**Patients Catering Response Document**

Tender

**Tender**

**Estates Maintenance Services**

Document A – Invitation to tender

**PROJECT REFERENCE: ND2019 028**

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# Definitions

## Terms

Defined terms used in this Tender shall have the same meaning given to them in the Terms and Conditions and schedules unless otherwise stated in this document:

The **‘Authority’** is the term used for the Quality Trusted Solution LLP acting on behalf of the Central & North West London NHS Foundation Trust.

**'Bidder'** means any organisation or Consortium who has been selected to receive this Tender/

**‘Bid Deliverables’** means the items QTS requires from Bidders which will be evaluated as part of the selection process.

**‘Commercial in Confidence’** means responses to Bidders’ request for information which will not be circulated to other Bidders because of the commercial value of the intellectual property contained therein.

 **‘Contract Agreement’** means the project agreement and schedules initially issued in draft with this Tender

**‘Core Project Team’** means the group of project leads who coordinate and manage the procurement process.

**‘QTS’** has the same meaning at QTS defined above.

 **‘Evaluation Report’** means the report prepared by the Project Board to present the weighted aggregate scores to identify the most economically advantageous tender.

**‘Evaluation Teams’** means the groups of Authority staff and advisors who will be scoring the bids in line with the evaluation criteria and independently moderated.

**‘Facilities’** means the hospitals and sites which comprise the CNWL NHS Foundation Trust.

**‘Financial and Standing Orders’** means each participating Trust’s Standing Orders, Reservation and Delegation of Powers and Standing Financial instructions as at January 2014, as may be amended or replaced from time to time.

 ‘**Procurement Regulations’** means the Public Contracts Regulations 2015, as may be amended or replaced from time to time.

**'Project'** means the FM Hard Services Procurement project.

**‘Variant Bid’** means a Bid which falls outside the requirements specified by QTS, but which may be considered to add value to proposals and which has been discussed with and agreed to by the Trust.

## Abbreviations

**SQ** is the pre-qualification questionnaire where applications are made to bid for the contract and subject to evaluation by QTS

**TUPE** is the Transfer of Undertakings legislation which protects staff pay, terms & conditions at the point of contract transfer

**PID** is the Project Initiation Document which is the base reference document which underpins the entire procurement programme from inception to contract start

**OJEU** is the daily contracts notification published by the European Union. It is a statutory requirement to place contract notices for this type of service so that companies from all member states and affiliated countries can express interest and participate

**PMS** – Performance Management system

**SSM** – CNWL Site Services Manager

**MEAT** – Most Economically Advantageous Tender

**FM** – Facilities Management

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# Introduction

## CNWL

Central and North West London NHS Foundation Trust is one of the largest trusts in England, caring for people with a wide range of physical and mental health needs.

CNWL provide a wide range of services to treat people with a variety of health needs. In broad terms, these include common physical health problems, long-term conditions, mental health, learning disabilities, eating disorders, addictions and sexual health. They are here to provide support for people through every stage of life.

The majority of our services are provided in the community, which means treating people in their homes or from clinics close to home. Where community care is not possible there are a number of facilities to treat people in hospital or residential environments. CNWL also provide healthcare in prisons in London and the surrounding areas.

CNWL is a large and diverse organisation, providing health care services for people with a wide range of physical and mental health needs. The Trust employs approximately 7,000 staff to provide more than 300 different health services across 150 sites and in many other community settings. Approximately 70 sites are in scope for this tender.

## QTS (Quality Trusted Solutions LLP)

QTS is a multi-disciplinary practice which specialises in providing strategic estates and facilities advisory services, consulting, delivering and managing quality environments for its clients; with a long and successful pedigree in community and mental health accommodation, the team’s experience and skills are equally transferable across the public-sector landscape.

CNWL’s Estates Maintenance services are currently provided by QTS through a sub-contractor. The aim is that service delivery has to be agile to meet the significant demands from a busy Mental Health provider. Further details can be found by clicking the following links:

<http://cnwl.nhs.uk>

<http://qts-llp.co.uk>

Please read this SQ document carefully as it provides details of the procurement of Estate Management Services for CNWL in order to provide Potential Suppliers with sufficient information to enable them to make an informed decision about whether they wish to register an interest.

We have included a video link below which sets out the environment & culture that Bidders will be expected to be cognisant with. For the avoidance of doubt this was filmed prior to the Covid-19 pandemic and some of the procedures will have changed but in principle this should help you (without prejudice) as a potential bidder if this opportunity has a good fit for your company.

The video link is: <https://youtu.be/bFMJW77lbFw>

# Project information

## Scope

The Specifications contained in this Tender Pack cover the Services to be provided under this Contract, including the following:

* Management & Governance
* Helpdesk & CAFM
* Buildings M&E & Fabric Repairs & Maintenance (including a planned preventative & reactive service)
* Grounds and Garden Maintenance
* Minor improvement works
* Works/Project Management

The Supplier shall utilise their CAFM system for the fixed and installed assets and in doing so shall provide the Services in a manner that achieves the minimum standards in this Specification and elsewhere in this Contract and:

* Provides patient-focused services that are empathetic and fulfil the needs and expectations of QTS and CNWL’s patients, service users, visitors and personnel, and respects their dignity and privacy,
* Provides flexible services that respond to changes in patients’ and QTS’s and CNWL’s needs and requirements,
* Provides a safe environment for patients, Staff, QTS’s and CNWL’s personnel, visitors and other building users,
* Complies fully with all statutory and other mandatory requirements,
* Maximises the useful life span of the buildings, plant and equipment,
* Enables building users to effectively carry out their healthcare and business functions,
* Ensures efficient and cost-effective use of QTS’s and CNWL’s assets,
* Complies with Law, Guidance and Policies on environmental issues.

