

Invitation to Tender

**Commercial-in-Confidence**

**Contract ID: C**

**Contract Title: Temporary Barrier Kentledge Blocks**

Supplier Information - Bidder Pack Part 1



We are the Environment Agency. We protect and improve the environment.

We help people and wildlife adapt to climate change and reduce its impacts, including flooding, drought, sea level rise and coastal erosion.

We improve the quality of our water, land and air by tackling pollution. We work with businesses to help them comply with environmental regulations. A healthy and diverse environment enhances people's lives and contributes to economic growth.

We can’t do this alone. We work as part of the Defra group (Department for Environment, Food & Rural Affairs), with the rest of government, local councils, businesses, civil society groups and local communities to create a better place for people and wildlife.

**CONTENTS**

1. ENVIRONMENT AGENCY BACKGROUND INFORMATION
2. INSTRUCTIONS FOR SUPPLIERS

1. Introduction to the Environment Agency

Who is the Environment Agency?

We are an Executive Non-departmental Public Body responsible to the Secretary of State for Environment, Food and Rural Affairs. Our principal aims are to protect and improve the environment, and to promote sustainable development.

Further information on our responsibilities and how we are structured can be found on our website: <https://www.gov.uk/government/organisations/environment-agency>

What do we spend our money on?

We are a major procurer of goods and services within the UK, spending circa £600M per annum, our major spend areas are:

* Flood and Coastal Risk Management (design, construction and maintenance)
* ICT and Telecommunications
* Vehicles and Plant
* Environmental Consultancy and Monitoring
* Temporary Staff and Contractors
* Facilities Management, Energy and Utilities
* Flood Management and Water Related Services

What do we need from our suppliers?

Suppliers are vital in supporting the delivery of our corporate plan. We aim to support the economy and society whilst delivering more environmental outcomes for every pound we spend.

In many areas we are leading the way on environmental and technical developments. It is our role to ensure that suppliers clearly understand our corporate aims and objectives and know that we are committed to delivering the best value most sustainable solutions, taking into account the whole life cost of our commercial decisions. We promote diversity and equality and treat all of our suppliers fairly. Our Procurement Plan may be of interest to you as a potential supplier. It sets out our priorities and key commitments in a range of areas such as delivering our corporate plan, Government policy, supplier management and sustainable procurement:

<https://www.gov.uk/government/organisations/environment-agency/about/procurement>

Government changes and collaboration

On 28 January 2016 Defra launched the first single strategy for the whole of Defra. It provides the framework across the Defra group for how we design and deliver our goals and track delivery and measure success. At the heart of the strategy is also the first single vision for the Defra group: ‘creating a great place for living’.

For further information on the ‘creating a great place for living: Defra’s strategy to 2020’, please visit:

<https://www.gov.uk/government/publications/defras-strategy-to-2020-creating-a-great-place-for-living>

By bidding for this requirement, you may also be approached by other members of Defra Group Commercial, the Defra network or other public sector organisations that are specifically named in the tender document.

Further information

For further information and to see our commitments to Diversity & Equality, please visit:

Diversity and Equality: <https://www.gov.uk/government/organisations/environment-agency/about/equality-and-diversity>

Also, are you up to date on environmental legislation? See links below for further information:

Waste and Environmental Impact: <http://www.gov.uk/browse/business/waste-environment>

Environmental Regulations: <http://www.gov.uk/browse/business/waste-environment/environmental-regulations>

**2. Instructions for Suppliers**

**Introduction**

This document is issued to all parties who have responded to the Contract Notices placed in Find a Tender and Contracts Finder. This document is provided to offer you key information and guidance upon the procurement process, and the subsequent Contract.

The Bidder Pack comes in two parts:

* This first part, this document, provides details of the General Requirements and Instructions to Suppliers.
* The second part, The Procurement Specific Requirements, provides details of the Specification Requirements, Terms and Conditions of Contract, Evaluation Methodology, Procurement Timetable and Definitions.

