

**Section 3. InSTRUCTIONS TO TENDERERS AND INvitation TO TENDER**

**Procurement of The Insurance London Consortium’s Insurance Legal Panel Services**

**Contract number: 630/2017 CED**

**Issue Date: 11 January 2018**

**Tender Response deadline:**

**12:00 noon on 26 March 2018**

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**STRUCTURE OF THE INVITATION TO TENDER**

The Invitation to Tender comprises the following sections:

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| **Section** | **Document** |
| 1 | Selection Questionnaire Information & Guidance |
| 2 | Selection Questionnaire |
| **3** | **Instructions to Tenderers & Invitation to Tender** |
| 4 | The Service Specification |
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| 8 | Service Specification Appendix D Guidance on the Use of Counsel |
| 9 | The Tender Response Document including the Pricing Schedule, Case Study 1, Case Study 2 |
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1. introduction
   1. The London Borough of Croydon (‘the Council’) is the ‘Accountable Body’ for the Insurance London Consortium (ILC). One of the Council’s responsibilities as the Accountable Body is to undertake tendering exercises on behalf of the ILC.
   2. Wherever the term ‘the Council’ is used within this document, this will refer to Croydon Council who are the lead authority for procurement. Wherever the term ‘ILC’ is used within this document, this will refer to the collective members of the ILC.
   3. Any decision made by, or steps taken by, the London Borough of Croydon, Croydon Council, or “the Council” are made or taken on behalf of itself and all other London Boroughs participating in this arrangement, and with their authority.
   4. The Council is leading the ILC in the tender of their insurance legal services panel as set out in the Official Journal of the European Union (OJEU) Contract Notice 2018/S 009-016053.
   5. The five highest scoring Tenderers will be invited to become a panel member.
   6. The contract will commence in July 2018 for a term of 5 years.
   7. This tender process has been advertised in the Official Journal of the European Union and Contracts Finder and is being carried out in accordance with the Restricted Procedure as set out in the Public Contracts Regulations 2015 ("**PCR** **2015**").
   8. The Consortium members are seeking to establish a panel of lawyers with the appropriate expertise to handle all claim types. It is our expectation that the panel members will have a collaborative approach, by way of commonly agreed management information and performance indicators and the establishment of joint legal update seminars attended by all of the panel and consortium members. In order to achieve the collaborative and fair approach as above, the Consortium will set standard rates across all panel members (a London rate and a provincial rate, if necessary / disbursements will be excluded) – this will be based on the resultant ‘average tender value’ following the price evaluation of the Award Stage.
   9. Tenderers will likely have variances around the hourly rates charged for a particular grade of fee earner. The consortium will make a decision based on the rates quoted using the ‘average tender value’ and set standard rates both within London and provincial. Those Tenderers that are successful in being awarded the contract and appointed panel members will be invited to work for these hourly rates. The reasoning behind this approach is to have consistent rates across all panel law firms so that the taxi rank approach to distributing cases works fairly for all parties. Appointed Panel members however will be expected to find ways of achieving efficiency improvements, but with no adverse impact on results. Examples of good practice may then be shared amongst the panel members under the collaborative approach.
   10. **Background:** The ‘Insurance London Consortium’ was launched in July 2009 to provide strategic focus for insurance and risk management elements and to support collaborative working between Consortium Members. The Insurance London Consortium Members (“the Consortium Members”) are listed in 1.14 below.
   11. The Insurance London Consortium has agreed to adopt an ‘Accountable Body’ structure for ILC, and agreed that Croydon Council shall act as the ‘Accountable Body’ on behalf of the Consortium Members.
   12. The Consortium Members have agreed to formalise their existing relationship by way of a Consortium Agreement (‘Agreement’). This Agreement sets out how the Consortium Members wish their existing and ongoing relationship to be governed.
   13. Consortium Members have entered into this Agreement pursuant to their powers under section 3 of the Local Government Act 1999, section 2 of the Local Government Act 2000 and section 101 of the Local Government Act 1972.
   14. The S101 Agreement sets out the objectives of the Consortium and the rules/procedures by which the Consortium works together. The Agreement also makes provision for an ‘Accountable Body’ role that leads on some functions for the Consortium (for example procurement) and this role is currently discharged by Croydon Council on behalf of the Consortium.
   15. **Insurance London Consortium Objectives:** The 9 London Borough Council’s that are part of the Insurance London Consortium (ILC) work together for the purpose of collectively developing and promoting best practice in risk management and insurance practice.
   16. The Consortium members are listed below and all are taking part in this tender exercise.

|  |  |
| --- | --- |
| London Borough of Camden | <http://www.camden.gov.uk/> |
| Croydon Council | <http://www.croydon.gov.uk/> |
| Haringey Council | <http://www.haringey.gov.uk/> |
| Harrow Council | <http://www.harrow.gov.uk> |
| Islington Council | <http://www.islington.gov.uk/> |
| Royal Borough of Kingston upon Thames | <http://www.kingston.gov.uk/> |
| Lambeth Council | <http://www.lambeth.gov.uk/> |
| London Borough of Sutton | <http://www.sutton.gov.uk/> |
| London Borough of Tower Hamlets | <http://www.towerhamlets.gov.uk/> |

The objectives of the Consortium can be summarised as follows:

