



Ministry
of Defence

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Defence Fuels Acquisition Programme
(DFAP)
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Reference:
DFAP/0013

Date: 28 February 2019

Dear Sirs

Invitation to Negotiate (ITN) Reference No. DFAP/0013

1. You are invited to tender for the Defence Fuels Global Resupply Capability (DFGRC) Contract in accordance with the attached documentation in a competitive negotiated procedure (without prior publication) pursuant to the Defence Security and Public Contract Regulations (DSPCR) 2011
2. The requirement is for the time charter of a vessel. In order to provide support to UK and overseas bases and operations, there is a regular and enduring requirement to deliver a variety of fuel types to locations in the UK and worldwide.
3. The outcome of this ITN process will establish a single supplier contract that will be awarded for a duration of 5 years with an option for the Authority to extend the Initial Period of this Contract on the same terms for a further period of 2 years made up of 2 x 1 year extensions. The anticipated date for the contract award decision is May 2019, please note that this is an indicative date and may change. Tenderers are to note that the Lay Can start date shall be from the 8th May 2019 but no later than 14th August 2019.
4. You must submit your Tender to arrive no later than 10:00AM (GMT) Wednesday 10 April 2019 and you must attach the enclosed Tender Return Label (DEFFORM 28) to the outer packaging of your Tender when you submit it to the Authority.
5. Please confirm receipt of this letter to the Commercial Officer stated in the above address.

Yours faithfully

DFAP/0013 DEFENCE FUELS GLOBAL RESUPPLY CAPABILITY (DFGRC) TENDER EVALUATION

Tender Evaluation Criteria

1. The Tenderer is to note the Authority's Tender criteria;
 - a. Tenders will be assessed on the basis of: Lowest Price (Bunker Costs plus Charter Rate for the duration of the Contract).
 - b. Following communication/clarification with Tenderers, Tenderers will be required to submit Tender responses to the Authority. If the Authority decides to award a Contract, it will be awarded to the Tenderer that is both Technically and Commercially compliant by meeting the requirements of the Authority as detailed in this ITN, and which submits the lowest total price in accordance with the price evaluation at Annex C to this Invitation to Negotiate.
2. The Authority's Ship Broker, Braemar ACM Shipbroking Limited have been contracted to provide a service to the Authority in the procurement process for this requirement. As part of the Contract Agreement between Braemar ACM Shipbroking Limited and the Authority, Braemar ACM Shipbroking Limited have undertaken a period of market engagement to generate market interest and to communicate the Authority's requirement with the intention of identifying suitable suppliers that have the capability and capacity to complete a Tender. At the end of this period (1 Feb 19) Braemar ACM Shipbroking Limited had a commitment to produce a report to the Authority detailing the vessels that were suitable/unsuitable to the Authority's requirement to inform the outcome of their market engagement.
3. The Authority has issued this Invitation to Negotiate documentation to the Tenderers that have expressed an interest in the Market Engagement undertaken by Braemar ACM Shipbroking limited.
4. The Authority is responsible for managing all aspects of the Tender process, with the support of Braemar ACM Ship Broking Limited to assess Tender responses. The award of any Contract as a result of the Tender process will be the sole responsibility of the Authority and a decision will be made on the basis of the Tender documentation and evaluation.
5. On receipt of Tender documentation, if there are any aspects of the Tender that tenderers require further information or wish to discuss, they are invited to submit any clarification questions to the Authority's Commercial department for a response via Braemar ACM Shipbroking Limited. Any clarification question received by the Authority, that are not deemed Tenderer sensitive, along with the Authority's response, will be copied to all Tenderers taking part in this process for transparency purposes. Clarification questions are to be received by the Authority no later than 29 March 2019.
6. There will be a period of Tenderer communication and clarification prior to the return of Tender submissions (detailed at paragraph 13 below) where the Authority supported by Braemar ACM Shipbroking Limited will discuss any Tenderer comments or amendments in respect of the Authority's Contract Terms and Conditions or requirement. On completion of these discussions (29 March 2019) Tenderers will be invited to submit their Tenders which will not be subject to further amendment. Upon receipt of tenders a final commercial, technical and price evaluation will be carried out and a decision will be made on the successful Tenderer for Contract Award.
7. If, during the communication and clarification stage it becomes apparent that a significant change to the ITN is required, a revised ITN will be issued to all bidders to enable them to tender on an equal basis of the revised ITN.
8. The Authority has the right to decline any Tender response that does not meet any legal and/or technical requirements which are stated to be mandatory or that during the communication and clarification stage fails to comply with the legal and/or technical requirements of the Authority.

Further, the Authority has the right to abandon this Tender process and has the right not to proceed with the award of a Contract. The Authority will not be liable for any costs or expenses incurred in tendering for this requirement.

9. All Tenderers that have been included in this Tender process will be formally notified of the outcome in writing which will include a debrief of their Tender submission.
10. Tenderers should note that if they are successful in the Tender process and are awarded a contract, the Authority is obliged to allow a space of ten (10) calendar days between the date of dispatch of its notice to Tenderers before entering into a contract, known as the standstill period.

Tender Responses for Evaluation

11. As part of your Tender submission the Authority requires you to complete and return the following;
 - a. Confirmation of acceptance of the SHELLTIME 4 as issued with this Tender and/or the reason for the non-acceptance of any clause of the SHELLTIME 4 by completing Appendix 1 to Annex B attached to this document.
 - b. MoD Rider Conditions compliance matrix at Appendix 2 to Annex B attached to this document.
 - c. Statement of Good Standing at Appendix 3 to Annex B, attached to this document.
 - d. Response to Stage 2 Technical Evaluation Questions 1 through to 5 detailed at Annex C, attached to this document.
 - e. Prices, in the form of a daily charter rate for the vessel detailed in the Statement of Requirement at Annex A to the Rider Conditions, by completing Annex C, Table 1 attached to this document. The daily charter rate will be in UK Pounds Sterling(GBP), and will be exclusive of VAT, bunker costs and port fees.
 - f. Daily Laden and Ballast consumption rates, by completing Annex C, Table 3 attached to this document. The daily Laden and Ballast rates will be in Metric Tonnes per day.
 - g. The date that scrubbers will be fitted to the vessel if applicable by completing Annex C Table 2, attached to this document.
 - h. Provide details and timings and duration of dry dockings for the vessel by completing Annex D to this Tender documentation.
 - i. Estimate of Costs of the Samson Post Installation and removal in accordance with Rider Condition 6 by completing Annex E to this Tender documentation.
 - j. DEFFORM 47, Annex A included at Annex F to this Tender documentation. In the Total Value of Tender box please input the total value of the daily charter rate x the proposed duration of the contract (5 years plus 2x1 option years, total 7 years).
 - k. Cyber – The Ministry of Defence requires suppliers to have a Cyber Essentials certificate by the contract start date at the latest, and for it to be renewed annually. Appendix 1 to DEFFORM 47 Annex A, Para 42 onwards refers. The Tenderer shall return with their submission a copy of their Cyber Essentials Certification or confirmation they are working towards Cyber Essentials accreditation or equivalent and will have it in place by the Commencement Date of the Contract.
12. Tenderers that fail to complete any of the documents detailed at points a. through to h. above may be deemed non-compliant and may be excluded from the Tender process.
13. Following communication and clarification, Tenderers must submit their final bids to the Authority by **10:00AM Wednesday 10 April 2019**. Bids submitted after this date will not be considered by the Authority. Tenderers are to submit their bids to the address detailed on the Tender Return Label, Defform 28 as attached to this ITN. Tenderers must attach the Tender Return Label to their bid for submission to the Authority.

