

**INVITATION TO TENDER**

**Direct Payments Support Service**

**Peterborough City Council**

**Document A**

(To be retained by the Tenderer)

Final

07 June 2017

The invitation to tender comprises of 3 word Documents**.**

* **Document A – Invitation to Tender (this document)**
* Document B – Tender Submission – STANDARD SELECTION QUESTIONNAIRE AND AWARD ELEMENT
* Document C – Tender Submission – Price and Price Assumptions

Tenderers should be submitted using Document B & C. Tenderers may retain documents A for reference.

## Summary instructions and details of contract

|  |  |
| --- | --- |
| Item | Contract details |
| OJEU Contract Notice reference: | *Please refer to Contract Finder for Notice Reference*  **Reference Number: PCCA0014** |
| Contract Description: | The purpose of this Invitation to Tender (ITT) is to appoint a provider for the provision of Peterborough City Council’s Direct Payments Support Service. |
| Insurance Requirements (shall be maintained for the duration of the contract): | 3rd party Liability (Min. £10 Million) where appropriate.  Employers Liability (Min. £10 Million)  Professional Indemnity (Min £2 Million) |
| Period of Contract: | (01 March 2018 to 28 February 2021) with the option to extend up to a further 2 years |
| Procuring Officer: | Wayne Stott, Senior Category Manager, Peterborough City Council.  Any queries must be addressed to Wayne Stott, using the Supplier Force E-Sourcing System before 19 June 2017 @ 23:30hrs Only enquires received through this system will be answered.  Periods of contact are only allowed subject to stipulations contained within the ITT |
| Submission instructions: | Tenderers are to submit their tender response in accordance with the terms and conditions – E-Tendering (see Section 12) |
| Tenders to be sent to: | E-TENDERING ONLY via the Council’s SourceDogg system- No other forms of tender submission will be accepted |
| Closing Date/time for Tender return: | 16 July 2017 @ 23:30 |

## Timetable

This timetable is indicative only. The Council reserves the right to change it at its discretion.

|  |  |
| --- | --- |
| Element | Date(s)/time |
| Issue of Invitation To Tender | 07 June 2017 |
| Submission of Written Tenders | 16 July 2017 @ 23:30 hours |
| Clarification question deadline for Tenderer’s initial questions to be submitted to the Council | 19 June 2017 @ 23:30 hours |
| Evaluation of Tenders (Projected date) | 01 September 2017 |
| Tender presentations | Late August or early September 2017 (exact date to be confirmed) |
| Tenderer Interviews/  Clarification Meetings | Not envisaged to be required at this stage in the process |
| Estimated informal notification of Result of Evaluation | 15 September 2017 |
| 10 Day voluntary Standstill Period | 09 October 2017 to 19 October 2017 |
| Expected Date Of Award Of Contract(s) | 24 October 2017 |
| Target Contract Commencement | 01 March 2018 |

**CHECKLIST FOR TENDERERS**

Failure to provide all of the items in the checklist may cause your Tender to be non-compliant and not considered.

|  |  |  |
| --- | --- | --- |
| **No** | **Item** | **Included in Tender?** |
|  | Your organisations (Tenderer) response to the Standard Selection Questionnaire Element requirements contained within ITT Document B |  |
|  | Your organisations (Tenderer) response to the award criteria questions (Method Statements) contained within ITT Document B |  |
|  | Your organisations (Tenderer) response to the Award Element requirements (Contract Price and Price Assumptions) contained within ITT Document C |  |
|  | Declarations Contents –   * Form of Tender * Declaration of Connection with Officers or Elected Members of the Council * Certificate in Respect of Canvassing   Appendix 4 |  |
|  | Certificate in Respect of Bona Fide Tendering  Appendix 5 |  |
|  | **TUPE Undertaking to be completed immediately on receipt of these documents. To facilitate this, please submit a Clarification Question via SourceDogg attaching your completed TUPE undertaking (Appendix 6) and entering “TUPE Undertaking” as the subject.**  The TUPE list will only be forwarded to potential bidders once the Council has received their respective TUPE undertaking form  Appendix 6 | TUPE UNDERTAKING FORM IS TO BE SUBMITTED IMMEDIATELY ON RECEIPT OF THESE INVITATION TO TENDER DOCUMENTS |
|  | TUPE Questionnaire Appendix 7 |  |
|  | Safeguarding Children’s Letter Appendix 10 | Instructions for completing safeguarding Children’s Toolkit |
|  | Safeguarding Children’s Toolkit Appendix 11 |  |
|  | Safeguarding Adult’s Toolkit Appendix 12 |  |
|  | Organisational Conflict of Interest Appendix 13 |  |

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**1 IMPORTANT NOTICE**

1.1 This Invitation to Tender (“ITT”) is issued to those whom have expressed their interest to tender (“Tenderers”) to Peterborough City Council (the “Council”) to provide the Direct Payments Support Service as described in the Specification attached as Appendix 3 of the Terms and Conditions (the “Contract”), including their professional advisers and other parties essential to preparing a tender for the Contracts (the “Tender”) and for no other purpose.

1.2 This procurement is being conducted using the procedure under Regulation 74 of the Public Contracts Regulations 2015, and is based upon an open procedure under the light touch regime.

1.3 The content of this ITT and of any other documentation sent to Tenderers in respect of this tender process are provided on the basis that they remain the property of the Council and must be treated as confidential. This information must not be copied, reproduced, distributed, passed or disclosed to any third party without the prior written consent of the Council. If a Tenderer is unable or unwilling to comply with this requirement, they are required to destroy this ITT and all associated documents immediately and not to retain any electronic or paper copies.

1.4 Tenderers must not undertake any publicity activities with any part of the media in relation to the Contract or this ITT process without the prior written agreement of the Council, including agreement on the format and content of any publicity.

1.5 This ITT is made available in good faith and the information contained within the ITT is believed to be correct at the time of issue. No warranty express or implied is given as to the accuracy, adequacy or completeness of the information contained in it and any liability arising from any inaccuracy, in adequacy or incompleteness is therefore expressly excluded by the Council and its advisers, to the fullest extent permitted by law. This exclusion extends to liability in relation to any statement, opinion or conclusion contained in or any omission from, this ITT (including its appendices and in respect of any other written or oral communication transmitted (or otherwise made available) to any Tenderer.

