**[Provision of Temporary Staff Agent Services]**

25 September 2017

**ATTACHMENT 1 – RFQ COVER AND INSTRUCTIONS**

1. On behalf of the Foreign and Commonwealth Office (FCO) as represented by the British Embassy Tokyo, we are looking for supplier(s) that could provide temporary staff as and when the British Embassy and/or British Consulate-General requires. Further details on the requirements are set out in the attached Specification/Terms of Reference.
2. Please include in your reply a nominated point of contact with telephone, e-mail and postal address details.
3. Estimated contract duration is for 36 months starting 1 November 2017 until 30 October 2020with an option to extend for another 12 months.
4. Payments for under GBP1,500 will be made through credit card and a Purchase Order will be provided for purchase over GBP1,500.
5. Your quote should remain valid for 90 days from the required date of receipt and all costs should be stated in Japanese Yen. Your quotation should be inclusive all costs. British Embassy Tokyo and British Consulate-General in Osaka enjoy tax exemption for purchase of goods over JPY40,000 from designated store but we do not enjoy exemption on purchase of Services.
6. **Please answer questions1.1 to 1.4, and 2.1 to 2.7 on pages 11&12. Provide cost estimates in page 13**.
7. Your quote must be received on or before **12:00 on the 13 October 2017**. Late bids will not be accepted.
8. Send your response to **takashi.akutsu@fco.gov.uk** **.** Please use the title: **[Provision of Temporary Staff Agent Services]**
9. If you have any questions, please contact **Takashi Akutsu** at **takashi.akutsu@fco.gov.uk** **.** Answers will be shared with all bidders. Use the title: **RFQ QUESTION** **[Provision of Temporary Staff Agent]**.
10. Should your quotation be accepted, this request, the attached Specification, and your response will form a legally binding contract between you and the FCO under the terms and conditions set out in the associated FCO Contract.
11. This Request for a Quote does not imply any commitment on the part of the FCO.
12. From 2nd April 2014 the Government is introducing its new Government Security Classifications (GSC) classification scheme to replace the current Government Protective Marking Scheme (GPMS). A key aspect of this is the reduction in the number of security classifications used. All potential suppliers should make themselves aware of the changes as it may impact on this Requirement. The following link to the Gov.uk website provides information on the new GSC - <https://www.gov.uk/government/publications/government-security-classifications>

**Takashi Akutsu**

**Deputy Corporate Services Manager**

**British Embassy Tokyo**

**ATTACHMENT 2 –**

**Terms and Conditions of Contract for Services**

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| Index |
| 1 | Interpretation | 12 | Freedom of Information |
| 2 | Basis of Agreement | 13 | Protection of Personal Data and Security of Data |
| 3 | Supply of Services | 14 | Liability  |
| 4 | Term | 15 | Force Majeure |
| 5 | Charges, Payment and Recovery of Sums Due | 16 | Termination |
| 6 | Premises and Equipment | 17 | Compliance. |
| 7 | Staff and Key Personnel | 18 | Prevention of Fraud and Corruption |
| 8 | Assignment and Sub-Contracting | 19 | Dispute Resolution |
| 9 | Intellectual Property Rights | 20 | General |
| 10 | Governance and Records | 21 | Notices |
| 11 | Confidentiality, Transparency and Publicity | 22 | Governing Law and Jurisdiction |