Validity of Tenders

14. Tenderers are to note that your Tender must be valid / open for acceptance for forty-five (45) calendar days from the Tender return date.

ITN Documentation and ITN Material

15. ITN Documentation means 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 ITN. ITN Material means any other material (including patterns and samples), equipment or software issued to you, or to which you have been granted access, by the Authority for the purposes of responding to this ITN. ITN Documentation, ITN 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:

- a. take responsibility for the safe custody of the ITN Documentation and ITN Material and for all loss and damage sustained to it while in your care;
- b. not copy or disclose the ITN Documentation or any part of it to anyone other than the bid team involved in preparing your Tender, and not use it except for the purpose of responding to this ITN;
- c. seek written approval from the Authority if you need to provide access to any ITN Documentation or ITN Material to any Third Party;
- d. abide by any reasonable conditions imposed by the Authority in giving its approval under sub-paragraph 15.c, which at 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;
- e. accept that any further disclosure of ITN Documentation or ITN Material (or use beyond the original purpose), or further use of ITN Documentation or ITN 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;
- f. inform the named Commercial Officer if you decide not to submit a Tender;
- g. immediately return all ITN Documentation, ITN Material and derived information of an unmarked nature, should you decide not to respond to this ITN, or you are notified by the Authority that your Tender has been unsuccessful; and
- h. consult the named Commercial Officer to agree the appropriate destruction process if you are in receipt of ITN Documentation and ITN Material marked 'OFFICIAL-SENSITIVE' or 'SECRET'.

16. Some or all of the ITN Documentation and ITN 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 Of this ITN Document contained in any such agreement will be in addition to, and not derogate from, your obligations under paragraph A15 above.

Tender Expenses

17. You will bear all costs associated with preparing and submitting your Tender. If the Tender process is terminated or amended by the Authority, the Authority will not reimburse you.

Submission of your Tender

18. Tenders must be sent to the Tender Board by the date and time stated in the covering letter to this ITN. The Authority reserve the right to reject any Tender received after the stated date and time.

You must provide one (1) unpriced and one (1) priced copies of your Tender You must not email electronic copies until after the Tender Board has taken place. If you email your Tender before the Tender Board date, your Tender may be excluded from the competition.

19. You must include the electronic copy/ies of the priced and unpriced Tender with the associated paper copy/ies only. You must label CDs containing electronic copies of the Tender with “Includes Prices” or “Unpriced”. The electronic copies of the Tenders must be compatible with Microsoft Office Word 2010 and other MS Office 2010 applications. If you, password protect or encrypt any information on CDs containing prices you must supply the password / use compatible encryption methods so that the Authority can undertake a pricing evaluation.

20. You must submit your paper and CD copies in a sealed envelope or box. For health and safety reasons, no individual envelope or box should weigh more than 11 kilos.

21. You must attach the enclosed Tender Return Label (DEFFORM 28) to the outer packaging of each envelope or box that contains your Tender.

22. If you intend to hand deliver your Tender you must inform the named Commercial Officer of your intention and seek further delivery instructions. Failure to do so may result in your Tender being refused and / or returned.

23. You must ensure you include all relevant information in your Tender. The Authority can only evaluate information that you include in your Tender.

Transfer of Undertaking (Protection of Employment) – TUPE Notes To Tenderers For Contract Re-Lets **NO Former Authority staff**

Applicability Of TUPE

1. Your attention is drawn to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), as amended and /or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006, as amended from time to time. The Authority would be neither transferor nor transferee of the employees in the circumstances of any contract awarded as a result of this invitation and it is your responsibility to consider whether or not TUPE applies to this re-let and to tender accordingly. Notwithstanding this, you will wish to note that it is the Authority's view that TUPE is likely to be applicable if this Invitation to Negotiate results in a Contract being placed, although the Authority shall not be liable for the opinion expressed above. In these circumstances the Authority will wish to satisfy itself that your proposals are responsibly based and take full account of your likely TUPE obligations.

2. If you have a contrary view to that of the Authority on the applicability of TUPE you are strongly encouraged to submit both a TUPE and non-TUPE tender, providing a full explanation to support your view. If the Authority is satisfied by your explanation, the non-TUPE tender will be considered, otherwise the tender conforming to the Authority's view will be considered.

TUPE Information Provided For Tendering Purposes

3. TUPE information in respect of the current employees is provided at Appendix 1 to Annex A. This information may be updated prior to contract award in which event the short-listed tenderers will be given an opportunity to revise or confirm tendered prices

4. The information detailed at Appendix 1 to Annex A has been obtained from the contractor currently undertaking this task. The accuracy and completeness of this information cannot be warranted by the Authority. It remains your responsibility to ensure that your tender takes full account of all the relevant circumstances of this contract re-let and tender accordingly. You are required to confirm when responding that you will not make any claim or demand or take any actions or proceedings against the Authority (nor seek to avoid any contract or seek any amendment to a contract placed with the contractor by the Authority) arising from or relating to the provision of the information, whether or not you are awarded a contract as a result of this Invitation to Tender. Failure to provide clear and unequivocal confirmation may result in your tender being deemed non-compliant.

APPENDIX 1 to ANNEX A of DFAP/0013 Invitation to Negotiate – TUPE INFORMATION

The TUPE EMPLOYEE`

INFORMATION in relation to the incumbent supplier is detailed at in the excel document named APPENDIX 1 to ANNEX A of DFAP/0013 Invitation to Negotiate – TUPE INFORMATION.

**ANNEX B TO ITN DFAP/0013 TENDER EVALUATION –
STAGE 1 MANDATORY REQUIREMENTS**

TENDER EVALUATION – STAGE 1 MANDATORY REQUIREMENTS

1. Tenders shall be evaluated in three stages. The first stage comprises the mandatory elements of the evaluation. Tenderers must achieve a pass for all elements of the mandatory criteria detailed at points 1 to 3 below to progress to stage 2, of the evaluation.

1.2. The Authority has the right to decline any Tender response that does not meet any legal and/or technical requirements which are stated to be mandatory or that during the communication and clarification stage fails to comply with the legal and/or technical requirements of the Authority. If following the communication and clarification stage, Tenderers submit a response which fails to comply with the legal requirements of the Authority detailed at 1 to 3 below then tenderers will be deemed non-compliant and will not progress to the second stage of the evaluation, Stage 2 of the evaluation.

