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18 February 2022

Dear Sir / Madam

**Invitation to Tender Reference** **702402468**

1. You are invited to tender for the Urban Training Facility - Modular Wall in competition in accordance with the attached documentation.

2. The requirement is set out in Schedule 1 - Statement of Requirements.

3. The total budget is £135,806.40 (excluding VAT).

4. You may raise questions about the tender and the requirement via the Defence Sourcing Portal. The deadline for asking questions is 10:00 on 15 March 2022. Please note that any questions raised, and the answers provided, may be shared with other interested suppliers.

5. You must submit your Tender via the Defence Sourcing Portal by 10:00 on 21 March 2022. You should allow sufficient time for submission as late tenders will not be accepted. Tender responses should answer all evaluation questions, include all completed documents and provide all requested prices.

6. The anticipated date for the contract award decision is 28 March 2022. Please note that this is an indicative date and may change.

7. Site visits are available whilst the tender is running, should you so wish, please contact me to arrange a visit.

Yours faithfully

**Lynne Nazer**

Commercial Manager

DEFFORM 47

(Edn 02/22)

**Contents**

This Invitation to Tender sets out the requirements that Tenderers must meet to submit a valid Tender. It also contains the draft Contract, further related documents and forms and sets out the Authority’s position with respect to the competition.

This invitation consists of the following documentation:

* DEFFORM 47 – Invitation To Tender. The DEFFORM 47 sets out the key requirements that Tenderers must meet to submit a valid Tender. It also sets out the conditions relating to this competition. For ease it is broken into:

o Section A – Introduction

o Section B – Key Tendering Activities

o Section C – Instructions on Preparing Tenders

o Section D – Tender Evaluation

o Section E – Instructions on Submitting Tenders

o Section F – Conditions of Tendering

o DEFFORM 47 Annex A – Tender Submission Document (Offer)

 Appendix 1 to DEFFORM 47 Annex A (Offer) – Information on Mandatory Declarations

· Contract Documents (As per the contents table in the Terms and Conditions)

o Terms & Conditions which includes the Schedule of Requirements and any additional Schedules, Annexes and/or Appendices

· DEFFORM 111 – Appendix to Contract - Addresses and Other Information

· DEFFORM 539A – Tenderer’s Sensitive Information Form (SC1B Schedule 4)

· Statement Relating to Good Standing

**Section A – Introduction**

**DEFFORM 47 Definitions**

In this ITT the following words and expressions shall have the meanings given to them below:

1. “The Authority” means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, acting as part of the Crown.
2. “Compliance Regime” is a legally enforceable set of rules, procedures, physical barriers and controls that, together, act to prevent the flow of sensitive or protected information to parties to whom it may give an unfair advantage.
3. “Conditions of Tendering” means the conditions set out in this DEFFORM 47 that govern the competition.
4. A “Consortium Arrangement” means two or more economic operators who have come together specifically for the purpose of bidding for this Contract and who establish a consortium agreement or special purpose vehicle to contract with the Authority.
5. “Contract” means a Contract entered into between the successful Tenderer or consortium members and the Authority, should the Authority award a Contract as a result of this competition.
6. “Contract Terms & Conditions” means the attached conditions including any schedules, annexes and appendices that will govern the Contract entered into between the successful Tenderer and the Authority, should the Authority award a Contract as a result of this competition.
7. “Contractor Deliverables” means the works, goods and/or the services, including packaging (and Certificate(s) of Conformity and supplied in accordance with any Quality Assurance (QA) requirements if specified) which the Contractor is required to provide under the Contract.
8. “Cyber Security Model” means the model defined in DEFCON 658.
9. “Defence Sourcing Portal” means the electronic platform in which Tenders are submitted to the Authority.
10. “Government Furnished Information” means information or data issued or made available to the Tenderer in connection with the Contract by or on behalf of the Authority.
11. “ITT Documentation” means this ITT and 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.
12. “ITT Material” means any other material (including patterns and samples), equipment or software, in any medium or form issued to you, or to which you have been granted access, by the Authority for the purposes of responding to this ITT.
13. “Schedule of Requirements” (Section 1 in Terms and Conditions, Schedule 2 in Standardised Contracting Template 1B (SC1B) or Schedule 2 in Standardised Contracting Template 2 (SC2)) 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.
14. The “Statement of Requirement” (Schedule 1) means that part of the Contract which details the technical requirements and acceptance criteria of the Contractor Deliverables.
15. A ‘Sub-Contractor’ means any party engaged or intended to be engaged by the Contractor at any level of sub-contracting to provide Contractor Deliverables for the purpose of performing this Contract.
16. A “Sub-Contracting Arrangement” means a group of economic operators who have come together specifically for the purpose of bidding for this Contract, where one of their number will be the party to the Contract with the Authority, the remaining members of that group being Sub-Contractors to the lead economic operator.
17. A “Tender” is the offer that you are making to the Authority.
18. A18. “Tenderer” means the economic operator submitting a response to this Invitation to Tender. Where “you” is used this means an action on you the Tenderer.

A19. A “Third Party” is any person (including a natural person, corporate or unincorporated body (whether or not having separate legal personality)), other than the Authority, the Tenderer or their respective employees.

**Purpose**

A20. The purpose of this ITT is to invite you to submit a Tender, in accordance with the instructions set out in this ITT, to propose a solution and best price to meet the Authority’s requirement. This documentation explains and sets out the:

1. timetable for the next stages of the procurement;
2. instructions, conditions and processes that governs this competition;
3. information you must include in your Tender and the required format;
4. arrangements for the receipt and evaluation of Tenders;
5. criteria and methodology for the evaluation of Tenders; and
6. Contract Terms & Conditions;

A21. The sections in this ITT and associated documents are structured in line with a generic tendering process and do not indicate importance and/or precedence.

A22. This requirement was advertised by the Authority in Defence Sourcing Portal dated

18 February 2022 under the following reference702402468. This notice will also be transferred to Find A Tender and Contracts Finder.

A23. This ITT is subject to the Public Contract Regulations 2015.

A24. This ITT has been advertised on the Defence Sourcing Portal (DSP) under the Open procedure.

A25. A Contract Bidders Notice has not been advertised because this requirement is under the Open procedure and Bidders are not yet known.

A26. Funding has been approved for this requirement.

**ITT Documentation and ITT Material**

A27. 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:

1. 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;
2. not copy or disclose the ITT Documentation or ITT Material 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;
3. seek written approval from the Authority if you need to provide access to any ITT Documentation or ITT Material to any Third Party;
4. abide by any reasonable conditions imposed by the Authority in giving its approval under sub-paragraph A27.c, which as 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;
5. 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;
6. inform the named Commercial Officer if you decide not to submit a Tender;
7. immediately confirm destruction of (or in the case of software, that it is beyond use) 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
8. 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’.

A28. Some or all 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 are in addition to, and do not derogate from, your obligations under paragraph A27 above.

**Tender Expenses**

A29. You will bear all costs associated with preparing and submitting your Tender. The Authority will not be liable for the costs of any Tender, work or effort incurred by you participating in this tender process, including where the tender process is terminated or amended by the Authority, where the Authority decides not to award a Contract or where you withdraw from the tender process either directly or indirectly as costs under any other Contract with the Authority.

**Consortia and Sub-Contracting Arrangements**

A30. The Authority requires all Tenderers to identify whether any and/or which Consortium Arrangements or Sub-Contracting Arrangements will apply in the case of their Tender, and in particular specify the Consortium Arrangement or Sub-Contracting Arrangement entity or both and their workshare. In the case of a Sub-Contracting Arrangement, the Authority requires all Tenderers to identify the entity that will be the party to the Contract with the Authority.

**Material Change of Control**

A31. You must inform the Authority in writing as soon as you become aware of:

1. any material changes to any of the information, representations or other matters of fact communicated to the Authority as part of your PQQ response or in connection with the submission of your PQQ response;
2. any material adverse change in your circumstances which may affect the truth, completeness or accuracy of any information provided as part of your PQQ response or in connection with the submission of your PQQ response or in your financial health or that of any Consortium Arrangement member or Sub-Contracting Arrangement member; or
3. any material changes to your financial health or that of a party to the Consortium Arrangement or Sub-Contracting Arrangement; and
4. any material changes to the makeup of the Consortium Arrangement or Sub-Contracting Arrangement, including:
5. the form of legal arrangement by which the Consortium Arrangement or Sub-Contracting Arrangement will be structured;
6. the identity of Consortium Arrangement or Sub-Contracting Arrangement;
7. the intended division or allocation of work or responsibilities within or between the Consortium Arrangement or Sub-Contracting Arrangement; and
8. any change of control of any Consortium Arrangement or Sub-Contracting Arrangement.

