



**FALMOUTH**  
TOWN COUNCIL

## Volume One (1)

**Contract for:  
Falmouth Boardwalk Scheme, Swanvale,  
Falmouth**

### REQUESTION FOR QUOTE

**Background Information, Instructions and  
Conditions of Quotation**

**Applicants should read this Volume first**

**If you would like this information in another format please email**

**[simonpenna@falmouthtowncouncil.com](mailto:simonpenna@falmouthtowncouncil.com)**

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# Information and Instructions

## Section 1 – About the Council

### 1.1 The Council

- 1.1.1 The Client for this Project and in effect Contracting Authority is Falmouth Town Council (The Town Council). The Town Council was formed on local government reorganisation in 1974 from the former Falmouth Borough Council. The town received Royal Charter in 1661.
- 1.1.2 Falmouth is formally twinned with Douarnenez in Brittany and Rotenburg (Wümme) in Germany and is encouraging informal cultural links with Villagarcia in Spain.

**Total electorate 17,625.**

**Total population 21,385.**

**Area 776 hectares.** See also: <https://www.falmouthtowncouncil.co.uk/>

## Section 2 – About the Quotation

### The Quotation

- 2.1.1 The quotation is seeking the appointment of a principle contractor for the creation of a boardwalk footpath in Swanvale, Falmouth. The works are for the supply and installation of decking as set out in the accompanying specification.
- 2.1.2 Please note the maximum budget for the project is £58k.
- 2.1.3 The Quotation consists of the following documents:
- i. Volume 1 – Information Conditions of Quotation (this document)
  - ii. Volume 2 – Applicant's Offer (including general preambles and specification)
  - iii. Schedule 1 – Price / Schedule 2 - Supporting drawings

### 2.2 Contract Period

- 2.2.1 It is intended that any resultant Contract shall commence as soon as practically possible after receipt of formal letter of award as may be agreed.
- 2.2.2 Subject to agreement of the Council and that prevailing weather conditions are acceptable the contract period to be four / five weeks with the aim of the works starting on or around April 2021. NOTE: If you would not be able to complete in this timeframe, please provide a completion date, however, please note the Council reserves the right to award to another Contractor if this date is not within a suitable timeframe.

### 2.3 Insurance Levels

#### 2.3.1 Employer's Liability Insurance

The Authority's minimum requirement for Employer's Liability Insurance is £5m

#### 2.3.2 Public Liability Insurance

The Authority's minimum requirement for Public Liability Insurance is £5m.

## **Section 3 - About the Procurement Process**

### **3.1 Procurement Procedure**

3.1.1 The Authority is issuing this Request for Quotation and is inviting expressions of interest and Bids from Applicants in response to the published advertisement. The 'Open' procurement process has been selected by the Authority for this below threshold tender in line with the Authority's Contract Procedure Rules and means that all Applicants that submit a Bid shall be evaluated in accordance with the criteria and process outlined within Volume Two (2) Applicant's Offer and the information contained within it shall be used by the Authority as the means to make a Contract award decision.

### **3.2 Instructions for Completion**

3.2.1 All response must be written in English and costs submitted are to be presented in Pounds Sterling, exclusive of VAT, but inclusive of all other costs where not stated in the Pricing Document.

3.2.2 Where details are provided by the Applicant in literature that they submit in connection with the response, they must ensure that clear cross-references are given to the Council.

3.2.3 The following documents must be completed, signed and returned with the Quotation:

- Certificates and Declarations
- Volume 2 – Pass / Fail Questions
- Pricing Schedule

3.2.4 Any information relating to the Council and supplied by the Council shall be kept by the Applicant in strictest confidence.

3.2.5 Applicants are advised that the Council is not bound to accept the lowest Quotation submitted, nor to reimburse any expense incurred during the process.

### **3.3 Clarification Process**

3.3.1 All clarification enquiries should be directed to the Authorised Representative shown below and by no later than the date indicated in the Procurement Timetable detailed elsewhere in this document.

3.3.2 Applicants are advised that where such enquiries have been made, and it is appropriate to do so, the Council will provide access to all Applicants and interested parties a copy of the Clarification and the written reply, with anonymity preserved.

3.3.3 The process for providing updates on Clarification will be via publishing updates on the Council's website where the Quotation is published and via Contracts Finder. In addition, Applicants and interested parties are asked to provide their contact details to the Authorised Representative whereby the Council will endeavour to provide relevant updates to the contact point provided.

### 3.4 Authority Representatives

- 3.4.1 No person in the Authority's employ or other agent, except as so authorised by the Authority Authorised Representative, has any authority to make any representation or explanation to Applicants as to the meaning of the Contract or any other document or as to anything to be done or not to be done by Applicants or the **successful** Applicant or as to these instructions or as to any other matter or thing so as to bind the Authority.

#### Authority Authorised Representative contact details:

Simon Penna Grounds & Facilities Manager:  
Email: simonpenna@falmouthtowncouncil.com

### 3.5 Format of Response / Submission

- 3.5.1 The response must be delivered by no later than the time and date stated on Volume 2 Applicants Offer – to the listed Authorised Officer.
- 3.5.2 When submitting your response, please be aware of the speed of your Internet connection, your system configuration and general web traffic that may impact on the time required to complete the transaction. Loading and submitting of the Quotation must be completed by the final submission time.

### 3.6 Validity Period

- 3.6.1 Your response must remain valid for acceptance for a period of 90 days from the return date.

