



Valuation Office
Agency

Invitation to Tender

SPECIFICATION

VOA/2022/029

**Bulk Liquid Storage Tanks used at Oil Refineries and
Depots**

**2005 Rating List Litigation and Associated Work on
Later Rating Lists**

1. INTRODUCTION

The role of the VOA

- 1.1. The Valuation Office Agency (VOA) is an executive agency of her Majesty's Revenue and Customs (HMRC). As the public sector's property valuation experts, we provide valuations and property advice to the government and local authorities in England, Scotland and Wales to support taxation and targeted financial support for families and individuals. The VOA also provide property valuation and surveying services to public sector bodies. Its work includes:
- compiling and maintaining lists of council tax bands for approximately 26 million domestic properties;
 - compiling and maintaining lists detailing the rateable value of over 2 million commercial properties for business rates;
 - determining Local Housing Allowance rates across England;
 - advising local authorities of the maximum subsidy level payable for Housing Benefit claims under the local reference rent system;
 - maintaining a register of fair rents for regulated tenancies in England;
 - providing statutory valuations to support taxes administered by HMRC and the administration of benefits by the Department for Work and Pensions; and
 - providing a range of independent property advice and valuations across the public sector.
- 1.2. Please see www.voa.gov.uk for further details.

Non Domestic Rating (NDR) Context

Valuation Officers (VOs) at the VOA are responsible for the compilation and maintenance of Local Rating Lists for each Local or Billing Authority in England and Wales. The Rating Lists contain Rateable Values in respect of the properties shown in those Lists. Billing Authorities then levy Non-Domestic Rates to collect monies to fund local government services.

The basis of assessment is rateable value which is the reasonable expectation of annual rent for the property, at statutory valuation dates. (1 April 2003, 1 April 2008, 1 April 2015 and 1 April 2021). The valuation dates are set 2 years prior to the compilation of published rating lists in April 2005, April 2010, April 2017 and April 2023.

The properties concerned are oil refineries and bulk petroleum product storage sites.

As there is no reliable rental evidence for oil refineries or depots, to enable a comparative valuation to be made, the accepted convention is for the "contractor's basis" of valuation to be adopted for properties of this type. This is a cost based valuation method and the valuation officer calculates the rateable value by reference to the capital cost of providing all the assets that make up the property (land, buildings and rateable plant and machinery). To this estimated cost, a statutory decapitalisation rate is applied to convert capital 'value' in to annual (or rateable), value.

The elements of valuation that have been subject to recent dispute, and upon which expert advice is sought include the design and cost of construction of external floating roof tanks in comparison to alternative, 'modern' aluminium domed roof tanks (ADRT's),

and an answer to the question: Would a refinery or depot, if built from new in 2003, deploy ADRT's in preference to steel fixed head or external floating roof tanks?

While the main aim of this tender invitation is to engage expertise to assist with live litigation as set out below, it also extends to additional work, since we would also require an answer to the same question as at 2008, 2015 and 2021 and if that answer is 'yes' we would also require an evidenced opinion of the construction costs of ADRT's across a range of tank sizes at the 2003 and later dates.

2. Requirement

Expert Opinion

The issue and basic requirements

An expert witness is required in connection with outstanding 2005 Rating List appeals which may be listed shortly before the Valuation Tribunal and which may then be followed by an appeal to the Upper Tribunal (Lands Chamber) (UT (LC)).

The appellants are likely to rely on the outcome of UT(LC) litigation on Sem Logistics Milford Haven {2018} UKUT 0019 (LC) on an oil and petroleum products storage depot in which there are common issues.

Link to the Sem decision:

<https://landschamber.decisions.tribunals.gov.uk/judgmentfiles/j1396/RA-12-2016.pdf>

The principal subject cases require an expert to give evidence on the comparison and the cost of construction of external floating roof tanks at a refinery compared to a modern equivalent aluminium domed roof with internal floating roofs in the context of an operational refinery in 2003 – 2005.

The expert will need to produce an Expert Witness Report and potentially at least one other report in rebuttal of the case advanced by the appellant's industry expert. If the case proceeds to a hearing the expert appointed will also be required to give evidence in chief and be subject to rigorous cross examination by the appellant's counsel. The expert will be required to attend any case conferences [with or without counsel] and exchange correspondence on the matters at issue. The expert may also be required to collaborate with the appellant's industry expert in production of a statement of agreed facts and matters in dispute.

