# Part A

# Instructions to Applicants

# Applicants should read this Part A first

# Yeovil Flood Risk Study

# DN480904

**Commercial and Procurement Team**
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Improving Lives

# Contents


1 Definitions ..... 3
2 Instructions ..... 10
2.1 Accessing the Procurement Opportunity ..... 10
2.2 Authority's Warranties and Disclaimers ..... 10
2.3 Bribery Act ..... 11
2.4 General Data Protection Regulation ..... 11
2.5 Public Services (Social Value) Act ..... 11
2.6 Freedom of Information Act ..... 11
2.7 Counter Terrorism and Security Act ..... 12
2.8 Business Continuity Requirements ..... 12
2.9 Framework Agreements ..... 14
2.10 Study of the Procurement Documents ..... 14
2.11 Consortia and Sub-contracting ..... 15
2.12 Ownership ..... 16
2.13 Discrepancies, Omissions and Enquiries concerning the Documents ..... 16
2.14 Terms and Conditions ..... 17
2.15 Clarification and Circular Advices ..... 18
2.16 Completion of the Document ..... 19
2.17 Mandatory Schedules ..... 19
2.18 Page and Word Count Limits ..... 20
2.19 Applicant Site Visits ..... 21
2.20 Alternatives and Variations ..... 21
2.21 Return of Document ..... 21
2.22 Applicant's Warranties ..... 23
2.23 Non Submission ..... 23
2.24 Evaluation of Bids ..... 23
2.25 Selection Questions ..... 24
2.26 Mandatory Exclusion Grounds ..... 24
2.27 Discretionary Exclusion Grounds ..... 26
2.28 Award Questions ..... 29
2.29 Clarification of the Applicant's Bid ..... 29
2.30 Applicant's Price ..... 30
2.31 Errors and Omissions in the Applicant's Bid ..... 30
2.32 Abnormally Low Bids ..... 30
2.33 Authority Site Visits ..... 30
2.34 Demonstrations and Presentations ..... 31
2.35 Rejection of Offers ..... 31
2.36 Acceptance of Offers ..... 32
2.37 Award of Contract or Framework Agreement ..... 32

# 1 Definitions

The following terms are used within the Procurement Document with the following meanings:

| Term | Definition |
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| **Applicant (Supplier/you or your)** | the organisation responding to the procurement through the procurement process |
| **Authority (Somerset County Council/SCC)** | the organisation preparing the Procurement Documents and/or the organisation for whom the resultant Contract will be performed |
| **Authority Authorised Representative** | the main client officer for the procurement process and/or resultant Contract, as indicated in Part B General Information and Specification |
| **Award** | the process by which the Authority shall determine to whom the Contract will be awarded in accordance with the criteria listed at Regulation 67 of the Public Contracts Regulations 2015 |
| **Awarding Authority** | the organisation for whom the resultant Contract will be performed; this may be a different organisation than is referred to under Authority (in instances where the Authority is procuring a Contract on behalf of another organisation, for example) |
| **Bid** | the Applicant's offer to the Authority, which shall be submitted as the completed procurement documents |
| **Call-Off Contract** | a Contract awarded under a Framework Agreement |
| **Clarification** | the process by which queries on the Authority's procurement document are raised by the Applicants and the process by which queries on the Applicant's Bid are raised by the Authority |
| **Clarification Period** | the time period during which clarifications of any matters arising from the Procurement Documents may be made in accordance with Part B General Information and Specification of these Procurement Documents |
| **Commencement Date** | the date on which the Contract is due to commence as indicated in Part B General Information and Specification of these Procurement Documents |
| **Commercially Sensitive information** | the information listed by an Applicant within its Bid at Part C Selection and Award of these Procurement Documents comprising the information of a commercially sensitive nature relating to the Contractor, its intellectual property rights or its business or which the Contractor has indicated |

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| | to the Authority that, if disclosed by the Authority, would cause the Contractor significant commercial disadvantage or material financial loss |
| **Consortia/Consortium** | two (2) or more persons, at least one of whom is an economic operator, acting jointly for the purpose of being awarded a public contract (pursuant to Regulation 19 Public Contracts Regulations 2015) |
| **Contract** | a formal and legally binding agreement entered in to between two or more parties to provide Goods, Services or Works in return for financial remuneration including all documents to which reference may properly be made in order to ascertain the rights and obligations of all the parties involved |
| **Contract Manager** | the main client officer responsible for managing the resultant Contract, as indicated in Part B General Information and Specification of these Procurement Documents |
| **Contract Procedure Rules** | the Authority's internal rules regulating the award of Contracts |
| **Contracting Authority** | the Authority and any other organisation on whose behalf the Authority may be working |
| **Contractor** | the Applicant awarded the Contract culminating from an offer to supply accepted by this Authority |
| **Council** | as Authority |
| **Disclosure and Barring Service (DBS) check** | the organisation formed on 01 December 2012 from the merger of the Criminal Records Bureau and Independent Safeguarding Authority.<br>Further information can be found at the following:<br>www.homeoffice.gov.uk/dbs |
| **Eligible User** | any organisation given access to a Contract as a result of the procurement process and on whose behalf the Authority may be establishing the arrangements |
| **Employers' Liability (Compulsory Insurance)** | an insurance that enables organisations to meet the costs of damages and legal fees for employees who are injured or made ill at work through the fault of the employer. Employees injured due to an employer's negligence can seek compensation even if the organisation goes into liquidation or receivership. The NHS can also claim the costs of hospital treatment (including ambulance costs) when personal injury compensation is paid. This applies to incidents that occur either on or after 29 January 2007.<br>By law, an employer must have EL insurance and be insured for at least £5 million. Most insurers automatically provide cover of at least £10 million. The insurance must cover all the |

