**SCDP Contracting and Competition**

**Principles Document V3**

**Table of Abbreviations**

|  |  |
| --- | --- |
| **Abbreviation** | **Meaning** |
| CCS | Crown Commercial Service |
| DMA | Delivery Model Assessment |
| ECC | Engineering and Construction Contract |
| EPC | Engineering, Procurement, and Construction |
| GDF | Geological Disposal Facility |
| ITT | Invitation to Tender |
| KPIs | Key Performance Indicators |
| LADD | Liquidated and Ascertained Damages for Delay |
| M&O | Maintenance & Operation |
| NDA | Nuclear Decommissioning Authority |
| NEC4 | New Engineering Contract 4 |
| NWS | Nuclear Waste Services |
| PCG | Parent Company Guarantee |
| PIN | Prior Information Notice |
| PSC | Professional Services Contract |
| SCDP | Site Characterisation Delivery Partner |
| SFI | Self-Funded Incentive |
| SSJ | Single Supplier Justification |
| SQ | Supplier Questionnaire |
| UPCG | Ultimate Parent Company Guarantee |

**Contracting and Competition Principles - SCDP**

**Introduction**

The principles below form the basis of the terms on which Nuclear Waste Services ("**NWS"**) proposes to engage the Site Characterisation Delivery Partner ("**SCDP"**) for the GDF Project.

| **Topic Area** | **Issue** | **Principle** |
| --- | --- | --- |
| Contract Terms | 1. Form of Contract | Bespoke professional services contract[, reflecting [NEC4 PSC-style themes of transparency and partnership-working] and NEC-based pricing options]. |
| 1. Scope of Contract | A single supplier contract appointing an SCDP to deliver a range of professional services as required to select an appropriate site for locating the GDF ("**Site Characterisation**")) ("**Services**").  Specific work packages to be provided by the SCDP, within the scope of the Services, will be instructed by individual Task Orders which will set out the scope of work to be delivered and the pricing method for that Task Order.  The contract will include an obligation on the SCDP to accept all Task Orders issued by NWS which are within the scope of the overall Services and where pricing has been agreed (subject to certain exceptions on grounds of health & safety or legal restrictions).  The output from the contract shall be the Site Characterisation Plan (SCP) and the Site Descriptive Model (SDM), to achieve these deliverables the SCDP will need to provide the Services detailed below.  The Services will include but are not limited to the following services to be delivered by the SCDP:   * Safety Leadership * Overall programme, technical and procurement delivery, including but not limited to preparation of Site Characterisation requirements, designs, specifications, procurement documents, Contract management, technical management and coordination of all contractors. * Integration of all Task/System/Equipment Interfaces * Procurement support and contract management * Resource management & coordination * Completion of all design * Integration with other contractors as identified and or procured by NWS * Preparation of all plans, permits and documentation required to deliver [the works] * Provision of digital and quality management systems * Undertaking data processing and interpretations * Preparation of Site Descriptive models.   A key part of the SCDP's role will include the identification, design, procurement and contract management, on behalf of NWS, of certain works [and services] which will be directly contracted by NWS ("**NWS Contracted Services**"), including but not limited to:   * Misc. Monitoring: Topography, Bathymetry, Passive Seismic, Geological, Hydrology & Other Surveys * Pre-Site Enabling Works Including Shallow Gas Testing, UXO Surveys & CPT’s * Set Up, Operation & Maintenance of a Site Office, Core Storage, Laydown Areas & Other Minor Civils Including Security * Hydro-Testing, IN Situ Testing, Stress Testing & Geophysical Logging * Monitoring System Installation, Commissioning, Operation & Associated Maintenance * Top Side EPIC (Engineering, Procurement, Installation & Commissioning) * Non-intrusive Geophysical Surveys: Marine, Transition Zone, Land Seismic & Airborne Surveys * Shallow Ground Investigations, Accessway Borehole Monitoring, Near Surface Monitoring * Laboratory Analysis (Water & Rock) Porewater, Groundwater, Geochemical, Geotechnical, Isotope & Chemical * Integrated Well Services (Mud, Mud Logging, Cementing, Waste Management, Fishing etc.) * Casings, Liner Hangers & Wellhead * Coring String * Supply, Transport & Support Vessels   The SCDP will also be responsible for the contract management, on behalf of NWS, of the drilling contractor(s) undertaking the [borehole drilling]. The drilling contractor(s) will be separately procured and directly contracted by NWS.  There will be an obligation on the SCDP to coordinate and integrate all services and works required for conducting the Site Characterisation.  Further detail is set out in the Scope Document to be provided under separate cover.  NWS also reserves the right to instruct services which are equivalent to the Services but which fall outside the scope of the GDF Site Characterisation project. |
