

## Purchase of HR & Payroll System and Fully Managed Payroll Service (With Lots)

### Clarifications & Responses- Issue 1

#### Issue 1

##### Q1 Ability to accommodate staff with multiple jobs.

Do these staff have separate working contracts? **Yes**

Are they paid separate rates depending on the multiple jobs they work? **Yes**

Do they receive different benefits depending on the multiple jobs they work?

**No, although their annual leave is normally calculated separately for each job. We don't normally have staff with more than 2 jobs. The number of staff who normally work multiple jobs is small.**

##### Q2 Please are you able to answer the following questions relating to the ITT documentation;

- *"Form of Tender requires 2 x wet signatures by named Directors". Please confirm that a single, appropriately authorised electronic signature would be acceptable.* **Yes, we're happy to accept authorised electronic signatures.**
- *"Bidders are required to agree the proposed contract terms and conditions. There are significant risks inherent in the terms put forward, so we would not be able to agree them as they are presented". Please confirm the buyer's willingness to negotiate contract terms based on supplier standard terms and whether the buyer will accept and amended Form of Tender (to reflect the above) as part of the submission.*
- **To clarify, the agreement to the 'contract terms and conditions' in the ITT is in relation to the form of tender i.e. the entire ITT documentation and its terms and conditions, it does not represent agreement to the NMRN's Service Contract, as it has been provided as merely a draft within the tender documentation pack.**
- *"that the bidders are able to put forward comments / requested amendments to the proposed terms and conditions, during the clarifications period, but that these may be rejected. Please confirm, as above, that the buyer is willing to negotiate final terms.*
- **The NMRN would be willing to negotiate final terms, we've provided an example of our standard terms and conditions of contract. Please continue to send clarifications for responses throughout this period for response.**

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#### Issue 2- 25<sup>th</sup> November 2022

##### Q3- Just to clarify from the last issue of clarifications;

“No, although their annual leave is normally calculated separately for each job. We don’t normally have staff with more than 2 jobs. The number of staff who normally work multiple jobs is small.

Please confirm that NMRM require a system to accommodate **AT LEAST ONE** employee with more than a single contract / role.”

- Yes, we would require this for a minimum of at least one employee.

##### Q4- Please can I raise the following clarifications in regard to the tender:

- “Please can you confirm that only one electronic copy is to be returned to this same email address?”

- Yes, please only return one completed version of the tender, and sent to [tenders@nmrn.org.uk](mailto:tenders@nmrn.org.uk).

- “Are you able to send a new version of ‘NMRN ITT HR and Payroll System- Annex D-E-F’ as we are unable to edit the tables to add our response “

- We’re unable to issue the ITT documentation in any other format except PDF. Please use MS Word or Google Drive to open the PDF document into a workable document, or use websites such as I Love PDF; [https://www.ilovepdf.com/pdf\\_to\\_word](https://www.ilovepdf.com/pdf_to_word)

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### Issue 3- 7<sup>th</sup> November

**Q5-We have a concern regarding the timeline for this project. Based on our experience with similar implementations, it is our view that the intention to have “fully implemented and operational systems and/or services in place by 1 April 2023” is not achievable. This considers Christmas and New Year holidays, lead time from contract signing, existing resource commitments, the need for parallel runs etc. Is there any flexibility in this timeframe?**

**A- Please provide within your submission your timeline from contract signing to implementation for the lot you’re bidding for. If this extends further than the date we’ve specified please state clearly for the NMRN bid panel to consider.**

**Q6- There are some questions relating to your sample services contract you’ve supplied with the tender documentation, which are;**

**Q6a- Please can the authority confirm what is intended to be captured by Clause 4.1’s definition of ‘Results’? The Supplier intends to submit a tender for the provision of Commercial Off-The-Shelf software for the relevant option and as such will not agree to the vesting of rights in our inventions, designs, computer software, databases, or copyright works. It is agreed and accepted that the Authority’s work and data would remain your own.**

For the avoidance of doubt, the Supplier’s software is provided subject to the Supplier’s standard conditions of licence. This licence is a term licence, which is not transferable nor does it include the ability to sub licence. All licenses granted to the customer by the Supplier shall automatically end with the expiry or termination of the Agreement for any reason. The software can be used on behalf of the Customer with regard to consultants and subcontractors, providing such use is in the course of the Customer’s business and as contemplated by the contract. The Customer will remain liable for any breach of the software licence terms in this regard.

The Supplier retains all its rights with regard to IPR in its Software.

Specially Written Software - Supplier has a policy of continued development, at its own cost, of its software and solutions to keep pace with changes in technology, the law and regulations as well as in response to suggestions and requests from various user groups. Supplier retains ownership of all IPR from such development.

We would hope to agree amendments of the sample agreement to reflect that this would be a provision of COTS software, rather than any development of new software or sale of ownership of our software in line with the above comments.

The wording of this clause will be amended accordingly to reflect the software licences intellectual property from the winning supplier and set out where the NMRN’s IP is limited to.

**Q6b-**

Clause 7.1 creates a blanket indemnity, including for any ‘Act, error or omission of the Service Provider...’. This would not be agreed, we as the supplier's standard limits of liability we have provided for you; <redacted for confidentiality>. Neither party has any liability for any loss of profit, business, revenue, goodwill or anticipated savings and/or indirect or consequential loss or damage  
Please can the Authority confirm this can be agreed?

Partial Agree- we will also agree that the supplier will also be limited to the insurances agreed to in the ITT response in the Supplier Questionnaire section.

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#### **Q6c- Termination for Convenience**

Clause 16.3 provides the right for termination for convenience on 30 days' notice. This notice period could not be sufficient for the Authority to transition to an alternative system, and in order to provide the Customer with best value for money the Supplier's pricing is based on a fixed term contract. Therefore, we believe a termination for convenience clause to be inappropriate and should be removed.

**This will be amended to reflect an appropriate 'break' in the contract at 3-years.**

#### **Q6d- Liquidated Damages / Delay Payments / Milestone Retention / Service Credits**

Clause 8 provides the right to Liquidated Ascertained Damages to operate as a delay payment. In order to provide the Customer with best value for money the Supplier's pricing assumes that this shall not apply. Therefore we believe the Delay Payments clause to be inappropriate and should be removed.

Schedule 2, Part B includes a reference to a Milestone Retention of 10%, but it is not clear how this would apply, and currently seems to state that all milestone payments would be deducted 10% regardless of the delivery against that milestone. This seems to be the only reference to a service credit or this Milestone Retention. Please can this reference to a Milestone Retention be removed to avoid confusion?

**Agreed, it will be adjusted accordingly.**

#### **Q6e- Interest on Late Payment of Debt**

No late payment provision: Supplier should have the right to charge interest under Late Payment of Commercial Debts (Interest) Act and right for suspending the performance of the Services for non-payment.

**The NMRN are content to include this as a clause within the service contract. Whilst also establishing alongside this appropriate escalation process before any suspension of services occurs.**

#### **Q6f- Warranty for delivery of services 'Free from Defect'**

It cannot be agreed that our solution is provided 'free from defect' in line with the warranty at clause 9.1. Software and services can only be provided with a warranty that any defects that are reported shall be acknowledged and resolved in line with our Service Level Agreement, to be appended to the final agreed contract.

**This will be managed through KPIs regarding response time for resolution of defects etc.**

Submission Deadline is Monday 19<sup>th</sup> December 2022 at Midday (1200)