A32. If a change described in paragraph A31 occurs, the Authority may reassess you against the PQQ selection criteria. The Authority reserves the right to require you to submit an updated/amended PQQ response (or parts thereof) to reflect the revised circumstances so that the Authority can make a further assessment by applying the published selection criteria to the new information provided. The outcome of this further assessment may affect your suitability to proceed with the procurement.

A33. In relation to a change described in paragraph A31, as far as is reasonably practicable, you must discuss any such proposed changes with the Authority before they occur and you must additionally highlight any changes from your PQQ response relating to any change in the Consortium Arrangement or Sub-Contracting Arrangement or any change relating to conflicts of interest following a change, directly or indirectly in your ownership or control or of any Consortium Arrangement or Sub-Contracting Arrangement

A34. The Authority reserves the right, at its sole discretion to disqualify any Tenderer who makes any material change to any aspects of its responses to the PQQ if:

1. it fails to re-submit to the Authority the updated relevant section of its PQQ response providing details of such change in accordance with paragraph A33 as soon as is reasonably practicable and in any event no later than [X] business days following request from the Authority; or
2. having notified the Authority of such change, the Authority considers that the effect of the change is such that on the basis of the evaluation undertaken by the Authority for the purpose of selecting potential providers to participate in the procurement, the Tenderer would not have pre-qualified.

**Contract Terms & Conditions**

A35. The Contract Terms & Conditions include all attachments listed in the contents of the Terms & Conditions, such as the Schedule of Requirements, any additional Schedules, Annexes and/or Appendices. The full text of Defence Conditions (DEFCONs) and Defence Forms (DEFFORMS) are available electronically via the [Knowledge in Defence (KiD)](https://www.gov.uk/guidance/knowledge-in-defence-kid) website.

A36. Standardised Contract 1B (SC1B) conditions are attached.

**Other Information**

A37. **The Armed Forces Covenant**

a. 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.

b. The Covenant is based on two principles:

1. That the Armed Forces community would not face disadvantages when compared to other citizens in the provision of public and commercial services; and
2. That 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.

c. [The Armed Forces Covenant](https://www.gov.uk/defence-and-armed-forces/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.

d. 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

Authority 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

e. Paragraph A37 a to d 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.

A38.

**Contract Documents**

Any contract resulting from this tender will be formed from the MOD Terms & Conditions and associated Schedules, including the Statement of Requirements and Schedule of Requirements, incorporating prices submitted by the Winning Tenderer.

If the Winning Tenderer does not enter into the Contract following contract award, the Authority reserves the right to terminate that Contract and award the Contract to the next best placed Tenderer or to cancel or re-run the procurement.

**IR35**

IR35 off payroll working rules are not expected to apply to this requirement unless the Winning Tenderer indicates that the personnel who will be used to deliver Services will not be employed through their payroll. In those circumstances, a relevant assessment will be considered.

**Cyber Risk**

A Cyber Risk Assessment has been raised and the profile is Not Applicable. The reference is RAR-356740471

A Supplier Assurance Questionnaire does not need to be completed.

**Section B – Key Tendering Activities**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Stage** | **Date and Time** | **Responsibility** | **Submit to:** |
| Invitation to Tenderers’ Conference | Not Applicable to this procurement |  |  |
| Date for confirmation of attendance at Tenderers’ Conference | Not Applicable to this procurement |  |  |
| Final date for Clarification Questions/Requests for additional information | 15 March 2022 | Tenderers | Defence Sourcing Portal |
| The Authority issues Final Clarification Answers | 18 March 2022 | The Authority | All Tenderers |
| Tender Return | 22 March 2022 | Tenderers | Defence Sourcing Portal |
| Tender Evaluation | 22 March 2022 | The Authority | N/A |
| Negotiations | Not Applicable to this procurement |  |  |
| Reverse Auction | Not Applicable to this procurement |  |  |
| Trials/Testing | Not Applicable to this procurement |  |  |

**Notes**

**Tenderers Conference**

1. A Tenderers Conference is not being held.

**Clarification Questions**

1. The Authority will automatically copy clarification questions and answers to all Tenderers, removing the names of those who have raised the clarification questions. If you wish the Authority to treat the clarification as confidential and not issue the response to all Tenderers, you must state this when submitting the clarification question and provide justification. If in the opinion of the Authority, the clarification is not confidential, the Authority will inform the Tenderer, who will have an opportunity to withdraw the question. If the clarification question is not withdrawn, the response will be issued to all Tenderers.

**Tender Return**

1. The Authority may, in its own absolute discretion extend the deadline for receipt of tenders and in such circumstances the Authority will notify all Tenderers of any change.

**Negotiations**

B4. Negotiations do not apply to this tender process.

**Section C - Instructions on Preparing**

**Tenders Construction of Tenders**

1. Your Tender must be written in English, using Arial font size 11. Prices must be in £GBP ex VAT. Prices must be Firm Prices.
2. To assist the Authority’s evaluation, you must set out your Tender response in accordance with Section D (Tender Evaluation).

**Validity**

1. Your Tender must be valid and open for acceptance for ninety (90) calendar days from the Tender return date. In addition, the winning Tender must be open for acceptance for a further thirty (30) calendar days once the Authority announces its decision to award the Contract. In the event that legal proceedings challenging the award of the Contract are instituted, before entry into Contract, you must hold your Tender open for acceptance during this period, and for up to fourteen (14) calendar days after any legal proceedings have concluded.

**Section D – Tender Evaluation Criteria**

1. This section details how your Tender will be evaluated.
2. The Tender evaluation will assess the Most Economically Advantageous Tender (MEAT) to The Authority based on the following calculation:

Evaluation Score = Total Price

Total Technical Score

1. Any Tender which is considered non-compliant for any Commercial, Financial and Technical element or criteria will be excluded from the competition and not receive an Evaluation Score.
2. The Tenderer with the lowest Evaluation Score will be considered to be the Winning Tenderer and awarded any resulting contract.
3. In the event that multiple Tenderers achieve the exact same lowest Evaluation Score, then the Tenderer with the lowest Total Price will be considered to be the Winning Tenderer. In the event that multiple Tenderers achieve the exact same lowest Evaluation Score and have the exact same lowest Total Price, then The Authority reserves the right to request those, and only those, Tenderers to submit final and best Total Prices, with the lowest final and best Total Price considered to be the Winning Tenderer.
4. Tenders will be evaluated based on the contents of their Tender response only. Tenderers should submit only one priced proposal. Technical Evaluation will be undertaken independently from Commercial and Financial Evaluations. Technical evaluators will have no knowledge of associated prices.
5. Should any exclusions, assumptions, dependencies or caveats apply to your Tender or any of the goods and/or services that you would provide when delivering the requirements, these should be clearly indicated in the relevant areas of the Tender.

**Commercial Qualification Evaluation**

1. The Commercial Qualification Evaluation will assess if all tendering and contractual requirements have been provided.
2. A Tender will be considered non-compliant if:

* the Tender was not received by the due date and time.
* any required delivery dates cannot be met.
* all MOD Terms & Conditions have not been accepted.
* any other required documentation was not submitted.

1. The Authority reserves the right to undertake a financial health check of Tenderers as part of the Commercial Evaluation. If a Parent Company or Bank guarantee is requested and is not provided, The Authority retains the right to consider the Tenderer non-compliant.

**Financial Evaluation**

1. The Financial Evaluation will assess the Total Price the Tenderer has offered to deliver all the requirements set out in the Statement of Requirements.
2. Prices should be provided for each item listed in the Schedule of Requirements. The Total Price should be confirmed on Tender Annex A. This shall be the total maximum cost for the provision of all goods and/or services listed, as detailed in the Statement of Requirement, for the full maximum duration of the requirement, including any optional services and periods.
3. The Total Price figure that will be used in the evaluation of Tenders shall be the total figure that is calculated from the prices Tenderers have provided for each item listed in the Schedule of Requirements, for the full maximum duration of the requirement, including any optional services and periods.
4. Tenderers are notified that when the contract is in place, payments for goods and/or services will be made after the goods and/or services have been fully delivered. For example, payment for purchase of an item will be made after it has been delivered and installed or payment for annual maintenance of a piece of equipment will be made at the end of the contract year during which the maintenance was undertaken.

1. Where estimated Authority usage figures are shown on the Schedule of Requirements, the Total Price figure shall not be a guarantee of payments to be made under any resulting Contract.

1. A Tender will be considered non-compliant if:

* the Total Price is greater than the total available funding of £135,806.40; or
* the Tender does not indicate a Total Price; or
* the Tender has not provided prices for all items in the Schedule of Requirements.