QTS shall have no obligation to pay the Supplier or any other person for any Services or Works that are performed as a result of, or to rectify:

1. any faulty Services (including, without limitation, faulty maintenance or performance of Works) performed or supplied under this Contract, whether by the Supplier or any Subcontractor or other supplier of the Supplier; or
2. any failure by the Supplier or any Subcontractor or other supplier of the Supplier to supply any of the Services (including, without limitation, maintenance or any Works

In addition Bidders are to price for the optional delivery of Supply Chain and Specialist services for Broadmoor Hospital (as part of the West London Mental Health NHS Foundation Trust). This provision will support the in-house operation at Broadmoor and does not required any on-site PPM or Reactive services.

## Restricted procurement procedure

At the commencement of the restricted procedure, the contracting authority must place a contract notice in the OJEU, Contracts Finder and other official notification services, inviting tenderers to submit a request to participate in the tendering process for the contract. The tenderers must confirm their interest by providing the information for qualitative selection that has been requested by the contracting authority, within the relevant time limit.

QTS will then identify tenderers who meet its predetermined, published selection criteria and will send tender documents to those tenderers, who then, again, have a fixed period in which to respond to the tender.

At this stage, the employer is entitled to exclude potential tenderers on any of the specific grounds set out above .

The contracting authority is permitted to restrict the number of tenderers that it invites to tender to five, provided that the relevant contract notice or invitation to confirm interest sets out the objective and non-discriminatory criteria that the contract authority will apply in order to select tenderers for the restricted pool. In any event, the number must be sufficient to ensure 'genuine competition'.

If, after selection, there are fewer suitable tenderers than the minimum number identified in the contract notice or the invitation to confirm interest, the employer may continue the procedure, provided that there are sufficient tenderers to ensure 'genuine competition' and provided that all the candidates have the required capabilities.

**The contracting authority is not permitted to enter into any negotiation with the tenderers.** Bidders have to submit their best and final offer at tender submission stage accepting the contract terms as provided and there will be no further opportunities to negotiate terms post-award. We, therefore, recommend that bidders thoroughly read documentation at the Contract Notice stage and decide then if they are to bid.

Nothing in the Documents creates a contract between QTS and the Applicant, nor does it create or place any obligations on QTS.

## Procurement Timetable

The Procurement timetable for this project is outlined below. This is intended as a guide and QTS reserves the right to amend it at any time. Specifically, QTS reserves the right not to award the contract on the intended dates, or at all. Please note that dates indicated may be reviewed and amended to ensure a successful tender is achieved. Dates will only be extended if necessary and fairly. All timeframes will reflect those that are dictated by OJEU rules.

The procurement will follow a clear, structured and transparent process to ensure a fair and level playing field so that all Bidders are treated equally.

| **Activity** | **Date** |
| --- | --- |
| Prior Information notice | 26/06/2020 – 10/08/2020 |
| Contract Notice/SQ period | 11/08/2020 – 14/09/2020 |
| SQ evaluation | 15/09/2020 – 25/09/2020 |
| SQ shortlist | 25/09/2020 |
| Tender period | 28/09/2020 – 30/10/2020 |
| Bidders meeting/Site visits | 05/10/2020 – 09/10/2020 |
| Q&A | 30/09/2020 – 20/10/2020 |
| Tender submission date | 30/10/2020 17:00 |
| Clarification, evaluation & moderation | 30/10/2020 – 26/11/2020 |
| Presentations | 30/11/2020 – 04/12/2020 |
| Decision/sign off | 04/12/2020 – 18/12/2020 |
| Standstill | 21/12/2020 – 30/12/2020 |
| Mobilisation | 04/01/2021 |
| Contract start date | 01/04/2021 |

## Instructions for Tender Submission

It is the Bidders responsibility to ensure that the ITT is fully completed, with the requisite supporting information. It is the Bidder’s responsibility to return the completed documentation on time and to the appropriate address. Failure by the Bidder to complete the documentation fully, in accordance with all requirements and/or to return it by the submission date and time will result in the Tenderer’s submission being rejected.

Your response to the Tender must comply with the following requirements and must be complete and signed - otherwise it may not be considered in the selection process.

Please use the following guidelines in preparing your proposal:

* Read the clause in the second column and refer to the guide to bidders response in the third column. In answering each section in the fourth column please clearly reference your response back to the clause number. Where there is a repeated response there is no need to restate but refer back to your initial response.
* Submissions must be made using the specification response matrices in Documents C & D and pricing schedule in Document E and shall be in an electronic format on the Due North e-procurement system. Further registration details can be found here: <https://www.lppsourcing.org/procontract/lpp/supplier.nsf/frm_supplier_registration_wizard_introduction?openform>.
* The maximum word limit is identified on the response box for each section.
* Insert version control, date, page number and your company name on the footer of each page of your submission.
* There is an opportunity to submit appendices as per section 3.5
* You do not need to re-send policies, accounts or other information previously requested under the SQ process.
* Written submissions must written in Arial font 11pt and either in MS Word or PDF.
* Pricing submissions must be in MS Excel only, PDF’s will not be acceptable.
* Bidders must not embed objects or hyperlink documents as these are not readable on the range of computers we use and they are pointless in any hard copy reproductions.

