



ENERGY  
SERVICE  
BRISTOL



## City Leap Energy Partnership

### SQ Guidance

ProContract ID: DN484211

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## DEFINITIONS

| Term   | Description   |
|--|---|
| <b>Assets Under Management</b>                               | Means the total market value of investments managed by a mutual fund, money management firm, hedge fund, portfolio manager, or other financial services company.  |
| <b>Authority or Contracting Authority or Council or “us”</b> | Means Bristol City Council as the Contracting Authority of the Procurement  |
| <b>Bidder or “You”/ “Your”</b>                               | Means the potential supplier considering submitting/that has submitted an SQ Response. This could be a Single Bidder or a consortium.   |
| <b>Bidder Member</b>   | Means a shareholder or member or proposed shareholder or member in, or controlling entity of, the Bidder and/or that shareholder’s or member’s or proposed shareholder’s or member’s ultimate holding company or controlling entity   |
| <b>Consortia or Consortium</b>                               | Means two or more entities acting jointly for the purposes of submitting an SQ Response, whether structured, or to be structured, as an incorporated joint venture.   |
| <b>Consortium Member</b>                                     | Means each entity which is a member of a Consortium   |
| <b>DocuSign</b>  | Means electronic signature mechanism embedded within ProContract to be used by all Bidders for signature of any documents required in the SQ Response.  |
| <b>Eligible Bidders</b>                                      | Bidders eligible to be invited to participate in the next stage of the Procurement as set out in section 2.3 of the SQ Evaluation Criteria  |
| <b>Essential Sub-Contractor</b>                              | Means a sub-contractor (not a Consortium Member) that a Bidder intends to rely on in order to deliver the Services and whose experience the Bidder relies upon to score sufficient marks in relation to SQ Question 6.1(a)  |
| <b>FOIA / Freedom of Information Act</b>                     | Means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with any guidance and / or codes of practice issued by the Information Contracting Authority, the Department of Constitutional Affairs, the Office of Government Commerce and in relation to such legislation or relevant codes of practice to which Bristol City Council are subject |
| <b>Failure Score</b>   | As defined in paragraph 3.4.1 of the SQ Evaluation Criteria   |
| <b>Full Evaluation / Fully Evaluate</b>                      | The full evaluation process of an SQ Response as detailed in section 2.2 of the SQ Evaluation Criteria  |
| <b>Guarantor</b>   | As defined under question 4.6 of the SQ   |

| Term  | Description  |
|---|--|
| ISOS  | Means the invitation to submit an outline solution   |
| ISFT  | Means the invitation to submit a final tender  |
| Lead Bidder   | Means:<br><br>(a) where a Bidder is submitting an SQ Response as a single entity, that single entity; or<br><br>(b) where an Bidder is submitting an SQ Response as a Consortium, the Consortium Member identified by that Consortium to act as the lead.  |
| Minimum Financial Scoring Threshold                       | Has the meaning given to it at Paragraph 3.2.2 of the SQ Evaluation Criteria   |
| Minimum Net Assets Threshold                              | Has the meaning given to it at Paragraph 3.2.1 of the SQ Evaluation Criteria   |
| NDA   | Means the fifth document appended to the SQ titled “Non-Disclosure Agreement”  |
| PCC Criteria  | Preliminary Compliance Check as detailed in paragraph 2.1 of the SQ Evaluation Criteria  |
| Positive Indicators                                       | These represent features that the Authority expects to see in a highly scoring SQ Response to Q6.1(a), and so the evaluation will take into account the extent to which such Positive Indicators have been demonstrated in the SQ Response to Q6.1(a). For the avoidance of doubt, the Positive Indicators are indicative only, and while the existence (or otherwise) of Positive Indicators in a specific response will be taken into account in the evaluation, this is not the only factor that will determine the score ultimately awarded. |
| Preliminary Compliance Check                              | The process outlined in paragraph 2.1 of the SQ Evaluation Criteria  |
| ProContract   | Electronic procurement system used by the Authority to ensure equitable and transparent process management of the Procurement  |
| Procurement   | The procurement process for appointing a Strategic Partner to provide the Services   |
| Profitability Ratios, Gearing Ratios and Liquidity Ratios | Has the meaning given to it at Paragraph 3.3.2 of the SQ Evaluation Criteria   |
| Provider  | The successful Bidder who has entered into the required contracts with the Contracting Authority to provide the Services   |
| Regulations   | Means the Concession Contracts Regulations 2016  |

