Deadline to ask Clarification Questions for Stage 1: 5 March 2025

Deadline to ask Clarification Questions for Stage 2: 15 April 2025



**Bid Pack**

**Attachment 1 – About the Procurement**

Contract Reference: WP2236 Payment Provider for GOV.UK Pay

Contents

[1. Welcome 2](#_tyjcwt)

[2. The Opportunity](#_2jxsxqh) 3

[3. Timelines for the Competition](#_ihv636) 5

[4. Making the Competition Work 6](#_2u6wntf)

[5. When and How to Ask Questions 10](#_u5uk0lyk3g5)

[6. General Instructions 10](#_oia739ui3qyu)

[7. Confidentiality 12](#_vm6qwwa7t87c)

[8. Conflicts of interest 13](#_ob9zsx962inr)

[9. Rights and disclaimers 14](#_imm5o1g3dery)

[10. Communication 16](#_cqo153p33sa6)

[11. Non-Collusion and Non-Canvassing](#_1fob9te) 18

[12. Assessment and Scoring 20](#_lh9gim9043al)

[13. ITP Confidentiality 2](#_pkwkjc36fc1z)3

[14. Submission 25](#_3dy6vkm)

15[. Tender Documents 25](#_t6e4vxaj7oap)

[16. Compliant Tenders and Negotiations 26](#_u7a85s23akf)

[17. Contractual Terms: 2](#_2xnt8nwqsvwm)7

[18. Variant Tenders 28](#_x3l6br5urhfv)

19[. Acceptance of Tenders 28](#_18to70kycpz0)

[2](#_4f1mdlm)8

## **1. Welcome**

We invite you to bid in this competition for the Contract for a Payment Provider for GOV.UK Pay. Our bid pack comes in seven parts:

**Attachment 1 - About the procurement** – what the opportunity is, who can bid, the timelines for this competition and how to ask questions. Plus:

Making the competition work - sets out the rules of this competition.

How the contract works - what’s in a contract.

Explanation of the different stages of this Procurement

**Attachment 2 - How to bid** – explanation of the submissions required and how they will be assessed at each stage.

**Attachment 3 - Statement of Requirements** – provides detailed information about the Contracting Authority, the goods/services that are required, milestones, deliverables, service levels/performance and payment method.

**Attachment 4 -Selection Questionnaire** - you are to use this attachment to provide your response to the required supplier information and selection questions.

**Attachment 5 - Price Schedule *(comprising attachments 5a - 5d)*** – you are to use these attachments to provide your fully populated price for the goods/service required.

**Attachment 6 - Technical Evaluation Criteria** - you are to use this attachment to help complete your response to the technical evaluation questions.

**Attachment 7 - Award Form**–this attachment contains the contract terms and conditions.

**Attachment 8** - **Security Schedule** - this attachment contains Security requirements for the contract

**Attachment 9** - **Social Value Evaluation Criteria** - you are to use this attachment to help complete your response to the social value evaluation questions.

Make sure you **read all the attachments**. The guidance, information and instructions that we provide are there to help you to make your best bid.

If anything isn’t clear, see [Section 5. ‘When and how to ask questions.](#_u5uk0lyk3g5)’

## **2. The Opportunity**

**Summary**

Government Digital Service (GDS), currently part of Cabinet Office is seeking a payment service provider to underpin the GOV.UK Pay platform, specifically for processing credit and debit card payments and pay by bank (open banking) payments made by end users to services operated by local government, police, the armed forces and some other public sector organisations. GDS is therefore undertaking this procurement as a central purchasing body using the negotiated procedure in accordance with regulation 37 of the Public Contracts Regulations 2015 (as amended).

**IMPORTANT NOTES:**

1. The Contracting Authority reserves the right not to enter into negotiations with prospective bidders. In that event stages 3 and 4 (identified in the Indicative Timetable below) will not be required.
2. GDS will be moving to the Department of Science, Innovation and Technology (DSIT) in [2025](https://www.gov.uk/government/news/dsit-bolstered-to-better-serve-the-british-public-through-science-and-technology) and the proposed contract will therefore be expected to ultimately rest with GDS as part of DSIT (rather than Cabinet Office).
3. You should throughout the procurement process monitor the Find a Tender site for any updates that may be issued in relation to this procurement.

**Background Information**

[GOV.UK Pay](https://www.payments.service.gov.uk/) (‘Pay’) is a digital payments platform, developed and run by GDS. Pay is a payments product, providing a quick and easy way for the public to make payments for services online and via telephone.

Pay currently supports central government, local authority, police forces and NHS teams to take payments for their services digitally. It automates financial processes and reduces the administration burden on teams, saving time and money that can be reinvested in important public services.

The platform has processed [over 94 million transactions](https://www.payments.service.gov.uk/performance/) since September 2016, with a total value of £6 billion GBP. Services using GOV.UK Pay include HM Passport Office’s Apply for a passport, the Environment Agency’s Get a fishing licence, and Swindon Borough Council’s Blue Badges service. A list of all organisations using GOV.UK Pay can be found [on the Pay performance page](https://www.payments.service.gov.uk/performance/).

Pay is a common tool that is built once and used many times by more than 1,000 different public sector services, saving the public sector time, money and reducing duplication of effort. It also offers a consistent, trusted and accessible user experience making it quick and easy for citizens to pay for public sector services. Pay has achieved significant realised benefits, saving public sector money.

Whilst the current contract handles only 17% of payments currently going through GOV.UK Pay it is used by more than 70% of all our services currently taking a payment and is the only option available which enables teams to start taking payments within one working day. This proved instrumental during the COVID-19 pandemic, supporting local authorities to take donations for support and food banks as well as teams who needed to respond rapidly and stop taking cheques, face to face payments or reduce their reliance on call centre staff handling telephone payments.

**Opportunity Details**

The Contracting Authority, Cabinet Office (will change to Department of Science, Innovation and Technology in 2025) intends to partner with a successful supplier chosen by means of a Competitive Negotiated Procedure, to undertake the role of a payment provider for GOV.UK Pay (<https://www.payments.service.gov.uk/>). The services are described in Attachment 3, Statement of Requirements. Whilst the Buyer intends to appoint a supplier, the Buyer reserves the right not to award any contract at all pursuant to this Procurement.

The contract will be for an initial 36 month period from early July 2025 - July 2028. The Contracting Authority will have the option under the contract to extend it by two periods of up to 12 months extension.

The Contract values represent an estimated maximum value with no commitment to spend and no guarantee of any volumes of usage under the contract.

The Contract will be between the successful Supplier and the Contracting Authority.

The Contract is being offered under HMG’s ‘The Mid-Tier Contract’ as adapted for this procurement and attached as part of the Bid Pack, which will govern any resultant Contract.

The Contracting Authority is managing this Procurement in accordance with the Public Contracts Regulations 2015.

The Contracting Authority is seeking proposals for a partner supplier. **The full specification is in Attachment 3 (Statement of Requirements).**

**Objectives**

The objectives for the outcomes of this procurement are as follows

* provide payment acceptance and merchant acquiring for 750+ public sector services [Note: GOV.UK Pay acts as the central contracting authority on behalf of public sector organisations who own these services. Public sector organisations include local authorities, central government departments, police forces, arms length bodies, further education colleges, armed forces];
* a payment service available 24/7, 365 days for public sector bodies;
* provide an efficient, effective and economic service which is reliable and meets expected service performance standards. The service is secure and meets PCI DSS version 4.0.1;
* provide a seamless transfer from the current provider to the new provider, with full continuity of services (with no drop outs);
* Provide Payment Initiative Service Provider open banking services for public sector bodies.

