



Ministry  
of Defence



[See Distribution List]

Defence Equipment & Support  
Artillery systems  
CEDAR 2B, #3260  
MOD Abbey Wood  
Bristol, BS34 8JH



17-May-19

Our Reference:  
ARTYSYS/00270

Dear Sir/Madam

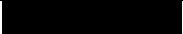

**Invitation To Tender (ITT) Reference No. ARTYSYS/00270**

1. You are invited to tender for the Man-Portable Surveillance Target Acquisition Radar (MSTAR) Obsolescence Replacement Programme (ORP) in competition in accordance with the attached documentation.
2. The requirement is for the removal of obsolescence from the current MSTAR MK IV fleet and a support solution to enable continued operational capability until 31-Mar-2033.
3. The anticipated date for the contract award decision is 14<sup>th</sup> May 2020, please note that this is an indicative date and may change.
4. You must submit your Tender to arrive no later than 10am on Wednesday 24<sup>th</sup> July 2019 and must attach the enclosed Tender Return Label (DEFFORM 28) to the outer packaging of your Tender when you submit it to the Authority.
5. Please confirm receipt of this tender to the Commercial Officer stated in the above address.

Yours faithfully



**Distribution list****List of Suppliers Invited to Submit a Tender for ITT No. ARTYSYS/00270**

<b>Supplier Name</b>	<b>Supplier Address and Phone No</b>	<b>Supplier Point of Contact</b>
DRS Sustainment Systems, Inc.	201 Evans Lane St. Louis United States of America 63121	
Leonardo MW Ltd	Sigma House Christopher Martin Road Basildon Essex SS14 3EL	

## **Invitation To Tender**

**For:**

Man-Portable Surveillance Target Acquisition Radar  
(MSTAR) Obsolescence Replacement Programme  
(ORP)

**Contract No: ARTYSYS/00270**

## Contents

This invitation consists of the following documentation:

DEFFORM 47 – Invitation To Tender. The DEFFORM 47 sets out the key requirements that Tenderers need to meet in submitting a valid Tender. It also sets out the conditions relating to this competition. 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, (referred to in this document 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, competitive dialogue or negotiation.

A4. A “Tender” is the offer that you are making to the Authority.

A5. “Contractor Deliverables” means the works, goods and / or the services, including packaging (and Certificates(s) of Conformity supplied in accordance with any Quality Assurance (QA) requirements, if specified) and any associated technical data which the contractor is required to provide under the contract in accordance with the Schedule of Requirements, but excluding incidentals outside the Schedule of Requirements such as progress reports.

A6. “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.

A7. The “Statement of Requirement” (Annex A) details the technical requirements and acceptance criteria (Annex M) of the Contractor Deliverables. The Statement of Requirement is attached at Annex A to this DEFFORM 47. This may include the System Requirements Document (SRD).

A8. “Conditions of Tendering” means the conditions set out in the DEFFORM 47 that govern the competition.

A9. “Contract Conditions” means the attached conditions that will govern any resultant contract.

A10. A “Third Party” is any person who is not an employee of the Authority or Tenderer, as defined at A2.

### Purpose

A11. 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 competition;

- c. information you must include in your Tender and the required format;
- d. administrative arrangements for the receipt and evaluation of Tenders; and
- e. Contract Conditions that shall apply in the event that the Authority awards a contract following this competition.

A12. The sections in this ITT and associated documents are structured in line with a generic tendering process and do not indicate importance / precedence.

A13. This ITT has been issued to all potential Tenderers chosen during the supplier selection stage, listed on page 2 of this DEFFORM 47.

A14. The requirement was advertised by the Authority in Defence Contracts Online dated 16<sup>th</sup> October 2015 with reference to the requirement for Man-Portable Surveillance Target Acquisition Radar (MSTAR) Obsolescence Replacement Programme following the Restricted Procedure under the Defence and Security Public Contract Regulations (DSPCR) 2011.

### **ITT Documentation and ITT Material**

A15. 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 while 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 A15.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 if you decide not to submit a Tender;
- g. immediately return all ITT Documentation, ITT Material and derived information of an unmarked nature, should you decide not to respond 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'.



A16. 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 A15 above.