The case likely to be advanced by the appellant envisages within the contractor's basis of valuation, the construction of a modern alternative tank stock and associated works which are significantly smaller and of lesser value than the tankage actually in situ. Consequently expertise is required to comment upon that modern alternative and guide the Valuation Officer on the specification of any alternatives which the expert thinks would have been appropriate at the valuation date of 1 April 2003. The Valuation Officer will then use this key guidance to shape their valuation. The advice is of importance as the specification of the modern alternative will have a significant bearing upon the outcome of the Valuation Officer's valuation.

The appointed expert will be required to prepare an Expert Witness Report as required by the Tribunal.

A report in rebuttal of the Appellant's case may be required. Following that, further reports may be needed depending upon guidance from counsel and the Valuation Officer's legal and technical advisers.

Opinion may also be required in respect of the later valuation dates of 1 April 2008, 1 April 2015 and 1 April 2021. (See additional work specified below).

Valuation methodology

The agreed method of valuation is that of the Contractor's basis which has 5 stages covering the costing and adjustment of the rateable elements and the land, the conversion of the capital cost to a rental value and a final stand back and look judgement at stage 5.

The appellant disputes in whole or in part the costs at stage 1 for the type of tanks and the allowances at stage 2 that respect.

Industry expertise is therefore required to comment upon the appellant's case that supports their valuation. The valuation date is 1 April 2003. The Valuation Officer will use this key guidance to shape their valuation.

All timings are subject to revision and orders of the Tribunal.

The Issues raised by appellant ratepayers:

The appellants may advance the view that more modern oil refineries in other countries have designed and constructed new liquid bulk storage facilities with ADR/IFR. They claim that these characteristics, of aged assets constructed for a different purpose, means that the property has serious disadvantages in use as a refinery by comparison with that of a purpose designed modern alternative.

The Respondent's view [Valuation Officer]

The VO's view is:

That the tanks be valued at the full size as agreed in the 1990,1995 and 2000 list valuations. That the crude tank usage was less than in 1988 but not by an amount which would radically alter the situation.

The VO has no substantive evidence that IFR tanks and ADR tanks would be built in preference to EFR tanks.

The Expert's report

Reports should be concise, written in plain English and follow a standard format, and guidance will be given in this regard. We require high standards of presentation and

expect all drafts and final versions to be complete and to have been proof-read before being delivered. The tender should assume that reports, discussion guides and presentations may require to be amended in the light of comments made by the VO and those who advise VO and a number of drafts may be required before the report is finalised.

VOA expect all summaries, reports, data and presentations to be provided in an electronic format, compatible with Microsoft Office applications.

Should the dispute be resolved at any stage during the proceedings the Valuation Office Agency will reserve the right to terminate the contract at that stage.

Acting as an Expert Witness

The Supplier shall work on the basis that in providing any written reports to the Tribunal and giving evidence its duty is to help the Tribunal on matters within its expertise, and that this duty overrides any obligation to the VOA. The Supplier should understand that, once disclosed, its report will be made available to any party to the proceedings even if it does not give oral evidence at the hearing.

The VOA recognises that in litigation matters, the facts often only become available over an extended period of time. Should information come to the Supplier's attention after service of the Supplier's report that materially alters its opinions the Supplier will discuss this with the VOA at the earliest practical opportunity, and any requirement to revise its opinions that may be necessary.

In the paragraphs below certain aspects of the rights and duties of an expert witness under the Civil Procedure Rules are detailed that are considered worthy of further emphasis. Although these are tribunals rather than a standard court hearing, these rules should be applied to the Supplier's work before the Tribunal and providing they do not conflict with any specific rules or directions of the Tribunal.

In accordance with the Civil Procedure Rules, any expert's report the Supplier is asked to provide will be addressed to the Tribunal and include, inter-alia, the following matters:

- a) A summary of the range of opinions on matters dealt with in the report together with the reasons for those opinions.
- b) An express statement that the expert understands their duty to the Tribunal and they have complied and will continue to comply with that duty.
- c) A statement setting out the substance of all material facts and instructions that the expert has received (whether written or oral), which are material to the opinions expressed in their report or upon which their opinions are based.
- d) The expert will specifically state if a question or issue falls outside their expertise.
- e) A Statement of Truth will be made at the end of the expert's report in accordance with paragraph 3.3 of the Practice Direction to Part 35 of the Civil Procedure Rules confirming that the facts stated therein are true and the opinions expressed are correct and as also required by The Valuation Tribunal (VT) or Upper Tribunal (UT) practice statements, regulations, rules or directions.

