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To Address Line 1  
To Address Line 2  
To Address Line 3  
To Address Line 4  
Postcode  
FAO

Your Reference:  
LSBU15/0126

Our Reference:  
LSBU15/0126

Date:

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Dear Sir/Madam

**Invitation To Tender (ITT) Reference No.LSBU15/0126**

1. You are invited to tender IFF Test sets in competition in accordance with the attached documentation.
2. The requirement is for IFF Mode 5 Ramp Test Sets and Accessory Tripod,
3. Funding has been approved, the budget is a maximum of £157,681.76 inclusive Vat over the duration of the Purchase Order.
4. The anticipated date for the contract award decision is 22/03/2017. Please note that this is an indicative date and may change.
5. You must submit your Tender to arrive no later than 14:00 on the 22/02/2017. You must attach the enclosed Tender Return Label at DEFFORM 28 (Appendix 2) to the outer packaging of your Tender when you submit it to the Authority.

Yours faithfully

Gary Cloughley  
**Head of Contract Let**  
Babcock DSG acting as the Authority's agent

## List of Suppliers Invited to Submit a Tender for ITT No. LSBU15/0126

<b>Supplier Name</b>	<b>Supplier Address and Phone No</b>	<b>Supplier Point of Contact</b>
COBHAM AVCOMM	Units 14-15, Monks Brook Industrial Park, School Close, Chandler's Ford, Eastleigh, Hampshire, SO53 4RA	Barry Beasley <a href="mailto:Barry.Beasley@cobham.com">Barry.Beasley@cobham.com</a>
MUIRHEAD AVIONICS	3 The Square Heathrow, Southall Lane, Southall, Middlesex, UB2 5NH	Gino Masoero <a href="mailto:Gino.Masoero@ametek.com">Gino.Masoero@ametek.com</a>

# **BABCOCK**

**Invitation To Tender  
For  
IFF Mode 5 Ramp Test Sets and Accessory Tripod**

## Contents

This invitation consists of the following documentation:

- DEFFORM 47 – Invitation To Tender, The DEFFORM 47 sets out the key requirements that Tenderers need to meet in submitting a valid Tender. It also sets out the conditions relating to this competition. For ease it is broken into:
  - Section A – Introduction Page 3
    - Definitions
    - Purpose
    - ITT Documentation and ITT Material
    - Tender Expenses
    - Material Change of Control from Supplier Selection
    - Contract Conditions
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  - DEFFORM 47 Annex A – Tender Submission Document (Offer) Page A1
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- Appendix 2 - DEFFORM 28 – Tender Return Label
- Appendix 3 – Systems Requirement Document (SRD)
- Appendix 4 – Commercial Compliance Matrix
- Appendix 5 – Price and Lead-time Combination Matrix
- Contract Terms and Conditions
- Schedule of Requirements - Schedule 2
- DEFFORM 111 – Annex A to Schedule 3 of Contract - Addresses and Other Information
- Tenderer’s Commercially Sensitive Information Form (DEFFORM 539A) (Schedule 9)

## Section A – Introduction

### DEFFORM 47 Definitions

A1. “The Authority” means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, (referred to in this document as "the Authority"), acting as part of the Crown.

A2. “Tenderer” means the economic operator or group of operators in the form of a consortium, including sub-contractors, which has been invited to submit a response to this Invitation to Tender. Where “you” is used this means an action on you the Tenderer.

A3. “Invitation to Tender” (ITT) refers to the first document that the Authority sends out to potential Tenderers that initiates a tender response, competitive dialogue or negotiation.

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

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

A6. “Schedule of Requirements” (Schedule 2) means that part of the contract which identifies, either directly or by reference, the Contractor Deliverables to be supplied or carried out, the quantities involved and the price or pricing terms in relation to each Contractor Deliverable.

A7. The “Statement of Work” details the technical requirements and acceptance criteria Schedule 8 of the Contractor Deliverables. The Statement of Work is attached at Schedule 8 to this DEFFORM 47. This may include the System Requirements Document (SRD).

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

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

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

### Purpose

A11. The purpose of this ITT is to invite you to propose a solution / best price to meet the Authority’s requirement. This documentation explains and sets out the:

- a. tender process and timetable for the next stages of the procurement;
- b. instructions and conditions that govern this competition;
- c. information you must include in your Tender and the required format;
- d. administrative arrangements for the receipt and evaluation of Tenders; and
- e. Contract Conditions that shall apply in the event that the Authority awards a contract following this competition.

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

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

A14. The requirement was advertised by the Authority in the Defence contracts online (DCO) dated 18/11/2016 with reference to the requirement for Restricted under the Public Contracts Regulations 2015.