**Technical Evaluation**

1. The Technical Evaluation will assess how much confidence the Tender gives The Authority, that the Tenderer can meet and deliver all the requirements detailed in the Statement of Requirements.
2. The Technical Evaluation will allocate points to a set of evaluation criteria. These criteria may also be weighted, with the points allocated to each individual criteria being multiplied by the associated weight to give a score for that individual criteria. The points, weightings and scores available for each criteria are indicated in the Technical Criteria Table. Guidance on how Tenders will be scored is in the Scoring Criteria Table.
3. The Technical Evaluation may also assess some criteria on a pass/fail basis. These criteria will not be included in the Total Technical Score calculation. Guidance on how Tenders will be scored is in the Scoring Criteria Table.
4. The scores awarded for each individual criteria, excluding any pass/fail criteria, will be added together to give the Total Technical Score.
5. Technical evaluators are considered to be Subject Matter Experts (SME) in the areas they are evaluating. If an individual criteria is evaluated by more than the one SME, then an overall moderated points figure will be agreed between the evaluators for that criteria. This moderated points figure will be used for the purposes of the evaluation.

1. A Tender will be considered non-compliant if:

* the Tender receives a fail on any pass/fail criteria; or
* the Tender receives points which are below the threshold set for any individual criteria; or
* the Tender receives a Total Technical Score below 60.

1. Technical Criteria Table

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Figure** | **Criteria** | **Points Available** | **Minimum Threshold** | **Weight** | **Score Available** |
| A | Confirm that installation and setup will be included in the price | Pass or Fail | Pass | N/A | Pass or Fail |
| 1 | State how you intend to meet the quantity and range of goods required in the Statement of Requirements | 0, 30, 70 or 100 | 30 | 70.00% | 70.00 |
| 2 | State how you will deliver all training requirements included in the Statement of Requirements | 0, 30, 70 or 100 | 30 | 20.00% | 20.00 |
| 3 | Explain how you will Create a diverse supply chain to deliver the contract including new businesses and entrepreneurs, start-ups, SMEs, VCSEs and mutual  (further information on social value can be found at [this link](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940828/Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf)) | Pass or Fail | Pass | 5.00% | 5.00 |
| 4 | Explain how you will Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions  (further information on social value can be found at [this link](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940828/Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf)) | Pass or Fail | Pass | 2.50% | 2.50 |
| 5 | Explain how you will Demonstrate action to identify and tackle inequality in employment, skills and pay in the contract workforce  (further information on social value can be found at [this link](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940828/Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf)) | Pass or Fail | Pass | 2.50% | 2.50 |
|  |  |  |  | 100% | 100 |

1. Scoring Criteria Table

|  |  |
| --- | --- |
| Pass | Fail |
| In The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: | In The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: |
| clearly details how the requirements or criteria will be met in full and sufficient evidence has been provided, where applicable. | does not clearly detail how the requirement or criteria will be met in full and sufficient evidence has not been provided, where applicable. |
| clearly shows that any required volumes, timescales, standards or support will be met, where applicable. | does not clearly show that any required volumes, timescales, standards or support will be met, where applicable. |
|  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| 100 – High Confidence  In The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: | 70 – Good Confidence  In The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: | 30 – Moderate Confidence  In The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: | 0 – Low Confidence  In The Authority’s opinion the Tenderers response to the requirements or criteria being assessed: |
| addresses and demonstrates a thorough understanding of all elements of the requirement or criteria, where applicable. | addresses and demonstrates a sufficient understanding of most of the requirement or criteria, where applicable. | addresses and demonstrates an understanding of some of the elements of the requirement or criteria, where applicable. | does not address or demonstrate an understanding of most or all of the requirement or criteria, where applicable. |
| provides a comprehensive, unambiguous and thorough explanation of how all of the requirement or criteria will be delivered, where applicable. | provides sufficient detail and explanation of how most of the requirement or criteria will be delivered, where applicable. | is weak in some areas and does not fully detail or explain how some elements of the requirement or criteria will be delivered, where applicable. | does not demonstrate the ability to deliver most or all of the requirement or criteria, where applicable. |
| details a thorough explanation of how the full volumes and timescales of the requirement or criteria will be met, where applicable. | shows sufficient ability to meet most of the volumes and timescales for the requirement or criteria, where applicable. | indicates that some of the volumes or timescales for the requirement or criteria will be met but may be lacking detail is some areas, where applicable. | does not show that most or all of the volumes or timescales of the requirement or criteria will be met, where applicable. |
| provides comprehensive details showing how all of the requirement or criteria will be managed with sufficient resource allocated and support provided for the full duration, where applicable. | provides sufficient information to show how most of the requirement or criteria will be managed with adequate resource allocated and support provided, where applicable. | provides details of how some of the requirement or criteria will be managed but leaves concerns about the resource and support provided, where applicable.  . | does not provide details of how most or all of the requirement or criteria will be managed or that the required resource and support will be provided, where applicable. |
| comprehensively details how the requirement or criteria will be assured and how all quality or standards expected will be met in full, where applicable. | sufficiently details how most of the requirement or criteria will be assured and quality or standards expected will be met, where applicable. | provides details of how some of the requirement or criteria will be assured but leaves doubt about quality or standards, where applicable. | does not demonstrate that most or all of the required standards or quality will be met, where applicable. |
| has comprehensively considered risks to delivery of the requirement or criteria and thoroughly explained how they will be eliminated or mitigated, where applicable. | has considered risks to delivery of the requirement or criteria and adequately indicated how most will be eliminated or mitigated, where applicable. | has considered risks to some of the requirement or criteria but leaves concerns that there are risks that have not been considered or may not be mitigated, where applicable. | has identified and addressed few or no risks to delivery, where applicable. |

1. Evaluation Example Table

The following table provides an example of how Tenders may be evaluated/scored and is for illustrative purposes only. The number of questions and potential points/scores do not necessarily reflect the exact Technical Scores and Scoring Criteria for this particular requirement or how Tenders for this requirement will be evaluated. This example is based on a procurement with 2 pass/fail criteria and 5 scored criteria, each with a minimum threshold of 30, and funding of £250,000.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Figure** | **Weight** |  | **Tender 1 Points** | **Tender 1 Score** |  | **Tender 2 Points** | **Tender 2 Score** |  | **Tender 3 Points** | **Tender 3 Score** |  | **Tender 4 Points** | **Tender 4 Score** |
| A | N/A |  | Pass | Pass |  | Pass | Pass |  | Pass | Pass |  | Pass | Pass |
| B | N/A |  | Pass | Pass |  | Fail | Fail |  | Pass | Pass |  | Pass | Pass |
| 1 | 30.00% |  | 100 | 30.00 |  | 100 | 30.00 |  | 100 | 30.00 |  | 70 | 21.00 |
| 2 | 25.00% |  | 70 | 17.50 |  | 100 | 25.00 |  | 30 | 7.50 |  | 100 | 25.00 |
| 3 | 18.00% |  | 100 | 18.00 |  | 30 | 5.40 |  | 100 | 18.00 |  | 70 | 12.60 |
| 4 | 15.00% |  | 100 | 15.00 |  | 0 | 0.00 |  | 100 | 15.00 |  | 100 | 15.00 |
| 5 | 12.00% |  | 100 | 12.00 |  | 100 | 12.00 |  | 100 | 12.00 |  | 100 | 12.00 |
| Technical Score |  |  |  | 92.50 |  |  | 72.40 |  |  | 82.50 |  |  | 81.10 |
| Technical Compliance |  |  |  | Compliant |  |  | Non-Compliant |  |  | Compliant |  |  | Compliant |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Total Price |  |  |  | 240,000 |  |  | 215,000 |  |  | 275,000 |  |  | 210,000 |
| Financial Compliance |  |  |  | Compliant |  |  | Compliant |  |  | Non-Compliant |  |  | Compliant |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Commercial Compliance |  |  |  | Compliant |  |  | Compliant |  |  | Compliant |  |  | Compliant |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Evaluation Score |  |  |  | 2594.59 |  |  | 0.00 |  |  | 0.00 |  |  | 2589.40 |

In this example, Tender 2 was non-compliant as it did not meet the minimum threshold for Technical Criteria B and 4. Tender 3 was as non-compliant as the Total Price exceeded the funding available. Tender 4 is the Winning Tenderer, as it had the lowest Evaluation Score (combining price and technical score) and was compliant for all Commercial, Financial and Technical criteria.

**Section E – Instructions on Submitting Tenders**

**Submission of your Tender**

E1. Your Tender and any ITT Documentation must be submitted electronically via the Defence Sourcing Portal (DSP) by the date stated in the cover page to this ITT. The Authority reserves the right to reject any Tender received after the stated date and time. Hard copy, paper or delivered digital Tenders (e.g. email, DVD) at OFFICIAL SENSITIVE classification are no longer required and will not be accepted by the Authority. Tenderers are required to submit an electronic online Tender response to ITT.

