# Invitation to Offer for NHS Framework Agreement for Human Albumin & Normal and Anti-D Immunoglobulin

**Offer reference number: CM/PHS/23/5703**

**Deadline for Offers to be received:**

**Friday 13 September 2024 13:00hrs**

## Table of Contents

* + - * 1. Notice to Offerors
        2. Medicines Procurement and Supply Chain
        3. Summary of the Procurement
        4. Procurement Objectives and Strategy
        5. Pricing Mechanism
        6. Qualification Criteria
        7. Award Methodology & Criteria
        8. Changes to Framework Terms and Conditions
        9. Participating Authorities
        10. Offer Submission Requirements
        11. Notices and Instructions

1. Notice to Offerors
   1. This Invitation to Offer (**ITO**) document is being made available on the condition that the information contained within it is used solely in connection with the process to procure the Requirement (as defined hereinafter) on behalf of NHS England (the **Authority**) and for no other purpose.
   2. Whilst reasonable care has been taken in preparing the ITO, neither the Authority nor any of its advisers accepts any liability or responsibility for the adequacy or completeness of any information or opinions stated in this ITO. No representation or warranty, express or implied, is or will be given by the Authority or any of its representatives, employees, agents, or advisers with respect to the ITO or to any information on which it is based. Any liability for such matters is expressly disclaimed.
   3. In this ITO document, words such as “anticipates,” “expects,” “intends,” “plans,” “believes” and “will” (and words and terms of similar substance) indicate the Authority's present expectation of future events, which are subject to a number of factors and uncertainties that could cause actual requirements to differ materially from those described.
   4. Neither the issue of this ITO nor any of the information presented in it should be regarded as a commitment or representation on the part of the Authority (or any other person) to enter into a contractual arrangement. If an Offeror proposes to enter into an agreement with the Authority, it must rely on its own enquiries and on the terms and conditions set out in the agreement(s) (as and when finally executed), subject to the limitations and restrictions specified in it.
   5. In so far as it is compatible with any relevant laws, the Authority reserves the right, without prior notice, to change the basis of, or the procedures for, the process for the award of the contract or to reject any or all Offers and to terminate discussions involving (directly or indirectly) Offerors at any time. In no circumstances will the Authority incur any liability in respect of the foregoing.

**Glossary of Terms**

The following definitions apply to this ITO and all associated documents unless the context otherwise requires.

|  |  |
| --- | --- |
| **Authority** | NHS England; |
| **Authorised Representative** | the nominated person authorised on behalf of the Offeror; |
| **Award Criteria** | the criteria set out in Section 7.5 of this ITO that Offerors will be evaluated against to determine the Preferred Offeror(s); |
| **Comparison Cost** | as defined in Section 7.3 of this ITO document |
| **Comparison Price** | as defined in section 7.3 of this ITO document |
| **Contract** | as defined in Schedule 4 of the Framework Terms and Conditions |
| **Framework Agreement** | the framework agreement to be awarded pursuant to this procurement exercise; |
| **Framework Price** | as defined in Schedule 4 of the Framework Terms and Conditions |
| **Framework Stock Level** | as defined in Schedule 1 Clause 16 of the Framework Terms and Conditions |
| **FOIA** | the Freedom of Information Act 2000, the Environmental Information Regulations 2004, any regulations, guidance, or codes of practice made or issued pursuant to the foregoing, decisions of the Information Commissioner and by courts and tribunals of competent jurisdiction concerning the foregoing; |
| **Goods** or **Products** | the product(s) the Offeror has included in its Offer, and which the Authority has included in the award to the Offeror; |
| **Inflation Adjustment** | as defined in Schedule 6 of the Framework Terms and Conditions |
| **ITO** or **Invitation to Offer** | this invitation to offer and all associated documents that the Authority has issued to selected Offerors; |
| **Lot** | shall have the meaning ascribed in Section 4.4 of this ITO; |
| **Material Sub-contractor** | any Sub-contractor, whether of the Supplier itself or at any further level of sub-contracting, under any Sub–contract where the Sub-contractor is providing clinical services or where the value of the Sub–contract is valued at more than 10% of the total value sub-contracted by the Supplier; |
| **Most Economically Advantageous Tender** | the most economically advantageous tender as determined in accordance with the Award Criteria; |
| **Offer** | an Offeror’s response to this ITO in accordance with its terms; |
| **Offer Deadline** | the date and time set out in Table 1 (Procurement Timetable) of this ITO; |
| **Offeror** | an economic operator which submits an offer in response to this Invitation to Offer or which considers doing so or otherwise expresses interest or participates in this procurement process; |
| **Offeror Member** | any organisation(s) or person that the Offeror is relying on when making their SQ or ITO submission and/or for the purpose of the performance of any obligation on the part of the Supplier under this Contract, including without limitation: the Offeror, the Supplier, and/or each Material Sub-contractor; |
| **Open Procedure** | a procedure, pursuant to regulation 27 of the PCR 2015 (by which the Authority will, with the aim of meeting its Requirements, conduct the procurement of the Requirement |
| **Participating Authorities** | the organisations specified in Schedule 8 of the Framework Terms and Conditions |
| **PCR 2015** | the Public Contracts Regulations 2015 (PCR 2015), SI 2015/102 (as amended from time to time); |
| **Portal** | the secure internet portal - <https://atamis-1928.my.site.com/s/Welcome> used by the Authority for conducting the Procurement Process; |
| **Preferred Offeror(s)** | the Offeror(s) whose combination of Offer(s) is/are selected as the Most Economically Advantageous Tender(s) following the evaluation stage of the Procurement Process; |
| **Procurement Documents** | this ITO together with any additional documents associated with the Procurement Process and issued by the Authority to Offerors; |
| **Procurement Process** or **Procurement** | this procurement process being undertaken by the Authority to award Contract(s) relating to the supply of the Goods; |
| **Rebate Adjustment** | as defined in Schedule 6 of the Framework Terms and Conditions |
| **Rebate Scheme** | as defined in Schedule 6 of the Framework Terms and Conditions |
| **Relevant Organisation** | any organisation(s) or person that the Offeror is relying on in their Offer submission and/or for the purpose of the performance of any obligation on the part of the Supplier under any ensuing Contract; |
| **Reserve Price** | the price submitted by the Offeror in the Offer Schedule in the event they are appointed as a reserve Supplier in accordance with paragraph 5.3.1; |
| **SQ** | the Selection Questionnaire issued by the Authority as part of this ITO; |
| **Sub–contract** | any sub-contract entered into by the Supplier or by any Sub-contractor of any level for the purpose of the performance of any obligation on the part of the Supplier under this Contract |
| **Sub-contractor** | any sub-contractor, whether of the Supplier itself or at any further level of sub-contracting, under any Sub–contract; |
| **Supplier** | the successful Offeror(s) who has/have entered into a Contract with the Authority to supply the Goods; and “**Suppliers**” shall be construed accordingly; |
| **Supplier Net Zero Corporate Champion** | as defined in Schedule 4 of the Framework Terms and Conditions |
| **Supply Year** | as defined in Schedule 4 of the Framework Terms and Conditions |
| **TUPE** | Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246); |
| **Update** | a written notification by the Authority to the Offerors, which may be issued during the Offer period to amend, or to provide further clarification to, any part of this ITO or the Procurement Process; |
| **Value Added Tax or VAT** | as defined in Schedule 4 of the Framework Terms and Conditions |

1. Medicines Procurement and Supply Chain
   * 1. The Authority is conducting this procurement exercise as a central purchasing body to establish a Framework Agreement (for and on behalf of the Participating Authorities with whom the suppliers appointed to the Framework Agreement (‘Successful Offerors’) will ultimately enter into Contracts under the Framework Agreement for the supply of the Goods and/or services. The Participating Authorities are the organisations specified in Schedule 8 (*Participating Authorities*) of Document No. 03 Framework Agreement Terms and Conditions.
     2. The Authority will not be a party to any such subsequent contracts under the Framework Agreement. In accordance with Regulation 37 of the PCR 2015, each Participating Authority is and shall remain responsible for the conduct of its award of Contracts under the Framework Agreement, including (but not limited to) fulfilling the requirements imposed by Regulation 33 of the PCR 2015 when conducting an award of contract(s) under the Framework Agreement.
     3. The Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:
        1. the conduct of Participating Authorities in relation to the Framework Agreement;
        2. the acts or omissions of a Participating Authority in connection with a Contract between the successful Offeror and the Participating Authority entered into pursuant to the Framework Agreement; or
        3. the performance or non-performance of a Contract between the successful Offeror and the Participating Authority entered into pursuant to the Framework Agreement.
     4. Offerors taking part in this competition agree to the terms set out in this Invitation to Offer as part of the competition process.
2. Summary of the Procurement
   1. Introduction
      1. The Authority is undertaking this procurement in accordance with the PCR 2015 and will use the Open Procedure.
      2. The Authority is running a single procurement for Human Albumin & Normal and Anti-D Immunoglobulin, replacing existing frameworks, with a framework start date of 1 April 2025.
      3. The period of the Framework Agreement is 1 April 2025 to 31 December 2027 with an option or options to extend (at the Authority’s discretion) for a further period or periods up to a total of 15 months. The total maximum framework agreement duration, including extension options, will be no more than 48 months.
      4. The framework will cover and be available to Participating Authorities in England, Northern Ireland and Scotland.
      5. Offers and all documents relating to the offers must be written in English and submitted to the Authority via the Authority’s Portal by 13:00 hours on 13 September 2024.
   2. Overview of the Procurement
      1. This Procurement relates to the provision of, and subject to receipt of compliant offers and its formal approval processes, the Authority intends to award a Framework Agreement covering:

Lot 1 – Albumin, including Low Strength (4.5% or 5%) and High Strength (20%)

Lot 2 – 5% Intravenous Immunoglobulin (5% IVIg)

Lot 3 – 10% Intravenous Immunoglobulin (10% IVIg)

Lot 4 – Subcutaneous Immunoglobulin (SCIg)

Lot 5 – Facilitated Subcutaneous Immunoglobulin (fSCIg)

Lot 6 – Anti-D Immunoglobulin (Anti-D)

that best satisfies the Authority’s requirements.

