

## Terms of Reference

### AGREEMENT FOR SERVICES IN RESPECT OF OVERSEAS PENSION SCHEME

#### **1. Introduction**

- a. The Foreign, Commonwealth and Development Office (FCDO) leads the UK's work to end extreme poverty. We are tackling the global challenges of our time including poverty and disease, mass migration, insecurity and conflict. Our work is building a safer, healthier, more prosperous world for people in developing countries and in the UK too.
- b. FCDO also has responsibility for the payment of a pension related to overseas service agreements. There are currently 1,273 monthly and 423 quarterly paid pensioners in receipt of this pension. There are no new pensioners joining this scheme and the average age is around 87 years. The pensioner population is declining each year.
- c. FCDO is seeking a supplier registered with the Financial Conduct Authority (FCA) to manage and disburse pension payments (valued up to £8.2 million to be disbursed over two (2) years) to pensioners covered by the Scheme Agreement. The Terms of Reference (TORs) below outline aspects involved in the task of pension administration and the reporting requirements to enable FCDO visibility and assurance on necessary controls.

#### **2. Objective**

- a. We require the facility of a banking service to provide services in relation to the administration of this scheme, and the disbursement of pension payments to pensioners covered by the ongoing Scheme agreement.

#### **3. The Recipient**

- a. The entitled recipients under the Scheme Agreement are Spanish nationals who worked in Gibraltar and were affected by the 1969 Gibraltar/Spain border closure.

#### **4. Scope**

The Supplier will be responsible for delivering the following: -

- a. Payment of pensions on behalf of the British Government, to 1,696 overseas pensioners currently entitled to for life pensions, for the contract term.
- b. Setting up and maintaining standing instruction records of the payments to be made to each pensioner comprising bank details provided by the pensioner and frequency of payment. The rate of pension payable will be based on the Gibraltar Ordinance of Benefits. Pensioner records will be maintained on a

Payment System which stores individual pension records and produces the monthly payments.

- c. Making changes to the standing instruction records in accordance with information received from the pensioner, for example address changes, bank changes or amendments, suspension of pension if proof of life not received and reinstatement when form is received.
- d. Maintaining records of each payment made to each pensioner, which will be available to FCDO Overseas Pension Department (OPD) for audit or other purposes. These records will be available electronically on request for a period of 2 (two) years after which they will be available from archived data for a further 5 (five) years.
- e. Requesting the completion of a `Declaration of Entitlement` form (life certificate) annually confirming that the pensioner is still alive. Review returned life certificates for completeness and ascertain whether *prima facie* the pensioners' signatures match the specimen signatures kept on file. The Supplier shall also carry out a web-based search to validate the details of the person attesting the signature of the pensioner and confirm that *prima facie* such person is an eligible attestor. Failure to provide a life certificate will result in suspension of payments. A list of such pensioners by reference number and name will be provided to FCDO OPD. This document and an annual document notifying a pension increase must be issued in Spanish and English.
- f. Operating a sterling account and the Government of Gibraltar's account for the receipt of funds to make payments to pensioners and providing FCDO OPD with monthly account statements showing all receipts to and payments from that account. The Supplier, as FCDO OPD's banker, will only debit the account on receipt of properly authorised instructions in the form of a formal request issued by an authorised signatory from DIFD OPD and in accordance with the terms set out in the account Mandate.
- g. Operating a sterling account and the Government of Gibraltar's account for the receipt of funds to make payments to pensioners and providing FCDO OPD with monthly account statements showing all receipts to and payments from that account. The Supplier, as FCDO OPD's banker, will only debit the account on receipt of properly authorised instructions in the form of a formal request issued by an authorised signatory from DIFD OPD and in accordance with the terms set out in the account Mandate.