**Definitions**

In the procurement documentation relating to this Procurement, the following phrases and words shall have the meaning given:

**“Evaluation Criteria”** means the criteria by which the relevant response will be assessed or evaluated as set out in the section under the heading Evaluation Structure and Marking Scheme in Attachment 2

“**Bidder**” means (1) in Stage 1 an entity or consortium formally expressing an interest in participating in this procurement by completing the SQ and submitting it in accordance with the instructions in this Attachment 1 (2) in Stage 2 such an entity or consortium who has also been invited to submit a Tender and does so in accordance with the instructions in this Attachment 1 (as may be supplemented by any further instructions issued by the Contracting Authority) and (3) in Stage 3 and 4 such an entity or consortium who has been invited to enter into negotiations and to submit best and final offers.

“**Bid Pack**” means all those documents headed Bid Pack relating to “Contract Reference: WP2236 Payment Provider for GOV.UK Pay” together with any clarifications, supplementary instructions or amendments issued to Bidders in writing during the Procurement by the Contracting Authority

“**Bid Pack Instructions**” or “**BPI**” means all the instructions, rules and requirements comprised in the Bid Pack from time to time

**“Minimum Requirements”** has the meaning given in section 16.4.

“**Procurement**” means the procurement (and where the context permits any of its stages including Stage 1, Stage 2 and, if and when applicable, Stage 3 and Stage 4) being undertaken in relation to “Contract Reference: WP2236 Payment Provider for GOV.UK Pay” and for which this document is part of the Bid Pack

“**Selection Questionnaire**” or “**SQ**” means the questions set out in Attachment 4 which will be used to determine which Bidders are selected to be invited to submit a tender.

“**Stage 1**” - the selection stage where Bidders provide responses to the SQ. It includes the assessment of the responses by the Contracting Authority. The Contracting Authority will identify the Bidders that submit compliant SQ responses (including passing the minimum thresholds) and those Bidders will be invited to submit Tenders.

“**Stage 2**” - the invitation to submit a Tender issued to the Bidders who were chosen pursuant to Stage 1. It includes the evaluation of the Tenders by the Contracting Authority. The Contracting Authority may either choose to award a contract to the Bidder submitting the highest scoring and compliant Tender in Stage 2 or identify the Bidders submitting the 3 highest scoring compliant Tenders which it will invite to enter into negotiations. .

“**Stage 3**” - the invitation to enter into negotiations (based on the arrangements set out in section 12.24) issued to the Bidders chosen in Stage 2 .

“**Stage 4**” - the invitation to the Bidders participating in Stage 3, to submit their best and final Tenders (issued following the conclusion of Stage 3).

“**Tender**” - means the submission made by a Bidder in response to the invitation issued in either Stage 2 or Stage 4 as the case may be and which will provide the information required in accordance with Attachments 5 and 6.

## **3. Indicative Timelines for the Competition**

These are our currently intended timelines. We will try to achieve these but, for a range of reasons, dates can change. We will tell you if and when timelines change.

| **Activity** | **Date** |
| --- | --- |
| Launch of Procurement via [Find a Tender Service](https://www.find-tender.service.gov.uk/Search)/ [Contracts Finder](https://www.contractsfinder.service.gov.uk/Search) | 19 February 2025 |
| Deadline to ask Clarification Questions for Stage 1 | 5 March 2025 |
| Deadline to Answer questions | 12 March 2025 |
| Deadline to submit Stage 1 (SQ) responses | 19 March 2025 |
| Selected suppliers invited to participate in Stage 2 (invitation to submit a tender) | 2 April 2025 |
| Deadline to propose amendments to the terms and conditions | 14 April 2025 |
| Deadline to ask Clarification Questions for Stage 2 | 15 April 2025 |
| Contracting Authority to re-issue terms and conditions with amendments (if any) that it has incorporated as a result of the proposals from Bidders | 22 April 2025 |
| Responses to Clarification Questions for Stage 2 issued by Deadline to be provided by | 22 April 2025 |
| Deadline to submit Stage 2 proposals (Tenders) | 2 May 2025 |
| Invitation to enter into negotiations issued by (if required) | 16 May 2025 |
| Negotiation (if required) | 19 May - 30 May 2025 |
| Deadline to submit Final Tenders (if negotiations have taken place) | 13 June 2025 |
| Select winning supplier and notify participants by | 27 June 2025 |
| Mandatory Standstill Period (10 day min) - assuming negotiations have taken place) | 27 June to 7 July 2025 |
| Award contract | On or after 8 July 2025 |

## 

## **4. Making the Competition Work**

4.1 We run our competitions so that they are fair and transparent for all bidders. This section sets out the general rules of this competition.

* 1. What you can expect from us
     1. Save as otherwise expressly provided in the Bid Pack we will not share any information from your bid which you have identified as being confidential or commercially sensitive with third parties,. In particular, we may share such information in line with the Regulations, the Freedom of Information Act 2000 (FOIA) or any other law as applicable.
  2. What we expect from you
     1. You must comply with the rules in this Bid Pack and any other instructions given by us. You must also ensure members of your consortium (if relevant), group companies, subcontractors or advisers comply.
     2. You must:
        + Submit one bid only.
        + Submit a bid that must remain valid for 90 days after the bid submission deadline.
        + submit your bid in English and via email to the designated email address by the time stipulated (see Section 6.10).
  3. Involvement in multiple bids
     1. If you are connected with another bid in connection with this Procurement, you must bring this to our attention prior to completion of Stage 1. For example this includes where you submit a bid:
        + In your own name and/or as a subcontractor and or as a member of a consortium connected with a separate bid; or
        + In your own name but a bid is also being submitted by another entity within your group of companies.
  4. Contracting arrangements
     1. Only you or, as applicable, your subcontractors (as set out in your bid) or consortium members (if relevant) can provide goods and/or services through the contract without the prior agreement of the contracting authority. Therefore you should disclose all entities that will be relied upon in delivery of the Services in your SQ response.
  5. Bidder conduct and conflicts of interest
     1. You must not attempt to influence the contract award process. For example, you must not ever directly or indirectly:
        + Collude with others over the content and submission of bids. However, you may work in good faith with a proposed partner, supplier, consortium member (if relevant) or provider of finance.
        + Canvass our staff or advisors about this competition.
        + Try to get information from any of our and/or Contracting Authority staff or advisors about another bidder or bid.
     2. You must ensure that no conflicts of interest exist between you and us/Contracting Authority. If you do not tell us about a known conflict, we may exclude you from the competition. We may also exclude you if an actual, potential or perceived conflict of interest cannot be avoided to our reasonable satisfaction without your exclusion or if you fail to implement any actions we consider are necessary to avoid such conflict of interest.
  6. Further enquiries
     1. We may make further enquiries in relation to any of the above matters. If we do, you are required to respond promptly with the information sought. This is so we can test whether there may be any:
        + Actual, potential or perceived conflicts of interest.
        + Supplier capacity problems.
        + Restrictions or distortions in competition.
        + Risks of collusion
        + Entities within the supply chain who are liable to exclusion which may impact on acceptability of the Bidder
     2. We may require you to amend or withdraw all or part of your bid or involvement in a bid if, in our reasonable opinion, any of the above issues have arisen or may arise.
  7. Confidentiality and Freedom of Information
     1. You must keep the contents of this Bid Pack confidential (including the fact that you have received it). See further paragraph 7. This obligation does not apply to anything you have to do to:
        + Submit a bid.
        + Comply with a legal obligation.
  8. Publicity
     1. You must not publicise the deliverables or the award of any contract unless the Contracting Authority have given written consent. For example, you are not allowed to make statements to the media about any bid or its contents.
  9. Our rights
     1. We reserve the right to:
        + Waive or change the requirements of this Bid Pack from time to time without notice.
        + Verify information, seek clarification or require evidence or further information about your bid.
        + Withdraw this Bid Pack at any time, or re-invite bids on the same or alternative basis.
        + Choose not to award any contract as a result of the competition.
        + Make any changes to the timetable, structure or content of the competition.
     2. We reserve the right to exclude you if:
        + You submit a non-compliant bid or a qualified bid.
        + Your bid contains false or misleading information.
        + You fail to tell us of any change in the contracting arrangements between bid submission and award.
        + any change in the contracting arrangements would result in a breach of procurement law.
        + For any other reason provided in this Bid Pack.
        + For any reason set out in the Public Contracts Regulations 2015.
  10. Consequences of misrepresentation
      1. If a serious misrepresentation by you induces the Contracting Authority to enter into a contract with you, you may be:
         + Excluded from bidding for contracts for three years, under regulation 57(8)(h)(i) of the PCR 2015.
         + Sued by the Contracting Authority for damages, the Contracting Authority may rescind the contract under the Misrepresentation Act 1967.
      2. If fraud, or fraudulent intent, can be proved, you may be prosecuted and convicted of the offence of fraud by false representation under s.2 of the Fraud Act 2006, which can carry a sentence of up to 10 years or a fine (or both).
      3. If there is a conviction, then your organisation must be excluded from procurement for five years under reg. 57(1) of the PCR 2015 (subject to self-cleaning).
  11. Bid costs
      1. We will not pay your bid costs for any reason, for example if we terminate or amend the Procurement.
  12. Warnings and disclaimers
      1. You must carry out your own due diligence and rely on your own enquiries.
      2. Neither the Contracting Authority or any person acting on its behalf, will be liable for:
         + Anything within the Bid Pack that is not accurate, adequate or complete or which results in the Bid Pack being inaccurate, inadequate or incomplete.
         + any written or verbal communications.
      3. This Bid Pack is not a commitment by us or the Contracting Authority to enter into a contract and no warranty is provided that the information in this Bid pack is accurate, adequate or complete.
  13. Intellectual Property Rights
      1. The Bid Pack remains our property. You must use the Bid Pack only for this competition.
      2. You allow us to copy, amend and reproduce your bid so we can:
         + Run the competition.
         + Comply with law and guidance.
         + Carry out our business.
      3. Our advisors, subcontractors and other government bodies can use your bid for the same purposes.