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| | organisation's employees in England, Scotland, Wales and Northern Ireland.<br>If the organisation is not a limited company, and you are the only employee or you only employ close family members, you do not need compulsory Employers' Liability Insurance. Limited companies with only one employee, where that employee also owns 50 per cent or more of the issued share capital in the company, are also exempt from compulsory Employers' Liability Insurance. However, there is nothing to prevent an exempt employer from choosing to buy this insurance in view of the financial security it can provide. |
| **E-Tendering System (ProContract)** | the secure (hosted) electronic tendering website through which the Authority advertises its procurement opportunities and conducts its procurement activities.<br>The system can be accessed at the following web address: https://www.supplyingthesouthwest.org.uk/ |
| **Evaluation** | the process through which the Applicant's Bid is reviewed in accordance with the Evaluation Criteria, following which a decision to award a Contract is made |
| **Evaluation Criteria** | the means by which the Authority will Evaluate an Applicant's Bid, to include all of the issues that must be considered so as to be able to judge the suitability of an Applicant's Bid |
| **Form of Tender** | the document set out in Part C Selection and Award of these Procurement Documents to be completed and submitted by the Applicant as part of its Bid |
| **Framework Agreement** | an agreement or other arrangement between one or more contracting authorities and one or more economic operators which establishes the terms (in particular the terms as to price and, where appropriate, quantity) under which the economic operator will enter into one or more contracts with a contracting authority in the period during which the framework agreement applies |
| **Further Competition** | the procurement process by which the Authority shall call a Contract off against a Framework Agreement |
| **Goods** | Shall mean the items offered by an Applicant and/or the items requested by the Authority |
| **Invitation to Tender (ITT)** | the written request by the Authority for an interested Applicant to submit a written Bid to facilitate the Authority's requirements |
| **Lead Applicant** | the organisation leading the bidding process on behalf of its consortia or Sub-contractor partners |
| **Lot(s)** | One of a number of categories of goods or services which a single procurement process has been divided into. The use |

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| | of lots potentially allows for multiple providers to be appointed following one procurement process. An example might be a computer hardware procurement with one lot for "laptops" and a second lot for "desktops". |
| **Lowest Price** | a means of evaluation whereby all Applicants to a procurement process will be assessed solely on the basis of their offer of price |
| **Mandatory Requirements: Pass/Fail** | the Authority's essential requirements that Applicants will be required to demonstrate their ability to meet so as to be able to pass through to the next stage of the procurement process |
| **Mandatory Requirements: Scored** | the Authority's essential requirements that Applicants will be required to demonstrate their ability to meet and that will be scored so as to be able to pass through to the next stage of the procurement process and/or as part of the Award criteria |
| **Most Economically Advantageous Tender (MEAT)** | a means of evaluation whereby all Applicants to a procurement process will be assessed the basis of their offer of a combination of both quality factors and price |
| **Official Purchase Order** | the Authority's Official Purchase Order, to which these conditions apply |
| **OJEU** | the Official Journal of the European Union |
| **OJEU Contract Notice** | Shall mean the publication in the OJEU of an Authority's intention to procure a public supplies, services, or works Contract |
| **OJEU Open** | the procurement process determined by the Public Contracts Regulations 2015 and which requires the publication of an OJEU Contract Notice plus an Invitation to Tender prior to the award of a Contract |
| **OJEU Restricted** | the procurement process determined by the Public Contracts Regulations 2015, which includes the publication of an OJEU Contract Notice plus a Selection stage and Invitation to Tender prior to the award of a Contract |
| **Open Procedure** | the procurement process determined by the Authority's Contract Procedure Rules and which requires the publication of an Invitation to Tender prior to the award of a Contract |
| **Part A Instructions to Applicants** | the document containing advice to Applicants concerning the way that the procurement process will be conducted and the way in which the documentation should be completed |
| **Part B General Information and Specification** | the document containing information specific to the procurement opportunity to include the specification |
| **Part C Selection and Award** | the document containing the Selection and Award criteria to be applied during the evaluation of returned Bids and shall |

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| | be the document in which the Applicant shall make its response to those criteria |
| **Part D Pricing** | the document in which the Applicant shall declare its pricing |
| **Part E Terms and Conditions** | the document indicating the terms and conditions of Contract that the Contract shall be managed in accordance with |
| **Pricing** | the value placed on a Bid by the Applicant that will purchase their offer to facilitate the Authority's requirements |
| **Procurement** | the acquisition of Goods, Services or Works from an external source |
| **Procurement Documents** | the written request by the Authority for an interested Applicant to submit a written Bid to facilitate the Authority's requirements |
| **Procurement Representative** | the officer indicated in Part B General Information and Specification |
| **Product Liability Insurance** | In Product Liability Insurance terms, a product is any physical item that is sold or given away.<br>Products must be 'fit for purpose'. The organisation is legally responsible for any damage or injury that a product it supplies may cause (in some circumstances this also includes products that the organisation does not manufacture).<br>Product Liability Insurance covers the organisation against damages awarded as a result of damage to property or personal injury caused by the product. If damages are paid for personal injury, the NHS can claim to recover the costs of hospital treatment (including ambulance costs). This applies to incidents that occur either on or after 29 January 2007. |
| **Professional Indemnity Insurance** | liability cover that provides protection for negligent advice or a service provided by the organisation, it also protects against damages the organisation becomes liable for in relation to mistakes made such as errors of judgement, basic administration errors, mislay of or damage to clients' documents. It is designed to safeguard it against claims made by clients for any resulting financial loss or damage to their reputation. This type of insurance should also cover legal fees and costs.<br>Individuals and organisations that provide professional advice or consultancy services need Professional Indemnity cover. |
| **Public Contracts Regulations 2015 (the "Regulations")** | the legislation of the United Kingdom concerning the procedures for the award of public works contracts, public supply contracts and public service contracts |

