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01 February 2023

Dear Sir / Madam

**Invitation to Tender Reference 706411451**

1. You are invited to tender for the **Provision of End Point Assessment to Service Personnel of the Royal Navy undertaking Level 4 Intelligence Analyst Standard (STO516).** in competition in accordance with the attached documentation.

2. The requirement is set out in Schedule 6 - Statement of Requirements.

3. The total budget is £209,000 (excluding VAT).

£41,800.00 each of the 4 years plus £41,800.00 for option year.

4. You may raise questions about the tender and the requirement via the Defence Sourcing Portal. The deadline for asking questions is 10:00 on 24 February 2023. Please note that any questions raised, and the answers provided, may be shared with other interested suppliers.

5. You must submit your Tender via the Defence Sourcing Portal by 10:00 on 6 March 2023. You should allow sufficient time for submission as late tenders will not be accepted. Tender responses should answer all evaluation questions, include all completed documents and provide all requested prices.

6. The anticipated date for the contract award decision is 10 March 2023. Please note that this is an indicative date and may change.

Yours faithfully

**Julie Roberts**

Commercial Manager

DEFFORM 47

(Edn 08/22)

**Contents**

This Invitation to Tender sets out the requirements that Tenderers must meet to submit a valid Tender. It also contains the draft Contract, further related documents and forms and sets out the Authority’s position with respect to the competition.

This invitation consists of the following documentation:

* DEFFORM 47 – Invitation To Tender. 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:

o Section A – Introduction

o Section B – Key Tendering Activities

o Section C – Instructions on Preparing Tenders

o Section D – Tender Evaluation

o Section E – Instructions on Submitting Tenders

o Section F – Conditions of Tendering

o DEFFORM 47 Annex A – Tender Submission Document (Offer)

 Appendix 1 to DEFFORM 47 Annex A (Offer) – Information on Mandatory Declarations

· Contract Documents (As per the contents table in the Terms and Conditions)

o Terms & Conditions which includes the Schedule of Requirements and any additional Schedules, Annexes and/or Appendices

· DEFFORM 111 – Appendix to Contract - Addresses and Other Information

· DEFFORM 539A – Tenderer’s Sensitive Information Form (SC1B Schedule 4)

· Statement Relating to Good Standing

· Cyber Risk Assessment

· DEFFORM 711 - Notification of IPR Restrictions

**Section A – Introduction**

**DEFFORM 47 Definitions**

In this ITT the following words and expressions shall have the meanings given to them below:

1. “The Authority” means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, acting as part of the Crown.
2. “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.
3. “Conditions of Tendering” means the conditions set out in this DEFFORM 47 that govern the competition.
4. 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.
5. “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.
6. “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.
7. “Contractor Deliverables” means the works, goods and/or the services, including packaging (and Certificate(s) of Conformity and supplied in accordance with any Quality Assurance (QA) requirements if specified) which the Contractor is required to provide under the Contract.
8. “Cyber Security Model” means the model defined in DEFCON 658.
9. “Defence Sourcing Portal” means the electronic platform in which Tenders are submitted to the Authority.
10. “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.
11. “ITT Documentation” means this ITT 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 ITT.
12. “ITT 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 ITT.
13. “Schedule of Requirements” (Schedule 2) means that part of the Contract which identifies, either directly or by reference, the Contractor Deliverables to be supplied or carried out, the quantities involved and the price or pricing terms in relation to each Contractor Deliverable.
14. The “Statement of Requirement” (Schedule 6) means that part of the Contract which details the technical requirements and acceptance criteria of the Contractor Deliverables.
15. 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.
16. 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.
17. A “Tender” is the offer that you are making to the Authority.
18. A18. “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.

A19. 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**

A20. The purpose of this ITT is to invite you to submit a Tender, in accordance with the instructions set out in this ITT, to propose a solution and best price to meet the Authority’s requirement. This documentation explains and sets out the:

1. timetable for the next stages of the procurement;
2. instructions, conditions and processes that governs this competition;
3. information you must include in your Tender and the required format;
4. arrangements for the receipt and evaluation of Tenders;
5. criteria and methodology for the evaluation of Tenders; and
6. Contract Terms & Conditions;

A21. The sections in this ITT and associated documents are structured in line with a generic tendering process and do not indicate importance and/or precedence.

A22. This requirement was advertised by the Authority in Defence Sourcing Portal dated

01 February 2023 under the following reference706411451. This notice will also be transferred to Find A Tender and Contracts Finder.

A23. This ITT is subject to the Public Contract Regulations 2015.

A24. This ITT has been advertised on the Defence Sourcing Portal (DSP) under the Open procedure.

A25. A Contract Bidders Notice has not been advertised because this requirement is under the Open procedure and Bidders are not yet known.

A26. Funding has been approved for this requirement.

**ITT Documentation and ITT Material**

A27. ITT Documentation, ITT 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:

1. take responsibility for the safe custody of the ITT Documentation and ITT Material and for all loss and damage sustained to it while in your care;
2. not copy or disclose the ITT Documentation or ITT Material to anyone other than the bid team involved in preparing your Tender, and not use it except for the purpose of responding to this ITT;
3. seek written approval from the Authority if you need to provide access to any ITT Documentation or ITT Material to any Third Party;
4. abide by any reasonable conditions imposed by the Authority in giving its approval under sub-paragraph A27.c, which as 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;
5. accept that any further disclosure of ITT Documentation or ITT Material (or use beyond the original purpose), or further use of ITT Documentation or ITT 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;
6. inform the named Commercial Officer if you decide not to submit a Tender;
7. immediately confirm destruction of (or in the case of software, that it is beyond use) all ITT Documentation, ITT Material and derived information of an unmarked nature, should you decide not to respond to this ITT, or you are notified by the Authority that your Tender has been unsuccessful; and
8. consult the named Commercial Officer to agree the appropriate destruction process if you are in receipt of ITT Documentation and ITT Material marked ‘OFFICIAL-SENSITIVE’ or ‘SECRET’.

A28. Some or all the ITT Documentation and ITT 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 are in addition to, and do not derogate from, your obligations under paragraph A27 above.

**Tender Expenses**

A29. 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**

A30. 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 the case of a Sub-Contracting Arrangement, the Authority requires all Tenderers to identify the entity that will be the party to the Contract with the Authority.

**Material Change of Control**

A31. You must inform the Authority in writing as soon as you become aware of:

1. any material changes to any of the information, representations or other matters of fact communicated to the Authority as part of your PQQ response or in connection with the submission of your PQQ response;
2. any material adverse change in your circumstances which may affect the truth, completeness or accuracy of any information provided as part of your PQQ response or in connection with the submission of your PQQ response or in your financial health or that of any Consortium Arrangement member or Sub-Contracting Arrangement member; or
3. any material changes to your financial health or that of a party to the Consortium Arrangement or Sub-Contracting Arrangement; and
4. any material changes to the makeup of the Consortium Arrangement or Sub-Contracting Arrangement, including:
5. the form of legal arrangement by which the Consortium Arrangement or Sub-Contracting Arrangement will be structured;
6. the identity of Consortium Arrangement or Sub-Contracting Arrangement;
7. the intended division or allocation of work or responsibilities within or between the Consortium Arrangement or Sub-Contracting Arrangement; and
8. any change of control of any Consortium Arrangement or Sub-Contracting Arrangement.

A32. If a change described in paragraph A31 occurs, the Authority may reassess you against the PQQ selection criteria. The Authority reserves the right to require you to submit an updated/amended PQQ 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.

A33. In relation to a change described in paragraph A31, 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 PQQ 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

A34. 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 PQQ if:

1. it fails to re-submit to the Authority the updated relevant section of its PQQ response providing details of such change in accordance with paragraph A33 as soon as is reasonably practicable and in any event no later than [X] business days following request from the Authority; or
2. 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**

A35. The Contract Terms & Conditions include all attachments listed in the contents of the Terms & Conditions, such as the Schedule of Requirements, any additional Schedules, Annexes and/or Appendices. The full text of Defence Conditions (DEFCONs) and Defence Forms (DEFFORMS) are available electronically via the [Knowledge in Defence (KiD)](https://www.gov.uk/guidance/knowledge-in-defence-kid) website.

A36. Standardised Contract 1B (SC1B) conditions are attached.

**Other Information**

A37. **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:

1. That the Armed Forces community would not face disadvantages when compared to other citizens in the provision of public and commercial services; and
2. 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.

c. [The Armed Forces Covenant](https://www.gov.uk/defence-and-armed-forces/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.

d. 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: employerrelations@rfca.mod.uk

Address: Defence Relationship Management

Ministry of Defence

Holderness House

51-61 Clifton Street

London

EC2A 4EY

e. Paragraph A37 a to d above are not a condition 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.

A38.

**Contract Documents**

Any contract resulting from this tender will be formed from the MOD Terms & Conditions and associated Schedules, including the Statement of Requirements and Schedule of Requirements, incorporating prices submitted by the Winning Tenderer.

If the Winning Tenderer does not enter into the Contract following contract award, the Authority reserves the right to terminate that Contract and award the Contract to the next best placed Tenderer or to cancel or re-run the procurement.

**IR35**

IR35 off payroll working rules are not expected to apply to this requirement unless the Winning Tenderer indicates that the personnel who will be used to deliver Services will not be employed through their payroll. In those circumstances, a relevant assessment will be considered.

**Cyber Risk**

A Cyber Risk Assessment has been raised and the profile is Low. The reference is RAR- LZQJYUTSF

A Supplier Assurance Questionnaire does need to be completed.

Where a Supplier Assurance Questionnaire needs to be completed, Tenderers must complete this online at [https://production.prod.digitaldds.co.uk](https://production.prod.digitaldds.co.uk/) and submit a copy of the completed questionnaire, confirming their score, as part of the tender submission.

If a Tenderers Supplier Assurance Questionnaire score does not meet the level set in the Cyber Risk Assessment, this does not prevent submission of a Tender. In those circumstances, a Cyber Implementation Plan should be completed as part of the tender submission, to demonstrate what actions will be taken to meet the required Cyber Risk level. Provided the actions and timescales were considered acceptable to The Authority, the Cyber Implementation Plan would then be included as a requirement in any resulting Contract.

**Cyber Implementation Plan Template**

|  |  |
| --- | --- |
| MOD contract number: |  |
| CSM Risk Acceptance Reference: |  |
| CSM Cyber Risk Profile: |  |
| Name of Supplier:  |  |
| Current level of Supplier compliance: |  |
| Reasons unable to achieve full compliance:  |  |
| Measures planned to achieve compliance / mitigate the risk with dates:  |  |
| Anticipated date of compliance / mitigations in place: |  |

**Section B – Key Tendering Activities**

The key dates for this procurement are currently anticipated to be as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Stage** | **Date and Time**  | **Responsibility** | **Submit to:** |
| Invitation to Tenderers’ Conference | Not Applicable to this procurement |  |  |
| Date for confirmation of attendance at Tenderers’ Conference | Not Applicable to this procurement |  |  |
| Final date for Clarification Questions/Requests for additional information | 24 February 2023  | Tenderers | Defence Sourcing Portal |
| The Authority issues Final Clarification Answers | 28 February 2023 | The Authority | All Tenderers |
| Tender Return | 06 March 2023 | Tenderers | Defence Sourcing Portal |
| Tender Evaluation | 10 March 2023 | The Authority | N/A |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**Notes**

**Tenderers Conference**

1. A Tenderers Conference is not being held.

**Clarification Questions**

1. The Authority will automatically 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 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.

**Tender Return**

1. 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.

**Negotiations**

B4. Negotiations do not apply to this tender process.

**Section C - Instructions on Preparing Tenders**

**Construction of Tenders**

1. Your Tender must be written in English, using Arial font size 11. Prices must be in £GBP ex VAT. Prices must be Firm Prices.
2. To assist the Authority’s evaluation, you must set out your Tender response in accordance with Section D (Tender Evaluation).

**Validity**

1. Your Tender must be valid and open for acceptance for ninety (90) calendar days from the Tender return date. In addition, the winning Tender must be 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, you must hold your Tender open for acceptance during this period, and for up to fourteen (14) calendar days after any legal proceedings have concluded.