| Term                                       | Description  |
|--|--|
| <b>Relevant Organisation</b>               | An organisation(s) or person connected with an SQ Response and/or any submission made during this Procurement including (without limitation): <ul style="list-style-type: none"> <li>(i) Bidders;</li> <li>(ii) Consortium Members;</li> <li>(iii) Guarantors; and</li> <li>(iv) Essential Sub-Contractors</li> </ul>  |
| <b>Relies on Another Entity</b>            | A Bidder relies on another entity where either: <ul style="list-style-type: none"> <li>(i) All Guarantors (all parties whose financial standing a Bidder (including a Consortium Member) requires to be assessed in order to pass SQ Question 4;</li> <li>(ii) All Essential Sub-Contractors (all sub-contractors whose experience a Bidder relies on when submitting examples of experience to score sufficient marks in relation to SQ Question 6.1(a));</li> <li>(iii) All members of a Consortium.</li> </ul> as set out in Paragraph 2.4 of the SQ Guidance |
| <b>Requirement</b>                         | Means each question contained in 6.1(a) of the SQ  |
| <b>Selection Criteria</b>                  | Means the selection criteria set out in the SQ   |
| <b>Services</b>                            | Has the meaning given to it in Section 1.1 of the SQ Guidance  |
| <b>Shortlisted Bidders</b>                 | Eligible Bidders invited to submit outline solutions to the Procurement  |
| <b>Single Entity or Single Bidder</b>      | A sole organisation submitting a bid for this Procurement  |
| <b>SPV</b>                                 | Special Purpose Vehicle  |
| <b>SQ</b>                                  | Means the questionnaire issued to potential Bidders interested in taking part in the Procurement titled "Selection Questionnaire"  |
| <b>SQ Conflict of Interest Declaration</b> | Means that fourth declaration appended to the SQ titled "Conflict of Interest Declaration"   |
| <b>SQ Declarations</b>                     | Means the four (4) declarations appended to the SQ namely <ul style="list-style-type: none"> <li>1. SQ Self-Declaration</li> <li>2. SQ Declaration on Legal and Financial Regulations</li> <li>3. SQ Declaration of Consent</li> <li>4. SQ Conflict of Interest Declaration</li> </ul>   |

| Term   | Description  |
|--|--|
| <b>SQ Declaration on Legal and Financial Regulations</b> | Means the second declaration appended to the SQ titled “SQ Declaration on Legal and Financial Regulations”   |
| <b>SQ Declaration of Consent</b>                         | Means the third declaration appended to the SQ titled “SQ Declaration of Consent”  |
| <b>SQ Documents</b>                                      | Means the SQ Guidance, the SQ, the SQ Evaluation Criteria and the SQ MOI   |
| <b>SQ Guidance</b>                                       | Means the document setting out the guidance on the SQ issued by the Authority to assist Bidders in preparing the SQ Responses titled “SQ Guidance” |
| <b>SQ MOI</b>  | Means the document titled “SQ Memorandum of Information” issued to Bidders to provide information to Bidders in relation to the Procurement        |
| <b>SQ Responses</b>                                      | Means the responses submitted by Bidders to the SQ in accordance with the requirements of the SQ Documents   |
| <b>SQ Self-Declaration</b>                               | Means the first declaration appended to the SQ titled “SQ Self-Declaration”  |
| <b>SQ Response Deadline</b>                              | 12 noon BST 25 September 2020 being the date by which Bidders must have submitted their SQ Responses   |
| <b>Strategic Partner</b>                                 | Means the Provider   |

## 1 INTRODUCTION AND OVERVIEW OF PROCUREMENT

### 1.1 Introduction

This tender process is for the procurement of a Strategic Partner for the City Leap Energy Partnership who will provide finance, investment, commercial support and technical expertise to assist with the origination, development, delivery and facilitation of low carbon and smart energy related infrastructure, assets and services (collectively referred to as the “Services”).

Please refer to the SQ MOI, the three Cabinet Reports relating to the Procurement dated April 2019, June 2020 and July 2020 available on the Authority’s website and the [City Leap Prospectus](#) for further background information on the Procurement.

### 1.2 Overview of Procurement

This procurement is being conducted in accordance with the Concession Contracts Regulations 2016. It is intended that this Procurement shall have multiple stages. Further details of the expected stages are set out below.

The first stage is the submission of an SQ Response. A maximum of five Eligible Bidders will then be invited to take part in the next stage of the Procurement and submit outline solutions.

**NOTE TO BIDDERS:** Due to the limitations imposed by the coronavirus pandemic, the Authority will not be holding a briefing event. Subject to the publication of the Selection Questionnaire in the week commencing 03 August 2020, a video, ‘Welcome to Bristol’s City Leap’, will be published online on or around the week commencing 17 August 2020. Interested economic operators, who are registered with ProContract, will be able to access this video via ProContract and will be able to ask clarification questions in accordance with the process set out in section 2.9. Instructions on how to access the video will be provided to interested economic operators via ProContract in due course.