### ITT Documentation and ITT Material

A15. ITT Documentation means any information in any medium or form (for example drawings, handbooks, manuals, instructions, specifications and notes of pre-tender clarification meetings), issued to you, or to which you have been granted access, by the Authority for the purposes of

responding to this ITT. ITT Material means any other material (including patterns and samples), equipment or software issued to you, or to which you have been granted access, by the Authority for the purposes of responding to this ITT. ITT Documentation, ITT Material and any intellectual property rights (IPR) in them shall remain the property of the Authority or other Third Party owners and is released solely for the purposes of enabling you to submit a Tender. You must:

- a. take responsibility for the safe custody of the ITT Documentation and ITT Material and for all loss and damage sustained to it while in your care;
- b. not copy or disclose the ITT Documentation or any part of it to anyone other than the bid team involved in preparing your Tender, and not use it except for the purpose of responding to this ITT;
- c. seek written approval from the Authority if you need to provide access to any ITT Documentation or ITT Material to any Third Party;
- d. abide by any reasonable conditions imposed by the Authority in giving its approval under sub-paragraph A15.c, which at a minimum will require you to ensure any disclosure to a Third Party is made by you in confidence. Alternatively, due to IPR issues for example, the disclosure may be made, in confidence, directly by the Authority;
- e. accept that any further disclosure of ITT Documentation (or use beyond the original purpose), or further use of ITT Documentation or ITT Material, without the Authority's written approval may make you liable for a claim for breach of confidence and / or infringement of IPR, a remedy which may involve a claim for compensation;
- f. inform the Commercial Team if you decide not to submit a Tender;
- g. immediately return all ITT Documentation, ITT Material and derived information of an unmarked nature, should you decide not to respond to this ITT, or you are notified by the Authority that your Tender has been unsuccessful; and
- h. consult the named Commercial Officer to agree the appropriate destruction process if you are in receipt of ITT Documentation and ITT Material marked 'OFFICIAL-SENSITIVE' or 'SECRET'.

A16. Some or all of the ITT Documentation and ITT Material may be subject to one or more confidentiality agreements made between you and either the Authority or a Third Party, for example a confidentiality agreement established in the form of DEFFORM 94. The obligations contained in any such agreement will be in addition to, and not derogate from, your obligations under paragraph A15 above.

## **Tender Expenses**

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

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

A18. You must inform the Authority in writing if there is any material change in control, composition or membership of your organisation and / or consortium members, including any sub-contractors at any time during the procurement process. This may affect your right to stay in the competition.

## **Contract Conditions**

A19. Standardised Contract 2 (SC2) conditions are attached. Only the 'Core Plus' conditions are negotiable.

Note: The MOD is changing to an electronic end to end procurement system. Any conditions relating to the payment process may be amended between the issue of this ITT and contract award. Any change will solely be for the purpose of ensuring payment is made.

## **Consultation with Credit Reference Agencies**

A20. The Authority may consult with credit reference agencies to assess your creditworthiness. This information may be used to support and influence decisions to enter into a contract with you.

## Section B – Key Tendering Activities

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

Stage	Date and Time	Initiated By	Submit to:
Invitation to Bidders Conference <sup>1</sup>	N/A	The Authority	All Tenderers
Date for Confirmation of attendance at Bidders Conference <sup>1</sup>	N/A	Tenderers	N/A
Final date for Clarification Questions / Requests for additional information	15/02/2017 23:59	Tenderers	Jonathan.Bamford@babcockinternational.com
Final Date for Requests for Extension <sup>2</sup>	12/02/2017 23:59	Tenderers	Jonathan.Bamford@babcockinternational.com
The Authority issues Final Clarification Answers	17/02/2017 23:59	The Authority	All Tenderers <sup>3</sup>
Tender Return	22/02/2017 14:00	Tenderers	The Tender Board, using DEFFORM 28
Tender Evaluation	23/02/2017	The Authority	N/A
Negotiations <sup>4</sup>	N/A	The Authority	N/A
Reverse Auction	N/A	The Authority	N/A
Trials / Testing	N/A	The Authority	N/A

### Notes

1. A Bidders Conference is where the Authority presents the requirement to all Tenderers at the same time. A copy of the presentation will be issued to all Tenderers regardless of attendance. It gives you an opportunity to ask questions about the requirement. The Tenderer must provide the name(s) of those attending the Bidders Conference to the above named contact, by the date shown, so that access to the site can be arranged.

2. The Tenderer must make requests for an extension in writing (email is sufficient) to the above named contact, by the date and time shown. Any extension is at the sole discretion of the Authority and if granted will be granted to all Tenderers.