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| **Public Liability Insurance** | Insurance that covers members of the public or customers coming to the organisation's premises or if the organisation's staff go to theirs (including if the organisation is based 'at home').<br>It covers any awards of damages given to a member of the public because of an injury or damage to their property caused by the organisation. It also covers any related legal fees, costs and expenses as well as costs of hospital treatment (including ambulance costs) that the NHS may claim from the organisation.<br>Premiums are based on the type of business and rated on an estimate for the level of activity of the business. |
| **Restricted Procedure** | the two-stage procurement process determined by the Authority's Contract Procedure Rules, which includes the publication of an initial call for competition as well as an Invitation to Tender prior to the award of a Contract |
| **Safeguarding** | The process of protecting children from abuse or neglect, preventing impairment of their health and development, and ensuring they are growing up in circumstances consistent with the provision of safe and effective care that enables children to have optimum life chances and enter adulthood successfully |
| **Selection** | the process by which Applicants will be selected to move forward to the next stage of the procurement process, in accordance with the criteria listed at Regulation 58 of the Public Contracts Regulations 2015, and which will be used as part of any procurement procedure |
| **Selection Questionnaire** | the pro-forma that all Applicants will be required to complete and submit as part of their Bid, pursuant to Selection criteria listed at Regulation 58 of the Public Contracts Regulations 2015 and which will be used as part of any procurement procedure |
| **Services** | the provision of the specific requirements of the Contract, as set out in Part B General Information and Specification and Part E Terms and Conditions of these Procurement Documents. |
| **Specification** | the detailed description of the Authority's requirements, as set out in Part B General Information and Specification of these Procurement Documents. |
| **Standstill** | the period between the notification of the Authority's intention to award a Contract and the award of the Contract, in accordance with the Public Contracts Regulations 2015. |

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| **Sub-contractor** | a provider that is proposed to take on and deliver a proportion of a Contract from the main Contractor or another Sub-contractor. |
| **Submission** | the correct and proper process for submitting the Applicant's Bid electronically. The Submission process is described more fully at section 2.21 Return of Document. |
| **Tender (Bid)** | the completed and signed Form of Tender, which can be found in Part C Selection and Award of these Procurement Documents together with all of the completed schedules and information requested by the Authority and submitted by the Applicant |
| **Whole Life Cost** | the methodology by which the total cost of an asset (i.e. the purchase of Goods, Services or Works) can be appraised over its whole life, taking in to account any initial capital costs, as well as operational, maintenance, repair, upgrade and eventual disposal costs |
| **Works** | the works as set out in Part B General Information and Specification and Part E Terms and Conditions of these Procurement Documents. |

# 2 Instructions

## 2.1 Accessing the Procurement Opportunity

New users to the e-Tendering system ProContract must register first to obtain a user name and password before returning to this opportunity. Applicants should refer to the help link under Useful Links that provides guidance on how to register and use the system.

Potential Applicants interested in this opportunity should express their interest by clicking on the 'Login and register interest in this opportunity' link within the advertisement on the e-Tendering system.

Once the Applicant has expressed their interest they can access the procurement documentation from 'My Activities' on their home page or on the header bar.

To request this document in an alternative format, please raise a clarification question as per section 2.15 Clarification and Circular Advices.

## 2.2 Authority's Warranties and Disclaimers

The fact that an Applicant has been invited to bid does not necessarily mean that the Applicant has completely satisfied all the Authority's criteria and the Authority may require further information as appropriate and assess this as part of the evaluation and clarification process.

The Applicant shall have no claim whatsoever against the Authority in respect of such matters and in particular (but without limitation) the Authority shall not make any payments to the successful Applicant save as expressly provided for in Contract/Call-Off Contract and (save to the extent set out in the Contract/Call-Off Contract) no compensation or remuneration shall otherwise be payable by the Authority to the Applicant in respect of the services by reason of the specification being different from that envisaged by the Applicant or otherwise.

Whilst the information in this document has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. With the exception of statements made fraudulently, the Authority does not accept any liability or responsibility for the adequacy, accuracy or completeness of such information. The Authority does not make any representation or warranty (express or implied) with respect to the information contained in the document or with respect to any written or oral information made or to be made available to any Applicant or its professional advisors.

Each Applicant to whom the document is sent must make its own independent assessment of the proposed terms after making such investigation and taking such professional advice as it deems necessary to determine its interest in the Contract or Framework Agreement.

This document is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded the Applicant to bid or enter into any other contractual agreement. Under no circumstances shall the Authority be liable to an Applicant in respect of any costs incurred by an Applicant (whether directly or otherwise) in relation to the preparation or Submission of an offer.

## 2.3 Bribery Act

The Bribery Act 2010 modernises the law on bribery and came in to force on 01 July 2011. The Act requires Public Bodies to ensure that they have procedures in place to prevent bribery by persons associated with them. As part of this responsibility all Applicants should make themselves aware of the obligations set out at
http://www.justice.gov.uk/legislation/bribery

## 2.4 General Data Protection Regulation

The General Data Protection Regulation (GDPR) strengthens and unifies data protection for individuals and comes in to force on 25 May 2018. The Regulation applies to personal data and places specific legal obligations on the processors and controllers of such data. As part of this responsibility all Applicants should make themselves aware of the obligations set out at https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/

## 2.5 Public Services (Social Value) Act

The Public Services (Social Value) Act 2012 brings in a statutory requirement for public authorities to have regard to economic, social and environmental well-being in connection with public services contracts in a way that is relevant to the subject matter of the contract and compliant with the Public Contracts Regulations 2015. It is important to note that this applies to Service contracts only and not to Works and Goods contracts. Applicants must note that they may be asked to comply with particular requirements based around such considerations as part of the selection and/or award process.

## 2.6 Freedom of Information Act

The Authority is subject to the provisions of the Freedom of Information Act 2000 ("FOIA"). The Act provides that anyone can ask the Authority for any information held by it, or on its behalf and, unless an exemption applies, the information must be supplied. This means that

all the information which an Applicant has provided in respect of this procurement and may provide in future to the contracting authorities will be subject to the FOIA.

In the absence of special circumstances, any part of the procurement documentation may be regarded as not subject to any exemptions, and therefore capable of being disclosed under the FOIA.