1.6 The Council reserves the right to cancel the tender process at any point and is not bound to accept any Tender. The Council is not liable for any costs resulting from any cancellation of this tender process nor for any other costs incurred by those tendering for the Contract.

**Doing Business with Peterborough City Council**

1.7 The Council has a strong belief in propriety and ethics. The Council reserves the right to terminate/cancel any Contract awarded arising from this procurement process, and to recover from the Tenderer the amount of any loss sustained by the Council as a result of such termination/cancellation in any of the following cases (full termination rights are set out in the Contract documents):

i) if the Tenderer or any person engaged by it (including the Tenderers suppliers, agents, volunteers, servants, officers, or representatives or consortium members, or those of the Tenderer shall have directly or indirectly offered or have given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or not doing anything in relation to the obtaining or execution of the Contract (or any other contract with the Council), for showing favour or disfavour to any person in relation to the Contract (or any other contract with the Council), for the improper performance of a relevant function or activity, or for showing or not showing favour or disfavour in relation to any Contract with the Council;

ii) if the Tenderer or any person engaged by it (including the Tenderers suppliers, agents, volunteers, servants, sub-contractors, officers, representatives or consortium members, or those of the Tenderers sub-contractors) shall have committed any offence under the Bribery Act 2010 or under legislation or common law concerning fraudulent acts, or shall have given any fee or reward the receipt of which is an offence under Section 117(3) of the Local Government Act 1972; or

iii) if the Tenderer or any person engaged by it (including the Tenderers suppliers, agents, volunteers, servants, sub-contractors, officers, representatives or consortium members, or those of the Tenderers sub-contractors) shall have defrauded, attempted to defraud or conspired to defraud the Council.

1.8 Tenderers must declare any connection between themselves or their employees (including the Tenderers suppliers, agents, volunteers, servants, sub-contractors, officers, representatives or consortium members where allowed, or those of the Tenderers sub-contractors), and any officer or elected member of the Council in Appendix 4. Such a connection will not automatically preclude Tenderers from being awarded the Contract, the information will enable the Council to effectively manage any potential conflict of interests.

1.9 Tenderers are also required under this section to report any concerns in respect to the conduct of the Council, its members or officers in respect to the letting of the Contract or during the provision of the Contract. Concerns should be directed to the Assistant Director of Legal and Democratic Services, on 01733 452539 or the Chief Internal Auditor, on 01733 384557.

## **2.0 BACKGROUND**

2.1 About Peterborough

Peterborough is a unitary authority area in the East of England.

Please follow the link below to view interactive map–

[Link to Peterborough Hawkeye Map](http://hawkeye.peterborough.gov.uk/CNET49Live/CMPro/default.aspx?getmap=true&scale=500000&location=517077.354166667%5e304677.541666667&layersidentifier=9f4daa1cc60c490490bb8412af9c1f64&Workspace=Hawkeye&backgroundmap=MapDefaultLayerNames)

2.2 Peterborough covers an area of 340km2 at the western edge of the Fens in the east of England. The authority is bordered by Cambridgeshire to the south and east, Northamptonshire and Rutland to the west and Lincolnshire to the north. Approximately three-quarters of the authority area is rural, containing villages ranging in size from 150 to 4000 people, with the city of Peterborough lying in the geographical centre of the Peterborough City Council area. The great majority of the population of Peterborough live in the urban City area.

2.3 The population of Peterborough is estimated to be around 188,000 and the City is the second fastest growing in the country. The child population is also among the fastest growing in the country. The City’s population is becoming increasingly diverse, with diversity greatest among younger age groups and the population of children and young people.

2.4 The population has become increasingly diverse in part as a result of the accession of the A10 countries which has seen a notable increase in the number of European citizens moving to Peterborough. The current population of Peterborough is approximately 70%, White British, 11% White Other around 7% of the population is Asian or Asian British Pakistani. More than 100 languages are spoken in Peterborough schools.

2.5 The City Council boundary contains a diverse mixture of residential neighbourhoods, rural and inner-city wards and wards that contain elements of each of these characteristics. The 2015 Index of Multiple Deprivation illustrates that levels of deprivation vary significantly throughout Peterborough. The population of the City is more concentrated in areas of higher deprivation, with 62,000 people living in areas of the City that are among the 20% most deprived areas of the country. The impact of relatively high levels of deprivation can be seen in the average healthy life expectancy for both men and women, which is significantly shorter than national averages.

The table below gives an estimate of the anticipated population growth within the Peterborough City Council Unitary Authority Area:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Age Group | 2013 | 2016 (estimated) | % change estimated  2013-2016 | 2021 (estimated) | % change estimated  2013-2021 |
| 0-4 | 14,840 | 15,900 | 6% | 17,500 | 17% |
| 5-10 | 15,320 | 17,600 | 15% | 19,800 | 29% |
| 11-15 | 11,000 | 11,300 | 3% | 14,500 | 32% |
| 16-19 | 8,320 | 8,500 | 2% | 9,000 | 8% |
| 20-24 | 11,720 | 12,200 | 4% | 12,000 | 2% |
| 25-34 | 24,020 | 26,600 | 11% | 29,600 | 23% |
| 35-44 | 25,860 | 25,800 | 0% | 27,100 | 5% |
| 45-54 | 24,440 | 25,900 | 6% | 27,200 | 11% |
| 55-64 | 20,660 | 21,200 | 3% | 23,700 | 15% |
| 65-74 | 15,500 | 17,600 | 14% | 19,400 | 25% |
| 75-84 | 9,760 | 10,300 | 6% | 11,900 | 22% |
| 85+ | 4,200 | 4,800 | 14% | 5,900 | 40% |
| Total | 185,700 | 197,700 | 6% | 217,000 | 17% |

**OUR VISION [written for Direct payments]**

2.6 Peterborough City Council (PCC) is committed to achieving positive and personalised outcomes for individual adults, children, young people and families, including parents and carers (hereafter referred to as ‘people’). PCC, in line with the directions in the Care Act 2014, wants to increase the number of people choosing to take Direct Payments as part of Personal Budget arrangements. It is anticipated that the increased uptake of Direct Payments will support:

1. Improved health and wellbeing outcomes for individual adults, children, young people and their families
2. Flexibility, choice and control for people who need additional support
3. A diverse local care and support market

There are key areas of work underway to deliver the vision of increased Direct Payment uptake:

1. Procurement of an enhanced Direct Payment Support Service
2. Development of the Personal Assistant (PA) market
3. Raising awareness of personalisation

The development of the Direct Payments offer sits within the wider context of transforming Social Care in Peterborough and within the national context of the Care Act 2014 and the Children and Families Act 2014. In line with duties outlined in the Care Act 2014, PCC needs to ensure information and advice is available for people who pay for their own care.

