



Valuation Office
Agency

Invitation to Tender

SPECIFICATION

VOA/2018/019

External Expert Tata Chemicals - RA/32/2018

2010 List Rateable Value Appeal

1. INTRODUCTION

The role of the VOA

The Valuation Office Agency (VOA) is an executive agency of Her Majesty's Revenue & Customs (HMRC) with circa 60 offices spread throughout England, Wales and Scotland employing around 3,500 staff. The strategic function of VOA is to provide fair and accurate property valuations for taxation purposes. This includes providing the Government with the valuations and property advice required to support taxation and benefits. We also deliver a range of statutory and non-statutory valuation and surveying services to over 4,000 public sector bodies.

The work of the VOA encompasses:

- Carrying out property valuations for the 1.7 million non-domestic properties in England and 100,000 in Wales to allow Local Authorities to collect Non-Domestic Rates (NDR);
- Allocating 23 million domestic properties in England and 1.3 million in Wales into Council Tax bandings of some, to support the collection Council Tax;
- Determining local housing allowances across 150 Broad Rental Market areas for housing benefit purposes and registering some 60,000 Rent Act 1977 fair rents in England;
- Delivering a range of statutory and non-statutory valuation and surveying services to central and local government departments and the wider public sector; and
- Providing valuation advice to HMRC in connection with capital gains, inheritance tax and other tax compliance work.

Non Domestic Rating (NDR) Context

Valuation Officers (VOs) at the VOA are responsible for the compilation and maintenance of Local Rating Lists for each Local or Billing Authority in England and Wales. The Rating Lists contain Rateable Values in respect of the properties shown.

An important aspect in the determination of entries in a correct Rating List is identification of the appropriate 'parcel' or 'unit of assessment' of rateable property, (known as the 'hereditament'). This particular litigation concerns that aspect.

Determination of the correct 'unit of assessment' is a legal question and will be answered in each case by an application of the law to the facts established.

Expert input is required to assist in establishing the facts around the operation and interdependency of the two subject sites and the commercial markets and supply chains in which they operate.

2. Requirement

Expert Opinion

The issue and basic requirements

An expert witness is required in connection with an appeal to the Upper Tribunal (Lands Chamber) against the decision of the Valuation Tribunal.

The decision appealed against is linked here: http://info.valuation-tribunals.gov.uk/Decision_Documents/documents/NDR/066525358322539N10.pdf

The main facts and issues in this matter can be found in the published decision of the Valuation Tribunal, however a summary of the main points follows.

The subject properties comprise two chemical works engaged in the production of soda ash and sodium bicarbonate.

The question for the Upper Tribunal to determine is whether there should then be one or more separate entries in the Rating list in respect of this arrangement, as at 3rd February 2014.

The 2014 date is the date at which the physical attributes of the two sites are to be taken into account, together with the physical attributes of the 'locality'.

The date at which 'economic' or market factors are to be taken into account is 1st April 2008.

A significant limb of Tata Chemical's argument for a single combined 'unit of assessment' encompassing both chemical works (and the pipeline connecting them) is the alleged close functional and economic relationship between the sites.

One of the two sites also contains a combined heat and power (CHP) plant that not only provides steam that passes via the pipeline to the other site, (with condensate return) but also provides electricity for the various processes undertaken on both sites.

The expert will need to produce an 'Expert Witness Report' and at least one other report in rebuttal of the case advanced by the appellant's industry expert. If the case proceeds to a hearing the expert appointed will also be required to give evidence in chief and be subject to rigorous cross examination by the appellant's counsel. The expert will be required to attend any case conferences [with or without counsel] and exchange correspondence on the matters at issue. The expert will also be required to collaborate with the appellant's industry expert in production of a statement of agreed facts and matters in dispute.

Timings for the production of reports have yet to be determined by the Tribunal, but it is likely that the Expert Report will need to be completed by 1st November 2018, with a Rebuttal Report to follow about two months later.

Following that, further reports may be needed depending upon guidance from counsel and the Valuation Officer's legal and technical advisers. The hearing date has yet to be determined, but it would most likely be scheduled some time in the spring of 2019.