* To share best practice in managing risk and develop/deliver projects improving the members risk profile
* To drive wider collaboration within the public sector through detailed risk analysis risk management strategies and knowledge sharing
* To introduce best practice in terms of claims management
* Develop greater understanding and partnership with the insurance market
  1. **An Overview of the London Borough Councils**: London has a two-tier system of local and regional government. London has 32 boroughs and the City of London (often referred to as the 33rd borough) which, as unitary authorities deliver most of the day-to-day services that keep the capital running. The nine members of the ILC are all London Boroughs. In addition, the Greater London Authority (GLA) plays a strategic role, setting out an overall vision on a range of issues including air quality, development, transport (Transport for London) and waste.
  2. The 32 boroughs were established in 1965, replacing the metropolitan boroughs that had governed London since Victorian times. The GLA was set up in 2000, and essentially replaced the Greater London Council which had been abolished in 1996.
  3. The boroughs (and the City of London) together spend more than £12 billion a year, including about £7 billion on children's services / education, and £2 billion on adult social services. They own and maintain nearly half a million homes (one in seven of all homes in London), run the libraries, deal with planning applications, and are responsible for waste collection and licensing the capital's pubs, clubs and restaurants. They repair and maintain 95 per cent of London's roads, deal with parking enforcement, and also deliver environmental services, including consumer protection, and many arts and leisure services.
  4. **Funding & Governance:** All boroughs funding is raised through a combination of central government funds, council tax, business rates and other smaller fees / charges such as parking. Funding for specific areas may also be available direct from central government and will be dependent on government priorities and the performance and (perceived) needs of the individual boroughs.
  5. London Boroughs (including the ILC members) are all subject to extensive regulation including by central government, external audit functions, and other public bodies such as Ofsted.
  6. **Risk Overview:** In line with the private sector, local authorities have seen a major move to the outsourcing of a large element of the services they offer in a move to become commissioning led ‘enabling authorities’. This, in general, has led not only to reductions in costs, but also in terms of responsibility and risk. The ILC members outsource a number of higher risk activities such as refuse, street cleaning, premises maintenance, leisure centres and highways maintenance, as examples of trends seen generally in local authorities.
  7. Council property risks mainly relate to social housing, and schools. The boroughs have a statutory responsibility to provide schooling for the children in their area although not all schools are owned or run by the boroughs and some schools are leaving local authority control and converting to academy status.
  8. Comprehensive policies & procedures are in place across all areas of Health & Safety backed up by suitable training, management and supervision which is recorded and retained, particularly in high risk areas such as facilities management where procedures and policies include regular inspections, maintenance of electrical installations, completion of fire risk assessments, asbestos registers, manual handling for healthcare workers and new key areas like stress.
  9. All consortium members have internal audit, risk and insurance functions monitoring and managing risks around the business. The Risk Management structure within the Boroughs includes the establishment of Risk Registers at all levels, together with the use of scoring systems to classify Risks and action plans to address issues.
  10. **Recent changes to Risk Profile / Emerging Risks**: Budget cuts to local authorities have led London boroughs, including the consortium members, to consider new forms of service delivery including, in some cases, the sharing of particular services between neighbouring boroughs. This is described in more detail in the Underwriting Information.
  11. **Building a Claims Investigation Culture:** All insurance claims are monitored by Consortium Members and we would expect that those claims that are accepted are regularly investigated by trained staff internally or external lawyers/loss adjustors.
  12. 8 of the 9 consortium members are also using the JCAD LACHS system (the market leading insurance and claims system for Local Authorities) for improved management, reporting and monitoring of claims and exposures. By assessing this information and understanding it, further mitigation of risks can take place.
  13. **Joint Risk Management Initiatives:** As stated above, the principal aim of the ILC is to share best practice in managing risk and develop/deliver projects improving the member’s risk profile. There is a direct interest in concentrating on initiatives which reduce exposure to claims, both attritional and catastrophic and this work is often done in partnership with our insurers.

**Recent examples of these initiatives include:**

* 1. Members participated in ILC Tree Root liaison group in looking to revise the current insurance industry ‘Joint Mitigation Protocol’ in relation to tree root encroachment. This involvement was assisted by the data produces for ILC by the LACHS system.
  2. Highways risk management, in responding to the new code of practice in relation to highways maintenance, the ILC are currently presenting proposals to London Highways Engineering Group and London Technical Advisory Group around establishment of a joint working group to look at minimum standards for London which will help with the defence ability of claims in the future.
  3. In the short term the consortium is delivering an annual highways inspector training programme to ensure a common and consistent approach across consortium members.
  4. Supply chain resilience review. This is a project delivered in conjunction with our current insurers, analysing supply chain spend across nine boroughs in conjunction with London Councils organisation and London Contracts & Supplies group. This is a great example of inter-agency working to map this particular risk against major suppliers across boroughs boundaries and develop business continuity plans which collectively benefit the consortium members in addressing business interruption exposures which the ILC members have.
  5. Just one example of the types of initiative introduced as a direct result of data produced by LACHS is Harrow Council installing four-way cameras to its refuse vehicles There are many other such initiatives across the membership
  6. Lastly in relation to Public health integration the ILC worked in partnership with insurers and the NHS litigation authority to understand this risk in relation to contingent medical malpractice and to develop a specific public liability extension.

**Future plans**

* 1. Three areas are currently under review.

**Claims handling protocol for outsourced service provision**

* 1. A common problem for local authorities is that whilst outsourcing contracts, for example for highways maintenance, building maintenance, waste management and facilities management will contain indemnity clauses, such agreements are usually silent on who actually handles claims in the event of an insured exposure. The ILC is currently working with their legal panel to develop such a protocol that could be applied equally across these different service provisions.

**Social care/health integration**

* 1. This is one of the biggest agenda items for the public sector currently. In order to have a more holistic person centred approach to providing social and health care, local authorities are being encouraged to work with their local health partners including in particular the Clinical Commissioning Group. Whilst the approach presents exciting opportunities to provide better and more cohesive services for the individual at lower cost, there are also important risk and insurance issues to define and understand and to respond to appropriately. The ILC sees this piece of work as being a key deliverable for the next 12/18 months.