In respect of any completed Bid, where the Authority is required to consider whether any information contained therein should be disclosed further to the FOIA, it will be necessary to consider whether any exemption applies. Where the Applicant considers that any of the information contained in its Bid is subject to any exemption, this shall be stated in the submitted Bid at Section 6, Commercially Sensitive Information in Part C Selection and Award with an explanation setting out what exemption it considers applicable and the reasons for it. The Authority may have regard to this explanation when considering its response to FOIA requests.

The attention of Applicants is drawn to Section 43 of the Freedom of Information Act: http://www.legislation.gov.uk/ukpga/2000/36/section/43 which provides that information may be exempt information if it constitutes a trade secret, or if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the Authority). Applicants are further advised that, if the Authority considers this exemption applies, it will then be necessary for the Authority to determine whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## 2.7 Counter Terrorism and Security Act

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

## 2.8 Business Continuity Requirements

The attention of Applicants is drawn to the fact that Contractors to the Authority must:

- have in place or be in the process of developing a business continuity plan to ensure that the critical Goods, Services or Works (as applicable) are maintained during disruptions such as (but not limited to) severe weather, flooding utility failure, fuel shortage, flu pandemic or other public health related problems, industrial action, transport infrastructure failure, loss of premises or access to premises or IT failure;
- maintain their business continuity plan on a regular basis by way of an annual review;
- designate a member of staff to be responsible for the business continuity plan;

- provide training for any other members of staff that have a key role in the implementation of the business continuity plan;
- those Contractors that are in the process of developing a business continuity plan must ensure that it is complete and in place no later than fourteen (14) days of being awarded any Contract;
- provide a copy of their current business continuity plan alongside their signed Contract document. All Contractors will be required to provide a copy of its business continuity plan at any time throughout the duration of the Contract if so requested by the Authority.

The template embedded below can be used by Contractors who do not have a plan of their own in place


Supplier business continuity and contin

Where an Applicant or Contractor is unclear whether the Goods, Services or Works to be supplied are critical they should request written clarification from the Authority as to the nature and criticality of the Goods, Services or Works to be supplied during the clarification period. Clarification questions can be raised in accordance with section 2.15 Clarification and Circular Advices of this Part A Instructions to Applicants.

Should an emergency be declared by Somerset emergency services (police, fire etc.), under the Civil Contingencies Act 2004, the Contractor shall (so far as reasonably practicable and if requested) co-operate with and support the Authority in safeguarding human welfare, including:

- providing Goods, Services and Works as directed by the Authority to assist in the provision of relief to those in need or to protect the environment as a result of the emergency, in accordance with the Authority's instructions;
- suspending the provision of Goods, Services or Works for the duration of the emergency if requested to do so by the Authority.

The Contractor, if requested to by the Authority, shall make its employees available, so far as reasonably practicable, to participate in emergency planning training and exercises.

Information regarding Business Continuity Plans can be found here;
https://www.thebci.org/

Specific information for SME's can be found on the Federation of Small Businesses web site: https://www.fsb.org.uk/

## 2.9 Framework Agreements

This section only applies where the Authority is seeking to establish a Framework Agreement. Where this is the case it will be made clear within Part B General Information and Specification of the Procurement Documents.

The Public Contracts Regulations 2015 define a Framework Agreement as:

> "an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged." (Regulation 33(2)).

For the avoidance of doubt the Authority does not bind itself to secure the purchase whether in-house or by the customers (internal stakeholders) of any of the Services or specific quantities of any products required under this Framework Agreement.

As such, the Framework Agreement sets out the terms and conditions for subsequent Call-Offs but, unlike Contracts, they usually do not place obligations on the procuring entity to buy any services. With this approach, Call-Off Contracts are formed only when services are the subject of an accepted order under the Agreement.

Framework Agreements represent the Bids submitted by the Applicant(s) to the Authority. The Applicant stands ready to accept orders from the Authority for the provision of Goods/Works or Services in accordance with all descriptions, Specifications and Terms and Conditions contained in the Framework Agreement itself.

Any formal Call-Off Contract under a Framework Agreement will be formed by each Authority or another individual Authority to whom the Framework Agreement is available for use through a Further Competition exercise which is the process of competing for work between Contractor(s) on the Framework Agreement.

Each Eligible User will be responsible for their individual Call-Off Contracts under the terms of the Framework Agreement. The contractual clauses incorporated in to those Call-Off Contracts of each Eligible User may vary and should be considered in each order for the provision of Services.

## 2.10 Study of the Procurement Documents

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

Applicants are expected to read, understand and agree to all volumes contained within the Procurement Documents (including the terms and conditions) of the document as they will in their entirety form part of the resultant Contract/Call-Off Contract or Framework Agreement.

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

The Applicant's price shall (except in so far as it is otherwise provided in the Contract or Framework Agreement) cover all obligations under the Contract/Call-Off Contract and Applicants shall also be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect its Bid.

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

## 2.11 Consortia and Sub-contracting

Where an Applicant wishes to make its application as a Consortium or utilising Sub-contractors the Authority advises the group of organisations to select a Lead Applicant in whose name the Bid is to be submitted. The Lead Applicant is advised to confirm precisely what the arrangements are within its Bid including providing the names of all of the organisations to be involved, the nature and extent of their involvement and proposals regarding the structure and management of the Consortium or arrangements. Such details should be provided within the Selection Questionnaire where appropriate and should enable the Authority to assess the overall Consortium or core supply base. All members of the Consortium are required to provide the information required in all sections of the Selection Questionnaire. Sub-contractors on whom the Lead Applicant may rely to meet the selection criteria must also complete any relevant sections.

The Lead Applicant should provide details of the actual or proposed percentage shareholding of each constituent member within the Consortium and degree to which the Goods/Services or Works will be Sub-contracted.