Industry expertise is therefore required to establish the facts that will enable the Tribunal to establish the correct 'unit of assessment'.

The Appellant's case: Tata Chemicals

The Appellant's principal case as recorded in the Valuation Tribunal decision suggests that there should be a single combined assessment because:

- As a matter of geography the two sites and connecting pipeline can be viewed as a single geographical entity.
- As a matter of functional dependency neither site, nor the CHP plant, are capable of being separately let or occupied.

Specific matters upon which they rely include:

- Transport costs for inputs such as light and heavy soda ash.
- Competing supplies of soda ash from mining as opposed to production.
- Inability to re-purposes specific items of plant.
- The economic need for cheap energy from steam and electricity.
- That separate occupation of the CHP plant would mean uncompetitive gate prices and therefore an absence of profitability.
- That there would be no prospect of being able to separately let either site to an alternative occupier as no such occupier can be envisaged.
- Even if a separate occupier could be envisaged, it would be 'commercial suicide' to attempt to run the sites independently.

The Respondent's view [Valuation Officer]

The Respondent's principal case is that the two sites ought to remain as separate units of assessment because:

- As a matter of geography the two sites are separated by a distance of 3.5 km and this points away from a single unit of assessment.
- As a matter of functional dependency, this is a test to apply only in exceptional circumstances when the geographical test is in doubt.
- The two sites are capable of separate letting.

Specific matters relied upon include:

- That the CHP plant was historically separately occupied by a third party, E.ON.
- That whilst the dependency upon the pipeline is acknowledged, the production of soda ash and sodium bicarbonate relies upon a wide variety of other inputs to production from various sources and conveyed to the facilities by various means. Dependency (or otherwise) on the steam pipeline is not therefore a determinative factor.
- That it would not be impossible to envisage the two sites being separately operated economically.

The expert's report

Reports should be concise, written in plain English and follow a standard format, and guidance will be given in this regard. We require high standards of presentation and expect all drafts and final versions to be complete and to have been proof-read before

being delivered. The tender should assume that reports, discussion guides and presentations may require to be amended in the light of comments made by the VO and those who advise VO and a number of drafts may be required before the report is finalised.

VOA expect all summaries, reports, data and presentations to be provided in an electronic format, compatible with Microsoft Office applications.

Should the dispute be resolved at any stage during the proceedings the Valuation Office Agency will reserve the right to terminate the contract at that stage.

Acting as an Expert Witness

The Supplier shall work on the basis that in providing any written reports to the Tribunal and giving evidence its duty is to help the Tribunal on matters within its expertise, and that this duty overrides any obligation to the VOA. The Supplier should understand that, once disclosed, its report will be made available to any party to the proceedings even if it does not give oral evidence at the hearing.

The VOA recognises that in litigation matters, the facts often only become available over an extended period of time. Should information come to the Supplier's attention after service of the Supplier's report that materially alters its opinions the Supplier will discuss this with the VOA at the earliest practical opportunity, and any requirement to revise its opinions that may be necessary.

In the paragraphs below certain aspects of the rights and duties of an expert witness under the Civil Procedure Rules are detailed that are considered worthy of further emphasis. Although these are tribunals rather than a standard court hearing, these rules should be applied to the Supplier's work before the Tribunal and providing they do not conflict with any specific rules or directions of the Tribunal.

In accordance with the Civil Procedure Rules, any expert's report the Supplier is asked to provide will be addressed to the Tribunal and include, inter-alia, the following matters:

- a) A summary of the range of opinions on matters dealt with in the report together with the reasons for those opinions.
- b) An express statement that the expert understands their duty to the Tribunal and they have complied and will continue to comply with that duty.
- c) A statement setting out the substance of all material facts and instructions that the expert has received (whether written or oral), which are material to the opinions expressed in their report or upon which their opinions are based.
- d) The expert will specifically state if a question or issue falls outside their expertise.
- e) A Statement of Truth will be made at the end of the expert's report in accordance with paragraph 3.3 of the Practice Direction to Part 35 of the Civil Procedure Rules confirming that the facts stated therein are true and the opinions expressed are correct and as also required by The Valuation Tribunal (VT) or Upper Tribunal (UT) practice statements, regulations, rules or directions.