### 3.7 Procurement Timetable

- 3.7.1 This procurement will follow a clear, structured & transparent process, to ensure that all Applicants are treated equally. The key dates for this procurement are anticipated as:

Procurement Stage	Applicable to	Dates
Publication of advertisement / Docs issued	ITT	19.02.2021
Bid Deadline (15:00 hrs on)	ITT	19.03.2021
Notification of Contract award	ITT	26.03.2021
Contract start	ITT	April 2021
Contract End date	ITT	Est. May 2021

- 3.7.2 The Authority reserves the right to change the above timetable and Applicants will be notified accordingly if there is a change.

### 3.8 Selection Questionnaire

- 3.8.1 Selection is the process by which the Council is able to assess the suitability of the Applicant to undertake work on behalf of the Council. The questions asked within Selection Questionnaire are compliant with Regulation 57 of the Public Contracts Regulations 2015.
- 3.8.2 The Council requires all Applicants to complete all sections of the Selection Questionnaire included within Volume Two (2) Applicant's Offer and submit in accordance with the submission requirements outlined within this Volume One (1). Any Applicants who do not fully meet the requirements of or misrepresent any information or evidence provided in relation to Regulation 57 may be excluded from further consideration.
- 3.8.3 The Applicant's responses to the Selection questions should be succinct, concise and as brief as possible and self-contained not referring to additional documents or other supporting statements other than the European Single Procurement Document (ESPD). The Council will accept submission of the following parts/sections of the ESPD as part of any submission:
- i. ESPD Part II (A,B,C,D)
  - ii. ESPD Part III (A,B,C,D)
- 3.8.4 Where Applicants choose to submit all or any part of the ESPD in place of an element required in the Selection questions this must be clearly identified and referenced by the Applicant. Any ESPD responses will be assessed in the same way as any other response.
- 3.8.5 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.
- 3.8.6 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

- 3.8.7 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.
- 3.8.8 The Council proposes to use the following criteria to evaluate Selection Questionnaire submissions:

Section	Title	Type of Question	Weighting (%)
Part 1	Potential supplier information	Information only	Not evaluated and scored
Section 2	Insurance	Pass/Fail	In the event of a supplier being awarded a 'fail', the remainder of their submission will not be

			evaluated and they will be eliminated from the process.
<b>NOTE ON EVALUATION:</b> The Council would be seeking confirmation that the required insurance and levels of insurance exist, and that they would be maintained during any contract that would be awarded, or in the case that they do not exist currently that the Contractor would firstly be able to obtain the required levels of insurance and would if successful in the Quotation actually obtain that insurance. If this cannot be demonstrated, then this would be deemed a “fail”			
Section 3			
	Health & Safety Management	Pass/Fail	In the event of a supplier being awarded a ‘fail’, the remainder of their submission will not be evaluated and they will be eliminated from the process.
<b>NOTE ON EVALUATION:</b> The Council will be looking for evidence to support that the Applicant has robust processes are in place to ensure Health and Safety arrangements are in place and as such the Applicant has a positive track record in ensuring Health and Safety in a relevant based industry / sector.  Where the Applicant has had previous situations of failings and remedial matters around Health and Safety, the Council will want to understand the severity of these failings, what lessons have been learned and what remedial measures / lessons have been put in place. Where the failings are deemed significant and / or the Applicant cannot provide assurances to future practices then this shall be deemed a “fail”.			
Section 4	Technical and professional ability	Pass/Fail	In the event of a supplier being awarded a ‘fail’, the remainder of their submission will not be evaluated and they will be eliminated from the process.
<b>NOTE ON EVALUATION:</b> The Council will be looking for evidence of a Contractor who can demonstrate experience in the successful delivery of similar contracts to clients through formal contract arrangements. If this cannot be demonstrated, then this would be deemed a “fail”			

### Information Only Questions

- 3.8.9 These must be completed but will be used for information purposes only and not scored. However, failure to provide sufficient information as requested may still lead to disqualification for non-compliance. It is important that where a question does not apply this is recorded as ‘Not applicable’ or ‘None’ in the spaces provided.

## 3.9 Evaluation Approach

- 3.9.1 Bids will be evaluated in one part looking at Award based on Pass / Fail questions and then Price. All those who are able to positively progress through the Pass / Fail will then be assessed on the Commercial / Price Evaluation. In the event of any provider not being able to Pass all of the questions will not have their bid further evaluated.

### 3.10 Commercial / Price Evaluation

3.10.1 The Pricing Document contains the details and requirements relating to the price element of this RFQ. This may include, but is not limited to, the inclusion of specific instructions, documents, templates, pricing structures, etc for the Applicant's to return as part of their response.

3.10.2 Price shall be evaluated using the following scoring methodology, with the Bidder's prices being scored on a comparative basis. For example:

3.10.3 This will be done by recording the lowest price submitted by any of the Bidders, then for each Quotation, dividing this lowest price by the bidders' price and then multiplying it by the allocated weighting (e.g. 100% if that is the percentage chosen by the Council). The equation set out below explains this in a simpler way:

$$(\text{Lowest Price} \div \text{bidder's price}) \times \text{Weighting} = \text{Score}$$

3.10.4 To accompany the above there is a worked example below to help explain this. The example assumes only 3 prices were submitted and that price was awarded 100% of the overall marks (i.e. quality was awarded 100%):

	L	W	Bidder 1		Bidder 2		Bidder 3	
Evaluation Elements	Lowest Submitted price (£)	Weighting %	Quoted Price	Score	Quoted Price	Score	Quoted Price	Score
Total Contract Sum	£65,000	100	£75,000	86.6	£65,000	100	£85,000	76.5
<b>Total Score</b>		<b>100</b>		<b>86.6%</b>		<b>100</b>		<b>76.5</b>

