



Department
for Environment
Food & Rural Affairs

Lion House, Willowburn
Trading Estate, Alnwick,
Northumberland NE66 2PF

T: 03459 335577
helpline@defra.gov.uk
www.gov.uk/defra

██████████
Apex Talent Solutions Ltd
36 Crescent Road
Worthing
BN111RL

Our ref: 30772
Date: 15/09/2020

Dear ██████████

Award of contract for the supply of G6 NSCAH Programme Manager - Science

Following your tender/ proposal for the supply of G6 NSCAH Programme Manager - Science to Defra, we are pleased to award this contract to you.

This letter (Award Letter) and its Annexes set out the terms of the contract between Defra as the Authority and Apex Talent Solutions Ltd as the Supplier for the provision of the Services. Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the terms and conditions of contract set out in Annex 1 to this Award Letter (the “**Conditions**”). In the event of any conflict between this Award Letter and the Conditions, this Award Letter shall prevail. Please do not attach any Supplier terms and conditions to this Award Letter as they will not be accepted by the Authority and may delay the conclusion of the Agreement.

For the purposes of the Agreement, the Authority and the Supplier agree as follows:

1. The Services shall be performed at APHA Weybridge, Woodham Lane, Weybridge, Surrey KT15 3NB and at the contingent workers home address.
2. The charges for the Services shall be as set out in Annex 2 and are expressed excluding VAT.
3. The specification of the Services to be supplied is as set out in Annex 3.
4. The Term shall commence on 17/09/2020 and the Expiry Date shall be 31/03/2020.

5. The address for notices of the Parties are:

Authority	Supplier
<p>[REDACTED]</p> <p>Defra Lion House Willowburn Trading Estate Alnwick NE66 2PF</p> <p>Title: Senior Commercial Officer</p> <p>Email: [REDACTED]</p>	<p>[REDACTED]</p> <p>Apex Talent Solutions Ltd 36 Crescent Road Worthing BN11 1RL</p> <p>Title: Managing Director</p> <p>Email: [REDACTED]</p>

6. The following persons are Key Personnel for the purposes of the Agreement:

Name	Role
[REDACTED]	Contingent Worker providing the services

7. For the purposes of the Agreement the Staff Vetting Procedures can be found here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714002/HMG_Baseline_Personnel_Security_Standard_-_May_2018.pdf.

8. The Authority requires the Supplier to ensure that any person employed in the provision of the Services has undertaken a Disclosure and Barring Service check. The Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Services, relevant to the work of the Authority, or is of a type otherwise advised by the Authority (each such conviction a “**Relevant Conviction**”), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Services.

Payment

Our preference is for all invoices to be sent electronically, quoting a valid purchase order number (PO Number), to Accounts-Payable.def@govl.sscl.com. Alternatively, you may post to SSCL, Defra, PO Box 790, Newport NP10 8FZ. Within 10 working days of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.

To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Authority contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment please contact our Accounts Payable section either by email to enquiries@gov.sscl.com or by telephone 0345 603 7262 between 09:00-17:00 Monday to Friday.

Liaison

For general liaison your contact will continue to be [REDACTED]
[REDACTED]

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Services. The Authority would be grateful if you could arrange the contract to be executed, by way of electronic signature, on behalf of Apex Talent Solutions Ltd and within 7 days

Yours faithfully,

[REDACTED]
Senior Category Manager

Execution of this award notification letter is carried out in accordance with EU Directive 99/93 (Community framework for electronic signatures) and the Electronic Communications Act 2000. The Contract will be formed on the date on which both Parties communicate acceptance of its terms on the Authority's eSourcing System.