Furthermore, if, after exchange of reports, the expert changes their opinion on a material matter such a change of opinion should be communicated to the other side (through the VO's legal representatives) without delay.

The Supplier will also be required to respond to the opposing expert's questions on its report within the time allowed, should they be made.

In standard court proceedings, the expert has the right to file a written request to the Court for directions to assist him in carrying out his work if he considers this necessary. Should the Tribunal apply such a right and should the expert need to exercise any such right the Supplier shall provide the VOA with a copy of the proposed request for directions at least seven days before it is filed with the Tribunal; and will ask the VOA to provide a copy to the Appellant's solicitors at least four days before it is filed. It is understood that the Tribunal may if adopting court practice possibly direct that any party to the proceedings shall be served with a copy of the request for those directions and the Court's directions in response.

Key Dates & Timescales

- A site inspection to take place as soon as possible.
- Expert Report to be completed by 1st November 2018 (provisionally).
- Rebuttal Report to be complete by 1st January 2019 (provisionally).
- Statement of agreed facts and issues to be produced jointly at two weeks before the hearing.

Conflicts of Interest

The supplier shall not accept outside instructions to act against the VOA in circumstances where the matter relates to the subject matter of this contract. This requirement shall apply during the term of the Contract and shall survive after the Contract is terminated in respect of any matter on which the supplier has advised or acted for the VOA.

The supplier shall notify the VOA of any possible or potential conflict of interest which may result from other activities, and shall only commence such other activities after obtaining written approval of the VOA which may not be unreasonably withheld.

The supplier shall carry out conflict of interest checks on an ongoing basis and take all reasonable steps to remove or avoid the cause of any conflict of interest.

The VOA reserves the right to deem any suppliers (and other sub-contractors and consortium) party to the same frameworks as the VOA as posing automatic conflicts of interest

3 Contract Management

The successful supplier will be required to appoint a contract manager who will act as the principal point of contact for VOA.

The VOA contract manager must be kept informed of progress and be involved in key decisions. Including proposed changes in supplier staffing (at all levels) or deviations from the agreed work programme must be discussed and agreed with the VOA contract manager in advance.

Reviews & Management Information

The nature of contract management reviews and management information will be agreed between the VOA Contract Manager and Supplier Contract Manager post-contract award. Due to the nature of the service provided, reviews to be scheduled as a minimum on a monthly basis.

4 Invoicing & Payments

4.1 The Supplier shall issue invoices monthly in arrears. The VOA shall pay the Supplier within thirty (30) days of receipt of a Valid Invoice, submitted in accordance with **VOA Terms & Conditions**. Receipts are required for **ALL** expenses, regardless of the amount, and these should be submitted with invoices.

4.2 Payments will be made via an electronic payments system, ERP. Invoices should be provided for each milestone within one month of agreement of deliverables and sent to VOA Accounts Payable voainvoices.ap@hmrc.gsi.gov.uk (including the purchase order provided). Payments will be made into the bank account provided by the supplier.

5 Timetable

The estimated timetable for delivery is set out below.

DATE	ACTIVITY
12 th July 2018	Publication of ITT
12 th July 2018	Clarification period starts
3 pm 19 th July 2018	Clarification period closes (" Tender Clarifications Deadline ")
20 th July 2018	Deadline for the publication of responses to Tender Clarification questions
3 pm 3 rd August 2018	Deadline for submission of Tenders to the Agent (" Tender Submission Deadline ")
6 th August 2018	Bids Compliance Checks
7 th August 2018	Commencement of Evaluation Process
11 th August 2018	Proposed Award Date of Contract
20 th August 2018	Expected commencement date for Contract(s)

Length of Contract

The contract term will be from 20th August 2018 until to 19th August 2020 subject to changes in the UT (LC) timetable and the case not being resolved prior to the hearing dates.

An extension of a further 12 - 24 months by mutual agreement may be negotiated to accommodate this requirement.