Making payments to pensioners on behalf of FCDO OPD as set out above, as follows: -

- (i) Payments will be processed on or around the 15<sup>th</sup> day of each month and remitted to the pensioner on the last local business day of each month or quarter;

- (ii) Payments will be made in local currency, direct to pensioners' bank accounts. Amounts required to be converted into foreign currency will be converted at the Supplier's Bank's Reference Exchange Rate on the relevant day. The Supplier will absorb any transaction costs within this process and ensure no costs are deducted from the pension payment;
  - (iii) Should the Supplier bank fail, due to its default, to arrange payments to pensioners on or before the due date, the Supplier will meet any reasonable expenses, such as bank charges or interest, incurred by pensioners resulting from this failure. Any such default will be included in the monthly reporting described in Section 5 Reporting below.
  - (iv) The Supplier will not accept any liability resulting from payments being withheld or suspended because of insufficient funds in the Client's account with the Supplier or where payments cannot be made for legal or regulatory reasons or other reasons which are outside of the Supplier's reasonable control;
  - (v) Resolving queries from pensioners relating to payment issues via your Pensions Services team. The majority of communications by telephone and letter will be in Spanish. Staff must be able to communicate in Spanish and reply to letters in Spanish. All stock letters must be in Spanish and English. This is a bespoke pension scheme and a working knowledge of Gibraltar Pensions Ordinances is essential;
  - (vi) Amending rates of pension in line with the ordinance of benefits regulations as decided by the Government of Gibraltar on allocation of the pension i.e. widows/spouses benefit, age increase;
  - (vii) Implementing the annual increase to pensions on instruction from FCDO OPD in accordance with the terms of the Scheme Agreement.
- h. On notification of a death, the pension will be suspended immediately pending receipt of a death certificate. The Supplier will endeavour to avoid any overpayment of pension but if an overpayment should be made, the Supplier will make reasonable efforts to retrieve the overpayment and credit the funds back to FCDO OPD.

## **5. Reporting**

- a. The Supplier will provide FCDO OPD at the end of each month an Excel list of the following;
  - Deaths (reference number and name)
  - Revised Awards (reference number, name, new annual pension)

- New Awards (reference number, name, dob, sex, annual pension)
  - Reinstatements (reference number, name, dob, sex, annual pension)
- b. The Supplier will provide FCDO OPD with monthly account statements and pension schedules listing the names of each pensioner and the amount paid to him/her each month within the first working week of the month.
- c. To the extent permissible by law, provide immediate notification and details of any internal or external suspicions of fraud to FCDO OPD. Fraud Mitigation measures will include system input controls and the annual issue and checking of pensioner declaration forms. Monthly NIL report required.
- d. Issue a copy of internal submissions relating to all outstanding overpayments not recovered to [hopd@fcdo.gov.uk](mailto:hopd@fcdo.gov.uk)
- e. The Supplier should report to FCDO OPD if they fail to credit the bulk monthly BACS payments to pensioner's accounts on the due date.

## **6. Funding**

- a. Funding for the pensions should be received by the Supplier prior to disbursement to pensioners. An approximate funding request will be sent to the FCDO OPD at least eight (8) working days before the end of the month in which payments are to be made for:
- (i) Scheme Pensioners: The Supplier will send FCDO OPD a funding request every month.
  - (ii) Gibraltar Social Insurance Fund (GSIF) pensioners. The Supplier will forward to FCDO OPD the Government of Gibraltar's funding request as required. This funding will be received into the Supplier Bank's accounts three (3) working days before that month's end.
- b. A full breakdown of the payments will be sent to FCDO OPD for reconciliation as detailed in 5b above.

A claim for the fees calculated in accordance with Section 7 Supplier Fees on pension payments made in any calendar month will be submitted to FCDO OPD by invoice in the following calendar month.

## **7. Department for International Development Responsibilities**

- a. Under the terms of this Agreement FCDO OPD will remit funds to its sterling account with the Supplier to ensure that funds are available to implement the full value of all payments and fees due.

- b. FCDO OPD will also ensure that any personal information received at its offices in respect of pensioner details is passed onto the Supplier to ensure records are always current.

## **8. Budget/ Invoicing**

- a. For the full administration and payments service as set out in this agreement:-

The total fees for this contract must not exceed £600,000 for a two (2) year period. There is the possibility of extending this contract by one year plus one year with an additional up to £300,000 per annum. This is subject to programme need, available budget, supplier performance and appropriate approvals.