Department
for Environment
Food & Rural Affairs

Conditions of Contract

Short Form - Services

September 2020

1 Interpretation

1.1 In these terms and conditions:

“Agreement”	means the contract between (i) the Customer acting as part of the Crown and (ii) the Supplier constituted by the Supplier’s countersignature of the Award Letter and includes the Award Letter and Annexes;
“Award Letter”	means the letter from the Customer to the Supplier printed above these terms and conditions;
“Central Government Body”	<p>means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none">(a) Government Department;(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);(c) Non-Ministerial Department; or(d) Executive Agency;
“Charges”	means the charges for the Services as specified in the Award Letter;
“Confidential Information”	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
“Customer”	means the person named as Customer in the Award Letter;
“DPA”	means the Data Protection Act 1998;
“Expiry Date”	means the date for expiry of the Agreement as set out in the Award Letter;
“FOIA”	means the Freedom of Information Act 2000;

“Information”	has the meaning given under section 84 of the FOIA;
“Key Personnel”	means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Supplier in writing;
“Party”	means the Supplier or the Customer (as appropriate) and “Parties” shall mean both of them;
“Personal Data”	means personal data (as defined in the DPA) which is processed by the Supplier or any Staff on behalf of the Customer pursuant to or in connection with this Agreement;
“Purchase Order Number”	means the Customer’s unique number relating to the supply of the Services;
“Request for Information”	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);
“Services”	means the services to be supplied by the Supplier to the Customer under the Agreement;
“Specification”	means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;
“Staff”	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;
“Staff Vetting Procedures”	means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer’s procedures for the vetting of personnel as provided to the Supplier from time to time;
“Supplier”	means the person named as Supplier in the Award Letter;
“Term”	means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
“Working Day”	means a day (other than a Saturday or Sunday) on which banks are

open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

2 Basis of Agreement

- 2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.
- 2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Supplier on receipt by the Customer of a copy of the Award Letter countersigned by the Supplier within [7] days of the date of the Award Letter.

3 Supply of Services

- 3.1 In consideration of the Customer's agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.
- 3.2 In supplying the Services, the Supplier shall:
 - 3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;
 - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;
 - 3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;
 - 3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
 - 3.2.5 comply with all applicable laws; and
 - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.
- 3.3 The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier.

4 Term

- 4.1 The Agreement shall take effect on the date specified in Award Letter and shall

expire on the Expiry Date, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.

- 4.2 The Customer may extend the Agreement for periods of up to 6 months on each occasion by giving notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.

5 Charges, Payment and Recovery of Sums Due

- 5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 5.2 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 5.3 The Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.4 In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.5 If the Customer fails to consider and verify an invoice in a timely fashion the invoice shall be regarded as valid and undisputed for the purpose of paragraph 5.4 after a reasonable time has passed.
- 5.6 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.
- 5.7 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.8 Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract:
- 5.8.1 provisions having the same effects as clauses 5.3 to 5.7 of this Agreement; and
 - 5.8.2 a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as 5.3 to 5.8 of this Agreement.
 - 5.8.3 In this clause 5.8, “sub-contract” means a contract between two or more suppliers, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of

performing (or contributing to the performance of) the whole or any part of this Agreement.

- 5.9 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

6 Premises and equipment

- 6.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Supplier or the Staff shall be at the Supplier's risk.
- 6.2 If the Supplier supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Supplier or any Staff, other than fair wear and tear.
- 6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.
- 6.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 6.7 The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

7 Staff and Key Personnel

- 7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:

- 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;
- 7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
- 7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,

and the Supplier shall comply with any such notice.

7.2 The Supplier shall:

- 7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;
- 7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and
- 7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.

7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.

7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

8 Assignment and sub-contracting

- 8.1 The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 8.2 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 8.3 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

9 Intellectual Property Rights

- 9.1 All intellectual property rights in any materials provided by the Customer to the Supplier for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.
- 9.2 All intellectual property rights in any materials created or developed by the Supplier

pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).

9.3 The Supplier hereby grants the Customer:

- 9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and
- 9.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:
 - (a) any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and
 - (b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,

including any modifications to or derivative versions of any such intellectual property rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.

9.4 The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

10 Governance and Records

10.1 The Supplier shall:

- 10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and
- 10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

11 Confidentiality, Transparency and Publicity

11.1 Subject to clause **Error! Reference source not found.**, each Party shall:

- 11.1.1 treat all Confidential Information it receives as confidential, safeguard it

accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

11.2 Notwithstanding clause **Error! Reference source not found.**, a Party may disclose Confidential Information which it receives from the other Party:

11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

11.2.2 to its auditors or for the purposes of regulatory requirements;

11.2.3 on a confidential basis, to its professional advisers;

11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

11.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and

11.2.6 where the receiving Party is the Customer:

(a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;

(b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;

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

(d) in accordance with clause **Error! Reference source not found.**

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 11.