## **5. When and How to Ask Questions**

5.1 We hope everything is clear after you’ve read this bid pack.

5.2 If you have any questions you need to ask them as soon as possible after the contract notice for the Procurement is published. This is because we have a set deadline for submitting questions – the clarifications questions deadline (refer to [timelines for competition](#_ihv636) above). This gives you the chance to check that you understand everything before you make your submissions.

5.3 See further section 10 below which sets out the rules on seeking clarification/further information (and also Section 18).

## **6. General Submission Instructions**

**Compliance**

6.2 All responses must be completed in English using the appropriate response boxes provided and they must be submitted as described in the Bid Pack.

If you are intending to use acronyms (other than those already used by the Contracting Authority in the Procurement Documents) you must, in the first instance in your response to each question, define the acronym in that response.

6.3

Bidders are required to limit the number of characters/words/A4 pages (including spaces) per answer as detailed in Attachment 2 - ‘How to Bid’, unless instructed otherwise, in writing or approved to do so via tender clarification by the Contracting Authority, for a given question. Any narrative in excess of the stated limits or which otherwise contravenes the instructions from the Contracting Authority will be disregarded and will not be considered as part of your response.

6.4 Any supporting information submitted by the Bidder, where explicitly requested within the question, should be attached and presented in the same sequence order as and referenced to the relevant question. Any words within figures must be legible when printed.

6.5

The contents of any supporting information will count towards the specified limitation on characters/words/pages unless the Contracting Authority expressly states otherwise. In calculating the response against any specified limit, the Bidders response shall be considered in the order set out below, unless instructed otherwise by the Contracting Authority:

* Provided text field response; followed by
* Attachments
* The character/word count shall be carried out using MS Word 2010 to verify the number of words used.

6.6

Supporting documents may be provided by the Bidder only if requested by the question to support their answer for specific questions and shall be clearly numbered by reference to the relevant question that it is supporting. Please ensure the attachments are named clearly (Supplier and question number) both as the document title and within the document text. It is the supplier’s responsibility to ensure the attachments are correct for each question. The Contracting Authority is not responsible for checking the attachments submitted are correctly assigned to the relevant question.

6.7

Where multiple attachments are submitted in response to a specific question, the Bidder must reference the order in which the attachments should be considered by numbering them sequentially. In the absence of any numbering applied by the Bidder, the supporting information attached shall be reviewed, and character count/word/page limit applied, based on the order in which the attachments were uploaded by the Bidder.

6.8

For the avoidance of doubt, the use of pictures or charts or diagrams outside of the character count/word/page limit will not be accepted as supporting information, and will be disregarded, unless explicitly requested by the Contracting Authority.

6.9

Bidders may respond to this Procurement as a single supplier or group of suppliers (whether a consortium, including joint venture, or a prime contractor relying on sub-contractors to meet the Procurement requirements) – each type of bid team is referred to as a Bidder and any Bidder may also rely on the capacity of other third parties (e.g. parent companies) to meet the Procurement requirements provided that the Contracting Authority is satisfied as to the relevant arrangements that will be in place in the case of that Bidder being awarded a contract.

6.10 Bidders must read all instructions carefully as where a bid team comprises multiple parties, certain questions within the SQ require an individual response (which may be multiple individual responses where more than one party is involved in the bid team) whereas other questions require single composite responses from the team as a whole. All Bidders are required to immediately inform the Contracting Authority of any changes to information it provided in the SQ, including to parties within the bid team or which are (or will be) otherwise relied upon, at any time during this Procurement.

6.11

Bidders should answer all questions as accurately and concisely as possible.

6.12

Bidders are required to submit all communication, including clarifications and responses and all submissions as part of this Procurement, via email to [GDS-Digital-Buyer@digital.cabinet-office.gov.uk](mailto:GDS-Digital-Buyer@digital.cabinet-office.gov.uk) and, if using attachments, in a format capable of being reviewed in Google docs.

6.13

No Bidder shall contact the Contracting Authority (including any of its advisors) in connection with this Procurement other than as permitted by the instructions in this Attachment 1 and then only via the email address given in paragraph 6.12 unless instructed otherwise in writing by the Contracting Authority.

6.14

The Bidders shall be solely responsible for ensuring their responses are correctly submitted. It will not be possible to submit a response after the deadlines stated in the Procurement Timetable (unless all Bidders have been notified of a change in deadline in writing by the Contracting Authority).

6.15

All financial data is to be provided in pounds sterling (exclusive of Value Added Tax) unless otherwise requested.

## **7. Confidentiality**

7.1

The Procurement Documents, any addenda thereto, any clarifications issued by the Contracting Authority and any contact details provided by the Contracting Authority are confidential, contain proprietary information and intellectual property belonging to the Contracting Authority, and may not be wholly or partially reproduced or disclosed to third parties (including incorporation within any mailing lists) without the prior permission of the Contracting Authority, other than for the purposes of preparing a response to this Procurement, in which case such third party shall be made subject to the same confidentiality obligation. All Procurement Documents including without limitation the Bid Pack shall remain the property of the Contracting Authority.

7.2

By electing to submit a response to this Procurement, the Bidder (including all entities which are being relied upon to meet the requirements of the Selection Questionnaire (SQ) and/or the other Procurement requirements and, where the Bidder is a group of suppliers, all entities that make up that group, as applicable) undertakes to keep and maintain the information contained in the Procurement Documents (including any addenda thereto, any clarifications or contact details issued by the Contracting Authority) confidential. This obligation shall survive the completion of the Procurement and shall apply whether the Bidder is successful or not. Any Bidder which does not intend to submit a response at any stage of the Procurement shall be subject to the same confidentiality obligations hereunder. The Contracting Authority reserves the right to require Bidders to enter into a confidentiality agreement to provide further assurance to reflect such undertaking.