Applicants that wish to bid as a Consortium or Sub-contractor are discouraged from also making their own individual application or from participating in Consortia or providing sub-contracting arrangements for multiple Lead Applicants, so as not to create a conflict of

interest within the procurement procedure. However, the Authority will be obliged to consider each Bid on its own merits.

The Authority recognises that arrangements in relation to Consortia and Sub-contracting may (within limits) be subject to future change. Applicants should therefore respond to this opportunity in the light of the arrangements as they are currently envisaged. Applicants are informed that any future change in relation to Consortia and Sub-contracting must be notified to the Authority during the procurement process or in the event that they are the successful Contractor and in any event as soon as that change is known. The Authority may then make a further evaluation of that Applicant or Contractor by applying the Selection criteria to the new information provided. In the event that the Authority's evaluation of the new information results in an outcome that is different from the original, the Authority reserves the right to deselect that Applicant from the process on those grounds and the Applicant shall be notified accordingly. As such, the Lead Applicant shall undertake to ensure that any change to its Consortium or Sub-contractors shall not have a negative impact upon the arrangements.

If a Consortium is not proposing to form a corporate entity, full details of alternative proposed arrangements should be provided. Where the proposed Lead Applicant is a special purpose vehicle or holding company, information should be provided regarding the extent to which it will call upon the resources and expertise of its members.

Please note that the Authority reserves the right to require a successful Consortium or group of Applicants to form a single legal entity once they have been awarded the Contract, in accordance with Regulation 19 of the Public Contracts Regulations 2015.

Where an Applicant requires additional time in the procurement process to establish relationships with suitable Consortia partners it is advised to notify the Authority at the earliest convenience and request an extension to the procurement timescales. Applicants may do this through the messaging facility described at section 2.15 Clarification and Circular Advices of this Part A Instructions to Applicants.

## 2.12 Ownership

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

## 2.13 Discrepancies, Omissions and Enquiries concerning the Documents

Should the Applicant find discrepancies in, or omissions from, the procurement documents, the Authority shall be immediately notified by the Applicant via the e-Tendering system.

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

The Authority reserves the right to extend any date of Submission accordingly. Should the Authority discover errors, omissions, additions, deletions or supplementary information to be provided, such that the Procurement Documents must be amended prior to the deadline for receipt of Bids these will be issues by the Authority to Applicants and will be deemed to then form part of the Procurement Documents.

## 2.14 Terms and Conditions

The applicable terms and conditions can be found on the e-Tendering system. Applicants will be required to declare that they have read and understood and will comply with said clauses as part of the Submission process.

Any queries regarding the terms and conditions, including an Applicant's request to suggest alternative drafting on some or all of the clauses contained therein, may be raised during the clarification period and in accordance with that detailed at section 2.15 Clarification and Circular Advices of this Part A Instructions to Applicants. The Authority requests that Applicants' comments, queries and/or suggestions are clear and precise, otherwise they may be rejected.

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

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

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

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

## 2.15 Clarification and Circular Advices

Upon commencement of the procurement process the Applicant shall not approach any member of the Authority in relation to the opportunity, other than by using the messaging facility within the e-Tendering system.

Only reasonable clarification and/or queries relating to the procurement documents will be answered. Clarification questions must be submitted via the e-Tendering system. Open the messaging area by selecting 'View Messages' and this will show any messages that have already been received and the area to create new messages to the raise any clarification questions.

Applicants should note that unless your question is innovation based, responses will be provided to all Applicants. Where a question is of a commercially confidential nature and the Applicant does not wish it or the associated answer to be shared with other Applicants, the Applicant shall state this clearly within its question. The identity of Applicants raising any questions will remain confidential.

Relevant questions together with the answers will be posted on the e-Tendering system and an automated e-mail will be sent to all Applicants informing them that a new message has been posted and that they should visit the e-Tendering system to view it. If the Applicant has unsubscribed to the emails they will not receive the automated notification email, although they will still be able to view the message upon logging in to the system and navigating to the opportunity.

Applicants registering after a clarification has been posted will not receive notification that messages are available for viewing. When Applicants first access the procurement documentation they should satisfy themselves that they have seen any messages posted. It is in the Applicant's interest to visit the messages area regularly as clarifications may fundamentally affect their planned response.

Any instruction by the Authority prior to the due date will be issued to all Applicants via the e-Tendering system.

If during the period the Authority or Awarding Authority, in the case of a Framework Agreement, issues any circular letters to Applicants in order to clarify or alter part of the documents then such circular letters shall form part of the Contract/Call-Off Contract and

Applicants shall be deemed to have taken account of them in preparing their Bid. Applicants shall promptly acknowledge any circular letters that they receive.

## 2.16 Completion of the Document

Applicants must provide all of the documents as laid out at section 2.17 Mandatory Schedules of this Part A Instructions to Applicants in order to be considered by the Authority as a fully complete and official Bid. Failure to do so and/or failure to follow any of the instructions described in this Part A Instructions and Information may result in Applicants' Bids being rejected. As such, please ensure that you read the information and instructions carefully.

The following requirements must be adhered to when submitting a Bid:

- all documents must be written in English;
- all pricing must be submitted in Pounds Sterling (£);
- Bids must be submitted for the whole of the Service. Tenders for only part of the Services defined in the Procurement Documents may be rejected;
- a table of contents must be provided;
- Bid pro-formas must be completed and signed;
- a list of correctly referenced supporting material must be supplied;
- any additional pre-existing material which is necessary to support your Tender should be included as schedules, with cross-references to this material in the main body of your Bid;
- the Bid must be clear, concise and complete. The Authority reserves the right to mark a Bid down or exclude them from the process if the Bid contains any ambiguities or lacks clarity;
- Applicants should only submit such information as it is necessary to respond effectively to the Procurement Documents. Unless specifically requested, extraneous presentation materials are neither necessary nor desired;
- Bids should only be completed and submitted in the format in which they currently appear. It is essential that Applicants do not re-format or re-brand any of the procurement documentation in accordance with their own standards on formatting. An example of this is if the documents are issued in Microsoft Word format, the Authority requires them to be returned in the same format. Where Bids are not returned in the same format as was issued, the Authority reserves the right to seek a resubmission of the relevant documents, where it is necessary to do so in order for the evaluation procedure to take place.