E2. You must provide via the DSP one priced copy of your Tender and one unpriced copy. Both copies should be clearly labelled and easily identifiable. You must ensure that there are no prices present in your unpriced copy. The Authority has the right to request, at its discretion, that any pricing information found in the unpriced copy is redacted in accordance with paragraph E3.

E3. The Authority may, in its own absolute discretion allow the Tenderer to rectify any irregularities identified in the Tender by the Authority or provide clarification after the Tender return date. For example, this may include, but is not limited to, redacting pricing information in the unpriced copy of the tender, rectifying, or providing clarification in relation to a corrupt or blank document. Tenderers will be provided with instructions via the DSP on how they can correct such irregularities which must be completed by the deadline set. The Authority will cross reference the amended Tender with the original Tender submitted to the DSP before the Tender return date to ensure that no other amendments, other than in relation to the specific irregularity/clarification communicated by the Authority, have been made. Should Tenderers make additional amendments to the Tender other than those relating to the specific irregularity/clarification communicated to the Tenderer by the Authority, this will result in a non-compliant bid.

E4. The DSP is accredited to OFFICIAL SENSITIVE. Material that is protectively marked above this classification must not be uploaded to the DSP. Please contact the Commercial Officer stated in the cover page to this ITT if you have a requirement to submit documents above OFFICIAL SENSITIVE

E5. You must not upload any ITAR or Export Controlled information as part of your Tender or ITT documentation into the DSP. You must contact the Commercial Officer stated in the cover page to this ITT to discuss any exchange of ITAR or Export Controlled information. You must ensure that you have the relevant permissions to transfer information to the Authority.

E6. You must ensure that your DEFFORM 47 Annex A is signed, scanned and uploaded to DSP with your Tender as a PDF (it must be a scanned original). The remainder of your Tender must be compatible with MS Word and other MS Office applications.

**Lots**

E7. This requirement has not been split into lots.

**Variant Bids**

E8. The Authority will not accept variant bids.

**Samples**

E9. 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. Neither does the issue of this ITT or subsequent Tender submission create any implied Contract between the Authority and any Tenderer and any such implied Contract is expressly excluded.

F2. The Authority reserves the right, but is not obliged to:

1. vary the terms of this ITT in accordance with applicable law;
2. seek clarification or additional documents in respect of a Tenderer’s submission during the Tender evaluation where necessary for the purpose of carrying out a fair evaluation. Tenderers are asked to respond to such requests promptly;
3. visit your site;
4. disqualify any Tenderer that submits a non-compliant Tender in accordance with the instructions or conditions of this ITT;
5. disqualify any Tenderer that is guilty of misrepresentation in relation to its Tender, expression of interest, the dynamic PQQ or the tender process;
6. re-assess your suitability to remain in the competition, for example where there is a material change in the information submitted in and relating to the PQQ response, see paragraphs A31 to A34;
7. withdraw this ITT at any time, or choose not to award any Contract as a result of this tender process, or re-invite Tenders on the same or any alternative basis;
8. 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;
9. choose not to award any Contract as a result of the current tender process;
10. where it is considered appropriate, ask for an explanation of the costs or price proposed in the Tender where the Tender appears to be abnormally low;

F3. 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 C3.

**Conforming to the Law**

F4. You must comply with all applicable 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 will 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 suspected or actual 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. Any attempt by Tenderers or their advisors to influence the contract award process in any way may result in the Tenderer being disqualified. Specifically, Tenderers shall not directly or indirectly at any time:

* devise or amend the content of their Tender in accordance with any agreement or arrangement with any other person, other than in good faith with a person who is a proposed partner, supplier, consortium member or provider of finance;
* enter into any agreement or arrangement with any other person as to the form or content of any other Tender, or offer to pay any sum of money or valuable consideration to any person to effect changes to the form or content of any other Tender;
* enter into any agreement or arrangement with any other person that has the effect of prohibiting or excluding that person from submitting a Tender;
* canvass the Authority or any employees or agents of the Authority in relation to this procurement; or
* attempt to obtain information from any of the employees or agents of the Authority or their advisors concerning another Tenderer or Tender.

F8. Where you have advised the Authority in relation to this procurement procedure or otherwise have been or are involved in any way in the preparation or conduct of this procurement procedure or where any other actual or potential conflict of interest (COI) exists or arises at any point before the Contract award decision, you must notify the Authority immediately.

F9. Where an actual or potential COI exists or arises, you must provide a proposed Compliance Regime within seven (7) calendar days of notifying the Authority of the actual or potential COI. The proposal must be of a standard which, in the Authority’s sole opinion, appropriately manages the conflict, provides sufficient separation to prevent distortion of competition and provides full details listed in F9 a to g below. Where the Contract is awarded and the COI is still relevant post-Contract award decision, your proposed Compliance Regime will become part of the Contract Terms and Conditions. As a minimum, the Compliance Regime must include:

1. the manner of operation and management;
2. roles and responsibilities;
3. standards for integrity and fair dealing;
4. levels of access to and protection of competitors’ sensitive information and Government Furnished Information;
5. confidentiality and/or non-disclosure agreements (e.g. DEFFORM 702);
6. the Authority’s rights of audit; and
7. physical and managerial separation.

F10. Tenderers are ultimately responsible for ensuring that no COI exist between the Tenderer and its advisers, and the Authority and its advisers. Any Tenderer who fails to comply with this requirement (including where the Authority does not deem the proposed Compliance Regime to be of a standard which appropriately manages the conflict) may be disqualified from the procurement at the discretion of the Authority.

**Government Furnished Assets**

F11. 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.

**Standstill Period**

F12. The Authority is allowing a space of ten (10) calendar days between the date of dispatch of the electronic notice of its decision to award a Contract to the successful Tenderer before entering into a Contract, known as the standstill period. The standstill period ends at 23:59 on the 10th day after the date the DEFFORM 158s are sent. If the 10th day is not a business day, the standstill period ends at 23:59 of the next business day.

**Publicity Announcement**

1. If you wish to make an announcement regarding this procurement, you must seek approval from the named Commercial Officer and Press Office and such permission will only be given at the sole discretion of the Authority. Requests must be made in writing to the named Commercial Officer and a copy of the draft announcement provided. This shall then be forwarded to the Press Office and their contact details will be provided for further follow up.
2. Under no circumstances should you confirm to any Third Party the Authority’s Contract award decision before the Authority’s announcement of the award of Contract.

**Sensitive Information**

1. 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 Freedom of Information requests.
2. For these purposes, the Authority may share within Government any of the Tenderers documentation/information (including any that the Tenderer considers to be confidential and/or commercially sensitive such as specific bid information) submitted by the Tenderer to the Authority during this procurement. Tenderers taking part in this competition must identify any Sensitive Information in the DEFFORM 539A (or SC1B Schedule 4 or SC2 Schedule 5) and consent to these terms as part of the competition process. This allows the Authority to share information with other Government Departments while complying with our obligations to maintain confidentiality.
3. Where required, the Authority will disclose on a confidential basis any information it receives from Tenderers during the tender process (including information identified by the Tenderer as 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**

1. 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 must attach the relevant information with the tender submission.
2. Your Tender will be deemed non-compliant and excluded from the tender process if you fail to complete the Annex in full and attach relevant information where required.

**Specific Conditions of Tendering**



**DEFFORM 47 Annex A**

**Edn 09/21**

**Ministry of Defence**

Tender Submission Document (Offer) – Ref Number [ITT - ]

