
Request for Proposal

(RFP)

Guidance Notes

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Overview

A Request for Proposal (RFP) is a document issued by an organisation to gather proposals or offers from suppliers for goods or services. The RFP outlines what the organisation needs and provides the details suppliers must include in their bids. It helps the organisation choose the best offer and contract with the selected supplier. Typically, multiple suppliers are invited to respond, encouraging competition and helping the organisation secure better deals.

RFPs differ from Requests for Tender (RFT), also known as Invitations to Tender (ITT) or Invitations to Bid (ITB). While both seek offers, the main difference is in the requirements' specificity. An RFP is used when the organisation's needs are not fully defined, allowing suppliers more flexibility in their responses. On the other hand, an RFT is used when the requirements are clear and precise, leaving less room for interpretation by the suppliers.

Before issuing an RFP or RFT, organisations may first gather information through a Request for Information (RFI) or a call for Expressions of Interest (EOI). These help the organisation identify potential suppliers, who can then be shortlisted to receive the RFP or RFT. This process helps save time and resources by focusing on suppliers who are more likely to meet the organisation's needs.

With input from procurement and supply experts, the RFP template provided by CIPS offers a solid framework to handle commercial risks and issues in typical sourcing situations. However, this template should be adjusted to fit the organisation's specific needs.

Use of the template and guidance notes

CIPS provides the RFP template and these guidance notes as a framework to guide procurement and supply professionals through the RFP process. Although comprehensive, the template may not address all specific purchasing circumstances, so users are encouraged to modify the content to meet their needs. Independent professional advice should be sought when necessary.

Discussion and explanation of RFP sections and clauses

The RFP is structured into four main parts:

- **Instructions to proposers and proposal conditions**— Sets out the expectations, obligations, and requirements for the buyer and proposer while the RFP is active.
- **The requirement** - Describes what the buyer seeks to purchase, including specifications, standards, quality requirements, timelines, etc.
- **Information to be supplied by proposers** - Sets what information is to be provided by proposers (including pricing) to allow the buyer to adequately consider proposals, identify the successful bid and obtain all the information required to form a valid contract.
- **Proposed contract** - Sets out the terms and conditions for a contract expected to be formed as a result of the RFP.

Each of the four RFP sections is discussed in more detail below.

Sometimes, the RFP may also include an introductory cover letter or email. Apart from individually inviting a response, the purpose of this letter is to reinforce issues or provide additional context or emphasis for the RFP.

PART 1 – INSTRUCTIONS TO PROPOSERS AND PROPOSAL CONDITIONS

The “Instructions to proposers and proposal conditions” clauses are reproduced below in the CIPS template RFP document. Located next to each clause is a dialogue box that describes the intent of the clause and, where appropriate, offers additional help or suggestions. Text highlighted in yellow is meant to be replaced or over-typed.

1.1 Definitions

For this Request for Proposal (RFP) and any subsequent contract, the following definitions apply unless otherwise noted.

It is good practice to define the keywords and phrases used in commercial documentation. This list is not exhaustive

– feel free to add as you see fit.

Company (may, in lieu or in addition, use a shortened version or acronym of the Company name)	Means [name of Company, including company registration number]
Contract	Means any contract that results from this Request for Proposal
Contractor	Means the entity that forms a Contract with the Company for provision of the requirement.
Proposal	Means a written offer submitted in response to this Request for Proposal
Proposer	Means a written response submitted by a Proposer in response to this Request for Proposal (RFP), outlining how they intend to fulfil the requirements specified in the RFP. A Proposal is not considered a legally binding offer but a detailed submission subject to the Company’s review, negotiation, and acceptance.
Requirement	Means the supply to be made by the Contractor to the Company in accordance with Part 2 of the RFP.
Hard Copy	Means a printed version on paper of data held in a computer.

1.2 Summary of the Requirement

The Company invites proposals for [summary of the requirement]. Part 2 of this RFP provides full details.

Use at least a couple of sentences to summarise the requirement. Proposers should be able to understand what is required just by reading this.

1.3 Structure of this document

This RFP comprises of four parts, as described below:

Including this structure helps clarify the document.

Part	Title	Description
1	Instructions to Proposers and Proposal Conditions	Sets out rules and requirements for participation in the RFP.
2	The Requirement	Sets out details of the requirement, including the scope of work.
3	Information to be provided by Proposers	Sets out the minimum RFP response requirements to allow due consideration by the Company.
4	Proposed Contract	Sets out the applicable terms and conditions that will apply to any contract arising from this RFP.

1.4 Documents to be Included

- RFP Document
 - Overview of the Project: Purpose, goals, and key objectives.
 - Scope of Work (SOW): Detailed description of what is needed.
 - Submission Instructions: Deadlines, format, and contact details for questions.
- Terms and Conditions
 - Legal, financial, and contractual terms.
 - Any confidentiality or non-disclosure agreements.
- Technical Specifications
 - Details about your organisation and relevant context for the project.
 - Existing infrastructure or systems the proposer needs to consider.
- Response Templates
 - Proposal format guidelines or forms to fill out.
 - Pricing templates to ensure uniformity in quotes.
- Supporting Documents
 - Data or Reports: Information that gives context or aids in planning.
 - Drawings, Plans, or Designs: Visuals for construction or technical work.
 - Case Studies or Examples: Past projects that show expectations.

1.5 RFP key dates

The following key dates apply to this RFP:

Issue Date	The date when the RFP is officially released to potential bidders or proposers marks the start of the process.
Deadline for Questions	The last day bidders can submit queries or request clarification about the RFP.
Response Deadline	The final date by which proposals must be submitted.
Date for Submission of Proposal Acknowledgement	The date by which bidders must confirm receipt of the RFP and their intention to submit a proposal.
Evaluation Period	The timeframe during which the issuer reviews and assesses the submitted proposals against the evaluation criteria.
Date of Proposer briefing/site visit	A scheduled opportunity for bidders to attend a presentation or visit the project site to better understand the requirements.
RFP Closing Date and Time	The official deadline for submitting proposals. After this point, no late submissions are accepted.
Estimated commencement date	The planned date when work or services under the contract are expected to begin.
Estimated Contract Award Date	The expected date when the contract will be awarded to the successful bidder.

Clear RFP dates are essential. Good drafting practice dictates that the dates be included only once (so there is no chance of confusion). Another way of doing this is to use the "Field" function in MS Word to update information only once but have it reflected in multiple places—e.g. if you want to show the dates here as well as on the front page of the RFP.

Delete the briefing/site visit requirement if not needed. Sometimes, buyers like to issue a cut-off date for proposal clarification questions. If so, include it here. Remember to include your time zone (e.g., GMT, EST, WST) when including the closing time.

1.6 Company Contact

The following individual(s) are the nominated Company contact for this RFP.

Name	[Insert]
Title/Position	[Insert]
Telephone	[Insert]
Email address	[Insert]
Postal address	[Insert]

It's important to have a main point of contact to handle all proposal-related communication. However, it's wise to name a backup contact in case the main person is unavailable. There might also be multiple people from different departments involved, depending on their relevance to the project. Additionally, keep in mind that the company representative for the contract might be different from the person managing the RFP.

1.7 Queries and questions during the RFP period

Proposers should direct all queries and questions about the RFP content or process to the designated Company contact(s). Contacting any other Company personnel regarding this RFP is not allowed unless explicitly instructed by the Company contact. Verbal responses will not be accepted. Failure to follow this requirement may result in disqualification and rejection of the Proposal. All questions must be submitted in writing, either by post or to the specified email address.

The company may choose to convey responses to submitted questions and queries to all Proposers so that each is equally informed.

RFP processes are highly sensitive to concerns about integrity and fairness. To minimise this risk, it's important to maintain clear communication channels between the Company and the Proposer, ensuring all communication is in writing and directed to a single point of contact. Depending on the nature of the question or query, you may choose to share the response with all Proposers to ensure fairness and transparency. Additionally, Proposers must declare any conflict of interest to uphold the integrity of the process. This provision allows you to address these concerns effectively.

1.8 Proposal briefing and site visit

The Company may hold an RFP briefing session to help Proposers better understand the Requirements. Depending on the nature and scope of the RFP and its associated spend, this session may include a site visit if deemed relevant. Attendance is limited to a maximum of two representatives per Proposer. Further details about the briefing session and any potential site visit will be shared with Proposers as appropriate.

For more complex requirements it is normal to have these information sessions. They are usually held a little way into the RFP open period once Proposers have had a chance to read and reflect upon the RFP documents. Delete this clause if you are not having a briefing or site visit.

