

# Cheshire Councils Enterprise Resource Planning (ERP) Software Solution

## Volume 1 – Tender Instructions Invitation to Participate in Dialogue (ITPD), Invitation to Submit Outline Solutions Document (ISOS)

### **Note to Bidder**

*This Invitation to Participate in Dialogue (ITPD) and related documentation dated 10<sup>th</sup> October 2016 is being issued with the OJEU notice and SQ in draft format. Bidders should note that this is still a working draft document and will be updated further as the procurement develops. By way of example, further information will likely be added to the draft ITPD to confirm the details for the dialogue meetings (e.g. the topics to be addressed in each meeting, the areas which are open for dialogue and those which are not, the process for concluding the dialogue and moving to submission of final tenders, and so on).*

*The Councils reserve the right to add to or amend the tender documentation including this ITPD prior to publishing the final version of the ITPD. These changes may emerge, by way of example, from the Councils' further and ongoing consultations and approvals processes. The Councils will not amend the documentation or procurement strategy with the intention of favouring or disfavouring any Bidder.*

*This document is available electronically at [www.the-chest.org.uk](http://www.the-chest.org.uk) CHEST REF: DN175327, Internal Ref: 16 023*

## NOTICE

This Invitation to Submit Outline Solutions (“ISOS”) has been prepared by Cheshire East Borough Council and Cheshire West and Chester Council (“Authorities”) for use by the Bidders to assist them in preparing solutions for the Project. All intellectual property rights in the ISOS and associated documents belong to the Councils.

The information contained in this ISOS and all subsequent information and documents sent to you by the Councils pursuant to this procurement must be treated as confidential and must not be disclosed to any third party. Bidders are however allowed to disclose the ISOS to their professional advisors (including legal and technical) together with any members of their consortium to the extent that it is necessary to do so in order to submit their bid. Bidders should ensure that anyone to whom the ISOS is disclosed is bound by a similar confidentiality obligation. If you are unable to comply with this requirement you must destroy this ISOS and all associated documents immediately and not retain any electronic or paper copies. Please see paragraph 3.6 for further provisions relating to confidentiality.

No warranties or opinions as to the accuracy or completeness of any information provided in this ISOS or otherwise or as to the powers and/or status of the Councils shall be given at any stage by the Councils and any liability, inaccuracy or incompleteness is therefore expressly disclaimed by the Councils. Please see paragraph 3.4 for further details.

Any person considering making a decision to enter into contractual relationships with the Councils or any other person on the basis of the information provided should make their own investigations and form their own opinion of the Councils and their requirements. It is the responsibility of Bidders to satisfy themselves through their due diligence over the scope and scale of the Project. The Councils shall have no liability in relation to the content, completeness or accuracy of the information that they have provided to Bidders as guidance. Please see paragraph 3.4 for further details.

The attention of Bidders is drawn to the fact that, by issuing this ISOS, the Councils are in no way committed to awarding any contract and reserve the right to abandon the tendering process at any point. The Councils are not liable for any costs whatsoever resulting directly or indirectly from any abandonment of this tendering process nor for any other costs incurred by those expressing an interest in or tendering for this contract opportunity up to and including the time of abandonment of the tendering process.

Bidders are deemed to fully understand the process that the Councils are required to follow under relevant European and UK legislation, particularly in relation to public procurement rules.

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# 1. Introduction

## 1.1 Introduction and Invitation

- 1.1.1 Thank you for submitting the Standard Selection Questionnaire (SQ) in response to the advertisement dispatched on 10 October 2016 in the Official Journal of the European Union reference number [xx].
- 1.1.2 Expressions of interest were received from organisations for the delivery of the Project. The Councils are pleased to confirm that following the assessment of your expression of interest in accordance with the published SQ selection criteria, your organisation has been included on a short list of [four] organisations.
- 1.1.3 The Councils are following the Competitive Dialogue procedure and now invite the Bidders to participate in a Competitive Dialogue with the Councils.
- 1.1.4 The Councils wish to procure a Framework Agreement with a single supplier on behalf of themselves, and Warrington Borough Council, Wirral Metropolitan Borough Council, Trafford Metropolitan Borough Council and Stockport Metropolitan Borough Council (the “Related Councils”) if they decide to call-off services, for the design, build and implementation of an integrated Enterprise Resource Planning (ERP) software solution and thereafter the provision of on-going support and maintenance. Cheshire East Borough Council is the lead contracting authority and will be the signatory to any Framework Agreement which is awarded at the conclusion of this procurement process.
- 1.1.5 The core business services impacted by the ERP solution are finance, procurement, human resources and payroll. The scope of the service may include the provision and implementation of new modules offering improved functionality and/or system refreshes as necessary during the contract term.
- 1.1.6 Any Services that are ordered by the Councils and the Related Councils in accordance with the Framework Agreement shall be provided by the successful Bidder to the relevant Council/Related Council in accordance with the terms and conditions set out in schedule 5 of the Framework Agreement (the “Call-Off Contract”). Any Call-Off Contract awarded by a Related Council will be contractually independent of the Councils. Subject to the outcome of the procurement and award decision, the Councils are currently intending to sign their own Call-Off Contracts for the provision of the Services on the same day as the Framework Agreement is awarded.
- 1.1.7 The current intention is for each Council to award a separate Call-Off Contract under the Framework Agreement but the Councils wish to explore with Bidders during the dialogue stage the benefits of awarding separate Call-Off Contracts but with joint contract management arrangements.
- 1.1.8 The Services may be provided under the individual Call-Off Contracts of the Councils and the Related Councils to schools (who in legal terms form part of the Council/Related Council), academies (who are independent from the Council/Related Council) and subsidiary companies, associated companies and alternative service delivery vehicles (collectively called “ASDVs”) established by the Councils and the Related Councils to provide public services.

- 1.1.9 ASDVs within the Councils' administrative areas known at the time of issuing this ISOS include, but are not limited to:
- For Cheshire East Borough Council: Tatton Park Enterprises Ltd; Engine of the North Ltd; Ansa Environmental Services Ltd; Orbitas Bereavement Services Ltd; Civicance Ltd, Skills and Growth Company Ltd and Everybody Sports & Recreational Trust Ltd (trading as Everybody Ltd, a charitable trust), Transport Service Solutions Ltd. Further details can also be found at:  
  
[http://www.cheshireeast.gov.uk/council\\_and\\_democracy/your\\_council/best\\_fit\\_services/best\\_fit\\_services.aspx](http://www.cheshireeast.gov.uk/council_and_democracy/your_council/best_fit_services/best_fit_services.aspx)
  - For Cheshire West & Chester Council: Cheshire West and Chester Leisure CIC (trading as Brio), Vivo Care Choices Limited, Edsential Community Interest Company, Cheshire Pension Fund, CoWest Services Limited (Trading as Qwest)
- 1.1.10 The schools and Academies within the Councils' administrative areas as at the time of issuing this ISOS can be found at  
  
<http://www.education.gov.uk/edubase/home.xhtml>
- 1.1.11 The Related Councils and Other Service Users are listed here for information purposes only and no Council, Related Council or Other Service User is obliged to order the Services from the Supplier under the Framework Agreement or at all.
- 1.1.12 The current intention is for Other Service Users to receive the Services under the Call-Off Contracts of the appropriate Councils and Related Councils. However, the Councils wish to explore with Bidders during the dialogue stage the benefits of adopting an alternative approach, for example with each Other Service User awarding its own Call-Off Contract, or for ASDVs to award their own Call-Off Contracts but with schools continuing to receive the Services under the Call-Off Contracts of the appropriate Council or Related Council.
- 1.1.13 The term of the Framework Agreement is expected to be four (4) years. Each Call-Off Contract (if any are ordered) is expected to have a maximum duration of 12 years with the Councils' preference being for an initial term of seven (7) years, with the ability to extend by one or more periods up to a further five (5) years and provided the Councils are satisfied with the performance of the supplier. Any extension of a Call-Off Contract shall be in accordance with the terms and conditions which apply during the initial period of services provision. The length of the initial term and extensions will be confirmed during the dialogue.
- 1.1.14 If ordered under the Framework Agreement, the Councils' Call-Off Contracts shall be required to be commenced in August 2017 and the solution fully operational by no later than 1<sup>st</sup> October 2018.
- 1.1.15 The value of the Framework Agreement is estimated to be between £16 million to £20 million for the Councils and an additional £25 million to £29 million for the Related Councils calling-off the Services under the Framework Agreement. The Framework Agreement, therefore, could potentially reach an estimated value range of £41 to £49 million but this value range will depend on the Councils' and the Related Councils' decisions whether to use the Framework Agreement. Bidders should note that there is no guarantee that any Call-Off Contracts will be awarded and/or orders placed by the Councils or the Related Councils under the Framework Agreement.