The Tender invite will have been sent from QTS’s Due North e-procurement tool to which you have already pre-registered. Once you log into the system you can download the documents and also upload your Tender submissions and Q&A

**Please submit:**

* Your responses as responded to in the Specification & response matrices for Documents C & D. These must be in the format and word counts set out within the schedules
* Sequentially numbered appendices (as required)
* Completed pricing schedule (Document E) subject to the requirements set out in the Pricing Guide (Document F)
* Innovative/alternative proposals outside the main scope must be placed in a clearly marked document and be uploaded separately these will be evaluated separately against the criteria set out..
* Please upload your completed proposal and the Form of Tender (in Annex A of this Document A) by the required due dates set out in clause 3.3 of this Document A.
* If a question or part of a question is not applicable, the answer should state "Not applicable" and briefly explain why

## Appendices

Bidders may wish to provide further supporting information. However, without proper taxonomy a number of uncontrolled documents will be difficult to manage and could prejudice the evaluation. Therefore, if Bidders wish to submit supporting information they must prepare a document in which appendices are collated for each relevant Part.

The following protocol is to be followed:

1. Each document must be prepared in MS Word, other MS-compatible format or PDF.
2. The documents can be in portrait or landscape format, but must be set out in Arial 11pt font (except for embedded charts or schematics, which nonetheless must be readily readable) and with minimal branding.
3. In appendices provided by Bidders, Bidders must title each appendix entry to refer to the relevant Section and row set out in the response matrix e.g. Section 2.1 row 1
4. In the matrix response Bidders must refer the reader to the appendices.
5. Bidders must not embed or hyperlink documents as these are not readable on the range of computers we use and they are pointless in any hard copy reproductions.
6. Bidders must not just write ‘please refer to appendices’ or any similar phrase on the response matrix without a response, as this will not be considered. Bidders must write a précis of their response on the response matrix and then refer the reader to the information in the relevant appendices.
7. Bidders must ensure there is a clear contents page for the appendices (similar to that provided for the response matrix).
8. There will be a maximum 2,000-word limit in the appendices for each Section table (e.g. for the “Contract Management” table (Section 2.1) the word count for the appendix for that table is limited to 2,000 words; similarly for the “Grounds and Gardens Maintenance” table (Section 3.4.15) the word count for the appendix for that table is limited to 2,000 words).

## Effect of conflicting or inconsistent wording in the Supplier’s Bidder’s Responses” and clarifications

If there is a conflict or inconsistency between:

1. QTS’s requirements stated in the “Specification” columns in the tables in this Schedule and any stated elsewhere in this Schedule (“**QTS’s Requirements**”);
2. any clarification to the Supplier’s responses, proposals and/or method statements (the “**Supplier’s Clarifications**”); and
3. the Supplier’s responses, proposals and/or method statements (the “**Supplier’s Responses**”),

then

1. to the extent that the Supplier’s Responses and/or Supplier’s Qualifications, if applicable, would add to the Services to be provided by the Supplier or otherwise increase the Supplier’s obligations under this Contract or increase the benefits for QTS or CNWL under this Contract, then QTS’s Requirements and the Supplier’s obligations shall be deemed to have been increased to the extent of such increased Services, obligations or benefits, but QTS’s obligations (including without limitation QTS’s payment obligations) under this Contract shall not be increased; and
2. to the extent that the Supplier’s Responses and/or Supplier’s Qualifications, if applicable, would not add to the Services to be provided by the Supplier or otherwise increase the Supplier’s obligations under this Contract or increase the benefits for QTS or CNWL under this Contract, or would fail to satisfy QTS’s Requirements, then in each case QTS’s Requirements shall prevail unchanged.

Save as provided in the preceding wording of this Section 1.4, in accordance with paragraph 1.10 in Schedule 4 to this Contract (Definitions and Interpretations), where there is a conflict or inconsistency between the Supplier’s Responses (as clarified by the Supplier’s Clarifications) and any other part of this Contract, such other part of this Contract shall prevail.

## Due Diligence and Supplier’s responsibility for enquiries

By entering into this Contract, the Supplier acknowledges, confirms and agrees that:

1. it has had an opportunity to carry out a thorough due diligence exercise in relation to QTS's requirements for the Services as set out in this Contract (including this Specification and Schedule 7 (Performance Management Mechanism)), as amended from time to time in accordance with the Change Control Process, and has asked QTS all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Contract and the costs and obligations that it incurs, or may incur, in performing the Services and achieving any Service Levels, Performance Parameters, KPIs, Minimum Standards or any other obligations under this Contract;
2. during the tender process leading to this Contract, it was invited to promptly notify QTS if it became aware during the tender process of any inaccuracies in, or omissions from, any information provided to it or its representatives by or on behalf of QTS which materially and adversely affect the Supplier’s ability to perform the Services or achieve any Service Levels, Performance Parameters, KPIs, Minimum Standards or any other obligations in this Contract;
3. it has received all information requested by it from QTS pursuant to paragraphs (1)(a) and (1)(b) of this Section 3.7 of this Schedule to enable it to determine whether it is able to provide the Services in accordance with the terms of this Contract and the costs and obligations that it incurs, or may incur, in performing the Services and achieving any Service Levels, Performance Parameters, KPIs, Minimum Standards or any other obligations under this Contract;
4. it has made its own enquiries to satisfy itself as to:
5. the accuracy and adequacy of the information supplied to it or its representatives by or on behalf of QTS; and
6. the costs and obligations that it incurs, or may incur, in performing the Services and achieving any Service Levels, Performance Parameters, KPIs, Minimum Standards RLB: check these terms are used or defined in the Performance Management Mechanism Schedule or any other obligations under this Contract;
7. it has raised all relevant due diligence questions with QTS before the Commencement Date; and
8. it has entered into this Contract in reliance solely on its own due diligence.
9. Save to the extent (if any) expressly provided in this Contract, no representations, warranties or conditions are given or undertaken by QTS in respect of any information which is or has been provided to the Supplier or its representatives by or on behalf of QTS. Any representations, warranties or conditions given or undertaken by or on behalf of QTS that are not set out expressly in this Contract are excluded, save to the extent (if any) that such exclusion is prohibited by law.
10. The Supplier shall not be entitled to recover from QTS any additional costs which arise from, or be relieved from any of its obligations as a result of, any inaccuracies in, or omissions from, any of the information provided to the Supplier or its representatives by or on behalf of QTS before this Contract is entered into (but which information is not set out expressly in this Contract), whether or not such inaccuracies or omissions are or were notified to QTS by the Supplier in accordance with paragraph (1)(b) of this Section 3.7 of this Schedule.
11. Nothing in this Section 3.7 of this Schedule shall limit or exclude the liability of QTS for fraud or fraudulent misrepresentation.
12. In this Section 3.7 of this Schedule “Service Levels”, “Performance Parameters”, “KPIs”, and “Minimum Standards each have the meanings in Schedule 7(Performance Management Mechanism).
13. For the avoidance of doubt QTS is under no obligation to appoint a Supplier at the end of this process.

## Bidder Meeting and Site Inspections

Each Bidder will be required to attend a meeting and site visit at QTS’s facilities as set out in section 3.3 of this Schedule.

Numbers will be restricted to a maximum of 2 representatives from each Bidder. We will advise if the bidder’s meeting will be held on MS Teams or Zoom closer to the date.

Any points of clarification requested by the Bidder during the meeting and site visit will be recorded and a response issued subsequent to the meeting together with responses to points of clarification raised by other Bidders.

## Amendments

Prior to the final date for submission of the Tender, QTS may issue amendments to clarify, modify or add to the Tender. A copy of each amendment will be issued to each Bidder and uploaded to Due North and shall become part of the Tender. Notification of receipt of any amendment in writing must be advised on the e-Procurement portal within 2 days of issue. All amendments will be issued at least 5 days prior to the submission date.

## Assumptions

Any assumptions that have been made in respect of responding to this Tender should be set out in the Bidder’s commercial response documents.

## Alternative or Variant Bid

Bidders are required to submit proposals that are fully compliant with QTS’s requirements as set out in this Tender. However, in circumstances where the bidder considers that an alternative or variant bid would add value to QTS’s business, the bidder can also provide an alternative offer in addition. The minimum requirement of any alternative or variant offer is that the alternative offer provides all the services required as stated within this Tender Document. The alternative offer shall be explicitly named as an alternative offer on its front page and must clearly demonstrate the “added value” to QTS’s business.

All qualitative questions within the Bidder response document must be fully answered and the pricing schedule shall be completed in the level of detail set out therein.

Any alternative offer that fails to comply with this provision and is not named as an alternative offer shall be excluded.

## Bidder protocols

Bidders are reminded to conduct themselves in a professional manner and adhere to the 6 protocols set out below. Any breach of these may result in an affected bidder being removed from the exercise.

 

## Data Pack (Document G)

We have provided data to assist bidders in determining their offers and this is subject to the conditions set out in this ITT & Contract. QTS are preparing an updated Asset & Condition survey which will be released to bidders following shortlisting after the SQ submission. The current data is indicative of performance and to help bidders determine if they have the capability to undertake the Contract.

For the avoidance of doubt this is a restricted bid and it is expected that bidders have to provide a compliant fixed priced bid submission.

The contents of document G are:

* Annual reactive works
* CNWL Sites with corrected white goods May 2017
* Establishment & existing KPI performance
* Existing (REAMS) Asset gap analysis
* initial consumable spares
* Master PPM Planner 2020-21
* PPM Workbook
* Premises & Locations table
* Top 20 ad hoc job categories

As stated these are the current documents, QTS reserves the right to update these as required.

# Evaluation

## Selection criteria

The Bidder’s Tender response should include all information that is pertinent to its ability to service QTS’s requirements. The Bidder is requested not to provide additional promotional or marketing material but to ensure that all questions are responded to in a comprehensive manner. QTS will interpret unanswered questions as an inability to provide the required service in the specific area in question.

The preferred Bidder will be selected on the basis of the response which is considered to provide the most advantageous solution to QTS and provide an effective solution. QTS does not bind itself to accept the lowest bid.

## Evaluation Basis

The Bidder’s Tender submission should include all information that is pertinent to its ability to service QTS’s requirements. QTS will interpret unanswered questions as an inability to provide the required service in the area in question.

