



Royal Botanic Gardens

# Kew

# Section 1: Instruction to Tenderers

## 1.0 Introduction

You are hereby invited by Royal Botanic Gardens, Kew (the “Client”) to submit a Tender to meet the Client’s requirements in accordance with the specification and associated documents as contained within this tender pack.

The purpose of this Instruction to Tender is to provide prospective Suppliers with sufficient information to understand and respond to the requirements of the Client, ensure that a consistent level of information is obtained from each prospective supplier and provide a structured framework for the subsequent evaluation of each supplier’s submitted Tenders.

These instructions are designed to ensure that all Suppliers are given equal and fair consideration. It is important therefore that you provide all the information asked for in the format and order specified.

Suppliers should read these instructions carefully before completing their Tender documentation. Failure to comply with these requirements for completion and submission of the response may result in the rejection of the Tender. Suppliers are advised to acquaint themselves fully with the extent and nature of the requirements and their associated contractual obligations.

These instructions constitute the full conditions of the Tender process and participation automatically signals that the Supplier accepts these conditions.

Please contact Procurement (via the e-tendering portal) if you have any doubt as to what is required or will have difficulty in providing the information requested.

The ITT pack comprises the following documents:

| REFERENCE | ITEM   |                           |
|-----------|--|---------------------------|
| Section 1 | Instructions to Tender FINAL (This document) | For information           |
| Section 2 | Specification of Services                    | For information           |
| Section 3 | Draft Contract & Schedules                   | For information           |
| Section 4 | Tender Response Documents                    | To be completed by bidder |
|           | Contractors Code of Practice                 | For information           |

All material issued in connection with this ITT (the “Information”) shall remain the property of the Client and shall be used only for the purpose of this procurement exercise. All Information shall be either returned to the Client or securely destroyed by the Supplier (at the Client’s option) at the conclusion of the procurement exercise.

The Supplier shall ensure that each and every sub-contractor and adviser abides by the terms of these instructions.

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The Supplier shall not make contact with any other employee, agent or consultant of the Client who are in any way connected with this procurement exercise during the period of this procurement exercise, unless otherwise instructed by the Client.

The Client shall not be committed to any course of action as a result of:

- issuing this Invitation to Submit a Tender;
- an invitation to submit any response in respect of this procurement exercise;
- communicating with a Supplier or a Supplier's representatives or agents in respect of this procurement exercise; or
- any other communication between the Client (whether directly or by its agents or representatives) and any other party.

Suppliers shall accept and acknowledge that by issuing this ITT the Client shall not be bound to accept any Tender and reserves the right not to conclude a contract for some or all of the requirements for which Tenders are invited.

The Client reserves the right to amend, add to or withdraw all or any part of this ITT at any time during the procurement exercise at no cost to the Client.

### 2.0 Confidentiality

Subject to the exceptions referred to below, the contents of this ITT are being made available by the Client on condition that:

- Suppliers shall at all times treat the contents of the ITT and the Information as confidential, save in so far as they are already in the public domain;
- Suppliers shall not disclose, copy, reproduce, distribute or pass any of the Information provided to any other person at any time or allow any of these things to happen;
- Suppliers shall not use any of the Information for any purpose other than for the purposes of submitting (or deciding whether to submit) a bid; and
- Suppliers shall not undertake any publicity activity within any section of the media.

Suppliers may disclose, distribute or pass any of the Information to the Supplier's advisers, sub-contractors or to another person provided that either:

- This is done for the sole purpose of enabling a Tender to be submitted and the person receiving the Information undertakes in writing to keep the Information confidential on the same terms as if that person were the Supplier; or

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- The Supplier obtains the prior written consent of the Client in relation to such disclosure, distribution or passing of Information; or
- The disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any contract arising from it; or
- The Supplier is legally required to make such a disclosure.

In the paragraph above the definition of 'person' includes but is not limited to any person, firm, body or association, corporate or incorporate.

The Client may disclose detailed information relating to Tenders to its officers, employees, agents or advisers and the Client may make any of the contract documents available for private inspection by its officers, employees, agents or advisers.

The Client also reserves the right to disseminate information that is materially relevant to the procurement to all Suppliers, even if the information has only been requested by one Supplier, subject to the duty to protect each Supplier's commercial confidentiality in relation to its Tender (unless there is a requirement for disclosure under the Freedom of Information Act (FOIA), as explained below).