## 1.2 Joint Strategic Steering Group and Programme Board

- 1.2.1 The Councils have formed a joint Strategic Steering Group which will oversee the procurement and implementation of the Project. The Steering Group is chaired by the Senior Responsible Officer Dominic Oakeshott (Corporate Manager, Professional Services - CE), and includes Cabinet-level representation from both Councils' political leadership teams, Cheshire West & Chester Council's Director of Professional Services, and Cheshire East Council's Chief Operating Officer.
- 1.2.2 The Councils have also established a joint Programme Board which has day to day responsibility for the delivery, management and procurement of the project. The Programme Board is chaired by the Senior Responsible Officer. The members of the Programme Board are set out in the Descriptive Document.
- 1.2.3 The procurement exercise will be conducted jointly with both Councils actively taking part in the dialogue, evaluation and appointment of the Preferred Bidder.

## 1.3 This Invitation

- 1.3.1 This Invitation to Submit Outline Solutions (ISOS) and its supporting documents are issued to Bidders on 5<sup>th</sup> December 2016 and represent the commencement of the Competitive Dialogue.
- 1.3.2 Accompanying this ISOS is a Descriptive Document setting out the background to the aims and objectives of the Project and sets out the Councils' needs and requirements. The Descriptive Document and the Requirements form part of the ISOS documents.
- 1.3.3 The purpose of the Competitive Dialogue as a whole is to identify the solution that can best meet the Councils' objectives for this Project.
- 1.3.4 The following organisations (in alphabetical order) have been invited to participate in the ISOS stage:

- [xx]

## 1.4 Overall documents structure

- 1.4.1 The ISOS documents comprise 4 volumes, as follows:
- Volume 1: Tender Instructions (this document)
  - Volume 2: The Requirements, including the Descriptive Document
  - Volume 3: Draft Framework Agreement, Call-Off Contract and Schedules and Collaboration Agreement
  - Volume 4: Response Document
- 1.4.2 These ISOS documents are all available via The Chest portal, further details of which are given in paragraph 5.1 (E-tendering Portal (The Chest)/Data Room) below.
- 1.4.3 The ISOS documents set out the Councils' current requirements in respect of the Services. In the event of any inconsistency, the ISOS documents and enclosures will take precedence over any documents previously issued by the Councils.

### The Requirements

- 1.4.4 The Councils' Requirements are set out at Volume 2 and set out the Councils' requirements and required outcomes for the Services.

- 1.4.5 Bidders are required to submit a series of responses to set out how they propose to meet the Requirements. Details of the responses required as part of this ISOS are set out in the Response Document (Volume 4).

### **Contracting Model**

#### **Framework Agreement**

- 1.4.6 The successful Bidder will be required to execute a formal Framework Agreement in the form set out in Volume 3. The successful Bidder will be required to execute the Framework Agreement promptly and shall not commence the provision of the Services nor be entitled to any remuneration whatsoever until it has done so unless otherwise expressly agreed at their discretion by the Councils.

#### **Call-Off Contract**

- 1.4.7 The Call-Off Contract (schedule 5 of the Framework Agreement) set out in Volume 3 is based on the Government Legal Service's model services agreement published on 1st April 2014 and has been specifically tailored to this Project. The Councils expect to enter into contractual arrangements substantially on the terms set out in Volume 3.

- 1.4.8 Bidders will note that there are currently a number of areas in the Call-Off Contract where the Councils are expecting certain information to be provided by the Bidders. This information includes the following details:

- Any proposed Authority Responsibilities (see schedule 3 of the Call-Off Contract);
- Any anticipated commercially sensitive information to be included in the proposed solution (see schedule 4.2 of the Call-Off Contract);
- Any proposed sub-contractors (see schedule 4.3 of the Call-Off Contract);
- Any proposed third party contracts (see schedule 4.4 of the Call-Off Contract);
- Any proposed software necessary for the solution (see schedule 5 of the Call-Off Contract);
- Any key personnel involved in the delivery of the proposed solution (see schedule 9.2 of the Call-Off Contract).

- 1.4.9 The deadline for Bidders to submit a draft version of the information listed above will be 12 noon on 27 January 2017, as part of the Outline Solution response. The details provided, in particular any proposed Authorities Requirements, may then be discussed during the Detailed Dialogue meetings with the Bidders commencing on 2 March 2017. Once these discussions have taken place, Bidders will be expected to make any required amendments to the information above and submit updated versions with their Final Tenders. The Authorities reserve the right to change it as they consider appropriate and in compliance with the Regulations and will inform Applicants/Tenderers of any changes.

#### **1.4.10 Collaboration Agreement**

- 1.4.10.1 In parallel with this procurement for the Services, the Councils may also conduct a separate procurement for the provision of business change services. The Councils are aware that in implementing a new ERP solution, they will need to undertake an internal business change programme to educate users on the change in solution, to review existing policies and procedures and implement any changes which are required and to ensure



that the implementation of the new solution provides minimum impact and maximum benefit for the Councils' end users. If the Councils elect to procure external third party support to provide the business change services described above, the Councils expect the Supplier and the Business Change Supplier to co-operate and collaborate to deliver a consistent and coherent end to end service to the Councils. The Supplier and the Business Change Supplier will therefore be required (subject to paragraph 1.4.10.3 below) to enter in to the Collaboration Agreement with the Councils, to govern the working relationships between the multiple parties. Bidders are referred to the Collaboration Agreement set out in Volume 3.

- 1.4.10.2 Subject to paragraph 1.4.10.3, the Supplier will be required to execute the Collaboration Agreement promptly, at the same time as executing the Councils' Call-Off Contract(s), and shall not commence the provision of the Services nor be entitled to any remuneration whatsoever until it has done so unless otherwise expressly agreed at their discretion by the Councils. Similarly, the Business Change Supplier shall not commence the provision of the business change services nor be entitled to any remuneration whatsoever until it has acceded to the Collaboration Agreement. It is likely that the Supplier and the Business Change Supplier will not enter into contracts for their respective services with the Councils on the same date. Therefore the first of the two suppliers to enter into a contract for services with the Councils will enter into the Collaboration Agreement and the other supplier will accede to the agreement by way of an accession agreement, the template for which is a schedule to the collaboration agreement.
- 1.4.10.3 The Councils are still considering their requirements for the business change services and may determine that it can deliver the services in-house. In this event, the Collaboration Agreement shall not be utilised. The Supplier will only be required to execute the Collaboration Agreement in the event that the Councils elect to procure the business change services from an external third party.

## 2. Competitive Dialogue Process

### 2.1 The Process

- 2.1.1 Due to the complexities of this procurement project, the Competitive Dialogue process is being used. However, this process will be used pragmatically and expeditiously with the aim of reaching a successful solution in a reasonable timescale.
- 2.1.2 The Councils intend to fully embrace the opportunities that Competitive Dialogue provides to all parties during this procurement process and wishes to engage in open and constructive discussions with all Bidders regarding the development of their proposals. The Councils intend to establish a clear and precise dialogue protocol to ensure that dialogue is conducted effectively. The dialogue protocol (contained in Appendix C) will set out the Councils' approach to conducting the dialogue and how issues arising from dialogue meetings will be taken forward throughout the dialogue.
- 2.1.3 It is intended that the process will be conducted in the stages set out below (although the Councils reserve the right to add additional or further stages to the Competitive Dialogue as necessary in order to ensure that they are able to identify solutions that meet their needs and to preserve fair and equal competition). The Councils reserve the right to suspend the dialogue. The Councils further reserve the right to decline to conduct any further dialogue at any stage.

#### ISOS Stage

- 2.1.4 It is the Councils' intention at this ISOS stage to explore through Competitive Dialogue with each Bidder how its proposed solution will meet the Councils' objectives as set out in this ISOS.
- 2.1.5 At the end of this stage, Bidders will be required to submit their Outline Solutions. Bidders shall ensure that their Outline Solutions are submitted in accordance with the requirements of this ISOS.
- 2.1.6 The Outline Solutions that are submitted will be evaluated in accordance with the evaluation methodology and the ISOS Evaluation Criteria set out in this Volume 1. The evaluation will result in a ranking of the ISOS submissions following which the Councils anticipate shortlisting a maximum of 3 Bidders to participate further in the Detailed Dialogue Stage. The Bidders whose solutions are de-selected at the ISOS stage will be given feedback on their Outline Solutions.

### 2.2 Detailed Dialogue Stage leading to Call for Final Tenders

- 2.2.1 The next stage will be focused on assisting Bidders to develop detailed solutions and as such dialogue on matters including the detailed financial, technical and commercial aspects of the solutions will take place. Bidders will be expected to develop their solutions during this stage to deliver the Councils' requirements as set out in Volume 2.
- 2.2.2 It is anticipated that the Detailed Dialogue Stage shall continue until 28 April 2017 or such other time when the Councils have identified one or more solutions capable of meeting their needs. The Councils will keep their approach to the Detailed Dialogue Stage under review and further details will be provided to those Bidders invited by the Councils to participate in the Detailed Dialogue Stage.