1. Interpretation
	1. In these terms and conditions:

|  |  |
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| “Agreement”  | means the contract between (i) the Customer acting as part of the Crown and (ii) the Supplier constituted by the Supplier’s countersignature of the Award Letter and includes the Award Letter and Annexes; |
| “Authority” | means the Secretary of State for Foreign and Commonwealth Affairs and includes the Authority's Representative. In this Contract, the Authority is acting as part of the Crown. |
| “Authority's Representative" | means the individual authorised to act on behalf of the Authority for the purposes of the Contract. |
| “Award Letter” | means the letter from the Customer to the Supplier printed above these terms and conditions; |
| “Central Government Body” | means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:1. Government Department;
2. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
3. Non-Ministerial Department; or
4. Executive Agency;
 |
| “Charges” | means the charges for the Services as specified in the Award Letter;  |
| “Confidential Information” | means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential; |
| “Credit Transfer” | is a payment instruction from the Authority to its bank or payment service provider to transfer an amount of money to another account. |
| “Customer” | means the person named as Customer in the Award Letter who is the “Authorities Representative”; |
| “DPA” | means the Data Protection Act 1998;  |
| “Expiry Date” | means the date for expiry of the Agreement as set out in the Award Letter;  |
| “FOIA” | means the Freedom of Information Act 2000; |
| “GPC” | means the Government Procurement credit card used for purchasing and/or making payment; |
| “Information” | has the meaning given under section 84 of the FOIA;  |
| “Key Personnel”  | means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Supplier in writing;  |
| “Party” | means the Supplier or the Customer (as appropriate) and “Parties” shall mean both of them;  |
| “Personal Data” | means personal data (as defined in the DPA) which is processed by the Supplier or any Staff on behalf of the Customer pursuant to or in connection with this Agreement; |
| “Purchase Order Number” | means the Customer’s unique number relating to the supply of the Services;  |
| “Request for Information” | has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);  |
| “Services” | means the services to be supplied by the Supplier to the Customer under the Agreement;  |
| “Specification” | means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;  |
| “Staff” | means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;  |
| “Staff Vetting Procedures” | means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer’s procedures for the vetting of personnel as provided to the Supplier from time to time;  |
| “Supplier” | means the person named as Supplier in the Award Letter; |
| “Term” | means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause  or terminated in accordance with the terms and conditions of the Agreement;  |
| “VAT” | means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and |
| “Working Day” | means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London. |

* 1. In these terms and conditions, unless the context otherwise requires:
		1. references to numbered clauses are references to the relevant clause in these terms and conditions;
		2. any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
		3. the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
		4. any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
		5. the word ‘including’ shall be understood as meaning ‘including without limitation’.
1. Basis of Agreement
	1. The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.
	2. The offer comprised in the Award Letter shall be deemed to be accepted by the Supplier on receipt by the Customer of a copy of the Award Letter countersigned by the Supplier within [7] days of the date of the Award Letter.
2. Supply of Services
	1. In consideration of the Customer’s agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.
	2. In supplying the Services, the Supplier shall:
		1. co-operate with the Customer in all matters relating to the Services and comply with all the Customer’s instructions;
		2. perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier’s industry, profession or trade;
		3. use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier’s obligations are fulfilled in accordance with the Agreement;
		4. ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
		5. comply with all applicable laws; and
		6. provide all equipment, tools and vehicles and other items as are required to provide the Services.
	3. The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier.
3. Term
	1. The Agreement shall take effect on the date specified in Award Letter and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause  or terminated in accordance with the terms and conditions of the Agreement.
	2. The Customer may extend the Agreement for a period of up to 6 months by giving not less than 10 Working Days’ notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.
4. Charges, Payment and Recovery of Sums Due
	1. The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
	2. The Contractor shall add VAT to the Agreement Price at the prevailing rate as applicable
	3. The Authority may elect to pay for the services by invoice via credit transfer, Government Procurement Card or such other method as the Parties may agree. To enable the Customer to verify the accuracy of the charges, the Supplier shall provide supportive information as the Customer requires, including a breakdown of the Services supplied.

If the Authority elects to pay against an invoice, The Authority shall pay the Contractor within 30 days of receipt of an undisputed invoice by payment direct to the Contractors bank account as a credit transfer.