### **Tender Expenses**

A17. You will bear all costs associated with preparing and submitting your Tender. If the Tender process is terminated or amended by the Authority, the Authority will not reimburse you.

### **Material Change of Control from Supplier Selection**

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 your right to stay in the competition.

### **Contract Conditions**

A19. Standardised Contract 2 (SC2) conditions are attached.

### **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.

### **Other Information**

A21. The Tenderers' attention is drawn to the following other information:

A22. Please read the ITT thoroughly, examine the documents to be submitted with the Tender and plan the preparation of these documents. When finalising the Tender, please check that it includes all of the required documents listed within Section C – Table 1 (Technical Deliverables) and Table 2 (Commercial Deliverables) of this DEFFORM 47. If for any reason you are unable to submit a required document with your Tender, please explain why in advance of your submission, as failure to do so may make your Tender Non-Compliant.

A23. The Tenderer should note that the information provided within this ITT takes precedence over any information that may have been received prior to its issue through discussions with the Authority or the Armed Forces. If there is a major conflict between the information in the ITT and information obtained from any other source, the Tenderer should notify the Authority's Commercial Officer specified in DEFFORM 111 to ARTYSYS/00270 immediately.

A24. The Authority reserves the right not to respond to a request for clarification. The Contractor will be notified in this instance.

### **Clarification Questions**

#### **Pre-Tender Clarification Questions**

A25. Tenderers may submit clarification questions prior to the submission of a Tender Return for the purpose of clarifying the requirements in accordance with the key activity dates in Section B of this DEFFORM 47.

A26. Clarification questions are to be submitted via the AWARD Data Room Portal in accordance with the dates in Section B.

A27. The Authority will respond to queries in writing, from the Commercial Branch through the AWARD Portal.

A28. The Authority will endeavour to provide a response to questions within ten (10) working days of receipt, although this will depend upon the nature and complexity of the question. Only written answers from the Authority's Commercial Branch shall constitute the Authority's official position.

A29. Any clarification questions received, and the corresponding answers, shall be anonymously released to all Tenderers. The source of the question shall not be revealed.

A30. Instructions on the AWARD Data Room Portal are contained in section E of the DEFFORM 47. **Post-Tender Clarifications Questions (from the Authority to Tenderers)**

A31. The Authority may submit clarification questions to Tenderers through the AWARD Data Room Portal with regard to their tenders provided in response to this ITT for the purpose of clarifying points within the tenders where necessary.

A32. Responses to clarification questions shall be provided by the Tenderer through the AWARD Data Room Portal in confidence and should be within Ten (10) working days of receipt.

## **Security Conditions**

A33. The Authority has stated the Security requirements applicable in the Security Aspects Letter at Annex E.

### **Note:**

Due to the differences in how the UK Official Secrets Act applies to a UK Contractor and US Contractors, UK Tenderers are required to state their compliance to Clause 46o of the Terms and Conditions (Appendix A) and DEFCON 660. US Contractors are required to state their compliance against clause 46p (Appendix B) and are not Clause 46o (Appendix A) or DEFCON 660.

## **Interim Payment Plan**

A34. The following interim payment rules shall apply in accordance with Annex G – Contractors Proposed Payment Plan. Tenderers must return a completed Annex G in their Tender return (Refer to Commercial Deliverables (Table 2), serial number 4).

A35. There shall be no more than 12 interim payments in a 12-month period.

A36. The value of interim payments shall not exceed the value of associated Milestone payment.

A37. Interim payments shall be recoverable in accordance with this condition 46n – Interim Payments of the Terms and Conditions.

## Exit Management Plan

A38. The Tenderer shall deliver a draft Exit Management Plan as Annex P to the Contract for their Tender Return, to be finalised and mutually agreed and accepted prior to Contract Award, if the tenderer is successful.

A39. The draft Exit Management Plan must detail the framework for instigating and implementing the actions required affecting an orderly exit on termination of the contract. It must address the requirement to Exit both at the planned contract end and due to early termination. It must detail who will be involved and responsible, a programme of actions, periods of notice for delivery of information, any inspection requirements for assessing the condition of facilities, tools, spares, return of GFA etc that the Contractor will transfer to MOD, data required for Contact continuation when appropriate, etc to enable the continued MSTAR ORP production and/or support.