## Final Tenders

- 2.2.3 When the Councils are satisfied that they have found one or more solutions capable of meeting their needs, the Councils will declare that the dialogue is concluded and invite Final Tenders containing “all the elements required and necessary for the performance of the Project” and “on the basis of the solution or solutions presented and specified during the dialogue” (Regulations 30(15) and 30(16)). In addition the Councils reserve the right to ask Bidders to present their Final Tender.
- 2.2.4 Following submission of Final Tenders, the Councils will carry out an evaluation and select the successful Bidder in accordance with the disclosed evaluation criteria. Such Bidder shall be known as the ‘Preferred Bidder’. The Councils will require the Preferred Bidder to enter into a Preferred Bidder letter, the form of which will have been agreed with each Bidder during the Detailed Dialogue Stage.
- 2.2.5 After selection of the Preferred Bidder, there may be further clarification of the Final Tender and confirmation of commitments within it but it is expected that agreement will have been reached on all key contractual issues before close of dialogue and call for Final Tenders.
- 2.2.6 Bidders are reminded that pursuant to the 2015 Regulations, Final Tenders may only be “clarified, specified and optimised” at the request of the Councils. However such clarifications, specification and optimisation, or any additional information, may not involve changes to essential aspects of the Final Tender or of the procurement, where variations to those aspects are likely to distort competition or have a discriminatory effect (Regulation 30(18)). This means that there will be no opportunity to leave matters open and/or to negotiate substantial issues with Bidders once Final Tenders have been submitted.
- 2.2.7 When the decision has been made by the Councils to award the Contracts, “standstill” letters will be sent in accordance with Regulation 86(1) of the 2015 Regulations.
- 2.2.8 The Councils reserve the right to re-open the Competitive Dialogue at their absolute discretion and the Bidders are reminded that at all times they shall be responsible for their own costs incurred during the entirety of the Competitive Dialogue; including any costs that may be incurred if the Councils decide to abandon the Competitive Dialogue.
- 2.2.9 The Councils will not be permitting any variant solutions at the Final Tender stage.
- 2.2.10 Further details about the Final Tender stage of this procurement will be set out in the Call for Final Tenders Document (CFT) which will be issued to those Bidders that are invited to submit Final Tenders.
- 2.2.11 The Councils are not liable for any costs whatsoever resulting directly or indirectly from any abandonment of this tendering process, nor for any other costs incurred by those expressing an interest in or tendering for this project up to and including the time of abandonment of the tendering process.

## 2.3 Timeline

- 2.3.1 The timeline that the Councils intend to follow is shown below. It is the Councils’ expectation that publishing this indicative timeline should ensure that Bidders are fully aware of the expectations that the Councils are placing upon them.
- 2.3.2 It should be noted that this timetable is indicative and the Councils reserve the right to change the timetable at any time. An example of when the Councils might exercise

this discretion might be to comply with the Councils' internal approvals, governance and Council / Cabinet meetings.

Activity	Start	Finish
<b>Commence Procurement Short listing</b>		
Contract Notice and SQ Issued	10 October 2016	
Bidders' Day	13 October 2016	
SQ responses Returned		11 November 2016 12 Noon
Evaluation of SQs and Shortlist of Bidders	14 November 2016	2 December 2016
<b>Commence Stage 1 Competitive Dialogue Outline Solutions Stage</b>		
Issue ITPD/ISOS to all shortlisted Bidders – dialogue period starts	5 December 2016	
First Dialogue Period	6 December 2016	24 January 2017
Deadline for clarification questions relating to Outline Solutions		20 January 2017 12 NOON
Return date for Outline Solution Responses		27 January 2017 12 NOON
Councils' evaluation of Outline Solution Responses and shortlisting	30 January 2017	24 February 2017
<b>Commence Stage 2 Competitive Dialogue Detailed Dialogue/Final Tenders</b>		
Unsuccessful/Successful letters issued	27 February 2017	1 March 2017
Second Dialogue Period - (leading to call for Final Tenders (CFT))	2 March 2017	28 April 2017
Call for Final Tender	1 May 2017	
Deadline for clarification questions relating to Final Tenders		05 May 2017
Deadline for submission of Final Tenders		12 May 2017 12 NOON
Clarification and evaluation of Final Tenders	15 May 2017	9 June 2017
Internal Approval of Decision	June 2017	June 2017

Activity	Start	Finish
Standstill letters issued and Preferred Bidder announced	12 June 2017	
Standstill period (10 days)	12 June 2017	23 June 2017
<b>Contract Award and Mobilisation</b>		
Final Award Notice Issued	23 June 2017	
Contract start date	31 July 2017	
Services Commence	1 August 2017	

## 2.4 CFT Document

- 2.4.1 The Councils will keep their approach to the CFT under review and further details of the CFT stage will be provided to Bidders in the CFT documents. It is anticipated that the CFT documents will follow the same structure as the ISOS documents.

## 3. General Conditions

### 3.1 Changes to SQ response

3.1.1 Bidders (or, in the case of consortia bids, “Lead Bidders” as such term is defined in 3.2.1 below) must keep the Councils informed of any changes and developments that affect their legal/regulatory standing, economic and financial standing and/or technical ability and experience as submitted at the SQ stage and, in the case of solutions submitted by consortia, this requirement also applies to their consortium members. The Councils reserve the right to keep these matters under review and to exclude any Bidder from further participation in the procurement process where any such change affects adversely a Bidder’s suitability for the Project as judged against the pre-qualification criteria for the pre-qualification process.

### 3.2 Changes to bidding consortiums and companies

3.2.1 The term “Bidder” in this ISOS refers to any organisation that has been invited to participate in dialogue (whether it is a single organisation or a consortium). Organisations that identified at SQ stage that they intended to act jointly in seeking to be awarded the Framework Agreement (such as in a consortium bid) were required to identify one primary contact (“Lead Bidder”). The Lead Bidder at SQ stage was responsible for the preparation and submission of the SQ on the consortium’s behalf. In participating in this ISOS stage and, if invited, in the further stages of this Competitive Dialogue process the organisation identified as being the Lead Bidder shall act as the Lead Bidder for companies acting jointly.

3.2.2 The Lead Bidder shall be responsible for the preparation and submission of the Outline Solution and for the preparation and response to any later stage of the Competitive Dialogue process, including the CFT stage. The Lead Bidder shall be the representative for other consortium members that form the consortium.

3.2.3 As required by paragraph 2.3 of the SQ Guidance Document, the Lead Bidder is required to immediately inform the Councils of any change to the membership of its consortium (both the inclusion of additional members and departing members).

3.2.4 Without prejudice to the generality of paragraph 3.1 above, where the composition of any Bidder changes (including changes to their supply chain), the Councils shall request all or any part of the Bidder (and/or their supply chain) to resubmit the whole or parts (at the Councils’ discretion) of its SQ submission. The Councils shall then assess the resubmitted information against the published SQ evaluation criteria. The Councils reserve the right to reject any Bidder in the event that, having re-evaluated the submitted information, the Bidder would have failed to have been shortlisted for this ISOS stage.

3.2.5 Where following evaluation, the Councils find the new consortium member or member of a Bidder’s supply chain unacceptable it may request that the Lead Bidder find an alternative consortium member, contractor, sub-contractor, supply chain member or Supplier to replace the proposed consortium member and/or member of the supply chain or the Councils may exclude the Bidder from further participation in the process. Any proposal for such changes to consortium members, contractor(s) or Supplier(s) must be notified to the Councils immediately.

3.2.6 The Bidder (or the Lead Bidder acting on the Bidder’s behalf) must confirm in their Outline Solution that any statement made in the Standard Selection Questionnaire

(SQ) remains true and accurate in all material respects save as specifically disclosed in their Outline Solution. The Councils reserve the right to return to any matters raised in the SQ as part of the clarification process, where circumstances have changed in some material respect.

- 3.2.7 The Bidders are reminded that at all times, the Bidders are responsible for their own costs incurred in participating in the competitive dialogue tendering process.

### **3.3 Conflicts of Interest**

- 3.3.1 In order to ensure a fair and competitive procurement process, the Councils require all actual or potential conflicts of interest to be disclosed to the Councils. It is each Bidder's responsibility to ensure that its constituent members do not have conflicts of interest in relation to other Bidders for this Project or in relation to the Councils, including in circumstances where it is proposed that constituent members and/or advisers attached to an unsuccessful Bidder at ISOS stage (or Applicant at the SQ stage) join another Bidder's team.
- 3.3.2 In the event that any actual or potential conflict of interest comes to a Bidder's attention at any time during this procurement, the Councils should be notified immediately in writing. Such notifications should provide details of such actual or potential conflict of interest.
- 3.3.3 Bidders should note that the Councils reserve the right at their sole discretion to disqualify or reject Bidders where there is undue influence as a result of an actual or potential conflict of interest involving the Bidder (and/or its associated consortium members/sub-contractors). Bidders are therefore advised to review carefully the prior or current involvement of the Bidder, consortium members and sub-contractors with the Councils and to contact the Councils to discuss any actual or potential conflicts they have identified.

