

Invitation to Tender

For

The Provision of Natural Gas

National Framework Agreement

Project Ref: F/005/EST/17/MH

Tender Process:

Schedule I Open Tender Services	☐	Schedule I Open Tender Goods	☒
Schedule I Restricted Tender Services	☐	Schedule I Restricted Tender Goods	☐

CLOSING DATE FOR RETURNS:
Friday 12th January 2018 at 14.00 GMT

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1. GLOSSARY OF TERMS USED IN THIS DOCUMENT

“Bid”, “Tender” and “Tender response”	used interchangeably to indicate a participating organisation’s response to this tender process.
“Bidder(s)” and “Tenderer(s)”	used interchangeably to indicate an organisation that is participating in this tender process.
“Conditions of Contract”	means the NHS Terms and Conditions of Contract included with the Invitation to Tender.
“Energy Partner”	means Flexible Energy Management Ltd (FEM) who have the delegated authority to purchase energy on behalf of the Customers under this Framework Agreement.
“Framework Agreement” or “Framework”	means the agreement that will be established between the Framework Manager and the Supplier(s) as a result of this procurement exercise. The Framework Agreement will be governed by the Conditions of Contract.
“Framework Fees” or “Framework Manager and Energy Partner Management Fees” or “FMEPMF”	means the fees paid by the Supplier to the Framework Manager and the Energy Partner. These charges are used to fund the gas procurement by the Energy Partner and the establishment and ongoing administration of the Framework Agreement by the Framework Manager. The Supplier shall pay these charges to the Framework Manager and the Energy Partner as detailed in the Section 5 of the Conditions of Tender detailed within this document.
“Framework Manager” or “The Trust”	means the Countess of Chester Hospital Commercial Procurement Service
“ITT”	means Invitation to Tender
“NHS”	National Health Service
“Supplier Management Charge”	means the charge paid to the Supplier for providing the gas to the Customers. The Supplier shall add the Management Charge to the cost of gas when invoicing the Customer for the supply at the Customer’s premises. The Management Charge shall be collected monthly in arrears as part of the gas invoice.
“Participating Trust”, “Authority”, “Client”	means a public sector contracting body, who is utilising the framework agreement to obtain the services and/or products of the Supplier

**Organisation” or
“Customer”**

“PQQ”

means Pre-Qualification Response

“Supplier”

means the organisation who has been successful in the procurement process and awarded a place on the framework.

2. BACKGROUND TO THIS FRAMEWORK

The National Health Service (NHS) (and wider public sector) is facing a period of intense financial pressure to reduce costs. Many organisations have a significant expenditure on energy which is often out of their control, due to the volatility of wholesale energy prices.

The Countess of Chester Hospital Commercial Procurement Service is setting up a single-supplier framework agreement for the provision of natural gas that can be utilised by NHS bodies and a limited number of other organisations. This collaborative approach creates an aggregated purchasing portfolio which provides a committed volume to the wholesale market. The gas will be purchased using various flexible procurement methodologies and strategies.

COCH Commercial Procurement Service's Energy Partner, Flexible Energy Management Ltd (the 'Energy Partner') has a proven track record of purchasing gas for the health sector and will have the delegated authority to purchase gas on behalf of the Customers. The Energy Partner will track the wholesale market and adopt strategies offering opportunities to procure gas at beneficial rates for the Customers. The range of gas purchasing strategies available under the Framework will include fixed, part fixed - part flexible, fully flexible and Customer bespoke strategies.

NHS authorities require a single provider(s) of natural gas with suitable capability and capacity to provide natural gas, bought flexibly through the wholesale market, for the NHS (and other public bodies).

It is intended that this Framework becomes the vehicle for the gas suppliers to engage with the NHS and wider public sector organisations, allowing them a legally compliant means to provide their services to public bodies without having to undertake an individual tender process on each occasion. This framework will seek to appoint a single gas supplier for public bodies to utilise. The framework will be available for use by NHS Bodies (and any future successors to these organisations) and other public sector bodies. SCHEDULE H contains details of all potential public sector organisations that the framework agreement can be utilised by.

3. BACKGROUND TO THE COUNTESS OF CHESTER HOSPITAL NHS FOUNDATION TRUST COMMERCIAL PROCUREMENT SERVICE.

The Countess of Chester Hospital NHS Foundation Trust is comprised of a 600 bed acute general hospital located on the outskirts of the City of Chester, an 86 bed community based hospital located in Ellesmere Port, a number of West Cheshire community based health clinics and a shared service Microbiology Laboratory in Wirral.

The Trust also hosts a Commercial Procurement Service which not only undertakes its own commercial activity but seeks to act to the wider public sector to promote and develop smaller innovative businesses and ideas. Further information can be obtained from the website www.coch-cps.co.uk

The Countess of Chester Hospital NHS Foundation Trust as the Framework Manager will administer the framework agreement, provide guidance to client authorities and issue draft contracts for consideration between client authorities and the successful supplier. In the first instance of any dispute the Framework Manager will offer first line mediation.