### 1.3 Indicative Procurement timetable

Please note that this timetable is offered to Bidders for information only, and all dates are subject to change. Further details on expected timetable will be provided at each stage of the Procurement.

| Tasks                                  | Earliest date |
|--|---------------|
| Concession Notice & SQ Issued          | 03/08/2020    |
| ‘Welcome to Bristol’s City Leap’ Video | 17/08/2020    |
| SQ Responses Deadline                  | 25/09/2020    |
| ISOS Issued                            | 26/10/2020    |
| ISOS Response Deadline                 | 22/01/2021    |
| ISFT Issued                            | 15/03/2021    |

| Tasks                           | Earliest date |
|---------------------------------|---------------|
| ISFT Response Deadline          | 24/05/2021    |
| Appointment of Preferred Bidder | 07/07/2021    |

#### 1.4 Commercial framework

Please refer to the SQ MOI for further information on the proposed City Leap opportunity and an outline of the expected contractual and commercial arrangements. Further details of the proposed contractual and commercial arrangements will be provided to Shortlisted Bidders during the next stage of the Procurement.

#### 1.5 Communication

All communication between the Authority and Bidders should be made through the ProContract system by way of the messaging function.



## 2 THE SQ PROCESS

### 2.1 Issue of the SQ

The SQ will be available within ProContract from around 12.00 PM BST on 03 August 2020 to all organisations who have registered on ProContract.

### 2.2 SQ Stage

This SQ Guidance will assist potential Bidders with submitting responses to the SQ. Prior to submitting an SQ Response, Bidders should read all SQ Documents in conjunction with each other.

The SQ Responses will be evaluated by the Authority's evaluation team (which may include its external advisers) in accordance with the requirements set out in the SQ Evaluation Criteria.

Following evaluation of the SQ Responses, the Authority will shortlist **up to a maximum of 5 Bidders** to be invited to submit outline solutions to the Procurement.

SQ Responses (including SQ Declarations and NDAs) must be provided as specified in Appendix A to this Guidance in accordance with whether Bidders are a Single Bidder or the a Consortium.

In the event that a Bidder is unsure which sections of the SQ it is required to complete, e.g. because of its group structure, requirement for a Guarantor or proposed use of sub-contractors, the Bidder should contact the Authority via ProContract for guidance in advance of the deadline for submission of SQ clarifications.

Please note the SQ Documents are for use by potential Bidders who are interested in participating in the City Leap Energy Partnership Procurement, their professional advisers and other parties essential to preparing SQ Responses and for no other purpose.

### 2.3 Structure of the SQ/SQ Responses

The SQ is split into three parts and appends four templated SQ Declarations and the NDA as follows:

- Part 1: Potential Supplier Information
- Part 2: Exclusion Grounds
- Part 3: Selection Questions
- SQ Declarations
  1. SQ Self-Declaration
  2. SQ Declaration on Legal and Financial Regulations
  3. SQ Declaration of Consent
  4. SQ Conflict of Interest Declaration
- NDA

Please see sections 2.6 and 2.7 and Appendix A of this Guidance regarding the Self-Declaration and NDA requirements for SQ Responses.

## 2.4 Part 1 and Part 2: Potential Supplier Information and Exclusion Grounds

Parts 1 and 2 of the SQ are a self-declaration, made by the Bidder, that it does not meet any of the grounds for exclusion. If there are grounds for exclusion, there is an opportunity to explain the background and any measures the Bidder has taken to rectify the situation (we call this “self-cleaning”). Please see paragraph 5.3 of this document for further information around self-cleaning.

A completed declaration of Part 1 and Part 2 (SQ questions 1 -3) provides a formal statement that the organisation making the declaration has not breached any of the exclusion grounds. Consequently, the following organisations are required to provide a completed Part 1 and Part 2 (as set out in Appendix A):

- (iv) All Guarantors (all parties whose financial standing a Bidder (including a Consortium Member) requires to be assessed in order to pass SQ Question 4;
- (v) All Essential Sub-Contractors (all sub-contractors whose experience a Bidder relies on when submitting examples of experience to score sufficient marks in relation to SQ Question 6.1(a));
- (vi) All members of a Consortium.

## 2.5 Part 3: Selection Questions

Please refer to Appendix A for details of which parties must complete SQ questions 4 to 8 (Part 3 of the SQ).