## **Section 4 – Conditions of Quotation**

### **4.1 Authority's Warranties and Disclaimers**

- 4.1.1 The fact that an Applicant has been invited to bid does not necessarily mean that the Applicant has completely satisfied all the Authority's criteria and the Authority may require further information as appropriate and assess this as part of the evaluation process.
- 4.1.2 The Applicant shall have no claim whatsoever against the Authority in respect of such matters and in particular (but without limitation) the Authority shall not make any payments to the successful Applicant save as expressly provided for in the (Call-Off) Contract and (save to the extent set out in the (Call-Off) Contract) no compensation or remuneration shall otherwise be payable by the Authority to the Applicant in respect of the services by reason of the specification being different from that envisaged by the Applicant or otherwise.
- 4.1.3 Whilst the information in this document has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. With the exception of statements made fraudulently, the Authority does not accept any liability or responsibility for the adequacy, accuracy or completeness of such information. The Authority does not make any representation or warranty (express or implied) with respect to the information contained in the document or with respect to any written or oral information made or to be made available to any Applicant or its professional advisors.
- 4.1.4 Each Applicant to whom the document is sent must make its own independent assessment of the proposed terms after making such investigation and taking such professional advice as it deems necessary to determine its interest in the Contract.
- 4.1.5 This document is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded the Applicant to bid or enter into any other contractual agreement. Under no circumstances shall the Authority be liable to an Applicant in respect of any costs incurred by an Applicant (whether directly or otherwise) in relation to the preparation or submission of an offer.

### **4.2 Bribery Act**

- 4.2.1 The Bribery Act 2010 requires Public Bodies to ensure that they have procedures in place to prevent bribery by persons associated with them. As part of this responsibility all Applicants should make themselves aware of the obligations set out at <http://www.justice.gov.uk/legislation/bribery>.

### **4.3 Public Services (Social Value) Act**

- 4.3.1 The Public Services (Social Value) Act 2012 brings in a statutory requirement for public authorities to have regard to economic, social and environmental well-being in connection with public services contracts in a way that is relevant to the subject matter of the contract and compliant with the Public Contracts Regulations 2015. Applicants must note that they may be asked to comply with particular requirements based around such considerations as part of the selection and/or award process.

## **4.4 Freedom of Information Act 2000 and Environmental Information Regulations 2004 and Data Protection Act 2018**

- 4.4.1 The Authority is subject to the provisions of the Freedom of Information Act 2000 (“FOIA”) and the Environmental Information Regulations 2004 (“EIR”). This provides that anyone can ask the Authority for any information held by it, or on its behalf and, unless an exemption applies, the information must be supplied. This means that all the information which an Applicant has provided in respect of this procurement and may provide in future to the contracting authorities will be subject to the FOIA or EIR.
- 4.4.2 In the absence of special circumstances, any part of the procurement documentation may be regarded as not subject to any exemptions, and therefore capable of being disclosed under the FOIA or EIR.
- 4.4.3 In respect of any completed Bid, where the Authority is required to consider whether any information contained therein should be disclosed further to the FOIA, it will be necessary to consider whether any exemption applies. Where the Applicant considers that any of the information contained in its Bid is subject to any exemption, this shall be stated in the submitted Bid at Volume Two (2) Applicant’s Offer and Schedule 3 Price Schedule with an explanation setting out what exemption it considers applicable and the reasons for it. The Authority may have regard to this explanation when considering its response to FOIA requests.
- 4.4.4 The attention of Applicants is drawn to Section 43 of the Freedom of Information Act Guidance ([http://www.ico.gov.uk/for\\_organisations/guidance\\_index/freedom\\_of\\_information\\_and\\_environmental\\_information.aspx](http://www.ico.gov.uk/for_organisations/guidance_index/freedom_of_information_and_environmental_information.aspx)) which provides that information may be exempt information if it constitutes a trade secret, or if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the Authority). Applicants are further advised that, if the Authority considers this exemption applies, it will then be necessary for the Authority to determine whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **4.5 Transparency in Local Government**

- 4.5.1 As part of the transparency agenda, the Government has made the following commitments for procurement and contracting.
- 4.5.2 Local authorities must publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000.
- 4.5.3 The Authority may also publish the contract entered into with the successful Applicant. In making publication the Authority intends to follow guidance set out in A practitioner’s guide to publishing information in accordance with the local government Transparency Code 2015.

## **4.6 GDPR and Data Protection Act 2018**

- 4.6.1 The Applicant and Authority shall comply with the provisions of the EU General Data Protection Regulation (GDPR) and the DPA 2018 where it applies in regards to any contract resulting from this procurement procedure.

## **4.7 Counter Terrorism and Security Act 2015**

4.7.1 Section 29 of the Counter Terrorism and Security Act 2015 places a duty on Local Authorities in the performance of their duties to have “due regard to the need to prevent people from being drawn into terrorism”. The Act requires the Authority to ensure that its procedures help to ensure a better understanding of radicalisation so that strategies can be put in place to deal with it. As part of this responsibility all Applicants should make themselves aware of the obligations set out at <http://www.legislation.gov.uk/ukpga/2015/6/contents>.

## **4.8 Modern Slavery Act 2015**

4.8.1 Regulation 19 of the Modern Slavery Act 2015 incorporates the offences under Section 1, 2 or 4 of the Modern Slavery Act 2015 into Regulation 57 of the Public Contract Regulations as grounds for mandatory exclusion at selection stage. Section 54 of the Act also requires businesses which meet certain criteria to prepare and publish a slavery and human trafficking statement.