**Communications from Tenderers**

Unless otherwise stated in the Bidder Pack or in writing by the Authority, all communications from Tenderers (including Tenderers’ sub-contractors, consortium members, consultants and advisers) during the procurement must be made via the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome) messaging facility. The Authority will not respond to communications made by other means.

**Amendments to Documentation**

Prior to the date for return of responses/ tenders, the Environment Agency may clarify, amend or add to the documentation provided.

A copy of each instruction will be issued by the Environment Agency via the Supplier Portal to every Supplier, and shall form part of the documentation.

No amendment shall be made to the documentation unless it is the subject of an instruction.

**Submission of Response**

* Tenderers must complete all parts of the response form in the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome) in accordance with the instructions therein. All questions and the areas for you to submit your response are set out in the Supplier Portal. The information you provide will enable us to select suppliers who are to be awarded the Contract(s).
* The Response and any documents accompanying it must be in English.
* Commercial Prices must be submitted in £ Sterling, exclusive of VAT.
* Submitted Responses will be checked for completeness and compliance with the submission instructions and only complete and compliant Responses will be evaluated.
* Tenderers must be explicit and comprehensive in their Response as this will be the single source of information used to score and rank Responses. When evaluating Responses, the Authority will only consider the information specifically asked for in the Bidder Pack.
* Different people may be responsible for evaluating different answers to questions in a Response. Therefore, Tenderers must not cross-refer to answers given elsewhere in a Response but must answer each question so that it acts as a stand-alone response. This may mean Tenderers need to repeat certain information in responses to different questions if this is required by those questions.
* Where a length of response is stipulated, for example, a word count limit, only the information within such a limit will be evaluated. This also applies where the submission instructions clearly specify a page limit, font style, spacing and/or margins settings, for example.
* Failure to provide the information required or supply documents referred to in the Response within the deadline for Responses, will result in rejection of the Response.
* References to general marketing or promotional information/material and links to company information/policies (except where this is specifically requested by a question and incorporated into the response and evaluation criteria as required) will not be considered part of the Response and will not be evaluated.

**Clarifications Sought by the Tenderer**

* Any request for clarification regarding the Bidder Pack must be submitted via the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome) no later than the deadline for clarifications set out in the Timetable. The Authority shall be under no obligation to respond to queries raised after the clarification deadline.
* The Authority will respond to all reasonable clarifications as soon as possible but cannot guarantee a minimum response time. The Authority will publish all clarifications and its responses to all Tenderers on the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome) save in the circumstances set out below.
* If a Tenderer believes that a request for clarification is commercially sensitive or that publishing the same together with the Authority’s response as set out above would reveal confidential information, disclosure of which would be detrimental to the Tenderer, it must clearly state this when submitting the clarification request. However, if the Authority considers either that:
	+ the clarification and response are not commercially sensitive; and
	+ all Tenderers may benefit from its disclosure

the Authority will notify the Tenderer of this (via the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome)), and the Tenderer will have an opportunity to withdraw the request for clarification by sending a further message requesting the withdrawal of the clarification request. If the request for clarification is not withdrawn by the Tenderer within two working days of the Authority’s notification, the Authority may publish the clarification request and its response to all Tenderers and the Authority shall not be liable to the Tenderer for any consequences of such publication.

* The Authority may not respond to a request for clarification or publish such a request where the Authority considers that the response may prejudice the Authority’s commercial interests. In such circumstances, the Authority will inform the Tenderer of its view.