### 3.0 Freedom of Information

In accordance with the obligations and duties placed upon public authorities by the Freedom of Information Act (FOIA), the Client may, acting in accordance with the Secretary of State's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the said Act, or the Environmental Information Regulations (EIR) be required to disclose information submitted by the Supplier to the Client.

In respect of any information submitted by a Supplier that it considers to be commercially sensitive the Supplier should:

- Clearly identify such information as commercially sensitive;
- Explain the potential implications of disclosure of such information; and
- provide an estimate of the period of time during which the Supplier believes that such information will remain commercially sensitive.

Where a Supplier identifies material as commercially sensitive, the Client will endeavour to maintain confidentiality. Suppliers should note, however, that, even where information is identified as commercially sensitive, the Client may be required to disclose such information in accordance with the FOIA or the EIR. In particular, the Client is required to form an independent judgment concerning whether the information is exempt from disclosure under the FOIA or the EIR and

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whether the public interest favours disclosure or not. Accordingly, the Client cannot guarantee that any information marked 'confidential' or "commercially sensitive" will not be disclosed.

Where a Supplier receives a request for information under the FoIA or the EIR during the procurement process, this should be immediately passed on to the Client and the Supplier should not attempt to answer the request without first consulting with the Client.

### 4.0 Contract

The contract will commence on 23<sup>rd</sup> March 2017. The contract is being let on a two year concession basis with scope for two extensions of one year each (2+1+1).

### 5.0 Tender Validity

Your Tender should remain open for acceptance for a period of 120 days from the deadline date for Supplier responses. A Tender valid for a shorter period may be rejected by the Client.

### 6.0 Timescales

Set out below is the proposed procurement timetable. This is intended as a guide and whilst the Client does not intend to depart from this timetable it retains the right to do so at any stage.

| PROCESS                                  | DATES   |
|--|---|
| Formal Invitation to Tender to Suppliers | 16 <sup>th</sup> January 2017                     |
| Deadline to Submit Tender Proposal       | 13 <sup>th</sup> February 2017                    |
| Tender Evaluation                        | 14 <sup>th</sup> – 17 <sup>th</sup> February 2017 |
| Clarification Meetings                   | w/c 27 <sup>th</sup> February 2017                |
| Final Evaluation and Approvals           | 6 <sup>th</sup> – 10 <sup>th</sup> March 2017     |
| Inform Suppliers                         | 13 <sup>th</sup> March 2017                       |
| Contract Issued                          | 23 <sup>rd</sup> March 2017                       |
| Contract Commences                       | 23 <sup>rd</sup> March 2017                       |

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### 7.0 Preparation of Tenders

Suppliers must obtain at their own responsibility and expense, all information necessary for the preparation of Tenders. Suppliers are solely responsible for the costs and expenses incurred in connection with the preparation and submission of their Tender and all other stages of the selection and evaluation process. Under no circumstances will the Client, or any of their advisers, be liable for any costs or expenses borne by Suppliers, sub-contractors, or Suppliers advisers in this process.

The Client relies on Suppliers' own analysis and review of information provided. Consequently, Suppliers are solely responsible for obtaining the information which they consider is necessary in order to make decisions regarding the content of their Tenders and to undertake any investigations they consider necessary in order to verify any information provided to them during the procurement process.

Suppliers must form their own opinions, making such investigations and taking such advice (including professional advice) as is appropriate, regarding the requirements and their Tenders, without reliance upon any opinion or other information provided by the Client or their advisers and representatives. Suppliers should notify the Client promptly of any perceived ambiguity, inconsistency or omission in this ITT, any of its associated documents and/or any other information issued to them during the procurement process.

### 8.0 Tender Submission

The Tender must be submitted in the form and at the time specified in this ITT. Failure to do so may render the response non-compliant and it may be rejected.

The Client may at its own absolute discretion extend the closing date and the time for receipt of Tenders specified above. Any extension granted by the Client will apply to all Suppliers.

Suppliers must submit Tenders **no later than 13<sup>th</sup> February 2017 at 12.00pm**. Tenders may be submitted at any time before the closing date. Tenders received before this deadline will be retained unopened until the closing date.

Tenders must be submitted in both electronic format to [procurement@kew.org](mailto:procurement@kew.org). The size limit for each document is 50MB however it is advised to try and keep files to less than this limit where possible. Suppliers must allow sufficient time to submit all documents. Should a communication from the Client be issued after a Supplier has submitted a Tender but before the Tender deadline they will be notified to verify the Tender submission. Suppliers **MUST** do this otherwise the Tender will be invalid.