The Countess of Chester Hospital Commercial Procurement Service has appointed an Energy Partner to act as an agent to arrange gas purchases, fixes and unfixes for Customers calling off under the Framework Agreement for the supply of gas and to provide ongoing contract management during the life of the supply arrangement. As the Framework Manager, the Countess of Chester Hospital Commercial Procurement Service will establish the Framework Agreement and Call-Off Contracts and be involved in the management of the Framework Agreement.

4. BACKGROUND TO THE PUBLIC SECTOR AND NHS

The public sector in the United Kingdom (UK) is comprised of many varying organisations. These include: ministries or departments of central government such as the Cabinet Office, Department of Health (including the National Health Service (NHS)) and Ministry of Justice; local authorities, such as councils and social services; wider public bodies such as fire and rescue services, police authority services, educational authorities, universities and public broadcasting; and finally utilities agents, such as water authorities. Derived from European Union (EU) treaty principles, UK public sector procurement bodies must comply with both the Public Procurement Directive and Public Remedies Directive. These mandate a regulated contract and tender procedure for opportunities above a certain financial threshold, which varies depending on the type of organisation and type of procurement being undertaken.

The National Health Service (NHS) in the UK is representative of over 400 health organisations including Hospital Trusts, Mental Health Trusts, Ambulance Trusts, Foundation Trusts, Clinical Commissioning Groups, Commercial Support Units and Community Health Trusts. The landscape is one of constant evolution and change.

To promote transparency, the Countess of Chester Hospital NHS Foundation Trust wishes to establish a Framework Agreement for use by NHS Bodies (and any future successors to these organisations) and other public sector bodies. SCHEDULE H contains details of all potential public sector organisations that the framework agreement can be utilised by

5. HOW THE FRAMEWORK WILL OPERATE

The single supplier framework has been established to negate the need for further tendering exercises. Participating Authorities wishing to utilise this framework can do so via the direct award route.

All goods and/or services delivered by the Supplier to the Participating Authorities must have prior written approval, in the form of a Call-Off Contract, from the Framework Manager. The Call-Off Contract will detail the services required, contract duration and commercial elements of the contract.

A nominal Supplier Management Charge will be charged by the Supplier to the Customers for the provision of gas. The Supplier shall add the Supplier Management Charge to the cost of gas when invoicing the Customer for the supply at the Customers' premises. The Supplier Management Charge shall be collected monthly in arrears.

The Supplier will pay a Framework Fee to the Framework Manager and Energy Partner to cover the establishment and ongoing administration of the Framework Agreement, and the purchasing, fixing and unfixing of gas.

6. HOW THIS TENDER PROCESS WILL WORK.

Open Procedure

Following the receipt of your bid and once the final deadline passes, your bid will be opened by the assessment panel. Where prerequisites have been applied, these will be assessed as the first stage of the evaluation. Failure to meet any prerequisite will result in your bid being immediately rejected. Upon satisfying all prerequisites your bid will be qualitatively assessed using the award criteria laid out in the Conditions of Tender. If an e-Auction is applicable the Authority will contact you and offer the appropriate training and preparation. Following the conclusion of the evaluation you will be issued notification of either being successful or unsuccessful. This will be accompanied by a debrief letter advising you of your scores and if appropriate the scores of the winning bid, along with narrative as to how the scores were applied and what the characteristics and relative advantages of the winning bid were. A 10 day standstill period will follow prior to concluding the contract which will be formed upon the exchange and signing of contracts.

7. TIMETABLE

Applicants should note that the dates listed below are indicative only and The Countess of Chester Hospital Commercial Procurement Services reserves the right to vary this timetable at its absolute discretion.

Description	Date/Period
Invitation to Tender Publication Date	Wednesday 6 th December 2017
Closing Date for Clarification Messages	Friday 5 th January 2018 14:00 GMT
Invitation to Tender Closing Date and Time	Friday 12 th January 2018 14.00 GMT
Opening of Tenders and Commencement of Evaluation Process	Monday 15 th January 2018 09.00 GMT
Notification of Intent to Award and Standstill Process Begins	February 2018
Framework Agreement Commencement and Launch Date	March 2018
Advanced purchase window	April/May 2018-March 2019
Gas Supply Commencement	1 st April 2019
Framework Agreement Expiry Date	31 st March 2023

8. INVITATION TO TENDER

1. Bidders/Tenderers

In this ITT the terms “Bidder” and “Tenderer” are used interchangeably to indicate an organisation that is participating in this tender process. The term “supplier” refers to a successful applicant following the framework award.

The terms bid and tender are similarly used interchangeably.

2. Contracting Authorities

The Countess of Chester Hospital NHS Foundation Trust, hereafter referred to as the “Framework Manager”, invites competitively tendered offers in accordance with the attached Invitation To Tender Documents as listed in the Master Index for the establishment of a Framework Agreement for the Provision of Natural Gas.

In this ITT the terms “authority”, “client” and “customer” are used interchangeably to indicate an organisation that may utilise this framework agreement.

3. Acceptance of bids

The Framework Manager does not bind itself to accept the lowest or any offer and reserves the right to accept an offer either in whole or in part each item being for this purpose treated as offered separately.