**Changes to Responses**

* Tenderers may modify their Responses prior to the deadline for Responses. No Responses may be modified after the deadline for Responses.
* Tenderers may withdraw their Responses at any time by submitting a notice via the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome). Unless withdrawn, Tenders shall remain valid and open to acceptance by the Authority for 90 days from the deadline for Responses

**Receipt of Responses**

* Complete Responses must be uploaded onto the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome) no later than the time and date set out in the Timetable as the deadline for Responses. The Authority will consider neither Responses received after the deadline nor incomplete Responses.
* The Authority may, however, extend the deadline for the receipt of Responses if there is an objectively justifiable reason for doing so. In these circumstances, the Authority will notify all Tenderers of the extension and the reason why. Any Tenderer who has already provided a Response, will have the opportunity to re-submit, taking the new timing into account.
* If a Tenderer experiences problems when uploading its Response, it should contact the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome) helpdesk for assistance and also inform the Authority via the Supplier Portal messaging facility.

**Cost of Responding**

Tenderers shall bear all their own costs and expenses incurred in the preparation and submission of their Responses, site visits and presentations and the Authority will in no case be responsible or liable for those costs, regardless of the outcome of the procurement in relation to individual Responses, even if the procurement is terminated or amended by the Authority. The extent of any expenditure, work or effort undertaken by any Tenderer is a matter solely for the commercial judgment of the Tenderer.

**Clarifications Sought by the Authority**

* The Authority reserves the right (but is not obliged) to seek clarification of any aspect of a Response and/or provide additional information during the evaluation phase in order to carry out a fair evaluation.
* Where the Authority seeks clarification on any aspect of the Response, the Tenderer must respond within the timeframe requested by the Authority.
* If the clarification relates to either a mandatory requirement or a minimum threshold requirement of the evaluation methodology which would not be satisfied based on the Tenderer’s response, the Tenderer will not proceed to the next stage of the evaluation process if either:
	+ no response to the clarification is provided by the Tenderer within the timeframe requested; or
	+ the response provided by the Tenderer does not address the clarification to the satisfaction of the Authority.
* Details of any mandatory requirements or minimum threshold requirements of the evaluation methodology are set out in Procurement Specific Requirements section of this Bidder Pack.
* Tenderers should monitor the email address they used to register on the Authority’s Supplier Portal as any clarification request will be sent via the Supplier Portal messaging facility to this address. The Authority will not contact any other email address.

**Authority’s right to abandon or amend the competition**

The Authority may abandon the procurement at any time (as set out in the Timetable) in accordance with the Regulations and any such abandonment will be notified in writing to all Tenderers. It may be necessary for the Authority to make amendments to the content of the Bidder Pack; in order to give Tenderers reasonable time in which to take such an amendment into account in preparing their Responses, the Authority may extend the deadline for the submission of Responses.

**Confidentiality of the Bidder Pack and related documents**

The contents of the Bidder Pack and of any other documents or information published or provided by the Authority in respect of this procurement are provided on condition that they remain the property of the Authority, are kept confidential (save in so far as they are already in the public domain) and that the Tenderer shall take all necessary precautions to ensure that they remain confidential and are not disclosed, save as described below.

Tenderers may disclose information relating to the procurement to their advisers and sub-contractors if:

* disclosure is for the purpose of enabling a Response to be submitted and the recipient of the information undertakes in writing to keep it confidential on the same terms as the Tenderer;
* the Authority gives prior consent in writing to the disclosure;
* the disclosure is made for the purpose of obtaining legal advice in relation to the procurement; or
* the Tenderer is legally required to disclose the information.

Tenderers shall not undertake any publicity activities in relation to the Bidder Pack without the prior written agreement of the Authority, including agreement on the format and content of any publicity. For example, no statements may be made to the media regarding the nature of any Response, its contents or any proposals relating to it without the prior written consent of the Authority.

**Confidentiality: Inter Government Reporting**

All Central Government Departments, 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-Government role delivering overall Government policy on public procurement, including ensuring value for money and related aspects of good procurement practice.

For these purposes, the Authority may disclose within Government any of the Tenderer’s documents and information (including any that the Tenderer considers to be confidential and/or commercially sensitive) provided in its Response. The information will not be disclosed outside Government during the procurement. Tenderers consent to these terms as part of the procurement.