| 1. Anticipated Contract Value | The current anticipated contract value at P80 is circa £1.36bn. |
| 1. Minimum Contract Value | NWS provides no guarantee in relation to the value of spend under the Contract.  There will be no obligation on NWS to instruct any services outside of the "Task Zero Services" (see below).  An initial Task Order covering the first 2 years of activities under the Contract will also be issued at the point of contract award. |
| 1. [Task Zero Services] and Initial Task Order | **[Task Zero Services]**  The [Task Zero Services] will comprise the establishment and retention of the core team for day-today delivery of the core SCDP services. Task Zero shall pick up the costs for the core team and where these resources are named within other Tasks their costs shall be included in the costings for that Task but not chargeable, the inclusion shall be for the purposes of SFI. The requirement for [Task Zero Services] will be included in the Contract from the outset and are likely to be required throughout the contract term (subject to an annual review / refresh mechanism).  **Initial Task Order**  In addition, it is anticipated that an initial Task Order covering the first two years' activities under the Contract shall be issued at the point of contract award. It is anticipated that this will require the SCDP to:   * mobilise (in line with a mobilisation plan provided by the SCDP and agreed with NWS as part of the procurement process for the SCDP contract); * review the relevant documentation that NWS has developed in relation to the GDF project and site characterisation to date; and * confirm the programme and scope of services that the SCDP will be carrying out during the first [15 months] of the contract (based upon the SCDPs proposals for delivery against NWS’s specification for early activities provided (and agreed by NWS) during the procurement process for the SCDP contract).   **Subsequent Task Orders**  The SCDP will have primary responsibility for establishing the tasks / services required beyond the [Task Zero Services] and initial Task Order, i.e. those that are required to deliver NWS’s required long-term objectives for the GDF programme, and making recommendations to NWS as to any task orders that need to be instructed in order to bring these forward. NWS will instruct such task orders if it agrees with the SCDP’s recommendations (at NWS’s sole and absolute discretion and subject to NWS securing relevant governance approvals, etc.).  For more complex tasks / services, NWS may consider issuing task orders on a phased basis – e.g. issuing an initial task order requiring the SCDP to develop a detailed scope / strategy / business case for carrying out the relevant tasks / services, then a subsequent task order instructing the SCDP to carry out the tasks / services themselves (if approved by NWS). |
| 1. Insurances | The SCDP will be required to provide and maintain throughout the contract term the following insurances:   * Employers' Liability Insurance (statutory minimum £10m each and every claim) * PI Insurance minimum £10m in aggregate subject to 1 round the clock reinstatement * Public Liability Insurance £5m each and every claim   Any further specific insurance requirements will be clearly stated within the Taks Order and the cost of such insurance shall be priced by the SCDP as part of the Task costs. |
| 1. Limit of Liability | The Contract will contain a provision that limits both NWS and the SCDP's liability.  The SCDP's liability for matters which are required to be insured under the Contract (see above) will be limited to the respective insurance levels.  For liabilities which are not recoverable by the SCDP from the insurances required to be taken out under the Contract, the SCDP's liability will be capped as follows:   * in respect of any individual Task Order, at the higher of £1m or the Task Order value * in the annual aggregate, for all liability under or in connection with the Contract, £10m.   The following matters will be excluded from the limits on the SCDP's liability:   * fraud or wilful default; * death or personal injury caused by negligence, * loss or damage to third party property, * GDPR data loss, * costs arising from Regulatory Action.   NWS's liability under the Contract will be capped at [*to be agreed*]. |
| 1. Exclusion of Consequential Loss | Neither party will be responsible for any indirect or consequential loss of the other party. |
| 1. Liquidated and Ascertained Damages for Delay (LADD) | There will be no requirement for LADD. |