Requirement (Please quote the criterion number on any supporting documents submitted to clearly identify which criterion is being addressed)	Weighting	PASS	FAIL
1.SHELLTIME 4 as issued with this ITT	PASS/FAIL	Tenderer has provided confirmation of their acceptance of the SHELLTIME 4 as issued with this ITN; and/or the reason for any non-acceptance of any clause of the SHELLTIME 4 by completing the table detailed at Appendix 1 to this Annex B; any non-acceptance of any clause is considered to comply with the legal requirements of the Authority at the Authority’s discretion.	Tenderer has failed to provide confirmation of their acceptance of the SHELLTIME 4 as issued with this ITN; and/or the reason for any non-acceptance of any clause of the SHELLTIME 4 by completing the table detailed at Appendix 1 to this Annex B; and/or any non-acceptance of any clause is considered to not comply with the legal requirements of the Authority at the Authority’s discretion.

Requirement (Please quote the criterion number on any supporting documents submitted to clearly identify which criterion is being addressed)	Weighting	PASS	FAIL
2. Acceptance of Rider Conditions.	PASS/FAIL	Tenderer has completed the Commercial Compliance Matrix at Appendix 2 to this Annex B, confirming full compliance with all Contract Terms and Conditions.	Tenderer has failed to confirm full compliance with all Contract Terms and Conditions.
3. Supplier Statement Relating to Good Standing (SSRGS)	PASS/FAIL	<p>Tenderer has signed and returned the SSRGS at Appendix 3 to this Annex B (and any additional information required) that shows:</p> <ul style="list-style-type: none"> ▪ no grounds for mandatory or discretionary exclusion; or ▪ grounds for exclusion but the Authority has decided to allow the Tenderer to participate in the procurement in accordance with the Supplier Selection: Excluding Ineligible Suppliers Commercial Policy Statement, which can be found on the Acquisition Operating Framework. Where the SSRGS shows grounds for exclusion, the decision to allow the Tenderer to participate in the competition will be at the sole discretion of the Authority's Central Legal Services. 	<p>Tenderer has failed to sign and/or return the SSRGS at Appendix 3 to this Annex B (and any additional information required) that shows:</p> <ul style="list-style-type: none"> ▪ no grounds for mandatory or discretionary exclusion; <p>Or</p> <p>Tenderer has signed and returned the SSRGS that shows:</p> <ul style="list-style-type: none"> ▪ grounds for exclusion which have been deemed unacceptable by the Authority's Central Legal Services in accordance with the Supplier Selection: Excluding Ineligible Suppliers Commercial Policy Statement, which can be found on the Acquisition Operating Framework. <p>Or</p> <p>Tenderer has caveated the SSRGS or amended the content in any way.</p>

SHELLTIME 4

1. Tenderers are required to provide confirmation of their acceptance of the SHELLTIME 4 as issued with this ITN and/or the reason for any non-acceptance of any clause of the SHELLTIME 4 by completing the table detailed below.

If the Tenderer rejects any of the clauses of the SHELLTIME 4, they must detail the reason why.

	TENDERER CONFIRMS COMPLIANCE WITH ENTIRE SHELLTIME 4 (Insert YES / NO)	TENDERER REASONS FOR NON ACCEPTANCE IF APPLICABLE	TENDERERS PROPOSED AMENDMENT TO SHELLTIME 4 IF APPLICABLE
SHELLTIME 4 as issued with this ITT			

**APPENDIX 2 TO ANNEX B TO ITN DFAP/0013 TENDER EVALUATION –
STAGE 1 MANDATORY REQUIREMENTS- RIDER CONDITIONS**

Tenderers are required to confirm their acceptance of the Rider Conditions by completing the table detailed below.

RIDER CONDITIONS

Condition(s)	MANADTO RY	Title	Acceptance (Yes / No)	Reason for Non-Acceptance (if applicable)
1	Yes	DEFINITIONS	Yes / No	
2	Yes	PRECEDENCE OF CONDITIONS	Yes / No	
3	Yes	LAW	Yes / No	
4	Yes	SCOPE OF CONTRACT	Yes / No	
5	Yes	CONTRACT CHARTER DURATION	Yes / No	
6	Yes	SAMSON POST	Yes / No	
7	Yes	QUALITY	Yes / No	

Condition(s)	MANADTO RY	Title	Acceptance (Yes / No)	Reason for Non-Acceptance (if applicable)
8	Yes	NATIONALITY	Yes / No	
9	Yes	VESSEL DELIVERY AND REDELIVERY	Yes / No	
10	Yes	BUNKER FUEL	Yes / No	
11	Yes	PRICING	Yes / No	
12	Yes	INVOICING	Yes / No	
13	Yes	INVOICING PROCESS IN RELATION TO BUNKER FUEL PROVIDED BY THE CONTRACTOR	Yes / No	
14	Yes	INVOICE PROCESS FOR RECOVERY OF SAMSON POST INSTALLATION/REMOVAL COSTS	Yes / No	
15	Yes	PAYMENT	Yes / No	
16	Yes	PAYMENT OF SUBCONTRACTORS	Yes / No	
17	Yes	INSURANCE AND INDEMNITY	Yes / No	

Condition(s)	MANADTO RY	Title	Acceptance (Yes / No)	Reason for Non-Acceptance (if applicable)
18	Yes	CARGO FUEL QUALITY AND TESTING	Yes / No	
19	Yes	DRY DOCKING	Yes / No	
20	Yes	BROKERS COMMISSION	Yes / No	
21	Yes	PERFORMANCE MANAGEMENT MEETINGS	Yes / No	
22	Yes	MANAGEMENT INFORMATION DELIVERABLES	Yes / No	
23	Yes	THIRD PARTY CHARTERING	Yes / No	
24	Yes	ISSUED PROPERTY	Yes / No	
25	Yes	FORMAL AMENDMENTS TO CONTRACT	Yes / No	
26	Yes	SPECIFICATIONS CHANGE	Yes / No	
27	Yes	CONTRACTOR'S PERSONNEL AT GOVERNMENT ESTABLISHMENTS	Yes / No	
28	Yes	ACCESS AND FACILITIES TO BE PROVIDED BY THE CONTRACTOR	Yes / No	

Condition(s)	MANADTO RY	Title	Acceptance (Yes / No)	Reason for Non-Acceptance (if applicable)
29	Yes	PUBLICITY	Yes / No	
30	Yes	MATERIAL BREACH	Yes / No	
31	Yes	BREAK	Yes / No	
32	Yes	VALUE ADDED TAX	Yes / No	
33	Yes	BANKRUPTCY AND INSOLVENCY	Yes / No	
34	Yes	EQUALITY	Yes / No	
35	Yes	TRANSFER	Yes / No	
36	Yes	CORRUPT GIFTS AND PAYMENTS OF COMMISSION	Yes / No	
37	Yes	WAIVER	Yes / No	
38	Yes	DISCLOSURE OF INFORMATION	Yes / No	
39	Yes	SEVERABILITY	Yes / No	