4.8.2 As part of this responsibility all Applicants should make themselves aware of the obligations set out at <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>.

## **4.9 Late Payment Directive 2015**

4.9.1 The Authority must maintain compliance with the following legislation:

- Late Payment of Commercial Debts (Interest) Act 1998
- Late Payment of Commercial Debts Regulations 2002
- Late Payment of Commercial Debts Regulations 2013

4.9.2 The latter set of Regulations implements an EU Directive on late payment (Directive 2011/7/ EU). In line with this directive, the Authority requires that all contracted suppliers pay their sub-contractors within 30 days.

## **4.10 Study of the Document**

4.10.1 Documents issued by the Authority to a prospective Applicant must not be passed on to a third party without the express permission of the Authority.

4.10.2 Applicants are expected to read, understand and agree to the Volumes (inc. the terms & conditions) of the document as they will in their entirety form part of the resultant Contract.

4.10.3 The Applicant is required to obtain all information as it may require them to make a Bid. The Applicant shall be deemed to have satisfied itself as to the correctness and sufficiency of its Bid. No claims whatsoever shall be entertained arising out of the Applicants failure to study the documents; the information provided will be relied upon as being true and accurate and will form part of the Contract with the successful Applicant. If any of the information given by your organisation within the document is subsequently identified as being inaccurate, this may exclude your organisation from further consideration.

4.10.4 The Applicant's price shall (except in so far as it is otherwise provided in the Contract) cover all obligations under the (Call-Off) Contract and Applicants shall also be deemed to have obtained for itself all necessary information as to risks, contingencies and any other

circumstances which might reasonably influence or affect its Bid.

4.10.5 The Applicant is responsible for all costs, expenses and liabilities incurred by the Applicant in connection with preparing its Bid.

## **4.11 Consortia and Sub-contracting**

- 4.11.1 Where an Applicant wishes to make its application as a Consortium or utilising sub-contractors the Authority advises the group of organisations to select a Lead Applicant in whose name the Bid is to be submitted.
- 4.11.2 The Lead Applicant is advised to confirm precisely what the arrangements are within its Bid including providing the names of all of the organisations to be involved, the nature and extent of their involvement and proposals regarding the structure and management of the Consortium or arrangements. Such details should be provided within the Selection Questionnaire where appropriate and should enable the Authority to assess the overall Consortium or core supply base. All members of the consortium are required to provide the information required in all sections of the Selection Questionnaire.
- 4.11.3 The Lead Applicant should provide details of the actual or proposed percentage shareholding of the constituent members within the Consortium or the exact nature of and degree to which the Supplies/Services or Works will be sub-contracted.
- 4.11.4 Applicants that wish to bid as a Consortium or sub-contractor are discouraged from also making their own individual application or from participating in Consortia or providing sub-contracting arrangements for multiple Lead Applicants.
- 4.11.5 The Authority recognises that arrangements in relation to Consortia and sub-contracting may (within limits) be subject to future change. Applicants should therefore respond to this opportunity in the light of the arrangements as they are currently envisaged. Applicants are informed that any future change in relation to Consortia and sub-contracting must be notified to the Authority during the procurement process or in the event that they are the successful Contractor and, in any event, as soon as that change is known.
- 4.11.6 The Authority may then make a further evaluation of that Applicant or Contractor by applying the Selection criteria to the new information provided. In the event that the Authority's evaluation of the new information results in an outcome that is different from the original, the Authority reserves the right to deselect that Applicant from the process on those grounds and the Applicant shall be notified accordingly. As such, the Lead Applicant shall undertake to ensure that any change to its Consortium or sub-contractors shall not have a negative impact upon the arrangements.
- 4.11.7 If a Consortium is not proposing to form a corporate entity, full details of alternative proposed arrangements should be provided. Where the proposed Lead Applicant is a special purpose vehicle or holding company, information should be provided regarding the extent to which it will call upon the resources and expertise of its members.
- 4.11.8 Please note that the Authority reserves the right to require a successful Consortium to form a single legal entity in accordance with Reg. 19 of the Public Contracts Regulations 2015.
- 4.11.9 Where an Applicant requires additional time in the procurement process to establish relationships with suitable consortia partners it is advised to notify the Authority at the earliest convenience and request an extension to the procurement timescales. Applicants may do this through the messaging facility described at the clarification section.

## **4.12 Ownership**

4.12.1 The procurement documentation and all copies thereof are and shall remain the property of the Authority and save for the purposes of the Bid, must not be copied or reproduced in whole or in part and must be returned to the Authority upon demand.

## **4.13 Discrepancies, Omissions and Enquiries concerning the Documents**

4.13.1 Should the Applicant find discrepancies in, or omissions from, the procurement documents, the Authority shall be immediately notified by the Applicant:

4.13.2 Should any additions or deletions arising from such notification, or in the event that the Authority requires an amendment to be made, these will be issued by the Authority to all Applicants and will be deemed to form part of the documentation.

4.13.3 The Authority reserves the right to extend any date of submission accordingly.

## **4.14 Terms and Conditions**

4.14.1 The applicable terms and conditions accompany this Quotation. Applicants will be required to declare that they have read and understood and will comply with said clauses as part of the submission process.