* + 1. The process for this Procurement includes the following key steps:

1. Invitation to Offer
2. Evaluation of Offers
3. Framework Award
4. Mobilisation
5. Framework start
   1. Timetable
      1. The indicative timetable for the Procurement is set out below. Whilst the Authority does not intend to depart from the timetable, they reserve the right to do so at their sole discretion.

Table 1: Procurement Timetable

|  |  |
| --- | --- |
| **Offer Stage** | **Date** |
| Invitation to Offer issued via Atamis | 02 August 2024 |
| Deadline for receipt of clarification questions | 16:00 06 September 2024 |
| Deadline for return of Offer documents to the Authority via Atamis | 13 September 2024 |
| Offer evaluation | September 2024 |
| Award notification issued to Offerors | September 2024 |
| 10-day standstill period | September/October 2024 |
| Agreement commences | 01 April 2025 |

* + 1. Offerors can raise clarifications in relation to this ITO via the Portal until

16:00 06 September 2024

* + 1. Please note that Offeror clarifications and/or Offers received after the closing deadlines may be rejected.
  1. Background
     1. The current Human Albumin framework (CM/PHS/17/5549) covers England and Northern Ireland and is due to expire on 31 December 2024 (with options to extend until 30 April 2025). The Authority has written to suppliers on the existing framework with intent to extend the framework until 31 March 2025.

The following products are included in the current Human Albumin framework:

* Low strength albumin (4.5% or 5%)
* High strength albumin (20%)
  + 1. The current Immunoglobulin framework (CM/PHS/17/5550) covers England, Northern Ireland and Scotland and is due to expire on 31 December 2024 (with options to extend until 30 June 2025). The Authority has written to suppliers on the existing framework with intent to extend the framework until 31 March 2025.

The following products are included in the current Immunoglobulin framework:

* 5% Intravenous Immunoglobulin (5% IVIg)
* 10% Intravenous Immunoglobulin (10% IVIg)
* Subcutaneous Immunoglobulin (SCIg)
* Facilitated Subcutaneous Immunoglobulin (fSCIg)
* Anti-D Immunoglobulin (Anti-D)
  + 1. Until February 2021, plasma collected in the UK was banned for use in the production of plasma derived medicinal products (PDMPs) e.g., immunoglobulins, albumins, coagulation factors. This ban was a safety measure against the possible transmission of the human form of what is variant Creutzfeldt Jakob Disease (vCJD).
    2. Since the ban, 100% of the PDMPs used in the UK have been imported and there was a heavy reliance on US plasma. Lifting the ban presented opportunities to establish domestic plasma collection and achieve partial self-sufficiency.
    3. To date, the Commission on Human Medicines and the Medicines Health and Regulatory Authority have approved UK plasma for use in the manufacturing of albumin and immunoglobulin. Additional PDMPs may be reviewed at a later date.
    4. The Authority recently completed a procurement to select a company to fractionate UK plasma and manufacture PDMPs under a toll manufacturing contract.
    5. The fractionation contract to supply PMDPs from UK plasma will run concurrently with any future frameworks for albumin and immunoglobulin manufactured from non-UK plasma (i.e., the new framework, which is the subject of this procurement). It is anticipated that products manufactured under the fractionation contract will become available during Q1 2025.
    6. The quantity of albumin and immunoglobulin to be supplied via the new framework reflects the introduction of UK plasma derived products.

1. Procurement Objectives and Strategy
   1. Introduction
      1. This procurement reflects a shift in the Authority’s approach to procuring these categories of medicines.
      2. The Authority are looking to establish longer term, more strategic relationships with those suppliers best able to consistently supply to the NHS and implement a framework which provides greater surety of supply whilst also ensuring value for money for the NHS. To achieve this, the Authority will offer to successful Offerors, a framework with greater commitment (from both sides), a defined price adjustment mechanism, and a longer initial term of 33 months with options to extend for up to a further 15 months.
      3. The total maximum framework agreement period including extensions will be no more than 48 months.
   2. Framework Supply Volumes for England
      1. Estimated volumes for England, covering the full framework duration, have been included in Table 2, below. Please note that the figures in Table 2 have been calculated using historical demand and feedback from a clinical expert working group.

Table 2: Anticipated quantity required for England per supply period

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Product** | **Supply Year** | | | |
| **2025** | **2026** | **2027** | **2028** |
| Low Strength Albumin1, 2, | 630,210 | 553,757 | 647,230 | 743,507 |
| High Strength Albumin1, | 1,629,271 | 1,815,114 | 2,056,767 | 2,305,670 |
| 5% IVIg1 | 179,175 | 231,732 | 224,780 | 218,037 |
| 10% IVIg1, | 2,218,339 | 2,593,843 | 2,655,251 | 2,717,580 |
| SCIg1 | 1,256,580 | 1,759,211 | 1,847,172 | 1,939,531 |
| fSCIg1 | 114,090 | 167,333 | 184,067 | 202,473 |
| Anti-D3 | 126,783,605 | 165,663,910 | 162,350,632 | 159,103,619 |

1 The volume of product is listed in grams

2 Low Strength Albumin includes products with a concentration of 4.5% and 5%

3 The volume of product is listed in international units

* + 1. During Q1 2025, the NHS in England expects to start receiving immunoglobulin and albumin derived from UK plasma.
    2. The anticipated reduction in volume required reflects the introduction of UK plasma derived products during Q1-Q2 of 2025.
    3. Suppliers will be required to have available to supply the quantity committed in each period and to schedule shipments to the UK throughout the period to meet demand and to maintain the minimum stock level.
    4. Suppliers, as part of their Offer, are required to specify the minimum months of stock they commit to hold in the UK. The minimum permissible Framework Stock Level that a supplier can commit to hold is 3 months.
  1. Framework Supply Volumes for Devolved Administrations

Scotland

* + 1. NHS Scotland purchases their Albumin via a national procurement framework (NP31523) which started on 1 May 2023 and has a current expiry date of 30 June 2025 (with extension options from 1 July 2025 for up to 22 additional months).
    2. NHS Scotland purchases their Immunoglobulin and Anti-D by calling off from the existing Medicines Procurement & Supply Chain (MPSC) (formerly CMU) framework (CM/PHS/17/5550).
    3. NHS Scotland have confirmed that they will be participating in this framework and will join from 1 January 2025 for immunoglobulin and from 1 July 2025 for albumin.
    4. Estimated volumes for Scotland covering the full framework duration, have been included in Table 3 below.

Table 3: Anticipated quantity required for Scotland per supply period

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Product** | **Supply Year** | | | |
| **2025** | **2026** | **2027** | **2028** |
| Low Strength Albumin1, 2 | 0 | 71,316 | 53,674 | 37,588 |
| High Strength Albumin1 | 0 | 50,632 | 37,531 | 25,886 |
| 5% IVIg1 | 8,233 | 10,155 | 9,393 | 8,688 |
| 10% IVIg1 | 284,803 | 417,186 | 458,424 | 504,467 |
| SCIg1 | 122,603 | 185,877 | 209,756 | 235,207 |
| fSCIg1 | 8,986 | 14,009 | 16,380 | 19,151 |
| Anti-D3 | 12,682,121 | 17,163,136 | 17,420,583 | 17,681,892 |

1 The volume of product is listed in grams

2 Low Strength Albumin includes products with a concentration of 4.5% and 5%

3 The volume of product is listed in international units

Northern Ireland

* + 1. NHS Northern Ireland purchases their Albumin, Immunoglobulin and Anti-D by calling off from the existing Medicines Procurement & Supply Chain (MPSC) (formerly CMU) frameworks (CM/PHS/17/5549 and CM/PHS/17/5550).
    2. NHS Northern Ireland have confirmed that they will be participating in this framework for Albumin and Immunoglobulin and will join from the framework start date.
    3. NHS Northern Ireland current annual purchase volumes are show in Table 4 below.

Table 4: Anticipated quantity required for Northern Ireland per supply period

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Product** | **Supply Year** | | | |
| **2025** | **2026** | **2027** | **2028** |
| Low Strength Albumin1, 2, | 82,500 | 110,000 | 110,000 | 110,000 |
| High Strength Albumin1 | 217,500 | 290,000 | 290,000 | 290,000 |
| 5% IVIg1 | 525 | 700 | 700 | 700 |
| 10% IVIg1 | 157,467 | 209,956 | 209,956 | 209,956 |
| SCIg1 | 23,468 | 31,290 | 31,290 | 31,290 |
| fSCIg1 | 15,892 | 21,189 | 21,189 | 21,189 |
| Anti-D3 | 5,850,000 | 7,800,000 | 7,800,000 | 7,800,000 |

1 The volume of product is listed in grams

2 Low Strength Albumin includes products with a concentration of 4.5% and 5%

3 The volume of product is listed in international units

Table 5: Total anticipated quantity required for UK per supply period

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Product** | **Supply Year** | | | |
| **2025** | **2026** | **2027** | **2028** |
| Low Strength Albumin1, 2, | 712,710 | 735,073 | 810,904 | 891,094 |
| High Strength Albumin1 | 1,846,771 | 2,155,745 | 2,384,298 | 2,621,556 |
| 5% IVIg1 | 187,933 | 242,587 | 234,873 | 227,425 |
| 10% IVIg1 | 2,660,609 | 3,220,985 | 3,323,631 | 3,432,003 |
| SCIg1 | 1,402,651 | 1,976,378 | 2,088,218 | 2,206,028 |
| fSCIg1 | 138,968 | 202,532 | 221,635 | 242,813 |
| Anti-D3 | 145,315,726 | 190,627,046 | 187,571,215 | 184,585,511 |

1 The volume of product is listed in grams

2 Low Strength Albumin includes products with a concentration of 4.5% and 5%

3 The volume of product is listed in international units

Table 6: Anticipated quantity required for UK for 2025 per quarter

|  |  |  |  |
| --- | --- | --- | --- |
| **Product** | **Supply Year 2025** | | |
| **Q2** | **Q3** | **Q4** |
| Low Strength Albumin1, 2, | 355,209 | 178,750 | 178,750 |
| High Strength Albumin1 | 919,721 | 463,525 | 463,525 |
| 5% IVIg1 | 62,644 | 62,644 | 62,644 |
| 10% IVIg1 | 1,004,509 | 853,259 | 802,842 |
| SCIg1 | 467,550 | 467,550 | 467,550 |
| fSCIg1 | 46,323 | 46,323 | 46,323 |
| Anti-D3 | 48,438,575 | 48,438,575 | 48,438,575 |