Tenders will be examined initially by reference to the completeness of proposals relative to the Specification and Response documentation. In order for a Tender to avoid elimination from this competition and to warrant consideration under the award criteria, it must comply with the requirements of this Specification and Response, including its Appendices. Tenders that are valid and substantially responsive to these requirements will be assessed against the award criteria set out below.

Responses to the Specification will be evaluated in their own right. No recognition will be given to information previously submitted. No unsolicited communications from Potential Suppliers will be entertained during the evaluation period.

Potential Suppliers should ensure that they have fully addressed each of the award criteria set out below and that complete information has been provided. QTS may interpret unanswered questions or omissions as an inability to provide the required service in the area in question.

### Marking Scheme

Marks will be awarded to those Bidders who clearly and comprehensively demonstrate their ability to deliver the requirements as set out in the Specification. Potential Suppliers responses will also be marked relative to that of other Potential Suppliers.

The following criteria shall be used during the evaluations of Bidder’s responses:

| **Score** | **Term** | **Explanation** |
| --- | --- | --- |
| 0 | Unacceptable | The information is either omitted or fundamentally unacceptable to QTS. |
| 1 | Poor | The information submitted has insufficient evidence that the specified requirements can be met and/or does not demonstrate an acceptable level of quality of the proposed solution. This may include significant omissions of relevant details. |
| 2 | Limited | The information shows limited evidence that the specified requirements can be met and/or demonstrates only limited level of quality of the proposed solution. |
| 3 | Good | The information submitted provides good evidence that the specified requirements can be met and/or demonstrates a satisfactory level of quality of the proposed solution. |
| 4 | Very Good | The information submitted provides very good or strong evidence that the specified requirements can be met and/or demonstrates a very good level of quality of the proposed solution. |
| 5 | Outstanding | The information submitted provides compelling and coherent evidence of best of sector capability to deliver the specified Requirements and which will provide additional benefits and/or exceed the performance requirements of the contract with a high degree of dependability and best of sector methodology. |

QTS intends to evaluate and select the **most economically advantageous** tender based on the criteria listed below.

The specified questions (overleaf) will each have a maximum score of 5. This is multiplied by the number of questions in each section giving rise to a total section and category score. The total qualitative score will be 60 and the table overleaf shows the apportionment of scores. The bids will be evaluated by at least 3 members of the QTS team and be independently moderated to determine a final qualitative score which will represent 60% of the total.

The **minimum acceptable qualitative score will be 40% or 96 points**. Failure to achieve this score will mean that the bid will not be further evaluated.

### Financial

40% will be allotted to the financial response and this is split out as set out out below:

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Criteria** | **Max Score** | **Bidder Score** |
| 1 | **Price & Commercials:** |  |  |
|   | Most advantageous price | 40 |  |

Bidders’ price scores will be calculated based upon the most advantageous rice submitted. The bidder with the most advantageous price will be awarded the full score of 30%, with the remaining bidders gaining pro-rated scores in relation to how much higher their prices are when compared to the lowest price. The remaining 10% will be apportioned to a schedule of rates on a unitary-based basket using the same proportional formula below. The total score (40%) will then be a weighted aggregate of the 2 measures.

**Example below shows maximum points available for total score = 40 (40%)**

|  |  |  |  |
| --- | --- | --- | --- |
| **BIDDER** | **TOTAL COST** | **FORMULA: Lowest price / tenderers price \*price score** | **Final Score** |
| **1** | **£100** | 100 / 100 \*40  | **40** |
| **2** | **£125** | 100 / 125 \*40  | **32** |
| **3** | **£150** | 100 / 150 \*40  | **27** |
| **4** | **£175** | 100 / 175 \*40 | **23** |
| **5** | **£200** | 100 / 200 \*40 | **20** |



# Terms & conditions

## Contract terms

The contract will include the Terms and Conditions as attached in the tender pack. It is vital that the Bidder reviews these carefully, and takes account of all information such as TUPE, key performance indicators and insurance requirements and that the Tender Submission fully takes account of these. By submitting a Tender Submission, Bidders are agreeing to be bound by the terms of this Tender and the NHS Terms and Conditions as amended by QTS.

Nothing in this Tender or any other documentation issued during the course of the Restricted Procurement process shall constitute the basis of a contract that may be concluded in relation to the Project, nor shall such documentation or 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 in respect of the Tender or any other pre-contract documentation.

## Consortia and subcontractors

If the Bidder is a consortium or will rely on sub-contractors to deliver the contract, it must explain in its Tender response which parts will be sub-contracted, who the sub-contractors are, confirm the sub-contractor has agreed terms of supply and what contractual commitment it has from the sub-contractor to deliver.

For the purposes of this Tender, the following terms apply:

* **Consortium arrangement** - Groups of companies come together specifically for the purpose of bidding for appointment as the supplier and envisage that they will establish a special purpose vehicle as the prime contracting party with QTS.
* **Subcontracting arrangement** - Groups of companies come together specifically for the purpose of bidding for appointment as the supplier, but envisage that one of their number will be the supplier, the remaining members of that group will be subcontractors to the supplier.

Bidders may not change a consortium structure or the identity of any proposed sub-contractors without the prior written consent of QTS.