Condition(s)	MANADTO RY	Title	Acceptance (Yes / No)	Reason for Non-Acceptance (if applicable)
40	Yes	RIGHTS OF THIRD PARTIES	Yes / No	
41	Yes	CHANGE OF CONTRACTOR CONTROL	Yes / No	
42	Yes	CONTRACTOR'S RECORDS	Yes / No	
43	Yes	TAX COMPLIANCE	Yes / No	
44	Yes	TASKING	Yes / No	
45	Yes	PROTECTION OF PERSONAL DATA	Yes / No	
46	Yes	UNIQUE IDENTIFIERS	Yes / No	
47	Yes	CHILD LABOUR AND EMPLOYMENT LAW	Yes / No	
48	Yes	ACCOUNTING FOR PROPERTY OF THE AUTHORITY	Yes/No	
49	Yes	CYBER	Yes/No	
Schedule 1 to Rider Conditions	Yes	TRANSFER REGULATIONS	Yes/No	

**APPENDIX 3 TO ANNEX B TO ITN DFAP/0013- TENDER EVALUATION –
STAGE 1 MANDATORY REQUIREMENTS-
STATEMENT OF GOOD STANDING**

Tender Number: **DFAP/0013**
Date of Issue: 28 February 2019

Dear Sir or Madam,

1. Thank you for your Tender response dated [INSERT TENDER DATE] in the Authority's Defence Fuels Global Resupply Capability (DFGRC) requirement. You will be aware that the MOD expects its suppliers to maintain high standards of integrity and professionalism in their business dealings and adhere to the laws of the countries where they operate.
2. Regulation 23 of **the Defence and Security Public Contracts Regulations 2011** applies to the current procurement. For the purposes of meeting its obligations under the Regulations, the MOD requires all potential suppliers to complete the Statement Relating to Good Standing. This requires a signature on behalf of the company to confirm that none of the matters referred to in Regulation 23(1) (being grounds for mandatory exclusion) or in Regulation 23(4) (being grounds for discretionary exclusion) apply to the supplier.
3. The MOD may disqualify any supplier from the procurement who has been convicted of any of the offences or misconduct listed at Regulation 23(1) and 23(4). If any of the matters referred to in the Statement apply to your company, you must provide additional information on the circumstances, including any remedial action to prevent their recurrence. This additional information, excluding any supporting documentation, shall not exceed five (5) A4 pages in total.
4. You are required to report any final convictions or settlements for bid rigging, fraud, bribery, corruption or other dishonest irregularity in connection with procurement and if so, any measures that you have taken to prevent such behaviour happening again. Any evidence of such anti-competitive behaviour in relation to this procurement procedure could result in your disqualification from the procedure.

5. The Statement Relating to Good Standing must be signed on behalf of the legal entity seeking to contract for this requirement at Director Level or equivalent. Please return the signed Statement Relating to Good Standing and any additional information to the Authority no later than fourteen (14) calendar days from the date of this letter.

6. May I once again thank you for the interest you have shown in this requirement.

Yours faithfully

Nicola Lewton

The Statement Relating To Good Standing

Contract Title: Defence Fuels Global Resupply Capability

Contract Number: DFAP/0013

1. We confirm, to the best of our knowledge and belief, that [*insert potential supplier*] including its directors or any other person who has powers of representation, decision or control of [*insert potential supplier*] has not been convicted of any of the following offences:

- a. conspiracy within the meaning of section 1 or section 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983, or in Scotland the Offence of conspiracy, where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA;
- b. involvement in serious organised crime or directing serious organised crime within the meaning of section 28 or 30 of the Criminal Justice and Licensing (Scotland) Act 2010;
- c. corruption within the meaning of section 1 of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906*;
- d. the offence of bribery;
- e. bribery within the meaning of section 1, 2 or 6 of the Bribery Act 2010;
- f. bribery or corruption within the meaning of section 68 and 69 of the Criminal Justice (Scotland) Act 2003;
- g. fraud, where the offence relates to fraud affecting the financial interests of the European Communities as defined by Article 1 of the Convention relating to the protection of the financial interests of the European Union*, within the meaning of:
 - (1) the common law offence of cheating the Revenue;
 - (2) the common law offence of conspiracy to defraud;

- (3) fraud or theft within the meaning of the Theft Act 1968* the Theft Act (Northern Ireland) 1969*, the Theft Act 1978* or the Theft (Northern Ireland) Order 1978*;
- (4) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006;
- (5) in Scotland, the offence of fraud;
- (6) in Scotland, the offence of theft;
- (7) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies Act (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;
- (8) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994*;
- (9) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;
- (10) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968* or section 19 of the Theft Act (Northern Ireland) 1969* or making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of the Fraud Act 2006;
- (11) in Scotland the offence of uttering; or
- (12) in Scotland, the criminal offence of attempting to pervert the course of justice;
- h. money laundering within the meaning of section 93A, 93B, or 93C of the Criminal Justice Act 1988, section 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996 or the Money Laundering Regulations 2003 or money laundering or terrorist financing within the meaning of the Money Laundering Regulations 2007*;
- i. terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Framework Decision 2002/475/JHA*;
- j. an offence in connection with proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or
- k. in Scotland, the offence of incitement to commit any of the crimes described in Regulation 23(1);
- l. any other offence within the meaning of Article 39(1) of the Defence and Security Procurement Directive 2009/81/EC as defined by the national law of any member State.

* including amendments to the legislation

2. **[Insert potential supplier]** further confirms to the best of our knowledge and belief that it:

- a. being an individual, is a person in respect of whom a debt relief order has not been made, is not bankrupt or has not had a receiving order or administration order or bankruptcy restrictions order or debt relief restrictions order made against him or has not made any composition or arrangement with or for the benefit of his creditors or has not made any conveyance or assignment for the benefit of his creditors or does not appear unable to pay or to have no reasonable prospect of being able to pay, a debt within the meaning of section 268 of the Insolvency Act 1986, or article 242 of the Insolvency (Northern Ireland) Order 1989, or in Scotland has not granted a trust deed for creditors or become otherwise apparently insolvent, or is not the subject of a petition presented for sequestration of his estate, or is not the subject of any similar procedure under the law of any other state;
- b. being a partnership constituted under Scots law, has not granted a trust deed or become otherwise apparently insolvent, or is not the subject of a petition presented for sequestration of its estate;
- c. being a company or any other entity within the meaning of section 255 of the Enterprise Act 2002 has not passed a resolution or is not the subject of an order by the court for the company's winding up otherwise than for the purpose of bona fide reconstruction or amalgamation, nor had a receiver, manager or administrator on behalf of a creditor appointed in respect of the company's business or any part thereof or is not the subject of similar procedures under the law of any other state?
- d. has not been convicted of a criminal offence relating to the conduct of its business or profession, including, for example, any infringements of any national or foreign law on protecting security of information or the export of defence or security goods;
- e. has not committed an act of grave misconduct in the course of its business or profession, including a breach of obligations regarding security of information or security of supply required by the contracting authority in accordance with Regulation 38 or 39 of the DSPCR during a previous contract;
- f. has not been told by a contracting authority, that the Potential Provider does not to possess the reliability necessary to exclude risks to the security of the United Kingdom*;
- g. has fulfilled obligations relating to the payment of social security contributions under the law of any part of the United Kingdom or of the member State in which it is established;
- h. has fulfilled obligations relating to the payment of taxes under the law of any part of the United Kingdom or of the member State in which it is established.