1.9 Amendments to RFP documents

The Company may amend the RFP documents by issuing notices, by way of formal [variation/addenda], to all Proposers. Any amendments, including changes to the RFP closing date and time, will be communicated to all parties who have submitted a proposal via [insert communication method, e.g., email or a dedicated portal]. This ensures that the process remains transparent and fair for all participants.

During the RFP open period, it's normal to issue variations or addenda to the RFP. This clause recognises that such changes may occur. Customise the clause to match your company's naming convention (e.g. Variation/Addendum) and make sure to consistently follow it. Addenda should be numbered sequentially, and each one should be acknowledged upon receipt. Keep a register of this addenda as part of your RFP process documentation.

1. 10 Proposal lodgement methods and requirements

Proposers must submit [number] copies of their Proposal to the Company in any of the following methods:

- By post to [insert postal address].
- By email to [insert email address]. The subject heading of the email shall be [RFP [insert reference number] – Proposal - [Proposer Name]]. Electronic copies are to be submitted in PDF and native (e.g. MS Word) format, and proposers may submit multiple emails (suitably annotated – e.g. Email 1 of 3) if attached files are deemed too large to suit a single email transmission.
- By hand to [insert details of drop off location – e.g. tender box]
- Other: Proposals may also be submitted via a Company portal or other digital platforms as specified in the RFP. If this method is applicable, detailed instructions, including login credentials or portal links, will be provided. Ensure all uploads meet the specified format and size requirements.

Most organisations have rules about how proposals and tenders are to be submitted. There are various combinations—e.g., sometimes you might want the price and non-price information to be submitted separately, and depending on how the evaluation is to proceed, you might need varying hard and electronic copies.

Note that usually, email attachments of >5MB would be considered “too large”.

Consider whether an additional executive summary from Proposers would be helpful and amend the text accordingly.

Formatting and Submission Requirements

- Proposals must be prepared in English and follow the format outlined in Part 3 of this RFP.
- Submissions must adhere to any page or word limits specified.
- Acceptable file formats include PDF, Word, and Excel.
- Each Proposal should include at least:
 - A cover letter.
 - An executive summary (if required).

For Hard Copy Proposals:

- Proposals must be submitted in a sealed envelope or package, clearly labelled with the RFP reference number.
- Documents should be loose bound to allow for easy separation of pages by the Company.

Failure to follow these requirements may result in disqualification of the Proposal.

1. 11 Late Proposals

Proposers are responsible for ensuring their Proposals are submitted before the RFP closing date and time in accordance with the acceptable lodgement requirements described in Clause 1.5. The Company will not make any allowances for delays in transmitting the Proposal from the Proposer to the Company.

Modify this clause to suit your late proposal/tender policy – e.g. some organisations outright reject late tenders. The clause, as drafted, gives you the right to keep late proposals in the process but does not let Proposers claim the Proposal should be accepted because it was "lost in the mail".

In cases where a Proposal is submitted by post, the date of posting, as verified by an official postal mark or other proof of posting, will be considered the official date of submission rather than the date of receipt by the Company. To ensure compliance:

- Proposers must provide verifiable proof of posting, such as a postal receipt or tracking confirmation, if requested by the Company.
- Proposers must notify the Company immediately if there are any delays that may affect the receipt of their Proposal.

If the company receives a Proposal after the stipulated RFP closing date and time and does not provide sufficient proof of timely posting or notification of delays, it may be excluded from further consideration.

The Company reserves the right to accept or reject any late Proposals based on the evidence provided at its sole discretion.

1. 12 Acceptance of Proposals

The proposal may address all or part of the Requirement and may be accepted by the Company wholly or in part. However, the Company will not accept any Proposal unless and until it has signed a Contract or issued a formal 'Notice of Award' in writing to the successful Proposer.

This clause is necessary to retain your flexibility during the evaluation process and to make sure no actions or activities undertaken by you can be reasonably interpreted at acceptance of any offer. Remove this clause at your peril!

The Company is under no obligation to:

- Accept the lowest-priced Proposal or any Proposal submitted.
- Provide reasons for the rejection of any Proposal.

The Company reserves the right to:

- Reject any Proposal that is incomplete, conditional, or does not comply with the RFP documents.
- Discontinue the RFP process at any stage without liability or obligation to any Proposer.
- Negotiate with one or more Proposers before making a final decision.

Feedback on Proposals:

The Company may, at its sole discretion, provide feedback to unsuccessful Proposers upon written request. Such feedback will be limited to general comments on the strengths and weaknesses of the Proposal and will not disclose information about other Proposals

1. 13 **Alternative Proposals**

Proposers may submit alternative Proposals if they believe these alternatives could provide additional benefits to the Company while still meeting the core Requirement.

Any alternative proposal must:

1. Be clearly identified as an "Alternative Proposal" within the submission.
2. Be presented separately from the primary proposal to avoid confusion.
3. Include all necessary details and supporting documentation to demonstrate how it complies with the Requirement and why it offers added value.

Including this clause allows Proposers to suggest innovative ideas that may benefit the Company. However, distinguishing between an alternative proposal and a non-compliant one can sometimes be challenging. It is important to retain the flexibility to evaluate and manage alternative proposals as deemed appropriate to ensure they align with the Company's goals and requirements.

The Company reserves the right, at its sole discretion, to accept or reject any alternative proposal, either in whole or in part.

1. 14 **Validity of Proposals**

Proposals submitted in response to this RFP are to remain valid for a period of [insert number of days] from the RFP closing date

Set a reasonable validity date – usually, the amount of time between RFP close and the estimated contract award is a good yardstick. Asking for a validity period of greater than 90 days will often cause Proposer concern. In some instances, it may not be permissible by law. If in doubt, seek advice.

1. 15 **Evaluation of Proposals**

The minimum selection criteria to be used in the evaluation of Proposals include, but are not limited to, the following:

[insert evaluation criteria]

These criteria are not in any order or necessarily carry equal weight.

The company may request additional information from Proposers to assist in further evaluation of Proposals.

This is an extremely important clause and how much or little you include will depend on your company policies and procedures. In general terms, the more prescriptive you are in defining evaluation criteria and weightings, the higher the burden you face in demonstrating that you evaluated the proposals as stated. You should obtain legal advice on this matter if you are at all unsure.

Example: Evaluation of Proposals

The minimum selection criteria to be used in the evaluation of Proposals include, but are not limited to, the following:

- *Compliance with Requirements:* The extent to which the Proposal meets the specifications and deliverables outlined in the RFP.
- *Value for Money:* Assessment of cost-effectiveness, considering pricing, quality, and total lifecycle costs.
- *Experience and Capability:* The Proposer's track record, expertise, and capacity to deliver the required services or products.
- *Innovation and Added Value:* Any innovative approaches or added benefits the Proposal may offer.
- *Sustainability and Social Responsibility:* Alignment with environmental, social, and governance (ESG) objectives.
- *Risk Management:* Evaluation of the Proposer's approach to identifying, managing, and mitigating potential risks.
- *Implementation Plan and Timeline:* Feasibility and clarity of the proposed delivery schedule and milestones.

These criteria are not listed in any order and do not necessarily carry equal weight.

The Company reserves the right to request additional information or clarification from Proposers to assist in further evaluation of Proposals.

Evaluation Criteria for Proposal Selection

Step
<i>Define the criteria to be used in a weighted points system</i>
<i>Decide on the weighting, or importance of each criteria. Should add up to 100.</i>
<i>Determine a scoring system e.g. 10/100 = poor, 50/100 = average, 70/100 = good.</i>
<i>Allocate a score to each criteria in each supplier's proposal</i>
<i>Calculate the total score for each supplier</i>
<i>Rank the suppliers from highest to lowest total score</i>

Weighted Scoring System for Proposal Evaluation

Criteria	Description	Weight
Price	<i>Best price quoted that fulfils the need. Consider on a whole-life basis, including operations, freight, end of life, maintenance etc.</i>	30
Quality	<i>Best quality quoted - based on things like materials, finishing, test/inspection processes, quality assurance and quality accreditations</i>	20
Leadtime	<i>Best lead time quoted, includes delivery/freight considerations</i>	5

ESG contribution	<i>Lowest negative contributions/highest positive contributions to environmental, social and governance factors. Could include factors such as renewable material specifications, production/extraction processes, energy use, employment opportunities generated, health and safety policies, modern slavery policies, anti-bribery and social value initiatives.</i>	20
Qualifications of supplier	<i>Industry specific qualifications, ISO requirements, professional memberships etc.</i>	10
Supplier diversity	<i>Size of supplier, location of supplier, minority owned and ran, alignment to organisational supplier diversity objectives.</i>	15
Total		100

Proposal Evaluation Scorecard

Criteria	Weight	Supplier A			Supplier B		
		Points awarded	Weighted score calculation	Score/100	Points awarded	Weighted score calculation	Score/100
Price	30	60	30% x 60	18	40	30% x 40	12
Quality	20	80	20% x 80	16	60	20% x 60	12
Leadtime	5	30	5% x 30	1.5	70	5% x 70	3.5
ESG contribution	20	50	20% x 50	10	70	20% x 70	14
Qualifications of supplier	10	70	10% x 70	7	50	10% x 50	5
Supplier diversity	15	40	15% x 40	6	20	15% x 20	3
Total	100			58.5			49.5

1. 16 Withdrawals

Proposals may be withdrawn by providing written notice to the Company at any time before the RFP closing date and time. The withdrawal notice must:

Be submitted on company letterhead and signed by an authorised representative of the Proposer.