7.3

Any public announcement concerning the Procurement or award of the Contract shall only be made by the Contracting Authority. No Bidder will undertake any publicity activities with any part of the media in relation to this procurement or any Contract awarded related to this Procurement without the prior written agreement of the Contracting Authority, including agreement on the format and content of any publicity.

7.4

In the event of any breach of confidentiality, the Contracting Authority reserves its rights at law to seek to recover its losses arising from such breach and to exclude the relevant Bidder responsible for the breach (with each Bidder being deemed to be responsible for any breach of confidentiality by any entity being relied upon or which forms part of its bid team, as described above) from continuation in the Procurement.

7.5 The Contracting Authority may also use such breach in determining whether to exclude the Bidder from its subsequent procurements and shall be entitled to share details in connection with the exercise by any other contracting authority’s duty or discretion to exclude entities in relation to their procurements. For the avoidance of doubt, the Contracting Authority shall have the same right in connection with all matters arising from this Procurement that may be relevant for such purposes.

## **8. Conflicts of interest**

8.1 A conflict of interest includes any circumstances or situation where a party has, directly or indirectly, an interest which (1) may distort the competition or create risk of unequal or unfair treatment within this Procurement (2) amounts to a financial, professional, economic and/or other personal interest which might be perceived as compromising the impartiality and independence of that party or the Authority in the context of the Procurement (including any effect on integrity of any award of a contract and.or (3) creates a risk of a conflict with the duty to perform the Services in the best interests of the Authority.

8.2 The Contracting Authority requires that all conflicts of interest (whether actual, potential or perceived) between the interests of the Contracting Authority and any party participating in this procurement or subsequently engaged by the Contracting Authority whether directly (e.g. supplier or contractor) or indirectly (e.g. sub-contractor or another supplier within the same group structure) are avoided.

8.3

It is the responsibility of the Bidder to ensure that any person or company engaged directly or indirectly in connection with the preparation of any response to this Procurement does not have, and could not reasonably be seen to have, any conflict of interest.

8.4

Steps should be taken by the Bidder to identify all such persons, companies or other entities assisting the Bidder and/or engaged or proposed to be engaged in its proposals and/or submissions in connection with this Procurement who:

* + - 1. have knowledge of the subject matter of this Procurement (including the content of any of the procurement documentation) and/or responses required, which has or will have been acquired through previous or concurrent roles or otherwise and/or
      2. possess or are able to access information relevant to the Procurement and/or any responses required,

where such knowledge, possession or access may be regarded as providing a potential unfair advantage over other Bidders or may otherwise distort competition. Any such persons or entities shall be regarded to have a potential conflict of interest for the purpose of the provisions of this Procurement unless otherwise determined by the Contracting Authority.

8.5

Bidders are required to notify the Contracting Authority immediately of any actual, potential or perceived conflicts of interest (including without limitation all such cases mentioned in this Section 8) that arise at any stage during the Procurement and on an ongoing basis. If an actual, potential or perceived conflict is identified, the Bidder will be required to demonstrate to the Contracting Authority’s satisfaction that the risk (or potential or perceived risk) of a conflict of interest can be avoided and/or managed so as to avoid any risk of prejudicing the fairness of this Procurement, the interests of the Contracting Authority and/or the performance of the proposed Contract. This will include the Bidder providing details of appropriate measures implemented or to be put in place by the Bidder (e.g. information barriers and ring-fencing of teams) alongside suitable contractual commitments (e.g. ethical walls agreements and non-disclosure agreements) for the Contracting Authority to consider.

8.6

The Bidder (and (i) all entities relied upon to meet the requirements of the pre-qualification stage and forming part of the Bidder’s group; and (ii) where the Bidder is a consortium, all members of the consortium, as applicable) are required to certify that there are no actual, potential or perceived conflicts of interest and undertake to notify the Contracting Authority immediately on becoming aware of such.

8.7

The Contracting Authority may require any Bidder to provide evidence to confirm compliance and a Bidder shall comply with such requirement promptly.

8.8

The Contracting Authority reserves the right at its sole discretion to disqualify or reject Bidders (or require the exclusion of the relevant organisation as appropriate in the circumstances) where:

* + - 1. there is an actual, potential or perceived conflict of interest involving the Bidder (and/or any person or company engaged directly or indirectly in connection with the preparation of the relevant response); and/or
      2. there is a failure to meet the obligations set out in this Section 8 including, for the avoidance of doubt, a failure to notify the Contracting Authority of any actual, potential or perceived conflicts of interest and/or a failure to provide evidence of compliance with this Section 8 where requested by the Contracting Authority.

## **9. Rights and disclaimers**

9.1

Whilst reasonable endeavours have been made to provide accurate information, the Contracting Authority does not give any warranty as to the accuracy or completeness of the information provided as part of the Procurement including without limitation any information in the Bid Pack.

9.2

The Contracting Authority has the right to change any aspect of or terminate the Procurement at any time and reserves the right to abandon all or part of the Procurement or consider alternative procurement options. Under no circumstances shall the Contracting Authority incur any liability in respect of any of the Procurement Documents (including without limitation the Bid Pack) or arising from participating in this Procurement regardless of whether any Contract is awarded or otherwise nor any liability arising from amendments to, suspension or any cancellation of this Procurement.

9.3

The responses to the SQ will be used in the selection of Bidders for being invited to submit Tenders. However, the formal invitation to a Bidder to participate in stage 2 of the Procurement (requiring the submission of Tenders) does not imply any acceptance by the Contracting Authority of that Bidder's financial stability, technical competence or ability in any way to carry out the requirements. The Contracting Authority reserves the right to return to these matters at any stage of the Procurement and to require further information in order to verify/validate information already provided and/or to provide assurance that all relevant requirements were at the relevant time met and continue to be met.

9.4

When responding to the Procurement, the Bidder (including all entities which are being relied upon to meet the requirements of the Procurementand, where the Bidder is a group of suppliers, all entities that make up that group, as applicable), grants the Contracting Authority and the Contracting Authority's advisers a licence to copy, distribute and make available the information in its responses for the purposes of evaluating their suitability to participate in the subsequent Procurement stage(s) and/or be awarded the Contract. The Contracting Authority and the Contracting Authority's advisors do not intend to use the information supplied for any other purpose (but reserves its rights expressly set out in the Bid Pack).

9.5

Bidders are advised that nothing within the Procurement Documents, nor any communication made between the Contracting Authority or the Contracting Authority's representatives and any Bidder shall be taken as constituting an offer to contract, or a contract or agreement unless the communication expressly states it shall be.

9.6

The notices, reservations and conditions set out in Bid Pack shall apply equally to any third party consulted by the Bidder, and it is the Bidder’s responsibility to ensure that such third party abides by the terms of the Procurement Documents.

9.7

Where any of the Procurement Documents are provided in electronic form, the Contracting Authority does not warrant that the files are suitable for use on the Bidder’s computer system.

9.8

The Contracting Authority reserves the right to revise these Instructions to Bidders and/or any associated Procurement Documents and, should the Contracting Authority choose to do so, all Bidders will be notified at any time during the Procurement via FATS or email, dependant on the stage of tender, of any such revision, by way of addendum and/or revised documentation. The Contracting Authority may also issue written amendments/clarifications to the Procurement Documents by means of consecutively numbered amendments, through FATS or via email.

9.9

The Contracting Authority reserves the right to accept any Tender in whole or in part, reject any or all Tenders, and to negotiate with any or none of the Bidders. The Contracting Authority does not bind itself to accept the lowest or any tender.