A40. The draft Exit Management Plan must consider exit for the following conditions:

- i. Condition 24. (Supply of Data for Hazardous Articles, Materials and Substances)
- ii. Condition 43. (Material Breach)
- iii. Condition 41. (Bankruptcy and Insolvency)
- iv. Condition 41. (Corrupt Gifts and Payments of Commission)
- v. Condition 42. (Termination for Convenience - over £5M)
- vi. DEFCON 532B (Protection of Personal Data)

## Section B – Key Tendering Activities

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

Stage	Date and Time	Initiated By	Submit to:
ITT Release	9 <sup>th</sup> May 2019	The Authority	All Tenderers
Final date for submission of Schedule B, Appendix 1 'Tenderer Delegate Information' to the Authority <sup>1</sup>	31 <sup>st</sup> May 2019	Tenderers	The Authority
Distribution of Joining Instructions for Bidders Conference to Tenderers	10 <sup>th</sup> June 2019	The Authority	All Tenderers
Final date for Clarification Questions prior to Bidders Conference / Requests for additional information	10 <sup>th</sup> June 2019	Tenderers	The Authority
Bidders Conference	26 <sup>th</sup> June 2019	The Authority	All Tenderers
The Authority Issues Post Bidder Conference Clarification Answers	5 <sup>th</sup> July 2019	The Authority	All Tenderers <sup>3</sup>
Final date for requests for extension to the Tender Return Date	19 <sup>th</sup> July 2019	Tenderers	The Authority
Tender Return	24 <sup>th</sup> July 2019	Tenderers	The Tender Board, using DEFFORM 28
Completion of Tender Evaluation	5 <sup>th</sup> Sept 2019	The Authority	N/A
Standard Notice of Contract Award Decision (in accordance with condition F10. To the DEFFORM 47)	4 <sup>th</sup> May 2020	The Authority	
Standstill Period Ends	14 <sup>th</sup> May 2020	The Authority	N/A

### Notes

1. The Tenderer is invited to attend a Bidders Conference, on the date shown above. The aim of the Bidders Conference is to provide greater clarity on the requirement through direct engagement with the Authority. During this event the Tenderer has ability to ask further questions not answered during the pre-tender clarification stage, which the Authority may respond to on the day or take away for further consideration
2. Tenderers wishing to attend the Bidders Conference must submit a completed Annex E 'Bidders Conference Tenderer Delegate Information' to the Authority by the 'final date for submission of 'Bidders Conference' date above, so that access to the MoD site can be

arranged. The Tenderer must provide details of those attending the Bidder Conference (maximum 4 per tenderer).

3. Confirmation of Personal Security Clearances (PSC) should be completed for UK and Non-UK Nationals as detailed in Annex E to the DEFFORM 47 'Bidders Conference Tenderer Delegate Information'.

4. If Tenderers are unable to attend on the 'Bidders Conference' date, tenderers shall notify the Authority as soon as possible and by no later than the 'final date for submission of Schedule B Appendix 1 Tenderer Delegate Information' above.

5. The Authority encourages tenderers to be prepared to submit clarification questions intended for clarification at the Bidders Conference prior to this event in order for the Authority to provide answers on the day of the event. If the Tenderer is unable to attend the event, all questions will be recorded and distributed to all tenderers. The period for submission of clarification questions will continue after the Bidders Conference, up until the 'Final date for Clarification Post Bidders Conference / Requests for additional information' date above.

6. Joining instructions will be provided to the Tenderer on the 'Distribution of joining instructions for Bidders Conference' date provided above, which will contain further details on the event.

7. The Authority will maintain a log of questions and answers in relation to this event to include questions and answers raised in advance of the event, raised during the course of the event and raised in relation to any presentation Material. To preserve transparency and equality of information, the Authority will automatically copy questions and answers to all delegates removing the names of those who have raised the questions.

8. If you do not want your question disclosed, you must inform the Authority of this and the reason why when submitting the question. The Authority may choose to discuss with you whether it is appropriate to disclose the question or response, or both, to other delegates. The decision whether to disclose is a matter in which the Authority shall exercise its own discretion. If the Authority decides to disclose, you will be given the opportunity to withdraw your question save for any queries, which reveal errors or deficiencies in the Briefing Material or the contents of the event which shall not be subject to any restriction on dissemination.