**Confidentiality: References and third-party evaluators:**

When providing details of contracts as part of a Response, subject to the provisions stated in the section headed ‘Freedom of Information and Environmental Information Regulations (below). Tenderers agree to waive any contractual or other confidentiality rights and obligations associated with these contracts.

If the consent of a third party is required before the Tenderer can provide details of other contracts, the Tenderer is responsible for obtaining such consent and the Authority will not be responsible for any failure on the part of the Tenderer to do so.

The Authority reserves the right to contact any named customer contact given as a reference or otherwise referred to as part of a Response. The named customer contact does not owe the Authority any duty of care or have any legal liability, except for any deceitful or maliciously false statements of fact.

Subject to details contained within the next paragraph and those stated in the Freedom of Information and Environmental Information Regulations (below), the Authority will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or Contracting Authority’s defined by the Regulations.

The Authority may use third parties in the course of its evaluation of Responses. The Authority may disclose information contained therein to such third parties for the purposes of the Authority’s evaluation of Responses in accordance with the Bidder Pack. Tenderers acknowledge that this right shall be in addition to the provisions detailed within the Inter Government Reporting (above) and Freedom of Information and Environmental Information Regulations (below).

**Freedom of Information and Environmental Information Regulations**

In accordance with the obligations placed on public Authority’s by the FOIA and the EIR, which provide a public right of access to information held by public bodies, the Authority may be required to disclose information submitted to it by a Tenderer.

If a Tenderer considers any information which it supplies to the Authority to be commercially sensitive or of a confidential nature, it must complete the schedule of Commercially Sensitive Information set out in the Authority’s Supplier Portal and:

* clearly identify any information provided as confidential or commercially sensitive;
* explain the potential implications of disclosure of such information; and
* provide an estimate of the period of time during which the Tenderer believes that such information will remain confidential or commercially sensitive.

If a Tenderer identifies information as being confidential and/or commercially sensitive, the Authority will endeavour to maintain the confidentiality of that information, and will, where practicable, consult with the Tenderer before information relating to that Tenderer is disclosed pursuant to a request for information under FOIA and/or EIR to establish whether an exemption from disclosure may apply.

However, even where information is identified by a Tenderer as being confidential or commercially sensitive, Tenderers acknowledge that there may be circumstances in which the Authority may be required to disclose such information in accordance with the FOIA or the EIR (in addition to any other transparency obligations as set out in the Inter Government Reporting above). In particular, the Authority is required to form an independent judgment concerning whether the information is exempt from disclosure under the FOIA or the EIR including whether the public interest favours disclosure or not. Accordingly, the Authority does not guarantee that any information marked “confidential” or “commercially sensitive” will not be disclosed and accepts no liability for any loss or prejudice caused by the disclosure of information.

If a Tenderer receives a request for information relating to this procurement under the FOIA or the EIR during the procurement, this must be immediately passed on to the Authority and the Tenderer must not respond to the request without first consulting the Authority.

**Disclaimers**

Whilst the information in the Bidder Pack and any supporting information referred to herein or provided to Tenderers by the Authority have been prepared in good faith the Authority does not warrant that this information is comprehensive or that it has been independently verified.

Neither the Authority nor any Involved Person or Relevant Body:

* makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the Bidder Pack or of any other written or oral communication transmitted (or otherwise made available) to any Tenderer; or
* shall be liable for any loss or damage (other than in respect of fraudulent misrepresentation or any other liability which cannot lawfully be excluded) arising as a result of reliance on such information or any subsequent communication.

Any party considering entering into contractual relationships with the Authority following receipt of the Bidder Pack should make its own investigations and independent assessment of the Authority and its requirements for the goods, services and/or works and should seek its own professional financial and legal advice.