3. The Authority will automatically copy questions and answers to all Tenderers, removing the names of those who have raised the questions. If you do not want your question disclosed you must inform the Authority of this and the reason why when submitting the question. The Authority

may choose to discuss with you whether it is appropriate to disclose the question or response, or both, to other Tenderers. If the Authority decides to disclose, you will be given the opportunity to withdraw your question. Where a question reveals a piece of information that could significantly impact the Tenderers responses this may result in an extension of the Tender return date. The Authority will endeavour to ensure that you have at least 10 working days to submit your Tender.

4. Negotiations are only permitted under the Negotiated procedures.

## **Section C - Instructions on Preparing Tenders**

### **Tenders for Selected Contractor Deliverables**

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

### **Construction of Tenders**

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

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

### **Validity**

C4. In accordance with F3 your Tender must be valid / open for acceptance for ninety (90) calendar days from the Tender return date. If successful, your Tender must be open for acceptance for a further thirty (30) calendar days.

C5. Variant Bids.

Any Tender made subject to additional or alternative Contract Conditions alone is not a variant bid. Where the tender evaluation has a pass / fail for the Contract Conditions the Authority may reject the Tender on the grounds of such additional or alternative Contract Conditions.

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

## Section D – Tender Evaluation

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

### The Tender Evaluation will be on the basis of:

Most Economically Advantageous Tender (MEAT)

This Tender will be evaluated using the MEAT method in terms of financial, commercial and technical elements.

It is the Authority's intention is to award the Contract to the Tenderer offering the best combination proposal in terms of both price and lead-time.

The optimum is the lowest price financially and lowest Lead-time while still being commercially and technically compliant.

If you had the best lead-time and your price was highest, This would receive a lower total score and vice versa. The best combination for Price and lead-time will be calculated using Appendix 5,

If you had the best combination score of the returned tenderers, yet you failed the commercial and technical fields, you would be found to be non-compliant.

The Lead Time will be transferred into a numerical score using the calculation as follows:  
[Quantity x Lead Time (days) ] / 3 (rounded up to the nearest whole number)

<b>Mandatory Criteria:</b>		
Mandatory Requirements		See Attached Ref
Returns completed in DEFFORM 47 Annex A (Offer) (See section F, paragraph 18)		Pass / Fail
Minimum Technical Requirements met		Pass / Fail
Minimum Commercial Requirements met		Pass / Fail
Failure to meet the Mandatory Criteria will result in your Tender being non-compliant.		
Each individual criterion will be evaluated against the following scoring mechanism.		
1	Technical	Pass or Fail based on the Tenderer completed System Requirement Document
2	Commercial	based on the tenderers ability to be closest to the latest Delivery date ( end of Financial year )
3	Financial	Scoring system based on the suppliers response to Appendix 5

In the event of two or more Tenders being awarded the same total the Authority shall choose the Tender with the most effective Lead-time and Price Combination.

Tender Evaluation Tool	Appendix 3	System Requirement Document (SRD)
	Appendix 4	Commercial Compliance Matrix
	Appendix 5	Price and Lead-time Combination Matrix

## Section E – Instructions on Submitting Tenders

### Submission of your Tender

E1. Tenders must be sent to the Tender Board by the date and time stated in the covering letter to this DEFFORM 47. The Authority reserve the right to reject any Tender received after the stated date and time. You must provide one (1) unpriced Technical Hardcopy of your Tender submission and one (1) priced Hardcopy of your Tender. You must not email electronic copies until after the Tender Board has taken place. If you email your Tender before the Tender Board date, your Tender may be excluded from the competition.

E2. You must complete and include DEFFORM 47 Annex A (Offer) with your Tender. Where you select 'Yes' to any questions you must attach the relevant information.

E3. You must include the original signed DEFFORM 47 Annex A (Offer) with one paper copy of your priced Tender.

E4. You must submit your paper copies in a sealed envelope or box. For health and safety reasons, no individual envelope or box should weigh more than 11 kilos.

E5. You must attach the enclosed Tender Return Label (DEFFORM 28) to the outer packaging of each envelope or box that contains your Tender.

E6. If you intend to hand deliver your Tender you must inform the named Commercial Officer of your intention and seek further delivery instructions. Failure to do so may result in your Tender being refused and / or returned.

E7. You must ensure you include all relevant information in your Tender. The Authority can only evaluate information that you include in your Tender.