**Section D – Tender Evaluation Criteria**

1. This section details how your Tender will be evaluated.
2. The Tender evaluation will calculate the Most Economically Advantageous Tender (MEAT) to The Authority based on the following calculation:

Evaluation Score = Total Price

 Total Technical Score

1. Any Tender which is considered non-compliant for any Commercial, Financial or Technical element or criteria will be excluded from the competition and not receive an Evaluation Score. That tender may also be excluded from full Technical evaluations and not receive any Technical scores or feedback.
2. The Tenderer with the lowest Evaluation Score will be considered to be the Winning Tenderer and awarded any resulting contract.
3. In the event that multiple Tenderers achieve the exact same lowest Evaluation Score, then the Tenderer with the lowest Total Price will be considered to be the Winning Tenderer. In the event that multiple Tenderers achieve the exact same lowest Evaluation Score and have the exact same lowest Total Price, then The Authority reserves the right to request those, and only those, Tenderers to submit final and best Total Prices, with the lowest final and best Total Price considered to be the Winning Tenderer.
4. Tenderers must provide relevant answers and all requested documentation in response to all commercial qualification, financial and technical criteria/questions.
5. Tenders will be evaluated based on the contents of their Tender response only.
6. Tenderers must submit only one priced proposal. Where more than one price or set of prices is submitted, only the first submitted priced proposal will be accepted.
7. Technical Evaluation will be undertaken independently from Commercial and Financial Evaluations. Technical evaluators will have no knowledge of associated prices. Tenderers must ensure that there are no prices shown within any technical criteria responses or supporting documents.
8. Should any exclusions, assumptions, dependencies or caveats apply to your Tender or any of the goods and/or services that you would provide when delivering the requirements, these should be clearly indicated in the relevant areas of the Tender.

**Commercial Qualification Evaluation**

1. The Commercial Qualification Evaluation will assess if all tendering and contractual requirements have been provided.
2. A Tender will be considered non-compliant if:
* the Tender was not received by the due date and time.
* the full set of requirements cannot be delivered.
* any required delivery dates cannot be met.
* all MOD Terms & Conditions have not been accepted.
* any other required documentation was not submitted.
* any prices have been included in the technical responses and the Authority considers that this has affected the evaluation process.
* more than one priced proposal has been submitted and the Authority considers that this has affected the evaluation process.
1. The Authority reserves the right to undertake a financial health check of Tenderers as part of the Commercial Evaluation. If a Parent Company or Bank guarantee is requested and is not provided, The Authority retains the right to consider the Tenderer non-compliant.

**Financial Evaluation**

1. The Financial Evaluation will assess the Total Price the Tenderer has offered to deliver all the requirements set out in the Statement of Requirements.
2. As the maximum duration for this contract is longer than 3 years, Variation of Price (VOP) will apply to prices that for any goods and/or services delivered after 3 years. Any prices stated for the Contract Periods 4 and 5 must be the same as the prices for Contract Period 1. Any VOP calculation will be made as necessary during the contract term.
3. Prices should be provided for each item listed in the Schedule of Requirements (prior to any VOP adjustment). The Total Price should be confirmed on Tender Annex A. This shall be the total maximum cost for the provision of all goods and/or services listed, as detailed in the Statement of Requirement, for the quantities quoted and for the full maximum duration of the requirement, including any optional goods/services and/or periods (prior to any VOP adjustment).
4. The Total Price figure that will be used in the evaluation of Tenders shall be the total figure that is calculated from the prices Tenderers have provided for each item listed in the Schedule of Requirements (prior to any VOP adjustment)., for the full maximum duration of the requirement, including any optional goods/services and periods.
5. Tenderers are notified that when the contract is in place, payments for goods and/or services will be made after the goods and/or services have been fully delivered. For example, payment for purchase of an item will be made after it has been delivered and installed or payment for annual services will be made at the end of the contract period during which the services were undertaken.
6. Where estimated Authority usage figures are shown on the Schedule of Requirements, the Total Price figure shall not be a guarantee of quantities required or payments to be made under any resulting Contract.
7. A Tender will be considered non-compliant if:
* the Total Price is greater than the total available funding of £209,000; or
* Annex A shows an incorrect Total Price as the Total Price calculation is above the available funding; or
* the Tender does not indicate a Total Price; or
* the Tender has not provided prices for all items in the Schedule of Requirements.

**Technical Evaluation**

1. The Technical Evaluation will assess the Tender response to establish the level of confidence The Authority has that the Tenderer will be able meet and deliver all the requirements detailed in the Statement of Requirements.
2. The Technical Evaluation will allocate points to a set of evaluation criteria. These criteria may also be weighted, with the points allocated to each individual criteria being multiplied by the associated weight to give a score for that individual criteria. The points, weightings and scores available for each criteria are indicated in the Technical Criteria Table. Guidance on how Tenders will be scored is in the Scoring Criteria Table.
3. The Technical Evaluation may also assess some criteria on a pass/fail basis. These criteria will not be included in the Total Technical Score calculation. Guidance on how Tenders will be scored is in the Scoring Criteria Table.
4. The scores awarded for each individual criteria, excluding any pass/fail criteria, will be added together to give the Total Technical Score.
5. Technical evaluators are considered to be Subject Matter Experts in the areas they are evaluating. If an individual criteria is evaluated by more than the one evaluator, then each evaluator will undertake their own assessment before attending a moderation meeting where those evaluators will agree an overall consensus points figure for that criteria. This moderated consensus points figure will be used for the purposes of the evaluation.
6. Evaluators will assess each question individually and will not be expected to search for answers. Where a Tenderers answer to any technical criteria question is covered within a separately attached document, the text answer to that criteria question must clearly indicate the relevant part of the supporting document in which the answer can be found. Any documents that have not been referenced will be discounted during evaluation.

1. A Tender will be considered non-compliant if:
* the Tender receives a fail on any pass/fail criteria; or
* the Tender receives points which are below the threshold set for any individual criteria; or
* the Tender receives a Total Technical Score below 60.
* the Tender receives a score of 0 on more than one of the three social value MAC criteria.
1. Technical Criteria Table

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Figure** | **Criteria** | **Points Available** | **Minimum Threshold** | **Weight** | **Score Available** |
| A | Is the EPAO registered on the RoEPAO and can deliver EPAs for the L4 Intelligence Analyst Apprenticeship Standard (ST0516)? | Pass or Fail | Pass | N/A | Pass or Fail |
| B | Is the EPAO fully compliant with requirements of the GDPR and the UK DPA 18 and evidenced they have achieved and can maintain Cyber Essentials accreditation as a minimum level? | Pass or Fail | Pass | N/A | Pass or Fail |
| C | Does the EPAO have the ability to assess all assessment elements in the locations required as set out in the Statement of Requirements? | Pass or Fail | Pass | N/A | Pass or Fail |
| 1 | Has the EPAO stated how they will deliver and manage all the elements detailed in the Statement of Requirements? | 0, 30, 70 or 100 | 30 | 45.00% | 45.00 |
| 2 | Has the EPAO stated how they will ensure that a quality service is delivered? | 0, 30, 70 or 100 | 30 | 25.00% | 25.00 |
| 3 | Has the EPAO stated how they will ensure governance standards will be maintained?  | 0, 30, 70 or 100 | 30 | 20.00% | 20.00 |
| 4 | MAC3.1 - Explain how you will Create a diverse supply chain to deliver the contract including new businesses and entrepreneurs, start-ups, SMEs, VCSEs and mutuals | 0, 30, 70 or 100 | 0 | 5.0% | 5% |
| 5 | MAC4.2 - Explain how you will Influence staff, suppliers, customers and communities through the delivery of the contract to support environmental protection and improvement. | 0, 30, 70 or 100 | 0 | 2.5% | 2.5% |
| 6 | MAC6.1 - Explain how you will Demonstrate action to identify and tackle inequality in employment, skills and pay in the contract workforce | 0, 30, 70 or 100 | 0 | 2.5% | 2.5% |
|  |  |  |  | Total 100 | Total 100 |

1. Scoring Criteria Table

Criteria A to C will be scored in accordance with the following:

|  |  |
| --- | --- |
| Pass | Fail |
| In The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: | In The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: |
| clearly details how the requirements or criteria will be met in full and sufficient evidence has been provided, where applicable.  | does not clearly detail how the requirement or criteria will be met in full and sufficient evidence has not been provided, where applicable.  |
| clearly shows that any required volumes, timescales, standards or support will be met, where applicable.  | does not clearly show that any required volumes, timescales, standards or support will be met, where applicable. |

Criteria 1 to 6 will be scored in accordance with the following:

|  |  |  |  |
| --- | --- | --- | --- |
| 100 – High ConfidenceIn The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: | 70 – Good ConfidenceIn The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: | 30 – Moderate ConfidenceIn The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: | 0 – Low ConfidenceIn The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: |
| addresses and demonstrates a thorough understanding of all elements of the requirement or criteria, where applicable. | addresses and demonstrates a sufficient understanding of most of the requirement or criteria, where applicable. | addresses and demonstrates an understanding of some of the elements of the requirement or criteria, where applicable. | does not address or demonstrate an understanding of most or all of the requirement or criteria, where applicable. |
| provides a comprehensive, unambiguous and thorough explanation of how all of the requirement or criteria will be delivered, where applicable. | provides sufficient detail and explanation of how most of the requirement or criteria will be delivered, where applicable. | is weak in some areas and does not fully detail or explain how some elements of the requirement or criteria will be delivered, where applicable. | does not demonstrate the ability to deliver most or all of the requirement or criteria, where applicable. |
| details a thorough explanation of how the full volumes and timescales of the requirement or criteria will be met, where applicable. | shows sufficient ability to meet most of the volumes and timescales for the requirement or criteria, where applicable. | indicates that some of the volumes or timescales for the requirement or criteria will be met but may be lacking detail is some areas, where applicable. | does not show that most or all of the volumes or timescales of the requirement or criteria will be met, where applicable. |
| provides comprehensive details showing how all of the requirement or criteria will be managed with sufficient resource allocated and support provided for the full duration, where applicable. | provides sufficient information to show how most of the requirement or criteria will be managed with adequate resource allocated and support provided, where applicable. | provides details of how some of the requirement or criteria will be managed but leaves concerns about the resource and support provided, where applicable.. | does not provide details of how most or all of the requirement or criteria will be managed or that the required resource and support will be provided, where applicable. |
| comprehensively details how the requirement or criteria will be assured and how all quality or standards expected will be met in full, where applicable. | sufficiently details how most of the requirement or criteria will be assured and quality or standards expected will be met, where applicable.  | provides details of how some of the requirement or criteria will be assured but leaves doubt about quality or standards, where applicable. | does not demonstrate that most or all of the required standards or quality will be met, where applicable. |
| has comprehensively considered risks to delivery of the requirement or criteria and thoroughly explained how they will be eliminated or mitigated, where applicable.  | has considered risks to delivery of the requirement or criteria and adequately indicated how most will be eliminated or mitigated, where applicable.  | has considered risks to some of the requirement or criteria but leaves concerns that there are risks that have not been considered or may not be mitigated, where applicable.  | has identified and addressed few or no risks to delivery, where applicable. |

1. Social Value Overview (for criteria 4 -6)

Social value has a lasting impact on individuals, communities, and the environment. Government has a huge opportunity and responsibility to maximise benefits effectively and comprehensively through its commercial activity. It cannot afford not to. A missed opportunity to deliver social value may lead to costs that the taxpayer has to absorb elsewhere through public procurement.

A competitive and diverse supply landscape can help to deliver innovation in public services, manage risk and provide greater value for taxpayers’ money.

As a result, the Social Value Model (SVM) has been created which details 5 Themes, 8 Policy Outcomes and 24 Model Award Criteria (MACs). The SVM MACs are questions which relate to Social Value. The use of the SVM is mandatory in all central government procurements using Public Contracts Regulations (PCR) 2015 and Defence and Security Public Contracts Regulations (DSPCR) 2011 above financial threshold and exempt procurements.

Defence is focusing on three, out of the five, priority Social Value themes that are most relevant for Defence:

* Tackling economic inequality.
* Fighting climate change; and
* Equal opportunity.

The Social Value Scoring Criteria is listed below. Please use this and the information provided within the SVM to compile your responses to the SVM MAC and Model Evaluation Question (MEQ) asked. In compiling your answer, please refer to the SVM Quick Reference Table. Under Model Response Guidance for tenderers and evaluators examples of types of evidence the tender evaluators are looking for can be found.

Alongside the Example Reporting Metrics, Social Value Key Performance Indicators (KPIs) may be used within this contract. KPIs will be generated from the Tenderer’s social value response it is therefore important that measurable commits are included in the response (both commitments against the reporting metrics and other metrics as may be appropriate. KPIs may be agreed between the parties and included in the contract at Contract Award.

The aim of the following SVM MACs is to understand the Tenderers Social Value Commitment that this procurement programme will provide within the geographical location(s) that is will be delivered from.

In your written response you should provide convincing arguments, including suitable evidence, of What your understanding of Social Value is, in relation to this procurement, and How you will instil confidence in the Authority in your ability to deliver against the Social Value requirements for this procurement.

A list of some of the key response documents that the Authority would expect you to provide are provided below. However, within the overall limit of pages you should supplement your written submission with other documents you consider will build confidence in your ability to maximise Social Value Commitments.

From the information that you provide, the evaluators will assess, qualitatively, your response, based on the information that you provide within your tender response.