## 2.6 SQ Declarations

### 2.6.1 SQ Declarations

Bidders must ensure that their SQ Response include all four (4) SQ Declarations detailed in Paragraph 2.3 are signed by all parties (including Single Bidders/Guarantors/Essential Sub-Contractors/Lead Bidders and Consortium Members) required to do so in accordance with Appendix A using DocuSign via ProContract by the SQ Response Deadline.

The SQ Declarations and the NDA must be signed/entered into in the form appended to the SQ without amendment.

### 2.6.2 Return of the Conflict of Interest Declaration

In order to ensure a fair and competitive Procurement, it is required that all actual or potential conflicts of interest are declared to the Authority.

The Conflict of Interest Declaration provided must be completed by an authorised signatory, in their own name, on behalf of the potential Bidder and all members of any proposed Consortium using Docusign and submitted via ProContract by the SQ Response Deadline.

The Authority should be immediately notified, via ProContract in the event that any actual or potential conflict of interest comes to a Bidder's attention (or the attention of any proposed consortium member) following the submission of the Conflict of Interest Declaration.

The Authority reserves the right to exclude a Bidder from further participation in the Procurement where it perceives an actual or perceived risk of a conflict of interest in relation to the Bidder or any Relevant Organisation or member of its bid team and the Bidder is unable to satisfy the Authority that such a conflict can and will be appropriately managed.

## 2.7 NDAs

Bidders' SQ Responses must include NDA(s) signed on behalf of all entities required to provide NDAs under Annex A to the Guidance (which includes all Consortium Members, Guarantors and Essential Sub-Contractors).

The NDA must be duly executed by a person with the requisite authority in the relevant signing entity using Docusign via ProContract prior to the SQ Response Deadline.

The Authority expects Bidders to accept the terms of the NDA without amendment. If a Bidder considers that an amendment is necessary to reflect the specific circumstances of the Bidder (for example, to reflect its group structure), the Bidder must notify the Authority in advance of submission of the SQ Response and seek instructions. The Authority is under no obligation to accept any amendments to the form of the NDA.

## 2.8 Consequences of Misrepresentation

If you misrepresent any factual information in an SQ Response (including in any SQ Declarations), there may be significant consequences. If a contract has been entered into, you may be sued for damages and the contract may be rescinded.

If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

## 2.9 SQ Clarification Questions and Answers

A clarification question and answer process will operate during the SQ stage. The objective of the SQ clarification process is to give Bidders the opportunity to submit questions to the Authority where they require clarification on the information contained in the SQ.

Bidders should submit clarification questions via the ProContract messaging system. Clarification questions received by any other method will not receive a response.

Bidders are urged to review the SQ Documents immediately upon receipt and view the 'Welcome to Bristol's City Leap' Video following its publication by the Authority in order to identify any clarification questions that they wish to submit during the clarification question period. The Authority will seek to answer any clarification questions within a reasonable timeframe.

The period in which Bidders can raise clarification questions commences from 12 noon BST on the next working day following publication of the 'Welcome to Bristol's City Leap' video and ends at 12 noon BST on Friday 18 September 2020. Any clarification questions received after this time will not be answered.

In order to treat Bidders fairly, the Authority will normally provide an anonymised copy of any clarification questions, and the answers to those questions, to all Bidders. This will be provided in digest form, periodically updated and circulated to all those who have registered on ProContract for this Procurement.

Provision will be made for Bidders to request clarifications in confidence, but in responding to such requests, the Authority reserves the right to act in what it considers a fair manner and in the best interests of the Procurement, which may include circulating the response to all Bidders. In such a case, the Authority will notify the relevant Bidder in advance and give that Bidder the opportunity to withdraw the clarification.

Bidders should note that no further substantive information about the requirements in addition to that provided in the SQ MOI, the SQ, the SQ Evaluation Criteria, the City Leap Prospectus and the three Cabinet Reports relating to the Procurement dated April 2019, June 2020 and July 2020 (available on the Authority's website), will be provided about this Procurement at this time. More detailed information on the requirements will be made available at the next stage of the Procurement to the Eligible Bidders.

Under no circumstances should Bidders approach the Authority, the Mayor, its Members, or its staff or advisers seeking further information in relation to the Procurement. Any such approaches (direct or indirect) may result in the Bidder's exclusion from the Procurement.

## 2.10 Deadline for SQ Responses

SQ Responses must be received by the SQ Response Deadline, 12 noon BST 25 September 2020.

Failure to return a completed SQ Response by the SQ Response Deadline above will result in the disqualification of the Bidder from participating further in the Procurement except where there are, in the opinion of the Authority, exceptional extenuating circumstances, e.g. unforeseeable technical issues.

