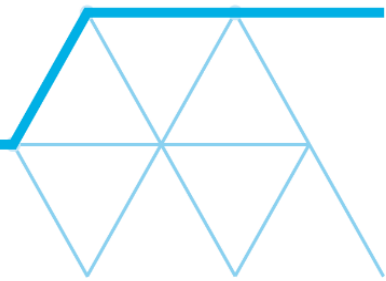


**THE SECRETARY OF STATE FOR JUSTICE
AND
THE CONTRACTOR
MINOR WORKS DYNAMIC PURCHASING SYSTEM
PART C - SCHEDULE 2**



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SCHEDULE C2

CALL OFF PROCEDURE AND AWARD CRITERIA

1. INTRODUCTION

- 1.1 A list of organisations that are authorised and enabled to use this Contract in order to source Works ("**Authorised Buyers**") are listed in Annex 1 of this Schedule.
- 1.2 If an Authorised Buyer decides to source Contractors through this Contract, then it will award its requirement for the Works in accordance with the procedures set out in this Schedule and the requirements of the Regulations.
- 1.3 For the avoidance of doubt, it is explicitly agreed that an Authorised Buyer shall be entitled to conclude more than one Call Off Contract.
- 1.4 The potential scope of each Call Off Contract will be made clear in the tender documents which are used as part of the call off process.
- 1.5 The terms and conditions to be used may be any one of the works related NEC4 suite of contracts but will predominantly be the Engineering and Construction Short Contract or the Term Services Contract. The Authority reserves the right to add to or amend the call off contract terms and conditions to be used at any time. The applicable terms and conditions of any Call Off Contract shall be set out in draft form in the relevant Invitation to Tender (ITT).

2. CALL OFF PROCEDURE

Buyer's Obligations

- 2.1 Having identified a need, where a Call Off Contract may be delivered under the Minor Works Dynamic Purchasing System, a Buyer shall:
 - 2.1.1 develop an ITT providing an overview of the scope of works required and setting out the specific evaluation criteria to be applied (in line / similar to that noted in Annex 2 to this Schedule);
 - 2.1.2 set out the specific requirements for the Call Off Contract in a Contract Data Form and its associated Appendices to the extent permitted by and in accordance with the requirements of the Regulations (sample Contract Data Forms at Annex 3 of this Schedule);
 - 2.1.3 undertake competition in accordance with the Regulations by:
 - (a) Sourcing a list of Contractors through the hosted DPS function of the Constructionline platform commensurate with the Work Category that can fulfill the requirement;
 - (b) inviting Contractors to submit a tender in writing, through the eSourcing portal, for the proposed Call Off Contract to be awarded by the Buyer;
 - (c) setting a time limit for the receipt of tender responses; and
 - (d) keeping each tender confidential until the time limit set out for the return of tenders has expired;
 - 2.1.4 apply the evaluation criteria as set out in the ITT to the compliant tenders submitted as the basis of its decision to award a Call Off Contract for the Works;

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- 2.1.5 On the basis set out above, award its Call Off Contract to the successful Contractor in accordance with Paragraph 5 (Call Off Award Procedure). The Call Off Contract shall:
 - (a) state the Works and the timeframe within which it is to be delivered;
 - (b) include the tender submitted by the successful Contractor;
 - (c) state the price payable for the Works in accordance with the tender submitted by the successful Contractor; and
 - (d) incorporate the terms and conditions applicable to the Works;
- 2.1.6 provide unsuccessful Contractors with written feedback in relation to the reasons why their tenders were unsuccessful.

Contractor's Obligations

- 2.2 Contractors shall register with the required eSourcing portals
- 2.3 Following an invitation to submit a tender pursuant to Paragraph 2.1 above, each Contractor shall be entitled (but not obliged) to submit a tender in respect of the proposed Call Off Contract.
- 2.4 All tender submission shall
 - 2.4.1 include as a minimum:
 - (a) a proposal for completing the Works;
 - (b) a proposal for who will deliver the Works; and
 - (c) the proposed price which is applicable to its tender;
 - 2.4.2 be submitted in writing by the date and time specified in the ITT,
and any tenders which do not meet the above requirements and any other mandatory requirements specified in the ITT shall be deemed to be non-compliant and shall not be considered by the Buyer.
- 2.5 Each Contractor agrees that:
 - 2.5.1 all tenders submitted shall remain open for acceptance by the Buyer for ninety (90) Working Days (or such other period specified in the ITT issued by the Buyer in accordance with the Call Off Procedure); and
 - 2.5.2 all tenders submitted are made and will be made in good faith and the Contractor represents that it 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 Contractor certifies that it has not and undertakes that it will not:
 - (a) communicate to any person, other than the person requesting the tender, 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
 - (b) 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.

3. NO AWARD

- 3.1 Notwithstanding the fact that the Buyer has followed a procedure as set out above in Paragraph 2, the Contractor acknowledges and agrees that the Buyer shall be entitled at all times to decline to make an award for the Works and that nothing in this Contract shall oblige the Buyer to award any Call Off Contract.