**E8. The winning bidder must be compliant with all aviation releases and trade control authorisations and licensing**

E9. You must ensure you complete and return;

- Annex A at DEFFORM 47
- Schedule 2 – Schedule of requirements
- Annex A to Schedule 2 – Equipment Scoring Matrix
- Schedule 5 – Export License
- Schedule 6 – Hazardous Articles, Materials or Substances supplied under the Contract: Data Requirements
- Schedule 7 – Timber and Wood Derived Products Supplied under the Contract: Data Requirements
- Schedule 9 DEFFORM 539A
- Statement of Good Standing (SOGS)
- Product Detail Questionnaire (PDQ)

### Samples

E10. Samples are not Required

## Section F – Conditions of Tendering

F1. The issue of ITT Documentation or ITT Material is not a commitment by the Authority to place a contract as a result of this competition or at a later stage. Any expenditure, work or effort undertaken prior to an offer of contract and acceptance of that, is a matter solely for your commercial judgement. The Authority reserves the right to:

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

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

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

### Conforming to the Law

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

F5. Your attention is drawn in particular to legislation relating to the canvassing of a public official, collusive behaviour and bribery. If you act in breach of this legislation then your Tender may be disqualified from this procurement. Disqualification will be without prejudice to any civil remedy available to the Authority or any criminal liability that your conduct may attract.

### Bid Rigging and Other Illegal Practices

F6. You must report any bid rigging, fraud, bribery, corruption, or any other dishonest irregularity in connection to this tendering exercise to:

Defence Regulatory Reporting Cell Hotline  
0800 161 3665 (UK) or

+44 1371 85 4881 (Overseas)

## **Conflicts of Interest**

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

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

## **Government Furnished Assets**

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

## **Standstill Period**

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

## **Publicity Announcement**

F11. The Authority will publish notification of the contract and shall publish contract documents under the FOI Act except where publishing such information would hinder law enforcement; would otherwise be contrary to the public interest; would prejudice the legitimate commercial interest of any person, or might prejudice fair competition between suppliers. You should complete and return DEFFORM 539A as explained in the DEFFORM 47 Annex A and associated Appendix 1.

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

F13. Under no circumstances should you confirm to any Third Party the Authority's acceptance of an offer of contract prior to either informing the Authority of your acceptance or the Authority's announcement of the award of contract, whichever occurs first.

## **Sensitive Information**

F14. All Central Government Departments and their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-governmental role delivering overall Government policy on public procurement, including ensuring value for money, related aspects of good procurement practice and answering Freedom Of Information requests.

F15. For these purposes, the Authority may share within Government any of the Contractor's documentation / information (including any that the Contractor considers to be confidential and / or commercially sensitive such as specific bid information) submitted by the Contractor to the Authority during this Procurement. Contractors taking part in this competition must identify any sensitive material in the DEFFORM 539A (Schedule 9), and consent to these terms as part of the competition process. This allows the MOD to share information with other Government departments while complying with our obligations to maintain confidentiality.

F16. The Authority reserves the right to disclose on a confidential basis any information it receives from Tenderers during the procurement process (including information identified by the Tenderer as Commercially Sensitive Information in accordance with the provisions of this ITT/ITN) 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.

### **Remedies for Breach of Contract**

F17. You should be aware of the contractual remedies set out in the Contract Conditions **clause F.6.a**, which may apply in the event of a breach of contract by the contractor. Damages for breach of contract are not limited under the contract. However, you should also note under **clause F6.d** that in exercising its rights and remedies under the contract the Authority must act in a reasonable and proportionate manner having regard to the nature and consequences of the breach of contract. If you are unsure about the potential liability under the contract, you should seek advice from the named Commercial Officer.

### **Reportable Requirements**

F18. Listed in the DEFFORM 47 Annex A (Offer) are the Mandatory Declarations. It is a Condition of Tendering that you complete and attach the returns listed in the Annex and, where you select yes, you attach the relevant information.

F19. The answers provided are for statistical or Contract Management purposes and are not evaluated. However failure to complete this part of the Annex makes your Tender non-compliant.

F20. If you are an overseas Contractor and your Tender is successful you will be required to provide the name and address of your banker and the relevant bank account number on contract award.

### **Specific Conditions of Tendering**

F21. Third Party IPR - Confidentiality And Technical Assistance

It is proposed that information as used by the Authority relevant to the performance of any resultant contract will be made available to the winning Tenderer exclusively for the performance of services specified under the contract for the MOD.

Any request for payment of licence fees for the use of information to be provided by the Authority under paragraph 1 should be referred to the Authority when submitting the Tender or responding to an offer of contract from the Authority, and no agreement entered therefore without the consent of the Authority. You must exclude any proposed charges for access to or use of the information from the Tender price.

The Tenderer should make their own arrangements, as necessary, directly with any original supplier of equipment to be repaired or maintained under any resultant contract for the provision of technical assistance and support. You must include the cost of securing any services necessary in the Tender price. You should include details of such arrangements when submitting your Tender or responding to an offer of contract from the Authority.