## 2.11 Format for Submitting the SQ Responses

Bidders must submit the SQ Responses including all information through ProContract. The four Self-Declarations and required NDA must be signed using DocuSign via ProContract.

### **3 COMPLETING THE SQ**

#### **3.1 General requirements**

Bidders must complete all parts of the SQ in accordance with the instructions set out in this document. Bidders must supply any additional or supporting information as required via the ProContract system. No other format should be used. Documents submitted as attachments through the ProContract system must be in a format that is readable in the Microsoft Office 2010 suite, Microsoft Office Picture Viewer or Adobe Acrobat. All attached spreadsheet and text documents must be fully available for manipulation, i.e. not locked for editing or presented as a PDF document. Images within documents should be appropriately compressed to ensure document sizes do not become unmanageable.

All electronic files submitted should be clearly and logically named, including the Bidder's name and the question number to which that electronic file relates.

All questions are to be answered in the same order that the questions appear in the SQ using the same numbering format.

Questions are to be answered in English and any attachments to support the answer should be clearly named using the question they relate to.

Any part of a Bidder's response which exceeds the word limits as stated within section 6.1(a) of the SQ will not be evaluated. The total stated word limit response includes words (minimum font size 11), pictures, flow charts, embedded tables, etc. The Bidder is not allowed any appendices, other attachments or directions to other web sites, etc.

Bidders should not include any information beyond that requested in the SQ.

Where the Bidder believes a question is not applicable, or cannot be answered, this should be clearly stated and an explanation must be provided. The Authority reserves the right to ask for further information if the explanation provided is not satisfactory. No response should be left blank.

Where project/contract/turnover values or similar information are requested against specific calendar years then the response shall be for the financial year that the majority of the stated calendar year lies within. All monetary figures are to be quoted in Pounds Sterling.

The inclusion of an executive summary, general marketing and company literature or any separate statement of reasons for selection is not required and will not be considered in the evaluation of the SQ Responses.

In completing their SQ Responses, Bidders should not assume that the Authority has any prior knowledge of its practice or reputation, or its involvement in existing services, projects or procurements. In evaluating SQ Responses, the Authority will only consider information provided in response to the SQ.

The Authority reserves the right to reject any Bidder that fails to comply fully with the requirements of the process set out in the SQ Documents, including any failure to comply with the requested format or any misrepresentation in supplying any information requested.

It is the Bidder's responsibility to return completed documentation and supporting information through ProContract.

The Authority reserves the right to request:

- a) further evidence of technical and professional ability and/or economic and financial standing (for example, in relation to specific regulatory approvals) throughout the Procurement if this is required as a result of the Bidder's proposed tender solution;
- b) any relevant documentary evidence referred to in / reasonably relevant to any submission made by a Bidder during the Procurement at any point in the Procurement.

If such evidence is not provided upon request and without delay, the Authority will exclude the Bidder from the Procurement.

## 4 SUB-CONTRACTING AND CONSORTIA BIDS

### 4.1 Sub-contracting

Please see paragraphs 2.4 to 2.7 inclusive in relation to sub-contractors.

Please note, all Essential Sub-contractors (i.e. sub-contractors that the Bidder relies on to meet the Selection Criteria) must complete **and pass** Parts 1 and 2 of the SQ.

### 4.2 Consortia Bids

The resources, range and depth of skills needed to deliver City Leap are such that the Authority understands that it may receive responses from organisations that may wish to collaborate to submit an SQ Response as a Consortium.

Consortiums must identify one Lead Bidder who will be responsible for the overall preparation and submission of the SQ Response on behalf of all members of the Consortium, and for addressing questions about the organisation of the joint application (an administrative lead for the purpose of the SQ stage and the process beyond).

The Lead Bidder must be a shareholder within the consortium SPV if it already exists, or a shareholder in the SPV that will be required to be established if the Consortium is appointed to be the Provider.

However, certain elements of the SQ must be responded to by each Consortium Member, regardless of its current structure, as set out in Appendix A to this Guidance.

Except where the question requires it, as set out in the SQ or further detailed in the SQ Evaluation Criteria and/or Appendix A to this Guidance, the Lead Bidder may answer questions using details of solely its own capacity, skills, knowledge and experience. Where a Lead Bidder is relying on any of the Consortium Members' or sub-contractors' experience or knowledge to answer a question, this must be made clear within the Consortium's SQ Response.

Lead Bidders will be responsible for the accuracy of all information concerning Relevant Organisations submitted to the Authority within the completed SQ.

It should be noted that Consortia submitting SQ Responses are under no obligation to make legally binding arrangements at this SQ stage. However, any consortium appointed as the Provider will be required to incorporate an SPV, and the Lead Bidder must own a shareholding in that SPV.