9. Negotiations are only permitted under the Negotiated procedures. This is a restricted procedure and therefore negotiations shall not apply.

## Section C - Instructions on Preparing Tenders

### Tenders for Selected Contractor Deliverables

C1. You must Tender for all the Contractor Deliverables listed in the attached Schedule of Requirements. The Authority reserves the right to reject your Tender where you have not tendered for all the Contractor Deliverables.

### Construction of Tenders

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

C3. To assist the Authority's evaluation please set out your Tender response in accordance with Section D (Tender Evaluation).

### Validity

C4. In accordance with F3 your Tender must be valid / open for acceptance for 315 calendar days from the Tender return date. If successful, your Tender must be open for acceptance for a further thirty (30) calendar days.

### Variant Bids

C5. Variant Bids - Any Tender made subject to additional or alternative Contract Conditions alone is not a variant bid. A variant bid is a Tender that offers an alternative approach to, or method of, meeting the Authority's requirements as set out in the ITT Documentation. Where the tender evaluation has a pass / fail for the Contract Conditions the Authority may reject the Tender on the grounds of such additional or alternative Contract Conditions.

C6. The Authority cannot evaluate any Variant Bids during this competition.

### ITT Deliverables

C7. The tables below list all deliverables required to be submitted as part of your Tender response, in order for your tender to be deemed technically and commercially Compliant. The Authority reserves the right to deem your bid as non-Compliant if any of ITT deliverables below are not part of your tender return in the format and acceptance criteria detailed below. The Authority requires all ITT Deliverables to be submitted as 2x Hard & 1 Soft Copy (CD).

### Technical Deliverables (Table 1)

C8. In the Performance Compliance Matrix (TD01) at Annex Appendix 3 of the DEFFORM 47, the Contractor shall state compliance against each section and provide a reference to where compliance is supported in the Tender submission document in the 'justification/comments' column of Appendix 3.

Serial No.	Document	Acceptance Criteria
TD01	Performance Compliance Matrix	Stated Compliance Completed.
P&R 01	Integrated Support Plan (ISP)	Completed DID 01

P&R 02	Support Analysis Plan (SAP)	Completed DID 02
P&R 03	Transition Management Plan (TMP)	Completed DID 03
P&R 04	Supply Support Plan (SSP)	Completed DID 17
P&R 04a	Initial Provisioning List (IPL)*	Completed DID 14
P&R 04b	Deployment Spares Pack (DSP)*	Completed DID 18
P&R 10	Government Furnished Asset Management Plan (GFAMP)	Completed DID 24
P&R 11	Project Management Plan (PMP)	Completed Draft
P&R 13	Contractor's Master Test Plan (CMTP)	Completed
P&R 14	Validation and Verification Requirement Matrix (VVRM)	Completed
P&R 15	MSTAR ORP Design Proposal/Technical Report	Completed

\*Note: These deliverables will not be evaluated as part of the Performance Confidence Evaluation but are required for the Authority's information and validation of Tenderer's spares modelling and pricing.

## **Additional Instructions on the completion of Commercial Deliverables (Table 2)**

C9. Additional Instructions on the completion of Commercial Deliverables (Table 2). Tenderers shall complete and return all deliverables in accordance with instruction C7 of the DEFFORM 47.

C10. Tenderers must return a completed Contractors Proposed Payment Plan at Annex G. Tenderers attention is drawn to Interim Payment Rules A34 to A37 of the DEFFORM 47.

C11. Where a Design Rights and Patents (Subcontractor's Agreement) at Annex R applies to any of the Tenderers proposed contract deliverables Tenderers must complete and return this form. Should the Tenderer be successful a fully signed Where a Design Rights and Patents (Subcontractor's Agreement) at Annex R must be provided on or before contract award.

C12. Where an Annex or Schedule is not applicable to the Tenderers return then Tenderers must make a statement of compliance of 'Not Applicable'.

C13. Where a DEFFORM 701 Software License Agreement at Annex O applies to any of the Tenderers proposed contract deliverables Tenderers must complete and return this form. Should the Tenderer be successful a fully signed DEFFORM 701 Software License Agreement at Annex O must be provided on or before contract award.