Clearly state the intention to withdraw the Proposal and reference the specific RFP number or title.

Once the RFP closing date and time have passed, proposals cannot be withdrawn, except under exceptional circumstances and with the Company's written consent.

The Company will confirm receipt in writing if a withdrawal notice is submitted. Proposers should retain this confirmation for their records.

This clause is self-evident, but the requirement to withdraw in writing is necessary given the potential process contract issues outlined above. Buyers should be very wary of letting proposers withdraw after the closing date, given the potential impacts during the evaluation and award processes. For this reason, proposers are required to fully inform themselves so they can't back out later because they "didn't know" about something.

1. 17 Proposers to inform themselves

The company has taken all reasonable care to ensure that the RFP is accurate; the Company gives no representation or warranty as to the accuracy or sufficiency of the contained information, and all Proposers will receive the same information. Proposers must fully inform themselves of all conditions, risks and other circumstances relating to the proposed contract before submitting a Proposal.

Proposed prices shall be deemed to cover the cost of complying with all the conditions of the RFP and of all things necessary for the due and proper performance and completion of the Requirement.

This clause must be kept preventing proposers from rescinding their proposals. The efficacy of evaluation and award processes depends on robust Proposals.

1. 18 Costs of preparing Proposals

All costs relating to the preparation and submission of a Proposal are the sole responsibility of the Proposer. Company shall not pay any Proposer, wholly or in part, for its Proposal.

Sometimes buying organisations might reimburse proposers for participating in large RFP/RFTs. Usually however the cost of submitting proposals is borne by the proposer and this clause creates this clarity.

1. 19 Confidentiality

Except as required for the preparation of a Proposal, Proposers must not, without the Company's prior written consent, disclose to any third party any of the contents of the RFP documents. Proposers must ensure that their employees, consultants and agents also are bound and comply with this condition of confidentiality.

Observing confidentiality during an RFP is essential. Depending on the level of security and confidentiality required, a separate confidentiality agreement with proposers may be required before issuing an RFP. You should obtain advice on this matter if unsure.

1.20 Inconsistencies and omissions

Proposers must promptly advise the Company in writing of any inconsistencies and omissions they discover in the RFP.

This clause is needed to ensure Proposers can't profit or gain from obvious errors and problems they encounter in RFP documents. The RFP process allows for due consideration of these problems and, if needed, addenda to be issued and extra time provided to respond.

1.21 Proposal acknowledgement

By participating in this RFP, Proposers are indicating their acceptance of the conditions set out in this Part. Proposers are to acknowledge this acceptance and furnish details of their representative that will be the sole point of contact for all matters relating to the RFP, in writing, to the Company prior to the proposal acknowledgement due date set out in Clause 1.5.

Any Proposer choosing not to submit a Proposal is required to acknowledge this intent in writing to the Company and return all RFP documentation to the Company prior to the proposal acknowledgement due date.

Proposers receiving RFP documents must make a positive election as to whether they intend to submit a proposal or not. If they do, then they are required to agree with these proposal conditions. Sometimes buying organisations create separate forms that Proposers are required to submit in this regard.

Like the Company representative role, good practice requires that Proposers nominate a focal point for all correspondence/queries.

1.22 Return of RFP documents

Proposers must return all issued hard copies of the RFP documents to the Company within seven (7) days of being notified that their Proposal was unsuccessful. Unsuccessful Proposers must also permanently delete any electronic copies of RFP documents, whether issued by the Company or created by the Proposer.

This is good housekeeping and consistent with confidentiality obligations.

Additional measures may be required for organisations handling sensitive information or innovative intellectual property (IP). These could include certification of deletion or destruction, confirmation of compliance with data protection laws, or evidence of adherence to secure disposal methods. Such measures should be tailored to the organisation's specific needs and outlined clearly in the RFP.

Regardless of the outcome of the RFP, all Proposers are strictly bound by the confidentiality obligations outlined in the RFP. This includes ensuring that RFP documents and associated proprietary information are not retained, shared, or used without authorisation. Breaches of these obligations are prohibited and may result in legal action, such as disqualification from future opportunities, liability for damages, or other remedies deemed appropriate by the Company.

Proposers are reminded that confidentiality and return obligations are critical to participating in the RFP process and are designed to protect the integrity of the process and safeguard sensitive information.

PART 2 – THE REQUIREMENT

This RFP section serves as the entire document's core foundation. The purpose of this section is for the buying organisation to describe what is required. There is no one way to do this, but a well-described requirement (sometimes also referred to as a scope of work or specification) is essential to receiving quality proposals and forming effective contracts. The last thing the buying organisation needs is potential suppliers having to make many assumptions or guess what is required when they put proposals together. When the requirements are vague, suppliers may not bid; if they do, their prices may also increase to reflect the additional risk they may perceive is present. Invariably, contracts based on poor requirements end up with extensive revision, renegotiation and difficulty.

So, how do you describe what you want?

When drafting requirements, the following concepts are usually addressed:

- Background and context for the requirement. It is very useful for the potential supplier to understand the need or reason for the requirement. Include any issues, unique attributes, and other matters you think a potential supplier would need to know about the organisational climate, culture, etc., to perform the requirement.
- Organisation overview, including contact details. Who is involved in the requirement? Who specifically are the customers of the requirement? Who will be the principal point of contact in the buying organisation?
- Detailed description of the requirement. There are a number of recognised ways of describing what is required. Sometimes, the requirement needs to be very technical and prescriptive – setting out exact obligations like weights, sizes, colours and distances. In other situations (usually the case for an RFP rather than RFT), the requirement can be more functional or performance-based and describe the expected outcomes or the problem that needs to be solved. Another way of thinking about a functional or performance requirement is that it describes outputs and expectations (e.g. flow rates, durability, reliability, target speeds, permitted variability) rather than inputs. Another type of requirement is to reference a known acceptable example - perhaps an existing product or service.
- Detailing a requirement can be quite involved and may also need additional information appended to the RFP to properly identify all requirement details (drawings, schedules, etc).
- Irrespective of the form a requirement statement takes, it needs to very clearly set out the deliverables (quantities, due dates/duration, etc.). The supplier must be in no doubt as to what it must provide; this clarity is especially important as payment will usually be connected to the deliverables.
- Quality Requirements/Performance Standards. This section is included to demonstrate the minimum acceptable standard and basic acceptance criteria for supplying the required goods/services. It may include references to relevant international standards, such as ISO, as well as any applicable internal standards, policies, or procedures of the buying organisation (which should be attached to the RFP if applicable). Additionally, references to industry association standards or guidelines may be included where relevant to ensure alignment with global best practices.

This section might also include proposed performance measures or Key Performance Indicators (KPIs) and targets, although these are sometimes reflected in the commercial terms rather than the Requirement part of the RFP.

- **Approvals.** Are there any internal or external approvals or permits required before the requirement can be undertaken? If so, they should be described, along with clarity about whether the supplier, the buying organisation or a third party is responsible for obtaining the approval.
- **Boundaries and Exclusions.** It is also important to describe the requirement boundaries, particularly what items are not included in the scope. Sometimes, it is useful to delineate in a tabular form what the buying organisation (or other third parties) will do and what the supplier is expected to do to illustrate these limits.
- **Buying Organisation inputs.** Will the buying organisation provide any services or materials supporting the requirement (e.g. (office space, materials, computers, etc.)? This helps the supplier better identify what will be available and does not need to be provided and priced.