Please note no company/group of companies/organisation may be party to more than one SQ Response, whether as a:

- a) Single bidder;
- b) Party to a consortium;
- c) Essential Sub-Contractor;
- d) Guarantor



or in any other capacity including as advisor to any Bidder.

However, if a company/group of companies/organisation is excluded from the procurement at any stage or fails to be selected to progress to the ISOS stage of the Procurement (or formed part of a now excluded party's bid), it may subsequently be permitted to join a Consortium / be an Essential Sub-Contractor or act in another capacity in relation to a party that has not been excluded from the Procurement, subject to the approval of the Authority in writing.

#### 4.3 Changes to membership of a group of economic operators

The Authority will accept changes to a Consortium's membership and/or to Essential Sub-contractors subsequent to the SQ stage and up to four weeks prior to the submission of ISFT bids.

Where the change relates to a change of identity of any Relevant Organisation, a revised SQ Response must be submitted taking into account the change. Failure to submit a revised SQ Response will result in the Bidder being excluded from the Procurement.

#### 4.4 Notification of changes to circumstance

Bidders are subject to an ongoing obligation to notify the Authority of any material changes to the information included in their SQ Response, including but not limited to changes to the identity of Relevant Organisations (which for the avoidance of doubt includes change to a Consortium's membership), Bidder Members or the ownership or standing thereof, financial health, etc. Changes should be notified as soon as they become apparent to the Bidder (or, if applicable, other members of its Consortium) via the ProContract messaging system.

The Authority will evaluate the impact of the changes to the Relevant Organisations, their ownership, standing or change to the Consortium membership and reserves the right to exclude the Bidder from the Procurement should it conclude that such changes would result in the Bidder no longer being selected to participate in the Procurement in accordance with the tests and criteria set out in the SQ Documents.

At a later stage, Bidders may be required to confirm that there has not been a material change to the matters detailed in their SQ Response. In addition, failure to notify the Authority of any material changes to the matters detailed in a Bidder's SQ Response shall mean the Bidder will be excluded from the Procurement unless the Bidder can satisfy the Authority such delay was reasonable.

#### 4.5 Regulatory Requirements

At this stage it is not possible to confirm whether there are any regulatory requirements that potential Bidders must comply with. Depending on the nature of a Bidder's tender, further regulatory approvals may be required. The Authority reserves the right to ask a Bidder to confirm that they comply with such regulatory requirements at a later stage in the Procurement.

Bidders are reminded that competition law must be complied with, including but not limited to the requirement to obtain any merger clearance or approvals.

## 5 GOVERNANCE AND ADMINISTRATION

### 5.1 SQ Clarification Questions from the Authority

The Authority reserves the right to require Bidders to clarify their SQ Responses via the ProContract messaging system. Any such request will be made via the ProContract messaging system to the Bidder's nominated representative.

Such clarification questions will only seek clarity where there is an obvious discrepancy or ambiguity, e.g. something is stated as enclosed when it is not, and they are not intended to elicit additional information to that initially requested in the SQ, or to give Bidders an opportunity to correct poor, incomplete or otherwise non-compliant submissions.

The Authority will require a response to clarification questions on any aspect of a Bidder's SQ Response to be returned within two working days of the request.

### 5.2 Disclaimer

Interested parties are advised that the information contained in the SQ Documents is presented in good faith and does not purport to be comprehensive or to have been independently verified. No warranty is given as to the accuracy or completeness of the information contained in it and any liability for any inaccuracy or incompleteness is therefore expressly disclaimed by the Authority and its advisers.

Neither the Authority nor any of its advisers accept any responsibility or liability in relation to its accuracy or completeness or any other information which has been, or which is subsequently, made available to any Bidder, financiers or any of their advisers, orally or in writing or in whatever media in relation to this or any related Procurements.

Interested parties and their advisers must take their own steps to verify the accuracy of any information that they consider relevant. They must not, and are not entitled to, rely on any statement or representation (express or implied) made by the Authority or any of its advisers.

The SQ Documents are not intended to form the basis of any decision on the terms upon which the Authority will enter into any contractual relationship.

The Authority reserves the right throughout the Procurement to:

- change the Procurement timetable/process;
- reject any, or all, of the SQ Responses and/or any other submissions from Bidders;
- not proceed with the Procurement, or any part thereof, at any time (including in the event that there are no Eligible Bidders or insufficient responses to the SQ);
- not to furnish a Bidder with additional information;
- not appoint any of the Bidders as Provider; and
- amend the Procurement in any way.