1 The volume of product is listed in grams

2 Low Strength Albumin includes products with a concentration of 4.5% and 5%

3 The volume of product is listed in international units

Due to calculation rounding, the total volumes in Table 6 may differ slightly from Table 5

* + 1. The Participating Authorities of England, Scotland and Northern Ireland collectively commit to purchase at least 90% of the awarded market volumes per supplier per annum. Each Devolved Administration will be responsible for meeting their own 90% purchase commitments for each Supply Year.
    2. Suppliers will be required to supply up to 110% of the annual awarded volumes in accordance with Schedule 6 Part 1d of the Framework Terms and Conditions.
    3. The maximum supply capacity specified by an Offeror, will determine the 110% supply available from an Offeror. The Authority will limit the award to an Offeror to a maximum of 100% (i.e. The Authority will take this into account in its assessment and therefore suppliers should not artificially reduce their maximum capacity to account for the 110% level of supply).
    4. If actual demand during a Supply Year exceeds 110% of awarded volume, Suppliers will be required to work with the Authority to try to ensure continued supply of the required volume of products. Committed demand volumes will be provided for each Supply Year, 6 months prior to the commencement of that Supply Year.
    5. If a Supplier exceeds 100% of their awarded volume, any additional volume will be purchased by the Participating Authorities at the awarded Framework Price.
    6. The Authority reserves the right to amend the anticipated volumes prior to contract award and prior to each Supply Year during the term of the framework.
    7. The Authority may amend the market shares awarded to suppliers and/or allocate market share to one or more reserve Suppliers, if
       1. one or more Suppliers are precluded (e.g. they have reached their maximum capacity or maximum permissible market share) from supplying additional product; or
       2. one or more Suppliers are unable to supply sufficient product to meet their awarded market share: or
       3. not doing so would result in the Authority securing less than 100% of the NHS total demand.
  1. Lots
     1. The framework will be split in to six lots, as listed below.

Lot 1 – Albumin, including Low Strength (4.5% or 5%) and High Strength (20%)

Lot 2 – 5% Intravenous Immunoglobulin (5% IVIg)

Lot 3 – 10% Intravenous Immunoglobulin (10% IVIg)

Lot 4 – Subcutaneous Immunoglobulin (SCIg)

Lot 5 – Facilitated Subcutaneous Immunoglobulin (fSCIg)

Lot 6 – Anti-D Immunoglobulin (Anti-D)

* + 1. Suppliers may offer one or more products per Lot, but each product offered will be assessed against all products offered within the Lot and the best combination of products will be selected in accordance with the process set out in section ‎7.
    2. Where a supplier submits Offers for multiple products within a Lot, then any maximum market share limits shall apply to the supplier as a whole and not to individual products.
    3. Further guidance about submitting offers is provided in Document No. 05a - Offer Schedule.

1. Pricing Mechanism
   1. Introduction
      1. Offer Prices must be quoted in sterling (GBP), inclusive of delivery charges, and exclusive of Value Added Tax.
      2. If the Authority considers that any pricing proposed by an Offeror as part of any Offer is abnormally low, the Authority may require the Offeror to provide further information to explain and justify its pricing proposals (or any aspect of these). If after assessment of any information, explanation or evidence provided by the Offeror, the Offeror does not, in the opinion of the Authority, satisfactorily account for the low level of prices proposed and so leads the Authority to the conclusion that the Offer is abnormally low (so as to put the sustainability and satisfactory delivery of any contract over its term at risk), the Authority reserves the right to reject such Offer.
      3. Offerors are required to submit Offer Prices that exclude adjustment for any Rebate Scheme, e.g., VPAG (i.e., assume the applicable Rebate Scheme rate is 0%) and that are open for acceptance for 90 days from the ITO submission deadline.
      4. The actual price paid per year (the Framework Price) will be based upon the Offer Price for the awarded market share band, adjusted for inflation and the applicable VPAG rate in accordance with the method set out in Schedule 6 of the Framework Terms and Conditions.
      5. Offerors are required to confirm their maximum supply volumes per product for each Supply Year.
      6. Offerors are required to submit an Offer Price for each of the specified market share bands, up to and including their maximum supply volume. For example, where an Offer is received in the 40-60% market share band, bids must also be entered in the 0-20% and 20-40% market share bands.
      7. Offerors must only submit bids in each market share band they can deliver. Offer Prices that are submitted for a market share band above the Supplier’s available capacity limit for a product will be disregarded.
      8. For all Lots, Offerors may submit a different price in each of the market share bands they submitted an Offer for.
      9. Prices for high and low strength albumin should be input separately however if an Offeror submits a price for high strength albumin, they must also submit a price for low strength albumin and vice versa.
      10. High and low strength albumin will be awarded together, and successful Offerors will be required to supply both low strength and high strength albumin on an approximate ratio of 29% and 71% respectively. The Authority, at its sole discretion, may vary the proportion of low and high strength albumin required.
      11. For Lot 3 (10% IVIg) and Lot 4 (SCIg), supply from any single Supplier’s product(s) shall not exceed 60% of the total NHS demand. The cap applicable to each Supplier, will include any anticipated supply via the UK Plasma contract, unless to do so would result in less than 100% supply of the total NHS demand.
      12. The minimum number of supplier awards per Lot and the market share bands that may be awarded are shown in Table 7 below.

Table 7: Minimum supplier awards per lot and permissible market share bands per Lot

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Lot No.** | **Lot Description** | **Minimum Suppliers Awarded3** | **Market Share Bands that may be awarded** | | | | | | | | | |
| 1 | Albumin (LS & HS) 1 | 1 | 0-20% | | 20-40% | | 40-60% | | 60-80% | | 80-100% | |
| 2 | 5% IVIg | 1 | 0-20% | | 20-40% | | 40-60% | | 60-80% | | 80-100% | |
| 3 | 10% IVIg2 | 3 | 0-10% | 10-20% | 20-30% | 30-40% | 40-50% | 50-60% | 60-70% | 70-80% | 80-90% | 90-100% |
| 4 | SCIg2 | 3 | 0-10% | 10-20% | 20-30% | 30-40% | 40-50% | 50-60% | 60-70% | 70-80% | 80-90% | 90-100% |
| 5 | fSCIg | 1 | 0-20% | | 20-40% | | 40-60% | | 60-80% | | 80-100% | |
| 6 | Anti-D | 1 | 0-20% | | 20-40% | | 40-60% | | 60-80% | | 80-100% | |

* + - * 1. Suppliers awarded albumin will be required to supply both low strength and high strength albumin, on an approximate ratio of 29% to 71% respectively.
        2. For these lots, supply from any single Supplier’s product(s) shall not exceed 60% of the total NHS demand, including supply via the UK plasma contract, unless to do so would result in less than 100% supply of the total NHS demand.
        3. The Authority may appoint less than the specified minimum number of suppliers, if not doing so would result in less than 100% supply of the anticipated demand.
  1. Framework Price
     1. The Framework Price to be paid by Participating Authorities will be determined in accordance with the methodology set out in Schedule 6 of the Framework Terms and Conditions.
  2. Reserve Suppliers
     1. For all Lots, the Authority may appoint one or more reserve Supplier(s). A reserve Supplier will initially receive a zero-market share award but may be assigned a market share in the event of a supplier failure or termination. A reserve Supplier may also receive orders, if in the opinion of the Authority, small quantities of product are needed for clinical reasons. Offerors are required to submit a Reserve Price in their Offer, the price of which must be no greater than their highest price offered for any market share band. Where the Supplier is a Reserve Supplier, then the Reserve Price shall apply to all Goods supplied as a Reserve Supplier.
     2. Offerors who submit an Offer as part of this ITO accept that they may be appointed as a reserve Supplier to the Framework.
     3. Suppliers who are awarded as a reserve Supplier will not be awarded committed volumes however, they will also not be subject to certain provisions of the Agreement as set out in Schedule 6 of the Framework Terms and Conditions (e.g. the initial and framework stockholding requirements).
     4. The Framework Price to be paid by Participating Authorities for Product(s) from a reserve Supplier will be calculated for each Supply Year using the price adjustment methodology set out in Schedule 6 of the Framework Terms and Conditions.

1. Qualification Criteria
   1. Introduction
      1. The Authority wishes to partner with suppliers who can ensure surety of supply whilst also providing value for money to the NHS and taxpayer.
      2. The Offer process includes both qualification and award criteria.
      3. The qualification criteria include requirements relating to:

* Grounds for Exclusion
* Financial Standing
* NHS Net Zero and Social Value Commitments
* Modern Slavery
* Acceptance of the Framework Terms & Conditions
* Acceptance of the required product presentations
* Valid Marketing Authorisations
  1. Overview of Qualification Criteria
     1. Offerors should refer to the qualification envelope on the e-procurement portal for full details of the qualification criteria, however a summary is provided below.

Exclusion Grounds

* + 1. Exclusion Grounds - Grounds for mandatory rejection: If the Offeror answers “yes” to any of the questions in this section of the Selection Questionnaire, they will be rejected except in the circumstances outlined in Regulation 57(6) and 57(7) of the PCR 2015.
    2. Exclusion Grounds - Grounds for discretionary rejection and Tax compliance: If the Offeror answers “yes” to any of the questions in this section of the Selection Questionnaire, the Offeror must provide evidence of measures taken by the Offeror to demonstrate the reliability of their organisation despite the existence of a relevant ground for exclusion. If the Authority does not consider such evidence to be sufficient the Authority will reject the Offer.

Financial Standing:

* + 1. Economic and Financial Standing - if the Offeror answers “no” in this section, indicating that it does not meet the minimum financial standing requirements, the Offeror must provide further explanation and assurances (such as a guarantee or performance bond in a form acceptable to the Authority in its absolute discretion) to the Authority’s satisfaction otherwise its Offer will be rejected. The Offeror’s Dun & Bradstreet failure score recorded in sid4gov should be 40 or greater. If the Offeror’s score is below 40 the Authority may reject its Offer unless the Offeror provides further explanation and assurances (such as a guarantee or performance bond in a form acceptable to the Authority in its absolute discretion) to the Authority’s satisfaction.