This Part of the Proposal document is intended to form part of the final Contract

PART 3 – INFORMATION TO BE PROVIDED BY PROPOSERS

This section of the RFP sets out what information the buying organisation wants to receive from potential suppliers. Much of the information provided in response to this section will form part of the final contract -so ordinarily, the information requirements are prepared at the same time as the requirement. An excellent RFP drafting principle is to keep all the “response” obligations in one place – this way, the potential supplier does not need to search through the whole RFP to determine what questions need to be answered or what information is to be provided. The buying organisation can also be more direct in how it wants to receive the information (e.g., in particular formats to help with comparisons). Both factors help reduce the overall time and cost burden of issuing and responding to RFPs.

Information to be provided by potential suppliers tends to fall into three primary groups:

- Pricing information.
- Other non-price commercial information.
- Technical information.

3.1 Pricing Information

This section collects rates and prices from the Proposers. Exactly how the buying organisation chooses to receive prices will depend on the Requirement, how rates and prices for goods and services are usually expressed by potential suppliers, and how the buying organisation presents the pricing information for evaluation purposes.

As outlined in the RFP template, the following clauses should also be included in this section to help inform the submission of pricing details:

Prices include all costs

Proposers must ensure that all rates and prices submitted include all costs, insurances, taxes, fees, expenses, liabilities, obligations, risks, and any other factors necessary for the performance of the requirements. No additional charges will be accepted unless explicitly stated as part of the Proposal.

You need confidence that, as part of informing itself, the Proposer has factored everything it reasonably should have into its rates and prices. This is very important because the proposed rates and prices of the winning Proposal are transferred to the final Contract and, as such, need to be robust or you will be constantly challenged for price variations!

Cost Breakdown

Proposals must provide a detailed cost breakdown rather than a single lump sum figure. This breakdown should include, but is not limited to, the following:

- Transport Costs
- Insurance Costs
- Taxes and Fees
- Labor or Personnel Costs
- Materials or Equipment Costs
- Other Relevant Costs [Insert Criteria]

Proposers must tailor the breakdown to align with the specific requirements outlined in the RFP. The Company reserves the right to request clarification or additional details for any cost components.

Dependencies and Assumptions

Any dependencies affecting the Proposal, such as:

- Commodity Prices
- Exchange Rates
- Levels of Risk or Uncertainty

must be explicitly stated in the Proposal. For example, if pricing is tied to fluctuations in raw material costs or currency values, this must be clearly detailed, along with any associated risk-sharing arrangements or contingencies.

Notes

- Proposers should use the guide provided in the RFP for specific cost categories relevant to the industry (e.g., for services: labour, travel expenses, or subcontracting costs; for goods: manufacturing, shipping, and handling costs).
- Examples of cost breakdowns and formats will vary based on the nature of the RFP and should be customised by the issuing organisation.
- Failure to provide a detailed cost breakdown or to identify dependencies may result in the Proposal being rejected or marked down during evaluation.

By submitting a Proposal, Proposers confirm that all costs have been considered and that no further charges will apply under any resulting contract unless explicitly approved in advance.

Applicable Goods and Services Taxes

All proposal rates and prices must exclude applicable taxes. The contract will specify how taxes will be applied and invoiced in accordance with the relevant local tax laws and regulations

Clear communication of tax status in pricing is essential to prevent confusion. The contract will outline how taxes, payments, and invoicing should be handled, so it is important for all bidders to base their pricing on the same criteria. Bidders must ensure their pricing complies with local tax regulations.

Currency of proposed rates and prices

Unless otherwise indicated, all rates and prices submitted by Proposers must be in [state currency applicable]. If the proposal includes costs in another currency, the proposer must specify the applicable exchange rate used for conversion and provide the source or reference date for that rate. Any fluctuations in exchange rates after the proposal submission will be the proposer's responsibility unless otherwise agreed upon in the contract.

This clause is self-evident but requires clarity. You can change the currency or allow multiple currencies if needed, but make sure to be very clear about this in the rates and prices tables where numbers are collected!

3.2 Non-Price Commercial Information

Several commercial inputs from the Proposers must be assessed and incorporated into any final proposal as required. Exact information requested from Proposers will be tailored to suit the specifics of the requirement but may include:

- Form of Proposal – Company details, contact information, etc. (sometimes the required information can be pre-formatted by the buying organisation).
- Financial Information – to demonstrate robust organisational performance and stability.
- History and previous job performance, including details of reference clients.
- Details of held insurances.
- Compliance with proposed Contract T&Cs (often presented in a standard clarification register).

3.3 Technical Information

The technical information to be provided by potential suppliers should directly reflect the nature of the requirement and provide information necessary to satisfy the buying organisation so that the potential suppliers can deliver the intended requirement.

Typical technical information sought in Proposals includes:

- Execution Plans and key dates (i.e., how the Requirement will be performed and when). You may need to consider proposed facilities, systems / IT, and planning and reporting processes.
- Details of resources and key personnel performing the requirement (i.e. the quality and quantity of resourcing to accomplish the requirement – people, materials, equipment). This may include position descriptions, CVs, and organisation diagrams.
- Proposed sub-contractors or outsourcing of any part of the Requirement.
- Quality management plans.
- Health and Safety management plans.
- Environment and Sustainability management plans.
- Employee Relations/Industrial Relations management plans.
- Other management plans and administrative arrangements.
- Risk Management plans and mitigation approaches.
- Transition/Implementation plans.

- Any proposed Alternatives.

3.4 Declaration

I, [Your Name], representing [Your Company Name], declare that all information provided in this proposal is true, accurate, and complete to the best of my knowledge. We acknowledge the terms and conditions outlined in this RFP and agree to comply with all requirements if selected.

Signed	
Name	
Position	
Company Name	
Date	

PART 4 – PROPOSED CONTRACT

In submitting your Proposal, you must let us know if you wish to question or negotiate any of the terms or conditions in the Proposed Contract or wish to negotiate new terms or conditions. A copy of the terms and conditions is included in this document; refer to Appendix 2.

If you do not state your position, you will be deemed to have fully accepted the terms and conditions in the Proposed Contract.

Attached is the draft proposed Contract for [name of project/requirement]. Proposers acknowledge that this is a draft contract and, as such, may be changed prior to a final Contract signed with the Company.

PART 5 – APPENDICES

Delete as appropriate

Appendix 1 - RFP Document

- **Overview of the Project**

Provide a clear summary of the project, including its purpose, goals, and key objectives. This section should explain why the project is being undertaken and what outcomes are expected.

- **Scope of Work (SOW)**

Describe in detail what is required by the proposer. Outline the tasks, deliverables, timelines, and any specific requirements or constraints related to the project. This section should give proposers a clear understanding of what they need to do and how success will be measured.

Appendix 2 - Terms and Conditions

Clause 1 - Insolvency and Bankruptcy

1. If either party shall;
 - i. become insolvent or bankrupt or
 - ii. have a receiving order or administration order made against it or compound with its creditors, or
 - iii. being a corporation commences to be wound up (not being a member's voluntary winding up for the purposes of reconstruction or amalgamation), or
 - iv. carries on its business under an administrator or administrative receiver for the benefit of its creditors or any of them, then the other party shall have the right forthwith by notice in writing to that party or to the administrator, administrative receiver or the liquidator or to any person in whom the Contract shall have become vested to terminate the Contract.

Alternatively, the party giving notice may at its sole option give such administrator, administrative receiver, liquidator or other person the option of carrying out the Contract subject to it providing a guarantee for the due and faithful performance of the Contract in such form and up to such amount as the party giving notice shall decide.

In the event of the Contract being terminated under this Clause, the party giving notice shall have the right by prior notice to the other to enter that other's premises for the sole purpose of removing any item, equipment or materials which are its property, and which are clearly marked and identified as such.

Either party's exercise of rights under this Clause shall not prejudice any of their rights or obligations accrued prior to termination, and the provisions referred to in the Clause relating to Termination for Breach as continuing obligations shall apply.

Comments

The parties are not named as supplier and purchaser because it is not known which definitions are used in the remainder of the Contract but could easily be adapted.

The clause provides for:

1. The form and the amount of the security the administrator etc. is allowed to carry on the Contract as being at the discretion of the party giving notice and not to be left to agreement since this could be awkward. As it is the purchaser who it is to be hoped would be giving notice, this should be to the Purchaser's advantage.
2. The right to remove any item, equipment or materials is limited to that which is the property and marked as such and not just that which is marked as being the property of the other. One can always mark something as being your property even if it is not! Again, this should be to the Purchaser's advantage. The Clause is suitable only for English law. If the Contract is to be under any law other than English, even if Scottish, then the Clause would need amendment, and legal advice should be taken accordingly.