9.10

Bidders are reminded that the Contracting Authority must be notified immediately of any changes, or proposed changes, in relation to information provided by a Bidder in their responses (including in relation to the bidding entity e.g. consortia members or any entity permitted to be relied upon to meet Procurement requirements) so that a further assessment (including, where relevant, an assessment against the selection criteria) can be carried out. The Contracting Authority reserves the right at any time to (1) eliminate a Bidder or (2) require replacement of any entity on whom the Bidder is relying, prior to any award of contract, either based on an assessment of the updated information where that assessment is carried out in accordance with the criteria originally set out in the Procurement or where a Bidder fails to disclose any such change.

9.11

The Contract will also contain a right for the Contracting Authority to terminate where the contractor has, at the time of contract award, been in one of the situations covered by Mandatory or Discretionary Exclusion Questions set out in the SQ.

## **10. Communication**

10.1 Bidders are encouraged to seek clarifications/raise queries if they have any doubt about their understanding of any of the requirements forming part of this Procurement. It will be for Bidders to ensure they fully understand the requirements and make their submissions on that basis. The Authority will have no responsibility or duty to check with bidders whether they have understood all or any requirements or give them any opportunity to rectify or clarify their submissions even if it appears there may have been any misunderstanding of the requirements.

10.2 In relation to any queries/clarifications sought please try to ensure your question is specific and clear and do not include your identity in the question.

10.3 All responses and/or communications received from a Bidder will be treated in confidence in accordance with the procurement documentation. In accordance with its transparency obligations, the Contracting Authority intends to disclose, in a suitably anonymised form to all relevant Bidders (ie those still participating at the relevant stage of the procurement in which the queries arise), all queries received from Bidders and the Contracting Authority’s responses. Queries received and the Contracting Authority’s responses provided during the pre-qualification stage will also be shared with those engaged by the Contracting Authority in managing this Procurement, in assessment of the Bidder’s submissions, negotiations and/or conclusion of the Contract..

10.4 All requests for clarification or further information in respect of the Procurement should be submitted via email to [GDS-Digital-Buyer@digital.cabinet-office.gov.uk](mailto:GDS-Digital-Buyer@digital.cabinet-office.gov.uk) by the relevant date outlined in the Procurement Timetable. No approach of any other kind in connection with the Procurement may be made to any person within, or associated with the Contracting Authority.

10.5

Where a Bidder considers that its query is commercially sensitive then this must be clearly highlighted in the submission of the query. If the Contracting Authority considers, in its absolute discretion, that it is able to treat a query as confidential then it will do so. However, if the Contracting Authority considers, in its absolute discretion, that it is unable to treat the query on a confidential basis (whether in whole or part), then it will notify the Bidder and provide the Bidder with an opportunity to withdraw its query. If the Bidder withdraws its query, the Contracting Authority may nevertheless provide a notice of clarification to all Bidders where it considers it appropriate to do so as a result of becoming aware of any potential for uncertainty or misunderstanding that was brought to the Contracting Authority’s attention by the query that was raised (even though withdrawn). If the Bidder does not withdraw its query the Contracting Authority will respond and disclose that response to all Bidders on the basis the query is not treated as confidential.

10.6

Any queries received by the Contracting Authority after the clarification deadlines defined in the Procurement Timetable may not be answered and may be disregarded.

10.7

The Contracting Authority may also issue written amendments/clarifications to the procurement documents by means of consecutively numbered amendments.

10.8

The Contracting Authority may be required to disclose information connected to the Procurement (which may include information submitted by the Bidders) pursuant to the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR) and/or the Regulations:

* + - 1. where a Bidder considers that any of the information provided in its response is commercially sensitive then this should be clearly marked as **“Commercially Sensitive – Not for Disclosure”** together with a valid justification in support of the information being exempt from disclosure pursuant to the FOIA or EIR or should be withheld from disclosure pursuant to the Regulations. Information designated by a Bidder pursuant to this paragraph should be limited to information which may be genuinely exempt under FOIA and/or the EIR and/or should be withheld under the Regulations (as the case may be). The Contracting Authority will not accept blanket designations of documents as commercially sensitive;
      2. If a request is made under FOIA or the EIR or the Regulations, the Contracting Authority will endeavour to consult with the Bidder and have regard to the Bidder’s comments and any objections before it releases information. However, the Contracting Authority will determine in its absolute discretion whether any information (in whole or part) is exempt from the FOIA or EIR or should be withheld under the Regulations. Accordingly, the Contracting Authority cannot guarantee that it will withhold information marked **“Commercially Sensitive – Not for Disclosure”**; and
      3. The Contracting Authority will not be held liable for any loss or prejudice caused by any disclosure of information where (i) the information has not been designated by the Bidder as commercially sensitive in accordance with paragraph 6.5.6 (a); (ii) the Contracting Authority has a bona fide belief that the information is not exempt from disclosure under the FOIA or EIR or that it is in the public interest to disclose the information; or (iii) the information does not (or the Contracting Authority has a bona fide belief that it does not) fall under one of the grounds within the Regulations for withholding information.

10.8

The Bidder must only rely on communications conducted in accordance with the Bid Pack. Unless instructed otherwise by the Contracting Authority’s Procurement Team in writing, including any email from the email address gds-digital-buyer@digital.cabinet-office.gov.uk the Bidder must not rely on any other communication with the Contracting Authority (or its advisors) whether written or verbal.

## **11. Non-Collusion and Non-Canvassing**

11.1

In submitting a response to the Procurement, the Bidder (including, all entities which are being relied upon to meet the requirements of the Procurement, each sub-contractor that is identified and intended to have a Significant Role, defined as being an entity expected to deliver key contract requirements and, where the Bidder is group of suppliers, all entities that make up that group, as applicable) confirms that it has done so in accordance with the Bid Pack and subject to the following conditions:

* + - 1. the response shall be a bona fide response and shall not be fixed or adjusted by or in accordance with any agreement or arrangement with any other person;
      2. the Bidder shall not communicate to any person the amount, or approximate amount, of the Tender, or proposed Tender, except where the disclosure in confidence of the approximate amount of the Tender is necessary to obtain insurance premium or bond quotations required for the purpose of the Tender;
      3. the Bidder shall not enter into any agreement or arrangement with any other person so that the other person shall refrain from responding to this Procurement or as to the amount of any other Tender to be submitted; and
      4. the Bidder shall not offer to pay or agree to pay or give any sum of money or consideration directly or indirectly to any person for doing or having done or causing in relation to the Procurement any act or thing of a nature described in the preceding conditions.

11.2

In the event of any non-compliance with the above, the Contracting Authority will be entitled at its discretion to disqualify the Bidder from any further participation in this Procurement or (as the case may be) terminate any contract or agreement entered into by the Contracting Authority pursuant to this Procurement and to claim damages from the Bidder.

11.3

Any Bidder (including any person employed or engaged by the Bidder, whether or not acting with the Bidder’s knowledge) who, in connection with this Procurement:

* offers any inducement, fee or reward to any member, director or employee of the Contracting Authority or to any person acting as an agent, consultant or advisor to the Contracting Authority; or
* does anything which would constitute a breach of the Bribery Act 2010,

will be disqualified from this Procurement (without prejudice to any other civil remedies available to the Contracting Authority and without prejudice to any criminal liability which such conduct by a Bidder may attract).

11.4

The Contracting Authority will treat all Bidders equally during this Procurement and will not provide information in a discriminatory manner which may give some Bidders in the Procurement an advantage over others. Therefore, any Bidder (including any person employed or engaged by the Bidder, whether or not acting with the Bidder’s knowledge) who, in connection with this Procurement contacts any member, director or employee of the Contracting Authority or any person acting as agent, advisor or consultant to the Contracting Authority, prior to a contract being awarded, about any aspect of the Procurement (including without limitation a contact for the purposes of discussing the possible transfer to the employment of the Bidder of such employee) where such contact is not permitted by the Bid Pack may be disqualified from this Procurement. This is without prejudice to any other civil remedies available to the Contracting Authority and without prejudice to any criminal liability which such conduct by a Bidder may attract.