### **3.4 Disclaimer**

- 3.4.1 The Councils reserve the right to amend their requirements relating to the submission of Outline Solutions and/or Final Tenders by Bidders and/or in relation to the procurement process and the Project generally. Any such amendments will be notified to Bidders. Any amended documents will be issued electronically in the Data Room and will be deemed thereafter to replace any such documents previously issued to Bidders.
- 3.4.2 The Councils will consider whether the issue of any such amended documents will affect the indicative timetable or tendering process in general and may make such changes to the timetable or process (in its absolute discretion) as it considers necessary and in accordance with Regulation 47 of the 2015 Regulations.
- 3.4.3 In the event of any inconsistency at the ISOS stage, the ISOS documents and subsequent addenda will take precedence over information contained in the Descriptive Document.
- 3.4.4 The issue of this ISOS to a Bidder is not intended to create any contractual relationship, express or implied, with the Councils or amount to an offer for or the acceptance of any proposal. The Councils may withdraw this ISOS and/or abandon the process at any time and shall not be required to enter into a contract. Bidders take part in this process entirely at their own risk and cost.
- 3.4.5 This document and the accompanying documentation have been prepared by the Councils in good faith but do not purport to be comprehensive or to have been independently verified. Bidders should not rely on the information and should carry

out their own due diligence checks and verify the accuracy of all information. Nothing in this document is or shall be a promise or representation as to the future.

3.4.6 Neither the Councils, the Councils' Members, directors, officers, employees, staff, agents or advisors:

- make any representation or warranty (express or implied) as to, or accept any liability or responsibility in relation to, the adequacy, accuracy, reasonableness or completeness of the ISOS documentation or any part of it (including but not limited to loss or damage arising as a result of reliance by the Bidder on the ISOS documentation or any part of it). Bidders considering entering into contractual relationships with the Councils should make their own enquiries and investigations of the Councils' requirements beforehand and the requirements for service associated with the Project and should seek their own professional technical, financial and legal advice;
- accept any responsibility for the information contained in this ISOS documentation or for its fairness, accuracy or completeness. Nor shall any of them be liable for any loss or damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication;
- shall be liable for any costs incurred by any Bidder in responding to the ISOS, whether incurred by them directly or their advisors or sub-contractors.

3.4.7 Only the express terms of any executed written contract relating to the subject matter of this Project shall be legally binding.

3.4.8 The draft Framework Agreement, Call-Off Contract and Collaboration Agreement is subject to contract and shall be subject to iterations throughout the Competitive Dialogue.

### **3.5 Sufficiency of Information**

3.5.1 It is the responsibility of each Bidder to ensure that they have all of the information they need to prepare their proposals.

3.5.2 Insofar as the Bidder seeks to place any reliance on the information relating to the Services then the Bidder shall satisfy itself as to the accuracy of such information by carrying out such tests, surveys, site investigations and further inspection as the Bidder shall deem necessary.

3.5.3 Where Bidders wish to carry out or commission any further investigations, surveys or other reports in relation to any buildings or equipment ("Further Investigations") then arrangements for such Further Investigations must be made with the prior approval of the Councils.

3.5.4 Bidders may carry out surveys, inspections and investigations at the Bidders own cost, but not without prior written approval of the Councils and in accordance with any of the Councils' protocols which will be set out in the written approval.

### **3.6 Confidentiality**

3.6.1 By receiving the ISOS documents, the Bidder agrees to keep confidential the information contained in the documents or made available in connection with any further enquiries.

3.6.2 The Councils may disclose detailed information relating to solutions and/or bids to the Councils' Members, officers or advisors and the Councils may make the project



documents available for private inspection by the Councils' Members, officers, or advisors.

- 3.6.3 The Councils also reserve the right to disseminate information that is materially relevant to the Project to all Bidders, even if the information has only been requested by one Bidder, subject to the duty to protect any Bidder's commercial confidence in its solutions and bid.
- 3.6.4 Subject to the provisions of paragraph 3.7 below, the Councils shall not disclose technical aspects of the Bidder's proposed solution where the Bidder has identified that aspect as being confidential or commercially sensitive in accordance with paragraph 3.7.3 below. Bidders shall not list as being confidential or commercially sensitive technical aspects of their proposed solution which are industry standard or which are not unique to the Bidder's organisation. It should be recognised by Bidders that ideas they have are not necessarily unique to them and may have been considered by the Councils or other Bidders. Accordingly, while treating all Bidders equally and fairly, the Councils reserve the right to explore with all Bidders ideas and proposals which are topics in the public domain (in the specialist media, for example) notwithstanding that the idea or Solution already appears in the proposals of one or more of the Bidders.
- 3.6.5 Where the Councils, acting reasonably, consider that a Bidder has listed technical aspects of their bid as being confidential or commercially sensitive which are, among other things, industry standard or commonly used practices/approaches, the Councils may decide they wish to share such information with the other Bidders. Before doing so, the Councils shall notify the Bidder of their intention to share such information with the other Bidders.

### **3.7 Freedom of Information Act 2000 / Environmental Information Regulations 2004**

- 3.7.1 The Councils are subject to the provisions of the Freedom of Information Act 2000 ("FOIA") and its attendant regulations and Codes of Practice as well as the Environmental Information Regulations 2004 (EIR). This means that any person has the right to ask the Councils whether they hold information and if so to disclose it to that person.
- 3.7.2 The Councils will not deny that any bid, offer or (when awarded) contract exists and Bidders responding to this ISOS submit their solutions and bids on the basis that they accept this. The Councils may disclose the names of Bidders and may also disclose evaluation results if a request for information requires them to do so.
- 3.7.3 Bidders shall identify in their Outline Solutions which aspects they consider:
- confidential (and therefore exempt under the FOIA); and/or
  - commercially sensitive (potentially exempt subject to a public interest test).
- 3.7.4 When identifying aspects of their Outline Solutions which they consider to be confidential or commercially sensitive, Bidders shall state the period of time for which they consider the relevant aspect of the information to be confidential or commercially sensitive, the justification for the information being confidential or commercially sensitive and the likely consequences to the Bidder of the relevant information being disclosed.
- 3.7.5 The Councils will be bound to comply with the law and solutions and bids are submitted on the understanding that the Bidders (both during Competitive Dialogue

and subsequently pursuant to the contract) will assist and enable the Councils in complying with their obligations.

- 3.7.6 The Councils will consult Bidders if any request is made to disclose information which has been provided by them in their solutions and/or bid, as part of this process, under the contract or otherwise and will seek clarification from the relevant Bidder as to whether such information is commercially sensitive.
- 3.7.7 The Councils will use reasonable endeavours to resist any request to disclose information which is reasonably believed by the Bidder to be confidential but such endeavours will not extend to putting the Councils in a position where they are in breach of an enforcement notice and will certainly not extend to breaching any court order.
- 3.7.8 The Councils cannot guarantee, therefore, that ultimately there will not be any disclosure of the solutions and/or bids or contracts. This position is in common with every other public authority.
- 3.7.9 The Councils shall have no liability to the Bidders or any of them in the event that information identified as being commercially sensitive or confidential by the Bidders is disclosed pursuant to the Councils' duties under FOIA.
- 3.7.10 Details of the Councils' policies in respect of the FOIA, along with applicable response time requirements, can be found on each Council's web site as follows:

Cheshire East:

[http://www.cheshireeast.gov.uk/council\\_and\\_democracy/council\\_information/freedom\\_of\\_information/freedom\\_of\\_information.aspx](http://www.cheshireeast.gov.uk/council_and_democracy/council_information/freedom_of_information/freedom_of_information.aspx)

Cheshire West and Chester:

[http://inside.cheshirewestandchester.gov.uk/find\\_out\\_more/freedom\\_of\\_information](http://inside.cheshirewestandchester.gov.uk/find_out_more/freedom_of_information)

### **3.8 Canvassing**

- 3.8.1 The Bidder will be disqualified (without prejudice to any other civil remedies available to the Councils and without prejudice to any criminal liability which such conduct by a Bidder may attract), if the Bidder or any person employed by the Bidder, whether or not to the Bidder's knowledge:
- Offers, gives or agrees to give to any person any gift or consideration of any kind as an inducement or reward for taking or for not taking action in relation to the contract or any other contract with the Councils; and/or
  - In relation to any contract with the Council(s), shall have committed a breach of the Prevention of Corruption Acts 1899 to 1916 or under Section 117 of the Local Government Act 1972; and/or
  - Commits an offence under the Bribery Act 2010 to the extent that that Act is in force; and/or
  - Canvasses any of the Programme Board or Steering Group in connection with the Project; and/or
  - Contacts any officer of the Councils prior to the contract(s) being awarded about any aspect of the Project in a manner not permitted by this ISOS (including without limitation a contact for the purposes of discussing the possible transfer to the employment of the Bidder of such officer for the purpose of the Project).