Nothing in the SQ Documents should be interpreted as a commitment to award any contract / enter into any arrangement at any point. The Authority shall not be liable for any costs or

liabilities resulting from cancellation of this Procurement or for any costs or liabilities incurred by Bidders taking part in this selection or Procurement process.

Nothing in these SQ Documents is, nor shall be relied upon as, a promise or representation as to any decision by the Authority in relation to this Procurement. No person has been authorised by the Authority or its advisers or consultants to give any information or make any representation not contained in the SQ Documents and, if given or made, any such information or representation (express or implied) shall not be relied upon as having been so authorised.

Nothing in the SQ Documents or any other pre-contractual documentation shall constitute the basis of an express or implied contract that may be concluded in relation to the Procurement, nor shall such documentation/information be used in construing any such contract.

Each Bidder must rely on the terms and conditions contained in any contract when, and if, finally executed, subject to such limitations and restrictions that may be specified in such contract. No such contract will contain any representation or warranty (express or implied) in respect of the SQ Documents or other pre-contract documentation.

In this section, references to the SQ Documents include all information contained in them and any other information (whether written, oral or in machine-readable form) or opinions made available by or on behalf of the Authority or any of their advisers or consultants in connection with the Procurement or any other pre-contract documentation (including those relating to any subsequent and/or previous stages of the Procurement).

### 5.3 Self-cleaning

The Authority will utilise the concept of “self-cleaning” within the Procurement. Self-cleaning refers to the possibility that an organisation that might otherwise be excluded from the Procurement because of some kind of wrongdoing should nonetheless be admitted to the process. Admittance is made on the basis that the organisation has taken all necessary measures as assessed by the Authority to ensure that the wrongdoing of the past will not occur again in the future.

At the SQ stage, all relevant questions will utilise the concept of self-cleaning. A Bidder can retain the possibility of participating in the Procurement by demonstrating within the relevant response that it has taken effective measures to ensure that wrongful acts will not recur in the future.

In considering whether an adequate act of self-cleaning has taken place when evaluating a response to a question, the Authority will consider the following factors:

- Clarification of the relevant facts and circumstances;
- Repair of the damage caused;
- Personnel measures; and
- Structural and organisational measures.

#### 5.4 Confidentiality / Media

These SQ Documents and all other documentation issued in relation to the Procurement, whether issued concurrently or subsequently (together the “Information”), contains confidential information which is issued solely for the purpose of supporting Bidders in assessing and expressing their interest in and submitting responses/outline solutions/final tenders/bid in relation to this Procurement.

Bidders shall not undertake (or permit to be undertaken) at this stage or any subsequent stage in this Procurement any publicity activities with any section of the media in relation to the Procurement other than with the prior written agreement of the Authority. Such agreement shall extend to the content of any publicity. In this paragraph, the word “media” includes (but without limitation) radio, television, newspapers, trade and specialist press, the Internet (including social media) and email accessible by the public at large and the representatives of such media.

The Authority reserves the right to publish the names of the Bidders invited to participate in each stage of the Procurement.

#### 5.5 Freedom of Information

Bidders should be aware that the Authority is subject to obligations under the Freedom of Information Act 2000 (FOIA) and the Environmental Information Act 2004 (EOI). This may require Bidders’ responses to this SQ (or aspects of those responses) to be disclosed to the public.

## APPENDIX A - INFORMATION TO BE PROVIDED/REQUIREMENTS IMPOSED

| Question      | Description  | Single Bidder |   |                           | Consortium   |  |  |  |                           |
|---------------|--|---------------|---|---------------------------|--|--|--|--|---------------------------|
|               |  | Single Bidder | Guarantor of Single Bidder  | Essential Sub-Contractors | Lead Bidder  | Guarantor of Lead Bidder<br>(where such Guarantor is not a Consortium Member)                | Each Consortium Member   | Guarantor of each Consortium Member  | Essential Sub-Contractors |
| 1<br>(Part 1) | Potential Supplier Information                     | ✓             | ✓   | ✓                         | ✓  | ✓  | ✓  | ✓  | ✓                         |
| 2<br>(Part 2) | Grounds for Mandatory Exclusion                    | ✓             | ✓   | ✓                         | ✓  | ✓  | ✓  | ✓  | ✓                         |
| 3<br>(Part 2) | Grounds for Discretionary Exclusion                | ✓             | ✓   | ✓                         | ✓  | ✓  | ✓  | ✓  | ✓                         |
| 4<br>(Part 3) | Economic and Financial Standing                    |               |   |                           |  |  |  |  |                           |
|               | 4.1 Accounts                                       | ✓             | ✓   |                           | ✓  | ✓  | ✓  | ✓  |                           |
|               | 4.2 Self-Certification (Financial)                 |               |   |                           |  |  |  |  |                           |
|               | 4.3 Adjusting and non-adjusting events             | ✓             | ✓   |                           | ✓  | ✓  | ✓  | ✓  |                           |
|               | 4.4 Covid 19 Effect                                | ✓             | ✓   |                           | ✓  | ✓  | ✓  | ✓  |                           |
|               | 4.5 Dun & Bradstreet Failure Score (or equivalent) | ✓             | ✓   |                           | ✓  | ✓  | ✓  | ✓  |                           |
|               | 4.6 Requirement to provide guarantee               |               | ✓<br>Where Single Bidder relies on Guarantor to pass SQ Section 4 |                           | ✓<br>Where SPV formed by a Consortium relies on the Lead Bidder to pass SQ section 4 | ✓<br>Where SPV formed by a Consortium relies on Lead Bidder's Guarantor to pass SQ Section 4 | ✓<br>Where SPV formed by a Consortium relies on the Consortium Member to pass SQ Section 4 | ✓<br>Where SPV formed by a Consortium relies on Consortium Member's Guarantor to pass SQ Section 4 |                           |