The Enterprise Act 2002 made administrative receivership less attractive than “administration”, but the procedure does still exist, so it remains in and is mentioned in the clause. If software is involved, then it is wise to have a separate source code escrow agreement with a third-party agent such as the NCC because the liquidator is permitted under English law to set aside onerous clauses in contracts and, indeed, often will simply ignore and be legally entitled to do so, clauses in contracts which specify certain events will happen on termination.

Clause 2 - Force Majeure

1. For the purpose of the Contract, the term Force Majeure shall mean:
 - a. war and other hostilities (whether war be declared or not) invasion, terrorist activity, act of foreign enemies, mobilisation, requisition or embargo
 - b. rebellion, revolution, insurrection, military or usurped power or civil war
 - c. riot, commotion or disorder except where solely restricted to employees of the
 - d. (Supplier) or its sub-contractors or sub-suppliers
 - e. earthquake, flood, fire or other natural physical disasters except to the extent that any such disaster is caused by, or its effects contributed by, the party claiming force majeure
 - f. a general industrial dispute not limited to the employees of the (Supplier) or the employees of any of its sub-contractors or sub-suppliers.
2. If either party considers that any circumstance of Force Majeure has occurred which may affect materially the performance of its obligations, then he shall forthwith notify the other in writing to that effect, giving full details of the circumstances giving rise to the Force Majeure event.
3. Neither party shall be in default of its obligations under the Contract to the extent that it can establish that the performance of such obligations is prevented by any circumstance of Force Majeure which arises after the date of the Contract, and which was not foreseeable at the date of the Contract.
4. If the performance of the obligations of either party under the Contract is so prevented by circumstances of Force Majeure and shall continue to be so prevented for a period less than 30 days, then during that period, the Contract shall be considered as suspended. Upon the ending of the Force Majeure event, the Contractual obligations of the parties shall be reinstated with such reasonable modifications to take account of the consequences of the Force Majeure event as may be agreed between the parties or, in default of such agreement, as may be determined by an Expert under Clause... Notwithstanding such suspension, the Supplier shall use his best endeavours to assist the Purchaser in the performance of the Contract.
5. If performance of the obligations of either party under the Contract is so prevented by circumstances of Force Majeure and shall continue to be so prevented for a period in excess of 30 days then the Contract shall be terminated by mutual consent and, subject to Clause 6 below neither party shall be liable to the other as a result of such termination.

6. If the Contract is so terminated, then subject to the transfer to the (Purchaser) of the benefit referred to in sub-Clause 7 below, the Purchaser shall pay to the (Supplier) such reasonable sum as may be agreed between the parties or in default of agreement as may be determined by Expert Determination in accordance with Clause... in respect of costs incurred and commitments already entered into by the Contractor/Supplier at the date of the Force Majeure notice, less the amount of any payments already made to the (Supplier) at the date of the Force Majeure notice. If the amount of such advance payments made to the (Supplier) exceeds the sum due to the (Supplier) under this sub-Clause, then the (Supplier) shall repay the balance to the (Purchaser).
7. The (Supplier) shall transfer to the Purchaser the benefit of all work done by him or his sub-contractors and sub-suppliers in the performance of the Contract up to the date of the Force Majeure notice, and if applicable, it shall include the rights in any licensed and developed software and licensed firmware so far as the rights in the same have accrued to the Purchaser prior to the Force Majeure notice or will do so on the payment under sub-Clause 6 above.

Comment

It is wise to define Force Majeure, to state what is to happen if an event of Force Majeure occurs and how the rights and obligations of the parties are to be affected. Force Majeure can affect the buyer or seller. Some buyers will not want a force Majeure clause as it benefits usually the supplier so consider whether it is needed. Conversely, many suppliers will want all circumstances beyond their control included which this clause does not include as a general provision.

Force Majeure is defined restrictively, and it is for the supplier to establish that the event prevents him from performing the Contract. If necessary other events could be included but it is strongly suggested that “beyond the Supplier’s control” should never be used it is too broad a term where a buyer is concerned. Suppliers, of course, will want that provision included.

An initial period of suspension is provided; the period could be lengthened if considered appropriate. If the force Majeure event is then past the parties’ rights are adjusted. It should not be left to the agreement of the parties without a third-party reference as otherwise, the obligation is unenforceable.

If the event continues, then the Contract is terminated by mutual consent; the supplier is then paid for the work he has done, provided that the purchaser is given the benefit of this.

Clause 3 - Confidentiality, Intellectual Property and Data Protection

1. Each party shall treat the Contract and any information it may have obtained or received in relation thereto or arising out of or in connection with the performance of the Contract or its negotiation or relating to the business or affairs of the other as private and confidential, and neither party shall publish or disclose the same or any particulars thereof without the prior written consent of the other or as may be permitted under the later provision of this Clause.
2. The obligations expressed in sub-Clause 1 above shall not apply to any information which:
 - i. is or subsequently comes into the public domain otherwise than by breach of this Clause
 - ii. is already in possession of the receiving party without an accompanying obligation of

- confidentiality
- iii. is obtained from a third party who is free to divulge the same
 - iv. is independently and lawfully developed by the recipient or its sub-contractor outside the scope of the Contract.
3. So far as it may be necessary for the performance of the Contract or for the operation and maintenance of the subject matter of the Contract each party may divulge any information to be kept confidential under sub-Clause 1 of this Clause to their employees, agents and sub-Contractors on a “need to know” basis but undertake that they will take all steps necessary to ensure compliance by such employees, agents, and sub-contractors with the obligations as to confidentiality expressed in this Clause, including without limitation incorporating such clauses into their own contracts with such persons, and will be responsible to the other party for any failure by any employee, agent or sub-contractor to comply with such obligations whether such employee, agent or sub-contractor was aware of them or not.

Comment

This is an important Clause. If confidential information is to be disclosed during negotiations, then a separate agreement covering this should be made and signed prior to the information being released, known as a confidentiality or Non-Disclosure Agreement (NDA). Some companies will not want subcontractors or agents to have access to confidential information at all so changes would need be made to that effect.

Where one party is in the public sector, it is sensible to include a provision in the Agreement stating that before disclosing information in response to a Freedom of Information Act 2000 request, the other party will first notify the other. Also, it may be necessary to specify exactly which parts of the Contract are confidential when dealing with some public bodies subject to FOIA.

4. All intellectual property rights in all works or supplies provided under this Contract which are written or produced on a bespoke or customised basis, including, without limitation, all future such rights when the said works are created, shall be owned by the Purchaser and the Supplier shall ensure that it executes all documents necessary to affect such ownership. Where the Supplier provides existing intellectual property right-protected material to the Purchaser under this Agreement, it shall disclose this to the Purchaser, warrants it has the right to do so and shall fully indemnify and hold Purchaser harmless against all loss or liability arising from any third-party intellectual property rights claims arising both from such existing material and in relation to any such bespoke work. Except as provided above, both parties retain ownership of their pre-existing intellectual property rights-protected material.

Comment

Often a Supplier will want to own copyright, patents, design rights and trademarks in works even those customised or produced solely for a Purchaser. However, as a buyer, it is better that the default position in the core clauses is that the buyer owns the rights. If nothing is said, then for copyright works under the Copyright, Designs and Patents Act 1988, such as designs for websites or computer software, the rights remain with the original author/supplier, and all the buyer receives is the licence or right to use, leaving the supplier free to use the rights for other clients. Some suppliers, however, wish to retain IPR in customised work, and many buyers are content that that should be the case as long as they have the rights they require.

5. Both parties shall ensure that they, their employees, agents, and subcontractors observe the requirements of the Data Protection Act 1998 and any amendments or revisions thereto in the provision and use of the subject matter of the Contract and persona data processed under it and comply with any request made or direction given to the other that is directly due to the requirements of such Act.
6. On the conclusion or termination of the Contract, both parties shall cease to use all copies of confidential information obtained from the other except in so far as the law requires the information be retained, in which event it shall be kept until such period is over and, in any event, kept strictly confidential under the provisions of this clause.
7. The obligations relating to confidentiality shall continue notwithstanding termination of this Agreement until the information is no longer confidential in nature.

Comment

Some clauses limit the period of confidentiality, but in general wording such as this, where the agreement might relate to confidential information potentially secret for years or decades, the provision that it is kept secret for so long as it maintains its confidential nature is the best protection for all parties.