4.14.2 Any queries regarding the terms and conditions, including an Applicant's request to suggest alternative drafting on some or all of the clauses contained therein, may be raised during the clarification period and in accordance with the Clarification Process. The Authority requests that Applicants' comments, queries and/or suggestions are clear and precise, otherwise they may be rejected.

4.14.3 Where the Authority is in agreement with any changes to the terms and conditions proposed during that period it will update and republish the relevant documentation and all Applicants will be notified accordingly. The Authority reserves the right to extend the submission deadline date in order to allow Applicants sufficient time to take these changes into account. Where the Authority is not in agreement with any changes those proposals shall have been judged to have been rejected and the Authority shall provide an explanation to the Applicants as to the reason/s why it has been judged so.

4.14.4 When the period for clarification has closed Applicants shall no longer be allowed to raise any further queries regarding the terms and conditions and the Applicant shall not be permitted to reserve their right to comment or negotiate upon the terms and conditions at any point thereafter.

4.14.5 Applicants are required to agree to the terms and conditions associated with this procurement opportunity as part of the submission process and the Authority reserves its right to class any Bid submitted to the contrary as non-compliant. All such Applicants shall be judged to have failed with their submitted Bids, shall be evaluated no further and notified accordingly.

4.14.6 The Contractor(s) shall accept the terms and conditions as they are drafted in the final Contract. No further negotiation shall take place nor changes allowed. Where a Contractor disputes this position the Authority reserves the right to withdraw the Contract award and class the submission as non-compliant.

## **4.15 Clarification and Circular Advices**

- 4.15.1 Upon commencement of the procurement process the Applicant shall not approach any member of the Authority in relation to the opportunity, other than by using the agreed contact email.
- 4.15.2 Applicants should note that unless your question is innovation based, responses will be provided to all Applicants. Where a question is of a commercially confidential nature and the Applicant does not wish it or the associated answer to be shared with other Applicants, the Applicant shall state this clearly within its question. The identity of Applicants raising any questions will remain confidential.
- 4.15.3 Relevant questions together with the answers will be posted on Contracts Finder and it will be the requirement for the Applicant to check any updates.
- 4.15.4 When Applicants first access the procurement documentation they should satisfy themselves that they have seen any messages posted. It is in the Applicant's interest to visit the messages area regularly as clarifications may fundamentally affect their planned response.
- 4.15.5 If during the period the Authority or Awarding Authority, in the case of a Framework Agreement, issues any circular letters to Applicants in order to clarify or alter part of the documents then such circular letters shall form part of the (Call-Off) Contract and Applicants shall be deemed to have taken account of them in preparing their Bid. Applicants shall promptly acknowledge any circular letters that they receive.

## **4.16 Completion of the Document**

- 4.16.1 For the avoidance of doubt all of the sections included within Volume Two (2) Applicant's Offer, Price Schedule must be completed and submitted by the Applicant in order to be considered by the Authority as a fully complete and official Bid.
- 4.16.2 Any Bids made omitting any of the sections, or any of the requirements therein, will be considered as incomplete and may be disqualified from further evaluation and therefore exclusion from the procurement process.
- 4.16.3 Documents should only be completed and submitted in the format in which they currently appear. It is essential that Applicants do not re-format or re-brand any of the procurement documentation in accordance with their own standards on formatting. An example of this is if the documents are issued in Microsoft Word format, the Authority requires them to be returned in the same format.
- 4.16.4 Applicants will answer all appropriate questions and sign (if possible) where specified. Applicants will clearly reference its replies and any supporting documentation.
- 4.16.5 Any pro-formas must be fully completed even if your organisation has previously submitted Bids to the Authority. It is not sufficient to cross-refer to previous responses.
- 4.16.6 Where an Applicant requires assistance in completing the documents or meeting the submission requirements it is advised to notify the Authority at the earliest convenience and request additional support, to include meeting with the Authority Authorised Representative.

## **4.17 Applicant Site Visits**

4.17.1 The Applicant may visit the sites prior to completing its offer to ensure that it is fully familiar with the site locations, where relevant. The information in the attached schedules is given as an indication of the general requirements of the Contract. Claims on the grounds of lack of knowledge of site locations/conditions will not be accepted by the Authority.

## **4.18 Alternatives and Variations**

- 4.18.1 Innovative offers may be made in addition to making a full and complete Bid unless otherwise stated. The submission of an alternative or variant Bid will not be considered if the Applicant fails to make a compliant Bid in the prescribed format.
- 4.18.2 Should the Applicant wish to offer a variation or alternative Bid, including innovations to the Specification, please complete the Bid as described. This will constitute the 'compliant Bid'.
- 4.18.3 The Applicant's alternative or variant Bid should be prepared separately and submitted as such, giving clear details of your organisation's departure from the compliant Bid.
- 4.18.4 Applicants may submit alternative or variant Bids in instances where it believes it is able to offer an innovative solution to a 'traditional' specification or where elements of its proposed service delivery deviate from the specification and/or procurement requirements such that this may render an Applicant's Bid as non-compliant.

## **4.19 Return of Document**

- 4.19.1 Documents must be returned in the correct and proper process for submitting the Applicant's Bid electronically. All Bids shall be submitted via the email address highlighted.
- 4.19.2 Applicants will not email their Bids directly to any named person(s) within the Authority.
- 4.19.3 Applicants will not send their Bids to the Authority in a paper or other 'hard' format unless specifically requested to do so within the associated bid documentation.
- 4.19.4 It is the Applicant's responsibility to ensure that its Bid is submitted prior to the deadline date/time.
- 4.19.5 Any submissions that do not accord with the guidelines set out above shall be considered as non-compliant and will be treated as such.
- 4.19.6 Submissions must be received in advance of the deadline in order to qualify as timely offers. As such, Applicants are urged to make their submission well in advance of the stated deadline in order to avoid such issues as technical difficulties with the electronic system that may be due to the high volume of traffic attempting to submit offers, for example.
- 4.19.7 Submissions made after the date and time specified on the documents or to a different address, electronically or otherwise, will not be considered under any circumstances.