Neither the issue of the Bidder Pack nor any of the information presented in it should be regarded as a commitment or representation on the part of the Authority to enter into a contractual arrangement. Nothing in the Bidder Pack or in any other communication made between the Authority and any other party should be interpreted as constituting a contract, agreement or representation between the Authority and any other party (save for a formal award of contract made in writing) or as constituting a contract, agreement or representation that a contract shall be offered.

**Canvassing**

Any Tenderer which directly or indirectly canvasses any Involved Person or Relevant Body in connection with this procurement and/or Contract or which directly or indirectly obtains or attempts to obtain information from any such Involved Person or Relevant Body concerning any other Tenderer or Response will be excluded from this procurement and its Response rejected.

The Tenderer shall not make contact with any Involved Person or Relevant Body during this procurement, unless instructed otherwise by the Authority.

**Conflicts of Interest**

The concept of a conflict of interest includes but is not limited to any situation where an Involved Person or Relevant Body has directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure and/or affect the integrity of the contract award.

Where the Tenderer is aware of any circumstances giving rise to a conflict of interest or has any indication that a conflict of interest exists or may arise you must inform the Authority of this as soon as possible (whether before or after they have submitted a Response). Tenderers should remain alert to the possibility of conflicts of interest arising at all stages of the procurement and must update the Authority if any new circumstances or information arises, or there are any changes to information already provided to the Authority. Failure to do so, and/or to properly manage any conflicts of interest may result in a Response being rejected.

Provided that it has been carried out in an open, fair and transparent manner, routine pre-market engagement carried out by the Authority should not represent a conflict of interest for the Tenderer.

**Changes to a Tenderers Circumstances**

The Authority may:

* reject a Response if there is a subsequent change of identity, control, financial standing; criminal proceedings; or other factor which may affect the Authority’s evaluation of the Response. The detailed grounds for the mandatory exclusion of Tenderers can be found [**here**](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf)**.**
* revisit information contained in a Response at any time to take account of subsequent changes to a Tenderer’s circumstances; or
* at any point during the procurement require a Tenderer to certify there has been no material change to information submitted in its Response and in the absence of such certificate, reject the Response.

**Sub-Contracting**

Where the Tenderer proposes to use one or more sub-contractors to deliver some or all of the contract requirements, all information requested in the Response must be given in respect of the prime contractor (i.e. the principal sub-contractor who is responsible for managing the delivery of the requirements and for managing other sub-contractors). When completing the qualification questions (Part 1) details of the proposed bidding model must be clearly set out, including:

* members of the supply chain;
* the percentage of work being delivered by each sub-contractor; and
* the key contract deliverables each sub-contractor will be responsible for.

The Authority recognises that arrangements in relation to sub-contracting may be subject to future change and may not be finalised until a later date. However, Tenderers must be aware that where information provided to the Authority indicates that sub-contractors are to play a significant role in delivering key contract requirements, any changes to those sub-contracting arrangements may affect the ability of the Tenderer to proceed with the procurement process or to provide the goods, services and/or works required. If the proposed supply chain changes at any time after submission of its Response, the Tenderer must inform the Authority immediately via the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome). The Authority reserves the right to deselect the Tenderer prior to any award of contract, based on an assessment of the updated information.

**Consortia**

If the Tenderer completing the Response is doing so as part of a proposed consortium, the following information must be provided;

* names of all consortium members;
* the lead member of the consortium who will be contractually responsible for delivery of the contract (if a separate legal entity is not being created); and
* if the consortium is not proposing to form a legal entity, full details of proposed arrangements within a separate Appendix.

Please note that the Authority may require the consortium to assume a specific legal form if awarded the Contract, to the extent that a specific legal form is deemed by the Authority as being necessary for the satisfactory performance of the Contract, in accordance with [regulation 19(6) of the Regulations](http://www.legislation.gov.uk/uksi/2015/102/regulation/19/made).