## **12. Assessment, Scoring and Negotiation**

**Submissions: Compliance and Assessment**

12.1

In the first instance, in respect of the relevant submissions, the submissions will be checked for compliance. If a submission is considered non-compliant then the Contracting Authority may exclude that submission and the Bidder from continuing in this procurement.

12.2

If a submission is considered to be compliant then each of the evaluators will assess whether the response submitted contains the information to show a Pass or a Fail, or where the question is scored, assess the response and allocate a score to be awarded in accordance with the relevant scoring methodology for that question as indicated in the Evaluation Criteria (see Attachment 2 - How To Bid) and provide a rationale for each response independently. Following completion of the independent evaluation by each evaluator, a process of moderation will take place.

12.3

The moderation process, facilitated by a moderator and attended by every evaluator for the relevant question, will result in a consensus opinion on whether the relevant response has passed or failed the relevant Procurement requirement or the score that the response is assessed as achieving (as relevant to the question) and rationale being agreed between all evaluators for each opinion or score. Where a response is deemed to have failed a relevant Procurement requirement then the Contracting Authority shall be entitled to discontinue evaluation of that response and exclude the Bidder.

12.4

Each agreed assessment and/or score (including the rationale for the scored questions) will be used in the assessment or scoring of that Bidder’s submission. Scores, where applicable, will be weighted according to the weighting of the question (if applicable) provided in the Evaluation Criteria and the weighted scores will be rounded to two decimal places.

**Tender Evaluation: General**

12.5

In evaluating the Bidders’ Tenders, the Contracting Authority will seek the most economically advantageous tender or tenders, having regard to the award criteria and weightings set out in the Evaluation Criteria. The Tenders are required to include the response to the Technical and Social Value Evaluation Criteria (Attachment 6) and the response to the Price Schedule (Attachment 5).

12.6 All Tenders, submitted in response to an invitation under this procurement, which are complete, compliant and submitted on time shall be evaluated (unless it becomes apparent that the Bidder does not satisfy the relevant selection criteria or grounds for exclusion are found to exist whether through a process of validation or otherwise) in accordance with the Evaluation Criteria.

12.7

Bidders may be required to attend clarification and negotiation meetings as necessary to enable the Contracting Authority to identify the most economically advantageous offers.

12.8

Should a genuine error be discovered in the Bidder’s Tender during the evaluation period, the Contracting Authority may, but will not be obliged to, give the Bidder the opportunity of confirming its offer or amending it to correct the error but it is the responsibility of each Bidder to avoid errors. The Contracting Authority shall not have any responsibility for identifying errors in the Tenders nor should any Bidder make any assumption that it shall have any opportunity to confirm or amend its offer nor will it have any entitlement to require such opportunity.

**Technical and Social Value Evaluation**

12.9

Each Tender response to a question set out in the Technical and Social Value Evaluation Criteria will be evaluated by a team of evaluators. The same team will evaluate each Bidder’s response to a specific question but there may be a variety of evaluation teams with the specific team being chosen by the Contracting Authority based on their knowledge and expertise in the area being tested by the specific question.

12.10 The evaluation teams will only have regard to the information supplied by a Bidder in relation to the specific question which they are evaluating (unless otherwise expressly stated to the contrary in the Evaluation Criteria in Attachment 2). Each evaluator within the relevant team will initially review the response from a Bidder and evaluate and provide an initial score for the response independently. The evaluator may raise clarification questions to be raised with the Bidder which will be communicated by the Contracting Authority to the relevant Bidder, who must respond within the time indicated by the Contracting Authority (or risk being excluded).

12.11

Once each Bidder’s response to the question has been initially evaluated by each member of the evaluation team chosen for that question, the evaluators will attend a moderation meeting arranged by the Contracting Authority which will be managed by a person appointed by the Contracting Authority for the purpose of performing the role of moderator.

12.12

The purpose of the moderation will be to reach a consensus view on the scoring of each Tender in respect of the Technical and Social Value Evaluation questions. This means that when the evaluators have different views on the score a response to a question should achieve, these will be discussed in the moderation meeting with the intention of achieving a consensus.

12.13

The moderated score for each response to a question in the Technical and Social Value Evaluation Criteria achieved by a Bidder will have the relevant weighting (determined in accordance with Attachment 2) applied to it. These weighted scores will then be aggregated to arrive at a Total Technical and Social Value score which will itself be weighted in accordance with Attachment 2 to arrive at a Total Weighted Technical and Social Value score.

12.14 - 12.16 Not Used

**Commercial Evaluation (Price Schedule) Process**

* 1. The commercial submission from a Bidder will be evaluated in accordance with the Evaluation Criteria set out in Attachment 2 by a separate team and a score calculated in accordance with the formula set out in Attachment 2. The weighting identified for the commercial submission in Attachment 2 will be applied to calculate a Total Weighted Commercial score.
  2. All Tender prices and rates shall be submitted to the level of detail required by the pricing document (Attachment 5), in pounds sterling, exclusive of Value Added Tax.
  3. Commercial scores shall be calculated using pricing submitted as part of a compliant bid only.
  4. We will check you have completed the Attachment 5 – Price Schedule ***(comprising attachments 5a - 5d)*** as instructed. Failure to complete the Attachment 5 - Price Schedule as instructed may result in your bid being deemed non-compliant and it may be rejected from this competition.
  5. The commercial evaluation will be undertaken separately to the technical and social value evaluation process explained above.
  6. The total price assessment derived from the model scenarios will be applied to the formula under 12.17.1.9.
  7. The Bidder with the lowest price will be awarded the maximum score available for the commercial submission (Price Schedule).
  8. All other Bidders will get a score relative to the lowest total price, calculated using the formula below.
  9. The calculation we will use to evaluate your total price per element, is as follows:

| Commercial Score | = | Lowest bid total price  Divided by:  Bidder’s total price | x | weighting applicable |
| --- | --- | --- | --- | --- |

* 1. Once all question scores have been calculated, they will be added together and multiplied by the weighting applicable for the Price Schedule to identify the “Total Commercial Weighted Score”.

12.18 The Formula set out in Attachment 2 for arriving at the Total Weighted Aggregate Score for each Tender will be applied using the Total Weighted Commercial Score and the Total Weighted Technical and Social Value score. The Total Weighted Aggregated score for each Tender calculated using that Formula will be rounded to two decimal places. By way of example only:

* + - * a score of 6.342 will be rounded to 6.34;
      * a score of 6.348 will be rounded to 6.35; and
      * a score of 6.355 will be rounded to 6.36.

12.19

The Total Weighted Aggregate score of each Tender will be used to rank the Tenders in numerical order.

12.20

In the event of two or more Bidders achieving identical total scores for their tender to two decimal places, the following tests shall be applied (in descending order):

* 1. The Bidder with the higher Commercial score shall be deemed to be the higher scoring Bidder. ;
  2. Where there is still a tie after application of paragraph “a” above, the Bidder with the higher Social Value score shall be deemed the higher scoring Bidder ;

12.21 If, in respect of the Initial Tenders, two or more Tenders remain tied despite the application of the provisions set out above then those Tenders shall, if a decision is made to proceed with Stage 3, be taken forward as equally ranked. This may result in more than three Bidders being invited to participate in Stage 3 if it is not possible to identify the top 3 ranked bidders due to the equal ranking of those tied Tenders.