In addition, the Tenderer, when tendering or responding to an offer of contract from the Authority, shall provide to the Authority in writing:

- a. details of arrangements they propose to make to maintain the confidentiality of information provided under paragraph 1;
- b. details of any proposed use of information to be provided under the contract otherwise for the exclusive performance of services under the contract for the MOD and as currently carried out by the Authority, including any Intellectual Property Right known to the Tenderer which is not covered by paragraphs 1 to 3 above and which may be required for the purpose of tendering for or performing the contract;

- c. a statement setting out full details of any licence or other agreement (whether royalty bearing or not) or legal restraint relating to any other Intellectual Property considered necessary for the performance of the proposed work. No payment for use of such Intellectual Property Rights will be allowed as a part of the contract price or otherwise reimbursed by the Authority to the contractor unless it shall have been specifically agreed to by the Authority.

In the event of the Tenderer proposing to sub-contract for the purpose of any resultant contract, they must notify Tenderers for sub-contracts of the same notices and instructions given for the main contract by paragraphs 1 to 4 of this Condition of Tendering.

#### F22. Sustainable Development

The Authority is very committed to achieving sustainable development goals through educating the supply chain, developing performance measures and sharing best practice. This is not a condition to working with the Authority now or in the future, nor part of the contract. It is however a commitment on our part to encourage and support sustainable development and we are committed to working with you to this end. The Authority very much hopes that you share this commitment and we will discuss sustainable development further with the successful Tenderer during the performance of any resultant contract.

#### F23. Mandatory Requirements of Tender Response.

The Tenderer shall submit one signed Commercial hard copy plus one unsigned unpriced Technical hard copy. The Tenderer shall, as a minimum provide the following information:

- a. Completed and signed DEFFORM 47 (Offer) sheet
- b. A completed, signed copy of DEFFORM 539A - Tenderer's Commercially Sensitive Information Form
- c. A completed Schedule 7 in regards to the use of timber derived products
- d. A completed Annex A to Schedule 2

#### F24. Key Performance Indicators

The Contract shall contain a set of Key Performance Indicators, as detailed in the Terms and Conditions of Contract, to measure the Contractor's performance in areas such as delivery and quality. The Tenderer is invited to put forward additional KPIs to measure its performance, plus that of the Authority, in specific areas.

#### F25. Military Level Packaging

Military level Packaging shall be the responsibility of the Contractor. The Tenderer shall ensure that their bids reflect the full cost of any Contractor Deliverables that require packaging to a military level standard.

Where the Tenderer intends to use a MPAS accredited specialist packaging Contractor to undertake military level packaging, the Tenderer shall submit with his bid details of the Contractor, including full title, address and contact details as a minimum.

Ministry of Defence

Tender Ref No. ....

Tender Submission Document (Offer)

To the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (hereafter called "the Authority")

The undersigned Tenderer, having read the ITT Documentation, offers to supply the Contractor Deliverables at the stated price(s), in accordance with any referenced drawings and / or specifications, subject to the Conditions of Tendering. It is agreed that only the Contract Conditions or any amendments issued by the Authority shall apply.

<b>Applicable Law</b>				
I agree that any contract resulting from this competition shall be subject to English Law *Where 'No' is selected, Scots Law will apply.				Yes / No*
<b>Total Value of Tender (excluding VAT)</b>				
£ .....				
WORDS .....				
<b>UK Value Added Tax</b>				
If registered for Value Added Tax purposes, please insert:				
a. Registration No .....				
b. Total amount of Value Added Tax payable on this Tender (at current rate(s)) £.....				
<b>Location of work (town / city) where contract will be performed by Prime:</b>				
Where items which are subject of your Tender are not supplied or provided by you, state location in town / city to be performed column (continue on another page if required)				
Tier 1 Sub-contractor Company Name	Town / city to be Performed	Contractor Deliverables	Estimated Value	SME Yes / No
<b>Mandatory Declarations</b> (further details are contained in Appendix 1 to DEFFORM 47 Annex A (Offer)):			<b>Tenderer's Declaration</b>	
Is the offer subject to the Authority contracting for all the Contractor Deliverables?			Yes* / No	
Is the offer made subject to a Minimum Order Quantity?			Yes* / No	
Are the Contractor Deliverables subject to IPR that has been exclusively or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding?			Yes* / No	
Are the Contractor Deliverables subject to Foreign Export Control and Security Restrictions?			Yes* / No	
Have you obtained foreign export approval necessary to secure IP user rights for the Authority in Contract Deliverables, including technical data, as determined in the Contract Conditions?			Yes* / No	
Have you complied with all regulations relating to the operation of the collection of custom import duties?			Yes / No	
Have you completed Form 1686 for sub-contracts?			Yes / No	
Have you completed the compliance matrix/ matrices?			Yes / No / Not Required	