**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 and ITT Material, 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 Terms & Conditions or any amendments issued by the Authority shall apply.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Applicable Law** | | | | | |
| I agree that any Contract resulting from this competition shall be subject to English Law | | | | Yes / No | |
| **Total Value of Tender (excluding VAT)** | | | | | |
| £  WORDS | | | | | |
| **UK Value Added Tax** | | | | | |
| If registered for Value Added Tax purposes, insert:   1. Registration No 2. Total amount of Value Added Tax payable on this Tender (at current rate(s)) £ | | | | | |
| **Location of work (town / city) where Contract will be performed by Prime:** | | | | | |
| 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 |
|  |  |  |  | |  |
|  |  |  |  | |  |
|  |  |  |  | |  |
| **Mandatory Declarations** (further details are contained in Appendix 1 to DEFFORM 47 Annex A (Offer)): | | | **Tenderer’s Declaration** | | |
| 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, complete and attach DEFFORM 528. | | | Yes\* / No | | |
| Have you obtained the foreign export approval necessary to secure IP user rights in the Contractor Deliverables for the Authority, including technical data, as determined in the Contract Terms & 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 a Supplier Assurance Questionnaire on the Supplier Cyber Protection Service? | | | Yes\* / No / N/A | | |
| Have you completed Form 1686 for Sub-Contracts? | | | Yes\* / No | | |
| Have you completed the compliance matrix / matrices? | | | Yes / No / N/A | | |
| 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 Sensitive Information Form? | | Yes\* / No |
| If you have not previously submitted a Statement Relating to Good Standing within the last 12 months, or circumstances have changed have you attached a revised version? | | Yes\* / No / N/A |
| Do the Contractor Deliverables, or any item provided in accordance with the Terms and Conditions of the Contract 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 or any item provided in accordance with the Terms and Conditions of the Contract (including Packaging) use Substances that deplete the Ozone Layer, as defined in Regulation (EC) 1005/2009, as it applies in Great Britain as retained EU law, and as it applies in Northern Ireland directly | | Yes\* / No |
| Where you have been informed that a Bank or Parent Company Guarantee is required, will you provide one during the standstill period, before Contract award, if you are identified as the winning Tenderer? | | Yes / No / Not Required |
| Have you complied with the requirements of the Defence Safety Authority Regulatory Articles? | | Yes / No / Not Required |
| Have you completed all Mandatory Requirements (as per paragraph F18) stated in this ITT? | | Yes / No |
| \*If selecting Yes to any of the above questions, attach the information detailed in Appendix 1 to DEFFORM 47 Annex A (Offer). | | |
| **Tenderer’s Declaration of Compliance with Competition Law** | | |
| 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:   1. the offered price has not been divulged to any Third Party; 2. no arrangement has been made with any Third Party that they should refrain from tendering; 3. no arrangement with any Third Party has been made to the effect that we will refrain from bidding on a future occasion; 4. no discussion with any Third Party has taken place concerning the details of either’s proposed price; and 5. no arrangement has been made with any Third Party otherwise to limit genuine competition.   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.  We understand that any misrepresentations may also be the subject of criminal investigation or used as the basis for civil action.  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 tender processes, including value for money and related purposes. We certify that we have identified any Sensitive Information in the Tenderer’s Sensitive Information Form (DEFFORM 539A). | | |
| **Dated this..................day of Year** | | |
| **Signature: In the capacity of**  (Must be scanned original) (State official position e.g. Director, Manager, Secretary etc.) | | |
| **Name:** (in BLOCK CAPITALS)  **duly authorised to sign this Tender for and on behalf of:**  (Tenderer's Name) | **Postal Address:**  **Telephone No:**  **Registered Company Number:**  **Dunn And Bradstreet number:** | |

**Appendix 1 to DEFFORM 47 Annex A (Offer)**

**Edn 08/21**

**Information on Mandatory Declarations**

**IPR Restrictions**

1. 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).

2. If you have answered ‘Yes’ in Annex A (Offer) as directed by paragraph 3 below, 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:

1. 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;
2. 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;
3. the nature of any allegation referred to under sub-paragraph 2.b., including any obligation to make payments in respect of the Intellectual Property Right of any confidential information and/or;
4. 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 2.b.

3. 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.

4. If you have previously provided information under paragraphs 2 and 3 you can provide

details of the previous notification, updated as necessary to confirm their validity.

**Notification of Foreign Export Control Restrictions**

5. 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.

6. 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:

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 6 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.

1. You must use reasonable endeavours to obtain sufficient information from your potential supply chain to enable a full response to paragraph 6. 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.
2. This does not include any Intellectual Property specific restrictions mentioned in paragraph 2.
3. You must notify the named Commercial Officer immediately if you are unable for whatever reason to abide by any restriction of the type referred to in paragraph 6.
4. 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**

1. United Kingdom (UK) legislation permits the use of various procedures to suspend customs duties.
2. For the purpose of this competition, for any deliverables not yet imported into the UK, 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
3. 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.

**Cyber Risk**

14. Cyber risk has been considered and a Cyber Security Model resulted in a ‘Not Applicable’ outcome.

**Sub-Contracts Form 1686**

1. Form 1686 (also known as Appendix 5) is to be used in all circumstances where contractors wish to place a Sub-Contract at OFFICIAL-SENSITIVE with a contractor outside of the UK, or where the release of SECRET or above information is involved within the UK or overseas. 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. Form 1686 and further guidance can be found in the Cabinet Office’s [Contractual Process.](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710891/2018_May_Contractual_process.pdf)

**Small and Medium Enterprises**

1. The Authority is committed to supporting the Government’s Small and Medium-sized Enterprise (SME) policy, and we want to encourage wider SME participation throughout our supply chain. Our goal is that 25% of the Authority’s spending should be spent with SMEs by 2022; this applies to the money which the Authority spends directly with SMEs and through the supply chain. The Authority uses the European Commission definition of SME.
2. 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 [https://www.smallbusinesscommissioner.gov.uk/ppc/.](https://www.smallbusinesscommissioner.gov.uk/ppc/)
3. Suppliers are also encouraged to work with the Authority to support the Authority’s SME initiative, however this is not a condition of working with the Authority now or in the future, nor will this issue form any part of the Tender evaluation. Information on the Authority’s purchasing arrangements, our commercial policies and our SME Action Plan can be found at [Gov.UK](https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement) and the DSP.
4. The opportunity also exists for Tenderers to advertise any Sub-Contract valued at over £10,000 on the Defence Sourcing Portal and further details can be obtained directly from: [https://www.gov.uk/guidance/subcontract-advertising.](https://www.gov.uk/guidance/subcontract-advertising) This process is managed by the Strategic Supplier Management team who can be contacted at: [DefComrclSSM-Suppliers@mod.gov.uk.](mailto:DefComrclSSM-Suppliers@mod.gov.uk)

**Transparency, Freedom Information and Environmental Information Regulations**

1. The Authority shall publish notification of the Contract and publish Contract documents where required following a request under the 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.
2. The Authority may publish the contents of any resultant Contract in line with government policy set out in the Government’s [Transparency Principles](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/996599/2021-06-22_Transparency_Principles_-final__3_.pdf) and in accordance with the provisions of either DEFCON 539, SC1B Conditions of Contract Clause 5 or SC2 Conditions of Contract Clause 12.
3. 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 2004 (“the EIR”).
4. You must complete the 9 which parts of your Tender you consider to be Sensitive Information (as defined in DEFCON 539). This includes providing a named individual who can be contacted with regard to FOIA and EIR.
5. 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**

1. Tenderers must note that use of the [Contracting, Purchasing and Finance (CP&F)](https://www.gov.uk/government/publications/mod-contracting-purchasing-and-finance-e-procurement-system) electronic procurement tool is a mandatory requirement for any resultant Contract awarded following this Tender. By submitting this Tender, you agree to electronic payment. You may consult the service provider on connectivity options. Failure to accept electronic payment will result in your Tender being non-compliant and excluded from the tender process.

**Change of Circumstances**

1. In accordance with paragraph A31, if your circumstances have changed, please select ‘Yes’ to the appropriate question on DEFFORM 47 Annex A 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’ to the appropriate question on DEFFORM 47 Annex A and provide further details in your Tender.

**Defence Safety Authority (DSA) Requirements**

28. There are no DSA Requirements.

**Bank or Parent Company Guarantee**

29. You will be informed whether you are required to provide a Bank or Parent Company Guarantee. In the event that you are selected as the winning Tenderer, you must provide your Bank or Parent Company Guarantee (in the form of DEFFORM 24/24A as appropriate) during the standstill period. No Contract will be awarded until a suitable Bank or Parent Company Guarantee, as appropriate, is in place. Failure to provide a Bank or Parent Company Guarantee during the standstill period, will result in you being de-selected as the winning Tenderer. The Authority reserves the right to re-evaluate the Tenders, (if necessary) to take into account the absence of the de-selected Tenderer, enabling the Authority to establish the next winning Tenderer and award a Contract.

**Schedule 1 – Statement of Requirements**

**40 Commando Royal Marines Urban Training Facility**

**Statement of Requirement**

**Introduction**

40 Commando Royal Marines have a requirement for a modular wall system to provide realistic, interchangeable room configurations for use in close combat operations training.   Requirement is for purchase and installation plus train the trainer training and a 5 year warranty.

**Background.**

The current training system comprises of a fixed wall system with Rhino rig and external Rhino Rig doors. This is system provides limited training opportunity as the inflexible design does not allow users to exercise initiative based tactics.

**Requirement**.

The Urban Training Facility at Norton Manor Camp (NMC) requires a flexible, bespoke, modular upgrade to improve the whole training experience with a realistic, interchangeable and unpredictable training facility.  With the interchangeable system, the apprentice will be exercised in a multitude of ever-changing room configurations that will continue to push the limit to which 40 Cdo can train.

The required system must be:

* Easily portable for transport, reassembly and use in different locations including the potential requirement for deployment internationally if required.

* Easy to assemble and reconfigure by training staff and should require no more than 2 or 3 people to assemble/move.