Alongside their Commitments against the reporting metrics, the successful Tenderer’s method statement will form the basis of Key Performance Indicators and jointly managed throughout the life of the contract.

The Tenderers must ensure that they answer the SVM MACs asked. Any additional information which is not specific to the contract being procured will not be considered.

The Tenderers responses are to set out the additional Social Value benefits that they will deliver against the Policy Outcomes for this procurement. It is not sufficient to only reference/use to their Corporate Social Responsibility (CSR) and or Environmental, Social and Governance (ESG) documents.

Using a maximum of 750 words describe the commitment your organisation will make to ensure that opportunities under the contract deliver the Policy Outcome and Award Criteria. Please include:

* your ‘Method Statement,’ stating how you will achieve this and how your commitment meets the SVM Model Award Criteria (MAC), and
* a timed project plan and process, including how you will implement your commitment and by when
* how you will monitor, measure and report on your commitments/the impact of your proposals. You should include but not be limited to:

· timed action plan

· use of metrics

· tools/processes used to gather data

· reporting

· feedback and improvement

· transparency

* how you will influence your: staff, supply chains, 3rd party suppliers, customers, and communities through the delivery of the contract to support the Policy Outcome, e.g., engagement, co-design/creation, training, and education, partnering/collaborating, volunteering.

In complying your answer, please refer to the Social Value Model Quick Reference Table, under Model Response Guidance for tenderers and evaluators for examples of types of evidence the tender evaluators are looking for: The written submission should be in 11pt Arial to meet the response requirement.

For this procurement, the following SVM MAC have been selected as being appropriate.

|  |  |  |
| --- | --- | --- |
| **Model Award Criteria** | **Model Response Guidance for tenderers and evaluators***The award criteria (left) and sub-criteria (below) will be used to evaluate the response* | **Example Reporting Metrics***(proposals to be included in tender response)* |
| **Theme 2: Tackling economic inequality: Policy Outcome: Increase supply chain resilience and capacity** |
| MAC 3.1: Create a diverse supply chain to deliver the contract including new businesses and entrepreneurs, start-ups, SMEs, VCSEs and mutuals. | Activities that demonstrate and describe the tenderer’s existing or planned: ● Understanding of the types of businesses in the market and the level of participation by new businesses, entrepreneurs, start-ups, SMEs, VCSEs and mutuals. ● Activities to identify opportunities to open sub-contracting under the contract to a diverse range of businesses, including new businesses, entrepreneurs, start-ups, SMEs, VCSEs and mutuals. ● Plans for engaging a diverse range of businesses in engagement activities prior to appointing supply chain members (including activities prior to award of the main contract and during the contract term). ● Activities that demonstrate a collaborative way to work with a diverse range of businesses as part of the supply chain. Illustrative examples: co-design and co-creation of services; collaborative performance management; appropriate commercial arrangements; inclusive working methods; and use of inclusive technology. ● Advertising of supply chain opportunities openly and to ensure they are accessible to a diverse range of businesses, including advertising sub-contracting opportunities on Contracts Finder. ● Ensuring accessibility for disabled business owners and employees. ● Structuring of the supply chain selection process in a way that ensures fairness (e.g. anti-corruption) and encourages participation by a diverse range of businesses, including with regard to new businesses, entrepreneurs, start-ups, SMEs, VCSEs and mutuals. | For each of start-ups, SMEs, VCSEs, mutuals■ The number of contract opportunities awarded under the contract, and value. ■ Total spend under the contract, as a percentage of the overall contract spend. Number/Percentage of supply chain opportunities advertised in an accessible media |
| **Theme 3: Fighting Climate Change: Policy Outcome: Effective stewardship of the environment** |
| MAC 4.2 Influence staff, suppliers, customers and communities through the delivery of the contract to support environmental protection and improvement. | Activities that demonstrate and describe the tenderer’s existing or planned: ● Understanding of how to influence staff, suppliers, customers, communities and/or any other appropriate stakeholders through the delivery of the contract to support environmental protection and improvement. ● Activities to reconnect people with the environment and increase awareness of ways to protect and enhance it. Illustrative examples: * Engagement to raise awareness of the benefits of the environmental opportunities identified. ○ Co-design/creation. Working collaboratively to devise and deliver solutions to support environmental objectives.
* Training and education. Influencing behaviour to reduce waste and use resources more efficiently in the performance of the contract.
* Partnering/collaborating in engaging with the community in relation to the performance of the contract, to support environmental objectives.
* Volunteering opportunities for the contract workforce, e.g. undertaking activities that encourage direct positive impact.
 | Number of people-hours spent protecting and improving the environment under the contract.  |
| **Theme 4: Equal opportunity: Policy Outcome: Tackle workforce inequality** |
| MAC 6.1 Demonstrate action to identify and tackle inequality in employment, skills and pay in the contract workforce | Activities that demonstrate and describe the tenderer’s existing or planned:● Understanding of the issues affecting inequality in employment, skills and pay in the market, industry or sector relevant to the contract, and in the tenderer’s own organisation and those of its key sub-contractors. ● Measures to tackle inequality in employment, skills and pay in the contract workforce. Illustrative examples:* Inclusive and accessible recruitment practices, and retention-focussed activities.
* Offering a range of quality opportunities with routes of progression if appropriate, e.g. T Level industry placements, students supported into higher level apprenticeships.
* Working conditions which promote an inclusive working environment and promote retention and progression.
* Demonstrating how working conditions promote an inclusive working environment and promote retention and progression.
* A time-bound action plan informed by monitoring to ensure employers have a workforce that proportionately reflects the diversity of the communities in which they operate, at every level.
* Including multiple women, or others with protected characteristics, in shortlists for recruitment and promotions.
* Using skill-based assessment tasks in recruitment.
* Using structured interviews for recruitment and promotions.
* Introducing transparency to promotion, pay and reward processes.
* Positive action schemes in place to address under-representation in certain pay grades.
* Jobs at all levels open to flexible working from day one for all workers.
* Collection and publication of retention rates, e.g. for pregnant women and new mothers, or for others with protected characteristics.
* Regular equal pay audits conducted
 | Total number/percentage of full-time equivalent (FTE) people from groups under-represented in the workforce employed under the contract, as a proportion of the total FTE contract workforce Total number/percentage of people from groups under-represented in the workforce on apprenticeship schemes / other training schemes under the contract, as a proportion of the all people on apprenticeship schemes/ other training schemes within the contract workforce  |

Further Social Value Guidance can be found:

a) Social Value Model (SVM), Government Commercial Function, Edition 1.1 – 3 Dec 20 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940827/Guide-to-using-the-Social-Value-Model-Edn-1.1-3-Dec-20.pdf>

b) Guide to Using the Social Value Model, Government Commercial Function, Edition 1.1 – 3 Dec 20 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940826/Social-Value-Model-Edn-1.1-3-Dec-20.pdf>

c) Social Value Model Quick Reference Table, Government Commercial Function, Edition 1.1 – 3 Dec 20 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940828/Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf>

1. Evaluation Example Table

The following table provides an example of how Tenders may be evaluated/scored and is for illustrative purposes only. The number of questions and potential points/scores do not necessarily reflect the exact Technical Scores and Scoring Criteria for this particular requirement or how Tenders for this requirement will be evaluated. This example is based on a procurement with 2 pass/fail criteria and 5 scored criteria, each with a minimum threshold of 30, and funding of £250,000.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Figure** | **Weight** |  | **Tender 1 Points** | **Tender 1 Score** |  | **Tender 2 Points** | **Tender 2 Score** |  | **Tender 3 Points** | **Tender 3 Score** |  | **Tender 4 Points** | **Tender 4 Score** |
| A | N/A |  | Pass | Pass |  | Pass | Pass |  | Pass | Pass |  | Pass | Pass |
| B | N/A |  | Pass | Pass |  | Fail | Fail |  | Pass | Pass |  | Pass | Pass |
| 1 | 30.00% |  | 100 | 30.00 |  | 100 | 30.00 |  | 100 | 30.00 |  | 70 | 21.00 |
| 2 | 25.00% |  | 70 | 17.50 |  | 100 | 25.00 |  | 30 | 7.50 |  | 100 | 25.00 |
| 3 | 18.00% |  | 100 | 18.00 |  | 30 | 5.40 |  | 100 | 18.00 |  | 70 | 12.60 |
| 4 | 15.00% |  | 100 | 15.00 |  | 0 | 0.00 |  | 100 | 15.00 |  | 100 | 15.00 |
| 5 | 12.00% |  | 100 | 12.00 |  | 100 | 12.00 |  | 100 | 12.00 |  | 100 | 12.00 |
| Technical Score |   |  |   | 92.50 |  |   | 72.40 |  |   | 82.50 |  |   | 81.10 |
| Technical Compliance |  |  |  | Compliant |  |  | Non-Compliant |  |  | Compliant |  |  | Compliant |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Total Price |   |  |   | 240,000 |  |   | 215,000 |  |   | 275,000 |  |   | 210,000 |
| Financial Compliance |  |  |  | Compliant |  |  | Compliant |  |  | Non-Compliant |  |  | Compliant |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Commercial Compliance |  |  |  | Compliant |  |   | Compliant |  |   | Compliant |  |   | Compliant |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Evaluation Score |   |  |   | 2594.59 |  |   | 0.00 |  |   | 0.00 |  |   | 2589.40 |

In this example, Tender 2 was non-compliant as it did not meet the minimum threshold for Technical Criteria B and 4. Tender 3 was as non-compliant as the Total Price exceeded the funding available. Tender 4 is the Winning Tenderer, as it had the lowest Evaluation Score (combining price and technical score) and was compliant for all Commercial, Financial and Technical criteria.

**Section E – Instructions on Submitting Tenders**

**Submission of your Tender**

E1. Your Tender and any ITT Documentation must be submitted electronically via the Defence Sourcing Portal (DSP) by the date stated in the cover page to this ITT. 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 ITT.

E2. Your priced Tender and priced ITT Documentation must only be submitted to the commercial envelope of the DSP ITT. You must ensure that there are no prices present in the technical or qualification (if applicable) envelopes of the DSP ITT. 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 technical or qualification (if applicable) envelopes, 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 noncompliant bid.

E4. The DSP is accredited to OFFICIAL SENSITIVE. Material that is protectively marked above this classification must not be uploaded to the DSP. Please contact the Commercial Officer stated in the cover page to this ITT 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 ITT documentation into the DSP. You must contact the Commercial Officer stated in the cover page to this ITT 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**

E8. The Authority will not accept variant bids.

**Samples**

E9. Samples are not required.

**Section F – Conditions of Tendering**

F1. The issue of ITT Documentation or ITT 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 ITT 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 reserves the right, but is not obliged to:

1. vary the terms of this ITT in accordance with applicable law;
2. 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;
3. visit your site;
4. disqualify any Tenderer that submits a non-compliant Tender in accordance with the instructions or conditions of this ITT;
5. disqualify any Tenderer that is guilty of misrepresentation in relation to its Tender, expression of interest, the dynamic PQQ or the tender process;
6. 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 PQQ response, see paragraphs A31 to A34;
7. withdraw this ITT 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;
8. re-issue this ITT 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;
9. choose not to award any Contract as a result of the current tender process;
10. 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;

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 C3.

**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 will 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 suspected or actual bid rigging, fraud, bribery, corruption, or any other dishonest irregularity in connection to this tendering exercise to:

Defence Regulatory Reporting Cell Hotline

0800 161 3665 (UK) or

+44 1371 85 4881 (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 provided advice to 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, arises or may arise or any situation arises that might give the perception of a COI at any point before the Contract award decision, you must notify the Authority iimmediately.

F9. Where an actual or potential COI exists or arises or any situation arises that might give the perception of a COI at any point before the Contract award decision, you must provide a proposed Compliance Regime within seven (7) calendar days of notifying the Authority of the actual, potential or perceived 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 at 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 Terms and Conditions. As a minimum, the Compliance Regime must include:

1. the manner of operation and management;
2. roles and responsibilities;
3. standards for integrity and fair dealing;
4. levels of access to and protection of competitors’ sensitive information and Government Furnished Information;
5. confidentiality and/or non-disclosure agreements (e.g. DEFFORM 702);
6. the Authority’s rights of audit; and
7. 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 (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 Def Stan 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 Announcement**

1. If you wish to make an announcement regarding this procurement, you must seek approval from the named Commercial Officer 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 named Commercial Officer 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.
2. 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.

**Sensitive Information**

1. 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.
2. For these purposes, the Authority may share within Government any of the Tenderers 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 Information 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.
3. 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 Sensitive Information in accordance with the provisions of this ITT) 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**

1. 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 must attach the relevant information with the tender submission.
2. Your Tender will be deemed non-compliant and excluded from the tender process if you fail to complete the Annex in full and attach relevant information where required.

