

## ICT SERVICES AGREEMENT SCHEDULES

### SCHEDULE 3

#### AUTHORITY RESPONSIBILITIES

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**Section A**  
**Product Description**

**1. PRODUCT TITLE**

ICT Services Agreement - Schedule 3 (Authority Responsibilities)

**2. PURPOSE OF PRODUCT**

The purpose of the schedule is to set out the agreed responsibilities of the Authority in addition to Authority obligations specified in the main clauses.

**3. COMPOSITION**

The Authority's Responsibilities should be clearly and succinctly defined.

**4. DERIVATION**

- Bidder's proposal (within constraints set by the Authority) and bidding/dialogue process.
- See Guidance Note 2 (Payment, Affordability and Asset Ownership) paragraph 3.9

**5. RELATED CLAUSES & SCHEDULES**

Clauses:           7 (Delays to Milestones Due to Authority Cause)

                          11 (Effect of Authority Cause in Operational Phase)

                          44.5 (Authority's Responsibilities)

Definitions:       "Authority's Responsibilities"

**6. ALLOCATION**

- The Authority may wish to pre-populate the Authority Responsibilities schedule with those Authority responsibilities which it believes will be common to all bidders. The schedule will then be further populated as the dialogue process continues.
- The Authority should, during the dialogue stage of the procurement, provide guidance to bidders as to the broad scope of its responsibilities. The Authority should carefully check

proposed detail and be absolutely clear about what will be required and whether the proposed responsibilities reflect an appropriate allocation of risk.

**7. QUALITY / REVIEW**

- Authority to review and revise the bidder's proposed additions schedule (within the agreed risk allocation profile).
- Authority expertise: technical, project management, commercial/procurement, legal.

## **Section B**

### **Guidance**

#### **1. INTRODUCTION**

- 1.1 In a large scale ICT services agreement it is likely that the Contractor will only be able to provide the Services subject to the Authority fulfilling specified roles and completing certain actions. It is better to be clear about the role of the Authority from the outset to avoid any ambiguity during the life of the agreement and so that appropriate and adequate resources can be allocated. Further, setting out the key obligations of the Authority in one place will make it easier for the Authority to manage its responsibilities during the life of the agreement.
- 1.2 The detail of the schedule is likely to be different for each bidder.
- 1.3 The Authority should not seek unnecessarily to restrict or reduce the scope of its responsibilities under the schedule in the belief that this will reduce the burden on the Authority. It will be more beneficial to the Authority if it clearly identifies and records all key responsibilities so that it can manage the agreement effectively and plan resource requirements. Identifying and allocating the responsibilities will help to reduce the risk of conflicts arising between the parties at a later date over new responsibilities that were not previously considered. However, the Authority should only agree to responsibilities which it is able to perform, which are essential to the delivery of Services and which accord with the risk profile that the Authority intends to achieve. It is very important to remember that failure to perform an Authority responsibility will amount to an "Authority Cause" under the Agreement entitling the Contractor to relief from liability and potentially extensions of time and compensation payments.
- 1.4 The responsibilities should be specific and well defined to ensure a clear boundary between the obligations of the Authority and Contractor. The Authority should give consideration to the level of resource that would be required to perform the responsibilities proposed by each bidder. If a bidder's proposal requires the Authority to deploy additional resource above and beyond what would be required by other bidders' proposals, this should be taken into account as part of the overall evaluation prior to contract award.