* Weatherproof to all elements to enable outside storage when not in use.

* Robust.  Users should feel like they are in a permanent building. Walls must not move or bend when leaned on. Wall coverings must be able to withstand repeat strikes from training munitions.

With the exception of doorways, the system needs be at least 2300 mm in height to accommodate users with helmets and helmet mounted equipment.

The system requires bespoke breaching doors and windows capable of a range of methods of entry (MOE).  The system should include:

* 3 Internal MOE doors suitable for Manual MOE
* 2 resettable multi use doors suitable for Explosive, manual and Hydraulic entry.
* 2 MOE training windows including a no glass system to enable ‘break and rake’ techniques to be used.

Doors should be made of wood, be easily replaced and be of a standard size with the ability to alter the method of entry to left hand/right hand, inward/outward.

The system should be black in colour and should be matte to reduce glare/reflection from lights/IR devices etc.

The system is required to be safe for use with pyrotechnics.

In addition to the system itself there is a requirement for train the trainer courses for installation and use.

System should come with a 5 year manufacturers warranty.

**Deliverables**.

Supplier is to deliver the system to 40 Commando Royal Marines at Norton Manor Camp, Taunton, Somerset, TA2 6PF.

System is to be installed in the current UTF by the supplier to include moving of existing rhino rig.  Due to the specialist nature of the equipment, Installation by another party would invalidate the warranty.

Train the trainer course is to be provided as soon as the system is installed.

**Duration**

Delivery of the system is required by April 2022.

**Security**

Suppliers are required to deliver and install to Norton Manor Camp.  No specific security clearances are required as all visitors will be escorted.

**Site Visits**

A site visit would be advantageous to allow potential suppliers the opportunity to tailor their quotation accordingly.

**Schedule 2 - Schedule of Requirements**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Deliverables in accordance with Statement of Requirements** | | | | | | |
| **Item Number** | **Description** | **Delivery Date**  **(exact dates to be confirmed on contract award)** | **Unit of Measurement** | **Quantity** | **Firm Price (£) Ex VAT –**  **Per Item**  **(including any packaging, travel, delivery and importing)** | **Firm Price (£) Ex VAT**  **-Total**  **(including any packaging, travel, delivery and importing)** |
| 1 | Purchase of Equipment and 5 year warranty | April 2022 | Per Item |  |  |  |
| 2 | Train the Trainer Course for installation and use | April 2022 | Per Item |  |  |  |
| All prices are firm prices, to be paid in £ (GBP/Pounding Sterling), not subject to any increase or exchange rates. Quantities shown are expected numbers and not a guarantee of amounts required or due. Quantity ordered under the contract may differ dependent on The Authority requirements. | | | | | **Total Price** |  |

|  |  |
| --- | --- |
| **Item Number** | **Consignee Address (XY code only)** |
| All | 40 Commando Royal Marines at Norton Manor Camp, Taunton, Somerset, TA2 6PF |
| **Item Number** | **Payment Schedule** |
| X | Payments to be made following delivery of service/purchase |

**Schedule 3 - Contract Data Sheet**

|  |  |  |
| --- | --- | --- |
| **Contract Period** | | Effective date of Contract: TBC  The Contract expiry date shall be: TBC |
| **Clause 6 - Notices** | | Notices served under the Contract can be transmitted by electronic mail  Yes  No  Notices served under the Contract shall be sent to the following address:  Authority: Commercial Officer  Contractor: Contract Manager |
| **Clause 8 – Supply of Contractor Deliverables and Quality Assurance** | | Is a Deliverable Quality Plan required for this Contract?  Yes  No  If Yes the Deliverable Quality Plan must be set out as defined in AQAP 2105 and delivered to the Authority (Quality) within Business Days of Contract Award. Once agreed by the Authority the Quality Plan shall be incorporated into the Contract. The Contractor shall remain at all times, solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan.  **Other Quality Assurance Requirements:** |
| **Clause 9 – Supply of Data for Hazardous Contractor Deliverables, Materials and Substances** | | A completed DEFFORM 68 (Hazardous Articles, Materials or Substance Statement), and if applicable, Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:  a) The Authority’s Representative (Commercial)  b. DESTECH-QSEPEnv-HSISMulti@mod.gov.uk  or: if only a hardcopy is available to:  a) The Authority’s Representative (Commercial)  b) Hazardous Stores Information System (HSIS)  Defence Safety Authority (DSA) Movement Transport Safety Regulator (MTSR) Hazel Building Level 1, #H019 MOD Abbey Wood (North) Bristol, BS34 8QW  DESTECH-QSEPEnv-HSISMulti (MULTIUSER)  to be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable or by the following date: |
| **Clause 10 – Delivery/Collection** | Contract Deliverables are to be:  Delivered by the Contractor  Special Instructions:  Collected by the Authority  Special Instructions (including consignor address if different from Contractor’s registered address) | |
| **Clause 12 – Packaging and Labelling of Contractor Deliverables** | Additional packaging requirements:  N/A | |
| **Clause 13 – Progress Meetings** | | The Contractor shall be required to attend the following meetings:  To be arranged if and when required unless already detailed in Statement of Requirements. |
| **Clause 13 – Progress Reports** | | The Contractor is required to submit the following Reports:  To be arranged if and when required unless already detailed in Statement of Requirements. |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **DEFFORM 111**  **(Edn 02/22)**  **Appendix - Addresses and Other Information** | | | | |
|  | 1. **Commercial Officer:**   Name: Lynne Nazer  Address: MP1.1, NCHQ, Leach Building, Whale Island, Portsmouth, PO2 8BY  Email: lynne.nazer100@mod.gov.uk  🕿 03001634347 |  | **8. Public Accounting Authority:**  1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT – Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD  🕿 44 (0) 161 233 5397  2. For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD  🕿 44 (0) 161 233 5394 |  |
|  | | | | |
|  | 1. **Project Manager, Equipment Support Manager or PT Leader** (from whom technical information is available):   Name:  Address:    Email  🕿 |  | **9. Consignment Instructions:**  The items are to be consigned as follows:    As detailed in Schedule of Requirements |  |
|  | | | | |
|  | 1. **Packaging Design Authority:**   Organisation and point of contact:    (where no address is shown please contact the Project Team in Box 2)  🕿 |  | **10. Transport.** The appropriate Ministry of Defence Transport Offices are:  A**. DSCOM**, DE&S, DSCOM, MoD Abbey Wood, Cedar 3c, Mail Point 3351, BRISTOL BS34 8JH  Air Freight Centre  IMPORTS 🕿 030 679 81113 / 81114 Fax 0117 913 8943  EXPORTS 🕿 030 679 81113 / 81114 Fax 0117 913 8943  Surface Freight Centre  IMPORTS 🕿 030 679 81129 / 81133 / 81138 Fax 0117 913 8946  EXPORTS 🕿030 679 81129 / 81133 / 81138 Fax 0117 913 8946  B. **JSCS**  JSCS Helpdesk 🕿 01869 256052 (option 2, then option 3); JSCS Fax No 01869 256837  Users requiring an account to use the MOD Freight Collection Service should contact UKStratCom-DefSp-RAMP@mod.gov.uk in the first instance |  |
|  | | |
|  | 1. **(a) Supply/Support Management Branch or Order Manager**   **Branch/Name:**  As per box 2  🕿  **(b) U.I.N.** |  |
|  | | | | |
|  | 1. **Drawings/Specifications are available from:** |  | **11. The Invoice Paying Authority:**  Ministry of Defence 🕿 0151-242-2000  DBS Finance  Walker House, Exchange Flags Fax: 0151-242-2809  Liverpool, L2 3YL **Website is:** <https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing> |  |
|  | | |
|  | 1. **Intentionally Left Blank** |  |
|  | | | | |
|  | 1. **Quality Assurance Representative:**     Commercial staff are reminded that all Quality Assurance requirements should be listed under the General Contract Conditions.    AQAPS and DEF STANs are available from UK Defence Standardization, for access to the documents and details of the helpdesk visit  <http://dstan.gateway.isg-r.r.mil.uk/index.html> [intranet] or <https://www.dstan.mod.uk/> [extranet, registration needed] |  | **12. Forms and Documentation are available through \*:**  Ministry of Defence, Forms and Pubs Commodity Management  PO Box 2, Building C16, C Site  Lower Arncott  Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)  **Applications via fax or email:**  Leidos-FormsPublications@teamleidos.mod.uk |  |
|  |  | | |
|  |  | **\* NOTE**  **1.** Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site: <https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>  2. If the required forms or documentation are not available on the MOD Intranet site requests should be submitted through the Commercial Officer named in Section 1. |  |
|  | | | | |

**Schedule 4 - Contractor’s Sensitive Information (i.a.w. Clause 5)**

This list shall be agreed in consultation with the Authority and the Contractor and may be reviewed and amended by agreement. The Authority shall review the list before publication of any information.

|  |
| --- |
| Contract Number: |
| Description of Contractor’s Sensitive Information: |
| Cross Reference(s) to location of Sensitive Information: |
| Explanation of Sensitivity: |
| Details of potential harm resulting from disclosure: |
| Period of Confidence (if applicable): |
| Contact Details for Transparency / Freedom of Information matters:  Name:  Position:  Address:  Telephone Number:  Email Address: |

**DEFFORM 68 –**

**Hazardous Articles, Deliverables, Materials or**

**Substances Statement by the Contractor**

Contract Number:

Contract Title:

Contractor:

Date of Contract:

\* To the best of our knowledge there are no hazardous Articles, Deliverables, materials or substances to be supplied.