**Specific Conditions of Tendering**

1.

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

a. contain any Russian/Belarussian 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.

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.

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

**DEFFORM 47 Annex A**

**Edn 04/22**

**Ministry of Defence**

Tender Submission Document (Offer) – Ref Number [ITT - ]

**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 ITT Documentation and ITT 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 Terms & Conditions or any amendments issued by the Authority shall apply.

|  |
| --- |
| **Applicable Law** |
| I agree that any Contract resulting from this competition shall be subject to English Law | Yes / No |
| **Total Value of Tender (excluding VAT)** |
| £ WORDS  |
| **UK Value Added Tax** |
| If registered for Value Added Tax purposes, insert:1. Registration No
2. Total amount of Value Added Tax payable on this Tender (at current rate(s)) £
 |
| **Location of work (town / city) where Contract will be performed by Prime:** |
| 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 |
|   |   |   |   |   |
|   |   |   |   |   |
|   |   |   |   |   |
| **Mandatory Declarations** (further details are contained in Appendix 1 to DEFFORM 47 Annex A (Offer)): | **Tenderer’s Declaration** |
| Are the Contractor Deliverables subject to Foreign Export Control and Security Restrictions? If the answer is Yes, complete and attach DEFFORM 528. | Yes\* / No |
| Have you completed and attached a DEFFORM 711 – Notification of Intellectual Property Rights (IPR) Restrictions? | 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 Contract Terms & Conditions? | 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? | Yes\* / No / N/A |
| Have you completed Form 1686 for Sub-Contracts? | Yes\* / No |
| Have you completed the compliance matrix / matrices? | Yes / No / N/A |
| 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 |

|  |  |
| --- | --- |
| Have you completed and attached Tenderer’s 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 |
| 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 all Mandatory Requirements (as per paragraph F18) stated in this ITT? | Yes / No |
| \*If selecting Yes to any of the above questions, attach the information detailed in Appendix 1 to DEFFORM 47 Annex A (Offer). |
| **Tenderer’s Declaration of Compliance with Competition Law** |
| 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:1. the offered price has not been divulged to any Third Party;
2. no arrangement has been made with any Third Party that they should refrain from tendering;
3. no arrangement with any Third Party has been made to the effect that we will refrain from bidding on a future occasion;
4. no discussion with any Third Party has taken place concerning the details of either’s proposed price; and
5. no arrangement has been made with any Third Party otherwise to limit genuine competition.

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.We understand that any misrepresentations may also be the subject of criminal investigation or used as the basis for civil action.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 tender processes, including value for money and related purposes. We certify that we have identified any Sensitive Information in the Tenderer’s Sensitive Information Form (DEFFORM 539A). |
| **Dated this..................day of Year**  |
| **Signature: In the capacity of**(Must be scanned original) (State official position e.g. Director, Manager, Secretary etc.) |
| **Name:** (in BLOCK CAPITALS)**duly authorised to sign this Tender for and on behalf of:**(Tenderer's Name) | **Postal Address:****Telephone No:****Registered Company Number:****Dunn And Bradstreet number:** |

**Appendix 1 to DEFFORM 47 Annex A (Offer)**

**Edn 04/22**

**Information on Mandatory Declarations**

**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:

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

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.

1. 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.
2. This does not include any Intellectual Property specific restrictions mentioned in paragraph 2.
3. 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.
4. 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 Defense 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**

1. United Kingdom (UK) legislation permits the use of various procedures to suspend customs duties.
2. 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
3. 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- LZQJYUTSF . Tenderers are required to complete the Suppliers Assurance Questionnaire and submit this as part of their Tender response, together with a Cyber Security Implementation Plan as appropriate.

**Sub-Contracts Form 1686**

1. 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.](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710891/2018_May_Contractual_process.pdf)

**Small and Medium Enterprises**

1. 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.
2. 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/.](https://www.smallbusinesscommissioner.gov.uk/ppc/)
3. 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](https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement) and the DSP.
4. 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.](https://www.gov.uk/guidance/subcontract-advertising) This process is managed by the Strategic Supplier Management team who can be contacted at: DefComrclSSM-Suppliers@mod.gov.uk.

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

1. 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.
2. The Authority may publish the contents of any resultant Contract in line with government policy set out in the Government’s [Transparency Principles](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/996599/2021-06-22_Transparency_Principles_-final__3_.pdf) and in accordance with the provisions of either DEFCON 539, SC1B Conditions of Contract Clause 5 or SC2 Conditions of Contract Clause 12.
3. 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”).
4. You must complete the 9 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.
5. 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**

1. Tenderers must note that use of the [Contracting, Purchasing and Finance (CP&F)](https://www.gov.uk/government/publications/mod-contracting-purchasing-and-finance-e-procurement-system) 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 non-compliant and excluded from the tender process.

**Change of Circumstances**

1. In accordance with paragraph A31, 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**

27. 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. There are no DSA Requirements.

**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 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 winning Tenderer and award a Contract.

**Schedule 1 – Additional Definitions of Contract**

As detailed in Statement of Requirements.

**Schedule 2 - Schedule of Requirements**

|  |  |
| --- | --- |
|  | **Deliverables in accordance with Statement of Requirements** |
| **Item Number** | **Description** | **Delivery Date** | **Unit of Measurement** | **Quantity** | **Individual Price** **(£)****Ex VAT**  | **Price Type** | **VOP Review Date** | **Total Price** **(£)****Ex VAT**  |
| 1 | EPA | Year 1 | Per EPA | 2500 |  |  |  |  |
| 2 | EPA | Year 2 | Per EPA | 2500 |  |  |  |  |
| 3 | EPA | Year 3 | Per EPA | 2500 |  |  |  |  |
| 4 | EPA | Year 4 | Per EPA | 2500 |  |  |  |  |
| 5  | EPA | Option Year | Per EPA | 2500 |  |  |  |  |
|  |  |  |  |  |  |  |  |  |
|  | **Total Contract Value / Maximum Limit of Liability for Contract** | £  |

|  |  |
| --- | --- |
| **Item Number** | **Consignee Address (XY code only)** |
| Enter Numbers | 1. The primary RN testing facility will be located at HMS Collingwood, Newgate Lane Hampshire, PO14 1AS and Royal Marines Commando Training Centre Exmouth Road, Exeter EX8 5AR for the RMs. Secondary testing sites at other RN bases located in the south of England may be utilised if agreed by both parties.
 |
| **Item Number** | **Payment Schedule** |
| Enter Numbers | Payment to be made following successful delivery of each service  |
| Enter Numbers |  |
| Enter Numbers |  |

Exact delivery dates will be dependent on date of signing contract and will be confirmed on contract award.

All prices stated are firm prices, to be paid in £ (GBP/Pounding Sterling), not subject to any increase or exchange rates.

The quantity of each item are expected numbers and not a guarantee of amounts required or due. Quantities ordered under the contract may be higher or lower based on Authority requirements during the contract period.

The contract value will be a limit of liability under which the Authority shall be entitled to purchase any goods and/or services listed at the firm prices set, dependent on Authority requirements.

The Prices set for each item shall be the total maximum price the Contractor shall charge for the delivery of the goods and/or services covered within that item (prior to any VOP adjustment, where adjustment date has not yet passed). This shall include, but not be limited to:

* Any direct or indirect costs
* Any labour costs or personnel salaries, pensions or contributions
* Any costs for manufacture or provision of goods and/or services
* Any costs for delivery to the Authority
* Any fuel costs
* Any related travel and subsistence
* Any packaging
* Any import costs or charges
* Any implementation or exit costs
* Any sub-contractor costs
* Any IT or system related costs
* Any costs required to provide Authority access to systems or accounts

**Variation of Price (VOP)**

All Prices for goods and/or services with delivery dates in Contract Periods 1, 2 or 3 are firm prices which are not subject to any adjustment.

All Prices for goods and/or services with delivery dates in Contract Periods 4 and 5 are firm prices which shall be the subject to a VOP adjustment in accordance with the following calculation:

V = P (a+b(Oi/O0)) – P

where;

P is the firm price for goods and/or services delivered in Contract Period 1

a is 0.1, which is the non-variable element of prices

b is 0.9, which is the variable element of prices

Oi is the 12-month index average for the four quarters prior to the quarter in which the variation calculation is being made

O0 is the 12-month index average for the four quarters prior to the quarter in which the contract commenced

Prior to any VOP adjustment, the prices for goods and/or services with delivery dates in Contract Periods 4 and 5 shall be the same as the prices stated for those goods and/or services in Contract Period 1.

VOP adjustments shall be made on the VOP Review Date and the new prices, calculated in accordance with above, shall be incorporated into the contract through a formal contract amendment. The new prices shall remain in place for 12 months until any subsequent adjustment is made at the next VOP Review Date.

When a VOP adjustment calculation is made, the Contractor shall be obliged to provide the goods and/or services at the prices calculated.

VOP will apply also apply to any optional requirements or periods, should those optional requirements or periods have delivery dates in in Contract Periods 4 and 5. Any optional requirements or periods with delivery dates in Contract Periods 1, 2 or 3 shall be at the firm prices.

The Index to be used for the VOP calculation shall be the “Top Level SPPI, Sections H to U excl. Section K” produced by the Office of National Statistics.

**Schedule 3 - Contract Data Sheet**

|  |  |
| --- | --- |
| **Contract Period** | Effective date of Contract: 10 March 2023The Contract expiry date shall be: 01 March 2027 excluding option year  |
| **Clause 6 - Notices** | Notices served under the Contract can be transmitted by electronic mailYes [x] No [ ] Notices served under the Contract shall be sent to the following address:Authority: Commercial OfficerContractor: Contract Manager |
| **Clause 8 – Supply of Contractor Deliverables and Quality Assurance** | Is a Deliverable Quality Plan required for this Contract? Yes [ ] No [x] If Yes the Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality) within Business Days of Contract Award. Once agreed by the Authority the Quality Plan shall be incorporated into the Contract. The Contractor shall remain at all times, solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan.**Other Quality Assurance Requirements:**AQAP 2130 |
| **Clause 9 – Supply of Data for Hazardous Substance,****Mixtures and Articles in****Contractor Deliverables** | A completed DEFFORM 68 (Hazardous and Non-Hazardous Substances, Mixtures or Articles Statement), and if applicable, UK REACH Article 31 compliant Safety Data Sheet(s) (SDS) including any related information to be supplied in compliance with the Contractor’s statutory duties under Clauses 9.b, and any information arising from the provisions of Clause 9 are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:The Authority’s Representative (Commercial)by the following date: With tender submissionSo that the safety information can reach users without delay, theAuthority shall send a copy preferably as an email with attachment(s)in Adobe PDF or MS WORD format.(1) Hard copies to be sent to:Hazardous Stores Information System (HSIS) Spruce 2C, #1260 MOD Abbey Wood (South) Bristol, BS34 8JH(2) Emails to be sent to:DESEngSfty-QSEPSEP-HSISMulti@mod.gov.ukSDS which are classified above OFFICIAL including Explosive Hazard Data Sheets (EHDS) for Ordnance, Munitions or Explosives (OME) are not to be sent to HSIS and must be held by the respective Authority Delivery Team. |
| **Clause 10 – Delivery/Collection** | Contract Deliverables are to be:Delivered by the Contractor [x] Special Instructions:Collected by the Authority [ ] Special Instructions (including consignor address if different from Contractor’s registered address) |
| **Clause 12 – Packaging and Labelling of Contractor Deliverables** | Additional packaging requirements:N/A |
| **Clause 13 – Progress Meetings** | The Contractor shall be required to attend the following meetings:To be arranged if and when required unless already detailed in Statement of Requirements. |
| **Clause 13 – Progress Reports** | The Contractor is required to submit the following Reports:To be arranged if and when required unless already detailed in Statement of Requirements. |

|  |
| --- |
| **DEFFORM 111****(Edn 10/22)****Appendix - Addresses and Other Information** |
|  | 1. **Commercial Officer:**

Name: Julie Roberts Address: 4 Deck, NCHQ, Leach Building, Whale Island, Portsmouth, PO2 8BY Email: lee.culshaw100@mod.gov.uk🕿 03001655710 |  | **8. Public Accounting Authority:**1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT – Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD🕿 44 (0) 161 233 53972. For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD🕿 44 (0) 161 233 5394 |  |
|  |
|  | 1. **Project Manager, Equipment Support Manager or PT Leader** (from whom technical information is available):

Name: Mark Thomas WO1Address: Leach Building Whale Island Portsmouth PO2 8BYEmail mark.thomas569@mod.gov.uk🕿 Customer Details |  | **9. Consignment Instructions:**The items are to be consigned as follows:As detailed in Schedule of Requirements  |  |
|  |
|  | 1. **Packaging Design Authority:**