Some information may need to be retained rather than destroyed on termination, hence the wording above. It may, for example, be incorporated within briefing papers for company boards, which must be retained as a matter of record. For PPP (private and public partnership) contracts, one party often insists that data records are maintained for their access for many years and even longer, where documents are signed as deeds. Documents signed as a deed have a legal statutory limitation period of 12 years, rather than the 6-year period for other contracts, so obviously, such documents must be kept for at least a 12-year period.

Clause 4 - Publicity

Neither party shall without the written consent of the other (the giving of which consent shall be at the sole discretion of that party) advertise, publicly announce or provide to any other person information relating to the existence or details of the Contract or use the other party's name in any format for any promotion, publicity, marketing or advertising purpose.

Clause 5 - Waiver

Any failure by the (Purchaser) to insist at any time upon the performance of any of the terms, provisions or undertakings of the (Supplier) contained in the Contract or to exercise any rights thereunder shall not constitute or be construed as a waiver thereof or a relinquishment of the (Purchaser's) rights to require the future performance of any such term, provision or undertaking but the obligation of the (Supplier) with regard to the same shall continue in full force and effect.

Clause 6 - Termination for Breach

1. 1. Either party may terminate this Contract forthwith by written notice to the other effective from the date of service of such notice if:
 - a) There is a breach by the other party of any provision of the Contract which expressly entitles the party not in breach to terminate the Contract.
 - b) There is a material or persistent breach by the other party of any other term of the Contract, which is not remediable, or if it is remediable has not been remedied within 30 days of the service of written notice to the defaulting party specifying the breach and requiring it to be remedied.
2. On termination other than for the default of the (Supplier) the Purchaser shall pay to the (Supplier) the proportion of the Contract Price payable in respect of the materials supplied and/or services performed by the Supplier up to the date of termination together with the costs of the commitments already entered into by the (Supplier) at the date of termination of the Contract less the amount of any payments already made to the (Supplier) up to the date of termination. If the amount of payments already made to the (Supplier) at the date of termination exceeds the sum due to the (Supplier) under this sub-clause, then the (Supplier) shall repay the balance due to the (Purchaser). Any such payment shall fully satisfy the Supplier's rights to payment, compensation or damages in respect of the termination or the breach of Contract giving rise to the right of termination.
3. On payment of the sum due under sub-Clause 2 above the (Supplier) shall transfer to the (Purchaser) the benefit of all work done and the property in all materials supplied by the (Supplier) or his sub-contractors or sub suppliers in the performance of the Contract up to the date of termination which benefit shall include any rights in any licensed or developed software and licensed firmware so far as the rights in the same have already accrued to the Purchaser under the Contract or will do so on the payment under sub- Clause 2 above. Where the Contract specifies that intellectual property rights in commissioned works will vest in the Purchaser on payment no such rights shall vest unless and until full payment has been made.
4. If the Contract is terminated by reason of the default of the (Supplier) the (Purchaser) shall be entitled to the like benefits and ownership of materials as are stated in sub-Clause 3 above without prejudice to any specific provision relating to ownership of intellectual property rights. The Purchaser shall only pay to the (Supplier) the proportion of the Contract Price payable in respect of the work done and /or services performed by the (Supplier) up to the date of termination after deduction of payments already made to the (Supplier), the costs reasonably incurred by the (Purchaser) in obtaining the completion of the work to be performed under the Contract by others and any damages which may be payable by the (Supplier) in respect of the termination or the breach of the Contract giving rise to the right to termination. If the amount due to the (Supplier) is less than the amount which the (Purchaser) is entitled to deduct then the (Supplier) shall pay the balance to the (Purchaser).
5. Following the termination of the Contract neither party shall have any further rights or

obligations in relation to the other party other than those stated in this Clause and in the Clauses listed in sub-Clause 6 below which shall continue in full effect. Subject to sub- Clause 2 above termination shall not however affect the rights of action and remedy of the parties which shall have accrued at the date of termination or shall thereafter accrue.

6. Clauses which continue:

- Confidentiality
- Publicity
- Waiver
- Infringement Indemnity
- Governing Law and Jurisdiction
- Intellectual property rights
- Property in materials
- Conditions and warranties relating to the goods supplied and/or services provided under the Contract.

Comments

This Clause sets out the rights and obligations of the parties if termination is due to the default of the Purchaser or to the default of the Supplier. An IT Contract might need to be supplemented by reference to source codes, etc. The list of continuing obligations is only a guide; there may be others depending upon the terms of the Contract. There is no Infringement Indemnity as a Core Clause, but it is assumed that for an IT Contract or intellectual property licence agreement, one will be included.

Clause 7 - Terms of Payment

The (Supplier) shall be entitled to invoice the (Purchaser) at the times and in the manner specified in the Contract.

1. Provided that the invoice was one which, under the Contract, the (Supplier) was entitled to submit the (Purchaser) shall pay (the Supplier) within the period of days specified in the Contract from the date of receipt of the invoice subject to any right of deduction which the Purchaser may have by way of setoff or abatement. If the (Purchaser) makes any such deduction, he shall notify the (Supplier) accordingly in writing with reasons.
2. If the (Purchaser) shall fail to make any payment to the (Supplier) to which the (Supplier) is entitled under this Clause after deduction of any amount which the Purchaser is entitled to deduct, then the (Purchaser) shall pay to the (Supplier), where so demanded by the Supplier, in addition to the amount not properly paid simple interest for the period in days until such payment is made. The rate of interest shall be... .. per annum over the Base Rate of the Bank of England ruling at the date when the payment became overdue.

Comments

The details of the percentages to be paid and the events against which payment is to be made must be specified elsewhere in the Contract since they will clearly vary. This Clause allows the Purchaser to

deduct amounts for defects, work not properly performed, etc. Otherwise, payment is to be made within 30 days.

No specific rate of interest has been specified. It is possible that the purchaser could, even if the Contract is subject to the Late Payment of Commercial Debts (Interest) Act 1998, replace the statutory rate currently of 12.25% with a lower figure provided that the Contract gives the supplier a substantial remedy or deters late payment, and is fair and reasonable.

The previous CIPS clause relating to “undue delay” in payment has been omitted. If it is considered appropriate to give the unpaid seller an additional remedy, then there should be a definite period stated after which the seller could exercise the right to suspend – say another 30 days. In any event a breach of payment by the Purchaser would probably be considered a material breach, giving the other party the right to terminate if payment was not made within additional 30 days. Note it is a “material breach” which is referred to in the termination Clause and not a “breach of a material term” which could be construed as a condition of the Contract and time of payment is not a condition unless expressly made so.

Clause 8 - Time of the Essence

The time for delivery and/or completion of the work to be performed under the Contract shall be of the essence of the Contract.

Comments

The purpose of a “time of the essence” Clause is to give the innocent party the right to reject the goods and terminate the Contract for a breach of a condition if the time stipulated for the performance of the obligation is not strictly adhered to.

Thus, a delay of only one day would be sufficient in practice if there is a delay the clause will not always be invoked and the parties will escalate the matter and discuss a resolution to the delay rather than the draconian step of termination, although in some situations delay means the buyer has no use of the goods and the termination for breach of contract option is necessary. Good management of the contract and the relationship between the contracting parties can help ensure disputes over timing are resolved. It is an extremely critical clause where time is important. Although the right to reject and terminate may be useful if goods are wanted for a seasonal trade or for showing at a particular exhibition, the more common reason for the buyer rejecting is that he no longer wants the goods because the market for their re-sale has fallen and he would make a loss if he accepted them or late delivery might put him in breach of his contract with his own customer

This does not apply to a normal commercial contract for the supply of hardware and software or other similar Contracts where the equipment/software is for the Purchaser’s own use. The Purchaser’s remedy will normally be to recover damages for delay. Often, the Clause will not, therefore, be required. If there is some particular reason for requiring delivery or completion by a specific date, and if late, there would be no value to the Purchaser in taking delivery/accepting completion, then the Clause could usefully be included.

Often, the contract will also provide for liquidated damages for delays instead of allowing liquidated damages, plus a right to terminate when a certain period has passed.

Liquidated damages are a fixed sum per period of delay or a percentage of the price for each week of delay or whatever is agreed upon, and they can be simpler to enforce than court action for damages for breach of contract. They must, under common law, be a genuine pre-estimate of the loss suffered by such a delay. Thus, the parties must calculate the sum included. If that is not the case, then the clause risks being held to be void as it is then what the courts call a ‘penalty clause. For that reason, it never had such a clause as a “penalty clause” but instead used the phrase “liquidated damages”. They are also sometimes known as LDs.