11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

11.4 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall

not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

12 Freedom of Information

- 12.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:
- 12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
 - 12.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - 12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
 - 12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 12.2 The Supplier acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

13 Protection of Personal Data and Security of Data

- 13.1 The Supplier shall, and shall procure that all Staff shall, comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.
- 13.2 Notwithstanding the general obligation in clause 13.1, where the Supplier is processing Personal Data for the Customer as a data processor (as defined by the DPA) the Supplier shall:
- 13.2.1 ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA;
 - 13.2.2 provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA;
 - 13.2.3 promptly notify the Customer of:

- (a) any breach of the security requirements of the Customer as referred to in clause **Error! Reference source not found.**; and
- (b) any request for personal data; and

13.2.4 ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer's obligations under the DPA.

13.3 When handling Customer data (whether or not Personal Data), the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Supplier from time to time.

14 Liability

14.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.

14.2 Subject always to clauses **Error! Reference source not found.** and 14.4:

14.2.1 the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier; and

14.2.2 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Supplier be liable to the Customer for any:

- (a) loss of profits;
- (b) loss of business;
- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); and/or
- (f) any indirect, special or consequential loss or damage.

14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

- 14.3.1 death or personal injury caused by its negligence or that of its Staff;
- 14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or
- 14.3.3 any other matter which, by law, may not be excluded or limited.

14.4 The Supplier's liability under the indemnity in clause 9.4 and 18.3 shall be unlimited.

15 Force Majeure

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

16 Termination

- 16.1 The Customer may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.
- 16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:
- 16.2.1 (without prejudice to clause **Error! Reference source not found.**), is in material breach of any obligation under the Agreement which is not capable of remedy;
 - 16.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
 - 16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
 - 16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
 - 16.2.5 breaches any of the provisions of clauses 7.2, 11, **Error! Reference source not found.**, 13 and 17;
 - 16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction; or
 - 16.2.7 fails to comply with legal obligations in the fields of environmental, social or labour law.
- 16.3 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause **Error! Reference source not found.** or any potential such change of control.
- 16.4 The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.
- 16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, **Error! Reference source not found.**, 13, 14, 16.6, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 16.6 Upon termination or expiry of the Agreement, the Supplier shall:
- 16.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Services; and
 - 16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

17 Compliance

- 17.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Supplier in the performance of its obligations under the Agreement.
- 17.2 The Supplier shall:
- 17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and
 - 17.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 17.3 The Supplier shall:
- 17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Supplier from time to time; and
 - 17.3.2 take all reasonable steps to secure the observance of clause **Error! Reference source not found.** by all Staff.
- 17.4 The Supplier shall supply the Services in accordance with the Customer's environmental policy as provided to the Supplier from time to time.
- 17.5 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:
- 17.5.1 the Official Secrets Acts 1911 to 1989; and
 - 17.5.2 section 182 of the Finance Act 1989.

18 Prevention of Fraud and Corruption

- 18.1 The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.
- 18.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- 18.3 If the Supplier or the Staff engages in conduct prohibited by clause **Error! Reference source not found.** or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:
- 18.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or

18.3.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

19 Dispute Resolution

- 19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.
- 19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause **Error! Reference source not found.**, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the "**Mediator**") chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

20 General

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

21 Notices

21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause Error! Reference source not found., e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:

21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.

21.3 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause Error! Reference source not found..

22 Governing Law and Jurisdiction

The validity, construction and performance of the Agreement, and all contractual and non-contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

Annex 2 – Charges

Daily charges

While working predominately from home (initial phase of the contract):

Day rate for contingent worker = [REDACTED]

Total Charge rate (including supplier fee) = [REDACTED]

While working on site full-time* (secondary phase of the contract):

Day rate for contingent worker = [REDACTED]

Total Charge rate (including supplier fee) = [REDACTED]

** This must be agreed by the Authority in advance*

Expenses

Expenses are included in the day rate and it is not envisaged that expenses will be payable in addition to the day rate. Any change to this must be agreed by the Authority in advance and will be limited to those travel and accommodation costs payable in accordance with the rates in the Defra travel policy.