| Question      | Description  | Single Bidder   |                            |                           | Consortium   |   |                        |                                     |                           |
|---------------|--|---|----------------------------|---------------------------|--|---|------------------------|-------------------------------------|---------------------------|
|               |  | Single Bidder   | Guarantor of Single Bidder | Essential Sub-Contractors | Lead Bidder  | Guarantor of Lead Bidder<br>(where such Guarantor is not a Consortium Member) | Each Consortium Member | Guarantor of each Consortium Member | Essential Sub-Contractors |
|               | 4.7 Requirement to confirm any guarantees will be provided on a joint and several basis  |   |                            |                           | ✓  | ✓   | ✓                      | ✓                                   |                           |
| 5<br>(Part 3) | Not Used   |   |                            |                           |  |   |                        |                                     |                           |
| 6<br>(Part 3) | 6.1a Technical and Professional Ability<br><ul style="list-style-type: none"><li>• Requirement 1</li><li>• Requirement 2</li><li>• Requirement 3</li><li>• Requirement 4</li><li>• Requirement 5</li></ul> | ✓<br>A Single Bidder may, but is not obliged to reference experience of Essential Sub-Contractors. If it does so, it must make clear which organisation has the experience. |                            |                           | ✓<br>A Lead Bidder may, but is not obliged to reference experience of other Consortium Members and/or Essential Sub-Contractors. If it does so, it must make clear which organisation has the experience |   |                        |                                     |                           |
|               | 6.1b Contract References   | ✓<br>For each example of previous experience given in response to question 6.1(a)   |                            |                           | ✓<br>For each example of previous experience given in response to question 6.1(a)  |   |                        |                                     |                           |
| 7<br>(Part 3) | Modern Slavery Act   | ✓   |                            | ✓                         | ✓  |   | ✓                      |                                     | ✓                         |
| 8<br>(Part 3) | 8.1 Insurance  | ✓   |                            |                           | ✓  |   |                        |                                     |                           |
|               | 8.2 Skills and Apprentices   | ✓   |                            |                           | ✓  |   |                        |                                     |                           |
|               | 8.3 Social Value   | ✓   |                            |                           | ✓  |   |                        |                                     |                           |

| Mandatory Declarations and NDA Requirements           |               |                            |                           |             |  |                        |                                     |                           |
|---|---------------|----------------------------|---------------------------|-------------|--|------------------------|-------------------------------------|---------------------------|
| Description   | Single Bidder |                            |                           | Consortium  |  |                        |                                     |                           |
|   | Single Bidder | Guarantor of Single Bidder | Essential Sub-Contractors | Lead Bidder | Guarantor of Lead Bidder (where such Guarantor is not a Consortium Member) | Each Consortium Member | Guarantor of each Consortium Member | Essential Sub-Contractors |
| SQ Self-Declaration (1)                               | ✓             | ✓                          | ✓                         | ✓           | ✓  | ✓                      | ✓                                   | ✓                         |
| SQ Declaration on Legal and Financial Regulations (2) | ✓             | ✓                          | ✓                         | ✓           | ✓  | ✓                      | ✓                                   | ✓                         |
| SQ Declaration of Consent (3)                         | ✓             |                            |                           | ✓           |  | ✓                      |                                     |                           |
| SQ Conflict of Interest Declaration (4)               | ✓             | ✓                          | ✓                         | ✓           | ✓  | ✓                      | ✓                                   | ✓                         |
| NDA   | ✓             | ✓                          | ✓                         | ✓           | ✓  | ✓                      | ✓                                   | ✓                         |