**Transforming Social Care in Peterborough**

## 2.7 This transformation of social care is focused on keeping people healthy and living in their own homes and communities for longer. PCC puts great emphasis on flexibility, choice and control, as care and support services move away from institutional care and towards community and home based support. This approach is based on:

## Significant feedback from people who prefer community or home-based support because it allows them to remain more independent for longer

## Tailoring the support provided, in a community setting or at home, to the needs of an individual and their carer

## A focus on prevention and early intervention within the community; this is more cost effective as it helps to delay and reduce the need for more expensive, longer-term treatment such as day centres and residential homes

## Maximising the impact of our limited resources

## Ensuring that specialist care services remain available for people with complex care needs.

## One of the biggest changes resulting from the transforming social care programme has been the rise of ‘personalisation’;

## “*Personalised care planning empowers individuals, promotes independence and helps people to be more involved in decisions about their care. It centres on listening to individuals, finding out what matters to them and finding out what support they need” (Department of Health, 2011:2).*

## 

## The Council is moving towards a support system that:

## Supports individual choice, greater independence and less reliance on ongoing statutory support wherever possible

## Enables individuals, families and carers to get information and advice and low level support

## Enables PCC to become a commissioning organisation that builds capacity, quality and service choice

## Enables PCC to offer personal assistance with social enterprises, commercial organisations, NHS, statutory providers and voluntary and community groups

## Breaks down the ‘red tape’ and enables the right person-centred support to be commissioned through a co-production approach.

## PCC’s commissioning team will review existing support and the customer journey to ensure that all commissioned services achieve set outcomes. By reshaping services, the local market and investing in preventative services rather than longer term support PCC aims to maximise flexibility, choice and control for all people, thereby increasing personalisation of care.

**3 THE PROCUREMENT PROCESS**

3.1 This procurement process is based upon an ‘Open procedure’. Essentially this means it is a single stage assessment process split into two main elements

* + Standard Selection Questionnaire, and
  + Award Element

3.2 Standard Selection Questionnaire Element

# Standard Selection Questionnaire

**Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.**

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion[[1]](#footnote-1). If there are grounds for exclusion, there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning).

A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

**Supplier Selection Questions: Part 3**

The procurement document will provide instructions on the selection questions you need to respond to and how to submit those responses. If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.

If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay we reserve the right to amend the contract award decision and award to the next compliant bidder.

**Consequences of misrepresentation**

If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

**Procurement Name: Direct Payments Support Service**

**Reference Number: PCCA0014**

**Procurement Procedure: OPEN**

**Notes for completion**

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
2. “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. All sub-contractors are required to complete Part 1 and Part 2[[2]](#footnote-2).
7. For answers to Part 3 -If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.

The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

3.2.1 **Mandatory Exclusion Grounds**

**Public Contract Regulations 2015 R57(1), (2) and (3)**

**Public Contract Directives 2014/24/EU Article 57(1)**

**Participation in a criminal organisation**

Participation offence as defined by section 45 of the Serious Crime Act 2015

Conspiracy within the meaning of

* section 1 or 1A of the Criminal Law Act 1977 or
* article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983

where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime;

**Corruption**

Corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;

The common law offence of bribery;

Bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010, or section 113 of the Representation of the People Act 1983;

**Fraud**

Any of the following offences, where the offence relates to fraud affecting the European Communities’ financial interests as defined by Article 1 of the convention on the protection of the financial interests of the European Communities:

* the common law offence of cheating the Revenue;
* the common law offence of conspiracy to defraud;
* fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;
* fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;
* fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;
* an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;
* destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;
* fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006;
* the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;

**Terrorist offences or offences linked to terrorist activities**

Any offence:

* listed in section 41 of the Counter Terrorism Act 2008;
* listed in schedule 2 to that Act where the court has determined that there is a terrorist connection;
* under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by the previous two points;

**Money laundering or terrorist financing**

Money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002

An offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996

**Child labour and other forms of trafficking human beings**

An offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;

An offence under section 59A of the Sexual Offences Act 2003

An offence under section 71 of the Coroners and Justice Act 2009;

An offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994

An offence under section 2 or section 4 of the Modern Slavery Act 2015

**Non-payment of tax and social security contributions**

Breach of obligations relating to the payment of taxes or social security contributions that has been established by a judicial or administrative decision.

Where any tax returns submitted on or after 1 October 2012 have been found to be incorrect as a result of:

* HMRC successfully challenging the potential supplier under the General Anti – Abuse Rule (GAAR) or the “Halifax” abuse principle; or
* a tax authority in a jurisdiction in which the potential supplier is established successfully challenging it under any tax rules or legislation that have an effect equivalent or similar to the GAAR or “Halifax” abuse principle;
* a failure to notify, or failure of an avoidance scheme which the supplier is or was involved in, under the Disclosure of Tax Avoidance Scheme rules (DOTAS) or any equivalent or similar regime in a jurisdiction in which the supplier is established

**Other offences**

Any other offence within the meaning of Article 57(1) of the Directive as defined by the law of any jurisdiction outside England, Wales and Northern Ireland

Any other offence within the meaning of Article 57(1) of the Directive created after 26th February 2015 in England, Wales or Northern Ireland

3.2.2 **Discretionary exclusions**

**Obligations in the field of environment, social and labour law.**

Where an organisation has violated applicable obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Directive (see copy below) as amended from time to time; including the following:-

* Where the organisation or any of its Directors or Executive Officers has been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years.
* In the last three years, where the organisation has had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds of alleged unlawful discrimination.
* In the last three years, where any finding of unlawful discrimination has been made against the organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or incomparable proceedings in any jurisdiction other than the UK).
* Where the organisation has been in breach of section 15 of the Immigration, Asylum, and Nationality Act 2006;
* Where the organisation has a conviction under section 21 of the Immigration, Asylum, and Nationality Act 2006;
* Where the organisation has been in breach of the National Minimum Wage Act 1998.