**Increased Cost of Working project**

* 1. The consortium is currently engaged on a project with current insurers to thoroughly review maximum business interruption exposures and the business continuity plans that underpin the recovery of the organisation should a major loss occur. The consortium believes that this project will add significant value to the consortium and its insurers by understanding in more detail how the organisation could recover rapidly through an up to date review of the rapidly changing picture in relation to home, mobile and flexible working and the ICT technologies that could support and underpin this approach following a major loss.
  2. **Cover Harmonisation:** Through the working group meetings, there has been a significant move towards greater cover harmonisation.

**Long Term Agreement Application**

* 1. This tender is offered on the basis of a consortium award. Five Tenderers will be selected to provide panel cover for all ILC members. It is considered by the ILC that the Long Term agreement will work on a consortium basis. This means that if the agreement is broken for one member of the ILC, it will be deemed to be broken for all members.

1. instructions for tendering
   1. The successful Service Providers shall enter into Contract with the individual consortium members to provide the Services which shall be substantially in the form of the draft contained in Section 10 of the Invitation to Tender. Tenderers should note that the Council does not anticipate any changes being made to this form of draft Contract and Tenderers are not invited to suggest any amendments to the Contract. It is a condition of this tender process that Tenderers accept and agree to abide by the terms and conditions in the Contract (if successful) and Tenderers are required to confirm this as part of their Tender Response.
   2. Any appointment will be subject to the terms and conditions of the Contract.
   3. If, for any reason whatsoever, the ILC is of the opinion that a clarification of, amendment to, or modification of the Invitation to Tender and/or timetable for the Competition and/or additional information is required to be issued, then the ILC will be entitled to make any such clarification, amendment or modification or provide such additional information at any time, in which case these will be issued to all Tenderers via the Council's e-Tendering Portal (please check the messaging link). Any such clarifications, amendments, modifications or additional information shall form part of the rules of the Competition and will be deemed to form part of the Invitation to Tender with which Tenderers are required to comply.
   4. Tender Responses will be assumed to take account of any such amendments, modifications, clarifications or supplements (unless the ILC, acting reasonably, expressly indicates otherwise). Any such amendments, modifications, clarifications or supplements will not necessarily lead to an extension of the deadlines for receipt of Tender Responses. Under no circumstances shall the Council, the ILC or its staff, agents or advisors incur any liability whatsoever or be under any obligation to provide Tenderers with reasons or rationale in respect of such matters.
   5. Tenderers shall ensure that they are familiar with the extent of the submission requirements as outlined in the Invitation to Tender and shall in any event be deemed to have done so before submitting a Tender Response.
   6. All information supplied by the ILC in connection with the Invitation to Tender, shall be treated as confidential by the Tenderer.
   7. Should you have any queries regarding the Invitation to Tender, please use the messaging link of the Council’s e-Tendering Portal (www.londontenders.org). The messaging link is found on the right hand side of the contract information page.
   8. The ILC will not consider any request for information or clarification made or submitted by any other means except that detailed in the paragraph 2.6 above. Enquiries by fax, telephone, email or verbal enquiries will NOT be accepted nor responded to.
   9. Please note that it is your responsibility to review all previous messages that have been asked and answered as well as any additional information that might have been posted by the Council by clicking on the messages link. There will be an email alert to prompt suppliers to log on to the system when a communication is issued, however, it is recommended that Tenderers regularly check the Council’s e-Tendering Portal for messages and updates.
   10. Tenderers must keep their contact details on the e-Tendering Portal up to date or they will be unable to receive communications from the ILC.
   11. The ILC will not be responsible for contacting Tenderers through any route other than via the Council’s e-Tendering Portal.
   12. No Council employee other than the Director of Commissioning and Improvement or their nominated representative has the authority to make any representation or explanation to prospective Tenderers on any matter concerning the tendering process.
   13. All messages relating to the Invitation to Tender will be posted on the Council's e-Tendering Portal for all other Tenderers to see (unless the question is deemed confidential by the ILC).
   14. If a Tenderer considers its question to be commercially sensitive then the question must be clearly marked "In confidence – not to be circulated to other Tenderers" and the Tenderer must set out the reason for the request for non-disclosure to other Tenderers. The ILC will consider this request but where, in the ILC’s opinion, it is considered that the request does not relate to commercially sensitive information the Tenderer will be informed that it can either withdraw the request or, if not withdrawn, the request and response will be circulated to all Tenderers via the Council's e-Tendering Portal.
   15. All questions in relation to this tender should be sent by Tenderers and received via the e-Tendering Portal no later than 12:00 noon on **16 March 2018.**
   16. The ILC will administer and manage the process of evaluating each tender in accordance with the process set out in Paragraph 21 below entitled 'The Tender Evaluation Process'.
   17. Unless otherwise specified, capitalised terms used in the Invitation to Tender shall have the meanings ascribed to them in the draft Contract
2. Outline Timetable
   1. An indicative timetable for the conduct of the Competition is set out below. This is intended as a guide and, whilst the ILC does not intend to depart from the timetable, it reserves the right to do so at any time:

| **Indicative Date** | **Activity** |
| --- | --- |
| 11 January 2018 | Contract notice dispatched and the Selection Questionnaire (SQ) pack, Invitation To Tender and Contract documents made available electronically |
| 12:00 pm, 2 February 2018 | Deadline for SQ clarification questions to be submitted by Potential Suppliers via the Council’s e-Tendering Portal |
| 12:00 pm, 12 February 2018 | Deadline for SQ submission |
| 12- 19 February 2018 | Evaluation of SQ |
| 23 February 2018 | Notification of SQ outcome |
| Invitation to Tender |  |
| 12:00pm, 16 March 2018 | Deadline for Tender clarification questions to be submitted by Tenderers via the Council’s e-Tendering Portal |
| 12:00 pm, 26 March 2018 | Tender return date and time (the "**Deadline**") |
| 26 March – 13 April 2018 | Evaluation of tenders (including clarification interviews if required) |
| 12 & 13 April 2018 | Presentations |
| April – June 2018 | Report to Council awarding bodies |
| June 2018 | Successful and unsuccessful Potential Supplier(s) notified |
| June 2018 | 10-day Standstill Period starts |
| 10 days | Expiry of Standstill Period |
| July 2018 | Contract Execution and Implementation |
| July 2018 | Commencement of the Services |