The Client does not accept responsibility for the premature opening or mishandling of Tenders that are not submitted in accordance with these instructions.

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Suppliers should not include in their Tender any extraneous information which has not been specifically requested in the ITT including, for example, any sales literature, standard terms of trading etc.

The Tender and any documents accompanying it must be in the English language.

Price and any financial data provided must be submitted in or converted into pounds sterling. Where official documents include financial data in a foreign currency, a sterling equivalent must be provided.

Tenders will be received any time up to the deadline stated above. Tenders received before this deadline will be retained in a secure environment, unopened until the opening date.

### **9.0 Canvassing**

Any Supplier who directly or indirectly canvasses any officer, member, employee, or agent of the Client or its members concerning the establishment of the contract or who directly or indirectly obtains or attempts to obtain information from any such officer, member, employee or agent concerning any other Supplier, the Tender or proposed Tender will be disqualified.

### **10.0 Disclaimers**

Whilst the material in this ITT and the Information has been prepared in good faith, it does not purport to be comprehensive nor has it been independently verified.

Neither the Client nor their advisors, their respective directors, officers, members, partners, employees, other staff or agents makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the Information; or accepts any responsibility for the information contained in the Information or for their fairness, accuracy or completeness of that Information nor shall any of them be liable for any loss or damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such Information or any subsequent communication.

Any persons considering making a decision to enter into contractual relationships with the Client following receipt of the ITT should make their own investigations and their own independent assessment of the Client and its requirements and should seek their own professional financial and legal advice.

For the avoidance of doubt the provision of clarification or further information in relation to the ITT or any other associated documents is only authorised to be provided following a query made in accordance with the provisions of this ITT.

Any contract concluded as a result of this ITT shall be governed by English law.

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### 11.0 Collusive Behaviour

Any Supplier who:

- fixes or adjusts the amount of its Tender by or in accordance with any agreement or arrangement with any other party; or
- communicates to any party other than the Client the amount or approximate amount of its proposed Tender or information which would enable the amount or approximate amount to be calculated (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the Tender or insurance or any necessary security); or
- enters into any agreement or arrangement with any other party that such other party shall refrain from submitting a Tender; or
- enters into any agreement or arrangement with any other party as to the amount of any Tender submitted; or
- offers or agrees to pay or give or does pay or give any sum or sums of money, inducement or valuable consideration directly or indirectly to any party for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender, any act or omission, shall (without prejudice to any other civil remedies available to the Client and without prejudice to any criminal liability which such conduct by a Supplier may attract) be disqualified.

### 12.0 Acceptance and Admission

The Supplier undertakes that in the event of the Tender being accepted by the Client and the Client confirming in writing such acceptance to the Supplier, the Supplier will within 45 days of being called upon to do so by the Client execute the contract in the form set out in this ITT or in such amended form as may subsequently be agreed.

### 13.0 Clarification

All requests for clarification about the requirements or the process of this procurement exercise shall be made in accordance with these Instructions. The Client will endeavour to answer all questions with two working days, but cannot guarantee a minimum response time. All clarification requests should be submitted via the e-tendering portal message facility.

In order to ensure equality of treatment of Suppliers, the Client intends to publish the questions and clarifications raised by Suppliers together with the Client's responses (but not the source of the questions) to all participants. Suppliers should indicate if a query is of a commercially sensitive nature and where disclosure of such query and the answer would, or would be likely to, prejudice its commercial interests.

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If the Client at its sole discretion does not either; consider the query to be of a commercially confidential nature or one which all Suppliers would potentially benefit from seeing both the query and Client's response, the Client will either invite the Supplier submitting the query to either declassify the query and allow the query along with the Client's response to be circulated to all Suppliers; or request the Supplier, if it still considers the query to be of a commercially confidential nature, to withdraw the query.

The Client reserves the right not to respond to a request for clarification or to circulate such a request where it considers that the answer to that request would or would be likely to prejudice its commercial interests.

### 14.0 Late Tenders

Any tender received at the designated point after the prescribed deadline may be rejected unless the Supplier can provide irrefutable evidence that the Tender was capable of being received by the due date and time.

### 15.0 Withdrawal

Suppliers may withdraw their Tender at any time prior to the Deadline or any other time prior to accepting the offer of a Contract. The notice to withdraw the Tender must be in writing and sent via the decline to Tender function in the e-tendering portal if before the Deadline or as a message within the portal if after the Deadline.