Transfer Fees

1. Subject to further details as set out in paragraph 13 and subject to the Conduct of Employment Agencies and Employment Businesses Regulations 2003, the Supplier (who operates an Employment Business) can charge transfer fees to the Authority in the following circumstances only:

1.1. Where the Contingent Worker is then taken on permanently by the Authority (temp-to-perm fees);

1.2. Where the Authority ceases to use the services of the Supplier but wish to retain the Contingent Worker. This would mean that the Contingent Worker would have to change employers to be supplied by the Employment Business that the Authority wishes to use (temp-to-temp fees)

1.3. If the Authority introduces the Contingent Worker to a third party organisation and the Contingent Worker takes up employment with the third party organisation (temp-to-third-party fees)

Temp-to-Temp and Temp-to-Perm Transfer Fees

2. The Supplier can charge Transfer Fees as long as, during or following the most recent Assignment of the Contingent Worker, the Authority has first been given the option by the Supplier, to have that Temporary Work-Seeker supplied by the Supplier for a further period of four (4) full weeks from when the Authority provides notice in writing (“the Extended Hire Period”) and the Authority has not utilised this option.

3. The Supplier cannot charge a Transfer Fee when an Assignment’s duration is twelve (12) Working Weeks or more, providing the Authority has given the appropriate notice period (“the Extended Hire Period”) of at least four (4) weeks.

4. The Supplier can only charge Transfer Fees in accordance with paragraphs 9 to 12, where the transfer takes place within:

4.1. Eight (8) weeks from the start of the first Assignment with the Authority

4.1.1. If the Authority makes the Contingent Worker permanent within the first eight (8) weeks of an Assignment.

4.1.2. From week eight (8), the Authority may utilise the extended hire period of 4 weeks and no transfer fee will be payable.

4.1.3. The Authority may provide the appropriate notice period anytime up to the end of the eighth working week and take the Temporary Worker permanently without a Transfer Fee at the end of twelve (12) Working Weeks. For example, if notice was given at week (six) 6, then the notice period would be six (6) weeks, taking it to the end of twelve (12) working weeks. See Table 1 – Transfer Fee: Supplier Fee Sliding Scale.

4.2. Four (4) weeks from the end of any Assignment

5. If the Authority hires the Contingent Worker within four (4) weeks of the end of the Assignment, then a Transfer Fee will be payable.

6. If there has been more than one Assignment with a break of more than forty-two (42) days between Assignments the later Assignment is then taken as the first Assignment. Where the break is less than forty-two (42) days then the date of the first Assignment will be taken into account.

7. Where the Authority wishes to exercise the option to Engage the Contingent Worker for an Extended Hire Period:

7.1. The Authority must notify the Supplier of this in writing

7.2. The Contingent Worker must have been in place for a minimum of eight (8) weeks

7.3. The Supplier must continue to supply the Contingent Worker for four (4) full weeks, at the same agreed rate which applied prior to the Authority opting to use the Extended Hire Period, unless prevented from doing so for reasons that are not in any way the Supplier's fault.

7.3.1. If the Contingent Worker takes holiday and/or sick leave within this period, then the period will be extended until four (4) complete weeks have been worked.

Temp-to-third party Transfer Fees

8. The Supplier has provided the Contingent Worker to the Authority and, if the Authority subsequently introduces the Temporary Worker to a third party, then that Supplier can charge a Transfer Fee following the same rules as temp-to-perm or temp-to-temp fees.

Calculating Transfer Fees

9. Where a Temporary Worker is taken on permanently by the Contracting Authority after having been on an Assignment for a period of twelve (12) Working Weeks or longer, but the Extended Hire period was not used, the Supplier may charge a Transfer Fee.

10. The Transfer fee will be equivalent to the Supplier Fee element of the total charge rate that would have been paid over the four (4) week Extended Hire period, had that option been utilised. This is applicable from week eight (8) onwards.