Clause 9 - Notices

1. Any notice or other communication which either party is required by the Contract to serve on the other party shall be sufficiently served if sent to the other party at its address as specified in the Contract either (a) by hand; (b) by registered or first class post or special or recorded delivery or (c) by facsimile or electronic mail transmission confirmed by registered, first class post or recorded delivery within 24 hours of transmission.
2. Notices are deemed to have been served as follows: delivered by hand; on the day when they are actually received, sent by post, special or recorded delivery; two working days after posting, sent by facsimile or electronic mail; on the day of transmission if transmitted before 16.00 hours on the working day, but otherwise 09.00 hours on the following working day, provided in each case that the required confirmation is sent.

Comments

It is wise to have a notice clause of this kind.

Clause 10 - Entire Agreement

This Contract constitutes the entire agreement between the parties concerning its subject matter and supersedes any previous accord, understanding or agreement, express or implied. Each party confirms that it has not relied upon any representation not recorded in this Contract inducing it to enter. No variation of this Contract shall be valid unless it is in writing, refers specifically to this Contract and is duly executed by the authorised representatives of both parties on and after the date of this Agreement.

Clause 11 - Dispute Resolution

1. If any dispute or difference whatsoever arises between the parties in connection with or arising out of the Contract, the parties shall first seek to resolve the matter between themselves within a period of 14 days. The Managing Director or equivalent Person of both parties shall be the nominated officer responsible for seeking a resolution to the dispute.
2. If an agreement is not reached, either party may give the other 7 days’ notice to resolve the dispute or difference through Alternative Dispute Resolution (ADR) in accordance with the mediation procedure of the Centre for Effective Dispute Resolution (CEDR). If the parties fail to agree to terms of settlement of their dispute or difference within 56 days of the receipt of such notice or the party to whom the notice was given refuses to participate in the ADR procedure, then the matter shall be referred to Arbitration in accordance with sub-Clause 2.
3. Subject to sub-Clause 3 below if any dispute or difference which may arise between the parties in connection with or arising out of the Contract is referred to ADR mediation but is not so settled as specified in sub-Clause 1, then either party shall give notice to the other, and such

dispute or difference shall be referred to Arbitration. The parties shall agree on the appointment of a single arbitrator within 14 days after the date of such notice, or in default of the agreement; the arbitrator shall be nominated on the application of either party by the President for the time being of the Chartered Institute of Arbitrators. Arbitration shall be conducted in accordance with the then-current Arbitration Rules as published by the Chartered Institute of Arbitrators.

4. There are excluded Arbitration, any proceedings brought by one party against the other which arise out of the failure by that other party to comply with the provisions of any binding agreement setting out the terms upon which the dispute or difference was settled as a result of or following from the ADR mediation procedure referred to in sub- Clause 1 above.

Comments

This Clause provides for a three-stage process of dispute resolution. First the parties try to resolve it themselves. The second stage is ADR mediation under the auspices of the CEDR. If, in a defined time, this is not successful, then the dispute is referred to court. Most big British companies, however, have found arbitration to be more expensive than litigation, although it does have the advantage of confidentiality. Both involve solicitors, barristers and long complex hearings, but in the case of arbitration, the arbitrator too has to be paid, and the rooms hired where it is held, unlike in court and in addition, can be appealed to court in any event. Thus, few big companies specify arbitration and instead give the court's jurisdiction. The third stage is court action.

Immediate reference to either the courts or arbitration is contrary to modern purchasing practice so the first step should be to ADR although if an emergency court order to restrain infringement of intellectual property rights and similar matters is not precluded as the courts would retain jurisdiction.

Formal arbitration can be used as an alternative to going to court in place of the latter part of this clause. Arbitration is confidential and preferred in some industry sectors. Some sectors have their own arbitration schemes to which reference should be made. It is important to distinguish between mediation/ADR and arbitration. Mediation can be used before going to court or arbitration and is usually, but not always, not binding unless the parties reach an agreement to settle. By contrast, if the case goes to court, an arbitrator or a judge decides who wins the dispute. Where arbitration is chosen, alternative sub-paragraph 3 is included to deal with the problem that if the Contract contains an arbitration Clause, then all disputes must go to arbitration, which would prevent one party from using the summary judgment procedure in the High Court to enforce a binding agreement arrived at after mediation proceedings.

Clause 12 - Assignment and Sub-Contracting

1. Neither party shall assign the Contract or any of its rights or obligations thereunder without first having received the written approval of the other party
2. The (Supplier) shall not sub-contract the Contract or any part thereof without having first obtained the written permission of the (Purchaser) provided that this restriction shall not apply to sub-contracts for materials or minor details or any part of the work to be performed or materials or equipment to be supplied for which the sub-contractor is named in the Contract.
3. The (Supplier) shall be responsible for the acts, defaults and omissions of its sub- Contractors, whether approval has been given to their appointment under this Clause or not, as if they were

his own, and any consent given under this Clause shall not relieve the (Supplier) of any of his obligations under the Contract.

Comments

This Clause is straightforward. Some Purchasers may be content that consent must not be unreasonably withheld.

Clause 13 - Statutory Regulations

Both parties shall in all matters relating to the performance of the Contract comply with all Acts of Parliament and with all orders, regulations and byelaws made with statutory authority by Government Departments or by local or other authorities. The cost to each party of meeting the requirements of this Clause shall be borne by that party.

1. If the cost to the (Supplier) of the performance of the Contract shall be increased or reduced by reason of the making after the date of the Contract of any new law or order or regulation having the force of law as referred to in sub-Clause 1 above or of the making of any change to any such law, order or regulation in force at the date of Contract that shall be applicable to the Contract (other than any tax on profits), the amount of such increase or reduction shall be paid to or repaid by the (Supplier) as appropriate.

Clause 14 - Health & Safety

1. The (Supplier) undertakes that he and his employees, agents and sub-contractors will at all times comply with all health and safety requirements relating to the carrying out of the work under the Contract. Such requirements include in addition to statutory laws and regulations any codes of practice and British Standards or their equivalent relating to Health or Safety which may be applicable to the performance of the Contract.
2. When the (Supplier) his employees, agents or sub-contractors are required to carry out work on the (Purchaser's) premises, then the (Supplier) undertakes that in carrying out the work, they shall additionally comply with all the (Purchaser's) rules and practices relating to safety and the conduct of persons working on the (Purchaser's) premises.

Comments

This Clause is a useful addition. It may be appropriate to strengthen the provision of environmental protection, but care needs to be taken not to try to be too specific and run the risk of omitting some important elements.

Clause 15 - Law

The construction, performance, and validity of the Contract shall be governed in all respects by the laws of England and Wales.

Clause 16 - No Third-Party Rights

Subject to clause, a person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 ("the Act"). Where any clause of this Agreement entitles any person to enforce any term of this Agreement under the Act, the parties reserve the right to vary that term or any other term of this Agreement without the consent of that person.

Comments

The Contracts (Rights of Third Parties) Act 1999 enables third parties named under a contract or beneficiaries under it to sue for breach of contract (although not to recover more than the original contracting parties). This can be excluded by an express contract term as here. Most parties wish to exclude the act. Sometimes those taking a licence of software or buying a business for example would like third parties such as other group companies to have rights to sue and either specifically set out such third-party rights or ensure the Act is not excluded at all.

Clause 17 - Severance

No clause, sub-clause or their relevant parts in this Contract may be held to be unenforceable or void except for the judgement of a court of competent jurisdiction. Should any clause, sub-clause or part thereof be so held to be unenforceable or void the remaining clauses, sub-clauses and their relevant parts shall remain in full force and effect to the extent that they are capable of remaining operative having taken account of the said court's judgement.

Comments

Unfair Contract Terms Act 1977 and the Competition Act 1998 and article 81(1) and other statutes have the effect of rendering void and unenforceable contract clauses in particular cases.

Often it is helpful to include a provision saying the rest of the Agreement will then stand. However, sometimes in a document with exclusivity restrictions or non-competition obligations for example the parties would prefer termination in such case so always consider whether a different result in such a case should be expressed.

Clause 18 - Agency

Except as expressly permitted by this Contract, neither party shall in any circumstances hold itself out as being: -

- the servant or agent of the other party; or
- authorised to enter any contract on behalf of the other party or in any way to bind the other party to the performance, variation, release or discharge of any obligations.