## **4.20 Applicant's Warranties**

- 4.20.1 In submitting their Bid the Applicant warrants and represents and undertakes to the Authority that it has not done any of the acts or matters referred to in Regulation 57 of the Public Contracts Regulations 2015 and has complied in all respects with the requirements;
- it has full power and authority to enter into the Contract and provide the Supplies/Works or Services will be requested produce evidence of such to the Authority;
  - it is of sound financial standing and the Applicant and its partners, directors, officers and employees are not aware of any circumstances (other than such circumstances as may be disclosed in the audited accounts or other financial statements of the Applicant submitted to the Authority) which may adversely affect such financial standing in the future.

## **4.21 Evaluation of Bids**

- 4.21.1 All Bids will be treated equally and assessed with transparency throughout the evaluation process. The successful offer(s) will be that which achieves the highest score within a best value framework (optimum combination of whole-life costs and quality) in line with the best value principles of Most Economically Advantageous Tender (MEAT).
- 4.21.2 The evaluation process is a critical part of the procurement process and is the means by which the Authority is able to assess to whom the Authority wishes to select to progress to the next stage of this procurement process and/or award the Contract.
- 4.21.3 The information disclosed by Applicants in its Bid will be used for the purposes of evaluation and shall form part of the resultant Contract.
- 4.21.4 Any responses to any of the Selection or Award questions or any other part of your Bid that are later found to be incorrect may lead to you being exempted from this procurement process or any future procurement process lead by the Authority and could cause the termination of any resultant Contract.

## **4.22 Applicant's Price**

- 4.22.1 The price offered by the Applicant shall be firm and fixed for the duration of the Contract. Any percentage discounts that may be applied must be detailed by the Applicant in its Bid. Price variation during the Contract term will be by negotiation only via formal performance review meetings. Any price variations will not take effect until they have been mutually agreed by both Authority and Applicant and the former receives confirmation in writing from the latter.
- 4.22.2 All prices submitted shall be in pounds sterling and shall be exclusive of Value Added Tax (VAT).
- 4.22.3 The Applicant's price will be evaluated in accordance with the scoring methodology and weightings as set by the Authority and declared within Volume Two (2) Applicant's Offer and Schedule 3 Price Schedule.

## **4.23 Errors and Omissions in the Applicant's Bid**

4.23.1 If the Authority discovers errors or omissions in the Bid, the Applicant may be required to justify the price or item(s) concerned. Any price adjustments to the Bid made by agreement between the parties concerned shall be confirmed in writing by the Applicant to the Authority before final acceptance of the Bid.

## **4.24 Abnormally Low Bids**

4.24.1 In the event that the Authority receives a Bid which is abnormally low, in accordance with Regulation 69 of the Public Contracts Regulations 2015, it shall require the Applicant to explain in writing the price or cost proposed in the submission. The Authority shall assess the information provided by the Applicant and may reject the Bid where the evidence supplied does not satisfactorily account for the low level of price or costs proposed.

## **4.25 Authority Site Visits**

4.25.1 The Authority reserves the right to pay a site visit to short listed Applicant's premises and/or exemplar site/s at which it performs the service required under the Contract.

4.25.2 Applicants may or may not be contacted to be made aware that a site visit will take place. Any notification that is made will detail the date, time and details of those Members/Officers that are anticipated to attend.

4.25.3 Applicants must grant access to any premises requested to be visited by the Authority within that allocated time period.

4.25.4 Site visits will be for the purpose of ensuring that Applicants are appropriately skilled and experienced to deliver the service required under the Contract and that any claims made to that effect are accurate.

## **4.26 Rejection of Offers**

4.26.1 The Authority may at its absolute discretion refrain from considering or reject a Bid if:

- (i) it is incomplete or vague or is submitted later than the prescribed date and time; or
- (ii) it is not in accordance with the approved format and all other provisions of the documents; or
- (iii) is in breach of any condition contained within it.

4.26.2 The Authority reserves the right, subject to relevant legislation, at any time to reject any Bid and / or terminate the procurement process with one or all of the Applicants.

4.26.3 The Authority reserves the right to disqualify any or all Applicants who make material changes to, or (in the Authority's opinion) a material change takes place in respect of, any aspect of either its pre-qualification submission or Bid unless substantial justification can be provided to the satisfaction of the Authority.

4.26.4 Any submission in respect of which the Applicant:

- has directly or indirectly canvassed any Official, Member, Officer, Agent or Advisor of the Authority or obtained information from any other person who has been contracted to supply Supplies or provide the Service or Works to the Authority concerning the award of the Contract or who has directly or indirectly obtained or attempted to obtain

information from any such Official, Member, Officer, Agent or Advisor concerning any other Applicant; or

- fixes or adjusts the prices by or in accordance with any agreement or arrangement with any other person; or
- communicates to any person other than the Authority the price or approximate price except where such disclosure is made in confidence in order to obtain quotations necessary for the bid preparation or for the purposes of insurance or financing; or
- enters into any agreement with any other person that such other person shall refrain from submitting an offer or shall limit or restrict the prices to be shown or referred to by another Applicant; or
- offers to agree to pay to any person having direct connection with the procurement process or does pay or give any sum of money, inducement or valuable consideration, directly or indirectly, for doing or having done or causing or having caused to be done in relation to any other Applicant or any other person's proposal, any act or omission;

shall not be considered for acceptance and shall accordingly be rejected by the Authority provided always that such non-acceptance or rejection shall be without prejudice to any other civil remedies available to the Authority or any criminal liability which such conduct by an Applicant may attract.