**Bankruptcy, insolvency**

Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation’s assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;

**Grave professional misconduct**

Guilty of grave professional misconduct

**Distortion of competition**

Entered into agreements with other economic operators aimed at distorting competition

**Conflict of interest**

Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure

**Been involved in the preparation of the procurement procedure.**

**Prior performance issues**

Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions.

**Misrepresentation and undue influence**

The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

Additional exclusion grounds

**Breach of obligations relating to the payment of taxes or social security contributions.**

**ANNEX X Extract from Public Procurement Directive 2014/24/EU**

**LIST OF INTERNATIONAL SOCIAL AND ENVIRONMENTAL CONVENTIONS REFERRED TO IN ARTICLE 18(2) —**

* ILO Convention 87 on Freedom of Association and the Protection of the Right to Organise;
* ILO Convention 98 on the Right to Organise and Collective Bargaining;
* ILO Convention 29 on Forced Labour;
* ILO Convention 105 on the Abolition of Forced Labour;
* ILO Convention 138 on Minimum Age;
* ILO Convention 111 on Discrimination (Employment and Occupation);
* ILO Convention 100 on Equal Remuneration;
* ILO Convention 182 on Worst Forms of Child Labour;
* Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;
* Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention);
* Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention)
* Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10 September 1998, and its 3 regional Protocols.

**Consequences of misrepresentation**

A serious misrepresentation which induces a contracting authority to enter into a contract may have the following consequences for the signatory that made the misrepresentation:-

* The potential supplier may be excluded from bidding for contracts for three years, under regulation 57(8)(h)(i) of the PCR 2015;
* The contracting authority may sue the supplier for damages and may rescind the contract under the Misrepresentation Act 1967.
* If fraud, or fraudulent intent, can be proved, the potential supplier or the responsible officers of the potential supplier may be prosecuted and convicted of the offence of fraud by false representation under s.2 of the Fraud Act 2006, which can carry a sentence of up to 10 years or a fine (or both).
* If there is a conviction, then the company must be excluded from procurement for five years under reg. 57(1) of the PCR (subject to self-cleaning).

**3.3 Award Element**

3.3.1 The Award Element predominantly focuses on the Tenderer demonstrating their subject matter expertise and the quality of service that will be delivered, along with Tenderers price and commercial submissions, and how Tenderers meet the specified award criteria. Moderation of scoring will occur within the award Element.

3.3.2 The Council may ask Tenderers to deliver Presentations and/or attend interviews during the evaluation process (as set out in the time table).

3.3.3 If there is a requirement for Tenderers’ to attend Presentation / Interview, invites will be communicated to Tenderers’ at least 10 calendar days before the scheduled date and time to confirm the exact venue, date and time details.

3.3.4 If Tenderers have any questions or require any clarifications or additional information, they must contact the Procuring Officer specified using the SourceDogg E-Sourcing System. Enquiries/requests for clarifications or additional information must be received in accordance with the tender timetable. Only enquiries/requests received through the SourceDogg system will be answered. No verbal or telephone requests for information will be accepted. The Council will choose whether or not to provide additional information and therefore some requests may be declined.

3.3.5 Other than the person or persons identified on Page 2, no Council employee or member of the Council has the authority to give any information or make any representation (expressed or implied) in relation to this ITT or any other matter relating to the Contract.

3.3.6 The Council will respond to all reasonable clarifications received from the Tenderer by the deadline specified within the tender timetable by publishing the Tenderer’s questions and the Council’s response to them on the SourceDogg E-Sourcing System. If a Tenderer wishes the Council to treat a clarification as confidential and not issue the response to all Tenderers, it must state this when submitting the clarification. If, in the opinion of the Council, the clarification is not confidential, the Council will inform the Tenderer and it will have an opportunity to withdraw the clarification request.

3.3.7 Please note that the Council’s responses to any queries or clarification requests will be circulated to all Tenderers, in an anonymised format, unless, the Tenderer has requested the council to treat such query or request as confidential and the council has granted such a request.

3.3.8 The Council reserves the right to issue supplementary documentation at any time during the tendering process to clarify any issue or amend any aspect of the ITT. All such further documentation that may be issued shall be deemed to form part of the ITT and shall supplement and/or supersede any part of the ITT to the extent indicated.

3.3.9 Tenderers must obtain for themselves at their own expense all information necessary for the preparation of their Tenders.

3.3.10 Under the Contract the Council will require compliance with its policies. Tenderers are advised to satisfy themselves that they understand all of the requirements of the Contract before submitting their Tender.

3.3.11 The Tender must be received in accordance with the relevant instructions no later than the time and date indicated.

3.3.12 The Council will determine through the ITT evaluation process which Tenderer’s submissions provides the Most Economically Advantageous Tender (MEAT) to the Council.

1. TENDER SUBMISSION REQUIREMENTS
   1. Tenders must be written in the English language, drafted in accordance with the requirements set out in this ITT, and submitted in accordance with the deadlines detailed in this ITT.
   2. Tenders must provide responses referring back to the numbering format as set out in Tender Submission Document B and Tender Submission document C.
   3. Only one Tender Document submission Document is permitted from each Tenderer. In the event that more than one tender document is submitted by a tenderer, the one with the latest time of submission will be evaluated (subject to the tender submission meeting the timescales) any other Tenders will be disregarded.
   4. The Tender (including price) must remain valid for a minimum period of 180 days.
   5. The Tender must not be qualified in any way and must not be dependent on any other bid or other factors external to the Tender itself.
   6. Any signatures must be made by a person who is authorised to commit the Tenderer to the Contract.
   7. Tenderers full registered business/name and if relevant company number, and main office address must also be provided on all documents.
   8. In the event that Tenderers’ believe that they are unable to submit a Tender through the electronic system or require assistance or further information to be able to use the e-tendering process they must contact the Procurement Officer (stipulated within the “*Summary instructions and details of contract table”* contained on page 2) using the SourceDogg E-Sourcing System, **no later than 4 working days** (which is Monday – Friday, excluding bank/public holidays in England) **before the submission deadline date for the Tender** to enable any technical queries to be investigated and resolved.
   9. The Tenderer shall submit a fully priced Tender based on the requirements set out within the ITT
   10. No alternative Tender, offering a different way of delivering the service, will be considered and the Council will not accept variant bids
2. CONTRACT DOCUMENTS
   1. Any resulting Contract will consist of the Conditions of Contract and Schedules (set out in Appendix 1), (the Schedules will include the Specification the successful Tender together with those items detailed in the Schedules to the Conditions of Contract). The Contract will be subject to English law and the exclusive jurisdiction of the English Courts. Once the Tender has been awarded the Council will contact the successful Tenderers and arrange for the Contract to be executed.
   2. Any Contract award will be conditional on the Contract being approved in accordance with the Council’s internal procedures and the Council being generally able to proceed and will allow a standstill period of 10 calendar days to elapse before sending confirmation of Contract award to the successful Tenderer(s).
   3. The Contract documents are issued with this ITT. By submitting a Tender, Tenderers are agreeing to be bound by the Contract documents without further negotiation. A signed statement as to the Tenderers agreement to the Contract documents must be supplied as part of the Tender submission.