* Please note that under the DSPCR the Authority may, on the basis of any evidence, including protected data sources, not select Potential Providers that do not possess the reliability necessary to exclude risks to the security of the United Kingdom.

I confirm that to the best of my knowledge my declaration is correct. I understand that the contracting authority will use the information in the selection process to assess my organisation's suitability to be invited to participate further in this procurement, and I am signing on behalf of my organisation. I understand that the Authority may reject my submission if there is a failure to provide a declaration or if I provide false or misleading information.	
Organisation's name	
Signed (By Director of the Organisation or equivalent)	
Name	
Position	
Date	

ANNEX C TO ITN DFAP/0013 – STAGE 2 TECHNICAL EVALUATION

STAGE 2 – TECHNICAL REQUIREMENTS

- 2.1 Tenderers which are successful in Stage 1-Mandatory Requirements of the evaluation (i.e. achieve passes on all the pass/fail elements above at stage 1-Mandatory Requirements) will be assessed on a pass/fail basis against Technical Criteria as detailed in the Evaluation Matrix below. Responses to these questions will be assessed by a team of evaluators consisting of Defence Fuel Acquisition Programme (DFAP), Defence Strategic Fuels Authority (DSFA), Navy Command Head Quarters (NCHQ). Responses will be on a pass/fail basis, as detailed in the Evaluation Matrix below.
- 2.2. Questions 1 through to 5, below require a score of pass to be achieved for each question. Tenderers which fail to achieve a score of pass against one or more questions will be found non-compliant, and not proceed further in the evaluation.
- 2.3. Incomplete, unsatisfactory or missing responses may result in the Tenderer failing to meet the stated criteria and being deemed non-compliant. Where evidence is lacking or unconvincing, this will be reflected in a score of fail and may result in the Tenderer failing to meet the required criteria and not proceeding further in the evaluation. If documents are attached separately in response to the questions please ensure that they are labelled clearly.
- 2.4. Tenderers that obtain a score of pass against Questions 1 through to 5 will then be assessed on price, Question 6. The Tenderer that has achieved passes of pass against all of the elements in Stage 1 – Mandatory Requirements and achieved passes against all of the elements in Stage 2 – Technical Requirements will be assessed on price. The Tenderer that offers the lowest Total price in accordance with the price evaluation will be awarded a contract.

STAGE 2 – TECHNICAL EVALUATION

Question 1	Evaluation Methodology FAIL	Evaluation Methodology PASS
<p>1)Experience in the market a) What is your organisation's history and experience in Ship Chartering?</p> <p>b) Please detail and provide examples of Ship Chartering you have undertaken, to include Where? Who with? Duration? And the services provided in respect of the Ship Chartering.</p>	<p>a) The tenderer has failed to provide any, or has provided limited, evidence of practical knowledge and experience of Ship Chartering, which would be relevant to the Authority's requirement, and/or</p> <p>b) The tenderer has failed to,or has provided limited detail and/or no examples of Ship Chartering they have undertaken that are relevant to the Authority's requirement.</p>	<p>a) The tenderer has provided evidence in respect of its history and experience of Ship Chartering and evidence of the areas of the market that they specialise in that are relevant the Authority's requirement, through a credible example, of knowledge and experience of Ship Chartering and;</p> <p>b) The tenderer has provided evidence and an example of Ship Chartering it has undertaken, and provided a statement that details the services provided in respect of the Ship Chartering it has undertaken.</p>
Question 2	Evaluation Methodology FAIL	Evaluation Methodology PASS
<p>2) Safety</p> <p>a) Please demonstrate how you maintain a safety culture within the vessel and it's crew and specify how you ensure that safety requirements are met.</p> <p>b) Please detail and provide examples of how you ensure that all personnel have the</p>	<p>a) The tenderer has failed to provide any, or has provided limited, evidence to demonstrate that a safety culture is maintained and that safety requirements are met and/or,</p> <p>b) The tenderer has failed to,or has provided limited detail and/or no examples of how they</p>	<p>a) The tenderer has provided relevant evidence that demonstrates that a suitable safety culture is maintained within the vessel and it's crew and has clear safety processes in place which ensures safety requirements are met, and</p> <p>b) The tenderer has provided relevant evidence and an example to demonstrate that all personnel have the necessary</p>

necessary training to conduct all necessary operations in a safe and assured manner.	ensure that all personnel have the necessary training to conduct all necessary operations in a safe and assured manner.	training to conduct all necessary operations in a safe and assured manner.
Question 3	Evaluation Methodology FAIL	Evaluation Methodology PASS
<p>3) ISPFS, ISGOTT and SOLAS Compliance</p> <p>a) There is a requirement for the vessel and crew to comply with International Ship and Port Facility (ISPFS), International Safety Guide for Oil Tankers and Terminals (ISGOTT) and the Safety of Life at Sea Regulations (SOLAS). Please confirm your compliance and detail how you ensure that compliance is maintained.</p> <p>b) If you do not currently comply with the ISPFS, ISGOTT and SOLAS please confirm that compliance will be achieved and detail how you will ensure compliance is achieved and maintained.</p>	<p>a) The tenderer has failed to confirm compliance with ISPFS, ISGOTT and SOLAS and detail how they ensure that compliance is maintained, and/or</p> <p>b)The tenderer has failed to, or has provided limited detail of how they will ensure compliance is achieved and maintained.</p>	<p>a)The tenderer has confirmed compliance with ISPFS, ISGOTT and SOLAS and has provided relevant detail of how they ensure that compliance is maintained, or</p> <p>b)The tenderer has provided confirmation that compliance will be achieved and provided relevant detail to explain how compliance will be achieved and maintained.</p>
Question 4	Evaluation Methodology FAIL	Evaluation Methodology PASS
The tenderer shall provide a Q88 for each vessel offered for charter which shall be in accordance with the Shell Time 4, MoD Rider Conditions and Statement of Requirement.	<p>a) The Tenderer has failed to provide a Q88, OR</p> <p>b) The Tenderer has failed to provide a Q88 that meets the Authority's requirements in</p>	a) Th Tenderer has provided a Q88 that meets the Authority's requirements in accordance with the Shell Time 4, MoD Rider Conditions and Statement of Requirements.