## 2.17 Mandatory Schedules

The Applicant's Bid will be reviewed for completeness and must include the mandatory schedules listed below. Please be aware that the Authority may be unable to proceed to

evaluate your Bid and you may be disqualified from the procurement process if you do not submit the completed schedules, as listed below.

| Document | Section | Schedule/pro-forma |
|---|---|---|
| **Part C Selection and Award** | **Section 2** | **Selection Questionnaire** |
| | Part 1 Section 1 | Potential supplier information |
| | Part 2 Section 2 | Grounds for mandatory exclusion |
| | Part 2 Section 3 | Grounds for discretionary exclusion |
| | Part 3 Section 4 | Economic and financial standing |
| | Part 3 Section 5 | Relationship to parent company |
| | Part 3 Section 6 | Technical and professional ability |
| | Part 3 Section 7 | Modern Slavery Act 2015 |
| | Part 3 Section 8 | Additional questions |
| | **Section 3** | **Award** |
| | Section 4 | Form of Tender |
| | Section 5 | Certificate of Confidentiality |
| | Section 6 | Commercially Sensitive Information |
| **Part D Pricing** | Section 2 | Pricing Submission |
| | Section 3 | Pricing Schedule Declaration |

**Please note:** As described elsewhere within this Part A Instructions to Applicants, Applicants must return Part C Section 5 Certificate of Confidentiality before the TUPE information will be released by the Authority, where this applies.

## 2.18 Page and Word Count Limits

For the avoidance of doubt Applicants are advised responses to award questions must not exceed either the stated word or page count. All answers will be checked for their word or page count compliance prior to formal evaluation by evaluation panellists. Should a response to a question exceed the maximum word count allowed the excess words will be removed from the end of the response; they will be disregarded and not be read, seen or scored by any member of the evaluation panel. In other words, for a question with a word limit of one thousand (1,000) words, where the response exceeds this limit, only the first one thousand (1,000) words will be evaluated.

The inclusion of pictures, charts and diagrams is allowed, and any text also included within them will count towards the overall total word or page count unless otherwise specified within Volume C Selection and Award meaning that the format of redaction shall be as such that any words, pictures, charts, diagrams or information pertaining to the response for each question shall be redacted, once the word count is reached. Redaction shall apply from the word after the word count limit is reached through to the end of the response to the specific question.

Attachments additional to the main response to the question are permitted unless otherwise specified within Volume C Selection and Award.

Word counts cannot be aggregated across award question responses, as they apply to specific questions and are not transferable between questions.

The font used for answers should be a sans-serif font of no smaller than size 12, for example Arial or Microsoft New Tai Lue. This includes text on charts and diagram labels and headings, where possible. Where a word limit is provided Applicants are requested to include their word count within their response. Where no word or page limit is given the Applicant can assume that no such rule applies.

## 2.19 Applicant Site Visits

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

## 2.20 Alternatives and Variations

Applicants may propose alternative and/or variants as part of their Bid in instances where it believes it is able to offer an innovative solution to a 'traditional' specification or where elements of its proposed service delivery deviate from the specification and/or procurement requirements such that this may render an Applicant's Bid as non-compliant.

Such innovative offers may be made in addition to making a full and complete Bid unless otherwise stated and as such the Applicant's alternative or variant Bid should be prepared separately and submitted in addition to its standard compliant Bid, giving clear details of your organisation's departure from the compliant Bid. The Submission of an alternative or variant Bid will be disqualified if the Applicant fails to make a compliant Bid in the prescribed format.

## 2.21 Return of Document

Applicants' Bids must be returned in accordance with these Submission requirements.

All Bids shall be submitted via the E-Tendering system ProContract. Supplier help guides are available from the 'Help' menu within the system and should the Applicant experience any problems with the e-Tendering system that it is unable to resolve it must contact the support desk on the following:

- Email: procontractsuppliers@proactis.com

- Online: http://proactis.kayako.com/default
- Telephone: 0330 0050352. This line is available between 08:30 and 17:00 Monday to Friday (excluding English bank holidays) and must be reserved exclusively for time-sensitive issues.

Where an Applicant requires assistance in completing the documents or meeting the Submission requirements it is advised to notify the Authority at the earliest convenience and request additional support, to include meeting with the Authority Authorised Representative and/or Procurement Representative. Applicants may do this through the messaging facility described at section 2.15 Clarification and Circular Advices of this Part A Instructions to Applicants.

Submissions must be received in advance of the deadline in order to qualify as timely offers. As such, Applicants are urged to make their Submission well in advance of the stated deadline in order to avoid such issues as technical difficulties with the electronic system that may be due to the high volume of traffic attempting to submit offers, for example.

Submissions made after the date and time specified in these Procurement Documents will be disqualified and not be considered under any circumstances. The e-Tendering system system's server timestamps Bids according to Greenwich Mean Time (GMT) or British Summer Time (BST) whichever prevails according to the time of year when they are submitted and an audit trail of submissions is kept within the system. Applicants' Bids are held in the secure area of the e-Tendering system and cannot be accessed by the Authority until after the deadline.

Applicants will not e-mail their Bids directly to any named person/s within the Authority or to any of the Authority's generic e-mail addresses.

Applicants will not attach their Bids to any part of the e-Tendering system other than described within the document referred to above.

Applicants will not send their Bids to the Authority in a paper or other 'hard' format unless specifically requested to do so within the associated bid documentation.

Any Submissions that do no accord with the guidelines set out above shall be considered as non-compliant and will be disqualified.

Save as may result under section 2.29 Clarification of the Applicant's Bid Applicants cannot make any additions, deletions or alterations to their Bids after the deadline has passed.