## **4.27 Acceptance of Offers**

4.27.1 The Authority does not bind itself to accept the lowest or any Bid, and reserves the right to accept a Bid either in whole or in part, or such item or items specified in the procurement documents, and for such place or places of delivery as it thinks fit, each item and establishment being for this purpose considered as bid for separately, or to make no award at all.

## **4.28 Award of Contract**

4.28.1 Submitted documents shall constitute an irrevocable offer to provide the Supplies/Works or Services. Any acceptance of it by the Authority shall be communicated in writing to the Applicant. Upon such acceptance the Contract shall become binding on all parties.

4.28.2 The successful Applicant shall conclude a formal Contract with the Authority, which shall embody the Applicant's offer. No Applicant may consider itself successful unless and until a formal Contract has been signed by a Duly Authorised Officer of the Authority and co-signed by the Applicant's Authorised Officer.

4.28.3 The offer shall remain open for acceptance for a period of six (6) months from the closing date for the receipt of submission.

## Definitions

<b>Ad hoc Service Requests</b>	Shall mean requests from the Authority for additional Services beyond the scope of the Core Services as detailed in the specification and associated Schedules.
<b>Applicant</b>	Shall mean the organisation responding to the procurement through the procurement process
<b>Authority</b>	Shall mean the organisation preparing the procurement documents and/or the organisation for whom the resultant Contract will be performed
<b>Authorised Operatives / Contractor's Operatives</b>	Shall mean appointed person(s) duly authorised by the Appointed Contractor eligible to undertake duties in connection with delivery of the Contract.
<b>Authorised Personnel (Council)</b>	Shall mean appointed person(s) of the Council eligible to make necessary formal instructions in connection with the delivery of the Contract.
<b>Authority Authorised Representative</b>	Shall mean the main client Officer for the procurement process and/or resultant Contract
<b>Award</b>	Shall mean the process by which the Authority shall determine to whom the Contract will be awarded in accordance with the criteria listed at Regulation 67 of the Public Contracts Regulations 2015
<b>Awarding Authority</b>	Shall mean the organisation for whom the resultant Contract will be performed; this may be a different organisation than is referred to under Authority (in instances where the Authority is procuring a Contract on behalf of another organisation, for example)
<b>Bid / Quotation</b>	Shall mean the Applicant's offer to the Authority, which shall be submitted as the completed procurement documents
<b>Call-Off Contract</b>	Shall mean a Contract awarded under a Framework Agreement
<b>Clarification</b>	Shall mean the process by which queries on the Authority's procurement document are raised by the Applicants and the process by which queries on the Applicant's Bid are raised by the Authority
<b>Commercially Sensitive information</b>	Shall mean the information listed by an Applicant within its Bid at Volume Two (2) Applicant's Offer and Price Schedule comprising the information of a commercially sensitive nature relating to the Contractor, its intellectual property rights or its business or which the Contractor has indicated to the Authority that, if disclosed by the Authority, would cause the Contractor significant commercial disadvantage or material financial loss
<b>Consortia / Consortium</b>	Shall mean the information listed by an Applicant within its Bid at Volume Two (2) Applicant's Offer / Appendix A and Price Schedule comprising the information of a commercially sensitive nature relating to the Contractor, its intellectual property rights or its business or which the Contractor has indicated to the Authority that, if disclosed by the Authority, would cause the Contractor significant commercial disadvantage or material financial loss
<b>Contract</b>	Shall mean a formal and legally binding agreement entered in to between two or more parties to provide Supplies, Services or Works in return for financial remuneration including all documents to which reference may properly be made in order to ascertain the rights and obligations of all the parties involved
<b>Contract Notice</b>	Shall mean the publication in the Authority's intention to procure a public supplies, services, or works Contract
<b>Contracting Authority</b>	Shall mean the Authority and any other organisation on whose behalf the Authority may be working
<b>Contractor</b>	Shall mean the Applicant awarded the Contract culminating from an offer to supply accepted by this Authority
<b>Core Services</b>	Shall mean the main defined Services forming the delivery and fulfilment of the Contract, as set out in the Specification and associated Schedules.
<b>Council</b>	As Authority
<b>DPA 2018</b>	Data Protection Act 2018
<b>Default / Default Notice</b>	Shall mean a failure to perform as set out against the Key Performance Indicators within this Contract and the associated Notice issued to the Contractor outlining the default and corrective actions required to rectify.
<b>Defects</b>	Shall mean Defects to surfaces and object which the Contractor is responsible for cleaning which either impair the Contractor from undertaking