Tenderers are advised to read this Invitation to Tender and all supporting documentation very carefully to ensure they are familiar with the nature and extent of the obligations to be accepted by them if their Tender is successful.

9. COMMUNICATION

1. Clarification Questions from Bidders

Any questions which the Bidder wishes to raise in relation to this Tender should be made via the BRAVO e tendering portal messaging system. Questions provided in other formats will not be considered or answered.

The last date for the submission of Clarification Questions is **Friday 5th January 2018 at 14.00 GMT.**

The Framework Manager is under no obligation to respond to any question received after this time and date. However, the Framework Manager reserves the right to respond to any questions received after this deadline at its absolute discretion

Should a Tenderer be in any doubt as to the interpretation of any or all parts of the Tender document, commercial queries, technical/clinical queries prior to the submission of Tenders, these should also be directed via submission of written questions through the e tendering portal. The Framework Manager will refer the query to the relevant person for resolution, and will communicate the decision to the Tenderer in writing via e tendering portal.

Clarification questions received by any other method may constitute canvassing as defined in this ITT. Organisations participating in a bid submission are therefore strongly advised to ensure that any communication with the Countess of Chester Hospital NHS Foundation Trust and/or its employees about or related to this procurement process is submitted through the e tendering portal only, as failure to do so may result in their bid submission being disqualified.

Bidders are reminded that their questions, and Framework Managers response, will normally be circulated to all Bidders in an anonymous form, in order to treat all Bidders fairly. This will be provided in digest form, periodically updated and uploaded to the e tendering portal for all Bidders to view who have registered for the procurement. Provision will be made for Bidders to request clarification in confidence, but in responding to such requests the Framework Manager will reserve the right to act in what it considers a fair manner and in the best interests of the procurement, which may include uploading to the e tendering portal and/or circulating the response to all Bidders.

2. Clarification Questions from Framework Manager

The Framework Manager reserves the right to require Bidders to clarify their bid submissions. Any such request will be made via the e tendering portal to the Bidder's nominated representative. The Framework Manager will retain a general discretion in relation to this procurement process, at any stage of this procurement process, to seek clarification from any Bidder in relation to any aspect of the bid submission.

It is likely that any response to a clarification question will be required within two working days of request. Failure to respond adequately or in a timely manner to clarification questions may result in a potential Bidder not being considered further in the procurement.

The Framework Manager may contact (or may require the Bidder to contact on its behalf) any of the customers, subcontractors or consortium members to whom information relates in a response or bid, to ask that they testify that information supplied is accurate and true.

The Framework Manager reserves the right to seek third party independent advice or assistance to validate information submitted by a Bidder and/or to assist in the bid evaluation process.

The Framework Manager reserves the right to conduct site visits and/or audits at any time during this procurement process.

10. RETURN OF BIDS

Tenderers must return bids via the e tendering portal at www.nhssourcing.co.uk; hard copies will not be accepted. It is the sole responsibility of the Tenderer to ensure their offer is received in due time and date. Tenders received after the due date cannot normally be accepted.

The Framework Manager intends to award the Framework Agreement to the Bidder(s) who submit(s) the most economically advantageous bid(s) as determined by applying the evaluation criteria set out in this ITT. However, The Framework Manager reserves the right not to award all or any of the business to most economically advantageous bid(s) or to any bidder.

The Framework Manager does not bind itself to accept the lowest or any offer.

The closing date for the return of Tenders is **Friday 12th January 2018 at 14.00 GMT.**

Failure to return a completed ITT by the closing date specified will entitle The Framework Manager to disqualify the relevant Bidder from participating in this procurement at the discretion of the Framework Manager.

Those Bidders deciding not to tender should use the “Decline to Respond” function on the Trust e tendering portal, and provide a reason for this decision.

11. CONDITIONS OF TENDER

1. Information and Confidentiality

1.1 This ITT is intended for the exclusive use of the Bidder and is provided on the express understanding that this ITT and the information contained in it or, provided in connection with it, will be regarded and treated as strictly confidential. This ITT and all related materials may not be reproduced in whole or in part nor furnished to any other persons other than the bidder, save for the purpose of:

- taking legal or other advice in connection with completing the ITT; and/or
- obtaining input from relevant organisations relevant to the Bidder's response to the ITT; and/or
- obtaining input from any other parties who the Bidder demonstrates will provide information relevant to the ITT response but subject always to the prior written consent of the Framework Manager to such disclosure (which they may withhold in their absolute discretion).

In each of the above cases, the Bidder must obtain confidentiality undertakings from any such parties prior to disclosure of at least equivalent strength to those set out above.

Upon written request from Framework Manager, the bidder shall promptly provide evidence to Framework Manager that such undertakings have been provided to the Bidder.

