

**Invitation to Tender for  
IRM17/2341 – The Repair and Refurbishment of  
Husky Shock Absorbers**

# Contents

This invitation consists of the following documentation:

- DEFFORM 47ST – Invitation To Tender. The DEFFORM 47ST is the document that sets out the key requirements that you need to meet in submitting a valid Tender in advance of any negotiations. It also sets out the conditions relating to this procurement. For ease it is broken into:
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## Section A – Introduction

### DEFFORM 47 Definitions

- A1. “The Authority” means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (hereafter referred to as “the Authority”), acting as part of the Crown.
- A2. “Tenderer” means the economic operator or group of operators in the form of a consortium, including sub-contractors, who have been invited to submit a response to this Invitation to Tender. Where “you” is used this means an action on you the Tenderer.
- A3. “Invitation to Tender” (ITT) refers to the first document that the Authority sends out to potential Tenderers that initiates a tender response or negotiation.
- A4. “Schedule of Requirements” Schedule 2 means that part of the contract which identifies, either directly or by reference, the Contractor Deliverables to be supplied or carried out, the quantities involved and the price or pricing terms in relation to each Contractor Deliverable.
- A5. “Single Source” means a situation where the Authority has invited a response from only one Tenderer.
- A6. A “Tender” is the offer that you are making to the Authority.
- A7. “Contractor Deliverables” means the goods and / or the services, including packaging (and Certificates(s) of Conformity and supplied in accordance with any Quality Assurance (QA) requirements, if specified) and any associated technical data which the contractor is required to provide under any resultant contract in accordance with the Schedule of Requirements, but excluding incidentals outside the Schedule of Requirements such as progress reports.
- A8. The “Statement of Requirement” IRM17/2341 details the technical requirements and acceptance criteria Schedule 8 of the Contractor Deliverables. The Statement of Work is attached Annex A to Schedule 2 of the Terms and Conditions of Contract IRM17/2341. This may include the Systems Requirements Document (SRD).
- A9. “Conditions of Tendering” means the conditions set out in the DEFFORM 47ST that govern the procurement.
- A10. “Contract Conditions” means the attached conditions that will govern any resultant contract.
- A11. A “Third Party” is anyone who is not an employee of the Authority or Tenderer, as defined at paragraph A2.
- A12. “Voluntary Ex Ante Transparency Notice” means a mandatory notice used to announce a procurement decision that the Authority intends to place a non-competitive contract under OJEU procedures. This also appears in the DCO as a “Voluntary Transparency Notice”. This allows industry to challenge the decision not to compete.

### Purpose

- A13. The purpose of this ITT is to invite you to propose a solution / best price to meet the Authority’s requirement. This documentation explains and sets out the:
- a. Tender process and timetable for the next stages of the procurement;
  - b. instructions and conditions that govern this invitation;
  - c. information you must include in your Tender and the required format;
  - d. administrative arrangements for the receipt and review of your Tender; and
  - e. Contract Conditions that shall apply in the event that the Authority awards a contract following this invitation.
- A14. The sections in this ITT and associated documents are structured in line with a generic tendering process and do not indicate importance / precedence.
- A15. The decision to conduct single source procurement for this requirement was advertised by the Authority by publishing a Voluntary Ex Ante Transparency Notice (VEAT) in the OJEU on the DCO dated 14<sup>th</sup> November 2017, under the Defence and Security Public Contracts Regulations 2011.

## **ITT Documentation and ITT Material**

A16. ITT 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 ITT. ITT 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 ITT. ITT Documentation, ITT Material and any Intellectual Property Rights (IPR) in them shall remain the property of the Authority or other Third Party owners and is released solely for the purposes of enabling you to submit a Tender. You must:

- a. take responsibility for the safe custody of the ITT Documentation and ITT Material and for all loss and damage sustained to it whilst in your care;
- b. not copy or disclose the ITT 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 ITT;
- c. seek written approval from the Authority if you need to provide access to any ITT Documentation or ITT Material to any Third Party;
- d. abide by any reasonable conditions imposed by the Authority in giving its approval under sub-paragraph A16.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 ITT Documentation or ITT Material (or use beyond the original purpose), or further use of ITT Documentation or ITT Material, without the Authority's written approval may make you liable for a claim for breach of confidence and /or infringement of IPR, a remedy which may involve a claim for compensation;
- f. inform the named Commercial Officer immediately if you decide not to submit a Tender;
- g. immediately destroy all ITT Documentation, ITT Material and derived information of an unmarked nature, should you decide not to participate in responding to this ITT, 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 ITT Documentation and ITT Material marked 'OFFICIAL SENSITIVE' or 'SECRET'.