All members of the consortium will be required to provide the information required in the Response as part of a single composite response to the Authority i.e. each member of the consortium is required to complete [Part 1 & 2 of the Supplier Standard Questionnaire](https://www.gov.uk/government/publications/procurement-policy-note-816-standard-selection-questionnaire-sq-template).

If the Tenderer proposes to create a separate legal entity the Tenderer must provide details of the actual or proposed percentage shareholding of the constituent members within the new legal entity in a separate appendix. If the Tenderer does not propose to create a separate corporate entity it must set out in a separate annexe full details of its alternative arrangements.

The Authority recognises that arrangements in relation to a consortium bid may be subject to future change. Tenderers must therefore respond on the basis of the arrangements as currently envisaged. Tenderers are reminded that the Authority must be immediately notified via the Authority’s [Supplier Portal](https://defra-family.force.com/s/Welcome) of any changes, or proposed changes, in relation to the bidding model so that a further assessment can be carried out by applying the selection criteria to the new information provided. The Authority may deselect the Tenderer prior to any award of contract, based on an assessment of the updated information.

**Commercial Pricing**

All prices must be submitted in £ Sterling, exclusive of VAT.

The Commercial Pricing Schedule sets out the level of pricing information required for the Tender. The Authority may request a detailed breakdown of any pricing submitted as part of a Tender clarification sought by the Authority.

**COVID 19**

COVID 19 still has the potential to impact on the delivery of this project. Suppliers should consider the risks to their business and any project as a whole to mitigate the impacts on delivery and costs as far as is practicable at this time. Any significant emerging risks that occur during the project must be notified to the Client Project Manager immediately to agree an appropriate course of action.

**Notification of Award and Standstill**

The Authority will notify successful and unsuccessful Tenderers of its decision. A ten-day standstill period will be observed before the Authority enters into the Contract.

Following a decision to award the Contract, the Authority will provide reasons for its decision in an award notification to all unsuccessful Tenderers.

**Additional Compliance Checks**

Tenderers should note that if they are successful with their proposal the Authority reserves the right to ask for additional evidence to support the self-declaration statements additional compliance checks prior to the award of any Contract. In the event a Tenderer fails to meet one or provide such additional evidence for the additional checks the Authority may decline to proceed with the award of the Contract to the successful bidder.

##

**Government Transparency**

Government policy is to adopt and encourage greater transparency in its commercial activity.

All UK Government organisations must, as a minimum, follow the legal requirements to publish advertised opportunities and awards on Contracts Finder as required by Public Contracts Regulations 2015.

Government has made a number of commitments in relation to transparency of public contracting data.

##

**Prompt Payment**

The UK Government is committed to creating a supportive environment in which ambitious businesses can flourish. Late payment is a key issue for business, especially SMEs, as it can adversely affect their cash flow and jeopardises their ability to trade. The Government recognises that the public sector must set a strong example by paying promptly.

Central government policy on prompt payment is to pay 90% of all undisputed invoices within five days, with the remaining undisputed invoices being paid within 30 days.

**Tax**

The Contractor shall, and shall procure that any subcontractor, make any payment to any relevant Government Department or Agency, Local Authority, or regulatory or professional body of any taxes, duties, charges, fees or other payments required to be made by the Contractor, or any subcontractor or consortium member in respect of the provision of the Services (in particular, any Income and/or Corporation Tax, Value Added Tax and National Insurance Contributions) and shall indemnify the Environment Agency in respect of any costs, expenses or charges incurred by, or penalties imposed upon the Environment Agency resulting from any claims, demands or proceedings against the Environment Agency, in respect of any non-payment by the Contractor, or any subcontractor of such taxes, duties, charges, fees or other payments.

The Environment Agency shall be entitled to notify the relevant Government Department or Agency, Local Authority, regulatory, or professional body of any payment made to the Contractor or any subcontractor or consortium member in respect of the provision by the Contractor or any subcontractor or consortium member of the Services.