### **3.9 Non-collusion**

3.9.1 Without prejudice to any other civil remedies available to the Councils and without prejudice to any criminal liability that such conduct by a Bidder may attract, a Bidder may be disqualified at any stage of the process if, in connection with this Project it:

- Fixes or adjusts the amount of their solutions and/or bid by or in accordance with any agreement or arrangement with any other Bidder (other than a member of its own consortium); and/or
- Enters into any agreement or arrangement with any other Bidder that they shall refrain from making a solution and/or bid or as to the amount of any solution and/or bid to be submitted; or
- Causes or induces the Programme Board or Steering Group to enter any such agreement or to inform the Bidder of the amount or approximate amount of any rival solution and/or bid for the Project; and/or
- Offers or agrees to pay or give, or does pay or give any sum of money, inducement or valuable consideration, either directly or indirectly to any person for doing or having done, or causing or having caused to be done, any act or omission in relation to any other solutions and bid or proposed solutions and bid for the services; and/or
- Communicates to any person other than the Councils the amount or approximate amount of the proposed solutions and bid (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the solutions and bid (for example, for insurance, a contract guarantee bond or bond)).

### **3.10 Dialogue Costs**

3.10.1 Bidders are reminded that they are solely responsible for bearing their costs and expenses incurred in connection with the preparation and submission of their Outline Solution and all future stages of the procurement process for this Project. Under no circumstances will the Councils, or any of their advisers, be liable for any costs or expenses borne by a Bidder or its constituent members, advisers, agents, lenders or sub-contractors in this procurement process.

3.10.2 The Councils reserve their position as to whether or not they will enter into contractual arrangements and dialogue will be entirely at the Bidders' risk.

### **3.11 The Councils' right to reject Outline Solutions / Bidders**

3.11.1 Without prejudice to any other provision contained in this ISOS, the Councils reserve the right to disqualify a Bidder and/or reject and/or not to consider any further any Outline Solution in the following circumstances:

- Where the Bidder has failed to submit its Outline Solution by the deadline specified in paragraph 4.1.1 below;
- Where the Bidder has failed to comply with the instructions and requirements stated in this ISOS;
- Where an Outline Solution is incomplete;
- Where a Bidder has demonstrably made any material misrepresentation in its Outline Solution or in its response to the SQ;

- Where the Bidder has failed to inform the Councils of any change in circumstance in accordance with paragraphs 3.1 and 3.2.

### 3.12 Copyright

3.12.1 The copyright in this ISOS, together with supporting documents and such documents disclosed to the Bidders from time to time, is vested in the Councils and may not be reproduced, copied or stored in any medium without the prior written consent of the Councils. This ISOS, and any document issued as supplemental to it, are and shall remain the property of the Councils and must be returned upon demand.

### 3.13 Publicity

3.13.1 Bidders shall not undertake (or permit to be undertaken), any publicity activity with any section of the media in relation to the Project other than with the prior written agreement of the Councils. 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, social networking sites and email accessible by the public at large and the representatives of such media.

### 3.14 Withdrawal from Dialogue

3.14.1 Should it become necessary for a Bidder to withdraw from the dialogue process, it shall confirm its intention and the reasons why via The Chest system. Following any withdrawal the Bidder in question shall continue to comply with the provisions relating to confidentiality in this ISOS.

### 3.15 Right to Cancel, Clarify or Vary the Process

3.15.1 The Councils reserve the right to:

- cancel, postpone, suspend or abort this procurement process at any stage prior to the actual execution of any contract; and/or
- amend the terms and conditions and/or requirements of the procurement process; and/or
- require a Bidder to clarify its response in writing and/or provide additional information and/or attend interview(s) or clarification meeting(s); and/or
- for an individual Council to withdraw from the procurement process and for the remaining Council to continue with the procurement process with, if appropriate, an additional dialogue stage/tendering round; and/or
- not to award any contract.

### 3.16 TUPE

**Note to Bidders:** Please note that as the date of issue of this draft ISOS the Councils are still considering the TUPE position and have not formed a view on the applicability of TUPE. The Councils will provide further information and instructions to Bidders in the final version of the ISOS/ITPD issued to bidders.

## 4. ISOS Guidance & Instruction

### 4.1 Instructions for Submitting Outline Solutions

- 4.1.1 This ISOS requires Bidders to submit their Outline Solution Responses by **12 noon on Friday 27 January 2017**, by responding to the specific questions detailed in the Volume 4 (Response Document).
- 4.1.2 Where requested or where the Bidder considers relevant, specific examples of services which are currently being undertaken should be used to help illustrate their response to the questions set out in the Response Document.
- 4.1.3 The Response Document is to be completed and submitted by the Bidder if it is a sole organisation or a Bidder intending to use a supply chain. In the case of a consortium, the Lead Bidder shall complete the questions as set out in this ISOS on behalf of the consortium. Bidders are reminded that it will be the Lead Bidder's role within the consortium to co-ordinate all correspondence with the Councils.
- 4.1.4 If information necessary for the preparation of the Bidders' Outline Solution is unavailable in the Data Room or via the due diligence process or has been provided but is considered to be unclear or insufficient for your needs, Bidders should raise the matter during the Dialogue as a formal clarification.
- 4.1.5 Unless otherwise indicated, please answer the questions by relating to the organisation that will perform the particular service.
- 4.1.6 The Outline Solutions being issued in response to this ISOS (including all the questions) must be in English.
- 4.1.7 In answering the questions, Bidders are required to:
- Ensure that each answer is clearly numbered and refers to the relevant question.
  - Give clear, concise answers to the questions raised. Answers should not be cross referenced (except where expressly requested) but should stand on their own.
  - Provide a full answer to each question and provide all supporting information in the format requested and on the forms provided.
  - Limit the responses to the ISOS questions to no longer than the page / word limits stated in Volume 4 (Response Document).
  - Ensure that all pages are clearly identified, including the name of the Bidder, and the section/question to which the response refers.
  - Not provide any information other than what has been requested, as the Councils will not consider such further information as part of the ISOS evaluation.
  - Not make any alterations to the ISOS documents except where requested to complete a response.
  - Financial references shall be in Pounds Sterling.
- 4.1.8 The Councils reserve the right, at their discretion, to request clarifications in writing or further relevant information from any Bidder after the submission of their Outline Solutions.

## **4.2 Instructions for the Submission of the Outline Solutions**

- 4.2.1 Electronic copies of the completed Outline Solutions should be titled “Tender for Cheshire Councils Enterprise Resource Planning (ERP) Software Solution”.
- 4.2.2 Electronic receipt of the Bidders’ Outline Solutions must be received via The Chest no later than 12 noon on Friday 27 January 2017.
- 4.2.3 An Outline Solution received after this date and time may not be accepted for evaluation at the Councils’ absolute discretion. It is the Bidder’s responsibility to ensure that their submission is received by the deadline stated above.
- 4.2.4 An Outline Solution submitted by hard copy, fax or email will not be accepted.
- 4.2.5 Bidders shall complete the checklist in the Response Document to ensure that they have provided all of the information required, returning a copy of it with your completed Outline Solution.

## **4.3 Protocol for Bidder Queries during this ISOS Stage**

- 4.3.1 All formal queries and any requests for clarification arising from this ISOS may be raised by Bidders at dialogue meetings or electronically up to 12 noon on 20 January 2017 and should be submitted to the Councils via the electronic portal The Chest Portal.
- 4.3.2 Where a Bidder views any query as confidential (particularly where it believes that the release of the query to other Bidders may reveal commercially sensitive or confidential information or a trade secret) the following procedure will be adopted:
  - if a Bidder believes that a query is of a confidential or commercially sensitive nature, then it must be marked as such;
  - if the Councils consider, in their absolute discretion, that they are able to treat the query on a confidential basis, then they will do so;
  - if the Councils consider, in their absolute discretion, that they are unable to treat the query on a confidential basis having regard to current guidance and legislation, then they will notify the Bidder of their decision and the Bidder will have the opportunity to withdraw the query; and
  - if the Bidder does not withdraw the query then the query and its answer will, where appropriate, be released to all Bidders in accordance with the above.
- 4.3.3 When a question or request for clarification or further information is made by a Bidder, the Councils may, at their own discretion, endeavour to respond to the Bidder and provide such Bidder with any additional information to which the Councils have access, but the Councils shall not be obliged to comply with any such request and do not accept any liability or responsibility for failure to provide any such information. For the avoidance of doubt, the Councils shall not be obliged to respond to any questions or requests for clarification or further information which are raised by Bidders outside the routes permitted in this ISOS (being at dialogue meetings or via The Chest) and the Councils shall have no liability or responsibility for any responses that are provided to such approaches.
- 4.3.4 All questions considered by the Councils to be non-confidential and/or not commercially sensitive will be formally distributed to all Bidders. As a matter of course, the identity of the enquirer will be protected. Subject to the above procedure, the Councils will not reveal any proposed solutions or other confidential information communicated by a Bidder participating in the dialogue without their prior agreement.