A17. Some or all of the ITT Documentation and ITT Material may be subject to one or more Confidentiality Agreements made between you and either the Authority or a Third Party, for example a Confidentiality Agreement established in the form of DEFFORM 94. The obligations contained in any such agreement will be in addition to, and not derogate from, your obligations under paragraph A16 above.

## **Material Change of Control**

A18. You must inform the Authority in writing if there is any material change in control, composition or membership of your organisation and / or consortium members, including any sub-contractors at any time during the procurement process. This may affect our decision to award a contract to you.

## **Contract Conditions**

A19. The full text of Defence Conditions (DEFCONs) and Defence Forms (DEFFORMS) are available electronically via the [Acquisition System Guidance \(ASG\)](#).

## **Consultation with Credit Reference Agencies**

A20. The Authority may consult with credit reference agencies to assess your creditworthiness. This information may be used to support and influence decisions to enter into a contract with you.

## Section B – Key Tendering Activities

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

<b>Stage</b>	<b>Date and Time</b>	<b>Initiated By</b>	<b>Submit to:</b>
Final date for Clarification Questions / Requests for additional information	1200Hrs on Monday 5 <sup>th</sup> March 2018	Tenderer	Samantha Cufflin-Wallis <a href="mailto:Samantha.cufflin-wallis@babcockinternational.com">Samantha.cufflin-wallis@babcockinternational.com</a>
Final Date for Requests for Extension to return date	1200Hrs on Friday 2 <sup>nd</sup> March 2018	Tenderer	Samantha Cufflin-Wallis <a href="mailto:Samantha.cufflin-wallis@babcockinternational.com">Samantha.cufflin-wallis@babcockinternational.com</a>
The Authority issues Final Answers and Clarifications	1500Hrs on Wednesday 7 <sup>th</sup> March 2018	The Authority	Tenderer
Tender Return	1400Hrs on Tuesday 13 <sup>th</sup> March 2018	Tenderer	Samantha Cufflin-Wallis <a href="mailto:Samantha.cufflin-wallis@babcockinternational.com">Samantha.cufflin-wallis@babcockinternational.com</a>
Value For Money (VFM) Assessment in accordance with NAPNOC – see Section D of this DEFFORM 47ST	TBC	The Authority	N/A

## Section C - Instructions on Preparing Tenders

### Tenders for Selected Contractor Deliverables

C1. You must respond to the requirement for all the Contractor Deliverables listed in the attached Schedule of Requirements.

### Construction of Tenders

C2. Your Tender must be written in English, using Arial font size 11. Prices must be in £GBP ex VAT. Prices must be Firm Price.

C3. To enable the Authority to complete its Value For Money (VFM) assessment, your price must be broken down. If the resultant contract is a Qualifying Defence Contract (QDC) under the Defence Reform Act (DRA) and Single Source Contract Regulations (SSCR) you must price your bid accordingly. Please set out your Tender response in accordance with Section D.

### Validity

C4. Your Tender must be valid / open for acceptance for 90 calendar days from the Tender return date.

### Variant Bids

C5. The decision to invite a Single Source response is based on the scope of the requirement. Where you submit a variant bid that is outside the scope of the requirement the Authority may be obliged to compete the requirement.

### Qualifying Defence Contracts

#### Defence Reform Act 2014 – Part 2, Single Source Contracts

C6. This ITT may result in a Qualifying Defence Contract (QDC) under the provisions of the [Defence Reform Act 2014 \(DRA\)](#). You should therefore understand the implications in the event that it does result in a QDC.

C7. The DRA enables secondary legislation, called Single Source Contract Regulations 2014 (SSCR), which applies:

- a. to new contracts with a value of £5M (ex VAT) or above;
- b. to amended contracts where the amended contract has a value of £5M (ex VAT) or above, and both parties agree that the amended contract should be a QDC.

C8. The DRA and SSCR set out the criteria for determining when a single source contract is a Qualifying Defence Contract (QDC). Any new single source contract which meets the criteria will be a QDC, unless exempt by the Secretary of State for Defence. Exemptions will only be granted in exceptional circumstances.

C9. The DRA and SSCR cover such matters as the pricing of QDCs, the information, openness and transparency that the parties must provide to each other, and the rights and obligations of both parties to a QDC once on contract.