12.22

A decision will be made on completion of the evaluation and moderation of the Initial Tenders whether it is appropriate to proceed to award a contract or to commence negotiations under Stage 3.

12.23 It is assumed that negotiations will be required and, if that decision is made, the top 3 scoring Bidders (but see section 12.21) would be invited by the Contracting Authority to participate in negotiations by a written instruction issued through [[gds-digital-buyer@digital.cabinet-office.gov.uk](mailto:gds-digital-buyer@digital.cabinet-office.gov.uk)]. The Contracting Authority will:

* Provide written feedback to the Bidders who will not be invited to proceed to Stage 3 and will therefore play no further part in the procurement;
* Provide written feedback to each of the Bidders invited to proceed to Stage 3 in respect of their relevant Tender to assist in preparation for the negotiations.

12.24 Where the pricing of a Tender appears to be abnormally low, the Contracting Authority shall require the relevant Bidder to explain the price or costs proposed in the Tender pursuant to and in accordance with the Regulations. Where the evidence supplied by the Bidder does not satisfactorily account for the low level of price or costs proposed, the Contracting Authority reserves the right to reject the Tender.

12.25

No zero value rates or prices will be accepted in the pricing entries in the Commercial Envelope. Any zero value bids submitted by a Bidder will be by default changed to a nominal £1 value but may still be regarded by the Contracting Authority as indicating that the Tender is abnormally low.

**Stage 3 and Stage 4: Negotiation and Best and Final Offers (“BAFO Tenders”)**

12.26

The Contracting Authority is conducting this procurement pursuant to the competitive procedure with negotiation as provided for by the Regulations.

12.27 The Contracting Authority reserves the right to proceed to award a contract without negotiation in the event that one or more Tenders meets all the requirements (including that the proposals provide an overall good fit with the Objectives - see Section 2) and the Contracting Authority considers that further negotiation is not necessary to achieve a better value outcome than could be achieved by accepting the highest scoring compliant Tender.

12.28 The Contracting Authority has assumed that negotiations will take place after submission of the initial Tenders and this is shown as Stage 3 in the Procurement Timetable. The objective of these negotiations is to allow Bidders to develop and/or improve the content of their Tender and develop their best solution for delivering the services which will form the subject matter of the Contract.

12.29 The Contracting Authority intends to keep any negotiations narrowly focused on specific areas. The negotiation stage is currently intended to comprise no more than 2 separate meetings (each being up to 3 hours duration) with each of the 3 Bidders selected to participate in the negotiations. The Contracting Authority reserves the right to change the number and duration of the proposed negotiations following receipt of the Stage 2 Tenders.

12.30 It is currently anticipated that the negotiation meetings will be focussed on the following issues:

* Performance measures, targets and assurances (including proposals for service credits);
* Bidder’s specific proposals to meet the requirements with a view to ensuring the requirements and proposals are fully understood and developed to maximise value for money
* Scope for amendments (other than Minimum Requirements) which might provide improvements in value for money for the Contracting Authority.

12.31 However, the Contracting Authority reserves the right to amend and/or further develop the arrangements (including the timing and duration of the negotiations) and topics for the negotiations (including the right to shorten, lengthen and close the negotiations in Stage 3 at its sole discretion. The Contracting Authority will issue any updates which have occurred prior to Stage 3 at the time of invitations being issued to participate in the negotiations.

12.32 Each Bidder will be required to make necessary arrangements to attend the meetings with the members of their team that will be responsible for managing and delivering the Services. Bidders should therefore take account of the anticipated period during which the Negotiations will take place.

12.33 The Contracting Authority will seek to allocate times for meetings in as fair a way as possible amongst the shortlisted Bidders but cannot provide any assurance that it can make arrangements that will suit any or each of the Bidders as it will have to manage its own resources also. Bidders should therefore note any updates to the Procurement Timetable and likely impacts on the availability of their team members.

12.34 Once the negotiation stage is completed the Contracting Authority will notify the Bidders that were selected to proceed to Stage 3 and will invite them to submit their BAFO Tenders (to reflect the exchanges during the negotiations) and will provide instructions for doing so (including any updates of details as to timing and means for submission, any changes to the procurement documents and any refinement of the award criteria).

12.30 As part of any negotiations, the Contracting Authority may require the Bidders to submit an interim updated Tender for the Contracting Authority to understand the current position in relation to the proposed solution. Separate instructions in relation to such interim submission will be issued at the time of the request and the Bidders will be required to comply with such instructions with regards to the resubmission of all or parts of their Tender.

12.31 Nothing said or intimated by or on behalf of the Contracting Authority at any negotiation meeting with Bidders will be deemed to constitute approval of any proposal, or an acceptance of its adequacy in meeting the Contracting Authority’s requirements or represent an indication of how the proposal will score. The Contracting Authority will endeavour to indicate through this feedback approach if it believes that the proposals are unlikely to meet the Contracting Authority’s requirements but any failure to do so will not constitute or be deemed to constitute approval of any proposal or an acceptance of its adequacy in meeting the Contracting Authority’s requirements.

12.32 Formal evaluation will only take place following the best and final Tender submissions (Stage 4) when the Contracting Authority is in a position to fully understand and assess the technical and commercial submission as a whole.

12.33 A Bidder cannot submit a BAFO Tender with increased prices unless expressly authorised to do so in the instructions issued to BAFO Bidders.

12.34 For BAFO Tenders, Bidders will be required to submit their Tenders showing the changes made to their Initial Tenders. This is intended to facilitate evaluation with the intention that the evaluators of the BAFO Tenders will be entitled to have regard to each Bidder’s Initial Tenders and their evaluation to assist them in evaluating the BAFO Tender submitted by that Bidder.

12.35 This approach will enable the BAFO Tender evaluators (who it is intended should remain as far as possible the same panel that carried out the Initial Tender evaluation) to more easily identify the improvements made to the Tenders as a result of the negotiations and to check that the Bidders have complied with the instructions issued for submission of BAFO Tenders.

12.36 The BAFO Tenders will otherwise be evaluated using the same approach as explained in respect of the Initial Tenders subject to any other specific instructions issued when invited to submit BAFO Tenders.

**Due Diligence**

12.37 The Contracting Authority intends to:

* undertake checks to ensure that the successful Bidder (and all relevant entities required to complete any of the questions, form part of the Bidder bid team or who will be engaged in performing the services under the proposed contract) continues to meet the selection criteria set out in the Bid Pack Attachment 4. The Contracting Authority reserves the right, in its sole discretion, to exclude a Bidder prior to award where it fails to meet the selection criteria or, if as a result of changes which have occurred or as a result of failed validation checks, the Bidder would not have been selected to submit a Tender; and
* undertake checks, where a successful Bidder comprises a group of entities (including consortia, joint ventures or other group) and/or the Bidder has relied on any entity (including any subcontractors) for the purposes of meeting the SQ criteria, to ensure that there is evidence of written agreements or other inter-party arrangements between the parties that confirm commitments to deliver the relevant services or commitment under the Contract or provide other relevant assurances .

## **13. Confidentiality**

13.1

When providing details of contracts in answering any questions, the Bidder agrees to waive any contractual or other confidentiality rights and obligations associated with these contracts.

The Contracting Authority reserves the right to contact each customer named in a Bidder’s submission (whether regarding technical and professional ability or provided as evidence in support of a Tender response). The named customer does not owe the Contracting Authority any duty of care or have any legal liability, except for any deceitful or maliciously false statements of fact.

The Contracting Authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer, other than to its employees, contractors, agents and professional advisers, the Cabinet Office and/ or contracting authorities defined by the Regulations and/or as required by law.

# Invitation to Tender Specific Instructions

## **14. Submission**

14.1

This section sets out detailed instructions in relation to the Tender stages of this Procurement (Stage 2 and, if applicable, Stage 4) which must be read in conjunction with the remainder of the instructions in the Bid Pack.

