

## **15. DPQQ Documents**

- 15.1. This Guidance, Instructions and Notices, the DPQQ and any related documents (referred to as the "DPQQ Documents") have been prepared by the Authority for the purpose of providing an application procedure for individuals or organisations interested in tendering for the In-Service Support of Workboats and to assist Potential Providers in making their own evaluation of the potential opportunity.
- 15.2. Whilst prepared in good faith, the DPQQ Documents are intended only as a preliminary background explanation of the Authority's activities and plans and are not intended to form the basis of any decision on whether to enter into any contractual relationship with the Authority. The DPQQ Documents do not purport to be all-inclusive or to contain all of the information that a Potential Provider may require in the performance of a contract.
- 15.3. Any persons considering making a decision to enter into contractual relationships with the Authority following receipt of the DPQQ Documents should make their own investigations and their own independent assessment of the Authority and their requirements regarding the In-Service Support of Workboats and should seek their own professional financial and legal advice.
- 15.4. None of the Authority, its advisors, or the directors, officers, members, partners, military or civilian personnel, employees, other staff, agents or advisers of any such body or person:
- 15.4.1. makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the DPQQ Documents;
  - 15.4.2. accepts any responsibility for the information contained in the DPQQ Documents or for its accuracy or completeness; or
  - 15.4.3. shall be liable for any loss or damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication.
- 15.5. Only the express terms of any written contract relating to the subject of the DPQQ Documents as and when it is executed shall have any contractual effect in connection with the matters to which it relates. That contract will be governed by English or Scottish law, as specified in the contract.
- 15.6. Nothing in the DPQQ Documents is, or should be, relied upon as a promise or a representation as to the Authority's ultimate decisions in relation to the In-Service Support of Workboats. The publication of the DPQQ Documents in no way commits the Authority to award any contract or pursue any tender process for the Workboats In-Service Support.

## **16. Data Protection**

- 16.1. The Authority will process personal data provided in any DPQQ response, only for evaluation for the selection of Potential Providers under this procurement process for the stated requirement. The Authority will comply with its obligations as a data controller under the Data Protection Act 2020 for this procurement process.

## **17. Confidentiality and Freedom of Information**

- 17.1. The information in the DPQQ Documents is made available on condition that it is treated as confidential by the Potential Provider and is not disclosed, copied, reproduced, distributed or passed to any other person at any time except for the purpose of enabling a submission to be made (for example, disclosure by a Potential Provider to its insurers or potential suppliers who are directly involved in the bid is permitted provided they have



each given an undertaking at the time of receipt of the relevant information (and for the benefit of the Authority) to keep such information confidential).

17.2. The Authority is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, the subordinate Legislation made under those Act / Regulations and any guidance and / or codes of practice issued (from time to time) in relation to such Legislation. Potential Providers are required to (where known at the time):

17.2.1. specify (with reasons) the DPQQ responses which they regard as falling within any of the exemptions from disclosure specified under the Act / Regulations including (without limitation) information provided in confidence; and

17.2.2. state which provisions of the Act/Regulations apply to the DPQQ responses identified under 17.2.2 above.

17.3. The Authority shall be responsible for determining, at its absolute discretion and subject to its legal obligations, whether any of the exemptions from disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, including those claimed by the Potential Provider, should apply. Nothing in this provision will affect the Potential Provider's rights at law.

## **18. Conflicts of Interest**

18.1. The Authority is required by Regulation 5(2) (Economic Operators) of the DSPCR to ensure that all Potential Providers are treated equally and in a non-discriminatory way during the procurement process. The Authority therefore needs to eliminate or mitigate conflicts of interest so as to ensure a fair and non-discriminatory procurement process.

18.2. Potential Providers should note that, subject to the terms of this DPQQ, the Authority reserves the right to disqualify a Potential Provider where there is an actual or potential conflict of interest which cannot be properly managed, including in relation to any other party identified in response to this DPQQ. Such identified parties may include an associated company or member of any consortium or proposed Sub-contractors.

18.3. Potential Providers are required to review carefully the prior or current involvement of the Potential Provider or any other identified party before submission of the completed DPQQ.

18.4. Potential Providers must report to the Authority whether or not they have identified from this review any actual or potential conflicts of interest arising from the Potential Provider or any other identified party's participation in the procurement.

18.5. If the Authority considers there is a conflict of interest, it is a condition precedent for participation in the procurement that the Potential Provider to demonstrate to the absolute satisfaction of the Authority that the Potential Provider or the other identified party has or will put in place measures to eliminate any unfair advantage it may have and ensure that its participation will not distort the competition.

18.6. The measures mentioned at paragraph 18.5 above are likely to include physical separation, protection of information, control of personnel and managerial and administrative separation, as appropriate.

18.7. If the Potential Provider puts in place measures to mitigate any risk from a conflict of interest, the Authority may make such measures contractually binding commitments on the part of a Potential Provider or the other identified party.



18.8. Any Potential Provider should take this condition into account when deciding whether to participate in this procurement.

## **19. Anti-Competitive Behaviour**

19.1. The Authority is required by Regulation 5(2) (Economic Operators) of the DSPCR to ensure that all Potential Providers are treated equally and in a non-discriminatory way during the procurement process. The Authority therefore needs to prohibit anti-competitive behaviour so as to ensure a fair and non-discriminatory procurement process.

19.2. You are required to report any final convictions or settlements with regard to anti-competitive behaviour (and if so, any measures that you have taken to prevent such behaviour happening again) in your response to the appropriate question(s) in Part 1 Forms B and C (which depends on the nature of the conviction or settlement).

19.3. If the Authority suspects anti-competitive behaviour, the Authority will require evidence from you that your arrangements are not anti-competitive. Any evidence of any anti-competitive behaviour in relation to this procurement could result in you being disqualified from the procurement process.



### Scoring Grade for Questions under the Technical Envelope

For the purposes of this DPQQ, the "Response Instruction" defines the type and quality of evidence necessary to allow the Authority's evaluators to award a score for that question. Both "Questions" and "Response Instructions" must be read and addressed to ensure an appropriate level of evidence is submitted.

#### Scoring Grade for PASS/FAIL Questions

The scoring scheme to be used for the evaluation of response received for the In-Service Support of Workboats DPQQ is as follows:

The scoring scheme to be used for the evaluation of response received for:

DSP 2.4.1 – Question 1; and

DSP 2.5.3 – Question 3

Mark	Evaluation of Evidence Presented
PASS	The evidence provided contains an <b>acceptable</b> level of detail and information that is relevant to the requirement, and therefore instils <b>confidence</b> in the Potential Provider's capability. The evidence provided directly answers the response instructions provided by the Authority.
FAIL	The evidence provided contains an <b>unacceptable</b> level of detail and information that is relevant to the requirement, and therefore instils <b>no confidence</b> with the Potential Provider's capability. The evidence provided fails to answer the response instructions provided by the Authority.

If a Potential is assessed as scoring a FAIL for this question under the Technical Envelope, it will be classed as an automatic FAIL. The Scoring criteria is illustrated in Annex A (Scoring Grade for Questions under the Technical Envelope). If a Potential Provider scores a FAIL for this question, you will not be eligible to progress further, and will therefore be an unsuccessful candidate.