Furthermore, if, after exchange of reports, the expert changes their opinion on a material matter such a change of opinion should be communicated to the other side (through the VO's legal representatives) without delay.

The Supplier will also be required to respond to the opposing expert's questions on its report within the time allowed, should they be made.

In standard court proceedings, an expert has the right to file a written request to the Court for directions to assist him in carrying out their work if they consider this necessary. Should the Tribunal apply such a right and should the expert need to exercise any such right the Supplier shall provide the VOA with a copy of the proposed request for directions at least seven days before it is filed with the Tribunal; and will ask the VOA to provide a copy to the Appellant's solicitors at least four days before it is filed. It is understood that the Tribunal may (if adopting court practice) direct that any party to the proceedings shall be served with a copy of the request for those directions and the Court's directions in response.

Additional Work

If the evidence shows that ADRT's would be specified in the construction of a new refinery, in a UK location in 2003, 2008, 2015 or 2021, then we will also require an evidenced opinion of the construction costs of ADRT's across a range of sizes to support our work in maintaining and defending later rating lists.

Key Dates & Timescales

- A site inspection and discussion with any opposing expert to take place as soon as possible.
- Expert Report to be completed by **1st December 2022** (provisionally).
- An agreed joint statement as between experts and a statement of agreed facts and issues to be produced as directed by the Tribunal.
- The 'additional work', as regards later valuation dates, must be delivered within 3 months of the final decision of the Upper Tribunal (or Valuation Tribunal, if not appealed further).

Conflicts of Interest

The supplier shall not accept outside instructions to act against the VOA in circumstances where the matter relates to the subject matter of this contract. This requirement shall apply during the term of the Contract and shall survive after the Contract is terminated in respect of any matter on which the supplier has advised or acted for the VOA.

The supplier shall notify the VOA of any possible or potential conflict of interest which may result from other activities, and shall only commence such other activities after obtaining written approval of the VOA (which may not be unreasonably withheld).

The supplier shall carry out conflict of interest checks on an ongoing basis and take all reasonable steps to remove or avoid the cause of any conflict of interest.

The VOA reserves the right to deem any suppliers (and other sub-contractors and consortium) party to the same frameworks as the VOA as posing automatic conflicts of interest

3 Contract Management

The successful supplier will be required to appoint a contract manager who will act as the principal point of contact for VOA.

The VOA contract manager must be kept informed of progress and be involved in key decisions. These may include (but are not restricted to) proposed changes in supplier staffing (at all levels) or deviations from the agreed work programme, which must be discussed and agreed with the VOA contract manager in advance.

Reviews & Management Information

The nature of contract management reviews and management information will be agreed between the VOA Contract Manager and Supplier Contract Manager post-contract award. Due to the nature of the service provided, reviews will be scheduled as a minimum on a monthly basis.

4 Invoicing & Payments

Payments will be made via an electronic payments system, SAP Ariba P2P (MYBuy). Invoices should be provided for each milestone within one month of agreement of deliverables and sent to **voainvoices.ap@hmrc.gov.uk** copying in contract manager email address (including the purchase order provided). Payments will be made into the bank account provided by the supplier.

5 Timetable

The estimated timetable for delivery is set out below.

DATE	ACTIVITY
24 th of August 2022	Publication of ITT
24 th of August 2022	Clarification period starts
3pm 2 nd of September 2022	Clarification period closes (" Tender Clarifications Deadline ")
5 th of September 2022	Deadline for the publication of responses to Tender Clarification questions
3pm 9 th of September 2022	Deadline for submission of Tenders to the Agent (" Tender Submission Deadline ")
9 th of September 2022	Bids Compliance Checks
w/c 12 th September 2022	Commencement of Evaluation Process
w/c 3 rd October 2022	Proposed Award Date of Contract
w/c 10 th of October 2022	Expected commencement date for Contract(s)

Length of Contract

The contract term will be from 12 weeks subject to changes in the VT/Upper Tribunal (LC) timetable and the case not being resolved prior to the hearing dates.

An extension for this service delivery may be arranged – subject to Buyer's approval.