6. Evaluation Criteria

Quality (this section will account for 80% of the evaluation)

Tender Questions

- 6.1 Please outline your recent expertise in, and knowledge of, the Chemicals Industry - one page maximum [20%]
- 6.2 Please give up to three examples of work you were involved in demonstrating your experience (it may be helpful if at least one example should be in a rating or legal dispute context) – one page per example maximum [15%]
- 6.3 It is essential to the full scope of this contract award that you would be able to give evidence of the Chemicals industry within the context of the appeal and speak to your report in tribunal, should this be required. Please provide up to two examples to demonstrate your experience of undertaking an expert witness role – one page maximum [20%]
- 6.4 Please give up to two examples of your report writing skills demonstrated over the last 10 years one page maximum. [10%]
- 6.5 Have you ever been cross examined at a formal hearing of any kind? Please provide details including the case reference – one page maximum [15%]

Pricing (This will form 20% of the evaluation) - Prices should be submitted in pounds Sterling inclusive of any expenses but exclusive of VAT.

- 6.6 Please provide a Day Rate and estimated number of days for the delivery of the specification based on an 8 hour day.
- 6.7 Please provide price estimates relating to the four sections of the requirement:
 - The Report;
 - The Services;
- 6.8 Please note that Travel undertaken must comply with VOA Travel Policies and reimbursements will only be made in accordance with Travel rates and approvals. See Appendix B.
- 6.9 A full estimate of further costs should be provided including hour/day rates and estimates of total charges for the work beyond the initial report.

7. Summary of Requirements

Tenders should include the following information:

- A proposal to meet the specification of work and answers to all tender questions. This should include details of the proposed methodology to achieve work requirements.

- The Proposal should state who will act as the VOA's expert ("the expert witness") and be the person responsible for this engagement, and will appear before the Upper Tribunal if so required.
- In order to contain costs the "expert witness" may delegate to other members of his staff should they deem it appropriate to the nature of the work required. A change of expert witness can only be made with the approval of the VOA. The Supplier will also use specialist skills in different parts of the firm as required to assist him in his work.
- Expertise and experience of key personnel proposed, their status within the company, area of expertise and details of their individual chargeable hourly/day rates.
- Confirmation delivery timescales can be met.
- A firm price bid (exclusive of VAT) for the "Expert Witness Report" above is required plus the full estimated amount of hours/days for the full specification of work, with hourly rate breakdown and charges.
- Any further costs identified (including travel).
Provide a statement of the expert's availability to give evidence.

8. SCORING

Scoring will be kept within bands and scores allocated for each question in line with scoring scheme contained in the following table. The maximum total score will be 100. Please See Appendix A

The contract will be awarded on the basis of supplier ability to evidence required quality aspects of the VOA requirement. Whilst contract price will be an important consideration, it is only one of a range of important factors affecting any decision to award a contract. VOA reserve the right not to accept the lowest priced (or any) tender.

9. Tender Queries & Submission

Enquiries and requests for clarification are welcomed and must be submitted at the latest by **3pm on the 20th July 2018 by e-mail to tenders@voa.gsi.gov.uk** - please annotate all query emails with a subject box saying "**Tata Chemicals 2010 List Appeal Expert**".

You should send a PDF or read-only electronic copy of your tender proposal by e-mail to tenders@voa.gsi.gov.uk, to arrive no later than **3pm on the 3rd August 2018** (unless the date is subsequently amended in writing by the VOA).

Please annotate all tender emails with a subject box saying "Tender for Tata Chemicals 2010 List Appeal Expert".

No hard copies of the tender are required.