Organisation and point of contact: (where no address is shown please contact the Project Team in Box 2)🕿 |  | **10. Transport.** The appropriate Ministry of Defence Transport Offices are:A**. DSCOM**, DE&S, DSCOM, MoD Abbey Wood, Cedar 3c, Mail Point 3351, BRISTOL BS34 8JHAir Freight CentreIMPORTS 🕿 030 679 81113 / 81114 Fax 0117 913 8943EXPORTS 🕿 030 679 81113 / 81114 Fax 0117 913 8943Surface Freight CentreIMPORTS 🕿 030 679 81129 / 81133 / 81138 Fax 0117 913 8946EXPORTS 🕿030 679 81129 / 81133 / 81138 Fax 0117 913 8946B. **JSCS** JSCS Helpdesk 🕿 01869 256052 (option 2, then option 3); JSCS Fax No 01869 256837 Users requiring an account to use the MOD Freight Collection Service should contact UKStratCom-DefSp-RAMP@mod.gov.uk in the first instance |  |
|  |
|  | 1. **(a) Supply/Support Management Branch or Order Manager**

**Branch/Name:**As per box 2🕿 **(b) U.I.N.**  |  |
|  |
|  | 1. **Drawings/Specifications are available from:**

 |  | **11. The Invoice Paying Authority:**Ministry of Defence 🕿 0151-242-2000DBS FinanceWalker House, Exchange Flags Fax: 0151-242-2809Liverpool, L2 3YL **Website is:** <https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing>  |  |
|  |
|  | 1. **Intentionally Left Blank**
 |  |
|  |
|  | 1. **Quality Assurance Representative:**

Commercial staff are reminded that all Quality Assurance requirements should be listed under the General Contract Conditions.AQAPS and DEF STANs are available from UK Defence Standardization, for access to the documents and details of the helpdesk visit<http://dstan.gateway.isg-r.r.mil.uk/index.html> [intranet] or <https://www.dstan.mod.uk/> [extranet, registration needed] |  | **12. Forms and Documentation are available through \*:**Ministry of Defence, Forms and Pubs Commodity Management PO Box 2, Building C16, C SiteLower ArncottBicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)**Applications via fax or email:**  Leidos-FormsPublications@teamleidos.mod.uk |  |
|  |  |
|  |  | **\* NOTE****1.** Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site: <https://www.kid.mod.uk/maincontent/business/commercial/index.htm> 2. If the required forms or documentation are not available on the MOD Intranet site requests should be submitted through the Commercial Officer named in Section 1.  |  |
|  |

**Schedule 4 - Contractor’s Sensitive Information (i.a.w. Clause 5)**

This list shall be agreed in consultation with the Authority and the Contractor and may be reviewed and amended by agreement. The Authority shall review the list before publication of any information.

|  |
| --- |
| Contract Number:  |
| Description of Contractor’s Sensitive Information:None Stated |
| Cross Reference(s) to location of Sensitive Information: |
| Explanation of Sensitivity:  |
| Details of potential harm resulting from disclosure: |
| Period of Confidence (if applicable):  |
| Contact Details for Transparency / Freedom of Information matters:Name: Position: Address: Telephone Number: Email Address:  |

**Schedule 5 – Notification of Intellectual Property Rights (IPR) Restrictions (i.a.w. Clause 7)**

**Part A – Notification of IPR Restrictions**

|  |  |
| --- | --- |
| 1. Contract Number **706411451**
 |  |
| **ID #**  | **Unique Technical Data Reference Number / Label** | **Unique Article(s)\* Identification Number / Label** | **Statement Describing IPR Restriction** | **Ownership of the Intellectual Property Rights** |
| 1 |  |  |  |  |
| 2 |  |  |  |  |
| 3 |  |  |  |  |
| 4 |  |  |  |  |
| 5 |  |  |  |  |
| 6 |  |  |  |  |
| 7 |  |  |  |  |
| 8 |  |  |  |  |
| 9 |  |  |  |  |
| 10 |  |  |  |  |

∗ Article(s), for the purpose of this form only, means part or the whole of any item, component or process which the Contractor is required under the Contract

to supply or in connection with which it is required under the Contract to carry out any service and any other article or part thereof to the same design as that

article.

**Part B – System / Product Breakdown Structure (PBS)**

Insert PBS here or Modular Breakdown Structure or Not Applicable

**Completion Notes**

**Part A**

If any information / technical data that is deliverable or delivered under the relevant Contract conditions 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, then the Contractor must identify this restricted information / technical data in this Part A. Otherwise, the Authority shall treat such information in accordance with the same rights under the Contract it would enjoy should no restrictions exist.

For example, any of the following must be disclosed:

1. any restriction on the provision of information / technical data 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;
2. any allegation made against the Contractor, whether by claim or otherwise, of an infringement of IPR (whether a patent, registered design, unregistered design right, copyright or otherwise) or of a breach of confidence, which relates to the performance of the Contract or subsequent use by or for the Authority of any Contract deliverables;
3. the nature of any allegation referred to under sub-paragraph (b) above, including any request or obligation to make payments in respect of the IPR of any confidential information and / or;
4. any action the Contractor needs to take, or the Authority is requested to take, to deal with the consequences of any allegation referred to under sub-paragraph (b) above.

|  |  |
| --- | --- |
| Block 1 | Enter the associated Invitation to Tender (ITT) or Contract number as appropriate.  |
| Block 2 | No action – This sequential numbering is to assist isolation and discussion of any line item |
| Block 3 | Identify a unique reference number for the information / technical data (i.e. a Contractor’s document or file reference number) including any dates and version numbers. Documents may only be grouped and listed as a single entry where they relate to the same Article and where the restrictions and IPR owner are the same.  |
| Block 4 | Identify the Article(s) associated with the information / technical data by entering a unique identification number / label for the Article(s). This may range from platform level down to sub-system level. This is to enable the Authority to quickly identify the approximate technical boundary to any user rights limitation (e.g. The RADAR or Defensive Aid Sub-System etc). This identification shall be at the lowest level of replaceability of the Article(s) or part of it to which the restrictions apply (i.e. if the restrictions apply to a sub-system the parent system should not be used to identify the restriction boundary). Any entry without a unique identifier shall be treated as a nil entry.NOTE: The Authority does not accept any IPR restrictions in respect of the physical Articles themselves. Block 4 is solely to provide an applied picture to any technical data stated under Block 3 as having IPR restrictions. |
| Block 5 | This is a freeform narrative field to allow a short explanation justifying why this information / technical data has limited rights applying to it. |
| Block 6 | Identify who is the owner of the IPR in the information / technical data (i.e. copyright, design right etc).  If it is a sub-contractor or supplier, please identify this also.  |

 **Part B**

If neither hardware nor software is proposed to be designed, developed or delivered as part of the Contract, Part B should be marked “NIL RETURN”.

Otherwise, the Contractor must include a System / Product Breakdown Structure (PBS) in a format which is consistent with ISO 21511 and / or the configuration requirements of DEFSTAN 05-057, unless an alternative format better represents your design configuration. For software, a modular breakdown structure must be provided. For reasons of clarity, it is acceptable to provide several levels of breakdown if this assists in organising the configuration of the Articles.

Details provided under Part B shall not imply any restriction of use over the Contract Articles, nor any restriction on associated technical data to be delivered under the Contract. Any restrictions of such technical data must be identified within Part A.

Against each unique item within the PBS / module breakdown, one of the following categories shall be recorded:

1. (PVF) - Private Venture Funded - where the article existed prior to the proposed Contract and its design was created through funding otherwise than from His Majesty’s Government (HMG).
2. (PAF) - Previous Authority Funded (inc. HMG Funded) - where the article existed prior to the proposed Contract and its design was created through Previous Authority Funding.
3. (CAF) - Contract Authority Funded (inc. HMG Funded) - where the article did not exist prior to the Contract and its design will be created through Contract Authority Funding under this Contract.
4. (DNM) Design Not Mature - where the article / design configuration is not yet fixed.

In combination with one of categories (a) to (d) above, the Contractor shall further identify where an item has, or will have, foreign export control applying to it, through use of the further following category:

1. (FEX) Foreign Export Controlled

Notes:

1. During the term of the Contract the Contractor may transition any items identified as category (d) above into category (b) or (c). Transitions from category (d) into category (a) may only be made with the express written agreement of the Authority’s Senior Commercial Officer, and by following the amendment process set out in the Contract.
2. It is acceptable to specify the highest level of structure to which the category (a), (b) or (c) applies (i.e. there is no need to specify each sub-system / componentry if the entirety of the parent system was for example, Private Venture Funded). See guidance examples overleaf.
3. For the avoidance of doubt, where a parent system did not exist prior to the Contract yet makes use of Private Venture Funded Articles, it must be identified as (CAF). The Private Venture Funded sub-components / sub-systems can be identified as PVF.
4. Where items are identified as category (b), the Contractor should provide the number(s) of the previous Contract(s) under which the design was created and the Previous Authority Funding was applied.

**Example PBS**

A theoretical pictorial example is given below but it is to be noted that the configuration may equally be dealt with in a hierarchal tabularised format.

The diagram above indicates a highly simplified and hypothetical Contract scenario dealing with the procurement of a new air asset.

1. The proposed new aircraft would be considered Contract Authority Funded (CAF) at its top level.
2. Items denoted as Private Venture Funded (PVF) would generally indicate that it and all of its sub-components have been funded by sources other than HMG. In this instance there is no need to proceed down the product breakdown structure any further (see 1.4), except unusually where a generally PVF regarded item has incorporated a Previous Authority Funded (PAF) item (see 2.21).
3. The proposed design is making use of a PAF engine.
4. This engine has Foreign Export Control (FEX) applying to items within it.
5. The Defensive Aids System at 2.1 is covered as part of the Contract but the exact configuration and design has not yet been fixed “Design Not Mature” (DNM).
6. It is not feasible for a parent PVF system to make use of a CAF item; the parent system configuration would not have existed prior to the Contract.

**Schedule 6 - Statement of Requirements**



**MINISTRY OF DEFENCE**

**Tender Number:**

**THE PROVISION OF END POINT ASSESSMENT TO SERVICE PERSONNEL OF THE** **ROYAL NAVY UNDERTAKING THE LEVEL 4 INTELLIGENCE ANALYST STANDARD (ST0516)**

**SCHEDULE 6**

**STATEMENT OF REQUIREMENT**

### THE PROVISION OF END POINT ASSESSMENT TO SERVICE PERSONNEL OF THE ROYAL NAVY UNDERTAKING THE LEVEL 4 INTELLIGENCE ANALYST STANDARD (ST0516)

**Introduction**

All Apprenticeship Standards require an Apprentice to complete an End Point Assessment (EPA) in order to prove they possess the required Knowledge, Skills and Behaviours (KSBs) of the Apprenticeship they are undertaking. In order to comply with government funding rules, this must be conducted by and independent assessor working on behalf of an End Point Assessment Organisation (EPAO) who is registered on the Register of End Point Assessment Organisations (RoEPAOs). The Royal Navy (RN) undertakes Apprenticeships at all levels and require having a signed agreement with an EPAO in order to assess our Apprentices. Warfare Intelligence Specialists (WIS) currently undertake the Level 4 Intelligence Analyst Standard (ST0516) and require to be assessed by an assessor on the RoEPAOs.

**Governance**

1. The Royal Navy Apprenticeship Programme (RNAP) is managed by the Training Management Group (TMG) based in HMS Collingwood, Fareham, Hampshire. The RN delivers 16 standards to 2,500 Apprentices every year with 4500 on programme at any one time. Delivery of these apprenticeship programmes is supported by a contracted Supporting Provider (SP), currently Team Fisher.
2. It is the Authority’s policy that EPA delivery will be required within 3 months of Gateway Assessment and the EPA requirement forecast will be refined by the Authority on a monthly basis. The authority, or a nominated representative, will liaise with the EPAO to book apprentices for EPA once Gateway is completed.

**Detailed SOR**

1. This SOR comprises 4 further elements:
	1. Section 1A – General Requirements for the Delivery of EPA to the Royal Navy.
	2. Section 1A – Specific Requirements for the Delivery of EPA to the Royal Navy.
	3. Section 2 – Specific Programme Information.
	4. Section 3 – Compliance with ESFA Sub Contracting Requirements.