1. Information to Tenderers
   1. Information supplied by the Council/ ILC Members (whether as part of the Invitation to Tender or otherwise) is provided in good faith for general guidance. Tenderers must satisfy themselves by their own investigations with regard to the accuracy of any such information. The Council / ILC Members shall not accept any liability or responsibility in relation to the adequacy, accuracy, reasonableness or completeness of any information obtained by any Tenderer whether from a representative of the Council / ILC Members or otherwise.
   2. Tenders must be completed in full and submitted without qualification and all tenders must cover the requirements stated in the Service Specification.
   3. If a word limit is assigned to any question where a response is required from the Tenderer in accordance with the Tender Response Document then the limit does not include title pages or diagrams (that may be used to enhance responses). Any part of a response included above the word limit may not be evaluated by the evaluation panel.
   4. Tenderers will also be deemed for all purposes connected with the Form of Tender to have carried out all research, investigations and enquiries which can reasonably be carried out and to have satisfied themselves as to the nature, extent, volume and character of the Services to be provided, the extent of the premises, personnel, materials and equipment which may be required, and any other matter which may affect their tender. Tenderers shall have no claim whatsoever against the Council / ILC Members in respect of such matters and in particular (but without limitation) the Council / ILC Members shall not make any payments to Tenderers, save as expressly provided for in the Policy and no compensation or remuneration shall otherwise be payable by the Council /ILC Members to the successful Service Provider in respect of the Services by reason of the scope of the Services being different to that envisaged by Tenderers or otherwise.
   5. Each Tenderer shall bear its own costs of participation in this procurement of whatever nature, and in no circumstances will the Council / ILC Members be responsible for any such costs.
   6. The Council / ILC Members reserve the right to terminate the procurement process or any elements thereof at any time prior to award of the Policy. The Council / ILC Members do not bind itself to accept the lowest tender, or any tender received, and reserve the right to call for new tenders should they consider this necessary. The Council / ILC Members shall not be liable for any costs, expenses or losses incurred by any Tenderer regardless of the outcome of the procurement, including where the procurement (or any part thereof) is abandoned or terminated by the Council / ILC Members at its absolute discretion.
   7. The Council / ILC Members do not give any commitment, warranty or guarantee as to the volume of work (if any) to the contractor appointed to deliver the Services.
2. London Living Wage
   1. The successful Service Provider will be required to pay those whom it engages in performing the Services a wage equivalent to at least the London Living Wage ("**LLW**"). It is considered that LLW will promote social wellbeing of employees improving the social value of procurement overall in accordance with objectives of the Public Services (Social Value) Act 2012.
   2. The Invitation to Tender will reflect the ILC’s policy for the provider to pay any person employed or engaged in the performance of the Services at a rate at least equivalent to any implemented LLW in accordance with the guidelines of the Living Wage Foundation (http://www.livingwage.org.uk/). Tenderers must take this into account when completing the Pricing Schedule. The successful Service Provider will also be obliged to provide management information to assist the Council / ILC Members with monitoring the impact of the LLW.
3. Premier Supplier Programme (**NOT APPLICABLE TO THIS TENDER)**
4. Partnership Arrangements and Subcontractors
   1. Where the Tenderer completing the Tender Response Document is doing so as part of a proposed consortium unless individual questions dictate otherwise, a single response should be provided by the lead member in relation to the Tender Response Document on behalf of the entire consortium with the proposed involvement of any individual consortium member(s) being identified.
   2. The Council will rely on the information provided by the Tenderer including the information concerning consortium members, the structure of the consortium, the membership and/or structure of the proposed supply chain and any entities being relied upon. If, at any time during the procurement process or the term of the Contract, there are any changes or proposed changes to the membership or structure of the consortium or structure of the supply chain and/or in respect of any entities the Tenderer is relying upon as previously set out in the Tender Response Document, the lead organisation must immediately advise the Council in writing providing full details of the relevant change. Upon receipt of such information, the Council shall be entitled to revisit the selection or award stage of the procurement process and may de-select the Tenderer based on an assessment of the new information and/or change of circumstances and/or may terminate or suspend the Contract
5. European Acquired Rights Directive 2001/23 and the Transfer of Undertakings (Protection of Employment) Regulations 2006 (NOT APPLICABLE TO THIS TENDER)
6. Conflicts of interest
   1. In accordance with Regulation 24 of the PCR 2015, the ILC may exclude a Tenderer if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.
   2. Any conflict of interest or perceived conflict of interest which arises must be fully disclosed in writing to the ILC in a separate Appendix to the Tender Response Document as soon as such conflict or potential conflict becomes apparent.
   3. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by the Council / ILC Members should not represent a conflict of interest for the Tenderer.
7. Form of Tender and Accompanying Information
   1. The Tender Response Document which forms part of the Invitation to Tender shall be duly completed in all respects by the Tenderer (and in compliance with the stipulations therein specified) and submitted electronically in the manner and by the date and time stated in Paragraph 11 below together with the following documents:
      1. Completed Tender Response Document
      2. Copy of all applicable policy wording
      3. Completed Pricing Schedule as set out in the Tender Response Document, in compliance with the stipulations specified therein to show prices, charges and rates. Please note that all figures submitted must be expressed in pounds sterling and VAT.
      4. Completed and signed Form of Tender
      5. Completed and signed Non-Collusion Declaration; and
      6. Completed and signed Confidentiality Undertaking
      7. Details of any indication that a conflict of interest exists or may arise within the meaning of Regulation 24 of the Public Contract Regulations 2015
      8. Only information requested within the response document will be evaluated. Please do not include any additional information or attachments unless specifically requested to do so within the response document
   2. All prices, charges and rates must be in all cases be stated exclusive of Insurance Premium Tax and Value Added Tax ("**VAT**") and in pounds sterling. Tenderers should include within their rates appropriate costs relating to, without limitation, staff, vehicles, equipment, materials and to all works being undertaken safely, and the compliance with all statutory provisions and other rules or regulations relating to the Services including the Health and Safety at Work etc. Act 1974 and Control of Substances Hazardous to Health Regulations 2002.
   3. Tenderers should note that, where the Tenderer is a consortium, the Tender Response Document will be deemed to have been submitted by the lead member of the consortium.
8. Submission of Tender Response Document
   1. The Tender Response Document and all other accompanying documentation must be completed as directed and submitted via the Council’s e-Tendering Portal:

<https://procontract.due-north.com/register>

* 1. Please ensure that you allow sufficient time to follow the instructions provided as the Council cannot accept responsibility for transmission delays. Documentation which has been uploaded onto the Council’s e-Tendering Portal but not submitted will not be considered.
  2. The Council will not accept printed or hard copy Tender Response Documents. Tender Response Documents are only to be submitted electronically via the Council’s e-Tendering Portal.
  3. **Submission of Tender Response Documents must be completed by 12:00 noon on 26 March 2018 via the e-Tendering Portal.**
  4. **Please note that Tenderers can upload and submit their Tender Response Documents to the e-Tendering Portal at any time prior to the deadline above.** When uploading your response, please be aware of the speed of your Internet connection, your system configuration and general web traffic may impact on the time taken to complete the transaction. The Council strongly encourages Tenderers not to leave the upload and submission of documentation until the last moment.
  5. The ILC expressly reserves the right to request a Tenderer to provide additional information supplementing or clarifying any of the information provided in response to the requests set out in the Invitation to Tender. If the ILC determines a Tender Response Document to be incomplete in any material aspect, the ILC expressly reserves the right to reject that Tender Response Document.
  6. It is each Tenderer's responsibility to ensure that all Tender Response Documents arrive complete and on time. The ILC reserves the right not to accept a Tender Response Document from a Tenderer unless all of the required documentation is submitted in all of the required formats prior to the ITT Response Deadline.
  7. All Tenderers shall keep their respective Tender Response Document valid and open for acceptance by the ILC for a period until September 2018.

1. Rejection of Tender Response Document
   1. A Tender Response Document submitted by a Tenderer in respect of which the Tenderer:
      1. fails to provide the cover specified
      2. fixes or adjusts the prices, charges and rates shown in its Tender Response Document:
         1. by or in connection with any agreement or arrangement with any other person; or
         2. by reference to any other Tender Response Document; or
      3. communicates to any person other than the ILC the amount or approximate amount of the prices, charges and rates shown in its Tender Response Document;
      4. enters into any agreement with any other person that such other person shall refrain from submitting a Tender Response Document or shall limit or restrict the prices, charges and rates to be shown by any other Tenderer in its Tender Response Document;
      5. offers or agrees to pay or give or does pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tenderer or any other person's proposed Tender Response Document any act or omission;
      6. in connection with its Tender Response Document or the conclusion of the Contract/s commits an offence under 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;
      7. has directly or indirectly canvassed any member or official of the Council / ILC concerning the acceptance of any Tender Response Document or who has directly or indirectly obtained or attempted to obtain information from any such member or official concerning any other tender or Tender Response Document submitted by any other Tenderer;
      8. fails to use the English language;
      9. fails to provide a satisfactory response to any question in the Tender Response document or inadequately or incorrectly completes any question;
      10. fails to obtain a "pass" at any evaluation stage of the Tender Response Document;

shall not be considered for acceptance and shall accordingly be rejected by the ILC provided always that such non‑acceptance or rejection shall be without prejudice to any other civil remedies available to the ILC in respect thereof or to any criminal liability which such conduct by a Tenderer may attract.

* 1. Any breach of the terms stipulated in these Instructions for Tendering will entitle the ILC to terminate at any time any Policy entered into between the successful Tenderer(s) and the ILC.