	the required tasks, and / or form a hazard to health of wider safety of Operatives and users of the premises.
<b>Employers' Liability (Compulsory Insurance)</b>	<p>Shall mean an insurance that enables organisations to meet the costs of damages and legal fees for employees who are injured or made ill at work through the fault of the employer. Employees injured due to an employer's negligence can seek compensation even if the organisation goes into liquidation or receivership. The NHS can also claim the costs of hospital treatment (including ambulance costs) when personal injury compensation is paid. This applies to incidents that occur either on or after 29 January 2007.</p> <p>By law, an employer must have EL insurance and be insured for at least £5 million. Most insurers automatically provide cover of at least £10 million. The insurance must cover all the organisation's employees in England, Scotland, Wales and Northern Ireland.</p> <p>If the organisation is not a limited company, and you are the only employee or you only employ close family members, you do not need compulsory Employers' Liability Insurance. Limited companies with only one employee, where that employee also owns 50 per cent or more of the issued share capital in the company, are also exempt from compulsory Employers' Liability Insurance. However, there is nothing to prevent an exempt employer from choosing to buy this insurance in view of the financial security it can provide.</p>
<b>Evaluation</b>	Shall mean the process through which the Applicant's Bid is reviewed in accordance with the Evaluation Criteria, following which a decision to award a Contract is made
<b>Evaluation Criteria</b>	The means by which the Authority will Evaluate an Applicant's Bid, to include all of the issues that must be considered so as to be able to judge the suitability of an Applicant's Bid
<b>GDPR</b>	the General Data Protection Regulation ( <i>Regulation (EU) 2016/679</i> )
<b>Request for Quote (RFQ)</b>	Shall mean the written request by the Authority for an interested Applicant to submit a written Bid to facilitate the Authority's requirements
<b>Key Performance Indicators (KPI)</b>	Shall mean the standards of performance against which overall performance is to be assessed under the Contract by the Contractor
<b>Principal Contractor</b>	Shall mean the organisation leading the bidding process on behalf of its consortia or sub-contractor partners
<b>Lowest Price</b>	Shall mean a means of evaluation whereby all Applicants to a procurement process will be assessed solely on the basis of their offer of price
<b>Mandatory Requirements: Pass/Fail</b>	Shall mean the Authority's essential requirements that Applicants will be required to demonstrate their ability to meet so as to be able to pass through to the next stage of the procurement process
<b>Mandatory Requirements: Scored</b>	Shall mean the Authority's essential requirements that Applicants will be required to demonstrate their ability to meet and that will be scored so as to be able to pass through to the next stage of the procurement process and/or as part of the Award criteria
<b>Most Economically Advantageous Tender (MEAT)</b>	Shall mean a means of evaluation whereby all Applicants to a procurement process will be assessed the basis of their offer of a combination of both quality factors and price
<b>Officer</b>	Shall mean the individual completing the procurement documents on behalf of the Authority
<b>Official Purchase Order</b>	Shall mean the Authority's Official Purchase Order, to which these conditions apply
<b>Open</b>	Shall mean the procurement process determined by the Public Contracts Regulations 2015 and which requires the publication of a Contract Notice plus an Invitation to Quotation prior to the award of a Contract
<b>Procurement and Contract Procedures</b>	Shall mean the Authority's internal rules regulating the award of Contracts
<b>Pricing</b>	Shall mean the value placed on a Bid by the Applicant that will purchase their offer to facilitate the Authority's requirements
<b>Procurement</b>	Shall mean the acquisition of Supplies, Services or Works from an external source

<b>Procurement Representative</b>	As Procurement Representative
<b>Product Liability Insurance</b>	<p>In Product Liability Insurance terms, a product is any physical item that is sold or given away.</p> <p>Products must be 'fit for purpose'. The organisation is legally responsible for any damage or injury that a product it supplies may cause (in some circumstances this also includes products that the organisation does not manufacture).</p> <p>Product Liability Insurance covers the organisation against damages awarded as a result of damage to property or personal injury caused by the product. If damages are paid for personal injury, the NHS can claim to recover the costs of hospital treatment (including ambulance costs). This applies to incidents that occur either on or after 29 January 2007.</p>
<b>Public Contracts Regulations 2015</b>	Shall mean the legislation of the United Kingdom concerning the procedures for the award of public works contracts, public supply contracts and public service contracts
<b>Public Liability Insurance</b>	Shall mean an insurance that covers members of the public or customers coming to the organisation's premises or if the organisation's staff go to theirs (including if the organisation is based 'at home'). It covers any awards of damages given to a member of the public because of an injury or damage to their property caused by the organisation. It also covers any related legal fees, costs and expenses as well as costs of hospital treatment (including ambulance costs) that the NHS may claim from the organisation. Premiums are based on the type of business and rated on an estimate for the level of activity of the business.
<b>Selection</b>	Shall mean the process by which Applicants will be selected to move forward to the next stage of the procurement process, in accordance with the criteria listed at Regulation 58 of the Public Contracts Regulations 2015
<b>Selection Questionnaire</b>	Shall mean the process by which Applicants will be selected to move forward to the next stage of the procurement process, in accordance with the criteria listed at Regulation 58 of the Public Contracts Regulations 2015
<b>Specification</b>	Shall mean the detailed description of the Authority's requirements
<b>TUPE</b>	Shall mean the "Transfer of Undertakings (Protection of Employment) Regulations 2006" as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014"
<b>Volume One (1) Instructions and Information</b>	Shall mean the document containing advice to Applicants concerning the way that the procurement process will be conducted and the way in which the documentation should be completed - the Selection and Award criteria to be used in the procurement process and shall be the document in which the Applicant shall make its response to those criteria plus pricing and information concerning the Applicant's organisation
<b>Volume Two (2) Applicant's Offer</b>	Shall mean the document containing information specific to the opportunity, to include the Specification
<b>Working Day</b>	Shall mean Monday to Friday inclusive, excluding Bank Holidays in England
<b>Works</b>	Shall mean the carrying out of any work which includes assembling, construction, building, altering, manufacturing, processing, fabricating, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property