* 1. In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the charges no later than 30 days after verifying that the charge is valid and undisputed. If paying by invoice, a valid Purchase Order Number is required.
	2. If the Customer fails to consider and verify a charge in a timely fashion the charge shall be regarded as valid and undisputed for the purpose of paragraph 5.4 after a reasonable time has passed.
	3. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
	4. If there is a dispute between the Parties as to the amount charged, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause . Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause .
	5. If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
	6. Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract:
		1. provisions having the same effects as clauses 5.3 to 5.7 of this Agreement; and
		2. a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as 5.3 to 5.8 of this Agreement.
		3. In this clause 5.8, “sub-contract” means a contract between two or more suppliers, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
	7. If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.
1. Premises and equipment
	1. If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer’s premises by the Supplier or the Staff shall be at the Supplier’s risk.
	2. If the Supplier supplies all or any of the Services at or from the Customer’s premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer’s premises, remove the Supplier’s plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer’s premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer’s premises or any objects contained on the Customer’s premises which is caused by the Supplier or any Staff, other than fair wear and tear.
	3. If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
	4. The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer’s premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer’s security requirements.
	5. Where all or any of the Services are supplied from the Supplier’s premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.
	6. Without prejudice to clause , any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
	7. The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.
2. Staff and Key Personnel
	1. If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:
		1. refuse admission to the relevant person(s) to the Customer’s premises;
		2. direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
		3. require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered, and the Supplier shall comply with any such notice.
	2. The Supplier shall:
		1. ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;
		2. if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer’s premises in connection with the Agreement; and
		3. procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.
	3. Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.
	4. Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
3. Assignment and sub-contracting
	1. The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
	2. Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
	3. The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier’s obligations under the Agreement.
4. Intellectual Property Rights
	1. All intellectual property rights in any materials provided by the Customer to the Supplier for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.
	2. All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).
	3. The Supplier hereby grants the Customer:
		1. a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and
		2. a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:
			* 1. any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and

any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services, including any modifications to or derivative versions of any such intellectual property rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.

* 1. The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party’s intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.
1. Governance and Records
	1. The Supplier shall:
		1. attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and
		2. submit progress reports to the Customer at the times and in the format specified by the Customer.
	2. The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer’s representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.
2. Confidentiality, Transparency and Publicity
	1. Subject to clause , each Party shall:
		1. treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and
		2. not use or exploit the disclosing Party’s Confidential Information in any way except for the purposes anticipated under the Agreement.
	2. Notwithstanding clause , a Party may disclose Confidential Information which it receives from the other Party:
		1. where disclosure is required by applicable law or by a court of competent jurisdiction;
		2. to its auditors or for the purposes of regulatory requirements;
		3. on a confidential basis, to its professional advisers;
		4. to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
		5. where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier’s obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause shall observe the Supplier’s confidentiality obligations under the Agreement; and
		6. where the receiving Party is the Customer:
			* 1. on a confidential basis to the employees, agents, consultants and contractors of the Customer;
				2. on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;
				3. to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
				4. in accordance with clause .

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 11.

* 1. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
	2. The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.
1. Freedom of Information
	1. The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:
		1. provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
		2. transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
		3. provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
		4. not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
	2. The Supplier acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier’s attention after any such disclosure.
	3. Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.
2. Protection of Personal Data and Security of Data
	1. The Supplier shall, and shall procure that all Staff shall, comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.
	2. Notwithstanding the general obligation in clause , where the Supplier is processing Personal Data for the Customer as a data processor (as defined by the DPA) the Supplier shall:
		1. ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA;
		2. provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA;
		3. promptly notify the Customer of:
			* 1. any breach of the security requirements of the Customer as referred to in clause ; and
				2. any request for personal data; and
		4. ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer’s obligations under the DPA.
	3. When handling Customer data (whether or not Personal Data), the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Supplier from time to time.
3. Liability
	1. The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.
	2. Subject always to clauses  and :
		1. the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortuous or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier; and
		2. except in the case of claims arising under clauses and , in no event shall the Supplier be liable to the Customer for any:
			* 1. loss of profits;
				2. loss of business;
				3. loss of revenue;
				4. loss of or damage to goodwill;
				5. loss of savings (whether anticipated or otherwise); and/or
				6. any indirect, special or consequential loss or damage.
	3. Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:
		1. death or personal injury caused by its negligence or that of its Staff;
		2. fraud or fraudulent misrepresentation by it or that of its Staff; or
		3. any other matter which, by law, may not be excluded or limited.
	4. The Supplier’s liability under the indemnity in clause  and shall be unlimited.
4. Force Majeure