Are you a Small Medium Sized Enterprise (SME)?	Yes / No
Have you and your sub-contractors registered with the Prompt Payment Code with regards to SMEs?	Yes / No
Have you completed and attached Tenderer's Commercially Sensitive Information Form (DEFFORM 539A)?	Yes / No
If you have not previously submitted a Statement Relating to Good Standing, or circumstances have changed have you attached a revised version?	Yes* / No / N/A
Do the Contractor Deliverables contain Asbestos, as defined by the control of Asbestos Regulations 2012?	Yes* / No
Have you completed and attached a DEFFORM 68 - Hazardous Articles, Deliverables materials or substances statement?	Yes* / No
Do the Contractor Deliverables (including Packaging) use Substances that deplete the Ozone Layer, as defined in Regulation (EC) 1005/2009 (as amended by EC 744/2010) of the European Parliament and of the Council. <a href="http://ozone.unep.org/en/treaties-and-decisions/montreal-protocol-substances-deplete-ozone-layer">http://ozone.unep.org/en/treaties-and-decisions/montreal-protocol-substances-deplete-ozone-layer</a>	Yes* / No
Have you attached The Bank / Parent Company Guarantee?	Yes* / No / Not Required
Have you complied with the requirements of the Military Aviation Authority Regulatory Articles?	Yes / No / Not Required
Have you completed the additional Mandatory Requirements?	Yes / No / Not Required
*If selecting Yes to any of the above questions, please attach the information detailed in Appendix 1 to DEFFORM 47 Annex A (Offer).	
<b>Tenderer's Declaration of Compliance with Competition Law</b>	
<p>We certify that the offer made is intended to be genuinely competitive. No aspect of the price has been fixed or adjusted by any arrangement with any Third Party. Arrangement in this context includes any transaction, or agreement, private or open, or collusion, formal or informal, and whether or not legally binding. In particular:</p> <ol style="list-style-type: none"> <li>the offered price has not been divulged to any Third Party,</li> <li>no arrangement has been made with any Third Party that they should refrain from tendering,</li> <li>no arrangement with any Third Party has been made to the effect that we will refrain from bidding on a future occasion,</li> <li>no discussion with any Third Party has taken place concerning the details of either's proposed price, and</li> <li>no arrangement has been made with any Third Party otherwise to limit genuine competition.</li> </ol> <p>We understand that any instances of illegal cartels or market sharing arrangements, or other anti-competitive practices, suspected by the Authority will be referred to the Competition and Markets Authority for investigation and may be subject to action under the Competition Act 1998 and the Enterprise Act 2002.</p> <p>We understand that any misrepresentations may also be the subject of criminal investigation or used as the basis for civil action.</p> <p>We agree that the Authority may share the Contractor's information / documentation (submitted to the Authority during this Procurement) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. We certify that we have identified any sensitive material in DEFFORM 539A.</p>	
Dated this..... day of ..... Year .....	
<b>Signature:</b>  (Must be original)	<b>In the capacity of</b>  ..... (State official position e.g. Director, Manager, Secretary etc.)
<b>Name:</b> (in BLOCK CAPITALS)  <b>duly authorised to sign this Tender for and on behalf of:</b>  (Tenderer's Name)	<b>Postal Address:</b>  <b>Telephone No:</b> <b>Registered Company Number:</b> <b>Dunn And Bradstreet number:</b>

## Information on Mandatory Declarations

### Part Tender

1. Under Condition of Tendering F1, the Authority reserves the right to order some or part of your Tender. If your offer is subject to the Authority contracting for all the Contractor Deliverables select 'Yes' and provide further details in your Tender.

### Minimum Order Quantities

2. Where your offer is subject to minimum order quantities select 'Yes' and provide further details in your Tender.

### IPR - Restrictions.

3. Where the Contractor Deliverables are subject to IPR that has been exclusively or part funded by private venture, foreign investment or otherwise than by Authority funding you must select 'Yes' in Annex A (Are the Contractor Deliverables subject to IPR that has been exclusively or part funded by Private Venture, Foreign Investment or otherwise than by Authority funding) .