\* To the best of our knowledge the hazards associated with Articles, Deliverables, materials or substances to be supplied under the Contract are identified in the Safety Data Sheets (Qty:     ) attached in accordance with either:

DEFCON 68 ; or

Condition 9 of Standardised Contract 1A/B Conditions ;

Contractor’s Signature:

Name:

Job Title:

Date:

\* check box (☒) as appropriate

**To be completed by the Authority**

DMC:

NATO Stock Number:

Contact Name:

Contact Address:

Contact Phone Number:

Contact Email Address:

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)

Department of Safety & Environment, Quality and Technology (D S & EQT)

Spruce 2C, #1260

MOD Abbey Wood (South)

Bristol, BS34 8JH

Email: [DESEngSfty-QSEPSEP-HSISMulti@mod.gov.uk](mailto:DESEngSfty-QSEPSEP-HSISMulti@mod.gov.uk)

**SC1B  
(Edn 02/;22)**



**MOD Terms and Conditions for Less**

**Complex Requirements**

**1 Definitions - In the Contract:**

**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;

**Business Day** means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;

**Contract** means the agreement concluded between the Authority and the Contractor, including all terms and conditions, , specifications, plans, drawings, schedules and other documentation, expressly made part of the agreement in accordance with Clause 2.c;

**Contractor** means the person, firm or company specified as such in the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be;

**Contractor Deliverables** means the goods and / or services including packaging (and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with the schedule of requirements.

**Effective Date of Contract** means the date stated on the Contract or, if there is no such date stated, the date upon which both Parties have signed the Contract;

**Firm Price** means a price excluding Value Added Tax (VAT) which is not subject to variation;

**Government Furnished Assets (GFA)** is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority;

**Hazardous Contractor Deliverable** means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;

**Issued Property** means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority;

**Legislation** means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972.

**Notices**  means all notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;

**Parties** means the Contractor and the Authority, and Party shall be construed accordingly;

**Sensitive Information** means the information listed as such in Schedule 4, 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;

**Transparency Information** means the content of this Contract in its entirety, including from time to time agreed changes to this 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 Act 2004 (EIR), which shall be determined by the Authority, and (ii) any Sensitive Information.

**2 General**

a. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.

b. Any variation to the Contract shall have no effect unless expressly agreed in writing and signed by both Parties.

c. If there is any inconsistency between these terms and conditions and the associated documents expressly referred to therein, the conflict shall be resolved according to the following descending order of priority:

(1) the terms and conditions;

(2) the schedules; and

(3) the documents expressly referred to in the agreement.

d. Neither Party shall be entitled to assign the Contract (or any part thereof) without the prior written consent of the other Party.

e. Failure or delay by either Party in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of its rights or remedies. No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

f. The Parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a Party to it.

g. The Contract and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English Law, and subject to Clause 15 and without prejudice to the dispute resolution procedure set out therein, the Parties submit to the exclusive jurisdiction of the English courts. Other jurisdictions may apply solely for the purpose of giving effect to this Clause 2.g and for enforcement of any judgement, order or award given under English jurisdiction.

**3 Application of Conditions**

a. These terms and conditions, schedules and the specification govern the Contract to the entire exclusion of all other terms and conditions. No other terms or conditions are implied.

b. The Contract constitutes the entire agreement and understanding and supersedes any previous agreement between the Parties relating to the subject matter of the Contract.

**4 Disclosure of Information**

Information received or in connection with the Contract shall be managed in accordance with DEFCON 531 (SC1) and Clause 5.

**5 Transparency**

a. Notwithstanding an other condition of this Contract, including 531 (SC1), the Contractor understands that the Authority may publish the Transparency Information to the general public. . b. Subject to Clause 5.c, the Authority shall publish and maintain an up-to-date version of the Transparency Information in a format readily accessible and reusable by the general public under an open licence where applicable.

c. If, in the Authority's reasonable opinion, publication of any element of the Transparency 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 in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency 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.

c. The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information, in accordance with the principles set out above. Where the Authority publishes Transparency Information, it shall:

(1) 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 the Sensitive Information.

(2) taking into account the Sensitive Information set out in Schedule 4, consult with the Contractorwhere 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

(3) 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 this Contract is being performed.

**6 Notices**

a. A Notice served under the Contract shall be:

(1) in writing in the English language;

(2) authenticated by signature or such other method as may be agreed between the Parties;

(3) sent for the attention of the other Party’s representative, and to the address set out in the Contract;

(4) marked with the number of the Contract; and

(5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in the Contract, by electronic mail.

b. Notices shall be deemed to have been received:

(1) if delivered by hand, on the day of delivery if it is the recipient’s Business Day and otherwise on the first Business Day of the recipient immediately following the day of delivery;

(2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;

(3) if sent by facsimile or electronic means:

(a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient’s time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or

(b) if transmitted at any other time, at 09:00 on the first Business Day (recipient’s time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

**7 Intellectual Property**

a. The Contractor shall as its sole liability keep the Authority fully indemnified against an infringement or alleged infringement of any intellectual property rights or a claim for Crown use of a UK patent or registered design caused by the use, manufacture or supply of the Contractor Deliverables.

b. The Authority shall promptly notify the Contractor of any infringement claim made against it relating to any Contractor Deliverable and, subject to any statutory obligation requiring the Authority to respond, shall permit the Contractor to have the right, at its sole discretion to assume, defend, settle or otherwise dispose of such claim. The Authority shall give the Contractor such assistance as it may reasonably require to dispose of the claim and will not make any statement which might be prejudicial to the settlement or defence of the claim**.**

c. Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

**8 Supply of Contractor Deliverables and Quality Assurance**

a. This Contract comes into effect on the Effective Date of Contract.

b. The Contractor shall supply the Contractor Deliverables to the Authority at the Firm Price stated in the Contract.

c. The Contractor shall ensure that the Contractor Deliverables:

(1) correspond with the specification;

(2) are of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) except that fitness for purpose shall be limited to the goods being fit for the particular purpose held out expressly by or made known expressly to the Contractor and in this respect the Authority relies on the Contractor’s skill and judgement; and

(3) comply with any applicable Quality Assurance Requirements specified in the Contract.

d. The Contractor shall apply for and obtain any licences required to import any material required for the performance of the Contract in the UK. The Authority shall provide to the Contractor reasonable assistance with regard to any relevant defence or security matter arising in the application for any such licence.

**9 Supply of Data for Hazardous Contractor Deliverables**

a. The Contractor shall establish if the Contractor Deliverables are, or contain, Dangerous Goods as defined in the Regulations set out in this Clause 9. Any that do shall be packaged for UK or worldwide shipment by all modes of transport in accordance with the following unless otherwise specified in the Contract.:

(1) the Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO), IATA Dangerous Goods Regulations;

(2) the International Maritime Dangerous Goods (IMDG) Code;

(3) the Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); and

(4) the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR).

b. Certification markings, incorporating the UN logo, the package code and other prescribed information indicating that the package corresponds to the successfully designed type shall be marked on the packaging in accordance with the relevant regulation.

c. As soon as possible and in any event within the period specified in the Contract (or if no such period is specified no later than one month prior to the delivery date), the Contractor shall provide to the Authority’s representatives in the manner and format prescribed in the Contract:

(1) confirmation as to whether or not to the best of its knowledge any of the Contractor Deliverables are Hazardous Contractor Deliverables; and

(2) for each Hazardous Contractor Deliverable, a Safety Data Sheet containing the data set out at Clause 9.d, which shall be updated by the Contractor during the period of the Contract if it becomes aware of any new relevant data.

d. Safety Data Sheets if required under Clause 9.c shall be provided in accordance with the extant UK REACH Regulation and any additional information required by the Health and Safety at Work etc. Act 1974 and shall contain:

(1) information required by the Classification, Labelling and Packaging (GB CLP) Regulation or any replacement thereof; and

(2) where the Hazardous Contractor Deliverable is, contains or embodies a radioactive substance as defined in the extant Ionising Radiation Regulations, details of the activity, substance and form (including any isotope); and

(3) where the Hazardous Contractor Deliverable has magnetic properties, details of the magnetic flux density at a defined distance, for the condition in which it is packed.

e. The Contractor shall retain its own copies of the Safety Data Sheets provided to the Authority in accordance with Clause 9.d for 4 years after the end of the Contract and shall make them available to the Authority’s representatives on request.

f. Nothing in this Clause 9 reduces or limits any statutory or legal obligation of the Authority or the Contractor.

g. Where delivery is made to the Defence Fulfilment Centre (DFC) and / or other Team Leidos location / building, the Contractor must comply with the Logistic Commodities and Services Transformation (LCST) Supplier Manual.