C10. The DRA requires a primary contractor to be satisfied that the costs proposed for inclusion in the price of a QDC are Allowable Costs, in that they are appropriate, attributable to the contract and reasonable in the circumstances. The MOD is obliged to ensure that you meet the criteria and at any time you may be required to show that this is the case in relation to any particular cost. The Single Source Regulations Office (SSRO) has issued Statutory Guidance on Allowable Costs (SGAC) which can be found on their website and which the parties to a QDC will be expected to adhere to, other than in exceptional circumstances. Either party to a QDC may subsequently make a referral to the SSRO for an adjustment of the contract price, if that party believes the price agreed was not in accordance with the requirements of the DRA / SSCR.

C11. The DRA requires that the contract Profit Rate agreed between the parties for QDCs must be agreed in accordance with the provisions of the DRA and SSCR.

C12. The DRA also sets out the criteria for determining when a contract is a Qualifying Sub-Contract (QSC) to which the DRA and SSCR will apply. Any single source sub-contract in excess of £25M, placed in support of a QDC or another QSC and which meets the criteria in the DRA and SSCR, is potentially a QSC. Responsibility for assessing whether a sub-contract is a QSC lies with the party placing the sub-contract. The Tenderer therefore has an obligation to determine whether any planned sub-contract is a QSC. The Tenderer must keep a record of any determinations and notify both the Secretary of State for Defence and the sub-contractor in writing when a sub-contract is determined to be a QSC.

The [MOD Commercial Toolkit](#) provides further information about the new single source legal framework.

## Section D – Details of Price Breakdown and Mandatory Criteria

When placing any contract the Authority is required to satisfy itself that the agreed price represents Value for Money (VFM). In single source contracting you must provide to the Authority sufficient information in support of your price proposal and during subsequent price negotiation, to enable the Authority to fulfil its obligation to assure VFM. The Authority approaches all contract pricing on the basis of the NAPNOC principle (No Acceptable Price, No Contract). We will not enter into any contract that is unacceptably priced. Details can be found on [MOD Commercial Toolkit](#).

1. **Price breakdown requirements for a non-qualifying contract** - The contract is not expected to be a QDC. The contract is therefore not subject to the provisions of the DRA/SSCR 2014. It is your responsibility to decide the level of information you need to provide to the Authority in support of your price proposal and subsequent price negotiation, to enable the Authority to fulfil its obligation to assure VFM and sign the contract. The following table shows the Authority's suggestion of the minimum level of information you must provide.

<b>For a non-qualifying contract, as a minimum your Offer should detail the following:</b>	
<b>Hours / Days</b>	The number of hours / days it takes to complete the requirement.
<b>Hourly / Day Rates</b>	The rate used. Where available these should be agreed CAAS (Cost Assurance and Analysis Services) rates and Grades.
<b>Materials</b>	The cost of any raw materials. Please provide a copy of any quotes or invoices with your Tender.
<b>Significant Sub-contractor Costs, e.g. &gt;£50k</b>	The cost of bought in facilities, services and / or parts. Please provide a copy of the sub-contractor quotation / invoice with your Tender. You are encouraged to run a competition at sub-contractor level and advertise opportunities in the MOD Defence Contracts Bulletin, where appropriate.
<b>Other costs</b>	List any rates used to recover overhead costs not otherwise recovered through the activity-based hourly and daily rates stated above. These rates are usually recovered by the application of a percentage uplift to a base cost (e.g. Material Handling is often recovered as a percentage uplift applied to material costs). Where you have an agreed QMAC (Questionnaire on the Method and Allocation of Costs) you must quote the reference. Where you do not have an agreed QMAC please include a list of what is included in the overhead rate(s). Provide a sub-total that the overhead will apply to.
<b>Profit Rate</b>	State the Profit Rate you are proposing to apply to the contract costs.

<b>Risk / Opportunities</b>	State whether you have included any contingency for risks and the details on how this has been calculated. State any opportunities that you foresee, for example, exchange rate movement.
<b>T&amp;S</b>	When including Travel and Subsistence you must include details of the assumptions you have made about travel and the rates used. Claims for T&S should be in line with the Civil Service Code which states civil servants must ensure “public money and other resources are used efficiently” for example, travel should be the most economic option available.
<b>Assumptions</b>	State any assumptions made about your proposal, such as the process, when decisions will be made etc.
<b>Exclusions</b>	State any matters that are excluded which, if they subsequently occur, you would expect the MOD to share cost liability.

