

Short Contract

A contract between UKRI Natural Environment Research Council – British Antarctic Survey
and
for Polar Aquarium and Associated Controlled Environment Experimental Rooms

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Contract Data

The *Employer* is

Name UKRI Natural Environment Research Council – British Antarctic Survey

Address Maddingley Road, Cambridge, CB3 0ET

Telephone

E-mail address

The *works* are Replacement of Cold Water Aquariums and Cold Stores

The *site* is BAS Cambridge

The *starting date* is 7th November 2018

The *completion date* is 15th March 2019 (Phase 1)

31st March 2020 (Phase 2)

The *period for reply* is 3 working days.

The *defects date* is 52 weeks after Completion.

The *defect correction period* for
Defects notified following
Completion which prevent
and/or affect the intended
operational use of any part of
the works subsequently
endangering the live marine
specimens, fish and
invertebrates is

24

hours.

For all other Defects the *defect
correction period* is

1

week.

The *delay damages* are £500.00

per day.

The *assessment day* is the First working day

of the month.

The *retention* is 5

%

Does the United Kingdom Housing Grants, Construction and
Regeneration Act (1996) apply?

Yes

The *Adjudicator* is

Name Royal Institute of Chartered Surveyors

Address 55 Colmore Row, Birmingham, B3 2AA

Telephone 020733 43806

E-mail address drs@rics.org

Contract Data

The interest rate on late payment is 0 % per complete week of delay.

The *Contractor* is not liable to the *Employer* for loss of or damage to the *Employer's*

property in excess of £5,000,000.00 for any one event.

The *Employer* provides this insurance The *Employer* does not provide insurance.

The minimum amount of cover for the third insurance stated in the Insurance Table is £5,000,000.00

The minimum amount of cover for the fourth insurance stated in the Insurance Table is £5,000,000.00

The *Adjudicator nominating body* is Royal Institute of Chartered Surveyors

The *tribunal* is Arbitration

If the *tribunal* is arbitration, the arbitration procedure is RICS Procedure

The *conditions of contract* are the NEC3 Engineering and Construction Short Contract April 2013 and the following additional conditions

Clause 1

Freedom of Information Act and the Environmental Information Regulations

The Contractor shall provide all assistance to enable the Employer and/or its clients to comply with any request received under the Freedom of Information Act 2000 and/or the Environmental Information Regulations should either be applicable to the Employer.

In no event shall the Contractor or its Subcontractors respond directly to a Request for Information unless expressly authorised to do so by the Employer.

Contract Data

Clause 2

Transparency

In order to comply with the Government's policy on transparency in the areas of procurement and contracts the Contractor agrees that the Contract and the sourcing documents issued by the Employer which led to its creation will be published by the Employer on a designated web site.

The entire Contract and all the sourcing documents issued by the Employer will be published on the designated web site save where to do so would disclose information the disclosure of which would:

- (i) contravene a binding confidentiality undertaking that protects information which the Employer, at the time when it considers disclosure, reasonably considers to be confidential to the Contractor;
- (ii) be contrary to regulation 21 of the Public Contracts Regulations 2015 as amended; or
- (iii) in the reasonable opinion of the Employer be prevented by virtue of one or more of the exemptions in the FOIA or one or more of the exceptions in the Environmental Information Regulation (EIR).

If any of the situations in (i), (ii), (iii) apply the Contractor consents to the Contract or sourcing documents being redacted by the Employer to the extent necessary to remove or obscure the relevant material and being published on the designated website subject to those redactions.

In this entire clause the expression "sourcing documents" means the advertisement issued by the Employer seeking expressions of interest, any pre-qualification questionnaire stage and the invitation to tender.

Clause 3

Termination

The Employer may terminate the Contract by written notice to the Contractor in any of the following circumstances:

- (i) Where it considers that the Contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with Regulation 72(9) of the Public Contracts Regulations 2015(as amended) ("PCR 2015");
- (ii) Where it considers that the Contractor has at the time of the award of the Contract been in one of the situations referred to in Regulation 57(1) of the PCR 2015, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure;
- (iii) Where the Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the EU Treaties and Directive 2014/24/EU of the European Parliament and of the Council that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU;
- (iv) Where the European Commission sends a reasoned opinion to the United Kingdom or brings the matter before the Court of Justice of the European Union under Article 258 of the TFEU alleging that the Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and Directive 2014/24/EU of the European Parliament and of the Council; or
- (v) Where a third party starts court proceedings against the Employer seeking a declaration that the Contract is ineffective or should be shortened under Regulations 98 to 101 of the PCR 2015, which the Employer considers have a reasonable prospect of success.