Net Zero and Social Value Commitments

Supplier carbon reduction plans and reporting

* + 1. The Supplier shall put in place, maintain, and implement a board approved, publicly available, carbon reduction plan in accordance with the requirements and timescales set out in the NHS Net Zero Supplier Roadmap, as may be updated from time to time.

<https://www.england.nhs.uk/greenernhs/get-involved/suppliers/>

The carbon reduction plan must remain in place for the duration of the Framework Agreement.

Evergreen Supplier Assessment

* + 1. A supplier assessment for benchmarking and reporting progress against the requirements detailed in the Net Zero Supplier Roadmap is available ("Evergreen Supplier Assessment"). Suppliers must report their progress through published progress reports and continued carbon emissions reporting through the submission of an updated Evergreen Supplier Assessment within one (1) month after each anniversary of the submission of the initial Evergreen Supplier Assessment (“Evergreen Submission Date”) for review by the Authority to ensure that the Supplier has maintained or improved its performance against the Net Zero Supplier Roadmap. From the time that an Evergreen Assessment has been established for the Supplier by the Authority, the Supplier must:
       1. have an Evergreen Assessment in place at all times whilst under an active Framework Agreement; and
       2. in addition to performance under the Net Zero Supplier Roadmap, maintain or improve the quality of their own Evergreen Assessment so that at the date of each anniversary of the Evergreen Submission Date, the Evergreen Assessment is of the same standard or better than at the previous anniversary.
    2. The Supplier must appoint a Supplier Net Zero Corporate Champion who shall be responsible for overseeing the Supplier’s compliance with the Carbon Reduction Plan and Evergreen Assessment, any net zero requirements forming part of any Contracts.
    3. If the Supplier, in the reasonable opinion of the Authority, is not able to comply with the Carbon Reduction Plan and Evergreen Assessment, the Authority shall have the right to impose special conditions upon the Supplier with a view to the Supplier becoming compliant with the Carbon Reduction Plan and Evergreen Assessment once the Framework Agreement is live. Such special conditions may be removed, should the Supplier become compliant, or be re-imposed, if the Supplier fails again to meet the requirements, of the Carbon Reduction Plan and Evergreen Assessment.
    4. For more information, please visit:

<https://www.england.nhs.uk/nhs-commercial/central-commercial-function-ccf/evergreen/>

Modern Slavery

* + 1. Modern Slavery Act 2015 - if the Offeror answers “no” in this section, indicating that it does not meet the minimum requirements regarding modern slavery, then the Offeror must provide further explanation and assurances to the Authority’s satisfaction otherwise its Offer will be rejected.

Prompt Payment

* + 1. Prompt payment – an Offer may be rejected where the requirements detailed in this section are not met (only applicable to Offerors intending to use a supply chain). Successful Offeror(s) who have self-declared may be required to provide evidence of compliance prior to award.

Insurance

* + 1. Insurance requirements – an Offer may be rejected where the Offeror indicates in its response that it is unable to meet the insurance requirements.

Acceptance of the Framework Terms & Conditions

* + 1. The Supplier will be required to accept the Framework Terms & Conditions published with the ITO documents as a condition of submitting a compliant Offer.

Acceptance of the required product presentations

* + 1. The Supplier will be required to confirm it can supply, as a minimum, the required product presentations for each Lot it submits an Offer for as a condition of submitting a compliant Offer.

Table 8: Minimum required product presentations

|  |  |
| --- | --- |
| **Product** | **Minimum Required Presentations** |
| Low Strength Albumin (4.5%-5%) | 500ml |
| High Strength Albumin (20%) | 100ml |
| 5% IVIg | 5g / 10g |
| 10% IVIg | 5g / 10g / 20g |
| SCIg | 2g / 4g |
| fSCIg | 10g / 20g / 30g |
| Anti-D | 500iu or 1500iu |

Marketing Authorisation

* + 1. Each product offered must have a valid UK Marketing Authorisation issued by the MHRA prior to the Offer submission deadline.

UK-wide licensing for human medicines

* + 1. Offerors are advised to be aware of the following guidance regarding the changes to the licensing of medicines for human use in the UK following the agreement of the Windsor Framework which will be implemented from 1 January 2025. Link provided below:

[UK-wide licensing for human medicines - GOV.UK (www.gov.uk)](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.gov.uk%2Fgovernment%2Fpublications%2Fuk-wide-licensing-for-human-medicines%2Fuk-wide-licensing-for-human-medicines&data=05%7C02%7Crachel.williams11%40nhs.net%7C3db34b33332248f8141a08dc978a80d3%7C37c354b285b047f5b22207b48d774ee3%7C0%7C0%7C638551868312635281%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=T1%2FhanKiQ%2Bdewacm04agIJUhS3H6iwXSxNbml2Iw6zs%3D&reserved=0)

1. Award Methodology & Criteria
   1. Most Economically Advantageous Tender
      1. The Authority does not intend to select the winning Offer based upon price alone. Any award will be made based to the Most Economically Advantageous Tender in accordance with the process set out in this Section 7 and by using the Award Criteria.
      2. The Authority does not bind itself to accept the lowest or any Offer at all. Each Offer and each market share price within each Lot being for this purpose treated as Offered separately.
      3. The Authority reserves the right not to award any Lots, or to award only part of any Lot, or to cancel this procurement exercise without making any award(s). The Authority shall not be liable in any way whatsoever for the consequences of any such decision, including wasted costs or other costs or losses claimed to be incurred by any party.
      4. The Authority may share details of Offers received with its advisors and stakeholders as it sees fit to facilitate its governance processes.
   2. Award Process
      1. The award process for each Lot consists of the following key steps:
      2. Compliance Gateway: Confirm that Offers comply with the requirements set out in the Invitation to Offer.
      3. Evaluation: Evaluation of the Offers that have passed the Compliance Gateways in accordance with the methodology and criteria set out further below; and
      4. Award Gateway: Approval to proceed to contract award (award notifications, standstill and contract signing).
      5. The award process is summarised in Figure 1

A blue triangle with white text

Description automatically generatedFigure 1: Award Process

* + 1. Each Offer must satisfy the requirements of the Compliance Gateway or be disqualified.
    2. To pass the Compliance Gateway, an Offer must:

Pass the Selection Questionnaire; and

Complete in full all information required for each Lot in the Offer Schedule, in the format requested; and

Satisfy any other requirements included in the Invitation to Offer.

* 1. Evaluation Methodology
     1. For evaluation only, the Award Criteria will be combined into a Comparison Price (as set out below) for each product, for each market share band and each year of the framework.
     2. The Comparison Price is calculated as follows:

1. The price offered for each volume band is adjusted for inflation
2. Any Surety of Supply and Rebate Adjustments are applied on the inflation adjusted prices.
   * 1. Comparison Prices are calculated for each Supply Year as follows:
3. Comparison Price (2025) = Offer Price + Offer Price x Rebate Rate + Offer Price x Surety of Supply Adjustment
4. Comparison Price (2026) = (Offer Price x 0.1 + (Offer Price x 0.9 x (1+inflation rate))) x (1 + Surety of Supply Adjustment + Rebate Rate)
5. Comparison Price (2027) = (Offer Price x 0.1 + (Offer Price x 0.9 x (1+inflation rate)^2)) x (1 + Surety of Supply Adjustment + Rebate Rate)
6. Comparison Price (2028) = (Offer Price x 0.1 + (Offer Price x 0.9 x (1+inflation rate)^3)) x (1 + Surety of Supply Adjustment + Rebate Rate)
   * 1. For evaluation purposes only, a fixed Inflation Adjustment rate of 4.11%, which reflects the average annual inflation rate over the past 5-years, will be used to calculate the Comparison Prices for Supply Years 2, 3, and 4.
     2. Award Principles: for each Lot the Authority seeks to identify the optimum combination of Offers over the framework term that:
        1. Awards at least the specified minimum number of suppliers; and
        2. Does not exceed a Supplier’s maximum supply capacity; and
        3. Minimises the Comparison Cost to the Authority.

Where the Comparison Cost to the Authority is the product of Comparison Price, market share, and anticipated volume for all proposed suppliers over the framework term (as further described below).

* + 1. Award Approach per Lot
    2. Each product Offered will be checked by the Authority to ensure that the Offer meets the Authority’s requirements and the requirements of the Selection Questionnaire. Offers that pass the Compliance Gateway (“Qualifying Offers”) will be evaluated in accordance with the following methodology.
    3. Step 1 – Calculation of Comparison Price per Supplier per Market Share per Year
       1. For each Offer, the Authority will calculate the Comparison Price for each offered market share for each year of the framework.
       2. This means that any applicable adjustments due to the Rebate Scheme, Inflation or Surety of Supply will be applied as described in section 7.5 and as shown in the examples below.

**Example Offers**

|  |  |  |
| --- | --- | --- |
|  | **Offer 1** | **Offer 2** |
| Offer Price | £50.00 | £50.00 |
| Inflation Rate | 4.11% | 4.11% |
| Rebate Rate | 11.111% | 11.111% |
| Surety of Supply Adjustment | -4.0% | 0.0% |

**Example Comparison Price 2026**

|  |  |  |
| --- | --- | --- |
| Inflation Adjusted Price | £51.85 | £51.85 |
| Rebate Adjustment | £5.76 | £5.76 |
| Surety of Supply Adjustment | -£2.07 | £0.00 |
| Comparison Price | £55.54 | £57.61 |

**In the above calculation:**

Inflation Adjusted Price = (0.1 x Offer Price+0.9 x Offer Price x(1+Inflation rate))

Rebate Adjustment = Inflation Adjusted Price x Rebate Rate

Surety of Supply Adjustment = Inflation Adjusted Price x Surety of Supply Adjustment %

**Comparison Price 2026 =**

(Offer Price x 0.1 + (Offer Price x 0.9 x (1+Inflation Rate))) x (1 + Surety of Supply Adjustment + Rebate Rate)

**Comparison Price Calculations**

* + 1. Evaluation takes all of the Supply Years into account. The calculation for all four years for the example Offer Price is shown below.

|  |  |  |
| --- | --- | --- |
| **2025** | **Offer 1** | **Offer 2** |
| £53.56 | £55.56 |

Comparison Price (2025) = Offer Price + Offer Price x Rebate + Offer Price x Surety of Supply Adjustment

|  |  |  |
| --- | --- | --- |
| **2026** | **Offer 1** | **Offer 2** |
| £55.54 | £57.61 |

Comparison Price (2026) = (Offer Price x 0.1 + (Offer Price x 0.9 x (1+ Inflation Rate))) x (1 + Surety of Supply Adjustment + Rebate Rate)

|  |  |  |
| --- | --- | --- |
| **2027** | **Offer 1** | **Offer 2** |
| £57.60 | £59.75 |

Comparison Price (2027) = (Offer Price x 0.1 + (Offer Price x 0.9 x (1+ Inflation Rate)^2)) x (1 + Surety of Supply Adjustment + Rebate Rate)

|  |  |  |
| --- | --- | --- |
| **2028** | **Offer 1** | **Offer 2** |
| £59.75 | £61.98 |

Comparison Price (2028) = (Offer Price x 0.1 + (Offer Price x 0.9 x (1+ Inflation Rate)^3)) x (1 + Surety of Supply Adjustment + Rebate Rate)

For evaluation purposes only, a fixed inflation rate of 4.11% is assumed for Years 2, 3 & 4 and hence in the above example calculations, for Year 3 the fixed inflation rate is to the power of 2, and for Year 4 the fixed inflation rate is to the power of 3.