| 1. Key Contractor Staff | NWS will require the staff proposed for key roles at the tender stage to be available for the commencement of the Services. The following principles will apply:   * NWS will identify 17 "Key Contractor Staff" roles at tender stage. The SCDP will be required to fill these roles from the point of contract award, and throughout the contract term, as part of the Task Zero Services. * Key Contractor Staff will be required to commit to and work on the project for a minimum of 12 months before any changes of personnel will be considered (subject to the usual exceptions such as compassionate / health / parental leave grounds, where the employee leaves the company * The SCDP will be required to prepare and maintain a continuity plan which assures adequate succession arrangements are always in place for Key Contractor Staff roles. * Post award (other than where an individual leaves the company or requests removal from the project on compassionate grounds, in which case the SCDP will provide the maximum notice possible), the SCDP will be required to provide NWS with at least 6 months’ notice of their intention to remove Key staff from the project.   Where a change of key staff is proposed the SCDP contractor will be required to provide NWS with a candidate with equal or greater experience and qualifications and that is acceptable to NWS. Additionally, there will be a minimum 3 month transition period (continuous) where both the key individual and their replacement will be required to work together on the project on a full time basis. During this 3 month period the SCDP will bear the full cost of the replacement candidate.  Key Contractor Staff may be from sub-contract organisations (in which case reimbursement of cost for those Key Contractor Staff will be subject to the same cost transparency arrangements as detailed below). |
| 1. Parent Company Guarantee (PCG) | The financial health and Economic and Financial Standing of bidders and any proposed consortium, Joint Venture (and potentially key subcontractors) will be analysed as part of the Conditions of Participation stage.  Where required by NWS, a parent or ultimate parent company guarantee will be provided by the Bidder. The requirement for this shall be based on the financial strength of the Bidder (and joint venture/consortia/key subcontractors) and further checks will be carried out at the award stage. The SCDP's financial strength shall be monitored throughout the life of the contract and should the financial health fall below the required thresholds, NWS will reserve the right to request a PCG or UPCG. |
| 1. Performance Bond | There will be no requirement for a Performance Bond. |
| 1. Payment Terms | Standard NWS payment terms will apply - payment applications submitted at monthly intervals with payment being paid within the following month (30 days).  Applications for payment will be submitted by the SCDP in full showing the Self-Funded Incentive (SFI) deduction, a payment certificate will be provided by NWS for the payable amount (gross less SFI) and invoices will be submitted by the SCDP on the value of the payment certificate. |
| 1. Nuclear Indemnities | No work will be required to be undertaken on any Nuclear Licenced Site. Nuclear Indemnities will not apply. In the currently unanticipated event that work is required to be undertaken on a Nuclear Licenced Site then this shall be subject to a separate Task Order and specific relevant terms to be agreed by the Parties. |
| 1. Pricing mechanisms | The Contract will include the following pricing mechanisms:   * Cost Reimbursable * Lump Sum against Activity Schedule * Target Cost Incentive Mechanism   The pricing mechanism applicable to each Task Order will be determined by NWS and detailed on the Task Order.  Open book accounting shall apply to the SCDP and any Key Subcontractors.  The Task Zero Services and the initial Task Order NWS anticipates issuing for the first two years' services will be reimbursed on a Cost Reimbursable basis. NWS anticipates that the majority of the Tasks will at least start as Cost Reimbursable against an estimate due to the undefined nature of the services. Where possible, NWS shall work with the SCDP to firm up task scope and move to either a Target Cost or Fixed Price model for the remainder of the task.  The following principles will apply in the case of "Cost Reimbursable" pricing:   * actual salaries (Key Contractor Staff and any SCDP (prime contractor and any JV partners) and key subcontractor key roles / named individuals) - to be fully auditable; * overhead percentage (on actual salary costs) * subcontract costs (at cost) * profit percentage (on sum of actual salary, overheads and subcontract costs) * expenses (at cost).   The overhead and profit percentages will be as bid back in the SCDPs tender.  If the SCDP uses personnel or other resource included within the price payable for [Task Zero Services] to deliver other services, no double-recovery shall be permitted. I.e. NWS will only pay for such resource once, as part of the Task Zero Services; no additional amounts will be payable if such resource is also deployed to deliver other Task Orders. However costs shall be shown in the Task cost build up for the purposes of SFI. |