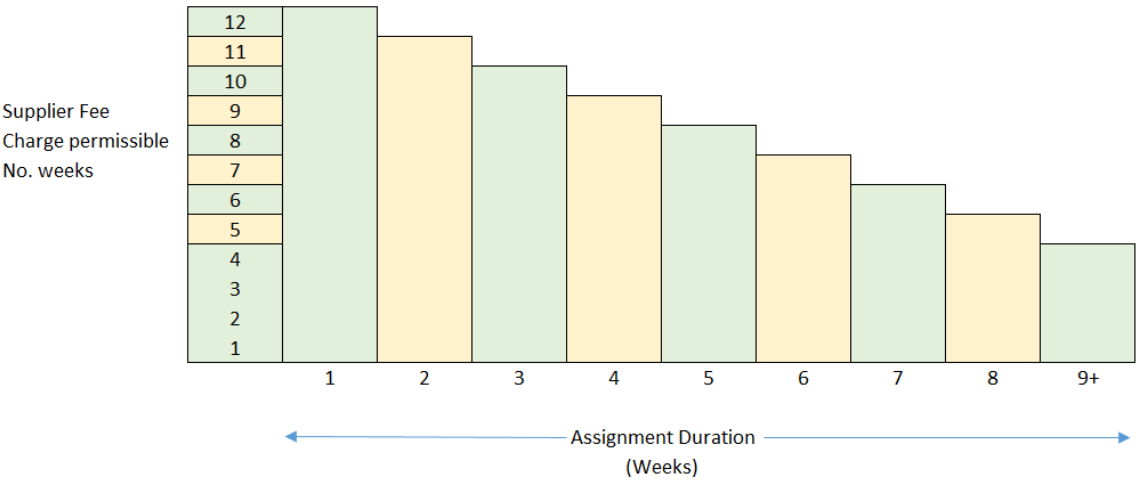
11. Where a Temporary Worker is taken on permanently by the Contracting Authority after having been on an Assignment for seven (7) weeks or less, and the Extended Hire period was not used, the Supplier may charge a Transfer Fee equivalent to the Supplier Fee element of the charge that would have been charged over a period of twelve (12) Working Weeks on a sliding scale basis as per Table 1 in the appendices.

Relevant Law

12. The Conduct of Employment Agencies and Employment Businesses Regulations 2003 shall apply to the payment of Transfer Fees.

<http://www.legislation.gov.uk/ukxi/2003/3319/contents/made>

Table 1 – Transfer Fee: Supplier Fee Sliding Scale



Annex 3 – Specification



**Department
for Environment
Food & Rural Affairs**

G6 NSCAH Programme Manager - Science

Department for Environment, Food and Rural Affairs

Type of role

Contract

Working pattern

Flexible working, Full-time,

Location

Weybridge, Surrey

Day Rate - TBC

Background

This is an exciting opportunity to be part of the development of a world class science facility delivering infrastructure critical to animal health and farming in the UK. The programme is designed to deliver the new facilities over a ten-year programme of work, with a budget in excess of £1B.

Defra group's mission is to protect and enhance the environment – with policies and actions that are also key to sustainable national growth. Defra group is responsible for safeguarding our natural environment, supporting our world-leading food and farming industry, and sustaining a thriving rural economy. Our broad remit means we play a major role in people's day-to-day life, from the food we eat, and the air we breathe, to the water we drink.

Within the group, the Animal and Plant Health Agency (APHA) works to safeguard animal and plant health for the benefit of people, the environment and the economy. APHA is responsible for veterinary research and surveillance; it is at the forefront of research into diseases such as TB, TSEs, Blue Tongue and Avian Influenza; it is critical in protecting the UK farming and food industries from the impact of animal disease and for ensuring that outbreaks of animal disease are successfully contained.

The NSCAH programme is being established to oversee the re-development of APHA's high containment science laboratories based at Weybridge. The site has a wide range of specialist and complex scientific facilities, laboratories and a range of other buildings, and is one of only 30 such sites across the world. Many of the facilities are 'high containment', used to carry out research that can affect human and animal health and as such are high risk and of national importance. The Weybridge site is the largest facility in terms of size and complexity across the Defra network.