Comments

This clause is appropriate to ensure no party is held by the agent of the other. However, if the agreement is indeed an agency agreement or employment contract or one party can bind the other, the clause is clearly inappropriate and should not be used.

Clause 19 – Environment

Supplier warrants that price for alternative products, where such products exist, which are free from harmful toxins, chemicals or gases, or which are manufactured from recycled material, and which are in any case proven to be less detrimental to the environment. Supplier agrees to provide goods/services which accord with the Purchaser's policy on the environment. The Supplier shall, when working at the Purchaser's premises, perform the Contract in accordance with the Purchaser's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone-depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

Comments

Whilst not legally necessary buyers with a concern for the environment or where required by other contracts to which they are party which affect the agreement, or which require them as supplier or purchaser to impose on other parties in the contract chain may wish to impose environmental clauses such as those appearing above.

Clause 20 - Conflicts of Interest, fraud and Competition Law

- (a) The Supplier shall take all appropriate steps to ensure that neither it nor any employee, servant, agent, supplier or sub-contractor is placed in a position where there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or such persons and the duties owed to the Purchaser under the provisions of the Contract. The Supplier shall disclose to the Purchaser full particulars of any such conflict of interest which may arise.
- (b) The Supplier shall safeguard the Purchaser's funding of the Contract against fraud generally and, in particular, fraud on the part of the staff, or the Suppliers' directors. The Supplier shall notify the Purchaser immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- (c) The Supplier warrants that it has engaged in no price fixing, bid rigging, illegal price information exchange agreement or other arrangement in breach of UK, EU or other competition laws relevant to the Contract or arrangements between the parties.

Comments

Buyers in the public sector are more likely than others to want these clauses, although all buyers, particularly for bigger tenders, may benefit from such provisions. At the least, the provisions may seek to ensure the Supplier enquires of its staff about whether any such arrangements are in place. Given the Extradition Act 2002 makes it easier for UK buyers and suppliers to be extradited to the US and jailed for up to 10 years for breach of US law, and the UK Enterprise Act 2002 makes UK price fixing and bid rigging a criminal offence, it is sensible to take every precaution against this occurring. Some buyers purchase software to help them track patterns of pricing to see if they are victims of price-fixing arrangements in contracting.

Clause 21 - Discrimination

The Supplier shall not unlawfully discriminate within the meaning and scope of any law or regulation relating to discrimination (whether in race, gender, religion, disability, age, sexual orientation or otherwise) in employment. The Supplier shall take all reasonable steps to secure the observance of this provision by all servants, employees or agents of the Supplier and all suppliers and sub-contractors employed in the execution of the Contract.

Comments

Whilst such a clause as this on discrimination is legally unnecessary many businesses see it as part of their corporate and social responsibility to highlight such issues and particularly public sector bodies where they are purchasing often have clauses similar to this.

Clause 22 - TUPE

Where the Transfer of Undertakings (Protection of Employment) Regulations 2006 apply in respect of the award of the Contract the undertaking concerned (or any relevant part of the undertaking) shall transfer to the Contractor on the commencement of the Contract. For 6 months before the Contract expires the Supplier shall give to the Purchaser all employee information necessary for TUPE. The Supplier shall allow the Purchaser to use the information for the purposes of TUPE and of re-tendering. The Supplier will co-operate with the re tendering of the Contract by allowing the body to whom the new contract is awarded ("the Transferee") to communicate with and meet the affected employees and/or their representatives.

The Supplier agrees to indemnify the Purchaser fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision of information above.

The Supplier agrees to indemnify the Purchaser from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities (including legal fees) in connection with or as a result of any claim or demand by any employee or other employee or person claiming to be an employee on any date upon which the Contract is terminated and/or transferred to any third party ("Relevant Transfer Date") arising out of their employment or its termination whether such claim or claims arise before or after the Relevant Transfer Date.

Appendix 3 - Technical Specifications

Details About Your Organisation

Provide an overview of your organisation, including its purpose, structure, and key details to help the proposer understand the project's context.

Relevant Context for the Project

Outline the project's goals and objectives. Include any specific challenges or opportunities that the proposer should be aware of.

Existing Infrastructure or Systems

Describe the current infrastructure or systems that are relevant to the project. Highlight any technical, operational, or integration considerations the proposer needs to address.

Appendix 4 - Proposal Submission Template

1. Proposer Information

Field	Response
Company Name	
Company Registration Number	
Country of Registration	
Address	
Contact Person Name	
Contact Email Address	
Contact Phone Number (incl. country code)	
Data Protection Compliance (GDPR/Other)	

2. Executive Summary

Provide a brief overview of your proposal, highlighting key features, compliance with local and international standards, and your organisation's ability to deliver the requirements.

3. Approach and Methodology

Explain your strategy for delivering the requirement. Include any specific considerations for regional variations, legal compliance, or cultural factors.

4. Technical and Operational Details

Requirement Component	Proposed Solution	Compliance Notes
[Insert specific requirement]		
[Insert specific requirement]		
[Insert specific requirement]		

5. Pricing Information

Cost Component	Price (Excl. Tax)	Tax	Total (Incl. Tax)	Currency (Specify)
[Insert cost component]				
[Insert cost component]				
Total				

Include a statement on compliance with trade regulations, such as export controls or tariffs.

6. Relevant Experience and References

Project/Client Name	Description of Work	Value (\$/£/€)	Contact Person & Details	Country of Project Execution

7. Compliance with RFP Requirements

Confirm your compliance with all stated requirements, including regulatory standards:

Requirement	Comply? (Yes/No)	Comments or Deviations	Regional Compliance Considerations
[Insert requirement]			
[Insert requirement]			

8. Vendor Due Diligence Acknowledgement

By completing this section, the proposer acknowledges that the Company may undertake the following due diligence activities:

- Reference checks.
- Background checks (e.g., legal, financial, or compliance records).
- Interviews.
- Presentations.
- Site visits.

Acknowledged? (Yes/No)

Signature of Authorised Representative:

Date:

9. Data Privacy and Security

Question	Response
Does your organisation comply with GDPR, CCPA, or other privacy laws?	
How do you handle cross-border data transfers?	
Please provide your data breach notification process.	

10. Additional Information

Share any additional compliance certifications, accreditations, or unique capabilities your organisation brings to this project.

Appendix 5 - Supporting Documents

Data or Reports

Include any relevant data, reports, or research that provides context or supports the project's planning and execution. These documents should help proposers understand the background and inform them of their approach.

Drawings, Plans, or Designs

Attach any technical drawings, plans, or designs related to the construction or technical aspects of the project. These visuals should clearly represent the project's requirements and expectations.

Appendix 6 - Confidentiality Obligations

The following confidentiality obligations bind all Proposers participating in this RFP:

1. Non-Disclosure of Information

Proposers must treat all information provided by the Company as confidential. This includes the RFP documents, any communications, and any other information shared during the process. Proposers must not disclose this information to any third party without prior written consent from the Company.

2. Limited Use of Information

Information provided as part of the RFP process must only be used to prepare and submit a proposal. Any other use is strictly prohibited.

3. Protection of Sensitive Data

Proposers must take all reasonable steps to protect the confidentiality of the Company's information, including secure storage of physical and digital copies and limiting access to only those employees or subcontractors who need it for proposal preparation.

4. Return or Destruction of Information

Proposers must return all physical copies of RFP documents within seven (7) days of being notified that their Proposal was unsuccessful. All electronic copies, whether provided by the Company or created by the Proposer, must be permanently deleted.

5. Prohibition on Sharing or Retaining Information

Proposers must not share, retain, or use any part of the RFP documents or associated proprietary information for any purpose other than the RFP. Any unauthorised retention, sharing, or use is strictly prohibited.

6. Intellectual Property

All intellectual property (IP) rights in the RFP documents, including but not limited to any data, designs, specifications, or materials provided, remain the sole property of the Company. Proposers are granted a limited, non-transferable license to use the RFP documents solely to prepare and submit a proposal. Any modifications, adaptations, or derivatives made by Proposers remain the property of the Company.

7. Survival of Obligations

These confidentiality obligations remain in effect even after the RFP process has concluded, whether or not a Proposal was successful.

8. Legal Consequences for Breach

Breaches of confidentiality may result in legal action, including but not limited to disqualification from future opportunities, liability for damages, and other remedies deemed appropriate by the Company.

By participating in this RFP, Proposers acknowledge and agree to comply with these confidentiality obligations.

Declaration

Signed	
Position	
Date	