| 1. Incentivisation | Incentivisation will apply to the SCDP contract at 3 levels:   * Level 1: A Self-Funded incentive (SFI) * Level 2: A joint incentive * Level 3: A savings share mechanism   An outline of each level is provided in the following sections. A more detailed guidance document on the SFI will be provided in due course. |
|  | 1. Self-Funded Incentive Model/SFI (Level 1): Overview | The contract will operate a Self-Funded Incentive (SFI) model, with the intention of maintaining performance throughout delivery.  10% of all sums payable (less expenses) in respect of any Task Order (and not including the Task Zero Services) shall be retained and put into the SFI Pot each month. Reimbursement of the 10% SFI shall be payable through the following mechanisms:   * 50% for completion of Milestones set within the relevant Task Order, payable on certified completion by NWS of each Milestone * 25% for based upon measurement against annual KPI performance measures (payable at the anniversary date of the contract each year) * 25% against successful delivery of the Social Value objectives, payable at the anniversary date of the contract each year.   Any monies lost due to non-delivery or KPI/Social Value performance may be set aside to be earned through delivery of Golden Milestone Outcomes (defined milestones which are set at a programme level) which shall be agreed. Payment of a Golden Milestone does not guarantee the recovery of all lost SFI.  Further detail and worked examples of the SFI model will be published in due course. |
|  | 1. SFI: Milestones | For the milestone component of the SFI, each task will identify c.2-3 milestones/outputs which are assigned a percentage of the 5% milestone SFI (50% of 10% SFI pot = 5%).  **Example:** Milestone 1 (2%), Milestone 2 (2%), milestone 3 (1%)  Payment of each of the milestone incentives will then either be:   * Paid in full upon delivery of the milestone at the point it is fully signed off as approved by NWS.   OR:   * Payment linked to the timely delivery and approval of milestone attainment by NWS, with diminishing returns for late delivery (e.g. on time delivery = 100% reimbursement, 20 working days late = 75% reimbursement, >20 days late delivery = 0%). |
|  | 1. SFI: Performance - Key Performance Indicators (KPIs) | Key Performance Indicators (KPIs) will be used to measure performance throughout the contract duration. KPI’s will either be incentivised (the “Performance Group KPI”) or non-incentivised KPIs.  Task Level Indicators (TLIs) will be set for each and every task and will be linked to either the Performance Group KPI or other non-incentivised KPIs. TLIs will be scored monthly as part of contract management activities for each task.  Three KPIs (including the Performance Group KPIs) will be published in accordance with the requirements of the Procurement Act 2023. Only the Performance Group KPI shall be subject to the SFI. |
|  | 1. SFI: Performance - Incentivised Performance Group and Task Level Indicators (TLIs) | For the incentivised KPI Performance group, TLI’s will be scored on a monthly basis. The resulting scores will then be aggregated for all tasks and reported on a quarterly basis, with a single RAG status identifying the SCDP performance across all tasks. The four quarterly scores will then be used to determine an end of year score for the KPI Performance group. At the year-end (the anniversary date of the contract) the score achieved shall be assessed against the RAG status and will result in the reimbursement of the SFI (Performance KPI SFI is 25% of the total 10% SFI pot = 2.5%)as follows:   * Red = No payout of the 2.5% performance KPI SFI pot * Low Amber = 25% payout of the 2.5% performance KPI SFI pot * High Amber 50% payout of the 2.5% performance KPI SFI pot * Green = 100% Payout of the 2.5% performance KPI SFI pot   A more detailed explanation including a worked example of the KPI Performance SFI incentive mechanism, TLI, scoring criteria, aggregation process shall be provided in due course. |
| 1. SFI: Social Value | The SCDP will be contractually obliged to deliver / comply with the commitments that it makes in relation to social value during the procurement process at its own cost, there shall be no reimbursement for social value delivery costs.  As part of its tender response, the SCDP will be required to include its Social Value commitments in the form of a 3-year high level plan of social value delivery, and a 12 month performance programme of social value delivery linked to the 3 year plan.  The annual Social Value commitments should feed into longer strategic social value proposals and commitments commensurate with a contract of this duration and value.  The SCDP’s performance in relation to social value will be assessed as part of the SFI model (constituting 25% of the 10% SFI pot). Assessment of performance will be focused upon whether the SCDP is delivering their committed social value obligations within their plan. A Pass/Fail KPI will be used to measure SCDP performance quarterly and the combined end of year score will determine whether the social value SFI is reimbursed or not. The social value payment shall be reimbursed on an annual basis (on the anniversary of the contract), where due. |