## 2.22 Applicant's Warranties

In submitting their Bid the Applicant warrants and represents and undertakes to the Authority that it has not done any of the acts or matters referred to in Regulation 57 of the Public Contracts Regulations 2015 and has complied in all respects with the requirements:

- it has full power and authority to enter into the Contract/Call-Off Contract or Framework Agreement and provide the Goods/Works or Services will if requested produce evidence of such to the Authority;
- it is of sound financial standing and the Applicant and its partners, directors, officers and employees are not aware of any circumstances (other than such circumstances as may be disclosed in the audited accounts or other financial statements of the Applicant submitted to the Authority) which may adversely affect such financial standing in the future.

## 2.23 Non Submission

If no offer is to be made, this must be indicated via the e-Tendering system. In order that the Authority can better understand its supplier base, the Applicants' comments regarding the reasons behind its non-Submission must be provided.

## 2.24 Evaluation of Bids

All Bids will be treated equally and assessed with transparency throughout the evaluation process. The successful offer(s) will be that which achieves the highest score within a best value framework (optimum combination of Whole Life Costs and quality) in line with the best value principles of Most Economically Advantageous Tender (MEAT).

The evaluation process is a critical part of the procurement process and is the means by which the Authority is able to assess to whom the Authority wishes to select to progress to the next stage of this procurement process and/or award the Contract/Call-Off Contract or Framework Agreement.

The information disclosed by Applicants in its Bid will be used for the purposes of evaluation and shall form part of the resultant Contract/Call-Off Contract or Framework Agreement. The Authority's evaluation will consist of two (2) distinct stages: Selection and Award.

Any responses to any of the Selection or Award questions or any other part of your Bid that are later found to be incorrect may lead to you being exempted from this procurement process or any future procurement process lead by the Authority and could cause the termination of any resultant Contract/Call-Off Contract or your removal from the Framework Agreement, where relevant.

## 2.25 Selection Questions

Selection is the process by which the Authority is able to assess the suitability of the Applicant to undertake work on behalf of the Authority. The questions asked within Selection Questionnaire are compliant with Regulation 57 of the Public Contracts Regulations 2015.

The Authority requires all Applicants to complete all sections of the Selection Questionnaire included within Part C Selection and Award in full and submit in accordance with the Submission requirements outlined within this Part A Instructions to Applicants. The selection questions will be assessed on the basis of pass/fail. Any Applicants that do not fully meet the requirements of or misrepresent any information or evidence provided in relation to Regulation 57 may be excluded from further consideration.

The Applicant's responses to the Selection questions should be succinct, concise and as brief as possible and self-contained not referring to additional documents or other supporting statements other than the European Single Procurement Document (ESPD). The Authority will accept submission of the following parts/sections of the ESPD as part of any Submission:

i. ESPD Part II (A,B,C,D)

ii. ESPD Part III (A,B,C,D)

Where Applicants choose to submit all or any part of the ESPD in place of an element required in the Selection questions this must be clearly identified and referenced by the Applicant. Any ESPD responses will be assessed in the same way as any other response.

## 2.26 Mandatory Exclusion Grounds

The following are grounds for the mandatory exclusion of Applicants from the procurement process:

**Participation in a criminal organisation**

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

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

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

**Corruption**

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

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

**Fraud**

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

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

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

Any offence:

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

**Money laundering or terrorist financing**

Money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002
An offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996

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

An offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;
An offence under section 59A of the Sexual Offences Act 2003
An offence under section 71 of the Coroners and Justice Act 2009;
An offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994
An offence under section 2 or section 4 of the Modern Slavery Act 2015

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

Breach of obligations relating to the payment of taxes or social security contributions that has been established by a judicial or administrative decision.
Where any tax returns submitted on or after 1 October 2012 have been found to be incorrect as a result of:

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

**Other offences**

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

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

## 2.27 Discretionary Exclusion Grounds

The following are the grounds for the discretionary exclusion of Applicants from the procurement process:

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

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

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

**Bankruptcy, insolvency**

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

**Grave professional misconduct**

Guilty of grave professional misconduct

**Distortion of competition**

Entered into agreements with other economic operators aimed at distorting competition

**Conflict of interest**

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

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

**Prior performance issues**

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

**Misrepresentation and undue influence**

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

## Additional exclusion grounds

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

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

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

- ILO Convention 87 on Freedom of Association and the Protection of the Right to Organise;
- ILO Convention 98 on the Right to Organise and Collective Bargaining;
- ILO Convention 29 on Forced Labour;
- ILO Convention 105 on the Abolition of Forced Labour;
- ILO Convention 138 on Minimum Age;
- ILO Convention 111 on Discrimination (Employment and Occupation);
- ILO Convention 100 on Equal Remuneration;
- ILO Convention 182 on Worst Forms of Child Labour;
- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention)

- Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10 September 1998, and its 3 regional Protocols.

**Consequences of misrepresentation**

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

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

## 2.28 Award Questions

Award is the process that considers the extent to which the Applicant's Bid delivers the Most Economically Advantageous solution to the Authority and as such Applicants responses to the questions asked should give a clear indication of what the organisation is offering for the quoted price.

Supporting information may be submitted, where permitted in the Procurement Documents, provided that it is clearly referenced in the question to which it relates and appended to the main Bid.

Applicants must respond to all Bid requirements as outlined within the Award questions. Applicants failing to do so, which includes a failure to provide a satisfactory response to questions, may be considered non-compliant and therefore excluded from further participation in the procurement process.

## 2.29 Clarification of the Applicant's Bid

The Authority reserves the right (but shall not be obliged) to seek clarification of any aspect of an Applicant's Bid during any stage of the evaluation phase, where it is necessary to do so to conduct a fair evaluation. This is not an opportunity to submit new information after the deadline for receipt of Bids but to explain the Submission further. Applicants are asked to respond to such requests promptly and in any event in accordance with any time period set out in the request. Such requests and responses will be submitted via the messaging function in the e-Tendering system.

