by 2022; this applies to the money which the Authority spends directly with SMEs and through the supply chain. The Authority uses the European Commission definition of SME.

16. A key aspect of the Government's SME Policy is ensuring that its suppliers throughout the supply chain are paid promptly. All suppliers to the Authority and their Sub-Contractors are encouraged to make their own commitment and register with the <https://www.smallbusinesscommissioner.gov.uk/ppc/>.

17. Suppliers are also encouraged to work with the Authority to support the Authority's SME initiative, however this is not a condition of working with the Authority now or in the future, nor will this issue form any part of the Tender evaluation. Information on the Authority's purchasing arrangements, our commercial policies and our SME Action Plan can be found at [Gov.UK](#) and the DSP.

18. The opportunity also exists for Tenderers to advertise any Sub-Contract valued at over £10,000 on the Defence Sourcing Portal and further details can be obtained directly from: <https://www.gov.uk/guidance/subcontract-advertising>. This process is managed by the Strategic Supplier Management team who can be contacted at: [REDACTED].

## **Transparency, Freedom Information and Environmental Information Regulations**

19. The Authority shall publish notification of the Contract and publish Contract documents where required following a request under the FOI Act except where publishing such information would hinder law enforcement; would otherwise be contrary to the public interest; would prejudice the legitimate commercial interest of any person or might prejudice fair competition between suppliers.

20. The Authority may publish the contents of any resultant Contract in line with government policy set out in the Government's [Transparency Principles](#) and in accordance with the provisions of either DEFCON 539, SC1B Conditions of Contract Clause 5 or SC2 Conditions of Contract Clause 12.

21. Before publishing the Contract, the Authority will redact any information which is exempt from disclosure under the Freedom of Information Act 2000 ("the FOIA") or the Environmental Information Regulations 2004 ("the EIR").

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22. You must complete the attached Tenderer's Sensitive Information form (DEFFORM 539A, SC1B Schedule 4 or SC2 Schedule 5) explaining which parts of your Tender you consider to be Sensitive Information (as defined in DEFCON 539). This includes providing a named individual who can be contacted with regard to FOIA and EIR.

23. You should note that while your views will be taken into consideration, the ultimate decision whether to publish or disclose information lies with the Authority. You are advised to provide as much detail as possible on the form. It is highly unlikely that a Tender will be exempt from disclosure in its entirety. Should the Authority decide to publish or disclose information against your wishes, you will be given prior notification.

**Electronic Purchasing**

24. Tenderers must note that use of the [Contracting, Purchasing and Finance \(CP&F\)](#) electronic procurement tool is a mandatory requirement for any resultant Contract awarded following this Tender. By submitting this Tender, you agree to electronic payment. You may consult the service provider on connectivity options. Failure to accept electronic payment will result in your Tender being not Compliant and excluded from the tender process.

**Change of Circumstances**

25. In accordance with paragraph A34, if your circumstances have changed, please select 'Yes' to the appropriate question on DEFFORM 47 Annex A and submit a Statement Relating to Good Standing with your Tender.

**Asbestos, Hazardous Items and Depletion of the Ozone Layer**

26. The Authority is required to report any items that use asbestos, that are hazardous or where there is an impact on the Ozone. Where any Contractor Deliverables fall into one of these categories select 'Yes' to the appropriate question on DEFFORM 47 Annex A and provide further details in your Tender.

**Defence Safety Authority (DSA) Requirements**

28. Tenderers are required to comply with any applicable DSA military regulatory policy and regulation. Tenderers who wish to propose an alternative acceptable means of compliance must obtain agreement in principle from the relevant defence regulator (through the Project Team) in advance of submitting their Tender. Acceptable Means of Compliance (AMC) are strongly recommended practices and a justification will be required if they are not followed. Tenderers must consult the relevant defence regulator where there is more than one AMC. You must confirm how you intend to comply with the regulatory articles, and the date you consulted with the relevant defence regulator.

**Bank or Parent Company Guarantee**

29. You will be informed whether you are required to provide a Bank or Parent Company Guarantee. In the event that you are selected as the winning Tenderer, you must provide your Bank or Parent Company Guarantee (in the form of DEFFORM 24/24A or Draft Contract as appropriate) during the standstill period. No Contract will be awarded until a suitable Bank or Parent Company Guarantee, as appropriate, is in place. Failure to provide a Bank or Parent Company Guarantee during the standstill period, will result in you being de-selected as the winning Tenderer. The Authority reserves the right to re-evaluate the Tenders, (if necessary) to take into account the absence of the de-selected Tenderer, enabling the Authority to establish the next Preferred Tenderer and award a Contract to such Preferred Tenderer.

## **DEFFORM 47 Annex B Technical Evaluation Criteria<sup>1</sup>**

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<sup>1</sup> Tenderers are to refer to the separate file in DSP in relation to the Technical Evaluation Criteria

# **DEFFORM 47 Annex C**

## **Price Evaluation<sup>2</sup>**

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<sup>2</sup> Tenderers are to refer to the separate file in DSP in relation to Price Evaluation

# **DEFFORM 47 Annex D**

## **Commercial Compliance Matrix<sup>3</sup>**

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<sup>3</sup>Tenderers are to refer to the separate file in DSP in relation to the Commercial Compliance Matrix

# **DEFFORM 47 Annex E**

## **ITN Deliverables Checklist<sup>4</sup>**

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<sup>4</sup>Tenderers are to refer to the separate file in DSP in relation to the ITN Deliverables Checklist

# **DEFFORM 47 Annex F**

## **Insurance Support Table<sup>5</sup>**

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<sup>5</sup>Tenderers are to refer to the separate file in DSP in relation to the Insurance Support Table

# **DEFFORM 47 Annex G**

## **TUPE Employee Information<sup>6</sup>**

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<sup>6</sup>Tenderers are to refer to the separate file in DSP in relation to the TUPE Employee Information