14.2

At the conclusion of Stage 1 the Contracting Authority will notify the Bidders that have been successful in being selected to be invited to submit a Tender and will re-issue the Bid Pack (particularly those areas identified as draft at the commencement of the Procurement) as may have been updated by the Contracting Authority.

The Bidders successful in Stage 1 must respond, in full, to the Bid Pack as updated and as required by the Contracting Authority by the deadline specified in the [Procurement Timetable](#_ihv636) (as may have been updated).

14.3

By preparing and submitting a Tender, each Bidder will be deemed to represent that it has read, fully understands and agrees to abide by the requirements of the Bid Pack and associated procurement documentation, has familiarised itself with the Procurement and any particular conditions under which the Contract is to be performed and has allowed for all such conditions within its Tender.

14.4

Submissions should be via email only (see section 6.10).

## 

## **15. Tender Documents**

15.1

The Bid Pack comprises the following documents:

Attachment 1 - About the Procurement

Attachment 2 - How to Bid - Evaluation Criteria

Attachment 3 - Statement of Requirements

Attachment 4 - Selection Questionnaire

Attachment 5 - Price Schedule ***(comprising attachments 5a - 5d)***

Attachment 6 - Technical Evaluation Criteria

Attachment 7 - Award Form (draft)

Attachment 8 - Security Schedule

Attachment 9 - Social Value Evaluation Criteria

Attachment 10 - Contract Amendment Proposals

15.2

The Stage 1 response should comprise the following submission documents:

(a) Selection Questionnaire, including signed declaration(s)

15.3

The Stage 2 response should comprise the following submission documents, which will only be required to be produced by those Bidders invited to do so by the Contracting Authority, being the fully compliant Bidders as assessed at the conclusion of Stage 1 :

(a) Commercial Value Envelope (Price Schedule)

(b) Technical & Social Value Envelope

## **16. Compliant Tenders**

16.1

The Contracting Authority requires receipt of fully compliant Tenders without qualification and strictly in accordance with the requirements of the Procurement Documents. The Contracting Authority reserves the right to reject the Bidder’s submission if it is determined by the Contracting Authority to be non-compliant.

16.2

As with any procurement exercise, a Bidder in submitting its price for evaluation does so in acceptance of all business risks and circumstances arising from time to time.

16.3

The tender period provides Bidders with the opportunity to raise any questions of the Contracting Authority via the process set out in section 17.

Where the Bidder feels unable to comply with the requirements of the Procurement or considers clarification is required or that changes to the requirements might enable the Contracting Authority to achieve better value for money then Bidders are advised to promptly seek clarification in accordance with the requirements in Section 6.5 prior to the relevant deadline specified in the Procurement Timetable.

The Contracting Authority may hold clarification meetings with Bidders to discuss any issues raised prior to tender submission and/or may deal with such issues during negotiation meetings in Stage 3.

16.4

The Minimum Requirements for the purpose of regulation 29(14) PCR comprise the Objectives (see Section 2) and the technical requirements reflected in the Pass/Fail technical capability questions set out in the Selection Questionnaire (SQ) and are not capable of being changed even during any negotiations (see Section 12). The Contracting Authority will consider questions or issues raised by Bidders on any other matter in accordance with Section 6 above and/or section 17 (as relevant) during the periods identified for those purposes, and reserves the right (in its discretion) to maintain its documentation as drafted or to issue amendments or updates to its documentation or this procurement process to Bidders that remain within the procurement at such point. See Section 17 in connection with matters specifically related to the terms and conditions proposed in Attachment 7 (the “Contractual Terms”).

The procurement documentation (as may have been amended and reissued), including the Contractual Terms, in the form notified to Bidders and which has been adopted by the Contracting Authority immediately prior to the deadline for submission of Tenders (whether at Stage 2 or Stage 4) will constitute the basis on which Tenders must be submitted in order to be compliant.

16.5

Where qualifications are made within a Bidder’s submission (whether it relates to a new issue which was not raised by the Bidder during the tender period or arises from an issue which was raised but has not been addressed by an amendment or update issued by the Contracting Authority), the Contracting Authority reserves the right to treat the Bidder’s offer as non-compliant.

16.6

Bidders should note that issues raised after Tender submission (at any time up to signature of the Contract in response to a clarification question from the Contracting Authority or otherwise may also result in the Contracting Authority taking such information into account in its evaluation of the Bidder’s submission, revisiting the evaluation of the Bidder’s submission and the overall evaluation outcome (including implementation of any consequences of that reviewed outcome) and/or may result in a Bidder being disqualified from the procurement process.

## **17. Contractual Terms**

17.1

The Contractual Terms have been carefully developed by the Contracting Authority, adopting HMG’s Mid-tier contract and schedules as amended/supplemented by specific payment services provisions (which reflect current and other similar payment service contracts/framework terms that have been successfully utilised by HMG).

As a result the Contracting Authority is not expecting any significant issues to be identified by Bidders that might interfere with their ability to submit Tenders that offer value for money to the Contracting Authority.

However, in order to maximise value for money through this Procurement, the Contracting Authority is prepared to receive proposals for amendments to the Contractual Terms during the period identified for that purpose in the Indicative Timetable at Section 3.

Any such proposals are required to be made using the form provided for that purpose as Attachment [9] setting out the identified provisions, the issue with the current wording of that provision which the Bidder is seeking to alter, the proposed amendment to that provision and an explanation of the purpose of the proposed amendments would be and also whether it will only be possible for the Bidder to submit a Tender and/or offer value for money in any Tender if the amendment is made.

17.2

Bidders will appreciate that there is limited time available to review such proposals and will recognise that the Contracting Authority is not anticipating having to make any amendments due to the basis on which the Contractual Terms have been developed (and will be reluctant to do so unless it is persuaded that the amendments are strictly necessary). Bidders should only therefore make such proposals where they will have a significant impact on the value of their Tenders or their ability to submit a Tender at all. 17.3

Where Bidders have raised issues in relation to the Contractual Terms in accordance with this Section 17, the Contracting Authority will consider these and reserves the right (in its discretion) to maintain its documentation as drafted or to amend or update the Contractual Terms and reissue these to all Bidders prior to the tender deadline.

17.4

Each Bidder will be required to confirm as part of its Tender submission, the Bidder's acceptance of the Contractual Terms (as issued with the Procurement Documents or as may be updated by the Contracting Authority as described above) and its acceptance to enter into a contractual relationship on such terms. That will not prevent ability to negotiate some provisions during Stage 3 if the Bidder is successful at Stage 2; though again there will be limited time to discuss such amendments to Contractual Terms due to the importance of the other areas for discussion (see Section 18), the limited time for negotiations with each successful Bidder at Stage 3 (see Indicative Timetable in Section 3) and the Contracting Authority’s preference to retain the terms as they have been developed. Any such discussions on amendments to Contractual Terms at Stage 3 will also be on the basis that the Contracting Authority may choose not to accept any such amendments or may update and re-issue, to all Bidders still participating at that point, the Contractual Terms to reflect any amendments that the Contracting Authority has agreed.

17.5

If any Tender submitted has qualified or marked up the Contractual Terms (as as may have been updated by the Contracting Authority as described above), such submission may be deemed to be non-compliant resulting in disqualification of that Tender from this Procurement.

## **18. Variant Tenders**

Variant Tenders

* + No variant bids are permitted.

## **19. Acceptance of Tenders**

19.1

No tender shall be deemed to have resulted in the award of a contract until the execution of a formal written contract by the Contracting Authority.

19.2

If awarded, the Contract will be executed as an Agreement (not as a Deed).

19.3

The Bidder shall keep its tender open for acceptance by the Contracting Authority for 6 months from the tender return date.