Invoicing from the Supplier for the services shall be made on a monthly basis and paid per transaction made monthly in arrears subject to the reporting requirements above

## **9. Liability**

The Supplier will keep FCDO indemnified against all actions, proceedings, claims, costs, demands, liabilities and expenses which are incurred by FCDO (including legal expenses incurred in defending or appealing any claim by any third party) which arise out of the fraud, negligence or other breach of this contract by the Supplier. This will include where possible, but not be limited to, covering relevant costs and reimbursing FCDO on any costs incurred.

## **10. Data Protection**

The Supplier should be registered under the General Data Protection Regulation (GDPR) and any relevant subsequent legislation and obligations under this should also be taken into consideration.

The Supplier will:

- a) Take all technical and organisational security measures that are appropriate to prevent:

The unauthorised or unlawful processing of personal data of which the FCDO OPD is the data controller (the "information"), and

Accidental loss, destruction or damage of the information;

- b) Take reasonable steps to ensure the reliability of any employees of the Supplier who have access to the information;
- c) Act only on FCDO OPD instructions in processing the information; and

- d) Provide immediate notification and details of any internal or external suspicions of data breaches. Monthly NIL report required.
- e) Issue a copy of communications relating to all suspicions of data breaches to [hopd@fcdo.gov.uk](mailto:hopd@fcdo.gov.uk)
- f) Otherwise comply with obligations to those imposed on a data controller by the Data Protection principles.

Subject to a) above, FCDO OPD hereby authorises and instructs the Supplier to process the information on the terms set out in this contract.

In this clause, the terms “data controller”, “data processor”, “personal Data” and “processing” mean the same under Data Protection principals.

### **11. Audit Requirements**

FCDO OPD requires the Supplier to commission an annual, externally conducted independent audit of the Supplier’s administration of the pension payments under the Scheme Agreement. This is separate to any audit carried out by the Supplier’s own internal audit function. This may be financial in nature or may focus on a specific area of risk, such as due diligence, safeguarding data, proof of life controls etc. FCDO OPD and Internal Audit department will specify the exact requirements each year.

### **12. Duration of Agreement**

Duration of the contract will be two (2) years commencing on 29 January 2021, with an option to extend for up to two (2) one (1) year extensions.

### **13. Applicable Law and Jurisdiction**

This agreement shall be subject to, governed by and interpreted in accordance with the laws of England.

### **14. General Data Protection Regulations (GDPR)**

Please refer to the details of the GDPR relationship status and personal data (where applicable) for this project as detailed in App A and the standard clause 30 in section 2 of the contract.

## Appendix A: of Contract Section 3 (Terms of Reference)

Description	Details
<b>Identity of the Controller and Processor for each Category of Data Subject</b>	<p>The Parties acknowledge that for the purposes of the Data Protection Legislation, the following status will apply to personal data under this contract;</p> <p>1) The Parties acknowledge that Clause <b>33.2</b> Protection of Personal Data and <b>33.4</b>( Section 2 of the contract) shall not apply for the purposes of the Data Protection Legislation as the <b>Parties are independent Controllers</b> in accordance with Clause 33.3 in respect of all Personal Data required to be processed for the fulfilment of this contract the following Personal Data:</p>
<b>Subject matter of the processing</b>	
<b>Duration of the processing</b>	
<b>Nature and purposes of the processing</b>	
<b>Type of Personal Data [and Special Categories of Personal Data]</b>	
<b>Plan for return and destruction of the data once processing complete.</b>	(UNLESS requirement under EU or European member state law to preserve that type of data)

## **Schedule of Processing, Personal Data and Data Subjects**

This schedule must be completed by the Parties in collaboration with each-other before the processing of Personal Data under the Contract.

The completed schedule must be agreed formally as part of the contract with FCDO and any changes to the content of this schedule must be agreed formally with FCDO under a Contract Variation.