**SECTION** **1A – GENERAL REQUIREMENTS FOR THE DELIVERY OF EPA TO THE Royal Navy.**

Requirements for delivery include, but are not limited to:

|  |  |
| --- | --- |
| **Ser** | **Requirement** |
|  | **Assessment Design and Delivery:*** 1. Provide the RN/RM with practice papers and mock assessments to prepare apprentices for Gateway and EPA.
	2. In accordance with the Institute for Apprenticeships and Technical Eduction (IfATE) EPA requirements, assessments must be designed to be accurate, valid, reliable, consistent, fair and manageable.
	3. Enable online assessments where appropriate. Where online assessment is used, this must be web-based and not platform-based.
	4. Liaise with the RN/RM to ensure that assessors have a clear understanding of Defence terminologies and protocols, noting that there may be minor differences between the Services and Industry. This is to ensure that Service learners are not disadvantaged during EPA.
	5. Ensure that the number of staff is sufficient to deliver the requirement, and that all staff involved in the delivery of EPA are fully occupationally competent and qualified to deliver EPA in accordance with the requirements of the Standard.
	6. Be prepared to cater for reasonable adjustments in accordance with IfATE policy and Joint Service Publication 822 (available online).
	7. Have in place a business continuity plan to ensure that apprentices can access timely EPA.
	8. Be prepared to adapt EPA delivery to meet future amendments to the EPA plan.
 |
|  | **Governance, Compliance and Quality Assurance:*** 1. The EPAO shall deliver and internally quality assure the EPA in accordance with the regulations laid down by the IfATE for Standards and in accordance with current (as periodically amended) Education and Skills Funding Agency (ESFA) guidelines and EQA Provider requirements.
	2. Quality assure assessments to ensure accuracy, validity, reliability, consistency, fairness and manageability.
	3. Inform the RN/RM and address quality, and quality assurance issues with the RN/RM as they arise. Provide the RN/RM with copies of all EQA Provider reports and Action Plans upon request.
	4. Maintain all records in accordance with ESFA requirements for audit.
	5. Provide the ESFA audit team and the RN with learner records on demand and within the timeframe set.
	6. Ensure that the assessment programme is compliant with current Government regulations and requirements, and that it adopts national best practice in all aspects of quality of delivery.
	7. Ensure that EPAO personnel have appropriate insurance in place in order to visit and work at MOD establishments and using any equipment or vehicles which may be required for EPAs.
	8. Assist the RN in preparations for and execution of ESFA, Ofsted, National Audit Office, Defence Internal Audit and other internal audits and inspections and the provision of statistics/reports relating to the Contract where required.
 |
|  | **Communications with Stakeholders:*** 1. Maintain communications with the RN/RM and their SP on EPA and provide a nominated point of contact.
	2. Maintain communications with apprentices (keeping the RN/RM informed of all relevant communications) from EPA registration to completion.
	3. Provide detailed performance feedback for the apprentices undertaking EPA (irrespective of outcome) to the RN/RM.
	4. Support the RN/RM, or its SP, in scheduling EPA for apprentices. Ensure that the RN/RM, or its SP, is informed of any changes to EPA scheduling.
1. Provide the RN/RM with a bi-monthly feedback report on the EPA process. To include, but not be limted to, information and analysis against all elements of EPA:
	* 1. Numbers registered for EPA.
		2. Numbers attempted EPA.
		3. Numbers failed EPA.
		4. Numbers successful at EPA.
		5. Numbers awaiting Resit/Retake (cumulative).
		6. Issues identified.
		7. Recommendations/improvements.
		8. Analysis of the RN/RM’s performance.
2. Attend RN/RM Apprenticeship Programme strategic level meetings as required.
 |
|  | **Learner Management:*** 1. On successful completion of the EPA, notify the RN/RM or its SP.
	2. Maintain all learner documentation in accordance with IfATE and EQA Provider requirements and make this available to IfATE, the EQA Provider and the Authority as required.
	3. Claim apprenticeship certificates and send them via secure delivery to the RNs nominated Point of Contact for distribution.
 |
|  | **Data Handling:*** 1. The EPAO shall achieve and maintain Cyber Essentials accreditation as a minimum level. The Authority reserves the right to require the EPAO to achieve and maintain Cyber Essentials Plus.
	2. Ensure that any transfer of data between the EPAO, IfATE, EQA Provider, Learning Records Service, ESFA and the Authority shall be fully compliant with the requirements of these bodies.
	3. Ensure that any transfer of data between the EPAO and other stakeholders shall be encrypted using Secure File Transfer Protocol (data storage and transfer must be UK-based). If data must be sent by e-mail, it must be encrypted using Winzip 10 or above.
	4. The EPAO shall be fully compliant with requirements of GDPR and the UK Data Protection Act 2018.
	5. The EPAO shall make available, on request, all records/processes for data handling audits by the RN or Information Commissioner’s Office.
 |
|  | Contract End and Transition:* 1. Ensure at the contract end date, that all learner records are handed to the RN/RM to enable continuity for all learners awaiting an EPA to an incoming contractor.
	2. Work with the RN/RM to produce a workable transition plan when the EPA contract ends.
 |
|  | Appeals, Re-sits and Re-takes:* 1. Process appeals.
	2. Deliver re-sits and re-takes in line with the EPA plan, at the RN/RM’s request. **Note**: The RN/RM defines a re-sit as repeating one or more elements of the EPA assessments without the need for further learning, a re-take requires further learning before re-testing.
 |
|  | **Cancellation Terms:** The RN/RM shall have the right to reschedule or cancel EPA at no extra cost by giving a minimum of 10 working days’ notice. |

**SECTION** **1A – SPECIFIC REQUIREMENTS FOR THE DELIVERY OF EPA TO THE ROYAL NAVY**

Requirements for delivery include, but are not limited to:

|  |  |
| --- | --- |
| Ser | Requirement |
|  | Delivery Location:1. The primary RN testing facility will be located at HMS Collingwood, Newgate Lane Hampshire, PO14 1AS and Royal Marines Commando Training Centre Exmouth Road, Exeter EX8 5AR for the RMs. Secondary testing sites at other RN bases located in the south of England may be utilised if agreed by both parties.

  |
|  | EPA Delivery:a. Deliver all assessment elements to an Apprentice on the same day.b. Deliver up to 38 EPA assessments each year.c. Be ready to deliver first EPA by February 2023. |
|  | EPA Pricing:a. Provide a bespoke price per EPA.1. Deliver a 4 year contract with option to extend for 1 year.
 |
|  | Security:1. Assessors entering military training establishments to carry out EPA, must be a UK citizen in order to comply with security regulations.
2. All assessors will be escorted at all times whilst on military establishments.

  |

###### SECTION 2 – SPECIFIC PROGRAMME INFORMATION – RN LEVEL 4 INTELLIGENCE ANALYST STANDARD (ST0516)

1. The EPAO shall deliver EPA for the Level 4 Intelligence Analyst Standard (ST0516) in accordance with ESFA regulations as detailed in Section 3 of this Schedule and in line with the EQA Provider’s regulations.
2. Royal Navy/Royal Marine Warfare Intelligence Specialists (WIS) are signed up to the L4 Intelligence Analyst Apprenticeship Standard (ST0516) by the RN Apprenticeship Management Team whilst in HMS Collingwood or the Commando Training Centre Royal Marines (CTCRM), and complete any required Functional Skills (FS). Training takes place over 10 weeks for RN/18 weeks for RM where the majority of the knowledge, Skills and Behaviours (KSBs) of the apprenticeship standard are delivered. The remainder of the apprenticeship is completed in the Sailor’s/Marine’s first assignment, which is usually a land based unit. On completion of their work-place journals/Taskbooks and FS, apprentices are deemed competent and at Gateway, and therefore ready to complete EPA. Currently, competency is confirmed by means of ongoing assessment by their line manager/training co-ordinator.
3. The RN requires an EPAO to deliver face-to-face EPAs within a secure military environment, however the RN are open to facilitating online solutions with the EPAO, where practical or deemed necessary.
4. Any information given below on demographics for this requirement is based upon the current occupancy and forecast future recruitment. Future recruitment, occupancy, levels of suspension and successful Gateway achievement cannot be guaranteed by the Authority and any data provided below in respect of these aspects is strictly indicative only. **[[1]](#footnote-2)**

**Details of EPA to be delivered**

1. The learner throughput for EPA in this contract is anticipated at approximately 38 (± 10%) apprentices *per annum*. This figure is expected to remain constant for the next 5 years. An average of 3 EPA per month is envisaged, however grouping of learners will be strongly encouraged as commonly programme lengths of stay would usually culminate around the same time. This should be used by tendering companies as an indicative guide for costing purposes and cannot be guaranteed by the Authority. Continual liaison is required with the RN Apprenticeship Management Team during the EPA process.
2. The average typical duration for this apprenticeship Standard as 18 months. Both RM & RN apprentices will typically be at gateway at this point.
3. The EPA comprises:
4. **Work based project followed by a presentation with Q&A:** Apprentices will be asked to research and produce a work based project agreed by the employer and independent assessor. The structured presentation will be based on the work based project and will take place between the apprentice and an independent assessor assessing a range of KSBs. The presentation will be supported by Q&As.
5. **Knowledge and Skills Test**: Apprentices will be expected to complete either a paper based or online knowledge and skills test containing mandatory questions in a combination of multiple choice and scenario based format
6. **Professional Interview:** The professional interview is a structured discussion between the apprentice and an independent assessor assessing a range of KSBs.
7. **EPA locations**. The primary RN testing facility will be located at HMS Collingwood, Newgate Lane Hampshire, PO14 1AS and Royal Marines Commando Training Centre Exmouth Road, Exeter EX8 5AR for the RMs. Secondary testing sites may be used (in agreement between both parties). EPAs for individual apprentices will be confirmed at least 6 weeks in advance and grouped together where practicable. A selection of dates will be agreed between the RN and EPAO for each booking or group of bookings.

**Provision of Infrastructure/Facilities for EPA**.

1. The RN will ensure adequate facilities are available at the RN testing facility.

**External Quality Assurance**

1. The EQA Provider for L4 Intelligence Analyst Training Standard (ST0516) is People 1st International.

SECTION 3 – COMPLIANCE WITH ESFA SUB-CONTRACTING REQUIREMENTS

1. In accordance with the ESFA Apprenticeship Funding: Rules for Employer-Providers[[2]](#footnote-3), the EPAO must:

a. Adhere to ESFA Funding Rules.

b. Provide the Authority with ILR data so that their data returns to the ESFA accurately reflect delivery information.

c. Provide the ESFA and any other person nominated by the ESFA access to EPAO premises and to all documents related to the EPAO delivery of apprenticeships.

d. The EPAO must always have suitably qualified and experienced (SQEP) staff to provide assessment.

e. The EPAO must co-operate with the Authority to ensure that there is continuity of end point assessment if the contract ends for any reason.

g. The EPAO must inform the Authority if evidence of irregular financial or delivery issues arise. This could include, but is not limited to, non-delivery of assessment when funds have been paid, sanctions imposed by an awarding organisation, allegations of fraud, allegations or complaints by apprentices, employers, staff members, or other relevant parties.

h. The EPAO must not use ESFA funding to make bids for, or claims from, any European funding on their own behalf or on the ESFA’s behalf.

1. The EPAO must not use payments made by the ESFA as match funding for ESF projects.

**DEFFORM 68 –**

**Hazardous and Non Hazardous Substances, Mixtures or Articles Statement by the Contractor**

Contract Number:

Contract Title:

Contractor:

Date of Contract:

\* To the best of our knowledge there are no hazardous Substances, Mixtures or Articles to be supplied. [ ]

\* To the best of our knowledge the hazards associated with Substances, Mixtures or Articles to be supplied under the Contract are identified in the Safety Data Sheets or UK REACH Article 33 Communication attached in accordance with either:

DEFCON 68[ ]  ; or

Condition 9 of Standardised Contract 1A/B Conditions [ ] ;

Contractor’s Signature:

Name:

Job Title:

Date:

\* check box (☒) as appropriate

**To be completed by the Authority**

DMC:

NATO Stock Number:

Contact Name:

Contact Address:

Contact Phone Number:

Contact Email Address:

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)

Department of Safety & Environment, Quality and Technology (D S & EQT)

Spruce 2C, #1260

MOD Abbey Wood (South)

Bristol, BS34 8JH

Email: DESEngSfty-QSEPSEP-HSISMulti@mod.gov.uk

**SC1B
(Edn 10/22)**



**MOD Terms and Conditions for Less**

**Complex Requirements**

**1 Definitions - In the Contract:**

**Article** means, in relation to Clause 9 only, an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition;

**The Authority** means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, (referred to in this document as "the Authority"), acting as part of the Crown;

**Business Day** means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;

**Contract** means the agreement concluded between the Authority and the Contractor, including all terms and conditions, associated purchase order, specifications, plans, drawings, schedules and other documentation, expressly made part of the agreement in accordance with Clause 2.c;

**Contractor** means the person, firm or company specified as such in the purchase order. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be; **Contractor Deliverables** means the goods and / or services including packaging (and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with the schedule to the purchase order; **Effective Date of Contract** means the date stated on the purchase order or, if there is no such date stated, the date upon which both Parties have signed the purchase order;

**Firm Price** means a price excluding Value Added Tax (VAT) which is not subject to variation;

**Government Furnished Assets (GFA)** is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority;

**Hazardous Contractor Deliverable** means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;

**Issued Property** means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority;

**Legislation** means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972.

**Mixture** means a mixture or solution composed of two or more substances;

**Notices** means all notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;

**Parties** means the Contractor and the Authority, and Party shall be construed accordingly;

**PPT** means a tax called “plastic packaging tax” charged in accordance with Part 2 of the Finance Act 2021;

**PPT Legislation** means the legislative provisions set out in Part 2 and Schedules 9-15 of the Finance Act 2021 together with any secondary legislation made under powers contained in Part 2 of the Finance Act 2021. This includes, but is not limited to, The Plastic Packaging Tax (Descriptions of Products) Regulations 2021 and The Plastic Packaging Tax (General) Regulations 2022;

**Plastic Packaging Component(s)** shall have the same meaning as set out in Part 2 of the Finance Act 2021 together with any associated secondary legislation;

**Sensitive Information** means the information listed as such in the purchase order, being information notified by the Contractor to the Authority, which is acknowledged by the Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication;

**Substance** means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

**Transparency Information** means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, except for (i) any information which is exempt from disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations Act 2004 (EIR), which shall be determined by the Authority, and (ii) any Sensitive Information.