## Warnings and disclaimers

While the information contained in this Tender is believed to be correct at the time of issue, neither QTS, its advisors, nor any other awarding authorities will accept any liability for its accuracy, adequacy or completeness, nor will any express or implied warranty be given. This exclusion extends to liability in relation to any statement, opinion or conclusion contained in or any omission from, this Tender (including its annexes) and in respect of any other written or oral communication transmitted (or otherwise made available) to any Bidder. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of QTS.

If a Bidder proposes to enter into a contract with QTS, it must rely on its own enquiries and on the NHS Terms and Conditions set out in the contract(s) (as and when finally executed), subject to the limitations and restrictions specified in it.

Neither the issue of this Tender, nor any of the information presented in it, should be regarded as a commitment or representation on the part of QTS (or any other person) to enter into a contractual arrangement. Nothing in the Documents creates a contract between QTS and the Applicant, nor does it create or place any obligations on QTS.

## Freedom of Information Act 2000 and Environmental Information Regulations 2004

As a public body, QTS is subject to, and must comply with, the Freedom of Information Act 2000 ("**FOIA**") and the Environmental Information Regulations 2004 ("**EIR**"). QTS may therefore be required to disclose information submitted by the Bidder.

In respect of any information submitted by a Bidder that it considers to be confidential or commercially sensitive the Bidder should:

* clearly identify such information as confidential or commercially sensitive;
* explain its reasons why disclosure of such information would be likely to prejudice or would cause actual prejudice to its commercial interests; and
* provide a reasoned estimate of the period of time during which the Bidder believes that such information will remain commercially sensitive.

Where a Bidder identifies information as commercially sensitive, QTS will take those views into account. Bidders should note, however, that, even where information is identified as commercially sensitive, QTS may be required to disclose such information in accordance with FOIA or the EIR. Accordingly, QTS cannot guarantee that it will withhold information marked ‘confidential’, 'commercially sensitive' or otherwise exempt.

## Data Protection Act 2018

Bidders are to ensure that the are fully cognisant of the Data Protection Act 2018. The Act controls how personal information is used by organisations, businesses or the government. The Data Protection Act 2018 is the UK's implementation of the General Data Protection Regulation (GDPR).

## Publicity

No publicity regarding the procurement or the award of any contract will be permitted unless and until QTS (and its participating members) has given express written consent to the relevant communication. For example, no statements may be made to the media regarding the nature of any tender submission, its contents or any proposals relating to it without the prior written consent of QTS (and its participating members).

## Bidder conduct and conflicts of interest

Any attempt by Bidders or their advisors to influence the contract award process in any way may result in the Bidder being disqualified. Specifically, Bidders shall not directly or indirectly at any time:

* devise or amend the content of their Tender Submission in accordance with any agreement or arrangement with any other person, other than in good faith with a person who is a proposed partner, supplier, consortium member or provider of finance;
* enter into any agreement or arrangement with any other person as to the form or content of any other Tender Submission, or offer to pay any sum of money or valuable consideration to any person to effect changes to the form or content of any other Tender Submission;
* enter into any agreement or arrangement with any other person that has the effect of prohibiting or excluding that person from submitting an Tender Submission;
* canvass QTS or the CNWL NHS Foundation Trust or any employees or agents of QTS in relation to this procurement; and/or
* attempt to obtain information from any of the employees or agents of QTS or their advisors concerning another Bidder or Tender Submission (except for debrief information requests made through the e-Tendering Portal).

Bidders are responsible for ensuring that no conflicts of interest exist between the Bidder and its advisors, and QTS and its advisors. Bidders should notify QTS promptly of any possible conflict and the proposed steps that the Bidder believes can be taken to avoid the conflict. Any Bidder who fails to comply with these requirements may be excluded from the procurement at the discretion of QTS.

## QTS's rights

Subject to its obligations to act in a transparent, proportionate and non-discriminatory manner, QTS reserves the right to:

* waive or change the requirements of this Tender from time to time within the remit of PCR2015;
* seek clarification or documents in respect of a Bidder's submission;
* disqualify any Bidder that does not submit a compliant Tender Submission in accordance with the instructions in this Tender;
* disqualify any Bidder that is guilty of serious misrepresentation in relation to its Tender Submission, expression of interest, the SQ or the procurement process;
* withdraw this Tender at any time, or re-invite Tender Submissions on the same or any alternative basis;
* exclude any Bidder who no longer passes the SQ selection criteria;
* choose not to award any contract as a result of the current procurement process; and
* make whatever changes it sees fit to the timetable, structure or content of the procurement process.

## QTS's Right to Reject Bids

QTS reserves the right to reject or disqualify a Bidder and/or any of its Consortium Members at any time during the procurement procedure where:

* a Bid is submitted late, is completed incorrectly, is materially incomplete or fails to meet QTS’s submission requirements which have been notified to the relevant Bidder;
* the Bidder and/or any of its Consortium Members are unable to satisfy the terms of Regulation 57 of the Public Contracts Regulations 2015 at any stage during the tender process;
* the Bidder and/or its Consortium Members are guilty of material misrepresentation in relation to its application and/or the process (including but not limited to the SQ selection stage of the competition);
* the Bidder and/or its Consortium Members contravene any of the terms and conditions of this Tender; or
* there is a change in identity, control, financial standing or other factor impacting on the selection and/or evaluation process affecting the Bidder and/or its Consortium Members.