1. Non-Consideration of Tender Response Document
   1. The ILC may in its absolute discretion refrain from considering a Tender Response Document if:
      1. in any respect, it does not comply with the requirements of the Tender Response Document and/or these Instructions for Tendering; or
      2. The Tenderer makes or attempts to make any variation or alteration to the terms of the Tender Documents (subject to any requests made by Tenderers in accordance with Section 1);
      3. The Tenderer fails to submit comprehensive pricing information for all items required
2. Acceptance of Form of Tender and Criteria for Evaluation
   1. The ILC is seeking to identify the most economically advantageous tender taking into account the Tenderer's Quality, Value for Money and Price Proposals.
   2. Tender Response Documents shall be evaluated using the following Award Criteria:
      1. Quality 70%
      2. Value for Money 10%
      3. Price 20%
   3. The ILC shall not be bound to accept the lowest priced submission and reserves the right, at its absolute discretion, to accept or not accept any Tender Response submitted.
   4. The evaluation weighs heavily in favour of price. Please ensure that your quality elements provide as much supporting information as possible within the constraints of the response document to enable us to fully assess your tender.
   5. The ILC reserves the right to clarify with Tenderers any aspects arising from its Tender Response Document after the submission of Tender Responses. Such clarification may include, (but shall not be limited to), the level and application of the prices contained within any Tender Response.
   6. In evaluating Tender Responses, the ILC shall have regard to the following:
      1. the ability of the Tenderer to provide the Services in accordance with the Invitation to Tender with particular reference to:
         1. the experience and competence of the Tenderer to provide the Services;
         2. any information and details which the Tenderer is required to submit with its Form of Tender; and
         3. the services offered at no extra cost by the Tenderer
         4. the rates tendered by the Tenderer
3. Commencement of Services
   1. The Services are due to commence in July 2018 (the “Service Commencement Date”)
4. Implementation Period
   1. It is the ILC’s standard practice to conduct an implementation period prior to the Service Commencement Date.
   2. The implementation period will take place from the date of contract award until the Service Commencement date. It is anticipated that winning tenderers will be invited to meet with ILC Members during this time to agree process and procedures.
5. Tenderer Warranties
   1. In submitting its Tender Response Document, the Tenderer warrants, represents and undertakes to the ILC that:
      1. it has complied in all respects with the Invitation to Tender;
      2. all information, representations and other matters of fact communicated (whether in writing or otherwise) to the ILC by the Tenderer, its employees or agents in connection with or arising out of the tender are true, complete and accurate in all respects;
      3. it has made its own investigations and research and has satisfied itself in respect of all matters (whether actual or contingent) relating to the Tender and that it has not submitted the Tender Response Document and will not have entered into the Policy in reliance upon any information, representation or assumption (whether made orally, in writing or otherwise) which may have been made by or on behalf of the ILC;
      4. it has satisfied itself as to the correctness and sufficiency of the information it has inserted in the Tender Response Document;
      5. it has full power and authority to enter into the Policy and to provide the Services;
      6. it is of sound financial standing and has and will have sufficient premises, working capital, skilled staff, vehicles, tools, materials, other equipment and other resources available to it to provide the Services;
      7. at the date of commencement of the Services it will hold all necessary consents, licenses and permissions to enable it to provide the Services and will from time to time throughout the Policy Period obtain and maintain all further and other necessary consents, licenses and permissions to enable it to continue to do so; and
      8. it will not at any time during the Policy Period or at any time thereafter claim or seek to enforce any lien, charge, or other encumbrances over property of whatever nature owned by the ILC and which is for the time being in possession of the Tenderer, for the purposes of this Policy.
6. Freedom of Information
   1. To allow the ILC Members to meet its legal responsibilities under the Freedom of Information Act 2000 (**FOIA**), all information submitted to a public authority, such as the ILC Members, may need to be disclosed in response to a request under the FOIA. The ILC Members may also decide to include certain information in the publication scheme, which the ILC Member’s maintain under the FOIA.
   2. If a Tenderer considers that any of the information included in their Tender Response Document is commercially sensitive, they should identify it and explain, (in broad terms), what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity.
   3. Tenderers should be aware that, even where they have indicated that information is commercially sensitive, the ILC Members might be required to disclose it under the FOIA if a request is received.
   4. Tenderers should also note that the receipt of any material marked ‘confidential’ or equivalent by the ILC Members should not be taken to mean that the ILC Members accepts any duty of confidence by virtue of that marking.
7. General
   1. The Invitation to Tender will remain the property of the ILC. If no Tender is submitted formally, you will be required to delete the Invitation to Tender documents.
   2. The ILC members will publish the estimated value of each policy and the names of the successful Tenderer/s.
   3. The ILC reserves the right to issue amendments or modifications to these Instructions for Tendering, the Service Specification and the Tender Response Document during the Procurement process.
   4. The ILC reserves the right to abandon or withdraw from the Procurement process at any time, to amend the timetable to award and/or not to award a policy to the lowest or any Tenderer.
   5. Any costs and expenses incurred by any Tenderer or other person will not be reimbursed by the Council or the ILC and neither the Council, the ILC nor any of its representatives will be liable in any way to any Tenderer or other person for any costs, expenses or losses incurred by any Tenderer or other person in connection with this tender process.
8. structure of the competition
   1. The Service Specification sets out the ILC’s requirements for the delivery and management of the Services.
   2. Tenders must be returned electronically via the Council’s e-Tendering Portal.
   3. Tenderers are required to submit responses to the questions in a manner that explains how they propose to meet the requirements of the ILC. Details of the questions to be answered as part of these Instructions for Tendering are set out below and in the Tender Response Document.
   4. Responses to the questions in the Tender Response Document form an important part of the evaluation process. Tenderers are advised to submit all the information requested.
   5. Responses to the questions will be evaluated by ILC Members and scored in accordance with the evaluation methodology and scoring tables set out in these Instructions to Tenderers. Such scores will reflect the extent to which the submissions meet the ILC’s requirements.
   6. The ILC may request clarifications from Tenderers. Following any clarifications required, members of the evaluation team will individually review and score the Tender Responses and a moderation meeting will then take place to finalise the scores for each Tenderer.

21 The Tender Evaluation Process **STAGE**

**Quality = 70% of total score**

**Value for Money = 10% of the total score**

**Price = 20% of the total score**

* 1. Each Tenderer's response to Questions 9.1 – 9.6 of the Tender Response Document will be evaluated and given an un-weighted score. Table 1 outlines the scoring methodology that will be used to evaluate each of these questions.