4.3.5 If the Councils consider that, in the interests of open and fair competition, they are unable to respond to the question or request for clarification or further information on a confidential basis, they will inform the Bidder who has submitted it. The Bidder must as soon as practicable thereafter respond in writing requesting that either the query be withdrawn or treated as not confidential. The Councils will deem that the question or request for clarification or further information has been withdrawn if the Councils are not contacted in writing within three working days following informing the Bidder as referred to above.

#### **4.4 Meetings and Presentations with Bidders during the Outline Solutions Stage**

4.4.1 As part of this Outline Solutions stage, the Councils anticipate holding dialogue meetings with Bidders. The Councils will offer the same number of meetings with each Potential Provider and ensure all Bidders are treated equally and given the same access to information.

4.4.2 The purpose of holding such meetings is to assist Bidders in developing their Outline Solutions. It is envisaged that these shall take place over various half day and full day meetings. To facilitate productive and efficient use of the meeting times during the dialogue meetings it is envisaged that there shall be workstreams/sub groups to discuss particular aspects of the Project, including the solution/product, legal/commercial. Business change and financial aspects of the Project.

4.4.3 The Councils have prepared a dialogue protocol which will apply at all dialogue meetings and this is attached at Appendix C.

4.4.4 Details of specific dates, times and venues for each round of meetings will be communicated to Bidders in due course.

4.4.5 The Councils will select the members of the Programme Board and wider Council teams that will attend the individual dialogue meetings according to the topic that is for discussion at that particular session. The Bidders shall ensure that they have the appropriate and adequate members of their team to attend the relevant sessions to enable progress to be made. Prior to each meeting with an individual Bidder, the Councils will suggest an agenda and may give the Bidder an opportunity to request further items of business before it is confirmed. Bidders are encouraged to submit papers in advance of dialogue sessions to facilitate constructive discussions.

4.4.6 Bidders will be invited to discuss their proposals with the Councils at the dialogue meetings but nothing said by the Councils shall be construed as acceptance or approval of the Bidder's Outline Solutions.

4.4.7 The dialogue meetings will be treated as confidential as between the Councils and the individual Bidder. Summary actions minutes may be taken and commentary tables detailing the issues discussed and charting their progress may be issued after each dialogue session.

4.4.8 During the Detailed Dialogue and before close of dialogue, Bidders may be invited to make presentations or provide demonstrations to the Programme Board / Steering Group. This is to inform the Programme Board / Steering Group and assist their understanding and appreciation of the Solution(s). However, Bidders should note that the Bidder's performance at any presentations or demonstrations will not be scored.

## 5. Data Room

### 5.1 E-tendering Portal (The Chest) / Data Room

- 5.1.1 The Councils will be using The Chest to continue the process of communication with Bidders throughout the ISOS process. The portal will hold electronic copies of the ISOS documents and other relevant documentation which will be accessible to the Bidders under a controlled system of access (the “Data Room”).
- 5.1.2 The Councils do not warrant the accuracy, completeness or adequacy of any of the information contained in the Data Room.
- 5.1.3 Each Bidder should continue to use their unique username and password for The Chest portal, which will allow defined and controlled access to the procurement documentation.
- 5.1.4 The web site address is:  
[www.the-chest.org.uk](http://www.the-chest.org.uk)  
Further information will be uploaded throughout the course of the procurement.
- 5.1.5 Bidders have used The Chest throughout the process up until now, and please access the portal in the same way. Bidders should click on an individual file to open it. Folders may also list links to the Councils’ web sites where relevant documents have already been published. Bidders will be informed when new information is added to the portal if they have set alerts up through their portal access.
- 5.1.6 If Bidders’ experience any problems with the Data Room they should please contact the helpdesk on: Email: ProcontractSuppliers@proactis.com or Telephone: +44 330 005 0352.

### 5.2 Further information

- 5.2.1 If Bidders would like any further information they should request this electronically through The Chest. When a request for further information is made by a Bidder, the Councils may, at their own discretion, endeavour to respond to the Bidder’s request and provide such additional information to which the Councils have access, but the Councils shall not be obliged to comply with any such request and do not accept any liability or responsibility for failure to provide any such information.

### 5.3 Site visits

- 5.3.1 It is anticipated that the Councils will want to visit reference sites where services similar to some or all of the Services are being delivered, during the Detailed Dialogue Stage.
- 5.3.2 Any such reference visits undertaken by the Councils will not be scored but will be used to corroborate the solutions proposed by the Bidders in dialogue.



## 6. Competitive Dialogue Evaluation Criteria

### 6.1 Evaluation Criteria, Methodology and Abnormally Low Tenders

- 6.1.1 The principal objective of the ISOS evaluation stage of this procurement is to reduce the long-list of Bidders who were selected at SQ to no more than 3 Bidders to invite to the Detailed Dialogue Stage. The Outline Solutions and Final Tenders will be evaluated on the basis of the most economically advantageous solution for the Councils having regard to the criteria set out in Appendix D to this ISOS.
- 6.1.2 Bidders will be scored only on the information contained within their Outline Solutions as submitted by 12 noon on 27 January 2017 as clarified (if applicable) and only against the evaluation criteria set out in Appendix D.
- 6.1.3 The Councils are keen to receive Services that are value for money but equally is keen to ensure that Outline Solutions and Final Tenders are sustainable and properly priced in order that they may have confidence in the robustness and stability of the Bidder and the Services. The Councils will therefore scrutinise Outline Solutions and Final Tenders closely for evidence of any deliberate under-pricing and for abnormally low tenders (or parts of Outline Solutions / Final Tenders) but the Councils also expect Bidders to understand these priorities and formulate their pricing accordingly.
- 6.1.4 In particular, the Councils intend to apply strictly the rules set out in Regulation 69 of the 2015 Regulations relating to the investigation and potential rejection of abnormally low tenders.
- 6.1.5 The Councils therefore intend (without limitation) and without prejudice to any other rights and remedies they may have to carry out the following measures if necessary:
- 6.1.5.1 to review all Outline Solutions and Final Tenders to ascertain whether any of them appear abnormally low;
  - 6.1.5.2 analyse further any Outline Solution and Final Tender appearing abnormally low;
  - 6.1.5.3 require a written explanation of that part (or parts) of the Outline Solution / Final Tender which they consider contributes to the offer being abnormally low;
  - 6.1.5.4 take account of any response provided to this request.
- 6.1.6 If, after the written explanation has been provided by the Bidder, the Councils are still of the opinion that an Outline Solution / Final Tender is abnormally low, the Councils reserve the right to accept or reject the Outline Solution / Final Tender in their absolute discretion in accordance with the 2015 Regulations and the evaluation methodology in this ISOS.

### 6.2 Process

- 6.2.1 Outline Solutions will be checked initially for compliance with the ISOS, the requirements in the Response Document and for completeness. Whilst the Councils shall be entitled to seek clarification from Bidders in order to determine if an Outline Solution is complete and compliant, Bidders should note that the Councils reserve the right to reject Outline Solutions that are not substantially complete and/or compliant with the Instructions and the Response Document requirements.

- 6.2.2 Bidders/solutions who pass the initial compliance stage will then be evaluated against the criteria identified in Appendix D.
- 6.2.3 The Councils will decide if it is appropriate to seek clarification on the Outline Solutions and may request clarification at any time if required to complete the evaluation process.
- 6.2.4 The evaluation methodology and evaluation criteria will be applied by the Councils to score each Outline Solution.

### **6.3 Quality Evaluation**

- 6.3.1 Bidders are required to submit the responses as set out in Volume 4 (Response Document). The Quality evaluation will award scores by assessing the Bidders' responses. Such scores will reflect the extent to which of the responses meet the Councils' requirements. The weightings to be given to the quality criteria are set out in Appendix D to this ISOS.
- 6.3.2 A score will be allocated for each criterion in accordance with the relevant scoring scales set out in paragraph 6.4 below. The weighted score will be calculated in accordance with the weighted factor set out at Appendix D to this ISOS. All of the weighted scores will then be added together to give a total weighted score for the quality element of the evaluation (the "Weighted Quality Score").
- 6.3.3 The 'Delivering the Councils Requirements' Tier 2 criterion will be evaluated against the Tier 3 sub criteria set out in Appendix D. The Councils will evaluate the Bidder's responses in each functional / non-functional area. The completed versions of each detailed requirements template (as set out in Appendix 3 of the Response Document containing the Bidder's responses to the detailed functional / non-functional requirements will not be scored in their own right but will be used as an aid to evaluation to validate and corroborate the Bidder's Outline Solution. When finalised through the Competitive Dialogue process, the Councils intend to include the Preferred Bidder's responses, including their response to the Councils' Detailed Requirements, in Schedule 4.1 (Supplier Solution) of the Call-Off Contract.
- 6.3.4 Bidders will note that some of the Councils' requirements and capabilities are identified in Volume 2 as being optional or "could-have" requirements. Bidders are invited to submit responses setting out how they propose to meet these optional requirements and capabilities, and provide costs for such proposals. The responses and proposed costs in respect of these optional requirements and capabilities will not be evaluated and scored by the Councils as part of the Outline Solutions. In the event that the Bidder is appointed as the Preferred Bidder, the Councils will consider the Bidder's responses to the optional requirements, and the Bidder may be required to include and implement such of the optional requirements as directed by the Councils, in the final Call-Off Contract for each Council.