## 2. GUIDELINES AS TO RISK ALLOCATION

- 2.1 Except in circumstances of step-in (Clause 60), the Authority should not take back any part of the risk allocated to the Contractor. In particular the Authority should give special consideration to taking on any responsibility that could lead to additional risk being taken in any of the following areas:
  - 2.1.1 testing, commissioning and installation: the role of the Authority should be one of participant/observer but the Authority should avoid becoming directly involved in managing these activities; and
  - 2.1.2 the performance of the Contractor solution (see guidance on schedule 4.1).
- 2.2 The Authority will generally be in a position to accept responsibilities falling within the following categories:
  - 2.2.1 reviewing, commenting on, agreeing and specifying requirements in relation to plans, designs and other operational documents developed during the implementation phase;
  - 2.2.2 agreeing actions that may be required to ensure successful testing;
  - 2.2.3 following contractual procedures relating to delays i.e. agreeing mitigation activities and revised timetables, considering and agreeing extensions of time/compensation in the event of delay due to Authority Cause;
  - 2.2.4 providing resources and facilities as may be required during implementation; and
  - 2.2.5 participating in the governance bodies and procedures.
- 2.3 In developing this schedule, bidders should be encouraged to identify “dependencies”: that is, Authority responsibilities that are critical to the achievement of milestones or the delivery of services.

## Section C

### Pro-forma/Example Schedule

*[Guidance: Due to the potential for schedules 2.1 and 4.1 to be very lengthy and detailed it is advised that any obligations on the Authority in them will not be treated as an Authority Responsibility unless specifically highlighted as such. Whilst this may require additional effort it is critical to ensure that the Authority fully understands the scope of its obligations under the Agreement.]*

#### 3. INTRODUCTION

The responsibilities of the Authority set out in this schedule 3 shall constitute the Authority Responsibilities under this Agreement. Any obligations of the Authority in schedule 2.1 (Services Description) and 4.1 (Contractor Solution) shall not be Authority Responsibilities and the Authority shall have no obligation to perform any such obligations unless they are specifically highlighted as "Authority Responsibilities" and cross referenced in the table in paragraph 5 of this schedule

The responsibilities specified within this schedule shall be provided to the Contractor free of charge, unless otherwise agreed between the parties.

#### 4. GENERAL OBLIGATIONS

The Authority shall:

- 4.1 perform those obligations which are set out in the clauses of this Agreement and the paragraphs of the schedules (except schedules 2.1 (Services Description) and 4.1 (Contractor Solution));
- 4.2 use its reasonable endeavours to provide the Contractor with access to appropriate members of the Authority's staff, as such access is reasonably requested by the Contractor in order for the Contractor to discharge its obligations throughout the Term;
- 4.3 provide sufficient and suitably qualified staff to fulfil the Authority's roles and duties under this Agreement as defined in the agreed implementation plan;
- 4.4 use its reasonable endeavours to provide such documentation, data and/or other information that the Contractor reasonably requests that is necessary to perform its

obligations under the terms of this Agreement provided that such documentation, data and/or information is available to the Authority and is authorised for release by the Authority; and

4.5 procure for the Contractor such agreed access and use of the Authority’s premises, facilities, including relevant ICT systems as is reasonably required for the Contractor to comply with its obligations under this Agreement, such access to be provided during the Authority's normal working hours on each Working Day or otherwise as agreed by the Authority (such agreement not to be unreasonably withheld or delayed).

**5. SPECIFIC OBLIGATIONS**

*[Guidance: Any specific Authority Responsibilities identified during the initial procurement process or through dialogue with the bidders or as set out in the winning bidder's proposal (subject to such responsibilities being agreed with the Authority through contract finalisation phase), should be listed or cross referenced here. Specific Authority Responsibilities may relate to information sharing, access to sites or other operational aspects of the agreement, requiring Authority input.*

*The Authority should be careful that in accepting an Authority Responsibility it is capable of complying with the responsibility as a failure by the Authority to meet one or more of its requirements could give rise to remedies in favour of the Contractor (i.e. clause 7 (Delays to Milestones Due to Authority Cause) and clause 11 (Effect of Authority Cause (In Operational Phase))). Additionally the Authority should ensure that any responsibility assigned to it does not undermine the Contractor's responsibilities and/or transfer risk or responsibility for completion of the project back on to the Authority.]*

The Authority shall, in relation to this Agreement perform the Authority's responsibilities identified as such in this Agreement the details of which are set out below:

Document	Location (paragraph)
<i>[Insert schedule details here]</i>	<i>[Refer to specific paragraphs here]</i>