| 1. Joint incentivisation (Level 2) | Joint incentivisation will involve a programme-wide incentivisation mechanism to promote collaboration between NWS strategic partners towards shared objectives/milestones. It is envisaged that this would be based upon joint targets to achieve certain output-based programme-wide milestones (rather than SCDP-specific milestones). The SCDP contract will include the mechanism and approach to determining the scope, deliverables, programme and percentage of additional profit to be paid, as well as the criteria and conditions for payment. Activation of this mechanism will be at the sole discretion of NWS and will require the mutual agreement of programme partners through a collaboration forum. |
| 1. Savings share mechanism (Level 3) | A mechanism specific to the SCDP contract which provides for the proposal of ideas and initiatives from the SCDP which may deliver cost savings. NWS and the SCDP would then share any savings. The share of savings between NWS and SCDP would be agreed and be based upon the level of risk and cost incurred by the SCDP, and on a case by case basis, at the sole discretion of NWS. The SCDP will be required to evidence any such saving, and NWS will have the final decision as to whether a savings share will apply. "Savings" will not be accepted against SCDP-produced scope estimates; and any savings from SCDP-led procurement would need to be demonstrated against the last price paid, negotiation of a final accepted price, or achievement of discounted pricing (not including price breaks for quantity). NWS will be entitled to use a commercial support partner or independent organisation to validate any savings ideas/initiatives. |
| 1. Collaboration | The SCDP will be required to work collaboratively with NWS and NWS other service delivery partners, including NWS's appointed Architect's Engineer (AE) and Programme Implementation Partner (PIP), with the joint aim of successful delivery of the GDF Programme. A Collaboration Agreement shall form part of the contract and a draft version of this document will be made available for comment in the near future either as part of further market engagement or on the dedicated GDF area of the website where draft documentation will be published |
| 1. Term | The initial Contract term will be 10 years plus 3 x 5 year extension options the first of which shall be at the sole option of NWS. |
| 1. Conflicts of Interest | The SCDP contractor and any member of its corporate group, and any "tier one" contractor within its contracting structure will be prohibited from also undertaking the role of Programme Implementation Partner (PIP) on the GDP Programme.  There are no bidding/award restrictions between the Architect Engineer (AE) or Research and Delivery (R&D).  The Owners Engineer will be a pan-NWS support contract which is likely to involve numerous suppliers, at this time suppliers will be able to bid and be awarded contracts subject to mitigation of any real or perceived COI to the satisfaction of NWS.  With regards the NWS Contracted Services scope the default position is that the SCDP shall not be permitted to tender for this work unless NWS agrees and the SCDP contractor is able to demonstrate to NWS's satisfaction how any actual or perceived conflicts of interest would be successfully managed. If the SCDP contractor (or consortium member) is permitted to tender for, and is successfully awarded, any NWS Contracted Services, those works or services will be provided under a separate contract to be entered into with NWS directly (as with all other NWS Contracted Services) and NWS will reserve the right to take greater control and oversight over, or to take back ownership of, any aspect of the design, procurement or contract management of those works or services. Tenderers will be required to identify in their tender submissions any NWS Contracted Services for which they request the right to tender (on the basis outlined above).  NWS will also reserve the right to have an option for the SCDP to directly deliver any services which would otherwise be NWS Contracted Services, where mutually agreed by the parties. |
| 1. Termination | NWS will have a right to terminate (both the contract and any task order) for convenience at any time, subject to payment of the SCDP's reasonable demobilisation costs in relation to Task Zero Services and any ‘in-flight’ Task Orders. There would be no SCDP entitlement to be paid loss of profit in such circumstances.  The SCDP contract will also include further right(s) for NWS to terminate the contract and/or Task Orders in the event of SCDP default, including poor SCDP performance and SCDP breach of material obligations. No compensation will be payable to the SCDP in such circumstances. |