<p>Please Note: The Crew Nationality element of the Q88 will not be assessed at this stage as it is understood that a full British Crew is not common in the industry, but Tenderers must note that if successful during this ITN a full British Crew will be required from the LAYCAN start date, for the duration of the Contract.</p>	<p>accordance with the Shell Time 4, MoD Rider Conditions and Statement of Requirements.</p>	
<p>Question 5</p>	<p>Evaluation Methodology FAIL</p>	<p>Evaluation Methodology PASS</p>
<p>The Tender shall confirm to the Authority by completing Table 2 to this Annex C detailed below, whether the vessel will, from 1 Jan 2020, bunker MGO without scrubbers or will bunker HFO with scrubbers. If the vessel is to bunker HFO post 2020 with scrubbers, Tenderer is to confirm the date by which the scrubbers will be fitted to the vessel.</p>	<p>Tenderer has failed to provide confirmation of whether the vessel will, from 1 Jan 2020, bunker MGO without scrubbers or will bunker HFO with scrubbers, and / Or has failed to provide the date by which the scrubbers will be fitted to the vessel if the vessel is to bunker HFO post 2020 with scrubbers.</p>	<p>Tenderer has provided confirmation of whether the vessel will, from 1 Jan 2020, bunker MGO without scrubbers or will bunker HFO with scrubbers, and If the vessel is to bunker HFO post 2020 with scrubbers, Tenderer had confirmed the date by which the scrubbers will be fitted to the vessel.</p>

PRICE EVALUATION – QUESTION 6

2.5 The tenderer is to submit a firm price in UK Pounds Sterling (GBP) for a daily rate at Table 1 below for the duration of the Contract. The Lay Can start date shall be during the from the period 8 May 2019 to no later than 14 August 2019.

2.6 Prices shall be FIRM (not subject to variation) and exclude VAT and bunker costs and port fees for the duration of the Charter.

2.7 The price can be an individual yearly price for each of the 7 years (5 Years plus to 2 x 1 year option years) or a single daily rate for the entire duration of the Contract. Tenderers are required to submit a price for the Initial Contract period of 5 years and the 2 individual option years.

2.8 The Tenderer shall also provide (in accordance with Clause 24 of the Shell Time 4 Agreement) the Laden and Ballast daily consumption rates in Metric Tonnes by completing Table 2 below for the duration of the Contract.

2.9 If applicable, the Tenderer shall also provide (in accordance with Question 5 above) the date that an exhaust gas cleaning system (often referred to as a 'scrubber') will be fitted to the vessel by completing Table 3 below.

2.10 The calculation for the price evaluation shall be as follows;

Step 1 – Calculate the Total Charter Costs;

For each year: Daily Charter Rate x 365 = Annual Charter Rate for that year
Annual Charter Rate for each year will then be added together to obtain the Total Charter Cost of the potential duration of the Contract, inclusive of option periods (5 years plus the 2 x 1 year Option Periods)

Step 2 – Calculate the bunker costs per day for HFO and or MGO

For evaluation purposes only the laden and ballast Bunker Consumption Rates submitted by Tenderers at Table 3 will be averaged to calculate a Combined Bunker Consumption Rate. This will then be multiplied by an assumed fuel price of:

\$398.75 USD per metric tonne for HFO; OR

\$608.19 USD per metric tonne for MGO

This assumed price will be used for evaluation purposes only in order to obtain a Bunker Cost per day and will not form part of the contract.

Laden consumption + Ballast consumption / 2 = Average consumption per day

Average consumption per day x assumed \$fuel price (HFO or MGO) = \$Bunker Cost per day.

The Authority will then multiply the \$Bunker Cost per day by 0.77 (assumed exchange rate for evaluation purposes only) to obtain £Bunker Cost per day.

Step 3 – Calculate number of days spent using HFO and MGO Bunkers

To take in to account the IMO 2020 sulphur changes HFO will only be consumed in vessels fitted with scrubbers post 1 Jan 2020. Therefore, in order to take account of the fuel types being used during the contract period the Authority will calculate the number of days during the life of the contract that the vessel consumes HFO and/or MGO depending on:

- a) whether the proposed ship will be fitted with an IMO2020-compliant exhaust gas cleaning system- on 1 Jan 2020 or;
- b) whether the ship owner proposes to fit an IMO2020-compliant exhaust gas cleaning system or;
- c) whether the ship owner proposes to substitute the chartered ship with a like-for-like replacement fitted with an IMO2020-compliant exhaust gas cleaning system at any point during the contract.

Step 4 – Calculate the total bunker costs

Total number of days using HFO x HFO bunker costs = Total HFO Costs

Total number of days using MGO x MGO bunker costs = Total MGO Costs

Total HFO Costs + Total MGO Costs = Total Bunker Costs

Step 5 - Calculate total cost of Tender

Total Bunker Costs + Total Charter Costs = Total Cost of Tender for the potential duration of the Contract, inclusive of option periods (5 years plus the 2 x 1 year Option Periods) for evaluation purposes.

2.11 The evaluation spreadsheet that will be used to calculate the Total lowest price is detailed at Appendix 1 to this Annex C. Please use the table if you wish to calculate the total value of your Tender.

2.12 The Contract will be awarded to the Tenderer that is both Commercially and Technically compliant by achieving a pass for all of the mandatory criteria detailed at Stage 1 and by achieving a pass against all of the Technical criteria detailed at Stage 2 and offers the lowest total price (Total Bunker Costs + Total Charter Costs) for the potential duration of the Contract, inclusive of option periods (5 years plus the 2 x 1 year Option Periods).

Table 1

CONTRACT YEAR	PERIOD Laycan (between 8 May 19 to 14 August 19) Start Date to end of Contract Year)	FIRM PRICE DAILY CHARTER RATE UK Pounds Sterling (GBP)
YEAR 1		
YEAR 2		
YEAR 3		
YEAR 4		
YEAR 5		
OPTION PERIOD		
YEAR 6		
YEAR 7		

Table 2

1. Do you propose a ship for charter fitted with an IMO2020-compliant exhaust gas cleaning system from the charter start date? (Yes/No)	If yes, please provide the date by which the scrubbers will be fitted
--	--

2. Do you propose to substitute your proposed ship with a like-for-like replacement with an IMO2020-compliant exhaust gas cleaning system at any point after charter start date but before charter end date? (Yes/No)	If yes, please provide the date by which the scrubbers will be fitted
--	--

Table 3

Vessel 1 (required)	Bunker Consumption Rate (Metric Tonnes per day sailing)	
	Laden	Ballast
HFO (no scrubber fitted)		
HFO (with scrubbers fitted)		
MGO		

SAMSON POST

1. In accordance with Rider Condition 6, the Contractor will be required to install a Samson Post to the Vessel to enable Replenishment at Sea whilst underway to be undertaken. The Samson Post will be installed by the Contractor and reimbursed by the Authority. The Samson Post will upon Installation become the property of the Authority and treated as a Government Furnished Assets in accordance with the Rider Conditions.
2. As part of this tender process the tenderer is required to submit an estimate of costs for the installation, maintenance and removal of the Samson Post.
3. This estimated cost will be provided in UK pounds Sterling (£) and will not form part of the evaluation criteria but is purely to aid the Authority in an understanding of the proposed costs for the Samson Post.