- 1.2 The Bidder must ensure that, to the best of its knowledge and belief, the information contained in its tender response is accurate and contains no material misrepresentation.
- 1.3 This invitation and its accompanying documents shall remain the property of Framework Manager and must be returned on demand.
- 1.4 Any notice to a Tenderer required under these Conditions to be given in writing, shall be deemed to be duly served at the time of actual delivery if delivered to a physical address, or at the time of posting on the e tendering portal if communicated via the e tendering portal to the Bidder's nominated representative, or at the time of delivery in ordinary course of post if posted in a prepaid envelope addressed to the Tenderer by name, to the Tenderer's last known place of abode or business or, in the case of a company, the registered office of the company.
- 1.5 Estimated quantities, where inserted in the Invitation to Tender document, shall indicate only the probable requirements for the period referred to and the Contracting Authority shall not be bound to order such quantities.

2. Freedom of Information and other information disclosures

- 2.1 The Framework Manager is committed to open government and meeting legal responsibilities under the Freedom of Information Act 2000 (FOIA). Accordingly, any information created by or submitted to Framework Manager (including the information contained in the Tender and the submissions received from Bidders in response) may need to be disclosed by the Framework Manager in response to a request for information.

- 2.2 The Framework Manager may also decide to include certain information in their relevant publication scheme maintained under the FOIA. In making a submission, each bidder therefore acknowledges and accepts that the information contained therein may be disclosed under the FOIA, (provided it is not subject to relevant exemption under the FOIA).
- 2.3 Bidders must clearly identify any information supplied in response to the Tender, which they consider to be confidential or commercially sensitive and attach a brief statement of reasons why such information should be so treated and for what time period.
- 2.4 However, Bidders should be aware that even where a Bidder has indicated that information is commercially sensitive, the Framework Manager is responsible for determining at their absolute discretion whether such information is exempt from disclosure under the FOIA, or must be disclosed in response to a request for information. Where appropriate, the Framework Manager will notify the bidder before making any disclosure.
- 2.5 Bidders should also note that the receipt by the Framework Manager of any information marked “confidential” or equivalent does not mean that Framework Manager accept any duty of confidence by virtue of that marking, and Framework Manager have the final decision regarding the disclosure of any such information in response to a Request for Information.
- 2.6 In making a submission in response to this Tender, each Bidder acknowledges that the Framework Manager may be obliged under the FOIA to disclose any information provided to it:
- Without consulting the Bidder; or
 - Following consultation with the Bidder and having taken its views into account.
- 2.7 Bidders acknowledge that the Framework Manager may be subject to the Environmental Information Regulations 2004 (EIR) and shall assist and co-operate with Framework Manager (at the Bidder’s expense) to enable Framework Manager to comply with its information disclosure requirements contained in this legislation.
- 2.8 Bidders should be aware of the Framework Manager’s obligations and responsibilities under the EIR to disclose, on request, recorded information held by the Framework Manager. Information provided by Bidders in connection with this procurement process, or any contract that may be awarded as a result of this process, may therefore have to be disclosed by the Framework Manager in response to such a request, unless the Framework Manager decides that one of the statutory exemptions under the EIR applies.

The Framework Manager shall be responsible for determining, at its absolute discretion, whether the information submitted by a Bidder is exempt from disclosure in accordance with the provisions of the EIR.

- 2.9 Bidders acknowledge that the Framework Manager and/or its members may be subject to the Government’s public sector purchasing transparency requirements and that Framework Manager and/or its members may be required to publish on a Government on line portal or otherwise details of this procurement process, including but not limited to the process documentation and the contract awarded.

3. Prices

- 3.1 Prices in the Commercial Response (SCHEDULE E.1) must remain open for acceptance until 90 days from the closing date for the receipt of Tenders.
- 3.2 Prices on the schedule must be firm (i.e. not subject to variation) for the period of 4 years. Any proposed amendments to the fixed period will be rejected.
- 3.3 Where a fixed price period ends and triggers a contract extension option, price variations must be accompanied by evidence to justify the change in price. References to standard inflationary indices are not acceptable. It is expected that successful suppliers will mitigate any price increases through structured business development and efficiency planning.
- 3.4 Where the accumulated costs materially exceed the advertised contract value (as published in the award notice), the Framework Manager may seek to establish an additional Framework Agreement.

4. Tender Documentation and Submission

- 4.1 Tenders must be for the supply of the whole of the specification upon the Terms and Conditions of the Contract. Tenders for part or parts only of the specification or for different standards or frequencies or made subject to alternative terms or conditions may be rejected.
- 4.2 The supplies offered should be strictly in accordance with the Specification. Alternative services may be offered but all differences between such items and the Specification must be indicated in detail in the Return Schedule.
- 4.3 Tenders must comprise:
 - 4.3.1 Prerequisites (SCHEDULE C);
 - 4.3.2 the Technical Schedule (SCHEDULE D);
 - 4.3.3 the Commercial Response (SCHEDULE E.1);
 - 4.3.4 the Form of Offer (SCHEDULE F); and
 - 4.3.4 the Certificate of Non-Canvassing (SCHEDULE G).
- 4.4 The Form of Offer (SCHEDULE F) must be signed by an authorised signatory, scanned and uploaded into the e tendering portal where indicated. In the case of a partnership, by a partner for and on behalf of the firm; in the case of a limited company, by an officer duly authorised, the designation of the officer being stated. Any signature included in the Tender will be deemed to be from an authorised person.
- 4.5 The Tender must be completed in full. Any Tender may be rejected which:
 - 4.5.1 contains gaps, omissions or obvious errors; or
 - 4.5.2 contains amendments which have not been initialled by the authorised signatory; or

4.5.3 is received after the closing time.