Should the Authority discover errors or omissions in the Bid after the deadline for Submissions the Applicant may (at the Authority's absolute discretion) be required to explain those errors or omissions. The Authority reserves the right not to allow or accept any corrections or amendments to the initial Bid.

## 2.30 Applicant's Price

The price offered by the Applicant shall be firm and fixed for the duration of the Contract/Call-Off Contract or Framework Agreement. Any percentage discounts that may be applied must be detailed by the Applicant in its Bid. Price variation during the Contract/Call-Off Contract or Framework Agreement term will be by negotiation only via formal performance review meetings. Any price variations will not take effect until they have been mutually agreed by both Authority and Applicant and the former receives confirmation in writing from the latter.

All prices submitted shall be in pounds sterling and shall be exclusive of Value Added Tax (VAT).

The Applicant's price will be evaluated in accordance with the criteria and weightings as set by the Authority and declared within Part C Selection and Award.

## 2.31 Errors and Omissions in the Applicant's Bid

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

## 2.32 Abnormally Low Bids

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

## 2.33 Authority Site Visits

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

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

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

Site visits will be for the purpose of ensuring that Applicants are appropriately skilled and experienced to deliver the service required under the Contract/Call-Off Contract or Framework Agreement and that any claims made to that effect are accurate.

## 2.34 Demonstrations and Presentations

The Authority reserves the right to invite Applicants, to attend a presentation or demonstration at which stage it will be a requirement to reinforce your position by presenting your bid to the key stakeholders involved. Where a demonstration or presentation will form part of the procurement process this will be detailed in Part B General Information and Specification and where it will form part of the evaluation this will be detailed in Part C Selection and Award of these Procurement Documents.

Presentations/demonstrations will be for the purpose of ensuring that shortlisted Applicants have full comprehension of all that is required under this Contract/Call-Off Contract or Framework Agreement and that all information submitted is accurate.

## 2.35 Rejection of Offers

The conditions for the acceptance of Bids are as follows:

- Bids must not be (i) qualified (ii) conditional or (iii) accompanied by statements that could be construed as rendering them equivocal and/or placed on a different footing to those of other Bidders. Only Bids without qualification in accordance with the instructions will be accepted for consideration. The Authority's decision on whether or not a Bid is acceptable will be final and the Applicant concerned will not be consulted. If a Bid is excluded from further consideration the Applicant will be notified;
- Bids must not be vague, incomplete or breach any of the conditions contained within the Procurement Documents;
- Bids must be submitted in accordance with the Submission requirements.

The Authority may at its absolute discretion refrain from considering or reject any Bid in respect of which the Applicant has:

- directly or indirectly canvassed any Official, Member or Officer of the Authority or any of the Eligible Users or obtained information from any other person who has been contracted to supply Goods or provide Services or Works to the Authority concerning the award of the Contract/Call-Off Contract or Framework Agreement or who has

directly or indirectly obtained or attempted to obtain information from any such official, member or officer concerning any other Applicant; or

- fixed or adjusted the prices by or in accordance with any agreement or arrangement with any other person; or
- communicated to any person other than the Authority the price or approximate price except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the bid or for the purposes of insurance or financing; or
- entered into any agreement with any other person that such other person shall refrain from submitting an offer or shall limit or restrict the prices to be shown or referred to by another Applicant; or
- offered to agree to pay to any person having direct connection with the procurement process or does pay or give any sum of money, inducement or valuable consideration, directly or indirectly, for doing or having done or causing or having caused to be done in relation to any other Applicant or any other person's proposal, any act or omission; or
- in connection with the award of the Contract commits an offence under the Prevention of Corruption Acts 1889 to 1916, or the Bribery Act 2010 or gives any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972, the Bid shall not be considered for acceptance and shall accordingly be rejected by the Authority provided always that such non-acceptance or rejection shall be without prejudice to any other civil remedies available to the Authority or any criminal liability which such conduct by an Applicant may attract;

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

## 2.36 Acceptance of Offers

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

## 2.37 Award of Contract or Framework Agreement

Submitted documents shall constitute an irrevocable offer to provide the Goods/Works or Services that shall form part of any subsequent Contract between the parties. Any acceptance of it by the Authority shall be communicated in writing to the Applicant and shall be conditional on the Contract being approved in accordance with the Authority's internal procedures and the Authority generally being able to proceed. This may include

considerations to the satisfactory receipt by the Authority of evidence of the Applicant's suitability to provide the Contract, which may include the Applicant's financial accounts or similar and insurance certificates. Should suitable evidence not be received within the time limits as stated by the Authority or should the evidence not prove satisfactory then the Authority reserves the right not to proceed with the contract award.

The Contractor shall be expected to attend an initial meeting to finalise any practical outstanding issues prior to execution of the Contract between the parties.

Where possible the Contract/Call-Off Contract or Framework Agreement (in duplicate) will be signed and fully executed at the initial meeting described above and therefore the Contractor will be asked to provide attendees to this meeting that are duly authorised to sign the Contract/Call-Off Contract or Framework Agreement on its behalf.

Alternatively, and if there are any practical outstanding issues remaining following this meeting the Authority will seek to proceed to issue written confirmation that clarifies any issues requiring resolution prior to the execution of the Contract between the parties. The Authority will seek evidence from the Contractor that they have resolved all necessary requirements as requested before being able to proceed and fully execute the Contract.

In any event the Contractor shall conclude a formal Contract/Call-Off Contract or Framework Agreement with the Authority, which shall embody the Applicant's offer. No Applicant may consider itself successful unless and until a formal Contract/Call-Off Contract or Framework Agreement has been signed by a duly authorised officer of the Authority and co-signed by the Applicant's authorised officer.

Upon such acceptance the Contract/Call-Off Contract or Framework Agreement shall become binding on all parties.

The offer shall remain open for acceptance for a period of twelve (12) months from the closing date for the receipt of Submission.