10. TERMS AND CONDITIONS



VOA Short Form
Ts&Cs_2018.doc

Appendix A – Evaluation Scoring Criteria

Score	'Closed' Question Criteria	'Open' Question Criteria
100	Excellent answer which meets all of the requirements and provides all of the required detail.	<p>Exceptional demonstration by the supplier of the relevant ability, understanding, experience, skills, resources and quality measures required.</p> <p>The response is excellent and completely relevant.</p> <p>The response is comprehensive, unambiguous and demonstrates an excellent understanding of, and meets, the requirements in all aspects, with no clarification required.</p> <p>The response is well thought out and/or provides</p> <ul style="list-style-type: none"> • highly credible examples; • benefits; or • innovation.
80	Good answer which meets all of the requirements but lacks some minor detail	<p>Sufficient evidence provided of the appropriate knowledge, skills and experience.</p> <p>The response is good and highly relevant. The response indicates a good understanding of the requirements and provides sufficient detail across all areas. The response demonstrates how the requirements will be met in the main, which may require minor clarification only.</p>
60	Satisfactory answer, which meets the requirements in many aspects, but fails to provide sufficient detail in some areas.	<p>The response is satisfactory and relevant.</p> <p>Reasonable evidence provided of the appropriate knowledge, skills and experience.</p> <p>The response indicates a satisfactory understanding of the requirements in most aspects, although may lack detail in certain areas.</p> <p>The response suggests that the outline requirements would be met satisfactorily but some clarification may be required.</p>

Score	'Closed' Question Criteria	'Open' Question Criteria
40	Limited answer which satisfies some aspects of the requirements, but fails to meet the specification in the whole.	<p>The response is limited and only partially relevant.</p> <p>The response indicates partial understanding of the requirement.</p> <p>Some evidence provided of the appropriate knowledge, skills and experience.</p> <p>Meets the requirements in some areas but with important omissions.</p> <p>The response contains ambiguities or deficiencies, which suggests that the requirements could be met, but clarification would be required.</p>
20	Poor answer which significantly fails to meet the requirements.	<p>The response is poor and only partially relevant.</p> <p>Very little evidence of appropriate capability, experience or expertise.</p> <p>The response addresses some aspects of the requirements but contains insufficient/limited detail or explanation.</p> <p>The response demonstrates only limited understanding of the requirement.</p> <p>The response contains ambiguities or deficiencies which suggest the requirements would not be met.</p>
0	<p>The response is not considered relevant. The response is unconvincing, flawed or otherwise unacceptable.</p> <p>Response fails to demonstrate an understanding of the requirement.</p> <p>No evidence is provided to support the response.</p> <p>No response</p>	

Appendix B - Expenses policy

The aim of VOA is to make our travel practices more sustainable by:

- reducing our business travel footprint;
- choosing alternatives to travel (such as telephone or video conference);
- adopting more sustainable ways of travelling when it is necessary to do so (public transport over private vehicles).

To help VOA meet its target of reducing carbon emissions from business travel by at least 10% please consider:

- Avoiding travel by using telephone and video conferencing as the default medium.
 - Only using private cars as the last option after public transport and hire cars.
1. Travel to and from the Primary Location will be met from the day rate.
 2. Expenses are payable where travel to other locations is required as part of the assignment forming part of this agreement. Where an overnight stay is required VOA will pay for actual bed and breakfast costs within the current maximum limits detailed below. Any other subsistence or incidental expenses are not payable. Receipts must be provided.

Short-term Night Subsistence Allowances Bed & Breakfast Capped Rates Effective from 01/06/10	
Location	Maximum Nightly Rate
London / within M25	£120
Bristol; Heathrow	£90
Oxford; Portsmouth	£85
Elsewhere in UK	£80
Travel	
Mileage Allowance	45 pence per mile
Rail Travel	Standard Class
Air Travel	Economy Class

3. Hotel Reservation and Tickets shall be booked via VOA's travel and hotel booking service. Further information will be provided by the VOA Work Manager. Bookings should always be approved by the VOA Work Manager.
4. All other expenses will be payable at the discretion of VOA. The Contractor shall not incur any such expenses without the prior approval of the VOA

Work Manager. Any expense incurred by the Contractor without prior approval shall not be reimbursed.

Allowances Description	(The maximum) Amount	Receipts Required Plus Additional Guidance.
Evening Meal Allowance <i>up to the maximum shown in the Maximum Amount Column).</i>	<p style="text-align: center;">£23.50</p>	<p>Receipts are required in all cases. This can be claimed when you are staying away from home overnight and where you have to pay separately for your evening meal because it is not included within your accommodation package.</p> <p>If you meet the criteria in the first paragraph, you may only claim the amount that you have spent, up to the maximum stated. This can include gratuities, provided that they are shown within the bill for the meal as gratuities are subject to tax. You cannot claim back the cost of any tips or gratuities that are not included within the bill for the meal.</p>