Such termination shall be effective immediately or at such later date as is specified in the notice. The Employer shall not incur any liability to the Contractor by reason of such termination and shall not be required to pay any costs, losses or damage to the Contractor. Termination under this clause shall be without prejudice to any other rights of the Employer.

Contract Data

Clause 4

Payment to other parties

The Contractor shall ensure, pursuant to Regulation 113(2)(c) of the Public Contracts Regulations 2015 (as amended), that any subcontract awarded by the Contractor contains suitable provisions to impose, as between the parties to the subcontract, requirements that –

(i) any payment due from the Contractor to the subcontractor under the subcontract is to be made no later than the end of a period of 30 days from the date on which the relevant invoice is regarded as valid and undisputed;

(ii) any invoices for payment submitted by the subcontractor are considered and verified by the Contractor in a timely fashion and that undue delay in doing so is not to be sufficient justification for failing to regard an invoice as valid and undisputed; and

(iii) any subcontractor will include, in any subcontract which it in turn awards, suitable provisions to impose, as between the parties to that subcontract, requirements to the same effect as those imposed in paragraphs (i), (ii) and (iii) of this Clause 4, subject to suitable amendment to reflect the identities of the relevant parties.

Clause 5

Sub-contractors

The Employer may (without cost to or liability of the Employer) require the Contractor to replace any subcontractor where in the reasonable opinion of the Employer any mandatory or discretionary grounds for exclusion referred to in Regulation 57 of the Public Contracts Regulations 2015 (as amended) apply to the subcontractor.

Clause 6

Modern Slavery Act 2015

The Contractor agrees that during any term or extension it shall complete and return a report as advised below, covering the following, but not limited to areas as relevant and proportionate to the Contract evidencing the actions taken, relevant to the Contractor and your supply chain associated with this Contract.

- Impact assessments undertaken
- Steps taken to address risk/actual instances of modern slavery and how actions have been prioritised
- Evidence of stakeholder engagement
- Evidence of ongoing awareness training
- Business-level grievance mechanisms in place to address modern slavery
- Actions taken to embed respect for human rights and zero tolerance of modern slavery throughout the organisation

Employer reserve the right to audit any and all reports submitted by the Contractor to an extent as deemed necessary and the Contractor shall unreservedly assist Employer in doing so.

Note: the Employer also reserves the right to amend or increase these frequencies, as it deems necessary to secure assurance in order to comply with the MSA.

The Employer requires such interim assurances to ensure that the Contractor is compliant and is monitoring its supply chain, so as to meet the requirements of the above Act.

The Contractor shall complete and return the report to the contact named in the Contract on the anniversary of the commencement of the Contract.

The Contractor agrees that any financial burden associated with the completion and submission of this report and associated assistance at any time, shall be at the Contractor's cost to do so and will not be reimbursable.

Contract Data

Clause 7

Taxation obligations of the Contractor

The relationship between Employer and Contractor shall be that of “independent contractor” which means that Contractor is not a Employer employee, worker, agent or partner, and Contractor shall not give the impression that they are.

As this is not an employment Contract, Contractor shall be fully responsible for all their own tax, including any national insurance contributions arising from carrying out the Services.

(1) Contractor in respect of consideration received under this Contract, Contractor shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.

(2) Where Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under this Contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.

(3) Employer may, at any time during the term, completion extension or post termination of this Contract, request Contractor to provide information which demonstrates how Contractor complies with its obligations under tax and National insurance Clauses (1) and (2) above or why those Clauses do not apply to it.

A request under Clause (3) above may specify the information which Contractor shall provide and the period within which that information must be provided.

In the case of a request mentioned in clause (3) above, the provision of inadequate information or a failure to provide the information within the requested period, during any term or extension, may result in Employer terminating the Contract.

Any obligation by Contractor to comply with Clause (1), (2), (3) shall survive any term, extension, completion or termination and Contractor obligations to Indemnify the Employer shall survive without limitation until such time as any of these obligations are complied with.