4. Furthermore if you have answered 'Yes' in Annex A (Offer) as directed by para 3 above, you must clearly state in your Tender any Contractor Deliverable to be produced under any resultant contract that is or is likely to be the subject to any IPR restrictions, (or anything of this nature including export restrictions in provision to the Authority or resulting in the Authority receiving limited use or disclose rights) either by yourself or a Third Party. You must particularly draw attention to:

a. Any restriction of, provision to the Authority, disclosure or use by the Authority, or obligation to make payments, in respect of any intellectual property (including technical information) required for the purpose of any resultant contract or any subsequent use of any Contractor Deliverable by the Authority. Any Patent or Registered Design (or application for either) or unregistered design right owned or controlled by you or a Third Party which is or appears to be relevant to the Contractor Deliverables, the use of which by or on behalf of the Authority may give rise to a claim under Sections 55 or 56 of the Patents Act 1977, or Section 12 of the Registered Designs Act 1949, or Section 240 of the Copyright, Designs and Patents Act 1988;

b. any allegation made against you, whether by claim or otherwise, of an infringement of an intellectual property right (whether a Patent, Registered Design, unregistered design right, copyright or otherwise) or of a breach of confidence, which relates to the performance of any resultant contract or subsequent use by or for the Authority of any Contractor Deliverables;

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

d. any action you need to take or the Authority is required to take to deal with the consequences of any allegation referred to under sub-paragraph 4.b.

5. You must, when requested, give the Authority details of every restriction and obligation referred to in paragraph 4. The Authority will not acknowledge any such restriction unless so notified under paragraph 4 or as otherwise agreed under any subsequent Contract. You must also provide, on request, any information required for authorisation to be given under Section 2 of the Defence Contracts Act 1958.

6. If you have previously provided information under paragraphs 4 and 5 you can provide details of the previous notification, updated as necessary to confirm their validity.

## **Notification of Foreign Export Control Restrictions**

7. In respect of any Contractor Deliverables, likely to be required for the performance of any resultant contract, you must provide the following information in your Tender:
- a. Whether all or part of any Contractor Deliverables are or will be subject to:
    - (1) a non-UK export licence, authorisation or exemption; or
    - (2) any other related transfer control that restricts or will restrict end use, end user, re-transfer or disclosure.
  - b. If requested, a summary of every existing, expected or known licence and restriction referred to in paragraph 7.a. This includes any related obligation or restriction and the extent they place an obligation or restriction on the Authority, including:
    - (1) the exporting nation and the export licence number, where known;
    - (2) the Contractor Deliverables affected;
    - (3) the nature of the restriction and obligation;
    - (4) the authorised end use and end users;
    - (5) any specific restrictions on access by Third Parties, or by individuals based on their nationality, to the Contractor Deliverables; and
    - (6) any specific restrictions on re-transfer or re-export to Third Parties of the Contractor Deliverables or anything delivered or used in the performance or fulfilment of them.
  - c. If requested, you must provide an outline of your mitigation plan to manage performance risks on any resultant contract based on paragraph 7.a.
8. You must use reasonable endeavours to obtain sufficient information from your potential supply chain to enable a full response to paragraphs 7.a and 7.b. If you are unable to obtain adequate information, you must state this in your Tender when responding to paragraph 7.a and 7.b.
9. 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.
10. If you have previously provided information under paragraph 7 you can provide details of the previous notification and confirm the validity.
11. This does not include any Intellectual Property specific restrictions mentioned in paragraph 4.
12. It is the Winning Tenderer(s) responsibility to ensure they comply with any restrictions stated in paragraph 7 during the life of the contract. This includes any restrictions the Authority has explicitly stated / clarified in any ITT documentation.
13. 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 7.

## **Overseas Expenditure**

14. You must provide details in your Tender of any expenditure outside the UK, including:
- a. country in which sub-contract is placed / to be placed;
  - b. name, division and full postal address of sub-contractor;
  - c. value of sub-contract; and
  - d. date sub-contract placed / to be placed.
15. Should you propose the supply of Articles of US origin the export of which from the USA are subject to control under the US International Traffic in Arms Regulations (ITAR), you must include details in your Tender. This will allow the Authority to make a decision whether the export can or cannot be made under the auspices of 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**

16. European Union (EU) legislation permits the use of various procedures to suspend customs duties.

17. For the purpose of this competition, for any deliverables not yet imported into the EU, you are required to provide details of your plans to address customs compliance, including the procedures to be applied and the estimated Import Duty to be incurred and / or suspended.

18. You should note that it is your responsibility to ensure compliance with all regulations relating to the operation of the accounting for import duties. This includes but is not limited to obtaining the appropriate Her Majesty's Revenue & Customs (HMRC) authorisations.

## **Sub-contracts Form 1686**

19. Form 1686 (also known as Appendix 5) is to be used in all circumstances where contractors wish to place a sub-contract with a contractor where the release of OFFICIAL-SENSITIVE information is involved. The process will require submission of the single page document either directly to the MOD Project Team or, where specified, to the DE&S Security Advice Centre. You can find further information in the [Security Policy Framework – Contractual Process](#) chapter. You can access a word version of Form 1686 on GOV.UK at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/367494/Contractual\\_Process\\_-\\_Appendix\\_5\\_form.doc](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367494/Contractual_Process_-_Appendix_5_form.doc)

## **Small and Medium Enterprises**

20. The Authority is committed to supporting the Government's small and medium-sized enterprise (SME) initiative; its ambiguous target is that every £1 in every £3 that the Government spends should be with small businesses by 2020. Our goal is that 25% of MOD spending should be spent with SMEs by 2020; this applies to the money which the MOD spends directly with SMEs and through the supply chain. The Authority uses the European Commission definition of an SME.