6. Evaluation Criteria

Mandatory

6.0 Please confirm that you have no conflict of interest to deliver this Specification [Pass / Fail]

Quality (this section will account for 80% of the evaluation)

Tender Questions

- 6.1 Please outline your recent expertise in, and knowledge of, the oil refining shipment and storage industry - one page maximum [12.5%]
- 6.2 Please outline your recent experience regarding the physical requirements, design, asset specification and elemental construction costing of oil refineries and depots – one page maximum [12.5%]
- 6.3 Please give up to three examples of work you were involved in demonstrating your experience (it may be helpful if at least one example should be in a rating or legal dispute context) – one page per example maximum [15%]
- 6.4 It is essential to the full scope of this contract award that you would be able to give evidence of the oil or related industry within the context of the appeal and speak to your report in tribunal, should this be required. Please provide up to two examples to demonstrate your experience of undertaking an expert witness role– one page maximum [20%]
- 6.5 Please give up to two examples of your report writing skills demonstrated over the last 10 years one page maximum. [10%]
- 6.6 Have you ever been cross examined at a formal hearing of any kind? Please provide details including the case reference – one page maximum [10%]

Pricing (This will form 20% of the evaluation) - Prices should be submitted in pounds Sterling inclusive of any expenses but exclusive of VAT.

- 6.7 Please provide a Day Rate and estimated number of days for the delivery of the specification based on an 8 hour day.
- 6.8 Please provide price estimates relating to the sections of the requirement for:
 - The Report;
 - The Services;
- 6.8 Please note that Travel undertaken must comply with VOA Travel Policies and reimbursements will only be made in accordance with Travel rates and approvals. See Appendix B.
- 6.9 A full estimate of further costs should be provided including hour/day rates and estimates of total charges for the work beyond the initial report.

7. Summary of Requirements

Tenders should include the following information:

- A proposal to meet the specification of work and answers to all tender questions. This should include details of the proposed methodology to achieve work requirements.
- The Proposal should state who will act as the VOA's expert ("the expert witness") and be the person responsible for this engagement, and will appear before the Upper Tribunal if so required.
- In order to contain costs the "expert witness" may delegate to other members of their staff should they deem it appropriate to the nature of the work required. A change of expert witness can only be made with the approval of the VOA. The Supplier will also use specialist skills in different parts of the firm as required to assist them in their work.
- Expertise and experience of key personnel proposed, their status within the company, area of expertise and details of their individual chargeable hourly/day rates.
- Confirmation delivery timescales can be met.
- A firm price bid (exclusive of VAT) for the "Expert Witness Report" above is required plus the full estimated amount of hours/days for the full specification of work, with hourly rate breakdown and charges.
- Any further costs identified (including travel). Provide a statement of the expert's availability to give evidence.

8. SCORING

Scoring will be kept within bands and scores allocated for each question in line with scoring scheme contained in the following table. The maximum total score will be 100. Please See Appendix A

The contract will be awarded on the basis of supplier ability to evidence required quality aspects of the VOA requirement. Whilst contract price will be an important consideration, it is only one of a range of important factors affecting any decision to award a contract. VOA reserve the right not to accept the lowest priced (or any) tender.

9. Tender Queries & Submission

Enquiries and requests for clarification are welcomed and must be submitted at the latest by **3pm on the 2nd of September 2022** by e-mail to tenders@voa.gov.uk - please annotate all query emails with a subject box saying "**Oil Storage 2005 List Appeal Expert**".

You should send a PDF or read-only electronic copy of your tender proposal by e-mail to tenders@voa.gov.uk, to arrive no later than **3pm on the 9th of September 2022** (unless the date is subsequently amended in writing by the VOA).

Please annotate all tender emails with a subject box saying "**Oil Storage 2005 List Appeal Expert**".

No hard copies of the tender are required.