**10 Delivery / Collection**

a. The Contract shall specify whether the Contractor Deliverables are to be delivered to the consignee by the Contractor or collected from the consignor by the Authority.

b. Title and risk in the Contractor Deliverables shall pass from the Contractor to the Authority on delivery or on collection in accordance with Clause 10.a.

c. The Authority shall be deemed to have accepted the Contractor Deliverables within a reasonable time after title and risk has passed to the Authority unless it has rejected the Contractor Deliverables within the same period.

**11 Marking of Contractor Deliverables**

a. Each Contractor Deliverable shall be marked in accordance with the requirements specified in Contract, or if no such requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number specified in the schedule of requirements.

b. Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.

c. The marking shall include any serial numbers allocated to the Contractor Deliverable.

d. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with condition 12 (Packaging and Labelling (excluding Contractor Deliverables containing Ammunition or Explosives)).

**12 Packaging and Labelling of Contractor Deliverables (Excluding Contractor Deliverables Containing Ammunition or Explosives)**

The Contractor shall pack or have packed the Contractor Deliverables in accordance with any requirements specified in the Contract and Def Stan 81-041 (Part 1 and Part 6).

**13 Progress Monitoring, Meetings and Reports**

The Contractor shall attend progress meetings and deliver reports at the frequency or times (if any) specified in the Contract and shall ensure that its Contractor’s representatives are suitably qualified to attend such meetings. Any additional meetings reasonably required shall be at no cost to the Authority.

**14 Payment**

a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 14b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.

b. Where the Contractor submits an invoice to the Authority in accordance with clause 14a, the Authority will consider and verify that invoice in a timely fashion.

c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.

d. Where the Authority fails to comply with clause 14b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 14c after a reasonable time has passed.

e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor’s obligations nor as a waiver of its rights and remedies under this Contract.

f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

**15 Dispute Resolution**

a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.

b. In the event that the dispute or claim is not resolved pursuant to Clause 15.a the dispute shall be referred to arbitration and shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.

c. For the avoidance of doubt it is agreed between the Parties that the arbitration process and anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential as between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise. No report relating to anything said, done or produced in or in relation to the arbitration process may be made beyond the tribunal, the Parties, their legal representatives and any person necessary to the conduct of the proceedings, without the concurrence of all the Parties to the arbitration.

**16 Termination for Corrupt Gifts**

The Authority may terminate the Contract with immediate effect, without compensation, by giving written notice to the Contractor at any time after any of the following events:

a. where the Authority becomes aware that the Contractor, its employees, agents or any sub-contractor (or anyone acting on its behalf or any of its or their employees):

(1) has offered, promised or given to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;

(2) commits or has committed any prohibited act or any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown;

(3) has entered into this or any other contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

b. In exercising its rights or remedies to terminate the Contract under Clause 16.a. the Authority shall:

(1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person committing the prohibited act;

(2) give due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):

(a) requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on its or their behalf;

(b) requiring the Contractor to procure the dismissal of an employee (whether its own or that of a Subcontractor or anyone acting on its behalf) where the prohibited act is that of such employee.

c. Where the Contract has been terminated under Clause 16.a.the Authority shall be entitled to purchase substitute Contractor Deliverables from elsewhere and recover from the Contractor any costs and expenses incurred by the Authority in obtaining the Contractor Deliverables in substitution from another supplier.

**17 Material Breach**

In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written notice to the Contractor where the Contractor is in material breach of its obligations under the Contract. Where the Authority has terminated the Contract under

Clause 17 the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor’s material breach of the Contract.

**18 Insolvency**

The Authority shall have the right to terminate the contract if the Contractor is declared bankrupt or goes into liquidation or administration. This is without prejudice to any other rights or remedies under this Contract.

1. **Limitation of Contractor’s Liability**

## Subject to Clause 19.b the Contractor's liability to the Authority in connection with this Contract shall be limited to £5m (five million pounds).

## Nothing in this Contract shall operate to limit or exclude the Contractor's liability:

## for:

## any liquidated damages (to the extent expressly provided for under this Contract);

## any amount(s) which the Authority is entitled to claim, retain or withhold in relation to the Contractor’s failure to perform or under-perform its obligations under this Contract, including service credits or other deductions (to the extent expressly provided for under this Contract);

## any interest payable in relation to the late payment of any sum due and payable by the Contractor to the Authority under this Contract;

## any amount payable by the Contractor to the Authority in relation to TUPE or pensions to the extent expressly provided for under this Contract;

## under Condition 7 of the Contract (Intellectual Property), and DEFCONs 91 or 638 (SC1) where specified in the contract;

## for death or personal injury caused by the Contractor’s negligence or the negligence of any of its personnel, agents, consultants or sub-contractors;

## For fraud, fraudulent misrepresentation, wilful misconduct or negligence;

## in relation to the termination of this Contract on the basis of abandonment by the Contractor;

## for breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982; or

## for any other liability which cannot be limited or excluded under general (including statute and common) law.

## The rights of the Authority under this Contract are in addition to, and not exclusive of, any rights or remedies provided by general (including statute and common) law.

**20 The Project Specific DEFCONs and DEFCON SC Variants that apply to this Contract are:**

DEFCON 5J (Edn 11/16) - Unique Identifiers

DEFCON 76 SC1 (Edn 06/21) - Contractor's Personnel at Government Establishments

DEFCON 113 SC1 (Edn 02/17) – Diversion Orders

DEFCON 129J SC1 (Edn 06/17) – The Use of the Electronic Business Delivery Form

DEFCON 503 SC1 (Edn 07/21) – Formal Amendments to Contract

DEFCON 524A SC1 (Edn 08/20) – Counterfeit Materiel

DEFCON 531 SC1 (Edn.09/21) - Disclosure of Information

DEFCON 532A SC1 (Edn 08/20) - Protection of Personal Data

(Where Personal Data is not being processed on behalf of the Authority)

DEFCON 534 (Edn 06/21) – Subcontracting and Prompt Payment

DEFCON 538 (Edn 06/02) - Severability

DEFCON 566 Edn 10/20) - Change of Control of Contractor

DEFCON 609 SC1 (Edn 08/18) - Contractor's Records

DEFCON 611 SC1 (Edn 12/16) – Issued Property

DEFCON 620 SC1 (Edn 08/21) – Contract Change Control Procedure

DEFCON 624 SC1 (Edn 12/16) - Use Of Asbestos

DEFCON 627 SC1 (Edn 11/21) - Requirement for a Certificate of Conformity

DEFCON 656A (Edn 08/16) - Termination for Convenience Under £5m

DEFCON 691 (Edn. 02/17) - Timber and Wood – Derived Products

**21 The special conditions that apply to this Contract are:**

**Third Party IPR Authorisation**

Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorized and the specific intellectual property involved.

**Security Clearances**

The Contractor shall ensure that they arrange for any relevant security clearances (including BPSS or SC) to be in place when their personnel are required deliver any goods or services on Authority sites.

**Publicity and Communications with the Media**

The Contractor shall not and shall ensure that any employee or Subcontractor shall not communicate with representatives of the press, television, radio or other media on any matter concerning the Contract unless the Authority has given its prior written consent.

**22 The processes that apply to this Contract are:**

Impediments

The Contractor shall notify the Authority as soon as they become aware of any circumstance which will impact on their ability to deliver any of the requirements or meet any of the stated timescales.

**Tender Proposal**

Requirements to be delivered in accordance with this contract and, where it does not conflict with this contract, in line with proposal included in tender dated 11 February 2022.

**Performance Management**

A date for delivery of goods or completion of each service will be stated in the contract or agreed between the Authority and the Contractor. Where this is not met by the Contractor, goods are not delivered or services are not completed, until after any stated or agreed date (unless the Authority accepts that circumstances were outside of the control of the Contractor), the Authority reserves the right to deduct 10% of the payment due for those services for each week or portion of a week that passes before the services are completed.

If, at any time, any of the goods or services provided under the Contract do not meet the required standard or quality, the Authority will not be obligated to buy any more services unless it is satisfied that the required standard or quality will be met.