<b><u>Mandatory Criteria, applicable to QDCs and non-qualifying contracts</u></b>	
Full completion of the table in DEFFORM 47ST Annex A (Offer) (See section F, paragraph 19)	Pass/Fail
DEFFORM 528 – Import and Export Controls	Pass/Fail
DEFFORM 539A – Commercially Sensitive Information(or a nil return)	Pass/Fail
Annex B – Commercial Compliance Checklist	Pass/Fail
Completed Schedule 9 – Hazardous Articles, Materials or substances supplied under the Contract (or a nil return)	Pass/Fail
Completed Annex A to Schedule 2 – with Firm Pricing for the Contract term AND Option years.	Pass/Fail
Statement Relating to Good Standing	Pass/Fail

Failure to meet the Mandatory Criteria will result in the Authority being unable to award a contract.

## **Section E – Instructions on Submitting your Tender**

### **Submission of your Tender**

E1. You must send your Tender to the Commercial Officer stated in the covering letter to this DEFFORM 47ST.

E2. You must provide 1 paper copy and 1 CD copy of your Tender. 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.

E3. You must complete and include DEFFORM 47ST Annex A (Offer) with your Tender. Where you select 'Yes' to any questions you must attach the relevant information.

E4. You must include the original signed DEFFORM 47ST Annex A (Offer) with one paper copy of your Tender.

E5. 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.

E6. 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.

### **Samples**

**This is not required as part of this procurement**

## **Section F – Conditions of Tendering**

F1. The issue of ITT Documentation or ITT Material is not a commitment by the Authority to place a contract as a result of this ITT or at a later stage. Any expenditure, work or effort undertaken by you prior to an offer and subsequent acceptance of contract, is a matter solely for your commercial judgement. In addition to its legal rights in relation to qualifying contracts, under the Defence Reform Act 2014 the Authority reserves the right to:

- a. seek clarification or additional documents in respect of your submission;
- b. visit your site;
- c. not enter into a contract if you are found guilty of serious misrepresentation in relation to your Tender or the Tender process;
- d. re-assess your suitability. For example, where there is a material change of control from supplier selection;
- e. reject / negotiate your Tender or part of your Tender;
- f. withdraw this ITT at any time, or invite other Tenders on the same or any alternative basis;
- g. choose not to award any contract as a result of the current procurement process;
- h. award a contract for some of the Contractor Deliverables, unless you specifically oppose this in your Tender or state any minimum order quantities.

F2. The contract will be entered into when the Authority sends written notification of its entry into the contract, either accepting your offer via DEFFORM 159 or by issuing an offer via DEFFORM 8 and you accept via a DEFFORM 10. Written notification will be issued, to the address you provide, on or before the end of the validity period specified in paragraph C4.

### **Conforming to the Law**

F3. You must comply with the UK Bribery Act 2010, applicable EU and UK legislation and any equivalent legislation in a third state.

F4. Your attention is drawn to legislation relating to canvassing of a public official, collusive behaviour and bribery. If you act in breach of this legislation your Tender may be disqualified from this procurement. Disqualification will be without prejudice to any civil remedy available to the Authority or any criminal liability that your conduct may attract.

### **Fraud and Other Illegal Practices**

F5. You must report any, fraud, bribery, corruption, or any other dishonest irregularity in connection to this tendering exercise to:

Defence Regulatory Reporting Cell Hotline  
0800 161 3665 (UK) or  
+44 1371 85 4881 (Overseas)

### **Conflicts of Interest**

F6. You must notify the Authority immediately of any new Conflicts of Interest (COI) that have arisen or that arise at any point prior to the contract award decision.

F7. Where there is an existing or potential Conflict of Interest (COI) you must include a proposed Compliance Regime in your Tender. As a minimum this must include:

- a. manner of operation and management;
- b. roles and responsibilities;
- c. standards for integrity and fair dealing;

- d. levels of access to and protection of competitors sensitive information and Government Furnished Information;
- e. confidentiality / non-disclosure agreements (e.g. DEFFORM 702);
- f. the Authority's rights of audit; and
- g. physical and managerial separation.

Should your Tender be accepted your proposed Compliance Regime will become part of the Contract Conditions and shall be legally binding.

## **Government Furnished Assets**

F8. Where the Authority provides Government Furnished Assets (GFA) in support of this procurement, you must include details of the GFA in your Public Store Account and treat it in accordance with Def Stan 05-099. If the Authority decides not to proceed with this procurement, you must seek instructions for the GFA from the named Commercial Officer.