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

1. Termination
	1. The Customer may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.
	2. Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:
		1. (without prejudice to clause ), is in material breach of any obligation under the Agreement which is not capable of remedy;
		2. repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
		3. is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
		4. undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
		5. breaches any of the provisions of clauses , , , and ;
		6. becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier’s assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause ) in consequence of debt in any jurisdiction; or
		7. fails to comply with legal obligations in the fields of environmental, social or labour law.
	3. The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause  or any potential such change of control.
	4. The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.
	5. Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses , , , , , , , , , , , , , , , , and or any other provision of the Agreement that either expressly or by implication has effect after termination.
	6. Upon termination or expiry of the Agreement, the Supplier shall:
		1. give all reasonable assistance to the Customer and any incoming supplier of the Services; and
		2. return all requested documents, information and data to the Customer as soon as reasonably practicable.
2. Compliance
	1. The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer’s premises and which may affect the Supplier in the performance of its obligations under the Agreement.
	2. The Supplier shall:
		1. comply with all the Customer’s health and safety measures while on the Customer’s premises; and
		2. notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer’s premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
	3. The Supplier shall:
		1. perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer’s equality and diversity policy as provided to the Supplier from time to time; and
		2. take all reasonable steps to secure the observance of clause  by all Staff.
	4. The Supplier shall supply the Services in accordance with the Customer’s environmental policy as provided to the Supplier from time to time.
	5. The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:
		1. the Official Secrets Acts 1911 to 1989; and
		2. section 182 of the Finance Act 1989.
3. Prevention of Fraud and Corruption
	1. The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.
	2. The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
	3. If the Supplier or the Staff engages in conduct prohibited by clause  or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:
		1. terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or
		2. recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.
4. Dispute Resolution
	1. The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.
	2. If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause , the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “Mediator”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
	3. If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.
5. General
	1. Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
	2. A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
	3. The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
	4. The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
	5. Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
	6. The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party’s behalf.
	7. Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
	8. If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.
6. Notices
	1. Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause , e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:
	2. Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.
	3. Notices under clauses  (Force Majeure) and (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause .
7. Governing Law and Jurisdiction

This Agreement will be governed by and construed in accordance with English law and the Contractor hereby irrevocably submits to the jurisdiction of the English courts. The submission to such jurisdiction will not (and will not be construed so as to) limit the right of the Authority to take proceedings against the Contractor in any other court of competent jurisdiction, nor will the taking of proceedings by the Authority in any one or more jurisdictions preclude the taking of proceedings by the Authority in any other jurisdiction, whether concurrently or not.

**ATTACHMENT 3 – STATEMENT OF SERVICE REQUIREMENTS**

**BACKGROUND**

British Embassy in Tokyo and the British Consulate-General in Osaka need to identify framework contract holder(s) for three year period from 1 November 2017 to 30 October 2020. As this period includes Rugby World Cup in 2019 and Tokyo Olympics in 2020, demands on English speaking Temporary staff would be increased in Japan. Therefore, we need to identify and establish good relationship with reliable contractor that can provide skilled temporary staff with short notice.

**DETAILS OF REQUIREMENT**

The Foreign and Commonwealth Office (FCO) seeks to contract one or more qualified companies to provide highly skilled English speaking temporary staff in a flexible and cost effective manner to support operations of the British Embassy in Tokyo and the British Consulate-General in Osaka.

Successful contractor should have many first class staff who has strong English and Japanese language skills, and can adjust working style to suit the Embassy/Consulate-General’s needs.

The contractor agrees to follow the Embassy/Consulate-General’s security policy. This includes submission of criminal record issued by the police regarding staff to be deployed to the Embassy/Consulate-General.

Pricing needs to be agreed at the start of the contract and any changes must be agreed in writing.