This new post is based at Weybridge in Surrey and the site is home to both APHA and the Veterinary Medicines Directorate (VMD); it is also the administrative centre for the APHA Regional Laboratories. This Programme will oversee the re-development of this large site over a 10-year period. Over its 100-year history and following a lengthy period of underinvestment, this site is now an amalgam of buildings of varying ages, disparate state of repair and many operational inefficiencies. It is critical to the continued successful running of APHA's science business to enhance the capability and upgrade the research facilities. It is planned that the new build will occupy the same site and, as a result, this major redevelopment has the added complication of a complex construction process and the need to keep the science open and on track whilst making the transition.

The vision of the NSCAH Programme is to bring all high containment facilities, laboratories and associated functions together into new fit for purpose facilities, and to restore an ordered layout and infrastructure framework to the Weybridge science estate.

Statement of Works:

We are looking for an experienced and outcome focussed **Programme Manager (Science)** from a Life Science background with extensive experience in Laboratories. Working with the Science Community within the Design and Construction master plan, working closely with the Design Authority to develop and deliver the future site state of the art science facility for Weybridge. You will have responsibility for managing the Defra Group Property D+C Science work stream and ensuring as little as practicable disruption to the science environment.

The 'Intelligent Client' side role will initially focus on the procurement of the associated supply chain for the Science Hub facility (or significant part thereof) as part of the £1.4b capital works programme for the Defra Weybridge site and the subsequent design development stage of the lifecycle. You will ensure site operation is maintained without disruption whilst using your strategic experience to focus on the long-term goals. You will be an accomplished problem solver with a proven track record of resolving multiple complex issues, a leader adept at taking charge, organising and communicating with stakeholders with the ability to ease tense situations by managing conflicting parties to find a way forward.

The **Programme Manager (Science Hub)** will drive the design and construction within the parameters set out within project brief. Whilst having a strong understanding of design and construction principles you will require leadership and strong stakeholder engagement, liaising with key stakeholders including APHA and various third parties/consultancies.

This is an exciting opportunity to be part of a fast-growing capital programme team with the opportunity to develop deep specialisms on key aspects of the work and take on highly complex responsibilities, providing advice and guidance as a lead expert in the transformation of the new science facilities leading forwards, developing appropriate solutions to problems within policy/best practice guidelines.

Deliverables

- Championing and implementing effective science programme delivery, supporting the vision to attain a world-class science facility.
- Translating the Capital Programme Brief into a clear and deliverable Project brief.
- Implementing targeted strategies including identification of change impacts to people, process, policy, technology and structure linked to the science hub. Stakeholder identification and alignment, ensuring appropriate communication and feedback.
- Taking the lead and working with the commercial team to identify the scope of services and duties and deliverables for the supply chain required for the delivery of the Science Hub and securing those services
- Taking the lead of identifying and mitigating risks whilst overseeing the management of them by the supply chain.

- Describing the purpose and intended outcomes of the science hub project to a wide variety of stakeholders ensuring that key messages are understood and recognised.
- Oversee the delivery of the Science Hub on the behalf of the Construction Director
- Develop clear line of sight solutions as necessary to deliver Science Hub project outcomes in support of identified future benefits

Essential Criteria

You will be a highly skilled consultant with the ability to define and develop the change and transformation of the science package for the Design and Construction workstream with experience of working across large scale and complex programmes.

- Experience of successfully managing the design and construction of a high profile/high value science facility of a similar large and complex portfolio of construction projects;
 - Experience and ability to provide expertise to the business in all matters related to laboratories;
 - Experience of senior leadership within a complex construction programme and leading and developing science transformation;
 - Experience of influencing, negotiating with and providing challenge to senior stakeholders;
 - Evidence of the ability to work effectively with risk within a complex construction portfolio;
 - Educated to degree level or able to demonstrate extensive experience in an engineering or construction discipline.

Personal Attributes / Behaviours

- Excellent communication skills, verbal and written, and a good understanding of the use of different channels and formats for different audiences and producing clear advice on complex issues;
- Ability to work under pressure and to respond quickly to changing circumstances and to tight timetables;
- Commercially minded, with sound business acumen and a strong focus on performance, value for money and financial management working across employees, contractors and consultants.