**Table 1**

|  |  |  |
| --- | --- | --- |
| **Score** | **Rating** | **Criteria for awarding score** |
| 5 | Excellent | Exceeds the requirement. Exceptional demonstration by the Tenderer of their relevant ability, understanding, skills, resource and quality measures provided in the questions. Response identifies factors that demonstrate added value, with evidence to support the response.  The ILC is completely confident that the Tenderer understands the contract requirements covered by the question and has significantly demonstrated that they will be able to satisfactorily deliver the contract requirements covered by this criterion to a very high standard |
| 4 | Good | Satisfies the requirement with minor additional benefits. Above average demonstration by the Tenderer of the relevant ability, understanding, skills, resource and quality measures provided in the questions.  The ILC is completely confident that the Tenderer understands the contract requirements covered by the question and has demonstrated that they will be able to satisfactorily deliver the contract requirements covered by this criterion to a high standard |
| 3 | Acceptable | Satisfies the requirement. Demonstration by the Tenderer of the relevant ability, understanding, skills, resources and quality measures provided in the questions, with evidence to support the response.  The ILC is reasonably confident, that the Tenderer understands the contract requirements covered by this criterion and will be able to deliver the contract requirements covered by this criterion to a reasonable standard. |
| 2 | Reservations | Fails to satisfy the ILC’s minimum requirement.  There are reservations of the Tenderer’s relevant ability, understanding, skills, resources and quality measures provided in the questions, with limited evidence to support the response.  The response does not address in sufficient detail the needs and requirements covered by the question. |
| 1 | Serious Reservations | Serious reservations of the Tenderer’s relevant ability, understanding, skills, and resource and/or quality measures provided in the method statement with little or no evidence to support the Tenderer’s response.  The response does not address the needs and requirements covered by the question. |
| 0 | Unacceptable | Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the tenderer has the ability, understanding, skills, resource and quality measure, with little or no evidence to support the response.  The response provides no confidence that the approach described satisfies the requirements to which the question relates |

* 1. Un-weighted scores for each questions from 9.1 – 9.6 will be multiplied by the applicable weighting to give a weighted score. Table 2 below outlines the weighting for each question.

**Table 2**

|  |  |
| --- | --- |
| **Quality** | **Weighting** |
| Question 9.1 Service Delivery Approach – Case Study 1 | **15** |
| Question 9.2 Service Delivery Approach – Case Study 2 | **15** |
| Question 9.3 Cost Management | **10** |
| Question 9.4 Contract and Performance Management | **10** |
| Question 9.5 Transition and Mobilisation | **10** |
| Question 9.6 Social Value | **10** |
| **Total** | **70** |
| **Value for Money** | **Weighting** |
| Question 10.1 Value for Money | **10** |

* 1. **Service Delivery Approach: Case Studies Part 4 Section 9 Questions 9.1 & 9.2**

Tenderers are required to produce a report and presentation for each scenario detailing how they would manage;

Question 9.1 (Case Study 1) – this should include but not be limited to liability, quantum and recommendations/next steps.

Question 9.2 (Case Study 2) – this should include but not be limited to foreseeability, causation, reasonable care, quantum and recommendations/next steps

The reports will be evaluated using Table 1 and scored against the following criteria;

* Layout and design of the reports - ability to draft a clear and concise report.
* Knowledge of the legal process – demonstration of a thorough understanding of the legal process relating to each claim
* Claims management - approach to managing claims in a way that delivers the best result (in the circumstances) to the members.
* Cost management - approach to reducing expenditure.

**Presentation – ( Held on 12 & 13 April 2018)**

In addition to the reports submitted as part of the Tender Response, Tenderers are required to prepare a presentation not lasting more than 10 minutes for each case (20 minutes total). This will be followed by a 10 minute question and answer session allowing both parties to clarify any ambiguities in the reports. The presentation session will be used by the panel to further probe aspects of the reports and to confirm the scoring of the reports.

* 1. **Cost Management : Part 4 Section 9 Question 9.3**

The ILC needs to fully understand the approach you would deploy to sustainably lower the whole life cost of claims.

In responding Tenderers need to consider all facets of costs that attach to handling claims such as speed of handling, cost negotiation and repudiation rates etc.

Responses will be evaluated using Table 1.

* 1. **Contract and Performance Management: Part 4 Section 9 Question 9.4**

The ILC needs to be satisfied that you have an effective contract and performance management procedure in place that ensures the contract both delivers a consistently high quality service that meets the requirements and does so demonstrably.

Tenderers are to describe the contract and performance management procedures that would be implemented, the tools and processes including Key Performance Indicators that would be used to both monitor, measure and report on performance.

Responses will be evaluated using Table 1

* 1. **Transition and Mobilisation: Part 4 Section 9 Question 9.5**

The ILC needs to be satisfied that the successful Service Providers are able to mobilise and implement the contract effectively and efficiently across all Participating Bodies by the contract start date (1st July 2018).

Tenderers are to clearly demonstrate how they intend to mobilise and implement the contract effectively and efficiently across the ILC. Your response should include a project plan with roles, responsibilities and indicative timescales.

Responses will be evaluated using Table 1

* 1. **Social Value : Part 4 Section 9 Question 9.6**

Tenderers are to detail how they intend to deliver social value that benefits the individual member’s local businesses/residents. A number of areas that have been identified are listed in the Tender Response Document but these are not exhaustive.

Responses will be evaluated using Table 1.

* 1. **Award Criteria - Value for Money : Part 4 Section 10 Question 10.1**

Tenderers are to detail the value added services being offered at no extra cost to ILC members as part of this contract.

Responses will be evaluated using Table 1.

* 1. **Price 20% of total score**

Following evaluation of the Tenderers' Quality Responses the Price Proposals of Tenderers shall be evaluated.

All Tenderers are required to complete the Pricing Schedule contained in 1.3 Award Criteria – Price

The score for price will be based solely on information provided in the Pricing Schedule.

Any price which appears to the ILC to be abnormally low or high will, in accordance with Regulation 69 of the PCR 2015, be clarified with the relevant Tenderer and an explanation sought to explain the price submitted by the Tenderer. This includes ensuring that this is not as a result of a failure to understand the Service requirements or the Invitation to Tender documentation. The ILC will assess any information provided by the relevant Tenderer to explain its price and may reject the Tenderer’s Tender Response after following this process where the evidence supplied by the Tenderer does not satisfactorily account for the abnormally low or high price.