- 4.6 For help in completing the Tender compliantly with the requirements of this ITT please contact the Framework Manager via the e tendering portal at www.nhssourcing.co.uk.
- 4.7 Offers must be written in English and submitted via the Framework Manager's e tendering portal at www.nhssourcing.co.uk
- 4.8 The Framework Manager may, at its own absolute discretion extend the closing date and time specified above without request. Any extension granted will apply to all Tenderers.

5. Framework Fees

- 5.1 In any application of the Framework Fees, Tenderers will be treated fairly and equitably within their markets. Furthermore, agreement will be reached between both parties on the process for relating payments to contractual activity.
- 5.2 Award Fee: To cover the costs of establishing the Framework Agreement, the successful supplier is required to pay an award fee of £15,000 each to the Framework Manager and the Energy Partner. This is not discountable against any other fees charged to the supplier. Invoices will be issued following the signing of the Framework Agreement and the establishment of the initial viable portfolio and will be due within 30 days.
- 5.3 Framework Fee: To cover the cost of both energy buying and framework management, the successful supplier is required to provide a Framework Fee to the Framework Manager and the Energy Partner which reflects the volume of business that the Supplier obtains through the Framework Agreement.
- 5.4 The Framework Fee payable by the supplier will represent around 2% of the total gross business achieved under all call-off contracts under this Framework Agreement, depending on the make-up of the final portfolio. Precise details of the Framework Fee will be identified to the successful Supplier following contract award. The Framework Fee for supplies with an AQ below 2,500 therms will be based on a daily charge (p/day) whereas the Framework Fee for supplies with an AQ above 2,500 therms will be based on a fixed annual fee and/or a unitary management charge (p/kWh).
- 5.5 For organisations that were customers of the Energy Partner prior to April 2015 that join the Gas Framework Agreement the Supplier must pay 85% of the framework fee to the Energy Partner and 15% of the framework fee to the Framework Manager. For all other Customers the Supplier must pay 82.5% of the framework fee to the Energy Partner and 17.5% of the framework fee to the Framework Manager. Details will be provided to the successful Supplier following contract award.
- 5.6 The successful Supplier will be required to pay 70% of the estimated annual Framework Fee at the commencement of each supply year with the remainder to be paid following a fully transparent reconciliation of the portfolio on actual consumption at the end of each supply year.

- 5.7 To support the fully transparent end of year reconciliation, the Supplier will be required to provide to the Framework Manager and the Energy Partner an end of year report detailing
- The monthly consumption of each supply point in the portfolio
 - The monthly Framework Fee and how this has been calculated.
 - The annual cost breakdown of the Framework Fee to demonstrate how the Framework Fee has been calculated.

6. Table-top trials ☐ (only applicable to the Tender if this box is checked)

- 6.1 Table-top trials will be used to assess a product's quality against its described characteristics in the bidder's response documents as highlighted in the award sub-criteria. Table-top trials are intended to be used to assess products with minimum disruption to our staff and patients and as such will not be trialled in a live clinical environment. All bidders are required to submit any products related to this Tender as requested by the Framework Manager within the timescales advised by the Framework Manager. Failure to provide adequate trial material will result in receiving a zero in the appropriate award section of the evaluation. Samples will be requested under clarification requirements where initial scoring is 2 or less.

- 6.2 The Authority is not bound to accept the lowest or any offer.

- 6.3 Following the Tender evaluation all bidders will be notified of the outcome. This notification will be accompanied by a debrief letter. No further debrief will be given outside of the information contained within this letter

7. TUPE ☐ (only applicable to the Tender if this box is checked)

- 7.1 The attention of Tenderers is drawn to the provisions of the European Acquired Rights Directive EC77/187 and TUPE (Transfer of Undertakings Protection of Employment Regulations). TUPE may apply to the transfer of the Contract from the present supplier to the new one, giving the present supplier's staff (and possibly also staff employed by any present sub-contractors) the right to transfer to the employment of the successful Tenderer on the same terms and conditions. The above does not apply to the self-employed.

- 7.2 Tenderers are advised to form their own view on whether TUPE applies, obtaining their own legal advice as necessary.

- 7.3 To assist in future processes the Framework Manager may seek workforce details from present supplier(s). The Framework Manager provides no warranty as to the accuracy of any such information supplied and accepts no liability for any inaccuracies that is contained within it or for any omissions from such information. Tenderers must form their own view and make their own enquiries as to whether TUPE will apply and as to the workforce implications if it does.

This information will be supplied to Tenderers on request on the basis that it is treated as strictly confidential; that it is not disclosed except to such people within the Tenderer's organisation, and to such extent, as is strictly necessary for the preparation of the tender; and that it is not used for any other purpose. By requesting this information from the Framework Manager a Tenderer will be deemed to have agreed to abide by these obligations of confidentiality.