10. TERMS AND CONDITIONS



Model Short Form
VOA Ts&Cs_2020.doc

Appendix A – Evaluation Scoring Criteria

Score	‘Closed’ Question Criteria	‘Open’ Question Criteria
100	Excellent answer which meets all of the requirements and provides all of the required detail.	An excellent response that: <ul style="list-style-type: none"> • is completely relevant, addressing all of the requirements; • demonstrates an excellent understanding of the requirements, is comprehensive, robust and unambiguous; • provides highly credible supporting evidence, benefits or innovation; and/or • meets the requirements in all aspects, with no ambiguity or weaknesses identified and no clarification required.
80	Good answer which meets all of the requirements but lacks some minor detail	A good response that: <ul style="list-style-type: none"> • is highly relevant, addressing all of the requirements; • demonstrates a good understanding of the requirements and is comprehensive; • provides supporting evidence of sufficient detail; and/or • meets the requirements in all aspects, but contains minor weaknesses or a small amount of ambiguity.
60	Satisfactory answer, which meets the requirements in many aspects, but fails to provide sufficient detail in some areas.	A satisfactory response that: <ul style="list-style-type: none"> • is relevant, addressing most or all of the requirements; • demonstrates a satisfactory understanding of the requirements; • provides supporting evidence but lacks detail in some areas; and/or • meets the requirements in most aspects, but contains manageable weaknesses or some ambiguity and may require some
40	Limited answer which satisfies some aspects of the requirements, but fails to meet the specification in the whole.	A limited response that: <ul style="list-style-type: none"> • is mostly relevant, addressing most of the requirements; • demonstrates a limited understanding of the requirements;

Score	'Closed' Question Criteria	'Open' Question Criteria
		<ul style="list-style-type: none"> provides supporting evidence but lacks detail in some or most areas; and/or contains weaknesses or ambiguity which suggest that the requirements would not be met unless clarified.
20	Poor answer which significantly fails to meet the requirements.	<p>A poor response that:</p> <ul style="list-style-type: none"> is only partially relevant, addressing some of the requirements; demonstrates a poor understanding of the requirements; provides supporting evidence that is of limited/insufficient detail or explanation; and/or contains multiple and/or significant weaknesses or ambiguity that suggest the requirements would not be met.
0	<p>The response is not considered relevant.</p> <p>The response is unconvincing, flawed or otherwise unacceptable.</p> <p>Response fails to demonstrate an understanding of the requirement.</p> <p>No evidence is provided to support the response.</p> <p>Or nil response.</p>	<p>An unacceptable response that:</p> <ul style="list-style-type: none"> is not fully relevant, addressing some or none of the requirements; demonstrates very limited or no understanding of the requirements; provides little or no supporting evidence that is of insufficient detail or explanation; and/or is unconvincing, flawed or otherwise inadequate, suggesting that the requirements will not be met. <p>Or nil response.</p>

Appendix B - Expenses policy

The aim of VOA is to make our travel practices more sustainable by:

- reducing our business travel footprint;
- choosing alternatives to travel (such as telephone or video conference);
- adopting more sustainable ways of travelling when it is necessary to do so (public transport over private vehicles).

To help VOA meet its target of reducing carbon emissions from business travel by at least 10% please consider:

- Avoiding travel by using telephone and video conferencing as the default medium.
 - Only using private cars as the last option after public transport and hire cars.
1. Travel to and from the Primary Location will be met from the day rate.
 2. Expenses are payable where travel to other locations is required as part of the assignment forming part of this agreement. Where an overnight stay is required VOA will pay for actual bed and breakfast costs within the current maximum limits detailed below. Any other subsistence or incidental expenses are not payable save for an Evening Meal Allowance (see below). Receipts must be provided.

Short-term Night Subsistence Allowances Bed & Breakfast Capped Rates Effective from 01/06/10	
Location	Maximum Nightly Rate
London / within M25	£120
Bristol; Heathrow	£90
Oxford; Portsmouth	£85
Elsewhere in UK	£80
Travel	
Mileage Allowance	45 pence per mile
Rail Travel	Standard Class
Air Travel	Economy Class

3. Hotel Reservation and Tickets shall be booked via VOA's travel and hotel booking service. Further information will be provided by the VOA Work Manager. Bookings should always be approved by the VOA Work Manager.
4. All other expenses will be payable at the discretion of VOA. The Contractor shall not incur any such expenses without the prior approval of the VOA

Work Manager. Any expense incurred by the Contractor without prior approval shall not be reimbursed.

Allowances Description	(The maximum) Amount	Receipts Required Plus Additional Guidance.
Evening Meal Allowance <i>up to the maximum shown in the Maximum Amount Column).</i>	£23.50	<p>Receipts are required in all cases.</p> <p>This can be claimed when you are staying away from home overnight and where you have to pay separately for your evening meal because it is not included within your accommodation package.</p> <p>If you meet the criteria in the first paragraph, you may only claim the amount that you have spent, up to the maximum stated. This can include gratuities, provided that they are shown within the bill for the meal as gratuities are subject to tax. You cannot claim back the cost of any tips or gratuities that are not included within the bill for the meal.</p>