21. A key aspect of the Government's SME Policy is ensuring that its suppliers throughout the supply chain are paid promptly. All suppliers to the Authority and their sub-contractors are encouraged to make their own commitment and register with the Prompt Payment Code at: <http://www.promptpaymentcode.org.uk>.

22. Suppliers are also encouraged to work with the Authority to support the Authority's SME initiative. The link below to Gov.uk website provides information on the Authority's purchasing arrangements, our commercial policies and our SME policy. <https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement>.

23. The opportunity also exists for Tenderers to advertise any sub-contract valued at over £10,000 in the MOD Contracts Bulletin and further details can be obtained directly from:

BiP Solutions Ltd

Web address: [www.contracts.mod.uk](http://www.contracts.mod.uk)

Tel No: 0845 270 7099

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

24. You should be aware that the contents of any resultant contract may be published in line with government policy set out in the Prime Minister's letter of May 2010 (<https://www.gov.uk/government/policies/government-transparency-and-accountability>) and the information contained within DEFCON 539 and Clause A14.

25. Before publishing the contract, the Authority will redact any information which is exempt from disclosure under the Freedom of Information Act 2000 ("the FOIA") or the Environmental Information Regulations 2002 ("the EIR").

26. You should complete the attached Tenderer's Commercially Sensitive Information Form (DEFFORM 539A) explaining which parts of your Tender you consider are commercially sensitive. This includes providing a named individual who may be contacted with regard to FOIA and EIR.

27. 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**

28. Tenderers must note that use of the Babcock DSG ordering and payment system is a mandatory requirement for this contract. Unconditional acceptance of all references to the Babcock DSG ordering and payment system is required. A failure to do so will result in your Tender being non-compliant.

## **Change of Circumstances**

29. Where circumstances have changed with regard to a Statement Relating to Good Standing or you have not previously submitted a Statement Relating to Good Standing select 'Yes' and submit a Statement Relating to Good Standing with your Tender.

## **Asbestos, Hazardous Items and Depletion of the Ozone Layer**

30. The Authority is required to report any items that use asbestos, that are hazardous or where there is an impact on the Ozone. Where any Contractor Deliverables fall into one of these categories select 'Yes' and provide further details in your Tender.

## **Military Aviation Authority (MAA) Requirements**

31. In July 2011 the Military Aviation Authority (MAA) launched a new set of Regulatory Publications. Key to these is the Regulatory Articles (RA), which prescribe acceptable means of compliance (AMC) for each separate Regulation. Tenderers who wish to propose an alternative means of compliance must obtain agreement in principle from the MAA (through the Project team) in advance of submitting their Tender. AMC are strongly recommended practices and a justification will be required if they are not followed. Tenderers must consult the MAA where there is more than one AMC. You must confirm how you intend to comply with the RA, and the date you consulted with the MAA.

## **Bank or Parent Company Guarantee**

32. A Bank or Parent Company Guarantee is not required.

## **The Armed Forces Covenant**

33. The Armed Forces Covenant is a public sector pledge from Government, businesses, charities and organisations to demonstrate their support for the Armed Forces community. The Covenant was brought in under the Armed Forces Act 2011 to recognise that the whole nation has a moral obligation to redress the disadvantages the armed forces community face in comparison to other citizens, and recognise sacrifices made.

34. The Covenant's two principles are that:

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

b. Special consideration is appropriate in some cases, especially for those who have given most such as the injured and the bereaved.

The Authority encourages all Tenderers, and their suppliers, to sign the Corporate Covenant, declaring their support for the Armed Forces community by displaying the values and behaviours set out therein.

35. Guidance on the various ways you can demonstrate your support through the Corporate Covenant is at: <https://www.gov.uk/government/policies/armed-forces-covenant>.

36. If you wish to register your support you can provide a point of contact for your company on this issue to the Armed Forces Covenant Team at the address below, so that the MOD can alert you to any events or initiatives in which you may wish to participate. The Covenant Team can also provide any information you require in addition to that included on the website.

Email address: [covenant-mailbox@mod.uk](mailto:covenant-mailbox@mod.uk)

Address: Armed Forces Covenant Team

Zone D, 6<sup>th</sup> Floor, Ministry Of Defence

Main Building, Whitehall, London, SW1A 2HB

37. Paragraphs 35 – 38 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.