C14. Tenderers are required to populate the Commercial Compliance Matrix (DEFFORM 47 Appendix 2). The Commercial Evaluation SME team will check that the Tender includes unconditional acceptance of the Authority's Terms and Conditions reviewed at Para 4.2.

C15. Tenderers are required to populate Annex Q List of Spares and Pricing and submit in their Tender Return. The Authority confirms that Annex Q will not be evaluated as part of the Commercial Compliance.

C16. Tenders are required to populate Annex W Repair Enabler Service - Forecast and Costing. The Authority draws the Tenderer's attention to the fielding plan contained within the Schedule of Requirements and that there will be a gradual fielding of systems from Initial Operating Capability (IOC) until Full Operating Capability (FOC).

## Commercial Deliverables (Table 2)

Serial No.	Document	Acceptance Criteria
1.	Tender Submission Document (Offer)	Completed Annex A (offer) to DEFFORM 47
2.	Information on Mandatory Declarations Returns	Completed Appendix 1 to Annex A (offer) DEFFORM 47
3.	Commercial Compliance Matrix	Completed Appendix 2 to DEFFORM 47
4.	Contractors Proposed Payment Plan	Completed Annex G to ARTYSYS/00270
5.	Exit Management Plan	Completed Exit Management Plan in accordance with Annex P to ARTYSYS/00270
6.	Parent Company Guarantee (if applicable)	Completed DEFFORM 24 Annex N to ARTYSYS/00270
7.	Design Rights and Patents (Subcontractor's Agreement) (if applicable)	Completed Annex R to ARTYSYS/00270
8.	Contract Data Requirement	Agreed DEFFORM 315 Annex D to ARTYSYS/00270
9.	DEFFORM 701 Software License Agreement	Endorsed DEFFORM 701 (Annex O) to ARTYSYS/00270 with information on the software to be licensed to the Authority
10.	Security Aspects Letter (SAL)	Confirmation of Contractor's ability to deliver requirement in accordance with Annex E to ARTYSYS/00270



11.	DEFFORM 528 - Import and Export	Completed Import and Export at Annex S to ARTYSYS/00270
12.	SC2 Schedule 2 – Schedule of Requirements – Pricing Completed	Completed Schedule 2 to ARTYSYS/00270
14.	SC2 Schedule 5 – Contractor’s Commercially Sensitive Information Form (if applicable)	Completed Schedule 5 to ARTYSYS/00270
15.	SC2 Schedule 6 - Hazardous Contractor Deliverables, Materials or Substances (if applicable)	Completed Schedule 6 to ARTYSYS/00270
16.	SC2 Schedule 7 – Timber and Wood – Derived Products Supplied under the Contract (if applicable)	Completed Schedule 7 to ARTYSYS/00270
17.	Statement of Good Standing (SoGS)	Completed DEFFORM 47 Annex C to ARTYSYS/00270
18.	List of Spares and Pricing	Completed Annex Q to ARTYSYS/00270
19.	Repair Enabler Service - Forecast and Costing	Completed Annex W to ARTYSYS/00270

## **Section D – Tender Evaluation**

D1. This section details how your Tender will be evaluated, the tools used to evaluate the Tender and the evaluation criteria.

D2. The Tender Evaluation will be on the basis of Most Economically Advantageous Tender (MEAT) in accordance with the Evaluation Methodology at Annex B to DEFFORM 47.

## Section E – Instructions on Submitting Tenders

### Submission of your Tender

E1. Tenders must be sent to the Tender Board by the date and time stated in the covering letter to this DEFFORM 47. The Authority reserves the right to reject any Tender received after the stated date and time. You must provide 2 paper and CD copies unpriced and 2 paper/CD copies priced of your Tender and 2 copies of supporting documents. You must not email electronic copies until after the Tender Board has taken place. If you email your Tender before the Tender Board date, your Tender may be excluded from the competition.