- 7.4 The successful supplier will be required to indemnify the Contracting Authority against all possible claims under TUPE.
- 7.5 It is a further requirement that the successful supplier will pass on all details of their own workforce towards the end of the Contract period so that this information can be passed to other bona fide suppliers to enable them to assess their obligations under TUPE in the event of a subsequent transfer occasioned by a future tender process.

**Note. TUPE may apply to subsequent Call-Off Contracts but it does not apply to the establishment of this Framework Agreement due to it offering no commitment.*

8. Contract Monitoring

- 8.1 The Framework Manager is committed to helping improve the efficiency of contracted suppliers through sharing information on performance measurement. The criteria for measuring performance shall be agreed with the supplier/s and formally documented. It is possible that measurement criteria will develop during the term of the Framework Agreement - this will also be documented following agreement with the supplier/s.
- 8.2 Monthly contract financial performance monitoring may be necessary to ensure that the correct rebate amount is payable. The Framework Manager reserves the right to request audit data from client organisations to ensure management information is accurate. Failure by the client organisation to provide may result in the Framework Manager requesting volume supply information under the Freedom of Information Act.

9. Canvassing

- 9.1 Each organisation forming part of a bid submission must not canvass, solicit or offer any gift or consideration whatsoever as an inducement or reward to any officer (or their partner) or employee (or their partner) of the Framework Manager, or to any officer (or their partner) or employee (or their partner) of any Framework Manager member organisation or to a person (or their partner) acting as an adviser to in connection with the selection of Bidders in relation to this procurement. Without limitation to the generality of the above obligation, any organisation that:
- directly or indirectly attempts to obtain information from any member, employee, agent or contractor of the Framework Manager concerning the process leading to the award of the contract (save as expressly provided for in the ITT; or
 - directly or indirectly attempts to contact any member, employee, agent or contractor of the Framework Manager concerning the process leading to the award of the contract (save as expressly provided for in the ITT; or
 - directly or indirectly attempts to influence any member, employee, agent or contractor of the Framework Manager concerning the conduct of the process leading to the award of the contract, or the structure of the procurement process, or the structure of the contractual opportunity, save where this occurs in a manner provided for in the ITT;
 - directly or indirectly canvasses any member, employee, agent or contractor of the Framework Manager concerning the process leading to the award of the contract (save as expressly provided for in the ITT;

may be disqualified from the procurement process by the Framework Manager in their absolute discretion. Where any organisation forming part of a bid submission is disqualified the entire bid submission shall be disqualified.

10. Collusive Tendering

10.1 Any organisation forming part of a bid submission must neither disclose to, nor discuss with any other potential Bidder, or Bidder (whether directly or indirectly), any aspect of any response to any procurement documents (including the ITT). Without limitation to the generality of the above obligation, any organisation that:

- fixes or adjusts the price included in its response to the ITT by or in accordance with any agreement or arrangement with any other bidder; or
- communicates to any person other than Framework Manager the price or approximate price to be included in its response to the ITT or information that would enable the price or approximate price to be calculated (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the response to the ITT or for the purposes of obtaining insurance or for the purposes of obtaining any necessary security); or
- enters into any agreement or arrangement with any other potential bidder that has the effect of prohibiting or excluding that potential bidder from submitting a response to the ITT or as to the price to be included in any response to be submitted; or
- offers or agrees to pay or give or does pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done any act or omission in relation to any other response to the ITT or proposed response to the ITT;

may be disqualified from the procurement process by the Framework Manager in their absolute discretion. Where any organisation forming part of a bid submission is disqualified the entire bid submission shall be disqualified.

11. Guarantees

11.1 If the successful Tenderer is a subsidiary Company within the meaning of S1159 of the Companies Act 2006 (as amended) it shall also provide to the Framework Manager within 28 days receipt of written acceptance of the Tender a Guarantee by its holding Company (as defined by the Companies Act 2006) to secure the due performance by the successful Tenderer of its obligations to the Contracting Authority

11.2 If the successful Tenderer shall fail to provide the Guarantee within the period specified in 11.1 above, the Framework Manager shall by written notice to the Tenderer be entitled to treat such failure as putting an end to the Framework Agreement between the Contracting Authority and the Tenderer, and the Tenderer, shall thereupon be liable to pay to the Framework Manager damages, for such failure of such sum as shall be equivalent to the difference between the total whole term contract price of the contract with the successful tenderer and the total whole term contract price of the contract offered by the second placed Tender received by the Framework Manager which at the date such notice is given is still open for acceptance by Framework Manager .

12. The Framework Agreement

- 12.1 This procurement exercise concerns the conclusion of a Framework Agreement under which a single Tenderer will be appointed to supply goods and services to client organisations on the terms agreed. A copy of a specimen Framework Agreement can be found in SCHEDULE B.
- 12.2 The specification SCHEDULE A and associated appendices, the terms and conditions at SCHEDULE B together with any special requirements will form the basis of the resulting Framework Agreement between the successful Bidder and the Contracting Authority. Please confirm your understanding of this statement by completing the “Form of Offer” attached SCHEDULE F.

13. Disclaimer

The information contained in this ITT is presented in good faith and does not purport to be comprehensive or to have been independently verified.