1. TENDER EVALUATION, SELECTION AND AWARD CRITERIA
   1. The Council reserves the right to change the requirements of the ITT from time to time. If at the time of change the ITT has gone live, the Council will inform the tenderers of any change and if necessary adjust the timing accordingly, to ensure tenderers have sufficient time to respond to the ITT.
   2. The Council reserves the right to disqualify any Tenderer that does not submit a compliant Tender in accordance with the instructions in the ITT. The Council reserves the right to disqualify any Tenderer that is guilty of a serious misrepresentation in relation to its Tender or the tender process. The Council reserves the right to withdraw this ITT at any time or to re-invite tenders on the same or any alternative basis.
   3. The Council reserves the right to choose not to award any contract as a result of the current procurement process. The Council also reserves the right to make whatever changes it sees fit to the Timetable, structure or content of the procurement process, depending on approvals processes or for any other reason.
   4. The Council reserves the right to mark down or reject any Tender which does not meet the requirements specified in this ITT. Each Tenderer must complete the award element by clearly demonstrating how it will deliver the requirements set out in the Specification, with any services offered in addition to the minimum set out in the Specification clearly identified as such.
   5. Tenderers are required to respond to all sections of the ITT where a response is required, including properly signing the declarations and the Tender must be clear, concise and complete. In the event that a Tenderer fails to provide a response where one is required, or if the Tender is incomplete or contains any ambiguities, caveats or lacks clarity, they may be deemed non-compliant and eliminated from the tender process.
   6. The Council will not consider Tenders received after the closing time and date. Any Tender received after the deadline shall not be opened or considered. The Council may, however, in its own absolute discretion extend the Deadline and in such circumstances the Council will notify all Tenderers of any change.
   7. Tenderers are not entitled to contact the Council to ask for any information on the progress or possible outcome of the evaluation whilst this is still in progress.
   8. During the evaluation period, the Council reserves the right to seek clarification from any or all of the Tenderers where information or documentation to be submitted by any Tenderer is or appears to be incomplete or erroneous, or where specific documents are missing, the Council may (but is not obliged to) request the Tenderer concerned to clarify or complete the relevant information or documentation within an appropriate time limit, provided that such requests are made in full compliance with the principles of equal treatment and transparency.
   9. Tenders will be evaluated to determine the Most Economically Advantageous Tender, taking into account both quality/technical and price method of meeting the Specification.

## Standard Selection Questionnaire

6.10 **Standard Selection Questionnaire element scoring overview**

|  |  |
| --- | --- |
| Standard Selection Questionnaire (SQ) Element Section | For Information / Pass / fail |
| Part 1, Section 1 | For Information (failure to complete may lead to rejection of tender) See Mandatory Exclusion Grounds, Discretionary exclusions within this document. And also Standard Selection Questionnaire and Notes for completion within ITT Document B |
| Part 2, Section 2 | Pass/Fail – See Mandatory Exclusion Grounds, Discretionary exclusions within this document. And also Standard Selection Questionnaire and Notes for completion within ITT Document B |
| Part 2, Section 3 | Pass/Fail – answering yes to any will result failing this section (unless subject to self-cleaning) See Mandatory Exclusion Grounds, Discretionary exclusions within this document. And also Standard Selection Questionnaire and Notes for completion within ITT Document B |
| Part 3, Section 4 and 5 | For Information (failure to complete may lead to rejection of tender) If after examining the Economic and Financial Standing the authority believes there are weaknesses or doubts about the potential suppliers ability to fulfil the contract, further financial investigation may take place and, as a result the authority reserves the right to use its discretion to exclude a potential supplier. If a criteria is set for Part 3, Section 4.2 and this criteria is not met the authority reserves the right to use its discretion to exclude a potential supplier. Also, see Mandatory Exclusion Grounds, Discretionary exclusions within this document. And also Standard Selection Questionnaire and Notes for completion within ITT Document B |
| Part 3, Section 6 | Pass/Fail – The authority will require at least one example of relevant experience and contract examples within section 6.1. Failure to demonstrate this will require completion of section 6.3. A lack of relevant experience or adequate explanation will result in a fail. |
| Part 3,  Section 7 | Pass/Fail (if relevant based on annual turnover of potential suppliers business) – See Procurement Policy Note: Standard Selection Questionnaire (SQ) Action Note 8/16 9th September 2016. See also Self-cleaning and Mandatory Exclusion Grounds, Discretionary exclusions within this document. And also Standard Selection Questionnaire and Notes for completion within ITT Document B |
| Part 3, Section 8.1 | Pass/Fail – Not achieving the minimum insurance values will result in a Fail. See also Self-cleaning and Mandatory Exclusion Grounds, Discretionary exclusions within this document. And also Standard Selection Questionnaire and Notes for completion within ITT Document B |
| Part 3, Section 8.2 | Not Used – Please see Procurement Policy Note 14/15 to determine when to include this question. If question excluded by authority and potential Bidders believe that this question should be included they must immediately on receipt of ITT communicate their rationale to the authority |
| Part 3, Section 8.3 | Not Used - Please refer to supplier selection guidance and Procurement Policy Note 16/15. See also Self-cleaning and Mandatory Exclusion Grounds, Discretionary exclusions within this document. And also Standard Selection Questionnaire and Notes for completion within ITT Document B |

6.11 The above table outlines the sections of the Standard Selection Questionnaire element that are subject to a Pass, Fail or for Information Only purposes.