E2. Tenderers must label CDs containing electronic copies of the Tender correctly with “Includes Prices” or “Unpriced” as appropriate. 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. Tenderers must also upload an electronic copy to the AWARD Data Room Portal. Tenderers must upload in accordance with Annex D DEFFORM 47 ‘Award Online ITT Submission Instructions’. The Authority is using AWARD software as the electronic data room for the project. AWARD will be used to:

- a. Allow Tenderers to raise and respond to Queries and Clarifications
- b. Provide access to documents shared by the Authority
- c. Provide a portal for formal submission of tenders

E4. Using the AWARD Data Room Portal Tenderers must upload an ‘Unpriced’ Tender in the folder ‘Supplier UNPRICED Tender Submission’ and a ‘Priced’ Tender in the folder ‘Supplier PRICED Tender Submission’.

### Getting Started

E3.1. Each bidding organisation will receive an individual login to the AWARD system. The login details will be forwarded from AWARD.

E3.3. AWARD is an intuitive internet-based system to use and contains on-line guidance.

E3.4. AWARD will be used to manage distribution of the ITT, supporting documents, and collection of bid material.

E3.5. In order to access the system each user will need to state that you have read the Terms and Conditions and that the user accepts them.

### Tenderer Clarifications

E3.6. If a Tenderer wishes to raise a clarification on supplied information then a Tenderer Clarification Request should be raised, in accordance with Section E of the DEFFORM 47. From the Communication > Clarifications menu click and follow the instructions. The Authority point of contact will be notified of your request. The person that raised the Clarification will be Alerted by AWARD when a response is available.

E3.7. Each Clarification should consist of a single topic.

E3.8. Tenderers must specify if they consider the Tenderer Clarification to be Commercially Sensitive using the AWARD tool.

## **Notifications**

E3.9. From time to time the Authority may wish to notify all tenderers. This may be as a result of a Tenderer request raised by one of the tenderers. All tenderers will be Alerted by AWARD at the same time that a notification is available, which will be available from the Communication > Notifications area.

## **Samples**

E4. Samples are not Required.

## **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 competition or at a later stage. Any expenditure, work or effort undertaken prior to any offer and subsequent acceptance of contract, is a matter solely for your commercial judgement. The Authority reserves the right to:

- a. seek clarification or additional documents in respect of a Tenderer's submission;
- b. visit your site;
- c. disqualify any Tenderer that does not submit a compliant Tender in accordance with the instructions in this ITT;
- d. disqualify any Tenderer that is guilty of misrepresentation in relation to its Tender, expression of interest, the dynamic Pre-Qualification Questionnaire (PQQ) or the tender process;
- e. re-assess your suitability to remain in the competition, for example where there is a material change of control from supplier selection;
- f. withdraw this ITT at any time, or re-invite Tenders on the same or any alternative basis;
- g. re-issue this ITT on a single source basis, in the event that this procurement does not result in a 'competitive process' as defined in the Single Source Contract Regulations 2014, making such adjustments as would be required by the application of the Defence Reform Act 2014 and / or the Single Source Contract Regulations 2014;
- h. choose not to award any contract as a result of the current procurement process;
- i. award a contract for some of the Contractor Deliverables, unless you specifically oppose this in your Tender or state any minimum order quantities; and / or:
- j. ask for an explanation of the costs or price proposed in the tender where the tender appears to be abnormally low.

F2. The contract will be entered into when the Authority sends written notification of its entry into the contract, via a DEFFORM 159. Written notification will be issued, to the address you provide, on or before the end of the validity period specified in paragraph C4 and subject to paragraph F3.

F3. It is a Condition of Tendering that the winning Tenderer holds their Tender open for acceptance for the period stated in C4. This period starts on the day the Authority announces its decision to award the contract to the winning Tenderer in accordance with the Tender. In the event that legal proceedings are instigated, challenging the award of the contract, prior to entry into contract, it is a condition of this ITT that you hold your Tender open for acceptance during this period, and up to fourteen (14) days after the result of the legal proceedings. In the event of such legal challenge, the Authority agrees to use all reasonable measures to accelerate proceedings.

### **Conforming to the Law**

F4. You must comply with the UK Competition Act 1998, the UK Bribery Act 2010, applicable EU and UK legislation and any equivalent legislation in a third state.

F5. Your attention is drawn to legislation relating to the 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.

## **Bid Rigging and Other Illegal Practices**

F6. You must report any bid rigging, 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**

F7. You must notify the Authority immediately of any Conflicts of Interest (COI) that have arisen or that arise at any point prior to contract award decision.