## **Publicity Announcement**

F9. The Authority will publish notification of the contract and shall publish contract documents under the FOI Act except where publishing such information would hinder law enforcement; would otherwise be contrary to the public interest; would prejudice the legitimate commercial interest of any person, or might prejudice fair competition in the supply chain. You should complete and return DEFFORM 539A as explained in the DEFFORM 47ST Annex A and associated Appendix 1.

F10. If you wish to make a similar announcement you must seek approval from the named Commercial Officer.

F11. Under no circumstances should you confirm to any Third Party the Authority's acceptance of an offer of contract prior to either informing the Authority of your acceptance or the Authority's announcement of the award of contract, whichever occurs first.

## **Sensitive Information**

F12. All Central Government Departments and their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-governmental role delivering overall Government policy on public procurement, including ensuring value for money and related aspects of good procurement practice and answering Freedom of Information requests.

F13. For these purposes, the Authority may share within Government any of your documentation / information (including any that you consider to be confidential and / or commercially sensitive such as specific bid information) submitted by you to the Authority during this procurement. The information will not be disclosed outside Government. You must identify any sensitive material in the DEFFORM 539A – Schedule 5 and consent to these terms as part of the tendering process. This allows the MOD to share information with other Government Departments while complying with our obligations to maintain confidentiality.

F14. The Authority reserves the right to disclose on a confidential basis any information it receives from you during the procurement process (including information identified by you as Commercially Sensitive Information in accordance with the provisions of this ITT/ITN) to any third party engaged by the Authority for the specific purpose of evaluating or assisting the Authority in the evaluation of your Tender. In providing such information you consent to such disclosure.

## **Remedies for Actionable Contraventions under the Defence Reform Act 2014**

F15. If you have a Qualifying Defence Contract under the DRA 2014 you should be aware that if you fail to comply with certain aspects of the legislation then the Authority may issue a Compliance Notice to you. If you continue to fail to comply, the Authority may serve you with a Civil Penalty, as

provided in the Single Source Contract Regulations 2015. If you believe either a Compliance Notice or a Civil Penalty is unjustified, you may appeal the matter to the independent Single Source Regulations Office.

## **Reportable Requirements**

F16. Listed in the DEFFORM 47ST Annex A (Offer) are the Mandatory Declarations. It is a Condition of Tendering that you complete and attach the returns listed in the Annex and, where you select "Yes", you attach the relevant information.

F17. Failure to complete this part of the Annex in full makes your Tender non-compliant. Additional information provided in response to Appendix 1 may be used to support the Authority's evaluation of your tender, as detailed in Section D.

F18. If you are an overseas Contractor and your Tender is successful you will be required to provide the name and address of your bank and the relevant bank account number on contract award.

F19. Failure to complete this part of the Annex in full makes your Tender non-compliant. Additional information provided in response to Appendix 1 may be used to support the Authority's evaluation of your tender, as detailed in Section D.

## **Specific Conditions of Tendering**

### **Options**

F20. The Authority requires option prices for

#### **Option Year 1 (Potential Year 2): Estimated Dates 01.05.19 – 30.04.2020**

You must provide prices against the options. The option prices must be firm prices not subject to variation.

If your Tender is successful you will be expected to supply that option requirement in Contract Clause 2 of the Terms and Conditions. The Authority will not waive any rights under the said Contract condition.

Ministry of Defence

Tender Ref No. IRM17/5848

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 will apply.

<b>Applicable Law</b>				
I agree that any contract resulting from this procurement shall be subject to English Law *Where ‘no’ is selected, Scots Law will apply.				Yes / No*
<b>Value of Tender (excluding VAT)</b>				
£..... WORDS.....				
<b>UK Value Added Tax</b>				
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)) £.....				
<b>Location of work (town / city) where the contract will be performed by Prime:</b>				
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
<b>Mandatory Declarations (further details are contained in Appendix 1 to DEFFORM 47ST ST Annex A (Offer)):</b>			<b>Tenderer’s Declaration</b>	
Is the offer subject to the Authority contracting for all the Contractor Deliverables?			Yes* / No	
Have you completed and attached a Contract Pricing Statement?			Yes / No	
Is the offer made subject to a Minimum Order Quantity?			Yes* / No	
Are the Contractor Deliverables subject to IPR that has been exclusively or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding?			Yes* / No	
Are the Contractor Deliverables subject to Foreign Export Control and Security Restrictions?			Yes* / No	
Have you obtained prior foreign export approval necessary to secure IP user rights for the Authority in Contract Deliverables, including technical data, as determined in the Contract Conditions?			Yes* / No	
Have you provided details of how you will comply with all regulations relating to the operation of the collection of custom import duties, including the proposed Customs procedures to be used and estimates of duties to be incurred or suspended?			Yes / No	