**Award Element Evaluation**

* 1. Evaluation of Tenders against the Award Element will be carried out by panels appointed by the Council.
  2. The award criteria element has been split into Three main areas:
     1. Quality - Method Statements and Presentations (if Presentations included)
     2. Price Assumptions
     3. Contract Price

* 1. Tenderers are required to answer a series of Quality Questions in the form of method statements addressing between them all aspects of the required service. These questions are set out in detail within ITT Document B, together with a space for Tenderers to insert their responses. The questions are designed to explore the approach and methodology proposed by each tenderer concerning (amongst other things) how the new service will be implemented and delivered. Each method statement answer will be scored against a quality scoring matrix having a scoring range of 0 to 10 points: 10 being the highest. (Scoring Matrix follows)

|  |  |
| --- | --- |
| **Quality Scoring Matrix** | |
| Score | Criteria |
| **0** | **No Answer Provided (0 Points)** |
| **1 to 2** | **Poor – (1-2 Points)**  Is missing many key elements  Demonstrates a very limited understanding of the requirement  Evidence of skills/abilities to meet the requirement is poor or lacking  Key policies/standards/best practice guidance are not well understood or not referenced where expected  Provides very little confidence that the tenderer will be able to deliver the requirements |
| **3 to 4** | **Weak – (3-4 Points)**  Is missing some key elements  Demonstrates limited understanding of the requirement  Evidence of skills/abilities to meet the requirement is lacking or limited in parts  Some key policies/standards/best practice are missed or not well understood  Provides limited confidence that the tenderer will be able to deliver the requirements |

|  |  |
| --- | --- |
| Score | Criteria |
| **5 to 6** | **Acceptable – (5-6 Points)**    Covers most key areas  Demonstrates an acceptable level of understanding of the requirement  Provides sufficient evidence of skills/abilities to meet the requirement  References most key policies/standards/best practice guidance where appropriate  Provides confidence that the tenderer will be able to deliver the requirements to a satisfactory level |
| **7 to 8** | **Good – (7-8 Points)**  Demonstrates a sound understanding of the requirement  Demonstrates a high level of skills/abilities to meet the requirement  All key policies/standards/best practice guidance are referenced and incorporated  Provides confidence that the tenderer will deliver the requirements to a high level |

|  |  |
| --- | --- |
|  | **Quality Scoring Matrix (continued)** |
| Score | Criteria |
| **9 to 10** | **Excellent – (9-10 Points)**  Comprehensive in all areas  Demonstrates an excellent understanding of the requirement  Demonstrates a very high level of skills/abilities to meet the requirement  Over and above the expected key policies/standards/best practice guidance which are also referenced and incorporated  Provides confidence that the tenderer will deliver the requirements to a very high level and add real value to the service |

* 1. Each question has a maximum percentage which is stated against the actual questions contained within the method statement. Also if there are any presentations required; the maximum score for the presentation is stated against the actual presentation requirement in the method statement. If there are different scenarios; the maximum percentage of each scenario is stated against that actual scenario in the method statement
  2. Each question will be evaluated using the Quality Scoring Matrix table above; the available marks are 0 to 10. As an example if question 1 has a total possible percentage score of 7.00%, each mark is worth 0.7%, therefore, a mark of 5 gives an actual score of 5 X 0.7 = 3.5%
  3. Tender responses to the quality element (method Statements) should be entered into the ITT Doc B following the relevant question, within the area marked “Response”. Submissions should be entered onto the documents supplied; no PDF’s are allowed
  4. Attachments to answers are only allowed where they are specifically requested within the question and where that question also stipulates that the attachment does not count towards the word limit of that particular question. Attachments must relate to a particular question.
  5. After the method statements section of ITT Doc B there are several forms that require submitting with signatures; Appendix 4, 5, 7 and 13 could be extracted from the ITT Doc B and submitted as PDF documents if preferred by the tenderers’
  6. Please note that the **TUPE Undertaking Form (Appendix 6) must be completed immediately on receipt of these documents and before your main tender submission. To facilitate this, please submit a Clarification Question via SourceDogg attaching your completed TUPE undertaking and entering “TUPE Undertaking” as the subject. You may submit this Appendix 6 as a PDF**

The TUPE list detailing any incumbent supplier’s employees will only be forwarded to potential bidders once the Council has received their respective TUPE undertaking form/s.

* 1. Method Statement answers should not reference other answers; each answer must be complete in its own right and obey any maximum word limits
  2. If bidders exceed the word limit, all words or items after the point where the maximum word limit was reached will not count towards their submission and will not be evaluated. If the word limit is exceeded, that particular answer will be marked as if the excess words or items were not there, so any excess will not contribute towards the tenderer’s submission.

**Presentations**

* 1. If presentations and presentation questions are to be included, details will be contained within the ITT document B, together with their respective maximum percentage scores and the time allowed to present and answer presentation questions
  2. During any presentation interview the Tender may utilise MS PowerPoint, however, any presentation material must be submitted via SourceDogg at least 2 clear working days before the presentation interview date. This is to ensure that the files can be checked for any computer viruses and compatibility ahead of the arranged presentation. Tenderers are also requested to give at least two clear working days’ notice for any special requirements that may be needed; this will enable suitable adjustments to be made ahead of any presentation

Each presentation will be evaluated using the Quality Scoring Matrix table above in the same way as for other method statement questions; the available marks are 0 to 10. As an example if question 13 has a total possible percentage score of 9.00%%, each mark is worth 0.9%, therefore, a mark of 8 gives an actual score of 8 X 0.9 = 7.2% (if necessary rounded to 2 decimal places after the point)

* 1. DO NOT ANSWER PRESENTATION QUESTIONS WITHIN YOUR WRITTEN SUBMISSION. Tenderers that reach the award stage will also be invited to present a Presentation.

**Contract Price Evaluation Element**

6.21 The Contract Price section is scored out of a maximum of 10%; the lowest priced Tender will be allocated 10% and then the other tenderers will be allocated marks based on the difference between their Tenders and that of the lowest priced Tender

6.22 The price used for evaluation purposes is the sum of the annual costs for years 1, 2, 3, 4 and 5 added together (Years 4 and 5 are possible extension periods). The Tenderer should enter those prices within the ITT Document C, which contains a spreadsheet where Tenderers should populate the main prices, their respective cost breakdowns and explanations

6.23 For evaluation purposes only, a set of indicative figures will be used to calculate some typical yearly costs for payroll and for the managed service. The tendered price of the main service will be added to the costs for the payroll and managed service elements. Indicative quantities to be used in the evaluation figures are as follows –

* Main Service 486 per year
* Payroll 209 per year
* Managed service 270 per year

Whilst the indicative quantities entered above are taken from actual June 2017 quantities, they are only quoted to allow bidders to understand how the price evaluation will be calculated.