F8. It is essential that you do not have a Conflict of Interest (COI).

## **Government Furnished Assets**

F9. Where the Authority provides Government Furnished Assets (GFA) in support of this competition, you must include details of the GFA in your Public Store Account and treat it in accordance with Def Stan 05-099. If unsuccessful in this competition, you must seek instructions for the GFA from the named Commercial Officer.

F9.1 Should the Authority become aware of any minor changes to the GFA items contained in Annex H then the Authority may issue a revised Annex H (GFA) for tendering purposes.

## **Standstill Period**

F10. The Authority is obliged under certain circumstances to allow a space of ten (10) calendar days between the date of dispatch of its notice to Tenderers before entering into a contract, known as the standstill period. This period is to give unsuccessful Tenderers an opportunity to make a legal challenge before the contract is entered into if there has been, or it is alleged that there has been, a breach of the Regulations. The standstill period ends at midnight at the end of the 10th day after the date the DEFFORM 158 is sent. Where this is not a working day, it extends to midnight at the end of the next working day.

## **Publicity Announcement**

F11. The Authority will publish notification of the contract and shall publish contract documents under the Freedom of Information (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 between suppliers. You should complete and return DEFFORM 539A as explained in the DEFFORM 47 Annex A and associated Appendix 1.

F12. If you wish to make a similar announcement, you must seek approval from the named Commercial Officer.

F13. 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**

F14. 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, related aspects of good procurement practice and answering FOI requests.

F15. For these purposes, the Authority may share within Government any of the Contractor's documentation / information (including any that the Contractor considers to be confidential and / or commercially sensitive such as specific bid information) submitted by the Contractor to the Authority during this procurement. Contractors taking part in this competition must identify any sensitive material in the DEFFORM 539A SC2 Schedule 5) and consent to these terms as part of the competition process. This allows the MOD to share information with other Government Departments while complying with our obligations to maintain confidentiality.

F16. The Authority reserves the right to disclose on a confidential basis any information it receives from Tenderers during the procurement process (including information identified by the Tenderer as Commercially Sensitive Information in accordance with the provisions of this ITT to any third party engaged by the Authority for the specific purpose of evaluating or assisting the Authority in the evaluation of the Tenderer's Tender. In providing such information the Tenderer consents to such disclosure.

## **Reportable Requirements**

F17. Listed in the DEFFORM 47 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.

F18. 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.

F19. 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.

## **Specific Conditions of Tendering**

### **Options**

F20. The Authority requires Option prices for Schedule of Requirements Table 2.

a. You must provide prices against the Options detailed in the Schedule of Requirements at Schedule 2. Option prices must be fixed prices relative to economic conditions at K8ZU and are subject to variation as provided for in contract condition 46k - Variation of Price.

b. If your Tender is successful you will be expected to provide that Option requirement(s) in contract condition 46j – Option Prices. The Authority will not waive any rights under the said contract condition.

Tender Ref No. ....

Annex A (Offer)

## 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 shall apply.

<b>Applicable Law</b>				
I agree that any contract resulting from this competition shall be subject to English Law *Where 'No' is selected, Scots Law will apply.				Yes / No*
<b>Total 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 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</b> (further details are contained in Appendix 1 to DEFFORM 47 Annex A (Offer)):			<b>Tenderer's Declaration</b>	
Is the offer subject to the Authority contracting for all the Contractor Deliverables?			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? If the answer is Yes, please complete and attach DEFFORM 528			Yes* / No	
Have you obtained 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 procedure to be used and an estimate of duties to be incurred or suspended?			Yes / No	
Have you completed Form 1686 for sub-contracts?			Yes / No	



