

# DPS Schedule 7 (Order Procedure and Award Criteria)

## Part 1: Order Procedure

### 1. How an Order Contract is awarded

1.1 If a potential Buyer decides to source Deliverables through this Contract then it will award its Deliverables in accordance with the procedure in this Schedule and the requirements of the Regulations.

1.2 Any potential Buyer awarding an Order Contract must do so in accordance with the Order Procedure set out in Paragraph 2 below.

### 2. How a competition works

#### What the Buyer has to do

2.1 The Buyer awarding an Order Contract under this Contract through the Order Procedure shall:

2.1.1 register the relevant details of the Project and complete a Customer User Agreement template and forward it to CCS via [info@crownccommercial.gov.uk](mailto:info@crownccommercial.gov.uk)

(a) A Project is created upon submission of a Customer User Agreement and the creation of a Project reference number.

(b) Once a Project number has been created the Buyer and the Supplier shall include the Project number relating to the Order Contract on all correspondence with each other.

2.1.2 develop a Statement of Requirements setting out its requirements for the Deliverables and identify the Suppliers capable of supplying them;

2.1.3 amend or refine the Deliverables to reflect its requirements by using the Order Form only to the extent permitted by and in accordance with the requirements of the Regulations;

2.1.4 invite tenders by conducting an Order Procedure for its Deliverables in accordance with the Regulations and in particular:

(a) if an Electronic Reverse Auction (as defined in Paragraph 3 below) is to be held, the Buyer shall notify the Suppliers and shall conduct the Order Procedure in accordance with the procedures set out in Paragraph ; or

(b) if an Electronic Reverse Auction is not used, the Buyer shall:

(i) invite the Suppliers to submit a tender in writing for each proposed Order Contract to be awarded by giving

written notice by email to the relevant Supplier Representative of each Supplier;

- (ii) advise which Order Contract is to be used from the selection of Order Contracts on the RM6242 DPS
- (iii) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed Order Contract and the time needed to submit tenders; and
- (iv) keep each tender confidential until the time limit set out for the return of tenders has expired;

2.1.5 apply the Order Award Criteria to the Suppliers' compliant tenders submitted through the Order Procedure as the basis of its decision to award an Order Contract for its Deliverables;

2.1.6 on the basis set out above, award its Order Contract to the successful Supplier in accordance with Paragraph 6. The Order Contract shall:

- (a) state the Deliverables;
- (b) state the tender submitted by the successful Supplier;
- (c) state the charges payable for the Deliverables in accordance with the tender submitted by the successful Supplier; and
- (d) incorporate the terms of the Order Form and Contract (as may be amended or refined by the Buyer in accordance with Paragraph 2.1.2. above) applicable to the Deliverables; and

2.1.7 provide unsuccessful Suppliers with written feedback in relation to the reasons why their tenders were unsuccessful.

### **What the Supplier has to do**

2.2 The Supplier shall in writing, by the time and date specified by the Buyer following an invitation to tender pursuant to Paragraph 2.1.3 above, provide CCS and the Buyer with either:

2.2.1 a statement to the effect that it does not wish to tender in relation to the Deliverables; or

2.2.2 the full details of its tender made in respect of the relevant Statement of Requirements. In the event that the Supplier submits such a tender, it should include, as a minimum:

- (a) an email response subject line to comprise unique reference number and Supplier name, so as to clearly identify the Supplier;
- (b) a brief summary, in the email (followed by a confirmation letter), stating that the Supplier is bidding for the Statement of Requirements;
- (c) a proposal covering the Deliverables;

- (d) details of key staff – as a minimum any lead consultant, with others, as considered appropriate along with required staff levels (if necessary); and
- (e) the Buyer has the absolute discretion, when establishing their procurement strategy for a Project, to determine the most appropriate method for incorporating the Prices and rates in accordance with the options available under the different forms of Order Contract conditions available. The chosen methodology will be stated in the Statement of Requirements for individual Order Contracts. Suppliers will provide pricing proposals as requested by the Buyer

2.2.3 The Supplier shall ensure that any prices submitted in relation to an Order Procedure held pursuant to this Paragraph 2 shall reflect DPS Pricing where applicable.

2.2.4 The Supplier agrees that:

- (a) all tenders submitted by the Supplier in relation to an Order Procedure held pursuant to this Paragraph 2 shall remain open for acceptance by the Buyer for ninety (90) Working Days (or such other period specified in the invitation to tender issued by the Buyer in accordance with the Order Procedure); and
- (b) all tenders submitted by the Supplier are made and will be made in good faith and that the Supplier has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The Supplier certifies that it has not and undertakes that it will not:
  - (i) communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and
  - (ii) enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.

## **2.3 Order Contracts**

2.3.1 The Order Contract Conditions used by the Buyer for an Order Contract awarded to a Supplier will be one or more of the following (Non-Core ) Industry standard forms of construction contract, or a Buyer's modified version of such standard forms:

- (a) NEC3 Professional Service Contract

- (b) NEC4 Professional Service Contract
  - (c) NEC3 Professional Service Short Contract
  - (d) NEC4 Professional Service Short Contract
  - (e) JCT Consultancy Agreement (Public Sector) 2016 or;
- the (Core) PSC Order Contract or Buyer's modified version of such form:
- (f) Public Sector Contract

### 3. How e-auctions work

3.1 Where indicated in the Order Form, the Buyer shall be entitled to include a reverse auction in the Order Procedure in accordance with the rules laid down by the Buyer and the Regulations.