### 16.0 Right To Reject / Disqualify

The Client reserves the right to reject or disqualify a Supplier where:

- the Supplier fails to comply fully with the requirements of this ITT or is guilty of a serious misrepresentation in supplying any information requested in this ITT document; or
- the Supplier is guilty of serious misrepresentation in relation to its Tender; expression of interest; and/or the Tender process;

### 17.0 Right to Cancel, Clarify or Vary the Process

The Client reserves the right to:

- amend the terms and conditions of the procurement process,
- cancel the evaluation process at any stage; and/or
- require the Supplier to clarify its Tender in writing and/or provide additional information. (Failure to respond adequately may result in the Supplier not being selected).

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### 18.0 Evaluation

The evaluation process will be conducted in two stages and will ensure that Tenders are evaluated fairly to ascertain the most economically advantageous Tender. Account will also be taken of any factors which may impact on the Suppliers suitability that emerge from the bid process. Suppliers should examine the evaluation model closely to ensure that they are able to submit the information and supporting evidence required.

#### Stage 1 – Suitability Section

Suppliers will need to demonstrate the following in order for their proposal to be taken through to the second stage of the evaluation process:

- Ability to underwrite cost of event (estimated at £80,000 annually) please demonstrate an annual gross turnover of three times the estimated value.
- Sufficient experience (of at least two years' experience of producing and promoting outdoor theatre for audience sizes in excess of 100 people). Please provide 2 detailed of examples, each example of be limited in size to 2 sides of A4.

#### Stage 2 – Tender Stage

Following Stage 1 the Client shall evaluate the selected Tenders submitted by Suppliers in accordance with the model below:

| Technical Criteria  | Weighting  |
|---|------------|
| Event Proposal – please demonstrate the perceived quality of the proposed show(s) as evidenced by any awards, reviews, commissions, testimonials and the track record of the nominated key staff  | 30         |
| Event Proposal – please demonstrate the relevance of the proposed show(s) to Kew's mission and audiences  | 20         |
| Management Arrangements – please provide experience of your nominated key staff and contractors in organising similar events in similar settings and the extent to which the proposals will care for: <ul style="list-style-type: none"> <li>○ the fabric of the Gardens</li> <li>○ the day visitors to the Gardens</li> <li>○ and the wider environment</li> </ul> | 20         |
| Commercial Criteria   | Weighting  |
| Revenue Share to be expressed as a percentage of the total gross income   | 30         |
| <b>Total</b>  | <b>100</b> |

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### Clarification Meetings

The purpose of the clarification meeting is to clarify information provided in the written tender document. The Client reserves the right to amend scores awarded during this process as a result of the clarification responses received from the Tenderers.

### Scoring Mechanism

The Quality elements of the Tenders (ITT) shall be scored as follows:

|   |                |   |
|---|----------------|---|
| 5 | Very Good      | Response is completely relevant covering all aspects of the requirement. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full. Demonstrated added value. |
| 4 | Good           | Response is relevant and good. The response is sufficiently detailed to demonstrate a good understanding and provides details on how the requirements will be fulfilled   |
| 3 | Satisfactory   | Covers the majority of aspects required with only a few minor gaps in the response. Demonstrates a broad understanding of the requirement but lacks details on how the requirement will be fulfilled.   |
| 2 | Poor           | Partially demonstrates ability to meet requirement specified but lacking information or detail on a number of areas.  |
| 1 | Very poor      | Limited evidence of ability to meet requirement with significant gaps in the response and/or serious concerns.  |
| 0 | Unsatisfactory | Nil or inadequate response. Fails to demonstrate an ability to meet the requirement.  |

The Commercial elements of the Tenders will be scored as follows:

$$\text{Bidders Score} = (\text{Bidders revenue share offer} / \text{Highest revenue share offer}) \times \text{available marks}$$

The revenue share **must be** expressed as a % of the gross ticket income.

Contract will be awarded to the Supplier who, in the opinion of the Client at the conclusion of the evaluation, offers the most economically advantageous Tender to the Client having regard to the selection and evaluation criteria.

### 19.0 Award Notification

The Client will notify the successful Supplier(s) of their admission to the contract in writing. All Suppliers will be informed of the Client decision in writing in relation to contract award as soon as possible after on conclusion of the evaluation and internal approval process.