**2 General**

a. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.

b. Any variation to the Contract shall have no effect unless expressly agreed in writing and signed by both Parties.

c. If there is any inconsistency between these terms and conditions and the purchase order or the documents expressly referred to therein, the conflict shall be resolved according to the following descending order of priority:

1. the terms and conditions;
2. the purchase order; and
3. the documents expressly referred to in the purchase order.

d. Neither Party shall be entitled to assign the Contract (or any part thereof) without the prior written consent of the other Party.

e. Failure or delay by either Party in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of its rights or remedies. No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

f. The Parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a Party to it.

g. The Contract and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English Law, and subject to Clause 16 and without prejudice to the dispute resolution procedure set out therein, the Parties submit to the exclusive jurisdiction of the English courts. Other jurisdictions may apply solely for the purpose of giving effect to this Clause 2.g and for enforcement of any judgement, order or award given under English jurisdiction.

**3 Application of Conditions**

1. The purchase order, these terms and conditions and the specification govern the Contract to the entire exclusion of all other terms and conditions. No other terms or conditions are implied.
2. The Contract constitutes the entire agreement and understanding and supersedes any previous agreement between the Parties relating to the subject matter of the Contract.

**4 Disclosure of Information**

Disclosure of information under the Contract shall be managed in accordance with DEFCON 531 (SC1)

**5 Transparency**

1. Notwithstanding any other condition of this Contract, and in particular Clause 4, the Contractor understands that the Authority may publish the Transparency Information to the general public.
2. Subject to Clause 5.c, the Authority shall publish and maintain an up-to-date version of the Transparency Information in a format readily accessible and reusable by the general public under an open licence where applicable.
3. If, in the Authority's reasonable opinion, publication of any element of the Transparency Information would be contrary to the public interest, the Authority shall be entitled to exclude such information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.

c. The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information, in accordance with the principles set out above. Where the Authority publishes Transparency Information, it shall:

1. before publishing redact any information that would be exempt from disclosure if it was the subject of a request for information under the FOIA and/or the EIR , for the avoidance of doubt, including Sensitive Information;
2. taking into account the Sensitive Information set out in the purchase order, consult with the Contractor where the Authority intends to publish information which has been identified as Sensitive Information. For the avoidance of doubt the Authority, acting reasonably, shall have absolute discretion to decide what information shall be published or be exempt from disclosure in accordance with the FOIA and/or EIR; and
3. present information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how this Contract is being performed.

**6 Notices**

a. A Notice served under the Contract shall be:

1. in writing in the English language;
2. authenticated by signature or such other method as may be agreed between the Parties;
3. sent for the attention of the other Party’s representative, and to the address set out in the purchase order;
4. marked with the number of the Contract; and
5. delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in the purchase order, by electronic mail.

b. Notices shall be deemed to have been received:

1. if delivered by hand, on the day of delivery if it is the receipient’s Business Day and otherwise on the first Business of the recipient immediately following the day of delivery;
2. if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;
3. if sent by facsimile or electronic means:
4. if transmitted between 09:00 and 17:00 hours on a Business Day (recipient’s time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or
5. if transmitted at any other time, at 09:00 on the first Business Day (recipient’s time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

**7 Intellectual Property**

a. The Contractor shall as its sole liability keep the Authority fully indemnified against an infringement or alleged infringement of any intellectual property rights or a claim for Crown use of a UK patent or registered design caused by the use, manufacture or supply of the Contractor Deliverables.

b. The Authority shall promptly notify the Contractor of any infringement claim made against it relating to any Contractor Deliverable and, subject to any statutory obligation requiring the Authority to respond, shall permit the Contractor to have the right, at its sole discretion to assume, defend, settle or otherwise dispose of such claim. The Authority shall give the Contractor such assistance as it may reasonably require to dispose of the claim and will not make any statement which might be prejudicial to the settlement or defence of the claim.

c. Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

**Notification of Intellectual Property Rights (IPR) Restrictions**

d. Where any of the Conditions listed below (1 to 3) have been added to these Conditions of the Contract as Project Specific DEFCONs at Clause 21, the Contractor warrants and confirms that all Intellectual Property Rights restrictions and associated export restrictions relating to the use or disclosure of the Contractor Deliverables that are notifiable under those Conditions, or of which the Contractor is or should reasonably be aware as at Effective Date of Contract, are disclosed in Schedule 2 (Notification of Intellectual Property Rights (IPR) Restrictions):

1. DEFCON 15 - including notification of any self-standing background Intellectual Property;
2. DEFCON 90 - including copyright material supplied under clause 5;
3. DEFCON 91 - limitations of Deliverable Software under clause 3b;

e. The Contractor shall promptly notify the Authority in writing if they become aware during the performance of the Contract of any required additions, inaccuracies or omissions in Schedule 2.

f. Any amendment to Schedule 2 shall be made in accordance with DEFCON 503 (SC1).

**8 Supply of Contractor Deliverables and Quality Assurance**

1. This Contract comes into effect on the Effective Date of Contract.
2. The Contractor shall supply the Contractor Deliverables to the Authority at the Firm Price stated in the Schedule to the purchase order.
3. The Contractor shall ensure that the Contractor Deliverables:
4. correspond with the specification;
5. are of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) except that fitness for purpose shall be limited to the goods being fit for the particular purpose held out expressly by or made known expressly to the Contractor and in this respect the Authority relies on the Contractor’s skill and judgement; and
6. comply with any applicable Quality Assurance Requirements specified in the purchase order.
7. d. The Contractor shall apply for and obtain any licences required to import any material required for the performance of the Contract in the UK. The Authority shall provide to the Contractor reasonable assistance with regard to any relevant defence or security matter arising in the application for any such licence.

**9 Supply of Data for Hazardous Substances, Mixtures and Articles in Contractor Deliverables**

a. Nothing in this Clause 9 shall reduce or limit any statutory duty or legal obligation of the Authority or the Contractor.

b. As soon as possible and in any event within the period specified in the purchase order (or if no such period is specified no later than one month prior to the delivery date), the Contractor shall provide to the Authority’s representatives in the manner and format prescribed in the purchase order:

1. confirmation as to whether or not to the best of its knowledge any of the Contractor Deliverables contain Hazardous Substances, Mixtures or Articles; and
2. for each Substance, Mixture or Article supplied in meeting the criteria of classification as hazardous in accordance with the GB Classification, Labelling and Packaging (GB CLP) a UK REACH compliant Safety Data Sheet (SDS);
3. where Mixtures supplied do not meet the criteria for classification as hazardous according to GB CLP but contain a hazardous Substance an SDS is to be made available on request; and
4. for each Article whether supplied on its own or part of an assembly that contains a Substance on the UK REACH Authorisation List, Restriction List and / or the Candidate List of Substances of Very High Concern (SVHC) in a proportion greater than 0.1% w/w of the Article, sufficient information, available to the supplier, to allow safe use of the Article including, as a minimum, the name of that Substance at the time of supply.

c. For substances, Mixtures or Articles that meet the criteria list in clause 9.b above:

1. if the Contractor becomes aware of new information which may affect the risk management measures or new information on the hazard, the Contractor shall update the SDS/safety Information and forward it to the Authority and to the address listed in the purchase order; and
2. if the Authority becomes aware of new information that might call into question the appropriateness of the risk management measures identified in the safety information supplied, shall report this information in writing to the Contractor.

d. If the Substances, Mixtures or Articles in Contractor Deliverables are Ordnance, Munitions or Explosives (OME), in addition to the requirements of the GB CLP and UK REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.

e. If the Substances, Mixtures or Articles in Contractor Deliverables, are or contain or embody a radioactive substance as defined in the Ionising Radiation Regulations SI 2017/1075, the Contractor shall additionally provide details on DEFFORM 68 of:

1. activity; and
2. the substance and form (including any isotope).

f. If the Substances, Mixtures and Articles in Contractor Deliverables have magnetic properties which emit a magnetic field, the Contractor shall additionally provide details on DEFFORM 68 of the magnetic flux density at a defined distance, for the condition in which it is packed.

g. Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Substances, Mixtures and Articles in Contractor Deliverables. Any withholding of information concerning hazardous Substance, Mixtures or Articles in Contractor Deliverables shall be regarded as a material breach of Contract under Condition 18 (Material Breach) for which the Authority reserves the right to require the Contractor to rectify the breach immediately at no additional cost to the Authority or to terminate the Contract in accordance with Condition 18.

h. Where delivery is made to the Defence Fulfilment Centre (DFC) and / or other Team Leidos location / building, the Contractor must comply with the Logistic Commodities and Services Transformation (LCST) Supplier Manual.

**10 Delivery / Collection**

a. The purchase order shall specify whether the Contractor Deliverables are to be delivered to the consignee by the Contractor or collected from the consignor by the Authority.

b. Title and risk in the Contractor Deliverables shall pass from the Contractor to the Authority on delivery or on collection in accordance with Clause 10.a.

c. The Authority shall be deemed to have accepted the Contractor Deliverables within a reasonable time after title and risk has passed to the Authority unless it has rejected the Contractor Deliverables within the same period.

**11. Marking of Contractor Deliverables**

1. Each Contractor Deliverable shall be marked in accordance with the requirements specified in the purchase order or if no such

requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number shown in the Contract.

1. Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.
2. The marking shall include any serial numbers allocated to the Contractor Deliverable.
3. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with condition 12 (Packaging and Labelling (excluding Contractor Deliverables containing Ammunition or Explosives)).

**12 Packaging and Labelling of Contractor Deliverables (Excluding Contractor Deliverables Containing Ammunition or Explosives)**

1. The Contractor shall pack or have packed the Contractor Deliverables in accordance with any requirements specified in the purchase order and Def Stan 81-041 (Part 1 and Part 6).
2. The Contractor shall establish if the Contractor Deliverables are, or contain, Dangerous Goods as defined in the Regulations set out in this Clause 12. Any that do shall be packaged for UK or worldwide shipment by all modes of transport in accordance with the following unless otherwise specified in the Schedule to the purchase order:
3. the Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO), IATA Dangerous Goods Regulations;
4. the International Maritime Dangerous Goods (IMDG) Code;
5. the Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); and
6. the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR).

c. Certification markings, incorporating the UN logo, the package code and other prescribed information indicating that the package

corresponds to the successfully designed type shall be marked on the packaging in accordance with the relevant regulation.

**13 Plastic Packaging Tax**

a. The Contractor shall ensure that any PPT due in relation to this Contract is paid in accordance with the PPT Legislation.

b. The Contract Price includes any PPT that may be payable by the Contractor in relation to the Contract.

c. On reasonable notice being provided by the Authority, the Contractor shall provide and make available to the Authority details of any PPT they have paid that relates to the Contract.

d. The Contractor shall notify the Authority, in writing, in the event that there is any adjustment required to the Contract Price in accordance with section 70 of the Finance Act 2021 and, on reasonable notice being provided by the Authority, the Contractor shall provide any such information that the Authority requires in relation to any such adjustment.

e. In accordance with DEFCON 609 (SC1) the Contractor (and their sub-contractors) shall maintain all records relating to PPT and make them available to the Authority when requested on reasonable notice for reasons related to the Contract.

f. Where the Contractor manufactures, purchases or imports into the UK any Plastic Packaging Component in relation to the Contract the Contractor shall, on reasonable notice being given, provide the Authority with such information and documentation that it requires to enable the Authority to carry out due diligence checks and satisfy itself that the Contractor has complied with the requirements of the PPT Legislation. This shall include, but is not limited to the Contractor providing:

1. confirmation of the tax status of any Plastic Packaging Component;
2. documents to confirm that PPT has been properly accounted for;
3. product specifications for the packaging components, including, but not limited to, the weight and composition of the products and any other product specifications that may be required; and
4. copies of any certifications or audits that have been obtained or conducted in relation to the provision of Plastic Packaging Components.

g. The Authority shall have the right, on providing reasonable notice, to physically inspect or conduct an audit on the Contractor, to ensure any information that has been provided in accordance with clause 13.f above is accurate.

h. In the event the Contractor is not required to register for PPT they (and to the extent applicable, their sub-contractors) shall provide the Authority with a statement to this effect and, to the extent reasonably required by the Authority on reasonable notice, supporting evidence for that statement.

i. The Contractor shall provide, on the Authority providing reasonable notice, any information that the Authority may require from the Contractor for the Authority to comply with any obligations it may have under the PPT Legislation.