Employer may supply any information, including which it receives under Clause (3) to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

If Employer has to pay any such obligations owed by Contractor under Clauses (1) and (2) then Contractor shall pay back to Employer in full, any money that Employer has to pay, and Contractor shall also pay back Employer for any fine or compensate Employer for any other punishment imposed on Employer because the tax or national insurance due was not paid by the Contractor.

Clause 8

Assignment and Subcontracting

The Employer or UK SBS acting as an agent on behalf of the Employer may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of their rights or obligations under the Contract.

The Contractor may not assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract, without prior written consent from the Employer or UK SBS, acting as an agent on behalf of the Employer.

The Employer or UK SBS acting as an agent on behalf of the Employer may (without cost to or liability of the Employer or UK SBS) require the Contractor to replace any subcontractor where in the reasonable opinion of the Employer or UK SBS acting as an agent on behalf of the Employer any mandatory or discretionary grounds for exclusion referred to in Regulation 57 of the Public Contracts Regulations 2015 (as amended) apply to the subcontractor.

Contract Data

Clause 9

Privacy Statement

The Contractor accepts that the Employer's site is monitored by CCTV cameras at all times and this recorded electronic data is retained by the Employer for a period of 30 days for the purpose of site surveillance, security and monitoring. For the duration of the Contract, the Contractor consents to onsite CCTV images being recorded and stored for 30 days before the data is deleted/overwritten. For the avoidance of doubt, the Contractor's employees' rights as Data Subjects under the General Data Protection Regulations (GDPR) are preserved.

Clause 10

Additional Insurances

The Contractor provides these additional insurances

- 1) Insurance against faults in design (Professional Indemnity Insurance)

Cover/Indemnity is £5,000,000.00

- 2) Insurance against personal injury or damage to property caused by goods supplied by the Contractor (Product Liability Insurance)

Cover/Indemnity is £5,000,000.00

Contract Data

The *Contractor's* Offer

The *Contractor* is

Name

Address

.....

Telephone Fax

E-mail address

The percentage for overheads and profit added to the Defined Cost for people is %.

The percentage for overheads and profit added to other Defined Cost is %.

The *Contractor* offers to Provide the Works in accordance with the *conditions of contract* for an amount to be determined in accordance with the *conditions of contract*.

The offered total of the Prices is

Signed on behalf of the *Contractor*

Name

Position

Signature Date

The *Employer's* Acceptance

The *Employer* accepts the *Contractor's* Offer to Provide the Works

Signed on behalf of the *Employer*

Name

Position

Signature Date

Contract Data

This information can be found in Section 4 Specification and any additional appendices of FM18125 Polar Aquarium and Associated Controlled Environment Experimental Rooms. Bidders are required to complete FM18125 Price Schedule and submit under AW5.2 in the Price Questionnaire which was issued via CCS eSourcing Portal on 17/08/2018.

The total of the Prices

Works Information

1 Description of the works

This information can be found in Section 4 Specification and any additional appendices of FM18125 Polar Aquarium and Associated Controlled Environment Experimental Rooms which was issued via CCS eSourcing Portal on 17/08/2018.

2 Drawings

This information can be found in Section 4 Specification and any additional appendices of FM18125 Polar Aquarium and Associated Controlled Environment Experimental Rooms which was issued via CCS eSourcing Portal on 17/08/2018.

3 Specifications

This information can be found in Section 4 Specification and any additional appendices of FM18125 Polar Aquarium and Associated Controlled Environment Experimental Rooms which was issued via CCS eSourcing Portal on 17/08/2018.

4 Constraints on how the Contractor Provides the Works

This information can be found in Section 4 Specification and any additional appendices of FM18125 Polar Aquarium and Associated Controlled Environment Experimental Rooms which was issued via CCS eSourcing Portal on 17/08/2018.

5 Requirements for the programme

This information can be found in Section 4 Specification and any additional appendices of FM18125 Polar Aquarium and Associated Controlled Environment Experimental Rooms which was issued via CCS eSourcing Portal on 17/08/2018.

6 Services and other things provided by the Employer

This information can be found in Section 4 Specification and any additional appendices of FM18125 Polar Aquarium and Associated Controlled Environment Experimental Rooms which was issued via CCS eSourcing Portal on 17/08/2018.

Contract Data

Site Information

This information can be found in Section 4 Specification and any additional appendices of FM18125 Polar Aquarium and Associated Controlled Environment Experimental Rooms which was issued via CCS eSourcing Portal on 17/08/2018.