The disqualification of a Bidder will not prejudice any other civil remedy available to QTS and will not prejudice any criminal liability that such conduct by a Bidder may attract.

QTS reserves the right to require Bidders at any moment during the procurement procedure to submit all or any of the supporting documents (or to supplement or clarify certificates received) where it is necessary to ensure the proper conduct of the procurement procedure for the purposes of:

* establishing the absence of grounds for exclusions under Regulation 57 of the Public Contracts Regulations 201); and/or
* establishing whether the Bidder meets (or continues to meet) the relevant SQ selection criteria relating to suitability to pursue a professional activity; economic and financial standing; and/or technical and professional ability; and/or

Furthermore, before awarding the contract, QTS reserves the right to require the Preferred Bidder to submit up-to-date supporting documents (or to supplement or clarify certificates received) for the purposes of:

* establishing the absence of grounds for exclusions under Regulation 57 of the Public Contracts Regulations 2015; and/or
* establishing the continued fulfilment of the SQ stage selection criteria and requirements (including where relevant the continued possession or attainment of quality assurance standards and environmental management standards (or evidence of their equivalents)).

## Intellectual Property

This Tender (and all Procurement Documents) may not be reproduced, copied or stored in any medium without the prior written consent of QTS except in relation to the preparation of a Bid.

All documentation supplied by QTS in relation to this Tender (and all Procurement Documents) is and shall remain the property of QTS and must be returned on demand, without any copies being retained. Bidders are not authorised to copy, reproduce, or distribute the information in the Procurement Documents at any time except as is necessary to produce a Bid. This shall include the hand-back and/or destruction of any related digital files.

## Provision of Further Information To Bidders Prior To Making A Bid

QTS is relying on the information provided by Bidders during the procurement process (including but not limited to Bids and SQ submissions). If, at any time during this procurement process there are any material changes to that information, the Bidder must advise QTS as soon as practicable (even if this is prior to the submission of a Bid). Upon receipt of such information, QTS shall be entitled to revisit the selection and/or evaluation of the Bidder and exclude the Bidder if necessary, as a result of that process.

## Acceptance of Bids

Bidders are reminded that no offer or Bid is deemed accepted until the relevant contractual documents have been duly signed on behalf of QTS, the successful Bidder and all other relevant parties and declared unconditional. No dialogue or communication with QTS, whether prior to or after the commencement of the Tender stage, up to and including any notification of the preferred Bidder, shall imply acceptance of any offer or constitute an indication that the Bidder will be awarded the contract.

Please note that only the express terms of any written contract which is finally agreed between QTS and the successful Bidder and which is duly declared unconditional shall have any contractual effect.

## Validity

All proposals must remain valid and open for acceptance by the Client for 120 days from the Tender submission date.

## TUPE - Transfer of Undertakings (Protection of Employment) Regulations

The Tender has been issued on the basis that the Transfer of Undertakings (Protection of Employment) Regulations (and/or any superseding or amending legislation thereto) will apply to the transfer or the provision of the Services included in this Tender.

## Auto-enrolment pension

Auto-enrolment pensions are likely to apply for all the Supplier’s qualifying employees.

## Bid costs

QTS will not be liable for any bid costs, expenditure, work or effort incurred by a Bidder in proceeding with or participating in this procurement, including if the procurement process is terminated or amended by QTS.

## Language

Tender Submissions, all documents and all correspondence relating to the Tender Submission must be written in English

## Transparency

In accordance with the Public Contracts Regulations 2015 and the Government’s policy on transparency, Bidders should be aware that QTS has made the Tender and details of any subsequent contract publicly available, by publication on the Government's Contracts Finder portal.

## Governing Law and Jurisdiction

This Tender and any dispute concerning it (including non-contractual disputes or claims) shall be governed by English law and subject to the jurisdiction of the English Courts.

## Modification and withdrawal of Tender Submissions

Responses may be withdrawn at any time before the deadline for receipt of the Tender Responses. Revised Responses may be submitted up until the deadline for receipt of Responses.

No mark-ups can be made to the Tender after submission as this will be fixed & final and that includes contract terms, KPIs and other factors that could materially change the outcome.

## Annex A Form of tender

**To QTS LLP**

Enclosed with this document, is our tender, which comprises of the documents set out in the Tender.. We the undersigned, acknowledge that if our Tender is accepted by QTS either in whole or in part, this is subject to contract and will not be binding on the parties until the parties have entered into a signed agreement.

We confirm that the contents of our Tender have not been agreed or arranged with any competitor or trade association and has not and will not be communicated to any third party. We understand that you are not bound to accept the lowest or any Proposal you may receive and that you reserve the right to accept all or part of a Proposal.

We understand that we bid at our own expense. We acknowledge that the information contained in the Tender is confidential and that any acceptance of our tender is subject to the terms and conditions as set out in Part 14 of this Tender documentation.

We have undertaken all necessary steps and due diligence to ensure that we are fully familiar with the nature and extent of the obligations to be accepted by us if we enter into an agreement with QTS, and that we have obtained all information necessary for submitting our Proposal and entering into an Agreement.

Name of organisation submitting tender / proposal:

Type of organisation:

(please highlight as appropriate)

**Sole trader**

**Partnership**

**Limited Company**

**Other (please state):**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If your organisation is a company, please provide the registered company number

Name ....................................... Name .....................................