**14. Progress Monitoring, Meetings and Reports**

The Contractor shall attend progress meetings and deliver reports at the frequency or times (if any) specified in the purchase order and shall ensure that its Contractor’s representatives are suitably qualified to attend such meetings. Any additional meetings reasonably required shall be at no cost to the Authority.

**15 Payment**

1. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 15b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
2. Where the Contractor submits an invoice to the Authority in accordance with clause 15a, the Authority will consider and verify that invoice in a timely fashion.
3. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.
4. Where the Authority fails to comply with clause 15b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 15c after a reasonable time has passed.
5. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor’s obligations nor as a waiver of its rights and remedies under this Contract.
6. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

**16 Dispute Resolution**

1. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.
2. In the event that the dispute or claim is not resolved pursuant to Clause 16.a the dispute shall be referred to arbitration and shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.
3. For the avoidance of doubt it is agreed between the Parties that the arbitration process and anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential as between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise. No report relating to anything said, done or produced in or in relation to the arbitration process may be made beyond the tribunal, the Parties, their legal representatives and any person necessary to the conduct of the proceedings, without the concurrence of all the Parties to the arbitration.

**17 Termination for Corrupt Gifts**

The Authority may terminate the Contract with immediate effect, without compensation, by giving written notice to the Contractor at any

time after any of the following events:

a. where the Authority becomes aware that the Contractor, its employees, agents or any sub-contractor (or anyone acting on its behalf or

any of its or their employees):

1. has offered, promised or given to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
2. commits or has committed any prohibited act or any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown;(3) has entered into this or any other contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

b. In exercising its rights or remedies to terminate the Contract under Clause 17.a. the Authority shall:

(1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person committing the prohibited act;

(2) give due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):

1. requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on its or their behalf;
2. requiring the Contractor to procure the dismissal of an employee (whether its own or that of a Subcontractor or anyone acting on its behalf) where the prohibited act is that of such employee.
3. Where the Contract has been terminated under Clause 17.a.the Authority shall be entitled to purchase substitute Contractor Deliverables from elsewhere and recover from the Contractor any costs and expenses incurred by the Authority in obtaining the Contractor Deliverables in substitution from another supplier.

**18 Material Breach**

In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written notice to the Contractor where the Contractor is in material breach of their obligations under the Contract. Where the Authority has terminated the Contract under Clause 18 the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor’s material breach of the Contract.

**19 Insolvency**

The Authority shall have the right to terminate the contract if the Contractor is declared bankrupt or goes into liquidation or administration.

This is without prejudice to any other rights or remedies under this Contract.

**20 Limitation of Contractor’s Liability**

a. Subject to Clause 20.b the Contractor's liability to the Authority in connection with this Contract shall be limited to £5m (five million pounds).

b. Nothing in this Contract shall operate to limit or exclude the Contractor's liability:

(1) for:

1. any liquidated damages (to the extent expressly provided for under this Contract);
2. any amount(s) which the Authority is entitled to claim, retain or withhold in relation to the Contractor’s failure to perform or under-perform its obligations under this Contract, including service credits or other deductions (to the extent expressly provided for under this Contract);
3. any interest payable in relation to the late payment of any sum due and payable by the Contractor to the Authority under this Contract;
4. any amount payable by the Contractor to the Authority in relation to TUPE or pensions to the extent expressly provided for under this Contract;

(2) under Condition 7 of the Contract (Intellectual Property), and DEFCONs 91 or 638 (SC1) where specified in the contract;

(3) for death or personal injury caused by the Contractor’s negligence or the negligence of any of its personnel, agents, consultants or sub-contractors;

(4) for fraud, fraudulent misrepresentation, wilful misconduct or negligence;

(5) in relation to the termination of this Contract on the basis of abandonment by the Contractor;

(6) for breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982; or

(7) for any other liability which cannot be limited or excluded under general (including statute and common) law.

c. The rights of the Authority under this Contract are in addition to, and not exclusive of, any rights or remedies provided by general (including statute and common) law.

**21 The Project Specific DEFCONs and DEFCON SC Variants that apply to this Contract are:**

DEFCON 5J (Edn 11/16) - Unique Identifiers

DEFCON 14 (Edn 06/21) - Inventions And Designs Crown Rights And Ownership Of Patents And Registered Designs

DEFCON 76 SC1 (Edn Edn 11/22) - Contractor's Personnel at Government Establishments

DEFCON 129J SC1 (Edn 06/17) – The Use of the Electronic Business Delivery Form

DEFCON 503 SC1 (Edn 06/22) – Formal Amendments to Contract

DEFCON 531 SC1 (Edn.09/21) - Disclosure of Information

DEFCON 532B (Edn 09/21) - Protection of Personal Data

(Where Personal Data is being processed on behalf of the Authority)

DEFCON 534 (Edn 06/21) – Subcontracting and Prompt Payment

DEFCON 538 (Edn 06/02) - Severability

DEFCON 566 Edn 10/20) - Change of Control of Contractor

DEFCON 609 SC1 (Edn 08/18) - Contractor's Records

DEFCON 611 SC1 (Edn 12/22) – Issued Property

DEFCON 620 SC1 (Edn 06/22) – Contract Change Control Procedure

DEFCON 656A (Edn 08/16) - Termination for Convenience Under £5m

DEFCON 658 SC1 (Edn 10/22) - Cyber

 Further to DEFCON 658 the Cyber Risk Level of the Contract is

 Very Low, as defined in Def Stan 05-138

DEFCON 660 (Edn 12/15) - Official-Sensitive Security

Requirements

DEFCON 671 (Edn 10/22) – Plastic Packaging Tax

DEFCON 694 SC1 (Edn 07/21) – Accounting For Property of the Authority

DEFCON 707 (Edn Edn 11/22) Rights in Technical Data

**22 The special conditions that apply to this Contract are:**

22.1 The Contractor shall, and shall procure that their Sub-contractors shall, notify the Authority in writing as soon as they become aware that:

a. the Contract Deliverables and/or Services contain any Russian/Belarussian products and/or services; or

b. that the Contractor or any part of the Contractor’s supply chain is 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 providing 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 with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement.

22.2 The Contractor shall, and shall procure that their Sub-contractors shall, include in such notification (or as soon as reasonably practicable following the notification) full details of the Russian products, services and/or entities and shall provide all reasonable assistance to the Authority to understand the nature, scope and impact of any such products, services and/or entities on the provision of the Contract Deliverables and/or Services.

22.3 The Authority shall consider the notification and information provided by the Contractor and advise the Contractor in writing of any concerns the Authority may have and/or any action which the Authority will require the Contractor to take. The Contractor shall be required to submit a response to the concerns raised by the Authority, including any plans to mitigate those concerns, within 14 business days of receipt of the Authority’s written concerns, for the Authority’s consideration.

22.4 The Contractor shall include provisions equivalent to those set out in this clause in all relevant Sub-contracts.

22.5 **Security Clearances**

The Contractor shall ensure that they arrange for any relevant security clearances (including BPSS or SC) to be in place when their personnel are required deliver any goods or services on Authority sites.

**22.6 Publicity and Communications with the Media**

The Contractor shall not and shall ensure that any employee or Subcontractor shall not communicate with representatives of the press, television, radio or other media on any matter concerning the Contract unless the Authority has given its prior written consent.

22.7 **Options**

In addition to the requirements detailed at Item 1 to 4 of the Schedule of Requirements, the Contractor hereby grants to the Authority the following irrevocable options to purchase Requirement Details detailed at Item year 5 of the Schedule of Requirements, in accordance with the terms and conditions set out in this contract or any such subsequent contract or contracts where such options are taken up, it being agreed that the Authority has no obligation to exercise such options.

Option 1: Requirement Details at a firm price of £TBC, in accordance with the delivery schedule at Schedule of Requirements line 6, provided that the Authority exercises such an option by no later than TBC.

The Authority may exercise any of the options above in the stated quantities varied within a range of + / - 10% (ten per cent), as well as in the stated quantities and the option prices shall apply equally to the quantities so varied.

The Authority shall have the right to exercise the options by the specified dates or within such further period as corresponds to the aggregate of any period(s):

a. of delay in the delivery programme whether constituting any breach of the Contract or resulting from any force majeure event, or

b. for the duration of which the Authority is prevented from exercising any such option due to any other breach of the Contract by the Contractor.

The Authority shall not be obliged to exercise the options.

The option prices detailed are firm prices.

22.8 **Variation of Price**

a. The prices stated in the Schedule of Requirements are FIXED at 1 TBC price levels. The prices do not include provision beyond this date for increases or decreases in the market price of the Articles being purchased. Any such variation shall be calculated in accordance with the following formula:

V = P (a+b (Oi/O0)) - P

Where:

V represents the variation of price

P represents the FIXED price as stated in the Schedule of Requirements

O represents the index Top Level SPPI, Sections H to U excl. Section K

O0 represents the average OUTPUT Price Index figure for the base period

Oi represents the average OUTPUT Price Index figure for the period in which variation is being made

a represents the Non- Variable Element (NVE)

b represents the Variable Element

a+b=1

b. The Index referred to in Clause 1 above shall be taken from the following Tables:

ONS - Top Level SPPI, Sections H to U excl. Section K

c. Indices published with a ‘B’ or ‘F’ marker, or a suppressed value, in the last 3 years are not valid for Variation of Price clauses and shall not be used. Where the price index has an ‘F’ marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.

d. In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.

e. In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices (as in Clause d above) shall then be applied.

f. Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.

g. The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.

h. Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.

i. Claims under this Condition shall be submitted to the Bill Paying Branch, certified to the effect that the “requirements of this Clause [insert the VOP clause number]” have been met.

**23 The processes that apply to this Contract are:**

**Key Subcontractors**

The Contractor has advised that the following key sub-contractors will be used in delivery of this contract:

|  |  |  |
| --- | --- | --- |
| Name | Work Undertaken | Approximate Value |
| None / TBC |  |  |

The Contractor shall notify the Authority before engaging any further Key Subcontractors.

**Impediments**

The Contractor shall notify the Authority as soon as they become aware of any circumstance which will impact on their ability to deliver any of the requirements or meet any of the stated timescales.

**Tender Proposal**

Requirements to be delivered in accordance with this contract and, where it does not conflict with this contract, in line with proposal included in tender.

**Performance Management**

A date for delivery of goods or completion of each service will be stated in the contract or agreed between the Authority and the Contractor. Where this is not met by the Contractor, goods are not delivered or services are not completed, until after any stated or agreed date (unless the Authority accepts that circumstances were outside of the control of the Contractor), the Authority reserves the right to deduct 10% of the payment due for those services for each week or portion of a week that passes before the services are completed.

If, at any time, any of the goods or services provided under the Contract do not meet the required standard or quality then the Authority will not be obligated to buy any more services unless it is satisfied that the required standard or quality will be met.

Where the Contractor is unable to provide the required goods/services within the timescales required, the Authority shall be entitled to procure those goods/services from other providers.

If the Authority is able to procure goods/services, which are similar to those listed in this contract, at significantly lower prices than those listed in this contract then the Authority shall be entitled to ask the Contractor to provide a reduced price and/or shall be entitled to procure those goods/services from other providers.

If, in order to deliver the goods/services, the Contractor sources anything through their supply chain subcontractors they shall not charge any additional mark up or profit, on those costs they have paid, when calculating prices to be charged to the Authority.

The Authority shall, at any time, be able to request that the supplier provide evidence that they are meeting any social value commitments and/or reporting metrics stated within their tender. The supplier shall provide evidence of this within 10 working days. If the supplier is unable to provide sufficient evidence or is not meeting those commitments or metrics, the Authority reserves the right to deduct 5% of the payments due for each week or portion of a week that passes before the supplier can evidence that those commitments or metrics are being met.

1. The data is accurate as at Jun 22 and is not anticiapted for radical change. [↑](#footnote-ref-2)
2. ESFA regulations are subject to periodic amendment and the EPAO is required to be compliant with the latest version. [↑](#footnote-ref-3)