Neither the Framework Manager, or any of its members, nor any of their advisers accept any responsibility or liability in relation to its accuracy or completeness or any other information which has been, or which is subsequently, made available to any Bidder, any Relevant Organisation, bidder guarantors, their financiers or any of their advisers, orally or in writing or in whatever media.

Interested parties and their advisers must therefore take their own steps to verify the accuracy of any information that they consider relevant, but are not entitled to rely on any statement or representation made by Framework Manager, or any of its members or any of their advisers.

Nothing in this ITT is, nor shall be relied upon as, a promise or representation as to any decision by the Framework Manager in relation to this procurement. No person has been authorised by the Framework Manager, or their advisers or consultants to give any information or make any representation not contained in this ITT and, if given or made, any such information or representation may not be relied upon as having been so authorised.

Nothing in this ITT or any other pre-contractual documentation shall constitute the basis of an express or implied contract that may be concluded in relation to this procurement exercise, nor shall such documentation / information be used in construing any such contract. Each Bidder must rely on the terms and conditions contained in any contract when, and if, finally executed, subject to such limitations and restrictions that may be specified in such contract. No such contract will contain any representation or warranty in respect of this ITT or other pre-contract documentation.

The Framework Manager, accept no liability for any loss, liability, cost or expense (including legal expenses) incurred by any Bidder in preparing for or participating in this tender process, howsoever arising (whether under contract, tort or under any statutory provision or otherwise) including under any implied contract between Framework Manager and any Bidder arising by virtue of this tender process.

In this paragraph, references to the ITT include all information contained in these documents and any other information (whether written, oral or in machine-readable form) or opinions made available by or on behalf of Framework Manager or any of its

advisers or consultants in connection with the ITT, or any other pre-contract document.

The Framework Manager reserve the right to change the basis of, or the procedures (including the timetable) relating to, the procurement process, to reject any, or all, of the ITT bids, in respect of the procurement.

Framework Manager shall not be obliged to appoint any of the Bidders and reserves the right not to proceed with the procurement, or any part thereof, at any time.

14. Bidder changes

Bidders are subject to an ongoing obligation to notify the Framework Manager of any material changes in their identity, financial or other circumstances. This includes, but is not limited to, changes to the identity of partner organisations or sub-contractors or the ownership or financial or other circumstances thereof and solvency of the Bidder. The Framework Manager should be notified of any material change as soon as it becomes apparent.

Failure to notify the Framework Manager of any material changes or to comply with any of these provisions may lead to a Bidder being liable for disqualification from the procurement. The Framework Manager reserves the right to refuse to allow such a change and to disqualify any Bidder from further participation in the procurement process. The Framework Manager may take into account whether such change is material to the delivery of the contract.

15. Procurement Costs

Each Bidder will be responsible for its own costs and expenses (including legal costs and expenses) incurred throughout each stage of the procurement process. Framework Manager will not be responsible for any costs incurred by any Bidder or any other person through this process, including but not limited to any exit or de-commissioning costs.

The Framework Manager will not be responsible for any costs and expenses (including legal costs and expenses) that result from delay to this procurement process or from the abandonment of this procurement process.

16. Publicity

No publicity regarding this procurement process or the award of any contract will be permitted unless and until Framework Manager has given express written consent to the relevant communication and has approved the detail of any such communication. Without prejudice to the generality of the foregoing, no statements shall be made to the media regarding the nature of any response to a PQQ or this ITT relating to this process, its contents, any ongoing dialogue between Framework Manager and any Bidder or any proposals relating to it, without the prior written consent of Framework Manager.

17. IPR

All procurement documentation issued in connection with this procurement shall remain the property of Framework Manager and shall be used by the Bidder only for the purposes of this procurement.

18. Law and Jurisdiction

Any dispute (including non-contractual disputes or claims) relating to this procurement shall be governed by and construed in accordance with the laws of England and Wales.

The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this procurement (including non-contractual disputes or claims).

19. Prerequisites ☒ (only applicable to the tender if this box is checked, open procedure only and must be referenced in the OJEU notice)

Bids that fail to meet the minimum standard as denoted in SCHEDULE C may be rejected. This includes those that are ineligible to tender on a ground specified in regulation 57 of the Public Contract Regulations 2015. Bidders that fail to satisfy the Authority of meeting the minimum standards set out both economically and technically will be deemed ineligible and not have their bid further assessed.

It is recommended the bidders assess SCHEDULE C and satisfy themselves of their own compliance before completing the Technical and commercial response schedules.

12. CONTRACT AWARD PROCESS AND EVALUATION CRITERIA

The scope of this tender is described in detail within SCHEDULE A FRAMEWORK AGREEMENT SPECIFICATION.