Have you completed Form 1686 for sub-contracts?	Yes / No
Are you a Small Medium Sized Enterprise (SME)?	Yes / No
Have you and your sub-contractors registered with the Prompt Payment Code with regards to SMEs?	Yes / No
Have you completed and attached DEFFORM 539A (Tenderer's Commercially Sensitive Information Form)?	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 <a href="#">EC 744/2010</a> ) of the European Parliament and of the Council.	Yes* / No
Have you attached The Bank / Parent Company Guarantee?	Yes* / No / Not Required
Have you complied with the requirements of the Military Aviation Authority Regulatory Articles?	Yes / No / Not Required
Have you completed the Project Specific Declarations?	Yes / No / Not Required
*If selecting Yes to any of the above questions, please attach the information detailed in Appendix 1.	
<b>Tenderer's Declaration</b>	
We understand that any misrepresentations may also be the subject of criminal investigation or used as the basis for civil action.	
<b>Dated this ..... day of ..... Year</b> .....	
<b>Signature:</b>  (Must be original)	<b>In the capacity of</b> ..... (State official position e.g. Director, Manager, Secretary etc.)
<b>Name:</b> (in BLOCKCAPITALS)  <b>duly authorised to sign this Tender for and on behalf of:</b>  (Tenderer's Name)	<b>Postal Address:</b>  <b>Telephone No:</b> <b>Registered Company Number:</b> <b>Dunn and Bradstreet Number:</b>

## Information on Mandatory Declaration Returns

### Part Tender

1. Under Conditions 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.

### IPR Restrictions

3. Where the Contractor Deliverables are subject to IPR that has been exclusively or part funded by private venture, foreign investment or otherwise than by Authority funding you must select 'Yes' in Annex A (Are the Contractor Deliverables subject to IPR that has been exclusively or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding).

4. If you have answered 'Yes' in Annex A (Offer) as directed by paragraph 3 above, you must provide details in your Tender of any Contractor Deliverable which will be, or is likely to be, subject to any IPR restrictions or any other restriction on the Authority's ability to use or disclose the Contractor Deliverable, including export restrictions. In particular you must identify:

- a. any restriction on the provision of information to the Authority; any restriction on disclosure or the use of information by the Authority; any obligations to make payments in respect of IPR, and any Patent or Registered Design (or application for either) or other IPR (including unregistered Design Right) owned or controlled by you or a Third Party;
- b. any allegation made against you, whether by claim or otherwise, of an infringement of 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 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. The Authority will not acknowledge any such restriction unless so notified under paragraph 4 or as otherwise agreed under any resultant Contract. You must also provide, on request, any information required for authorisation to be given under Section 2 of the Defence Contracts Act 1958.

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. If, in the performance of the Contract, you need to import into the UK or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK import or export licence is required, you will be responsible for applying for the licence. The Authority will provide you with all reasonable assistance in obtaining any necessary UK import or export licence.

8. 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.

You must complete DEFFORM 528 (or other mutually agreed alternative format) in respect of any Contractor Deliverables identified at paragraph 8 and return it as part of your Tender. If you have previously provided this information you can provide details of the previous notification and confirm the validity.

9. You must use reasonable endeavours to obtain sufficient information from your potential supply chain to enable a full response to paragraph 8. If you are unable to obtain adequate information, you must state this in your Tender. If you become aware at any time during the procurement that all or part of any proposed Contractor Deliverable is likely to become subject to a non-UK Government Control through a Government-to-Government sale only, you must inform the Authority immediately by updating your previously submitted DEFFORM 528 or completing a new DEFFORM 528.

10. This does not include any Intellectual Property specific restrictions mentioned in paragraph 4.

11. 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 8.

12. Should you propose the supply of Contractor Deliverables of US origin the export of which from the USA is subject to control under the US International Traffic in Arms Regulations (ITAR), you must include details on the DEFFORM 528. This will allow the Authority to make a decision whether the export can or cannot be made under the US-UK Defense Trade Co-operation Treaty. The Authority shall then convey its decision to you. 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**

13. European Union (EU) legislation permits the use of various procedures to suspend customs duties.

14. For the purpose of this procurement, for any deliverables not yet imported into the EU, you are required to provide details of your plans to address customs compliance, including the Customs procedures to be applied (together with the procedure code) and the estimated Import Duty to be incurred and / or suspended.