* + 1. Step 2 – Calculation of optimum Comparison Cost to the Authority
       1. The Authority will use optimisation software to calculate the allocation of market shares to suppliers delivering the optimum Comparison Cost over the framework term, considering:
          1. The Comparison Prices per supplier, market share and year
          2. Suppliers’ minimum attractive award percentage
          3. Suppliers’ maximum supply capacity
          4. Any across Lot capacity constraints
          5. The minimum permissible number of suppliers to be awarded per Lot
          6. The maximum one Supplier per Product restriction

1. If the optimisation software recommends an award that exactly matches the boundary between two different market share bands, e.g. 40% in Lot 1 Albumin, if two different prices have been submitted for these adjacent market share bands, then the lower of the prices offered for the two adjacent market share bands will apply.
2. If the optimisation software cannot identify a solution that meets all the constraints and delivers 100% of the required volume, the Authority may adjust its constraints (e.g., minimum number of suppliers awarded) to try to identify a solution that delivers more of the required volume.
   * 1. Step 3 – Award Recommendations

Subject to 7.3.2c, the Authority will award to those suppliers whose combination of Offers results in the most optimum Comparison Cost over the 3 and ¾ year term of the framework, 1 April 2025 – 31 December 2028.

Suppliers’ awarded market shares will remain fixed throughout the Framework term.

Whilst successful suppliers will be awarded a market share per Lot, the Authority does not guarantee that the supplier will receive orders matching the awarded market share. The Authority does however commit to purchase at least 90% of the volume awarded to a supplier, as described in 4.3.8.

Following award of the Framework, the Authority will discuss presentation level requirement for awarded products with relevant suppliers.

* 1. Final Decision to Award
     1. Following evaluation of Offers in accordance with the award methodology set out in this Invitation to Offer, the Authority will inform the successful Offerors, along with all other Offerors via the Portal of its intention to award a Framework Agreement and will allow a 10-day standstill period in accordance with Regulations 86 and 87 of the PCR 2015.
     2. Should the successful Offeror for a particular Product within a Lot decline to accept a framework agreement then, subject to the award methodology set out in this Invitation to Offer, the Authority may rerun the evaluation process to determine the optimal allocation of awards reflecting the supplier’s withdrawal. This may result in other Offerors’ initial awards being withdrawn or amended.
     3. At any time following a standstill period of ten days, subject always to section 10 above (and subject to there being no substantive challenge to that intention), a framework agreement shall be formally awarded, subject to contract, to the successful Offeror(s).
  2. Award Criteria
     1. The Award Criteria are set out in Table 9.

Table 9: Award Criteria

|  |  |
| --- | --- |
| **Award Criteria** | **Scoring Methodology** |
| Quality Assurance Assessment | Pass/Fail |
| Comparison Price | Scored as detailed below |
| Maximum Supply Capacity | Pass/Fail |
| Minimum Attractive Award Percentage | Pass/Fail |

* + 1. Quality Assurance Assessment
       1. Offerors must fully register any offered item on PharmaQC (the Authority’s electronic application for gathering product details and organising QA assessments). All required information must be uploaded to PharmaQC by tender close otherwise it may invalidate your Offer.
       2. Offerors must register the product in Pharma QC against the product pack size and NPCode description of the offered product. Where a product being offered does not have an NPCode, Offerors must provide details of the product (drug / brand / size etc) via the Atamis portal so that the products can be assigned an NPCode for use with PharmaQC.
       3. Additional information is included in the Quality control technical sheet (Document No. 07a).
    2. Comparison Cost
       1. Offer Price
       2. Offerors will need to submit an Offer Price per unit per market share band for each product they wish to submit an Offer.
       3. Inflation Adjustment
       4. The Offer Price will be adjusted for inflation as described in Schedule 6 of the Framework Terms and Conditions except that for the purposes of evaluation, a fixed inflation rate of 4.11% shall be used.
       5. Rebate Adjustment
       6. The Offer Price will be adjusted for Rebate Rate as described Schedule 6 of the Framework Terms and Conditions.
       7. Surety of Supply Adjustment
       8. Surety of Supply refers to the guarantee of medicines being available, in the UK, for use by the NHS at contract commencement and throughout the lifetime of the Framework. Offerors may offer either 3, 4, 5 or 6-months stock.
       9. The minimum stockholding for a compliant Offer is 3 months. Physical stock can include stock at an Offeror’s warehouse or a third-party distribution partner. The stock must be dedicated for participating UK Regions and available for distribution to Participating Authorities to achieve a Green Level performance for KPI 2 (On Time in Full).
       10. Offerors will be contractually required to hold the level of stock as submitted in their Offer. The required stockholding will be calculated based on 100% of the awarded Product volume. If the stockholding falls below the agreed level, the performance regime will apply, which may result in a performance notice and/or financial compensation being owed to the Authority. If, however, the reduction in stockholding below the agreed level is solely due to a request from the Authority, then the performance regime would not be triggered.
       11. Supplier performance as part of this Framework may be considered in the evaluation of future Offers.
       12. The Framework Agreement Terms and Conditions describe the requirements for the stock ramp up and ramp down periods at the beginning and end of the framework.
       13. A stockholding longer than 3 months is preferred. As such the Surety of Supply Adjustment (as determined from Table 10 below) applied to the Offer Price decreases as the stockholding increases towards 6 months.
       14. NB: The Surety of Supply Adjustment is purely for the purposes of evaluation and reflecting the Authority's preference in this procurement exercise. No actual adjustment will be added to the Offer Price and the Authority will purchase at the Framework Price calculated as set out in Schedule 6 of the Framework Terms and Conditions.
       15. The Surety of Supply Adjustment % is determined from Table 10.

Table 10: Surety of Supply Adjustment

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Months of stock held in the UK** | **3** | **4** | **5** | **6** |
| **Surety of Supply Adjustment %** | 0% | -1% | -2.5% | -4% |

* + 1. Maximum supply capacity:
       1. The Supplier must specify within their Offer Schedule, their maximum supply capacity per product per Lot per year.
       2. Offerors will need to submit an Offer Price for all market share bands that they wish to be considered for in each Lot. To be considered for a particular market share, the quantity entered by the supplier in maximum supply capacity section must be equal to or greater than the respective market share. If the entered maximum supply capacity is not sufficient to cover the minimum required supply for a market share, then that market share will be crossed out and not taken into consideration.
       3. Offerors must note that the “maximum supply capacity” provided will be used in-contract to manage any potential unexpected increases in demand. Specifically, the Offeror forfeits the exclusivity on the part of their awarded share that corresponds to any increase beyond their quoted "maximum supply capacity" and the Authority may approach other awarded Suppliers (including any reserve Supplier) to cover the excess demand, at the price(s) offered by those other Supplier(s).
       4. The maximum supply capacity specified by an Offeror, will determine the 110% supply available from an Offeror. The Authority will limit the award to an Offeror to a maximum of 100% (i.e. The Authority will take this into account in its assessment and therefore suppliers should not artificially reduce their maximum capacity to account for the 110% level of supply).
       5. For Lots 2, 3 and 4, Offerors are required to advise of any across Lot constraints in their Offer submission for each Supply Year. For example, if an Offeror can supply 1 million grams for each of Lots 2, 3 and 4 but overall can only supply 2.4 million grams in total across these Lots, this will be taken into account in the evaluation.
    2. Minimum Attractive Award Percentage:
       1. For all Lots, Offerors are required to advise of their minimum attractive award percentage up to a maximum threshold as detailed below:

1. Lots 1, 2, 5, and 6 – the maximum permitted minimum attractive award percentage is 20%
2. Lots 3 and 4 - the maximum permitted minimum attractive award percentage is 10%

See minimum attractive award percentage sections in Document No. 05a – Offer Schedule.

* + - 1. Suppliers will not be awarded less than their minimum attractive award percentage.
    1. Other considerations:
       1. If Offers are received from separate Offerors for the same Product within a Lot (i.e. the brand names and licence numbers are the same), the Authority will only award a market share for the Product to one Offeror.
    2. Table 7 specifies the minimum number of suppliers that the Authority intends to award for the supply in each Lot.