## Annex A (Offer)

Have you completed the compliance matrix/ matrices?	Yes / No / Not Required
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 Tenderer's Commercially Sensitive Information Form (DEFFORM 539A)?	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 additional Mandatory Requirements?	Yes / No / Not Required
*If selecting Yes to any of the above questions, please attach the information detailed in Appendix 1 to DEFFORM 47 Annex A (Offer).	
<b>Tenderer's Declaration of Compliance with Competition Law</b>	
<p>We certify that the offer made is intended to be genuinely competitive. No aspect of the price has been fixed or adjusted by any arrangement with any Third Party. Arrangement in this context includes any transaction, or agreement, private or open, or collusion, formal or informal, and whether or not legally binding. In particular:</p> <ul style="list-style-type: none"> <li>a. the offered price has not been divulged to any Third Party,</li> <li>b. no arrangement has been made with any Third Party that they should refrain from tendering,</li> <li>c. no arrangement with any Third Party has been made to the effect that we will refrain from bidding on a future occasion,</li> <li>d. no discussion with any Third Party has taken place concerning the details of either's proposed price, and</li> <li>e. no arrangement has been made with any Third Party otherwise to limit genuine competition.</li> </ul> <p>We understand that any instances of illegal cartels or market sharing arrangements, or other anti-competitive practices, suspected by the Authority will be referred to the Competition and Markets Authority for investigation and may be subject to action under the Competition Act 1998 and the Enterprise Act 2002.</p> <p>We understand that any misrepresentations may also be the subject of criminal investigation or used as the basis for civil action.</p> <p>We agree that the Authority may share the Contractor's information / documentation (submitted to the Authority during this Procurement) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. We certify that we have identified any sensitive material in DEFFORM 539A.</p>	
Dated this..... day of ..... Year .....	
Signature:	In the capacity of
(Must be original)	..... (State official position e.g. Director, Manager, Secretary etc.)

<p><b>Name:</b> (in BLOCK CAPITALS)</p> <p><b>duly authorised to sign this Tender for and on behalf of:</b></p> <p>(Tenderer's Name)</p>	<p><b>Postal Address:</b></p> <p><b>Telephone No:</b></p> <p><b>Registered Company Number:</b></p> <p><b>Dunn And Bradstreet number:</b></p>
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## Information on Mandatory Declarations

### Part Tender

1. Under Condition 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 Intellectual Property Rights (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 of 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 competition 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 in accordance with DEFFORM 111 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 the Tenderer. 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 competition, 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 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 every £1 in every £3 that the Government spends should be with small businesses by 2020. Our goal is that 25% of MOD spending should be spent with SMEs by 2020; this applies to the money which the MOD spends directly with SMEs and through the supply chain. The Authority uses the European Commission definition of an 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 policies 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 or SC1B Schedule 4 or SC2 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. Tenderers must note that use of the [Contracting, Purchasing and Finance \(CP&F\)](#) electronic procurement tool is a mandatory requirement for any resultant contract awarded following this Tender. By submitting this Tender, you agree to electronic payment. Please feel free to consult the service provider on connectivity options. Failure to accept electronic payment will result in your Tender being non-compliant.

### **Change of Circumstances**

26. If you have not previously submitted a Statement Relating to Good Standing or circumstances have changed, please select 'Yes' and 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) Requirements**

28. There are no MAA Requirements.

### **Bank or Parent Company Guarantee**

29. A Parent Company or Bank Guarantee may be required. In the event that your tender is identified as the most favourable / compliant tender, but MOD assesses that a Parent Company or Bank Guarantee is required, then one will be requested (in the form of DEFFORM 24 / 24A as appropriate). No contract will be awarded until a suitable Parent Company or Bank Guarantee, as appropriate, is in place.

### **The Armed Forces Covenant**

30. The Armed Forces Covenant is a promise from the nation to those who serve, or who have served, and their families, to ensure that they are treated fairly and are not disadvantaged in their day to day lives, as a result of their service.

31. The Covenant is based on two principles:

- 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 Armed Forces Covenant, declaring their support for the Armed Forces community by displaying the values and behaviours set out therein.

32. The [Armed Forces Covenant](#) provides guidance on the various ways you can demonstrate your support through your Covenant pledges and how by engaging with the Covenant and Armed Forces, such as employing Reservists, a company or organisation can also see real benefits in their business.

33. 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: [employerrelations@rfca.mod.uk](mailto:employerrelations@rfca.mod.uk)

Address: Defence Relationship Management  
Ministry of Defence  
Holderness House  
51-61 Clifton Street  
London  
EC2A 4EY

34. 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 evaluation, contract award procedure or any resulting contract. However, the Authority very much hopes you will want to provide your support.