**ASSESSMENT SCORE**

All tenders will be scored as above in accordance with the marking system set out below:

|  |  |  |
| --- | --- | --- |
| **Score Key Assessment** | **Score** | **Interpretation** |
| Excellent | 5 | Satisfies the requirement and demonstrates exceptional understanding and evidence in their ability/proposed methodology to deliver a solution for the required supplies/services. Response identifies factors that will offer potential added value, with evidence to support the response. Tenderer has fully accepted FCO standard terms and conditions of contact. |
| Good | 4 | Satisfies the requirement with minor additional benefits. Above average demonstration by the Tenderer of the understanding and evidence in their ability/proposed methodology to deliver a solution for the required supplies/services. Response identifies factors that will offer potential added value, with evidence to support the response.  |
| Acceptable | 3 | Satisfies the requirement. Demonstration by the Tenderer of the understanding and evidence in their ability/proposed methodology to deliver a solution for the required supplies/services.  |
| Minor Reservations | 2 | Satisfies the requirement with minor reservations. Some minor reservations of the Tenderer's understanding and proposed methodology, with limited evidence to support the response. Tenderer has accepted FCO standard terms and conditions of contract. |
| Serious Reservations/ Non compliant | 1 | Satisfies the requirement with major reservations. Major reservations of the Tenderer's understanding and proposed methodology, with little or no evidence to support the response.  |
| Unacceptable/ Non compliant | 0 | Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the Tenderer has the understanding or suitable methodology, with little or no evidence to support the response. Tenderer has rejected FCO standard terms and conditions of contract. |
| Price / Commercial | 5 = most financially attractive to Authority | Score awarded on inverse percentage difference from most financially attractive offer to the Authority |

**EVALUATION CRITERIA**

|  |  |
| --- | --- |
| **Evaluation Criteria - Qualification Questions** |  **Criteria Weighting** |
| Satisfactory completion of all aspects of Qualification Envelope. This includes: * 1. Acceptance of FCO terms and conditions as detailed in Attachment 2;
	2. Satisfactory demonstration of financial health by submitting your audited financial statement for the last 2 years if requested. The FCO reserves the right to seek and act upon independent legal, financial or market advice to corroborate information provided or to assist in its evaluation.
	3. Completion of Attachment 5 – Certificate of Bona Fide Tendering
	4. Completion of Attachment 6 – Declaration by Tenderer
 |  Mandatory |

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| --- | --- | --- |
| **Evaluation Criteria – Quality/Technical (Questions 2.1 – [2.7])** | **Criteria Weighting** | **Evaluation Methodology** |
| **2.1** Are you able to provide same services in Tokyo and Osaka?**2.2** Please explain the booking procedures. Are you planning to nominate dedicated account manager for the Embassy/Consulate-General?**2.3** What is your Service Level Agreement/Policy on a)minimum hours/minimum contract period b)maximum hours per day c)cancellation/notice period d)contingency (sick absence cover, etc)**2.4** Below are three categories the Embassy might require the contractor’s support. Are you able to provide staff suitable for all categories? Please list qualifications, experiences and skills your staff have. With PC skills, please list OS and software your staff can operate with.* Category 1. Work within standard procedures and their work mainly consists of straightforward, routine tasks. Work will be closely monitored. Decisions are straightforward and there will be little discretion to depart from standard operating procedures. Jobholders are responsible for their own work only
* Category 2. Work within defined rules, guidelines, regulations and policies. The appropriate course of action will generally be clear. There will be some scope for discretion and initiative. Problems arising at this level will usually focus on well-defined tasks. Jobholders work under the supervision and guidance of more senior member who define the working methods. Jobholders may also provide advice and guidance to others. Jobholders are generally responsible for their own work area.
* Category 3. Work within defined rules, regulations and policies and their outputs are guided by practice and precedent. They deal with a wider range of problems and judgements are required where the issues are not clear. Whilst the scope for innovation may be limited, Jobholders will propose ways to solve problems. Jobholders generally work without close supervision. Some positions may involve managing a team/financial resources. Jobholders are expected to make suggestions about ways of improving working methods, systems and processes. They support change by implementing new policies, procedures and systems

