

Definitions

1. For the purpose of this Condition:
 - a. "Sensitive Information" means the information listed in the DEFFORM 539A Schedule to the Contract, being information notified by the Contractor to the Authority, which is acknowledged by the Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication;
 - b. "Publishable Performance Information" means any of the information in the DEFFORM 539B KPI Data Report as it relates to a Key Performance Indicator where it is expressed as publishable in the table in DEFFORM 539B which shall not contain any information which is exempt from disclosure which shall be determined by the Authority; and which shall not constitute Sensitive Information;
 - c. "Transparency Information" means the content of the Contract in its entirety, including from time to time agreed changes to the Contract, except for (i) any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR), which shall be determined by the Authority, and (ii) any Sensitive Information.

Transparency Information

2. Notwithstanding any other term of the Contract, including DEFCON 531 where applicable, the Contractor understands that the Authority may publish the Publishable Performance Information and the Transparency Information to the general public.
3. Subject to clause 4, the Authority shall publish and maintain an up-to-date version of the Transparency Information and Publishable Performance Information in a format readily accessible and reusable by the general public under an open licence where applicable.
4. If, in the Authority's reasonable opinion, publication of any element of the Transparency Information and Publishable Performance Information would be contrary to the public interest, the Authority shall be entitled to exclude such information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information and Publishable Performance Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information and Publishable Performance Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.
5. The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information and Publishable Performance Information, in accordance with the principles set out

above, including through compliance with the requirements relating to the preparation of Publishable Performance Information set out in the Annex to this Condition. Where the Authority publishes Transparency Information, it shall:

- a. before publishing, redact any information that would be exempt from disclosure if it was the subject of a request for information under the FOIA and/or the EIR, for the avoidance of doubt, including Sensitive Information;
- b. taking into account the Sensitive Information set out in DEFFORM 539A, consult with the Contractor where the Authority intends to publish information which has been identified as Sensitive Information. For the avoidance of doubt the Authority, acting reasonably, shall have absolute discretion to decide what information shall be published or be exempt from disclosure in accordance with the FOIA and/or the EIR; and
- c. present information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Contract is being performed.

Annex A to DEFCON 539**Publishable Performance Information**

1. Within three (3) months of the effective date of the Contract the Contractor shall provide to the Authority for its approval (such approval shall not be unreasonably withheld or delayed) a draft Publishable Performance Information KPI Data Report consistent with the content requirements of DEFFORM 539B.
2. If the Authority rejects any draft Publishable Performance Information the Contractor shall submit a revised version of the relevant KPI Data Report for further approval by the Authority with five (5) business days of receipt of any notice or rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. This process shall be repeated until the parties have an agreed version of the Publishable Performance Information.
3. The Contractor shall provide an accurate and up-to-date version of the KPI Data Report to the Authority for each quarter at the frequency referred to in the agreed DEFFORM 539B.
4. Any dispute in connection with the preparation and/or approval of Publishable Performance Information, other than under clause 2 of this Annex, shall be resolved in accordance with the dispute resolution procedure provided for in the Contract.
5. The requirements of this Annex are in addition to any other reporting requirements in the Contract.