15. 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 & Customs (HMRC) authorisations.

## **Sub-contracts Form 1686**

16. [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](#).

## **Small and Medium Enterprises**

17. The Authority is committed to supporting the Government's small and medium-sized enterprise (SME) initiative; its ambitious target is that £1 in every £3 that the Government spends should be with small businesses by 2020. Our goal is that 25% of Authority spending should be spent with SMEs by 2020; this applies to the money which the Authority spends directly with SMEs, and through the supply chain. The Authority uses the European Commission definition of SME.

18. A key aspect of the Government's SME Policy is ensuring that its suppliers throughout the supply chain are paid promptly. All suppliers to the Authority and their sub-contractors are encouraged to make their own commitment and register with the [Prompt Payment Code](#).

19. Suppliers are also encouraged to work with the Authority to support the Authority's SME initiative. Information on the Authority's purchasing arrangements, our commercial policy priorities and our SME policy can be found at [Gov.UK](#).

20. 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](http://www.contracts.mod.uk)

Tel No: 0845 270 7099

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

21. 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 ([Government Transparency and Accountability](#)) and the information contained within Conditions of Contract Clause A13.

22. 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").

23. You should complete the attached Tenderer's Commercially Sensitive Information Form DEFFORM 539A (Schedule 5) explaining which parts of your Tender you consider to be commercially sensitive. This includes providing a named individual who can be contacted with regard to FOIA and EIR.

24. 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**

25. The use of commercial invoicing is a mandatory requirement of this tender. Full details are at Condition 36 of the accompanying Terms and Conditions of Contract IRM17/2341.

## **Change of Circumstances**

26. You are required to submit a Statement Relating to Good Standing with your Tender.

## **Asbestos, Hazardous Items and Depletion of the Ozone Layer**

27. The Authority is required to report any items that use asbestos, that are hazardous or where there is an impact on the Ozone. Where any Contractor Deliverables fall into one of these categories select 'Yes' and provide further details in your Tender.

## **Military Aviation Authority (MAA)**

28. There are no Military Aviation Authority (MAA) Requirements.

## **Bank or Parent Company Guarantee**

28. A Bank or Parent Company Guarantee is not required.

## **The Armed Forces Covenant**

29. The Armed Forces Covenant is a public sector pledge from Government, businesses, charities and organisations to demonstrate their support for the Armed Forces community. The Covenant was brought in under the Armed Forces Act 2011 to recognise that the whole nation has

a moral obligation to redress the disadvantages the armed forces community face in comparison to other citizens, and recognise sacrifices made.

30. The Covenant's two principles are that:

- a. the Armed Forces community would not face disadvantages when compared to other citizens in the provision of public and commercial services; and
- b. special consideration is appropriate in some cases, especially for those who have given most such as the injured and the bereaved.

The Authority encourages all Tenderers, and their suppliers, to sign the Corporate Covenant, declaring their support for the Armed Forces community by displaying the values and behaviours set out therein.

31. [The Armed Forces Covenant](#) provides guidance on the various ways you can demonstrate your support through the Corporate Covenant.

32. If you wish to register your support you can provide a point of contact for your company on this issue to the Armed Forces Covenant Team at the address below, so that the 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 on the website.

Email address: [covenant-mailbox@mod.uk](mailto:covenant-mailbox@mod.uk)

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

33. Paragraphs 30 – 33 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 review, contract award procedure or any resulting contract. However, the Authority very much hopes you will want to provide your support.

**DEFFORM 47 Annex B****Commercial Compliance Matrix     IRM17/2341**

The Tenderer shall indicate their compliance or otherwise with the terms of the ITT and the Terms and Conditions of the Draft Contract by completing the Compliance Statement below. Any proposed changes and the reasons for them must be clearly stated when completing the Compliance Statement, which you are required to return as part of your tender response:

<b>CONDITIONS, DEFCONS &amp; SPECIAL CONDITIONS - The Authority SHALL consider any non-compliance of the conditions listed below as a Commercially Non-Compliant bid.</b>	
<b>Condition</b>	<b>State "Yes "if Compliant</b>
<b>General Conditions</b>	
General	
Duration of Contract	
Entire Agreement	
Governing Law	
Precedence	
Amendments to Contract	
Variations to Specification	
Authority Representatives	
Severability	
Waiver	
Assignment of Contract	
Third Party Rights	
Transparency	
Disclosure of Information	
Publicity and Communications with the Media	
Change of Control of Contractor	
Environmental Requirements	
Contractor's Records	
Notices	
Progress Monitoring, Meetings and Reports	
<b>Supply of Contractor Deliverables</b>	
Supply of Contractor Deliverables and Quality Assurance	
Marking of Contractor Deliverables	
Packaging and Labelling (excluding Contractor Deliverables containing munitions)	
Supply of Hazardous Materials or Substances in Contractor Deliverables	
Timber and Wood Derived Products	
Certificate of Conformity	
Access to Contractor's Premises	

Delivery/ Collection	
Acceptance	
Rejection	
Diversion Orders	
Self-to-Self Delivery	
Licenses and Intellectual Property	
Import and Export Licenses	
Third Party Intellectual Property – Rights and Restrictions	
Pricing and Payment	
Contract Price	
Payment and Recovery of Sums Due	
Value Added Tax	
Debt Factoring	
Subcontracting and Prompt Payment	
Termination	
Dispute Resolution	
Termination for Insolvency or Corrupt Gifts	
Termination for Convenience	
Material Breach	
Consequences of Termination	
Additional Conditions	
Project Specific DEFCONS	
DEFCON 127 (Edn 12/14) – Price Fixing Condition for Contracts of Lesser Value	
DEFCON 601 (SC)(Edn03/15) – Redundant Material	
DEFCON 611 (SC2) (Edn 02/16) – Issued Property	
DEFCON 630 (SC2) (Edn 11/17) – Framework Agreements	
DEFCON 637 (Edn 05/17) - Defect Investigation and Liability	
DEFCON 653 (Edn 12/14) – Pricing on Ascertained Costs	
DEFCON 694 (SC2) (Edn 11/17) – Accounting for the Property of the Authority	

Special Conditions	
Scope of Contract	
Quality	
Responsibility of the Contractor	
Pricing	
Key Performance Indicators	
Warranty	
Turnaround Time	
Remedies in the Event of Failure to Achieve Turnaround Time	
Surge	
Contract Novation	
Processes	
Authority for Work	
Deficiencies/ Discrepancies and Damages in Articles issued for Repair	
BER Process	
Disposal of Redundant Parts/ Material etc.	
Contract Change Process	
Payment and Invoicing Process	
Delivery Process	
Non-Conforming Deliveries	
Contract Status Report	
Schedules that Apply this Contract	
Schedule 1 Definitions of Contract	
Annex A to Schedule 1 – Additional Definitions of Contract	Not Required in this instance
Schedule 2 Schedule of Requirements for Contract IRM17/2341	
Annex A to Schedule 2 Statement of Work for Repair	
Annex B to Schedule 2 Pricing Schedule	
Schedule 3 Contract Data Sheet	
Annex A to Schedule 3: DEFFORM 111	
Schedule 4 Contract Change Procedure	
Schedule 5 Contractors Commercially Sensitive Information	
Schedule 6 Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract	
Schedule 7 Timber and Wood Derived Products Supplied under the Contract	
Schedule 8 Acceptance Procedure	
Schedule 9 Purchase Order Template	
Schedule 10 Discrepancy Report	
Schedule 11 Strip and Survey Report	

Schedule 12 Application to Dispose of BR/BER Equipment	
Schedule 13 Contract Status Report	
Schedule 14 Sample Contract Novation Agreement	
Schedule 15 Draft Quality Plan	Not required in this instance
Schedule 16 Firm Pricing Schedule	Not required in this instance
Schedule 17 DEFFORM 528 Import and Export Controls Data Submission	
Schedule 18 Shipping Design Form	
<b>CONDITIONS - The Authority MAY consider any non-compliance of the conditions listed below as a Commercially Non-Compliant bid. Please add comments if non-compliant</b>	
46.5 Key Performance Indicators	
<b>DEFFORMS and Documents</b>	<b>Tick to indicate completion/inclusion</b>
DEFFORM 47(Annex A)	
DEFFORM 539A - Commercially Sensitive Information Form – (Schedule 6 of Contract Conditions)	
Commercial Compliance Matrix – (DEFFORM 47 Annex B)	
DEFFORM 528 - Import and Export Information	
DEFFORM 68 – Hazardous Articles, Materials or Substances supplied under the Contract – (Schedule 9 of Contract Conditions)	
Email Address for Purchase Orders	

**\*Where the document refers to the Authority this shall represent Babcock DSG who are acting as the Procurement Agent on behalf of the Authority.**