| 1. Project Site(s) | The Contractor will not have exclusive control of any Project Site. However, the Contractor will be responsible for coordinating all of their services on the Project Site and for managing the interfaces between their services and those of any other parties working on the Project Site.  For these purposes the Project Site will mean any site (other than the SCDP's own sites, and those of its subcontractors / consortium members) at which the SCDP will perform Services (including the drilling rigs, laydown areas, core store, etc). |
| 1. NWS Obligations | Key NWS obligations will include:   * securing necessary permissions and regulatory consents for the performance of the [Services]; * making available [sites]; * security for the [works]. |
|  | 1. Dispute Resolution | Disputes will be resolved in the first instance by escalation to Senior Executives, followed by mediation (by agreement of the parties) and ultimately referral to the courts. |

| **Topic Area** | **Issue** | **Principle** |
| --- | --- | --- |
| Procurement Strategy | 1. Consortium or JV formation | All members of a JV or Consortium will be jointly and severally liable for the performance of the Contract and any/all liabilities thereby arising. |
| 1. Procurement Procedure under Procurement Act 2023 | It is anticipated that the procurement will be undertaken under the requirements of the Procurement Act 2023.  The Competitive Flexible Procedure will be utilised.  NWS anticipates that the procurement will include dialogue, interviews and/or supplier presentations. NWS has not discounted the use of behavioural assessment in the award process. |
| 1. Conditions of Participation | Potential bidders will be assessed against the Excluded and Excludable Criteria, and Debarment List prior to assessment against a number of scored project specific questions to determine experience and capability.  NWS will down select and invite to participate the three highest scoring potential bidders from the Conditions of Participation stage. |
| 1. Contract Award Criteria | Contract Award Criteria will be the Most Advantageous Tender. The Most Advantageous Tender will be determined through a combination of threshold and ranking criteria that are expected to focus on the following areas:  **Technical:**   * Quality of the proposed Leadership / Delivery Team to provide overall leadership and demonstrate technical competence * Quality of SCDP's management plans and proposals for delivery – specifically including but not limited to:   + alignment of SCDP's delivery vision to that of NWS   + alignment of SCDP's values with those of NWS   + driving schedule performance of the project; and   + procurement, contract management and performance management of the supply chain.   **Commercial:**   * Cost model for Task 0 (Salaries, Overhead & Fee) * Overhead % and * Profit %   **Social Value**   * 3 year high level plan of social value delivery * 12 month programme of social value delivery linked to the 3 year plan   Detailed Contract Award Criteria will be developed and shared with the market in draft form in due course, in advance of formal launch of the procurement.  The relative weighting of quality versus cost will be confirmed in due course, however current expectations are that the rough order of magnitude weightings shall be:   * 70% Technical * 10% Social Value * 20% Commercial   Acceptance of the terms of the draft Contract (following Dialogue) will be a Pass/Fail Criteria. |
|  | 1. Test of Financial Standing | A contract of this nature must have criteria that tests the financial standing of the suppliers who wish to be contracted to deliver it. NWS are currently undertaking an options study to determine which method of testing the financial standing is best suited to deliver the required assurance of the SCDP’s financial strength whilst not constraining the market by setting the bar at an unattainable level.  To support the analysis of financial strength, Bidders will be required to provide the previous ~2 years financial statements, calculate relevant financial ratios and thresholds, and provide a Dun & Bradstreet number (credit report).  It is acknowledged that some parties may wish to bid as joint ventures/consortia. To cater for joint ventures/consortia there are two options under consideration for testing the turnover of joint bidding entities; either assessment of turnover threshold based upon all members of the joint venture/consortia using their % relative workshare, or the same assessment but to include their key subcontractors for assessment also.  Basing the test of financial standing on % workshare of the SCDP this approach intends to minimise the risk of excluding SME participation.  In terms of the key metrics and ratios NWS will apply to determine financial health, several options are being considered. These include but are not limited to;   * Turnover Ratio * Current Ratio * Gearing Ratio * Operating Margin * Net Asset Value * Net Debt / EBITDA |

Tenders will not be permitted to engage any of the following suppliers on an exclusive basis (with the suppliers therefore remaining available for all tenderers:

* The British Geological Survey
* NAGRA