The prices entered against each year for payroll will be multiplied by 209 and the prices entered against the managed service will be multiplied by 270; these prices will be added to the respective year’s price for the main service. Each of the years will be added together to give a five year total. Please note that whilst the quantities are indicative and are not warranted in anyway, they will allow calculation of a representative service cost over the five years for evaluation purposes. The quantities are indicative however, the prices entered into the pricing schedule are the tendered price.

The total prices for the five years will be added together to obtain a contract price.

Below are examples of Contract Price scoring using hypothetical values not connected in any way to goods or services being tendered

*Tenderer A submits a price of £100,000*

*Tenderer B submits a price of £150,000*

*Tenderer C submits a price of £250,000*

*Tenderer D submits a price of £300,000*

Based on these hypothetical prices

*Tenderer A* is the lowest and is awarded 100% of the marks = 10.00%

*Tenderer B* is the second lowest and scores 100000/150000 x 10 = 6.66%

*Tenderer C* is third lowest, therefore they score 100000 / 250000 x 10 = 4.00%

*Tenderer D* is fourth lowest, therefore they score 100000 / 300000 x 10 = 3.33%

**Price Assumptions**

6.24 The Price Assumptions section is scored out of a maximum of 10, with marks being awarded according to the scoring criteria in the pricing schedule; as an example a mark of 5 out of 10, will achieve a score of 5%.

The following table contains the Price Assumption Scoring Matrix:

|  |  |
| --- | --- |
| **Pricing Assumption Scoring Matrix** | |
| Score | Criteria | |
| **0** | **No assumptions provided (0 Points)** | |
| **1 to 2** | **Poor – (1-2 Points)**  Rationale for cost is very unclear or unrealistic  Has not taken into consideration any basic factors which affect pricing | |
| **3 to 4** | **Weak – (3-4 Points)**  Rationale for cost is unclear or unrealistic in parts  Has missed some basic factors which affect pricing | |
| **5 to 6** | **Adequate – (5-6 Points)**  Rationale for cost is generally clear and realistic  Basic factors affecting pricing have been considered | |
| **7 to 8** | **Good – (7-8 Points)**  Rationale for cost is clearly explained and assumptions are realistic  Response has taken into account a range of factors which affect pricing | |
| **9 to 10** | **Excellent – (9-10 Points)**  Rationale for cost is comprehensively explained and assumptions are realistic  Response has considered a comprehensive range of factors that affect pricing | |

6.25 In the cost breakdown and explanation, bidders are able to amend and add rows as necessary, as long as it accurately details the organisations costs and the key areas. In addition to this, an explanation is required (right hand side of the table), to describe the key areas that make up the cost and account for any changes that may occur in the year on year. It is expected that the size of the boxes will need to be expanded to fit the text.

6.26 Information supplied will allow the Authority to correctly manage their budgets internally and to be able to report back to central government as required, therefore, this required section must be completed and not left blank. The costings should be reflective of the service, but the Authority acknowledges that in a holistic service, breaking out costs for separate streams may prove difficult.

6.27 The Authority reserves the right not to accept pricing submissions that are not fully completed. In addition the Authority also reserves the right to seek clarifications on the pricing in compliance with the principles of equal treatment and transparency.

6.28 For evaluation purposes only, the initial contract period will be used, however, the Authority reserves the right to use the prices entered within the Tender against any optional extension periods, should it choose to extend.

6.29 In the event a pricing model is used, which puts the Council at risk, or is unaffordable, the Council reserves the right to reject the bid.

7 CLARIFICATION INTERVIEWS

7.1 Tenderers might be invited to a clarification interview, to demonstrate their understanding and proposed approach as outlined in their response to the Key Quality criteria Tender. The Council is under no obligation to hold a clarification interview. If it determines that a clarification interview is required, it will notify all Tenderers in advance of the date, time and venue of the clarification interview. See section 6

7.2 If a clarification interview is held, the Council’s evaluation panel will question Tenderers on their Tenders to clarify any aspect of their Tender. This will include an in-depth investigation of certain aspects of the Key Quality criteria and anticipated level of service from each Tenderer.

7.3 The Council’s evaluation panel will use the results of the clarification interview to adjust the provisional scores allocated to the Tenderer’s Method Statements as outlined in their response to the Key Quality criteria Tender. The adjustment to the provisional scores will either be downwards, where a Tenderer’s score cannot be justified as determined in accordance with the scoring methodology set out in the table below or adjusted upwards, where the Tenderer score did not truly reflect the Key Quality criteria and that the Tenderer would in fact be delivering a higher or excellent level of service than is made apparent from the Method Statements.

7.4 The Council need not hold a clarification interview with any Tenderer who has such a low combined score for price and key quality criteria, as evaluated from the Method Statements that they could not be a successful Tenderer even if their scores were adjusted upwards as a result of the interview. See section 6

**8.0 TUPE - TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006:**

8.1 The Council is committed to ensuring compliance with the–

* Transfer of Undertakings (Protection of Employment) Regulations (TUPE Regulations) 2006 and subsequent amendments;
* Cabinet Office Statement of Practice on Staff Transfers in the Public Sector;
* Cabinet Office Statement of Principles of Good Employment Practice for Government, Contracting Authorities and Suppliers; and
* Best Value Authorities Staff Transfer (Pensions) Direction 2007.

8.2 The Council reserves the right not to accept any tender where the TUPE and/or pensions arrangements are not satisfactory to the Council.

8.3 At the time of issuing this Invitation to Tender the Council envisages that the staff working on the current service shall transfer to the contractor or its subcontractors, under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) along with the services. These employees are currently employed by the incumbent contractor. . A TUPE LIST is enclosed in Appendix 8, which sets out details of the third party employees and their terms and conditions of employment and whether or not any of them are existing members of a pension scheme. Tenderers should note that further information may be forwarded in relation to TUPE which will need to be considered within their bids. Tenderers are required to sign, date and return the TUPE Undertaking that is included within this Invitation to Tender upon receipt of the tender documents.