Estimated Cost of Samson Post		
Estimated Installation Cost	Estimated Maintenance Cost throughout contract duration	Estimated Removal Cost
£	£	£

Ministry of Defence

Tender Ref No. DFAP/0013

Tender Submission Document (Offer)

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, 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 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 *Where 'No' is selected, Scots Law will apply.				Yes / No*
Total Value of Tender (excluding VAT)				
£GBP				
WORDS				
UK Value Added Tax				
If registered for Value Added Tax purposes, please insert:				
a. Registration No				
b. 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	
Is the offer subject to the Authority contracting for all the Contractor Deliverables?			Yes* / No	
Is the offer made subject to a Minimum Order Quantity?			Yes* / No	
Are the Contractor Deliverables subject to Registered Designs or Patents?			Yes* / No	
Are the Contractor Deliverables subject to Foreign Export Control and Security Restrictions?			Yes* / No	
Are the Contractor Deliverables subject to Overseas Expenditure?			Yes* / No	
Have you complied with all regulations relating to the operation of the collection of custom import duties?			Yes / No	
Have you completed Form 1686 for sub-contracts?			Yes / No	
Have you completed the compliance matrix/matrices?			Yes / No / Not Required	
Are you a Small Medium 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 Commercially Sensitive Information Form (DEFFORM 539A)?	Yes / No
If you have not already signed a corporate level DEFFORM 30 have you attached one?	Yes / No
If you have not previously submitted a Statement Relating to Good Standing, or circumstances have changed have you attached a revised version?	Yes* / No / N/A
Do the Contractor Deliverables 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 (including Packaging) use Substances that deplete the Ozone Layer, as defined in Regulation (EC) 1005/2009 (as amended by EC 744/2010) of the European Parliament and of the Council? http://ozone.unep.org/en/treaties-and-decisions/montreal-protocol-substances-deplete-ozone-layer	Yes* / No
Are you able to support the objectives of Reservist and other supplier support to the Armed Forces?	Yes* / No
Have you attached The Bank/Parent Company Guarantee?	Yes* / No / Not Required
Have you completed, or are you working towards Cyber Essentials accreditation or equivalent and will have it in place by the Commencement Date of the Contract.	Yes* / No
If applicable are you working with your proposed supply chain to ensure where relevant they achieve Cyber Essentials accreditation or equivalent prior to the commencement date of each sub contract.	Yes* / No / N/A
Have you complied with the requirements of the Military Aviation Authority Regulatory Articles?	Yes / No / Not Required
Have you completed the additional Mandatory Requirements?	Yes / No / Not Required
*If selecting Yes to any of the above questions, please attach the information detailed in Appendix 1 to DEFFORM 47 Annex A (Offer).	
Tenderer's Declaration of Compliance with Competition Law	
<p>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:</p> <ol style="list-style-type: none"> the offered price has not been divulged to any Third Party, no arrangement has been made with any Third Party that they should refrain from tendering, no arrangement with any Third Party has been made to the effect that we will refrain from bidding on a future occasion, no discussion with any Third Party has taken place concerning the details of either's proposed price, and no arrangement has been made with any Third Party otherwise to limit genuine competition. <p>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.</p> <p>We understand that any misrepresentations may also be the subject of criminal investigation or used as the basis for civil action.</p> <p>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 procurement processes, including value for money and related purposes. We certify that we have identified any sensitive material in DEFFORM 539A.</p>	
Dated this day of Year	
Signature: (Must be original)	In the capacity of (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:

Information on Mandatory Declarations

Part Tender

1. Under Condition of Tendering F1, the Authority reserves the right to order some or part of your Tender. If your offer is subject to the Authority contracting for all the Contractor Deliverables select 'Yes' and provide further details in your Tender.

Minimum Order Quantities

2. Where your offer is subject to minimum order quantities select 'Yes' and provide further details in your Tender.

Notification of Inventions etc.

3. Where the Contractor Deliverables are subject to any Registered Intellectual Property Rights select 'Yes'.

4. You must clearly state in your Tender any Contractor Deliverable to be produced under any resultant contract that is, or is likely to be, the subject of a Patent, a Registered Design right or an application for either, or an unregistered design right, owned by either yourself or a Third Party. This includes anything of this nature affecting the performance of any resultant contract or subsequent use of any Contractor Deliverable by the Authority. You must specifically draw attention to:

- a. any Patent or Registered Design (or application for either) or unregistered design right you own or control which is or appears to be relevant to the Contractor Deliverables, the use of which by or on behalf of the Authority may give rise to a claim under Sections 55 or 56 of the Patents Act 1977, or Section 12 of the Registered Designs Act 1949, or Section 240 of the Copyright, Designs and Patents Act 1988;
- b. any allegation made against you, whether by claim or otherwise, of an infringement of an intellectual property right (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 4.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 4.b.

5. You must, when requested, give the Authority details of every restriction and obligation referred to in paragraph 4. You must also provide, on request, any information required for authorisation to be given under Section 2 of the Defence Contracts Act 1958.

6. If you have previously provided information under paragraphs 4 and 5 you can provide details of the previous notification, updated as necessary to confirm their validity.

Notification of Foreign Export Control Restrictions

7. 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:

- a. 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.
- b. If requested, a summary of every existing expected or known licence and restriction referred to in paragraph 7.a. This includes any related obligation or restriction and the extent they place an obligation or restriction on the Authority, including:

- (1) the exporting nation and the export licence number, where known;
- (2) the Contractor Deliverables affected;
- (3) the nature of the restriction and obligation;
- (4) the authorised end use and end users;
- (5) any specific restrictions on access by Third Parties, or by individuals based on their nationality, to the Contractor Deliverables; and
- (6) any specific restrictions on re-transfer or re-export to Third Parties of the Contractor Deliverables of anything delivered or used in the performance or fulfilment of them.

c. If requested, you must provide an outline of your mitigation plan to manage performance risks on any resultant contract based on paragraph 7.a.

8. You must use reasonable endeavours to obtain sufficient information from your potential supply chain to enable a full response to paragraphs 7.a and 7.b. If you are unable to obtain adequate information, you must state this in your Tender when responding to paragraph 7.a and 7.b.
9. 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.
10. If you have previously provided information under paragraph 7 you can provide details of the previous notification and confirm the validity.
11. This does not include any Intellectual Property specific restrictions mentioned in paragraph 4.
12. It is the Winning Tenderer(s) responsibility to ensure they comply with any restrictions stated in paragraph 7 during the life of the contract. This includes any restrictions the Authority has explicitly stated / clarified in any ITT documentation.
13. 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 7.

Overseas Expenditure

14. You must provide details in your Tender of any expenditure outside the UK, including:
 - a. country in which sub-contract is placed / to be placed;
 - b. name, division and full postal address of sub-contractor;
 - c. value of sub-contract; and
 - d. date sub-contract placed / to be placed.
15. Should you propose the supply of Articles of US origin the export of which from the USA are subject to control under the US International Traffic in Arms Regulations (ITAR), you must include details in your Tender. This will allow the Authority to make a decision whether the export can or cannot be made under the auspices of the US-UK Defence 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

16. European Union (EU) legislation permits the use of various procedures to suspend customs duties.
17. For the purpose of this competition, for any deliverables not yet imported into the EU, you are required to provide details of your plans to address customs compliance, including the procedures to be applied and the estimated Import Duty to be incurred and / or suspended.
18. 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 Her Majesty's Revenue and Customs (HMRC) authorisations.