1. Changes to Framework Terms and Conditions
   1. In exchange for the Authority offering longer term agreements, defined annual price adjustments, and committed volumes (via committed market shares), the Authority will require increased surety of supply from Suppliers backed up via enhanced commercial terms.
   2. The Framework Terms and Conditions are set out in Document No. 03 - Framework Terms and Conditions.
2. Participating Authorities (PAs)
   1. Frameworks awarded pursuant to this procurement are for use by the Participating Authorities in England, Scotland, and Northern Ireland and by private sector organisations working on behalf of the aforementioned.
3. Offer Submission Requirements
   1. Instructions
      1. The Offer must be created in the form specified. Failure to do so may render the Offer non-compliant resulting in its rejection.
      2. Offers must comprise:
         1. the completed Response form on the Atamis website – found under “My Proposals and Quotes”
         2. the completed Selection Questionnaire (to be completed on the Atamis website)
         3. the Offer Schedule (Document No.5a)
         4. the Contact Details (Document No. 05b)
         5. the Form of Offer (Document No. 06 to be completed on the Atamis website)
         6. the Quality control technical sheet (Document No. 07a to be completed on the Atamis website)
         7. the Confidential Information Schedule (Document No. 08), if any types of information are considered to be confidential by the Offeror;
         8. a statement of prompt settlement discounts, if available;
         9. details of the Offeror’s ability, if any, to trade electronically;
         10. Confirmation that any information previously supplied to the Authority in connection with the offer is still accurate and is incorporated by reference into the offer.
      3. The Form of Offer must be approved via the Authority’s electronic tendering system by an officer duly authorised by the Offeror.
      4. The Offer must be completed in full. Any Offer which:
         1. Contains gaps, omissions, or obvious errors
         2. Is received after the Offer Deadline
         3. Does not include responses to all questions set out in this ITO
         4. Does not comply fully with the requirements of this ITO (in particular, but without limitation, any mandatory requirement);

may be rejected, resulting in the Offeror’s disqualification.

* + 1. For clarification in completing the offer documentation, or commercial and/or technical queries please send a message via the Atamis messaging portal: health.atamis.co.uk. Please note that any queries raised by Offerors and the responses to those queries by the Authority may be published anonymously to all Offerors in order to ensure transparency, fairness and equal treatment of Offerors throughout the procurement exercise. If you are concerned that your query and/or the response to it may disclose confidential information or information which is commercially damaging to you, then you may submit the query marked "Confidential" and setting out clearly the reasons why you believe that the query and/or the response are or will be confidential or commercially damaging. The Authority will consider your request and make its decision at its sole discretion. If the Authority determines that the query or response should not be disclosed to other Offerors, it will answer your query and not disclose it or the response (as appropriate) to the other Offerors. If the Authority determines that the query and/or the response should be disclosed to other Offerors, it will give you the chance either to withdraw your query or have it answered. If the latter, then the Authority will disclose the query and the response to all other Offerors.
    2. Individual questions may have a page limit. Where applicable, the page limits will be set out with the question. Offerors should ensure that they have taken into account the stated page limits to ensure their submission is compliant. Any text submitted that is over and above the page limit will not be considered. Appendices should only be used where allowed by the relevant question and must be relevant to the question. No generic or unreferenced organisational literature should be submitted as it will be ignored. Appendices should be clearly labelled with the question number they relate to within the document title. Offerors are able to include diagrams as separate attachments in appendices where such appendices are allowed by the relevant question. Offerors are able to label a diagram and this will not be considered part of the page count. However, if any diagram contains information in paragraph format that is clearly an extension of the text found in the main response this will be considered part of the page count. Evaluators will be asked not to review the additional text if the page count limit has been exceeded. Any text in excess of the stated page count limit will be disregarded for the purposes of evaluation.
    3. Offerors must submit their Offers via the Portal only, no later than the Offer Deadline. Offers may be submitted at any time before the Offer Deadline and amended as many times as necessary before the Offer Deadline. Only the last Offer submitted shall be considered. Offers received before the Offer Deadline will be retained unopened and held until after the Offer Deadline.
    4. Price and financial data provided must be in, or converted to, pounds sterling. Where official documents include financial data in a foreign currency, a sterling equivalent must be provided.
    5. The Offer and any documents accompanying it must be in the English Language and in a format specified in Table 11 below. The Authority reserves the right not to consider Offers if not submitted in the format specified.

**Table 11 - Acceptable document format**

|  |  |
| --- | --- |
| **File type** | **Software package** |
| Text based documents, spreadsheet based documents and presentations | Readable by Adobe Reader DC or Microsoft Office – Excel, PowerPoint, and Word Documents (. xlsx, ptttx and .docx). Offerors shall not use a font size of less than 10 points. |
| Graphics files | Readable by a standard image app (i.e. JPEG, PNG, or BMP) |
| Zipped files | “.zip” format only, “.7u” or “.RAR” format will NOT be accepted |

* + 1. Offerors are reminded to include all relevant information in answer to each ITO question. The evaluation of responses will be scored solely on the basis of the information provided by the Offeror(s) in response to individual ITO questions; no other information will be taken into account in the scoring of responses that is either assumed by the Offeror(s) or referred to by the Offeror(s) as being available elsewhere, including, for example, in another part of the Offer, submitted in response to another Offer or Authority’s prior experience of the Offeror’s organisation.
    2. The Authority does not accept any responsibility for the premature opening or mishandling of Offers that are not submitted in accordance with these instructions. Offerors must not include in their Offer any extraneous information which has not been specifically requested in this ITO (including, for example, any sales literature, standard terms of trading, etc.) as this will not be evaluated.

1. Notices and Instructions
   1. The Framework Agreement
      1. This procurement exercise concerns the establishment of a Framework Agreement under which one or more successful Offerors will be appointed to supply goods and/or services on the terms agreed to such of the Participating Authorities as may place orders for such goods and/or services from time to time.
      2. By submitting an Offer, an Offeror is deemed to acknowledge and agree that:
         1. the supply of goods and/or services under any framework agreement resulting from this procurement exercise is not an exclusive arrangement; and
         2. notwithstanding the establishment of any framework agreement pursuant to this procurement exercise, the Authority and/or any of the Participating Authorities may at any time purchase goods and/or services from (and/or enter into other contracts and framework agreements with) any third party that are the same as, or similar to, the goods and/or services described in the Framework Agreement.
   2. Guidance and Compliance
      1. Offerors should carefully read the instructions set out in this ITO before submitting an Offer in response to this ITO. Failure to comply with these requirements for completion and submission of the Offer may result in the rejection of the Offer response. Offerors are therefore advised to acquaint themselves fully with the instructions and conditions set out in this ITO.
      2. All Offers received by the Authority will be checked for compliance with the submission requirements set out in this ITO. If an Offer is not considered compliant, the Authority will not be obliged to carry out any further evaluation and the Offeror may be eliminated from the Procurement. During this period, clarification on any aspect of the Offer may be sought by the Authority.
      3. An Offeror's participation in the Procurement Process constitutes acceptance of the terms and conditions of the Procurement Process and this ITO and the Offeror agrees to be bound by such without further negotiation or amendment.
   3. Conditions of Offer
      1. In submitting its Offer, the Offeror warrants, represents and undertakes to the Authority that:
         1. All information and representations made to the Authority by the Offeror, its staff, or agents in connection with or arising out of the Procurement Process are true, complete, and accurate;
         2. It has made its own investigations and undertaken its own research and due diligence and has satisfied itself in respect of all matters (whether actual or contingent) relating to the SQ, ITO and associated documents and that it has not submitted its Offer in reliance upon any information, representation or assumption which may have been made by or on behalf of the Authority;
         3. Where there is a change to the information provided to the Authority at any time the Offeror must advise the Authority as soon as practicable, even if this is prior to the date of submitting the Offer and disclose such changes in full;
         4. It has not passed a resolution, nor is it the subject of an order by the court, for the company’s winding-up otherwise than for the purposes of bona fide reconstruction or amalgamation, nor has it had a receiver, manager or administrator on behalf of a creditor appointed in respect of its business or any part thereof, nor is it the subject of proceedings for any of the above procedures, nor is it the subject of similar procedures under the law of any other states;
         5. It has not been convicted of a criminal offence relating to the conduct of its business or profession;
         6. It has not been in in any of situations listed in Regulation 57 “Mandatory and discretionary exclusions for non-payment of taxes etc” or “Discretionary exclusions” of the PCR 2015, subject to the exercise of Discretion, or acceptance of evidence of Self-Cleaning, on behalf of the Authority, as provided for under Regulation 57.
         7. It has not made any material misrepresentation in providing any of the information required in relation to the SQ or ITO; and
         8. It has not disclosed, copied, reproduced, or distributed and will not disclose, copy, reproduce or distribute any information contained in the Procurement Documents or supplied by the Authority to any third party at any time except for the purpose of enabling a response to this ITO to be prepared.
      2. The Authority reserves the right to retain all and any of the information supplied to it by the Offeror(s).
   4. Offer Validity
      1. All Offers submitted by Offerors must remain open for acceptance for a period of 90 days from the Offer Deadline. An Offer valid for a shorter period may be rejected. Prices must be firm (i.e. not subject to variation) for the period of the contract subject only to any variation provisions contained in the Framework Agreement.
   5. Language
      1. All documentation and communication shall be in English.
   6. Procurement Costs
      1. Each Offeror and any Relevant Organisation shall be solely responsible for all the costs incurred in the preparation and submission of its Offer up to and including the award of any contract by the Authority. This shall also be deemed to cover the cost of attending any pre or post Offer meetings and, should an Offeror be successful, the preparation of contract documents. The Authority, or any of their advisors, shall in no event be responsible or liable for any such costs regardless of the conduct or outcome of the Procurement Process, and in this respect, the Offeror and any Relevant Organisation shall have no recourse to the Authority.
   7. Variant Offers
      1. Variant Offers are NOT permitted.
   8. ITO updates
      1. Throughout the Procurement Process, the Authority may issue Updates, which will be identified by a number and the date. These will be issued via the Portal.
      2. Such Updates will contain details of any amendments, additions or variation to the information contained in this ITO or documents previously provided, together with any further information, which may assist the Offerors in the preparation of their Offer submissions. No statements issued by the Authority in relation to this or any other documents shall be relied upon unless ratified by an Update.
   9. Offeror Communications
      1. All communications from Offerors regarding the Procurement during the period of the Procurement must be directed to the Authority via the ‘messaging’ area within the Portal.
      2. Strictly no other forms of communication to the Authority will be accepted (including telephone calls, postal queries/submissions, faxes, or email communications).
   10. Offeror’s Authorised Representative
       1. The Offeror’s Authorised Representative shall be the single point of contact for the Procurement. All Authority communication relating to the Procurement Process will be sent via the Portal for the attention of the Offeror's Authorised Representative. The Authority will not be responsible for contacting the Offeror through any route other than the Authorised Representative. The Authorised Representative must have full authority to represent the Offeror and attend any meetings on the Offeror's behalf. The Authority may, at any time, request documentary proof of such authority. Offerors shall notify the Authority of any changes to the Authorised Representative's contact details as soon as practicable.
   11. Confidentiality
       1. Subject to the exceptions referred to in this ITO, the contents of this ITO and all information supplied to Offerors by the Authority in connection with the Procurement Process are being made available by the Authority on condition that:
          1. Offerors shall at all times treat the contents of this ITO and any Procurement Documents (together the “Information”) as confidential;
          2. Offerors shall not disclose, copy, reproduce, distribute, or pass any of the Information to any other person at any time or allow any of these things to happen;
          3. Offerors shall not use any of the Information for any purpose other than for the purposes of submitting or deciding whether to submit an Offer; and
          4. Offerors shall not undertake any publicity activity within any section of the media which utilises the Information;
          5. Offerors may disclose, distribute, or pass any of the Information to their Offeror Members provided that either:
             1. This is done for the sole purposes of enabling an Offer to be submitted and the person receiving the Information undertakes in writing to keep the Information confidential on the same terms as if that person were the Offeror; or
             2. The Offeror obtains the prior written consent of the Authority in relation to disclosure, distribution or passing of Information; or
             3. The disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the Procurement or to any Contract arising from it; or
             4. The Offeror is legally required to make such disclosure.
       2. The Authority may share Offerors' confidential information with the Authority's officers, employees, agents, or professional advisors in relation to this ITO and/or the Contract.
       3. All Central Government Departments and their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement - including ensuring value for money and related aspects of good procurement practice.
       4. For these purposes, the Authority may disclose within Government any of the Offerors documentation or information (including any that the Offeror considers to be confidential and/or commercially sensitive such as specific Offer information) submitted by the Offeror to the Authority during this Procurement. The information will not be disclosed outside Government (other than as required by the Freedom of Information Act 2000 or other legal obligation).
       5. This invitation and its accompanying documents shall remain the property of the Authority and shall be returned to the Authority on demand.
   12. Freedom of Information and Environmental Information
       1. In accordance with the obligations and duties placed upon public authorities by the Freedom of Information Act 2000 (FOIA), the Authority may, acting in accordance with the Secretary of State’s Code of Practice on the Discharge of Functions of Public Authorities under Part 1 of the said Act or the Environmental Information Regulations 2004 (EIR) be required to disclose information submitted by the Offeror to the Authority. FOIA and EIR apply to the Authority.
       2. In respect of any information submitted by an Offeror that it considers to be commercially sensitive the Offeror should:
          1. Clearly identify such information as commercially sensitive by return of Document No. 08 Confidential Information Schedule
          2. Explain the potential implications of disclosure of such information; and
          3. Provide an estimate of the period of time during which the Offeror believes that such information will remain commercially sensitive.
       3. Where an Offeror identifies information as commercially sensitive, the Authority will endeavour to maintain confidentiality. Offerors should note, however, that, even where information is identified as commercially sensitive; the Authority may be required to disclose such information in accordance with the FOIA or EIR. In particular, the Authority will form an independent judgement concerning whether the information is exempt from disclosure under the FOIA or the EIR and whether the public interest favours disclosure or not. Accordingly, the Authority cannot guarantee that any information marked ‘*confidential*’ or ‘*commercially sensitive*’ will not be disclosed.
       4. Offerors should be aware of the Authority’s obligations and responsibilities under the FOIA to disclose, on request, recorded information. Information provided by Offerors in connection with this procurement exercise, or with any Contract that may be awarded as a result of this exercise, may therefore have to be disclosed by the Authority in response to such a request, unless the Authority decides that one of the statutory exemptions under the FOIA applies. The Authority may also include certain information in the publication scheme which it maintains under the FOIA.
       5. In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the FOIA, the Authority may consider it appropriate to ask Offerors for their views as to the release of any information before a decision on how to respond to a request is made. In dealing with requests for information under the FOIA, the Authority must comply with a strict timetable and the Authority would, therefore, expect a timely response to any such consultation within five working days.
       6. Where an Offeror receives a request for information under the FOIA or the EIR during the Procurement process, this should be immediately passed onto the Authority and the Offeror should not attempt to answer the request without first consulting with the Authority.
       7. If Offerors provide any information to the Authority in connection with this procurement exercise, or with any Contract that may be awarded as a result of this exercise, which is confidential in nature and which an Offeror wishes to be held in confidence, then Offerors must clearly identify in their offer documentation the information to which Offerors consider a duty of confidentiality applies. Offerors must give a clear indication which material is to be considered confidential and why you consider it to be so, along with the time period for which it will remain confidential in nature. The use of blanket protective markings such as “commercial in confidence” is not appropriate. In addition, marking any material as “confidential” or equivalent should not be taken to mean that the Authority accepts any duty of confidentiality by virtue of such marking. Please note that even where an Offeror has indicated that information is confidential, the Authority may be required to disclose it under the FOIA if a request is received.
       8. The Authority cannot accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.
       9. In certain circumstances where information has not been provided in confidence, the Authority may still wish to consult with Offerors about the application of any other exemption such as that relating to disclosure that will prejudice the commercial interest of any party.
       10. The decision as to which information will be disclosed is reserved to the Authority notwithstanding any consultation with your organisation.
       11. If further information is required on how the Authority will handle requests for information received under the FOIA, Offerors should contact:

**NHS England**

**PO Box 16738**

**Redditch B97 9PT**

E-mail requests should be sent to england.contactus@nhs.net and quote “*Freedom of Information – (Insert Offer Reference ID and Title)*” on any subject heading.

* 1. Right to publish – Transparency agenda
     1. By submitting an Offer, an Offeror is deemed to acknowledge and agree that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, this Invitation to Offer and the content of any framework agreement resulting from this procurement exercise will be published in accordance with the Government's policies on transparency as expounded in the Guidance published by the Cabinet Office. Further information on transparency can be found at: <https://www.gov.uk/government/policies/buying-and-managing-government-goods-and-services-more-efficiently-and-effectively>
     2. The Authority shall be ultimately and solely responsible for determining whether any of the content of this Invitation to Offer and any Framework Agreement that is concluded as a result of this procurement exercise is exempt from disclosure in accordance with the provisions of the FOIA.
  2. Samples
     1. Offerors may be required to submit samples of each item offered. Such samples shall be provided free of charge.
     2. If samples are required, these should be despatched under separate cover as and when required by the Authority.
     3. Samples should be clearly marked with the name of the Offeror and the project code reference: CM/PHS/23/5703. Samples should be clearly labelled NHS Framework Agreement for Human Albumin & Normal and Anti-D Immunoglobulin.
  3. Staff Transfers - Transfer of Undertakings Protection of Employment (TUPE)
     1. The Authority believes that Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will not apply to transfer the employment of any individuals from the Authority or any third-party supplier of the Authority to the successful Offeror(s) at the commencement of the Contract.
     2. Offerors must take their own advice on whether TUPE will apply to the Procurement and their specific Offer. For the avoidance of doubt, the Authority have a facilitating role only and are not in a position to make any statement regarding any potential obligations the Procurement may give rise to under TUPE.
     3. The Authority makes no warranty that the information provided, or the beliefs expressed are correct and accepts no liability and provides no indemnity for any errors or omissions or inaccuracies in the information provided or the beliefs expressed.
     4. The successful Offeror(s) will be required to indemnify the Authority against all possible claims under TUPE. It is a further requirement that the successful Offeror 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 Offerors to enable them to assess their obligations under TUPE in the event of a subsequent transfer occasioned by a future procurement process. These terms will be detailed in the Contract entered into by the successful Offeror.
  4. Copyright
     1. The copyright in this ITO is vested in the Authority. Neither this ITO nor any other document related to the Procurement Process may, either in whole or in part, may be copied, reproduced, distributed, stored in any medium or otherwise made available to any other third party without the prior written consent of the Authority other than strictly for the purpose of preparing an Offer. All documentation supplied by the Authority in relation to this ITO is, and shall remain the property of the Authority and must be returned on demand, without any copies being retained.
  5. Canvassing
     1. The Authority reserves the right to disqualify (without prejudice to any other civil remedies available to the Authority and without prejudice to any criminal liability which such conduct by an Offeror or any of their Offeror Members may attract) any Offeror or Offeror Member who, in connection with this ITO:
        1. Offers any inducement, fee or reward to any representatives or advisors of the Authority.
        2. Does anything which would constitute a breach of the Bribery Act 2010;
        3. Canvasses any of the persons referred to in connection with this ITO;
        4. Contacts any of the persons referred to in this document prior to conclusion of the Contract with the Preferred Offeror about any aspect of this ITO in a manner not permitted by this ITO (including without limitation contact for the purposes of discussing the possible transfer to the employment of the Offeror of such person);
        5. Otherwise attempts to influence the Procurement Process and/or its outcome.
  6. Non-Collusion
     1. The Authority reserves the right to disqualify (without prejudice to any other civil remedies available to them and without prejudice to any criminal liability which such conduct by an Offeror may attract) any Offeror or Offeror Member who, in connection with this ITO:
        1. Fixes or adjusts the amount of their Offer by or in accordance with any agreement or arrangement with any other Offeror or Offeror Member of another Offeror (other than an Offeror’s own Offeror Members); or
        2. Enters into any agreement or arrangement with any other Offeror or Offeror Member of another Offeror to the effect that they shall refrain from submitting an Offer or as to the amount of any Offer to be submitted; or
        3. Offers or agrees to pay or give or does pay any sum or sums of money, inducement or valuable consideration directly or indirectly to any party for doing or having done or causing or caused to be done in relation to any other Offer or proposed Offer, any act of omission (without prejudice to any other civil remedies available to the Authority and without prejudice to any criminal liability which such conduct by an Offeror or Offeror Member may attract) relating to any other Offer or proposed Offer for the Goods; or
        4. Causes or induces any person to enter such agreement as mentioned or to inform the Offeror or Offeror Member of the amount or approximate amount of any rival Offer; or
        5. Canvasses any of the persons referred to in paragraph 11.17 (Canvassing) in connection with this ITO; or
        6. Communicates to any party other than the Authority, the amount or approximate amount of its proposed Offer or information which would enable the amount or approximate amount to be calculated (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the Offer or insurance or any necessary security); or
        7. Colludes in any other way.
  7. Offeror Changes
     1. Offerors are subject to an ongoing obligation to notify the Authority of any material changes in their financial or other circumstances. This includes, but is not limited to, changes to the identity of sub-contractors, or the ownership or financial or other circumstances and solvency of the Offeror and any sub-contractor. The Authority should be notified of any material change as soon as it becomes apparent.
     2. Offerors are reminded that any future changes in relation to their Offeror Members must be notified to the Authority. Failure to notify the Authority of any material changes or to comply with any of these provisions may lead to an Offeror being disqualified.
     3. The Authority reserves the right to refuse to allow such a change and to disqualify any Offeror from further participation in the Procurement Process in the event that such a change is made. In exercising their absolute discretion to either refuse or allow such a change, the Authority may take into account whether such change is material to the delivery of the Goods.
     4. In the event that the Authority is prepared to consider such a change, further evaluation of the Offeror, including its Offeror Members, is likely to be required and may result in the Authority refusing to allow the change.
  8. Sub-contracting and Consortium
     1. Where an Offeror proposes to use one or more sub-contractors to deliver some or all of the Contract requirements, the Offer must provide details of the proposed bidding model, including members of the supply chain, the percentage of work being delivered by each sub-contractor and the elements of the contractual requirements that each sub-contractor will be responsible for.
     2. The Authority recognises that arrangements in relation to sub-contracting may be subject to future change, and may not be finalised until a later date. However, Offerors should be aware that where information provided to the Authority indicates that sub-contractors are to play a significant role in delivering key contract requirements, any changes, or proposed changes, to those sub-contracting arrangements may affect the ability of the Offeror to proceed with the Procurement Process or to provide the Goods required. Offerors should therefore notify the Authority immediately of any change in the proposed sub-contractor arrangements. The Authority reserves the right to remove the Offeror from the Procurement Process prior to any award of Contract, based on an assessment of the updated information.
     3. Offerors participating in the Procurement Process as part of a proposed consortium, must provide the following information:
        1. names and addresses of all consortium members;
        2. the lead consortium member which will be contractually responsible for delivery of the Contract (if a separate legal entity is not being created), save that the Authority may require that each consortium member is jointly and severally liable under the Contract, or that a series of guarantees and cross-undertakings are provided by other consortium members; and
        3. if the consortium is not proposing to form a legal entity, full details of proposed arrangements within a separate appendix.
     4. Please note that the Authority may require the consortium to assume a specific legal form if awarded the Contract, to the extent that a specific legal form is deemed by the Authority as being necessary for the satisfactory performance of the Contract.
     5. All members of the consortium must agree upon the Offer provided to the Authority and the Offer must be signed by the authorised representative of the lead consortium member which shall be responsible for the performance of the Contract.
     6. Where Offerors are proposing to create a separate legal entity, such as a special purpose vehicle (SPV), Offerors must provide details of the actual or proposed percentage shareholding of the constituent members within the new legal entity in a separate appendix to the Offer. The Authority may require that each consortium member is jointly and severally liable under the Contract, or that a series of guarantees and cross-undertakings are provided by other consortium members in relation to the obligations of the SPV.
     7. The Authority recognises that arrangements in relation to a consortium Offer may be subject to future change. Offerors should therefore respond on the basis of the arrangements as currently envisaged. Offerors are reminded that the Authority must be notified immediately of any changes, or proposed changes, in relation to the bidding model. The Authority reserves the right to deselect the Offeror prior to any award of Contract, based on an assessment of the updated information.
  9. Authority’s Advisors
     1. Offerors should note that the advisors currently appointed on behalf of the Authority in relation to this Procurement are:

**Legal - Blake Morgan LLP**

* + 1. The Authority may, at their sole discretion, appoint additional advisors.
    2. Each Offeror acknowledges that by virtue of submitting an Offer it waives any right of objection which it has or may have in relation to the Authority's appointment of professional advisors. The Authority reserves the right to disqualify any Offeror which refuses to provide such a waiver.
  1. Publicity
     1. Offerors shall not undertake (or permit to be undertaken) at any time, whether before or after execution of Contracts, any publicity activity with any section of the media in relation to the Procurement other than with the prior written agreement of the Authority. Such agreement shall extend to the content of any publicity. In this paragraph the word "media" includes (but without limitation) radio, television, newspapers, trade and specialist press, the internet and email accessible by the public at large and the representatives of such media.
  2. Conflict of Interest
     1. The Authority requires all actual or potential conflicts of interest to be resolved to their satisfaction prior to the submission of Offers.
     2. To this end, Offerors are instructed to ensure that their potential appointment as a Supplier to the Authority for the provision of the Goods has not and will not create any conflict of interest or any situation that might compromise or prejudice the Authority's duty to manage an open, fair, non-discriminatory, and competitive procurement process.
     3. In the event of a conflict (or potential conflict) arising at any time during the procurement process, the affected Offeror must report the occurrence of an actual or potential conflict and the means for resolving it to the Authority as soon as reasonably practicable via the messaging area of this ITO on the Portal.
     4. Failure to declare such conflicts and/or failure to address such conflicts to the reasonable satisfaction of the Authority may result in the disqualification of the relevant Offeror from the Procurement Process.
  3. Right to Reject Offers and Disqualify Offerors
     1. The Authority reserves the right to reject/exclude or disqualify an Offeror (and/or its Offeror Members) where:
        1. An Offer is submitted late, is completed incorrectly, is materially incomplete or fails to meet the submission requirements which have been notified to Offerors;
        2. The Offeror and/or its Offeror Members are unable to satisfy the terms of Regulation 57 of the PCR 2015 at any stage during the Procurement Process;
        3. The Offeror and/or its Offeror Members are guilty of material misrepresentation or provide incorrect information in relation to its/their Offer and/or the Procurement Process;
        4. Where this ITO or any of the Procurement Documents set out a right to disqualify or exclude (including, but not limited to, circumstances where the Offeror fails a pass/fail question the possible consequence of which is stated as exclusion/disqualification or fails to achieve a minimum score to a question or section); or
        5. There is a change in identity, control, financial standing, or other factor impacting on the selection and/or evaluation process affecting the Offeror and/or its Offeror Members.
     2. Any Offerors, including any Preferred Offeror, acting in contravention of the provisions set out in this ITO or any other information provided by the Authority, may, at the Authority’s sole discretion, be disqualified from further participation in the Procurement Process (without prejudice to any other civil or legal remedies available and without prejudice to any criminal liability which such conduct by an Offeror may attract).
     3. In no circumstances will the Authority, or their advisors be liable for any costs or expenses incurred by the disqualified Offeror and/or its Relevant Organisations as a result, directly or indirectly, of such disqualification.
  4. No Inducement or Incentive
     1. The ITO is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded an Offeror or Offeror Member to submit an Offer or enter into any contractual agreement.
  5. Authority’s Rights to cancel or vary the process
     1. The Authority reserves the right to:
        1. cancel, withdraw from, or abandon the whole Procurement Process at any stage of the process whether in respect of all or any of the Authority’s requirements or otherwise.
        2. award a Contract in whole or in part, or not to award a Contract under the Procurement Process.
        3. waive the requirements of this ITO;
        4. disqualify any Offeror that does not submit a compliant Offer in accordance with the instructions in this ITO;
        5. withdraw this ITO at any time, or to re-invite Offer responses on the same or any alternative basis; and
        6. make whatever changes it sees fit to the timetable, structure or content of the Procurement Process and this ITO from time to time without prior (or any) notice being given by the Authority.
  6. Interpretation
     1. In this ITO, except where the context otherwise requires:
        1. Words importing one gender include all other genders and words importing the singular include the plural and vice versa.
        2. The headings and contents table in this ITO are for convenience only and do not affect their interpretation.
        3. Enactment means any statute or statutory provision (whether of the United Kingdom or elsewhere), subordinate legislation (as defined by s.21 (1) Interpretation Act 1978) and any other subordinate legislation made under any such statute or statutory provision.
        4. A reference to any enactment shall be construed as including a reference to:
           1. any enactment which that enactment has directly or indirectly replaced (whether with or without modification); and
           2. that enactment as re-enacted, replaced or modified from time to time, whether before, on or after the date of the Procurement Documents.
           3. the defined terms, any abbreviations, the headings to the sections of the Procurement Documents thereto are for ease of reference only and shall not affect the construction of the Procurement Documents;
           4. in the event of any inconsistency between the provisions of the Procurement Documents and any previously issued documents, the provisions of the Procurement Documents shall prevail
  7. Accuracy of ITO Information and Liability
     1. Whilst the information contained in this ITO has been prepared by the Authority in good faith, it does not purport to be comprehensive or to have been independently verified.
     2. Neither the Authority nor any of their respective directors, officers, members, partners, employees, advisors, other staff, or agents:
        1. Makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of this ITO, or accepts any responsibility for the information contained in this ITO or for the fairness, accuracy or completeness of that information, nor shall any of them be liable for any loss or damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication. Any liability for such matters is expressly disclaimed.
        2. Any persons considering entering into a contractual relationship with the Authority should make their own investigations and their own independent assessment of the Authority and its requirements for the Goods and should seek their own professional financial and legal advice. For the avoidance of doubt the provision of clarification or further information in relation to this ITO or any other associated documents is only authorised to be provided following a clarification query made in accordance with the clarification question section of this ITO.
        3. Offerors are deemed to fully understand the processes which the Authority is required to follow under legislation in the United Kingdom, and in particular, the PCR 2015.
  8. No express or implied contract
     1. Nothing in this ITO or any other pre-contractual documentation shall constitute the basis of an express or implied contract that may be concluded in relation to the Procurement Process, nor shall such documentation/ information be used in construing any such contract. Each Offeror 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 ITO or other pre-contract documentation.
  9. Governing Law
     1. The laws of England and Wales and the exclusive jurisdiction of the Courts of England and Wales; shall apply to the Procurement Process, this ITO, the Contract and, subject to applicable law, any dispute, including any non-contractual dispute arising therefrom.
  10. E-auctions
      1. This procurement will not include an electronic reverse auction stage.
  11. Contract Monitoring
      1. The Authority is committed to helping improve the efficiency of contracted suppliers through sharing information on performance measurement. The key performance indicators and supplier reporting requirements are set out in Schedule 5, Annex 1 and Annex 2 of Document No. 03 Framework Terms and Conditions.
      2. It is possible that additional measurement criteria will develop during the term of the framework agreement.