8.4 Tenderers are also REQUIRED as part of the tender submission to complete and return the TUPE Questionnaire found in Appendix 7 relating to TUPE and pensions that is included with this Invitation to Tender. Tenderers pricing models must include the costs associated with the TUPE transfer of these employees. If the costs associated with a TUPE transfer (including pension costs) are subsequently found to be lower than envisaged, the contractor shall make a corresponding reduction in the contract price.

8.5 The Council does not make any warranty in respect of the following:-

* the adequacy of the skills, experience or training of the employees identified on the TUPE list;
* that there will be sufficient numbers of transferring employees to enable the successful bidder to carry out the contract without reliance on other employee resources;
* the completeness or accuracy of the TUPE List or TUPE information; or
* employees identified for transfer are willing to do so.

8.6 Bidders will be aware that where a TUPE transfer takes place the effect is that transferring employees transfer to the new employer (the winning bidder) on their existing terms and conditions of employment and the need –

* to consult with relevant recognised Trade Unions and employees’ representatives;
* to maintain existing rates of pay and terms and conditions of employment (and suitable pension provision); and
* to accept liability in respect of claims for redundancy, unfair dismissal and all other claims that may relate to the transferring employees.

8.7 Bidders should take their own independent legal advice on the implications of TUPE and pensions before completing and submitting their tender to the Council. (See above for the documentation that bidders must complete and submit as part of the tender).

8.8 Bidders should also be aware that if they submit a tender on the basis that TUPE does not apply, they will have to demonstrate to the Council’s satisfaction that there are genuinely exceptional circumstances why TUPE should not apply

8.9 As regards pension provision for transferring employees, where employees originally transferred out from a public sector organisation as a result of an outsourcing, the bidder will be required to provide transferring employees continued access of the NHS Pension Scheme under a Pension Direction. Bidders will be required to provide a copy of the Pension Direction prior to the contract award.

9 FREEDOM OF INFORMATION ACT AND ENVIRONMENTAL INFORMATION STATEMENT

9.1 The Council is subject to The Freedom of Information Act 2000 (“Act”) and The Environmental Information Regulations 2004 (“EIR”).

9.2 As part of the Council’s obligations under the Act or EIR, it may be required to disclose information concerning the procurement process or the Contract to anyone who makes a reasonable request.

* 1. The Council shall treat all Tenderers’ responses as confidential during the procurement process. Requests for information received following the procurement process shall be considered on a case-by-case basis, applying the principles of the Freedom of Information Act.

9.4 If Tenderers consider that any of the information provided in their Tender is commercially sensitive (meaning it could reasonably cause prejudice to the organisation if disclosed to a third party) then it should be clearly marked as "**Not for disclosure to third parties”** together with valid reasons in support of the information being exempt from disclosure under the Act and the EIR.

9.5 The Council will endeavour to consult with Tenderers and have regard to comments and any objections before it releases any information to a third party under the Act or the EIR. However the Council shall be entitled to determine in its absolute discretion whether any information is exempt from the Act and/or the EIR, or is to be disclosed in response to a request of information. The Council must make its decision on disclosure in accordance with the provisions of the Act or the EIR and can only withhold information if it is covered by an exemption from disclosure under the Act or the EIR.

9.6 The Council will not be held liable for any loss or prejudice caused by the disclosure of information that:

9.6.1 has not been clearly marked as "Not for disclosure to third parties" with supporting reasons (referring to the relevant category of exemption under the Act or EIR where possible); or

9.6.2 does not fall into a category of information that is exempt from disclosure under the Act or EIR (for example, a trade secret or would be likely to prejudice the commercial interests of any person); or

9.6.3 in cases where there is no absolute statutory duty to withhold information, then notwithstanding the previous clauses, in circumstances where it is in the public interest to disclose any such information.

* 1. Tenderers should be aware that in compliance with its transparency obligations the Council routinely publishes details of its contract(s), including the contract values and the identities of its suppliers on its website.

1. DISCLOSURE AND BARRING SERVICE

10.1 The Council considers that the Contract will be carried out in an environment in which it is necessary that some or all individuals carrying out the Contract will be required to be subject to a standard/enhanced Disclosure and Barring Service (DBS) check at the expense of the Contractor. The Council will insist that this is done prior to work commencing and the Council must be able to inspect the records of all relevant employees prior to work commencing.

**11 NATIONAL LIVING WAGE, NATIONAL MINIMUM WAGE**

11.1 Bidders will be required to ensure that all staff employed or workers otherwise contracted or sub-contracted in relation to this Contract, who are based in or posted to the United Kingdom, shall be paid at rates no less favourable than those laid down by the National Minimum Wage Act 1998 as amended by The National Minimum Wage (Amendment) Regulations 2016 (as these may updated by United Kingdom law).

12 **TERMS AND CONDITIONS – E-TENDERING**

12.1 Electronic Submission

* The Council will only accept documents for Tenders or quotations placed on the E-Tendering System to be received electronically unless explicitly stated otherwise in the Tenderer’s instructions.
* Tenders submitted via the Electronic Tendering system must be received in full prior to the closing time.
* If the electronic files containing the tender are corrupt, contain a virus or are unreadable for any reason, the Tender will not be considered.
* Immediately prior to submitting a Tender electronically the Tenderer must check the electronic files making up the Tender for viruses using fully current virus checking software and must remove all viruses from the files.
* The Council accepts no responsibility for a provider misunderstanding instructions or incorrect use of the system.
* Tenderers acknowledge and accept, in respect of electronically transmitted tenders, that lodgement of large electronic files may take time and as such they must allow sufficient time to fully transmit all files prior to the closing time. (***No single file should be over 20mb****.*)
* The Council shall not be liable or responsible for the loss, damage, destruction or corruption of any Tender, however caused.
* The Council until after the Tender closing time may not discover corruption or unreadable files submitted via the Electronic Tendering System.
* Faults in the Tenderer’s system are not the responsibility of the Council and no extension to the closing time will be made.
* The server clock within the E-Tendering System shall govern the time.

1. For the list of exclusion please see <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf> [↑](#footnote-ref-1)
2. See PCR 2015 regulations 71 (8)-(9) [↑](#footnote-ref-2)