Tender prices must, in all cases, be inclusive of all of the following:

* any costs which are the effect of the obligation on the successful Service Provider in relation to the Living Wage
* any overheads, ad hoc administrative costs
* All matters stated in the Specification
* Tender prices must be shown exclusive of VAT
  1. **Evaluation of Price 20% of total score**

**For evaluation purposes only the following process will be followed:**

1. The Tenderer’s Rate 1 for the four Fee Earners will be totalled and divided by 4 to give an Average Rate 1 price
2. The Tenderer’s Rate 2 for the four Fee Earners will be totalled and divided by 4 to give an Average Rate 2 price.
3. The two Average Rates will then be totalled and divided by 2 to give the Tendered Price

The Tenderer who submits the lowest compliant ‘Tendered Price’ will receive the maximum price score of 20%. Scores for other tenderers will be calculated on the following basis:

**Lowest submitted Tendered Price**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ x 20**

**Tenderer’s submitted Tendered Price**

A worked example is set out in Table 3 below.

**Table 3**

|  |  |  |  |
| --- | --- | --- | --- |
| Tenderer A | Hourly Rate 1 | Hourly Rate 2 | Tendered Price |
| Band1 | £75.00 | £65.00 |  |
| Band 2 | £45.00 | £40.00 |  |
| Band 3 | £40.00 | £35.00 |  |
| Band 4 | £25.00 | £20.00 |  |
| Average Rate | £46.25 | £40.00 | £43.13 |

|  |  |  |  |
| --- | --- | --- | --- |
| Tenderer B | Hourly Rate 1 | Hourly Rate 2 | Tendered Price |
| Band1 | £70.00 | £55.00 |  |
| Band 2 | £55.00 | £50.00 |  |
| Band 3 | £45.00 | £40.00 |  |
| Band 4 | £25.00 | £20.00 |  |
| Average Rate | £48.75 | £41.25 | £45.00 |

|  |  |  |  |
| --- | --- | --- | --- |
| Tenderer C | Hourly Rate 1 | Hourly Rate 2 | Tendered Price |
| Band1 | £75.00 | £65.00 |  |
| Band 2 | £50.00 | £55.00 |  |
| Band 3 | £40.00 | £35.00 |  |
| Band 4 | £25.00 | £25.00 |  |
| Average Rate | £47.50 | £45.00 | £46.25 |

|  |  |  |  |
| --- | --- | --- | --- |
| Tenderer D | Hourly Rate 1 | Hourly Rate 2 | Tendered Price |
| Band1 | £70.00 | £70.00 |  |
| Band 2 | £50.00 | £50.00 |  |
| Band 3 | £40.00 | £40.00 |  |
| Band 4 | £25.00 | £25.00 |  |
| Average Rate | £46.25 | £46.25 | £46.25 |

|  |  |  |  |
| --- | --- | --- | --- |
| Tenderer E | Hourly Rate 1 | Hourly Rate 2 | Tendered Price |
| Band1 | £80.00 | £75.00 |  |
| Band 2 | £60.00 | £50.00 |  |
| Band 3 | £50.00 | £40.00 |  |
| Band 4 | £30.00 | £25.00 |  |
| Average Rate | £55.00 | £47.50 | £51.25 |

|  |  |  |  |
| --- | --- | --- | --- |
| Tenderer | Tendered Price | Price Score | Ranking |
| A | £43.13 | 20.00 | 1 |
| B | £45.00 | 19.17 | 2 |
| C | £46.25 | 18.65 | 3 |
| D | £46.25 | 18.65 | 3 |
| E | £51.25 | 16.83 | 5 |

22 Total Score and Award Process

* 1. The Quality, Value for Money and Price scores shall be added together to give each Tenderer their Total Score and Tenderers ranked accordingly. The Tenderers who satisfy all requirements of the Invitation to Tender and are awarded the five (5) highest combined scores shall be identified as the most economically advantageous Tenderers. All scores will be rounded to two decimal places. Example below.

**Table 4**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Tenderer | Quality Score **70** | Value for Money Score10 | Price Score20 | Total Score | Final Ranking |
| A | 55.00 | 8.00 | 20.00 | 83.00 | 2 |
| B | 53.25 | 6.00 | 19.17 | 78.42 | 4 |
| C | 45.50 | 6.00 | 18.65 | 70.15 | 5 |
| D | 60.00 | 8.00 | 18.65 | 86.65 | 1 |
| E | 55.00 | 8.00 | 16.83 | 79.83 | 3 |

* 1. **Presentations and Clarifications ( Sessions held on 12 & 13 April 2018)**

As part of the quality evaluation Tenderers will be required to attend the Council offices in order to give a presentation to the tender evaluation panel on their reports for Case Studies 1 and 2. The presentations form part of the evaluation as outlined in Section 21.3

* 1. **Award Decision**

The award decisions will be notified to Tenderers via the Council's e-Tendering Portal.

In accordance with EU procurement rules, there will be a standstill period of 10 calendar days following notification of award to the successful Tenderers.

All unsuccessful Tenderers will be provided with an ‘unsuccessful letter’ in writing via the Council's e-Tendering Portal at the start of the standstill period notifying them of the outcome of the evaluation exercise.

This will include details of:

* The award criteria
* The score of the Tenderer, including details of their weighted score and comments of the evaluation panel; and
* The names of the successful Tenderers and their scores and comments of the evaluation panel.

Following the standstill period upon notification of award to the successful Tenderers, subject to there being no substantive challenge to the decision, the successful Tenderers will be appointed Panel members and they will enter into contract with the ILC Members.