3.2 Where Buyer wishes to undertake an electronic reverse auction, where Suppliers compete in real time by bidding as the auction unfolds ("**Electronic Reverse Auction**") then before undertaking it, the Buyer will make an initial full evaluation of all tenders received in response to its Statement of Requirements. The Buyer will then invite to the Electronic Reverse Auction only those tenders that are admissible in accordance with the Regulations. The invitation shall be accompanied by the outcome of the full initial evaluation of the relevant tenders.

3.3 The Buyer will inform the Suppliers of the specification for the Electronic Reverse Auction which shall include:

- (a) the information to be provided at auction, which must be expressed in figures or percentages of the specified quantifiable features;
- (b) the mathematical formula to be used to determine automatic ranking of bids on the basis of new prices and/or new values submitted;
- (c) any limits on the values which may be submitted;
- (d) a description of any information which will be made available to Suppliers in the course of the Electronic Reverse Auction, and when it will be made available to them;
- (e) the conditions under which Suppliers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;
- (f) relevant information concerning the electronic equipment used and the arrangements and technical specification for connection;

- (g) subject to Paragraph 3.5, the date and time of the start of the Electronic Reverse Auction; and
- (h) details of when and how the Electronic Reverse Auction will close.

3.4 The Electronic Reverse Auction may not start sooner than two (2) Working Days after the date on which the specification for the Electronic Reverse Auction has been issued.

3.5 Throughout each phase of the Electronic Reverse Auction the Buyer will communicate to all Suppliers sufficient information to enable them to ascertain their relative ranking.

3.6 The Supplier acknowledges and agrees that:

- (a) the Buyer and its officers, servants, agents, group companies, assignees and customers (including CCS) do not guarantee that its access to the Electronic Reverse Auction will be uninterrupted or error-free;
- (b) its access to the Electronic Reverse Auction may occasionally be restricted to allow for repairs or maintenance; and
- (c) it will comply with all such rules that may be imposed by the Buyer in relation to the operation of the Electronic Reverse Auction.

3.7 The Buyer will close the Electronic Reverse Auction on the basis of:

- (a) a date and time fixed in advance;
- (b) when no new prices or values meeting the minimum differences required pursuant to Paragraph 3.4.5 have been received within the prescribed elapsed time period; or
- (c) when all the phases have been completed.

#### **4. No requirement to award**

4.1 Notwithstanding the fact that the Buyer has followed a procedure as set out above in Paragraph 2, the Supplier acknowledges and agrees that the Buyer shall be entitled at all times to decline to make an award for its Deliverables and that nothing in this Contract shall oblige the Buyer to award any Order Contract.

#### **5. Who is responsible for the award**

5.1 The Supplier acknowledges that the Buyer is independently responsible for the conduct of its award of Order Contracts under this Contract and that CCS is not responsible or accountable for and shall have no liability whatsoever, except where it is the Buyer, in relation to:

- 5.1.1 the conduct of Buyer in relation to this Contract; or

- 5.1.2 the performance or non-performance of any Order Contracts between the Supplier and Buyer entered into pursuant to this Contract.

## **6. Awarding and creating an Order contract**

- 6.1 Subject to Paragraphs 1 to 5 above, a Buyer may award an Order Contract with the Supplier by sending (including electronically) a signed order form (and Execution Document if required by the Order Form) substantially in the form (as may be amended or refined by the Buyer in accordance with Paragraph 2.1.2 above) of the Order Form Template set out in DPS Schedule 6 (Order Form Template and Order Schedules). The Order Form shall set out the terms which shall be incorporated into the Order Contract, and shall specify any required actions that the Parties must take to execute the Order Contract.
- 6.2 The Parties agree that any document or communication (including any document or communication in the apparent form of an Order Contract) which is not as described in this Paragraph 6 shall not constitute an Order Contract under this Contract.
- 6.3 On receipt of an order form as described in Paragraph 6.1 from a Buyer the Supplier shall accept the Order Contract by promptly signing and returning (including by electronic means) a copy of the Order Form (and any other documentation listed as required in the Order Form) to the Buyer concerned.
- 6.4 On receipt of the signed Order Form (and any other documentation listed as required in the Order Form) from the Supplier, the Buyer shall send (including by electronic means) a written notice of receipt to the Supplier within two (2) Working Days and the Order Contract shall be formed with effect from the Order Start Date stated in the Order Form.

## **Part 2: Award Criteria**

1. This Part 2 lays out award criteria for an Order Contract on the basis of competition in accordance with the Order Procedure.
2. An Order Contract may be awarded on the basis of the most economically advantageous tender ("MEAT").

## Annex: Order Award Criteria

The following criteria and weightings shall apply to the evaluation of each Order submitted through the Order Procedure: Sub criteria is listed as an example and can be amended to your specific project requirements;

	Criteria	Relative Weighting Percentage
		[ <b>Guidance:</b> where weighting is not possible for objective reasons, list the criteria in decreasing order of importance, amend the column heading to read 'Rank order of importance where 1 = most important, 2 = second most important etc.'. The figure 1 must be in the top row, running down to the least important in the bottom row.]
A.	Quality including factors such as: <ul style="list-style-type: none"> <li>• Methodology and approach</li> <li>• Service delivery</li> <li>• Transfer of skills and knowledge</li> <li>• Technical merit</li> <li>• Account Management</li> <li>• Fitness for purpose</li> <li>• Resourcing</li> <li>• Continuous improvement</li> <li>• Environmental characteristics</li> </ul>	In the range of 0 – 70%
	<ul style="list-style-type: none"> <li>• Social value</li> </ul>	In the range 10 - 30%
B.	Price <ul style="list-style-type: none"> <li>• Whole life costs</li> <li>• Cost effectiveness</li> </ul>	20-80%