Sub-contracts Form 1686

19. Form 1686 (also known as Appendix 5) is to be used in all circumstances where contractors wish to place a sub-contract with a contractor where the release of OFFICIAL-SENSITIVE information is involved. 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. You can find further information in the [Security Policy Framework – Contractual Process](#) chapter. You can access a word version of Form 1686 on GOV.UK at:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367494/Contractual Process - Appendix 5 form.doc](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367494/Contractual_Process_-_Appendix_5_form.doc)

Small and Medium Enterprises

20. The Authority is committed to supporting the Government's small and medium-sized enterprise (SME) initiative; its aspiration is that 25% of spend, direct and through the supply chain, should go to SMEs by 2015. The MOD uses the EU definition of an SME.

21. 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 subcontractors are encouraged to make their own commitment and register with the Prompt Payment Code at:

<http://www.promptpaymentcode.org.uk>.

22. Suppliers are also encouraged to work with the Authority to support the wider SME initiative. The link below to the Cabinet Office website provides information on the Government's Crown Representative for SMEs, a link to the definition of an SME and details on the SME initiative.

<https://www.gov.uk/government/publications/2010-to-2015-government-policy-government-buying/2010-to-2015-government-policy-government-buying#appendix-1-making-sure-government-gets-full-value-from-small-and-medium-sized-enterprises>.

23. The opportunity also exists for Tenderers to advertise any sub-contract valued at over £10,000 in the MOD Contracts Bulletin and further details can be obtained directly from:

BiP Solutions Ltd

Web address: www.contracts.mod.uk

Tel No: 0845 270 7099

Transparency, Freedom of Information and Environmental Information Regulations

24. You should be aware that the contents of any resultant contract may be published in line with government policy set out in the Prime Minister's letter of May 2010 (<https://www.gov.uk/government/policies/government-transparency-and-accountability>) and the information contained within DEFCON539.

25. 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 2002 ("the EIR").

26. You should complete the attached Tenderer's Commercially Sensitive Information Form DEFCON539 (DEFFORM 539A), explaining which parts of your Tender you consider are commercially sensitive. This includes providing a named individual who may be contacted with regard to FOIA and EIR.

27. 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

28. Tenderers must note that use of the Contracting, Purchasing and Finance (CP&F) electronic procurement tool is a mandatory requirement for any resultant contract awarded following this tender. By submitting this Tender you agree to electronic payment. Please feel free to consult the service provider on

connectivity options. Failure to accept electronic trading, including payment, will result in your Tender being non-compliant

Change of Circumstances

29. Where circumstances have changed with regard to a Statement Relating to Good Standing or you have not previously submitted a Statement Relating to Good Standing select 'Yes' and submit a Statement Relating to Good Standing with your Tender.

Asbestos, Hazardous Items and Depletion of the Ozone Layer

30. 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' and provide further details in your Tender.

Reservist and other Supplier Support to the Armed Forces

31. The 2010 Strategic Defence and Security Review set out what our Armed Forces will look like and outlined the role of the Reserve Forces within that Future Force. Reserves will have a greater role, providing both a larger proportion of the force and Defence capabilities in certain specialist areas that are not practical or cost effective to maintain full time.

32. The MOD wishes to have a more sustained and enduring relationship with suppliers, on Reservist and other military personnel objectives, based on mutual benefit. The personnel objectives include:

- a. Employment of service leavers
- b. Employment of wounded, injured or sick veterans
- c. Employment of the partners of service personnel
- d. Helping local cadet units
- e. Support to Reservist employees
- f. Encouragement of Reserve service

33. Of particular interest to Defence is the need to have more Reservists employed by reserves supportive employers as described in Chapter 4 of the White Paper, 'Reserves in the Future Force 2020: Valuable and Valued' available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210470/Cm8655-web_FINAL.pdf

34. The Authority therefore encourages all Tenderers, and their suppliers, to:

- a. consider whether they are able to support these objectives; and, if they are
- b. sign the Corporate Covenant, declaring their support for the Armed Forces community.

35. Guidance on the various ways you can demonstrate your support through the Corporate Covenant is at: [The corporate covenant - Detailed guidance - GOV.UK](#).

36. Specific guidance on how you can support the Reserve Forces, what your support means in practice, and what the potential benefits are for you can be found at: www.sabre.mod.uk.

37. Please provide a point of contact for your company on this issue to the Armed Forces Covenant Team at the address below, so that the MOD 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 in the websites.

Email address: covenant-mailbox@mod.uk

Address: Armed Forces Covenant Team
Zone D, 6th Floor, Ministry of Defence,
Main Building, Whitehall, London, SW1A 2HB

38. Where you decide to contribute to meeting the personnel objectives above, you should also report the outcomes of such contributions to the above address so they can be recorded and acknowledged.

39. Paragraphs 31 – 38 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 and we are committed to working with you to this end.

Military Aviation Authority (MAA) Requirements

40. There are no Military Aviation Authority Requirements.

Bank or Parent Company Guarantee

41. A Parent Company or Bank Guarantee may be required. In the event that your tender is identified as the most favourable / compliant tender, but that MOD assesses that a Parent Company or Bank Guarantee is required, then one will be requested (in the form of DEFFORM 24 / 24A as appropriate). No contract will be able to be awarded until a suitable Parent Company or Bank Guarantee, as appropriate, is in place.

Cyber Essentials Accreditation

42. For all new requirements advertised from 1st January 2016 which entail the transfer of MOD identifiable information¹ from customer to supplier or the generation of information by a supplier specifically in support of the MOD contract, MOD will require suppliers to have a Cyber Essentials certificate by the contract start date at the latest, and for it to be renewed annually. This requirement must be flowed down the supply chain. Cyber Risk level – VERY LOW. There is a charge of £300 approximately plus VAT to obtain the Cyber Essentials certificate, however this does not have to be incurred until you are informed that you are successful in being awarded an Authority Framework Agreement.

43. Please notify the Authority as soon as you become aware of any issues with Supply Chain ability to comply with Cyber Essentials.

All potential suppliers who are invited to tender must complete the Supplier Assurance Questionnaire (SAQ) via the Supplier Cyber Protection Service (<https://supplier-cyber-protection.service.gov.uk/>) (Octavian) to demonstrate their compliance with the required cyber risk level. You must register on this site to respond, if you are already registered you will not need to register again, simply use your existing username and password. Please note there is a password reminder link on the homepage and use the following Risk Assessment Reference (RAR) Code to complete the SAQ - **RAR- DETF266N**.

¹ In this context 'information' shall have the meaning as defined in the contract.

**Additional information – DEFFORM 28
Tender Return label**

Not to be used for General
Correspondence with the
Ministry

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Stamp
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THE TENDER BOARD
Commercial Project Enabling Team
Defence Equipment and Support
The Central Gatehouse/VCP
MOD Abbey Wood South
Bristol BS34 8JH

**Tender No: DFAP/0013
Due before 10 am
on 10 April 2019.**

DEFFORM 28ABW
Edn 6/09