The Framework will be awarded on the basis of the most economically advantageous offer which will be evaluated on the following:

Criteria	Weighting %
Technical evaluation	80%
Commercial evaluation	20%
Total	100%

1. STEP 1: PREREQUISITES

- 1.1 Applicants must meet all of the requirements of SCHEDULE C. Any Applicants which do not meet all of the selection requirements set out in the prerequisites as found in SCHEDULE C (or (1) submit their European Single Procurement Document, which must be completed in full (together with any further information which is required in the prerequisites but not in the European Single Procurement Document); or (2) explain to The Countess of Chester Hospital Commercial Procurement Services' satisfaction why they do not perhaps through the use of self-cleaning evidence) will be treated as ineligible for the Framework Agreement, their Tender will not be evaluated further and the Applicant will be informed of their rejection at this stage.
- 1.2 Applicants who have passed prerequisites will move to step 2.

2. STEP 2: EVALUATION OF TECHNICAL INFORMATION

- 2.1 Technical information will be evaluated using the criteria and weightings below:

Technical Criteria	Weighting %
Q01 Gas Procurement Methodology	18%
Q02 Gas Procurement Restrictions	15%
Q03 Max & Min Volume Requirement	6%
Q04 Contract Implementation	5%
Q05 Supplier Contact Point	7%
Q06 Bespoke Strategies	5%
Q07 Billing	5%
Q08 Payment Terms	6%

Q09 Service Level Agreement	5%
Q10 Added Value Services	4%
Q11 Automated Meter Reading (AMR) Services	4%
Total	80%

2.2 Applicants are required to answer a number of questions which are linked to the criteria listed above. These are found in SCHEDULE D. The scoring methodology for each criterion is detailed in SCHEDULE D Technical schedule. The methodology provided is for information only, and will be used solely by the Framework Manager for the evaluation of tender returns. This methodology will apply where qualitative information is provided.

2.3 The evaluation of Technical information will be undertaken once, and the resulting score used in the calculation of the final score described in step 4 below.

3. STEP 3: COMMERCIAL EVALUATION

3.1 The commercial evaluation is based on information submitted by the Tenderer within SCHEDULE E.1. This will be evaluated using the process and weighting below.

Commercial evaluation	Weighting %
a) Supplier Management Charge	14%
b) Risk (balancing) Charge	
c) Additional Information	Not evaluated
d) Charges for settlement trades (based on 1,000 therm trades)	2%
e) Charges for fixing and unfixing (based on 1,000 therm trades)	2%
f) Automatic Meter Reading Costs	2%
Total	20%

3.2 Applicants are required to provide a number or prices which are linked to the criteria listed above. These are found in SCHEDULE E.1. The scoring methodology for each criterion is detailed in SCHEDULE E – Commercial Schedule.

3.3 The evaluation of commercial information will be undertaken once, and the resulting score used in the calculation of the final score described in step 4 below.

4. STEP 4: CALCULATION OF FINAL SCORES AND AWARD OF FRAMEWORK AGREEMENT

4.1 Once the Commercial and Technical criteria have been assessed, the final scores will be calculated as follows:

The Applicant's Technical score, as calculated in step 2 will be added to the financial score as calculated in step 3, to produce a final score for each Applicant.

The Applicant with the highest final score will be nominated for award to the Framework Agreement.

13. LIST OF APPENDICES

Schedule	Title	Contents	Action
A	Framework Agreement Specification	Specification of the subject matter of the procurement	
B	Framework Agreement (including all Schedules and Appendices)	- NHS FRAMEWORK AGREEMENT FOR THE SUPPLY OF SERVICES - APPENDIX A-CALL OFF TERM AND CONDITIONS FOR THE SUPPLY OF SERVICES	Bidders are required to read and confirm commitment by submitting a signed unamended copy of SCHEDULE F – Form of Offer.
C	Pre-requisites	Mandatory/Discretionary and Minimum requirements of all Applicants	Bidders are required to complete all questions in prerequisites in SCHEDULE C. Alternatively; Bidders may submit their European Single Procurement Document, which must be completed in full. This document once completed should be uploaded as part of tender response to the e tendering portal.
D	Technical Schedule	Technical criteria to be assessed within this document	Bidders are required to submit a response to all questions within this schedule. This response should be uploaded as part of tender response to the e tendering portal.
E	Commercial Schedule	Commercial offerings to be provided within Bidders tender response	Bidders are required to read and understand this document before completing SCHEDULE E.1 Commercial Response.
E.1	Commercial Response	Template for completion	Bidders are required to complete all sections of this schedule. This document once completed should be uploaded as part of tender response to the e tendering portal.
F	Form of Offer	Formal Commitment of Bidder to Tender Offer	An unamended copy must be signed by an appropriate person with the authority to commit the Bidder to the Tender offer and the Framework Agreement. This

			document is in PDF format and should be printed, signed (electronic signatures will not be accepted) witnessed and dated, scanned and attached to the response submission via the e tendering portal.
G	Certificate of Non Canvassing		This document once completed should be uploaded as part of tender response to the e tendering portal.
H	Bodies that can utilise the Framework Agreement	To provide bidders with information on potential users of the Framework Agreement	This document is provided for information only.
I	Proposed Gas Purchasing Agreement	To provide bidders visibility of the agreement to be signed between the Energy Partner and the Successful bidder	Provided for information only
J	Contractual Relationships	To provide bidders with information on the contractual relationships between the parties	Provided for information only