Signature.................................. Signature................................

Position.................................... Position...................................

Company ................................. Company ................................

Date......................................... Date........................................

#

## Annex B Confidential and Commercially Sensitive Information

**INFORMATION SUPPLIED BY QTS**

All the information that QTS supplies as part of this contract may be regarded as Confidential Information as defined in Schedule 4 of the NHS Terms and Conditions.

**INFORMATION THAT THE BIDDER CONSIDERS TO BE EXEMPT FROM DISCLOSURE**

The Bidder considers that the type of information listed below is exempt from disclosure under the Freedom of Information Act 2000 ("**FOIA**") and/or the Environmental Information Regulations 2004 ("**EIR**") for the reasons given below.

|  |  |  |
| --- | --- | --- |
| **Information considered exempt from disclosure (include page/paragraph reference)** | **Reason for FOIA/EIR exemption**  | **Period exemption is sought**  |
|  |  |  |
|  |  |  |
|  |  |  |

## Annex C Administrative instructions

Note to Bidders: Please complete this Annex. If you are awarded a contract, the details you provide here will be copied into Schedule 1 of the contract (Key Provisions).

**CONTRACT MANAGERS**

For the Supplier, the Contract Manager at the commencement of the contract will be as follows (see clause 3):

|  |  |
| --- | --- |
| Name | *Insert name* |
| Contact details | *Insert address, e-mail address* |
| Role | *Insert details* |

**NOTICES**

Any notices served on the Supplier under the contract are to be delivered to (see clause 4):

|  |  |
| --- | --- |
| Name | *Insert name* |
| Address | *Insert address* |
| Role | *Insert details* |

MANAGEMENT LEVELS FOR DISPUTE RESOLUTION

The management levels at which a dispute will be dealt with are as follows (see clause 5):

|  |  |
| --- | --- |
| Level | Supplier representative |
| 1 | *Contract manager* |
| 2 | *Insert role* |
| 3 |  |

##

## Annex D Declaration

**DECLARATIONS BY THE BIDDER (TO BE SIGNED AND RETURNED BY THE BIDDER)**

**NON-COLLUSION, CONFLICTS OF INTEREST AND ANTI-CANVASSING**

**DECLARATIONS**

**TO: xxxxxxxxxxx**

**PROPOSAL TO PROVIDE HARD FACILITIES MANAGEMENT SERVICES**

**REFERENCE NUMBER: xxxxxxx**

**Declaration**

We have examined the invitation to submit Tender Submissions ("**Tender**") dated xxxxxxxxxxx and all accompanying annexes and schedules. This submission ("**Response**") is made subject to the terms of the Tender, including but not limited to the instructions to Bidders.

We declare that (except as notified to QTS in writing on the date of the Response) the information provided in our response to the pre-qualification questionnaire (the "**SQ**") has not materially changed.

We confirm that we are committed to the project as described in the project information section of the Tender.

**Non-collusive tendering**

In recognition of the principle that the essence of tendering is that the QTS shall receive bona fide competitive tenders from all those tendering, we certify that this Response is a bona fide submission that is intended to be competitive.

We have not fixed or adjusted the amount of this Response under, or in accordance with, any agreement or arrangement with any other person.

We have not done, and we undertake that, we will not do at any time before the hour specified for the return of the Response any of the following acts:

* communicate to a person other than QTS the amount or approximate amount of the proposed Tender Submission Response (except where the disclosure, in confidence, of the approximate amount of the Response was essential to obtain insurance premium quotations required for the preparation of the Response);
* agree with any person that they shall refrain from tendering or as to the amount of any Response to be submitted; and
* offer to pay or give any sum of money 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 Response any act or thing of the sort described above.

**Conflicts of interest**

We acknowledge that we are responsible for ensuring that no conflicts of interest exist between us (and our advisers) and QTS.

So far as any possible conflict of interest has arisen, we have notified QTS promptly in writing of that potential conflict of interest and have taken any steps agreed with QTS to avoid the conflict.

We acknowledge that if we fail to comply with this requirement, we may be disqualified from the procurement at the discretion of QTS.

**Anti-canvassing confirmation**

We have not canvassed or solicited any member, officer or employee of any organisation within QTS in connection with the proposed contract award and to the best of our knowledge and belief nor has any person employed by us or acting on our behalf done any such act.

We further undertake that we will not in the future canvass or solicit any member, officer or employee of QTS, in connection with the proposed contract and that no person employed by us or acting on our behalf will do any such act.

Name of person duly authorised to sign tenders:

Date: .............................................................................

Name: .............................................................................

in the capacity of: ................................................................

duly authorised to sign tenders for and on behalf of:

............................................................................................

**By completing this Declaration and submitting your Response you have agreed that the statements in this Declaration are correct and that you have complied, and will continue to comply, with QTS’s collective policies on non-collusion, conflicts of interest and anti-canvassing.**

## Annex E Bidder question template

|  |
| --- |
| BIDDERS QUESTIONS  |

|  |  |
| --- | --- |
| Bidder Company Name: |  |
| Bidders Contact Name |  |
| Date of question Submission |  |

Please insert only one question per line.

Please note that answers to all questions will be circulated to all Bidders unless a confidential response is agreed

|  |  |
| --- | --- |
|  | Questions |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  | INSERT MORE ROWS AS APPROPRIATE |