**2.5** Please detail your pre-deployment requirements from the Embassy/Consulate-General, e.g., job description explaining tasks expected to be carried out, expected working hours, etc.**2.6** Are you currently providing services to Japanese Government and other Embassies? Please provide details of your customers, both public and private sectors and attach two references from your customers.**2.7** Please detail your security measures that would ensure compliance to our requirements under section 13 of Attachment 2. Are you accredited with ISO on data protection?  | 55520101010 | 0 – 5 score |
| **TOTAL – Quality/Technical** | **65** | **Max Score – 325** |
| **TOTAL – Pricing & Commercial** | **35** | **Max Score – 175** |
| **GRAND TOTAL EVALUATION CRITERIA** | **100** | **Max Score - 500** |

**ATTACHMENT 4 – PRICING SCHEDULE**

[Please insert pricing schedule/specifications here. Please show hourly rates for different categories such as office work, promotion, sales, IT etc. If rates for part time and full time staff are different, please explain it here as well. Overtime rate and weekend rates should be listed here]

**ATTACHMENT 5 - CERTIFICATE OF BONA FIDE TENDERING**

1. I declare that this is a bona fide tender, intended to be competitive and that I have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person ('person' includes any persons, anybody or association, corporate or incorporate; and) except as disclosed on this Certificate under 7 below.
2. I declare that the Company is not aware of any connection with a member of the Authority’s staff which could affect the outcome of the bidding process.
3. I declare that I have not done and I undertake that I will not do at any time any of the following:-

a) communicate to any person, including the addressee calling for the tender, the amount or approximate amount of the proposed tender;

b) enter into any agreement or arrangement with any other person or body that he or it shall refrain from tendering or as to the amount of any tender to be submitted;

c) enter into any agreement or arrangement with any other person or body that we will refrain from tendering on a future occasion;

d) offer or pay or agree to pay any sum of money or valuable consideration directly or indirectly to any person for doing or causing to be done in relation to any other tender for the said work any act of the kind described above;

e) canvass or solicit the Authority staff.

1. I understand that any instances of illegal cartels or market sharing arrangements suspected by the Authority will be referred to the Office of Fair Trading for investigation.
2. I understand that any misrepresentations may also be the subject of criminal investigation or used as a basis for civil action.
3. In this Certificate "agreement" or "arrangement" includes any transaction private or open, or collusion, formal or informal, and whether or not legally binding.
4. Disclosure: \_\_\_

Signed: Name: Title:

On behalf of: Date: / / 2016

To: The Secretary of State for Foreign & Commonwealth Affairs

Date: / /2016

**ATTACHMENT 6 – DECLARATION BY TENDERER**

1. I have examined the documents inclusive enclosed under cover of your Invitation To Tender letter dated 25 September 2017 and have taken account of subsequent Amendments.
2. I hereby offer to enter into a Contract with the Secretary of State for Foreign & Commonwealth Affairs, as represented by the British Embassy Tokyo for **Provision of Temporary Staff Agent Services**, upon the Conditions in the proposed Contract documents set out in the RFQ Attachment 4.
3. I warrant that I have all the requisite corporate authority to sign this tender.
4. I understand that the Authority is not bound to accept the lowest or any Tender. I also understand the Authority has the right to accept only part of a Tender unless I have expressly stipulated otherwise.
5. This Tender shall remain open for acceptance by the Authority for a period of 3 months after the due date for return of tenders specified in your Invitation to Tender.
6. We acknowledge that the information set out in the Request for Quotation is confidential to the Authority and contains documentation which is subject to Crown copyright. We undertake not to copy or disseminate this information or documentation and if required by the Authority to return all such information and documentation in its possession to the Authority or else certify its destruction.

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| --- | --- |
| Signed: | …………………………………………………………. |
| Date: | …………………………………………………………. |
| Name: | …………………………………………………………. |
| In the capacity of: | …………………………………………………………. |
| Duly authorised to sign Tenders on behalf of: (Name of Company) | …………………………………………………………. |