4. RESPONSIBILITY FOR AWARDS

- 4.1 The Contractor acknowledges that the Buyer is independently responsible for the conduct of its award of Call Off Contracts under this Contract and that the Authority is not responsible or accountable for and shall have no liability whatsoever (except where it is the same person as the Buyer), in relation to:
- 4.1.1 the conduct of Buyer in relation to this Contract; or
 - 4.1.2 the performance or non-performance of any Call Off Contracts between the Contractor and Buyer entered into pursuant to this Contract.

5. CALL OFF AWARD PROCEDURE

- 5.1 Subject to Paragraphs 1 to 4 above, a Buyer may award a Call Off Contract to the Contractor by issuing a letter notifying the Contractor that its tender is to be accepted subject to signing the requisite Contract documentation.
- 5.2 The Buyer will then proceed to engross the Contract documentation. This will include the tender return, clarification communications and any other documents subsequently requested from the winning Contractor, that are material to the performance of the contract (e.g. insurance documents)
- 5.3 The Parties agree that any document or communication (including any document or communication in the apparent form of a Call Off Contract) which is not as described in this Part C Schedule 2 shall not constitute a Call Off Contract under this MWDPS Agreement.
- 5.4 In order to create a Call Off Contract both the Contractor and the Buyer must sign the Contract.
- 5.5 Where the **NEC4** form of Contract is being used, a duly authorised signatory must sign the Contract Data Form to be submitted as part of the Tender Response, as this is a standing offer to enter into a Call Off Contract.
- 5.6 On receipt of the tender (pre full evaluation) the Buyer will undertake the necessary due diligence to confirm that the draft Contract Data Form **has been signed by an appropriately authorised company representative. This will be checked against the list of Directors held at Companies House through the Constructionline portal. If an appropriately authorised signatory has not signed the Contract Data Form the Tender Response may be rejected without further consideration.**
- 5.7 Once internal authorisation to award the Contract has been obtained, the Buyer will arrange for the Contract to be signed or sealed (if required).
- 5.8 For alternative forms of contract, upon receipt of the Contract from a Buyer the Contractor shall accept the Call Off Contract by promptly signing and returning (including by electronic means) the Contract to the Buyer concerned.
- 5.9 On receipt of the signed Contract the Buyer will undertake the necessary due diligence to confirm that the Contract **has been signed by the appropriately authorised company representative. This will be checked against the list of Directors held at Companies House through the Constructionline portal.** Once confirmed the Buyer will arrange for the Contract to be duly signed. If an

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appropriately authorised signatory has not signed the Contract it will be deleted and the Contractor advised to send an appropriately signed Contract.

- 5.10 Once signed, both the Buyer and the Contractor will be notified that the Contract has been fully executed with a copy of the Contract sent to the Contractor (including by electronic means) and a Call Off Contract shall be formed.
- 5.11 The Buyer will provide all necessary guidance to facilitate the Contractors' registration on the Buyers financial management / Payment system in order to allow payment for the works to be undertaken.

6. SUSPENSION FROM AWARD PROCEDURE

- 6.1 Where a Buyer has exercised any right of termination in relation to a Call Off Contract due to Default or breach by the Contractor, the Buyer shall be entitled to exclude the Contractor who was a party to the terminated Call Off Contract from re-competing for any future Call Off Contract until further notice.

Annex 1 (Authorised Buyers)

The following organisations are authorised and enabled to use this DPS Framework:

- The Ministry of Justice, including its Executive Agencies and other subsidiary bodies; and
- Gov. Facility Services Limited.

Annex 2 - Evaluation Criteria

A Call Off Contract shall be awarded on the basis of most economically advantageous tender ("**MEAT**") from the point of view of the Buyer.

The table below indicates the elements that may be included in the evaluation criteria and any weightings that may be applied to a Contractors' compliant tender. The actual Quality : Price weighting and the elemental Quality sub-criteria / weightings to be applied to a particular Call Off Contract will be specified in the Call Off Competition documentation and will not be limited to the range below.

Criteria	Sub-Criteria (where applicable)	Percentage Weightings
Quality	<ul style="list-style-type: none">• Proposed team - competence / qualification of the Contractor / Contractors staff• Delivery methodology to ensure the requirements of the Scope can be met.• How compliance with legislation and/or the required standards are to be met• Programme – The time to complete the work and any noted dependencies.• Technical specification offered to confirm that any equipment / solution meets the technical standard.• Social value benefits (where applicable)	0% - 60% Sub-weightings to be determined at Call Off Stage.
Price	<ul style="list-style-type: none">• Pricing set out in line with the Activity Schedule, however, may be a financial model which includes day rates and percentage on-costs.	40% - 100%

The following Annexes are separate files and are provided to illustrate the templates that may be used in a Call Off Competition relating to the NEC4 form of contract.

- Annex 3a – Template NEC4: Engineering and Construction Short Contract - Contract Data Form
- Annex 3a – Template NEC4: Term Services Contract - Contract Data Form