### **6.4 Quality Scoring Principles**

- 6.4.1 The Councils will score the qualitative parts of the Outline Solutions in accordance with the general principles and descriptions shown in the tables below. Each response will be marked out of a total possible score of 5. Bidders are also referred to paragraph 6.5 below which sets out further explanation on the evaluation and scoring of the price criteria.
- 6.4.2 Bidders should note that the Outline Solution must give confidence that the Councils requirements in each business area (Finance, Payments and Income, Human Resources, Payroll, Overarching Requirements and Non-Functional Requirements)

will be met, to be acceptable overall. Any Outline Solution, therefore, must score more than **one** for each Tier 3 criterion relating to the 'Delivering the Councils Requirements' criterion, else it will be rejected notwithstanding the overall score and ranking.

- 6.4.3 Bidders should note that the Outline Solution must give confidence that the Councils requirements in respect of solution delivery and management of future change will be met, to be acceptable overall. Any Outline Solution, therefore, must score more than **one** for each Tier 3 criterion relating to the 'Delivering the Programme Services and Timeline' and 'Delivering Future Change' criteria, else it **will** be rejected notwithstanding the overall score and ranking.
- 6.4.4 Bidders should note that the Outline Solution must meet the Councils' requirements in respect of the contractual arrangements which will be put in place and the legal and commercial risk which the arrangements offer to the Councils. The Councils will not set a minimum score for the Tier 2 Criterion relating to Legal / Commercial matters when assessing Bidders' Outline Solution. However, Bidders should note that the Councils will define a minimum score for the Tier 2 Criterion relating to Legal / Commercial matters at Final Tender stage. Any Final Tender will be required to score more than the defined minimum score for the Tier 2 Criterion relating to Legal / Commercial matters, else it will be rejected notwithstanding the overall score and ranking.
- 6.4.5 Further, the Councils also reserve the right to reject an Outline Solution that scores 0 for any criteria (whether Tier 1, Tier 2 or Tier 3).
- 6.4.6 For the quality criteria, the scores will then be weighted in accordance with the weightings set out in the table at Appendix D. The weighted tier 3 scores will then be combined and weighted in accordance with the tier 2 weightings. The weighted tier 2 score for quality criteria is then weighted by 60%.
- 6.4.7 The score for each Tier 3 criterion out of the maximum possible of 5 will be applied mathematically to the share of the Quality score which is available for each criterion.

**EXAMPLE:**

A Tier 3 criterion has 8% of the total Quality score available.

Bidder A's response is scored 5 out of 5. They receive  $5/5 \times 8 = 8\%$  out of the available 8%.

Bidder B's response is scored 4 out of 5. They receive  $4/5 \times 8 = 6.4\%$  out of the available 8%.

Bidder C's response is scored 2 out of 5. They receive  $2/5 \times 8 = 3.2\%$  out of the available 8%.

#### 6.4.8 Delivering the Councils' Requirements

6.4.9 Each Tier 3 criteria relating to the 'Delivering the Councils' Requirements' tier 2 criterion will be awarded a score out of 5. The range of marks and a description of each is set out below.

<b>Delivering the Councils' Requirements</b>		
<b>Score</b>	<b>Rating</b>	<b>Descriptor for score</b>
5	<b>Exceptional</b>	Exceptional standard of response supported by robust evidence. Demonstrates clearly and convincingly how all the Councils' requirements in the area being evaluated will be delivered so as to deliver the services in an excellent way
4	<b>Very Good</b>	Very good standard of response supported by a very good level of credible and detailed evidence. Demonstrates how all the Councils requirements in the area being evaluated will be delivered so as to deliver the works/services very well
3	<b>Good</b>	Good standard of response supported by a good level of comprehensive evidence showing full understanding of the requirements. Gives the Councils a reasonable level of confidence the Councils' requirements will be met.
2	<b>Basic</b>	Basic response that achieves reasonable standards in most respects but unsatisfactory in others and/or has a number of omissions. Gives the Councils concerns around the Bidder's ability to meet some of the Councils' requirements.
1	<b>Inadequate</b>	Inadequate response that is unsatisfactory and/or has important omissions. Gives the Councils many concerns about the Bidder's ability to provide the services in accordance with the Councils' requirements.
0	<b>Very Poor</b>	Very poor response. Insufficient information provided. Gives the Councils very low confidence/significant concerns in the Bidder's ability to provide the services in accordance with the Councils' requirements.

#### 6.4.10 Delivering the Programme Services and Timeline and Delivering Future Change

6.4.11 Each response to the Tier 3 criteria relating to the 'Delivering the Programme Services and Timeline' criterion and the 'Delivering Future Change' criterion will be awarded a score out of 5. The range of marks and a description of each is set out below.

<b>Delivering the Programme Services and Timeline and Delivering Future Change</b>		
<b>Score</b>	<b>Rating</b>	<b>Descriptor for score</b>
5	<b>Exceptional</b>	Exceptional standard of response supported by robust evidence. Demonstrates clearly and convincingly how the Bidder will implement its solution and the Councils' requirements in the area being evaluated will be performed so as to implement the services/solution in an excellent way
4	<b>Very Good</b>	Very good standard of response supported by a very good level of credible and detailed evidence. Demonstrates clearly how the Bidder will implement its solution and the Councils requirements in the area being evaluated will be performed so as to implement the services/solution very well
3	<b>Good</b>	Good standard of response supported by a good level of comprehensive evidence showing good understanding of the requirements. Gives the Councils a reasonable level of confidence the Bidder will implement its solution and the Councils' requirements in the area being evaluated will be met.
2	<b>Basic</b>	Basic response that achieves reasonable standards in most respects but unsatisfactory in others and/or has a number of omissions. Gives the Councils concerns around the Bidder's ability to implement its solution and meet some of the Councils' requirements in the area being evaluated.
1	<b>Inadequate</b>	Inadequate response that is unsatisfactory and/or has important omissions. Gives the Councils many concerns about the Bidder's ability to implement its solution and meet the Councils' requirements in the area being evaluated.
0	<b>Very Poor</b>	Very poor response. Insufficient information provided. Gives the Councils very low confidence/significant concerns in the Bidder's ability to implement its solution and meet the Councils' requirements in the area being evaluated.

### 6.4.12 Legal / Commercial

6.4.13 The response to Tier 2 Legal / Commercial criterion will be awarded a score out of 5. The range of marks and a description of each is set out below. Amendments and comments will be evaluated and allocated a score by reference to the degree to which such provisions conform to the provisions of the contract documentation and the risk allocation reflected. The Councils will apply a lower score to those Bidders that include amendments which vary the position of the parties as set out in the contract documentation either to increase the risk to the Councils or decrease the risk to the Bidder or which vary the position in another way unsatisfactory to the Councils.

Legal / Commercial		
Score	Rating	Descriptor for score
5	<b>Exceptional</b>	Awarded for a response which, viewed as a whole, shows that the Bidder has an excellent understanding of the Councils' position, and makes well justified suggestions which improve the Councils' position and/or positively impact on the Councils' overall risk profile
4	<b>Very Good</b>	Awarded where, viewed as a whole: <ul style="list-style-type: none"> <li>• a Bidder makes no amendments or no amendments with negative material impact on the Councils' overall risk profile; and/or</li> <li>• amendments or comments are entirely a matter of drafting and do not affect the commercial and/or legal risk allocation; and/or</li> <li>• amendments or comments which may affect commercial and/or legal risk allocation have a robust project specific justification which mean that they should not be treated as materially disadvantageous to the Councils</li> </ul>
3	<b>Good</b>	Awarded where, viewed as a whole, amendments represent a <b>moderate</b> change in commercial and/or legal risk allocation with moderate negative impact on Councils' overall risk profile
2	<b>Basic</b>	Awarded where, viewed as a whole, amendments represent a <b>material</b> change in commercial and/or legal risk allocation with material negative impact on Councils' overall risk profile
1	<b>Inadequate</b>	Awarded where, viewed as a whole, amendments represent a <b>significant</b> change in commercial and/or legal risk allocation with significant negative impact on Councils' overall risk profile
0	<b>Very Poor</b>	Awarded where, viewed as a whole, is unacceptable to the Councils as amendments represent a <b>highly significant</b> change in commercial and/or legal risk allocation with highly significant negative impact on Councils' overall risk profile

## 6.5 Price Evaluation

6.5.1 The price will be evaluated using the following three tier 2 criteria:

6.5.1.1 Total Cost of Ownership

6.5.1.2 Performance Management Framework

6.5.1.3 Cost of Future Change

### 6.5.2 Total Cost of Ownership

6.5.3 The Total Cost of Ownership is converted into a score as a percentage. The lowest, but feasible, price is awarded 32%, with all other prices awarded as a percentage of the lowest price in accordance with the below:

#### EXAMPLE

Total Cost of Ownership element = 32% weighting:

Bidder A = £1000.00

Bidder B = £2000.00

Bidder C = £4000.00

Lowest Price/Submitted Price x Price Criteria Weighting:

Therefore:

Bidder A =  $\frac{£1000.00}{£1000.00} \times 32 = 32\%$

Bidder B =  $\frac{£1000.00}{£2000.00} \times 32 = 16\%$

Bidder C =  $\frac{£1000.00}{£4000.00} \times 32 = 8\%$

6.5.4 Please note that the evaluated price will be the Overall Total Price, which should be the whole life cost of the contract (excluding VAT), which must include ALL charges including any Council resources to deliver implementation and on-going services that are required in respect of the terms of the contract

### 6.5.5 Performance Management Framework

6.5.6 The Call-off Contract set out in Volume 3 includes a cap on maximum deductions payable by the supplier as a consequence of a failure to deliver the quality of service provisions set out in the Performance Management Framework (the "Service Credit Cap"). The Call-off Contract provides for an initial Service Credit Cap to be in force for the period of 12 months from the first Operational Service Commencement Date; and a second Service Credit Cap, to be in force during the remainder of the Contract Term. The Service Credit Cap is expressed as a percentage, which represents the percentage of the supplier's annual contract payments from the Councils, to derive a numeric / financial value to the performance deduction cap. For the purpose of evaluation the sum of the financial value derived from the application of the Service Credit caps in each year of the contract will be used.

6.5.7 The Performance Management Framework cap is expressed as a %. Bidders must bid a minimum of 3%. The highest cap is awarded 3%, with all other caps awarded as a percentage of the highest cap in accordance with the below:

#### EXAMPLE

1. The highest cap in financial terms will get all 3 marks
2. Other bidders lose marks in proportion to how much lower their bid is compared to the highest bid

For example -

3 bidders make the following bid:

Bidder	Year 1		Years 2 to 7	
	PMF cap%	Annual fee (£)	PMF cap%	Annual fee (£)
A	5%	10,000	10%	8,000
B	7%	11,000	12%	9,000
C	8%	8,000	14%	7,000

Therefore the maximum value of the bidders caps are;

Bidder	Year 1	Years 2 to 7(6 years)	Total
A	500	4,800	5,300
B	770	6,480	7,250
C	640	5,880	6,520

Therefore Bidder B has offered the highest cap in financial terms and gets all 3 marks

Bidder C's cap is 10% lower than bidder B and therefore gets 2.7 marks (1-10% = 90% x 3)

Bidder A's cap is 27% lower than bidder B and therefore gets 2.19 marks (1-27% = 73% x 3)



### 6.5.8 Cost of Future Change

6.5.9 The Cost of Future Change is converted into a score as a percentage. The lowest, but feasible, cost is awarded 5%, with all other prices awarded as a percentage of the lowest price in accordance with the below:

#### EXAMPLE

Cost of Future Change element = 5% weighting:

Bidder A = £1000.00

Bidder B = £2000.00

Bidder C = £4000.00

Lowest Price/Submitted Price x Price Criteria Weighting:

Therefore:

Bidder A =  $\frac{£1000.00}{£1000.00} \times 5 = 5\%$

Bidder B =  $\frac{£1000.00}{£2000.00} \times 5 = 2.5\%$

Bidder C =  $\frac{£1000.00}{£4000.00} \times 5 = 1.25\%$

6.5.10 The sum of all of these derived percentages allows ranking of Bidders.

6.5.11 For the price criteria, the scores for each tier 2 criterion will then be weighted in accordance with the weightings set out in the table at Appendix D. The weighted tier 2 scores for price criteria is then weighted by 40%.

## Appendices

Appendix A - Glossary of Terms

Appendix B – Topics for Dialogue Meetings

Appendix C – Dialogue Protocol

Appendix D – Evaluation Criteria and Weightings

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## APPENDIX A – Glossary of Terms

### Definitions and Terms

For the purposes of this ISOS the capitalised words and expressions that follow have the meanings hereby assigned to them unless the context specifically requires otherwise. It should also be noted that reference to the singular include the plural and vice versa.

<b>Word or Phrase</b>	<b>Meaning</b>
<i>“2015 Regulations”</i>	means the Public Contracts Regulations 2015 as amended
<i>“Bidder”</i>	means the person, firm, company or consortium that has pre-qualified and has been invited to participate in Competitive Dialogue and to respond to this ISOS
<i>“Business Change Supplier”</i>	the third party supplier to be appointed by the Councils, by way of a separate procurement exercise, to deliver internal business change services to the Councils in support of the implementation and roll-out of the Services
<i>“Business Day”</i>	means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London;
<i>“Call-Off Contract(s)”</i>	the call-off contract(s) to be awarded for the provision of an enterprise resource planning software solution and entered into by the Councils and the Preferred Bidder, draft copies of which are provided in Volume 3
<i>“CFT”</i>	the call for Final Tenders
<i>“The Chest”</i>	the Councils’ procurement portal, <a href="http://www.the-chest.org.uk">www.the-chest.org.uk</a>
<i>“Collaboration Agreement”</i>	the collaboration agreement to be entered into between the Councils, the Preferred Bidder and the Business Change Supplier, a draft copy of which are provided in Volume 3
<i>“Competitive Dialogue”</i>	means a process undertaken in accordance with Regulation 30 of the 2015 Regulations
<i>“Consortium”</i>	means a group of organisations made up of a Lead organisation (the Bidder) plus its sub-contractors/consultants that it will be tendering with.
<i>“Councils”</i>	means Cheshire East Borough Council and Cheshire West and Chester Council
<i>“Data Room”</i>	has meaning given to it in paragraph 5.1.1 of this Volume 1
<i>“Descriptive Document”</i>	means the Descriptive Document issued with this ISOS
<i>“Detailed Dialogue Stage”</i>	means the second stage of the Competitive Dialogue process to which short listed Bidders will undertake.
<i>“Evaluation Criteria”</i>	means the criteria set out in Section 6 which the Councils will use to score the Final Tender submissions

<b>Word or Phrase</b>	<b>Meaning</b>
<i>“Final Tender”</i>	means the Bidder’s final offer for the provision of the Services
<i>“Framework Agreement”</i>	means the framework agreement to be awarded for the provision of an enterprise resource planning software solution and entered into by Cheshire East Borough Council as the lead contracting authority and the Preferred Bidder, a draft copy of which is provided in Volume 3
<i>“Invitation to Submit Outline Solutions” or “ISOS”</i>	means the invitation to submit Outline Solutions and participate in the dialogue to be made available to short listed Bidders following selection from the SQ stage of the Competitive Dialogue process
<i>“Lead Bidder”</i>	has the meaning given to it in paragraph 3.2.1 of this Volume 1
<i>“Other Service Users”</i>	schools (including all academies, faith, voluntary aided or controlled, maintained and ‘free’ schools, including those schools which may convert to academy status either during the procurement process or during the term of the call-off contracts including those that currently exist and their successors) within the Councils’ and the Related Councils’ administrative areas and subsidiary companies, associated companies and alternative service delivery vehicles (collectively called “ASDVs”) established by the Councils and the Related Councils to provide public services within their respective administrative areas
<i>“Outline Solution”</i>	means the document submitted by the Bidder in response to the ISOS
<i>“Preferred Bidder”</i>	has the meaning given to it in paragraph 2.2.4 of this Volume 1
<i>“Project”</i>	means the procurement, delivery and on-going support and maintenance of an enterprise resource planning (ERP) software solution for the Councils, the Related Councils and Other Service Users
<i>“Related Councils”</i>	Warrington Borough Council, Wirral Metropolitan Borough Council, Trafford Metropolitan Borough Council and Stockport Metropolitan Borough Council
<i>“Services”</i>	means the services to be provided by the successful Bidder as set out in the Requirements at Volume 2 of the ISOS

## APPENDIX B - Topics for Dialogue Meetings

**Note to Bidders:** Please note that as the date of issue of this draft ISOS the Councils are still considering and finalising the topics dialogue meetings. The Councils therefore reserve the right to add to or amend this Appendix B in the final version of the ISOS/ITPD issued to bidders.

The Councils will release full agendas for the dialogue sessions covering topic areas which the Bidders and/or Councils would like to discuss; will be issued prior to sessions.

It is anticipated that certain topics will cut across more than one workstream and dialogue sessions may be held with multiple teams to cover cross-cutting issues.

Workstream/Dialogue Theme	Topics
Solution	<ul style="list-style-type: none"> <li>• Hosting Model</li> <li>• Future Support Model</li> <li>• Solution Functionality</li> <li>• Data Security</li> <li>• Technical Services including Interfacing/integrating with the councils' systems</li> </ul>
Legal/Commercial	<ul style="list-style-type: none"> <li>• Legal structure</li> <li>• Framework Agreement and Call-Off Contract</li> <li>• Key assumptions and commercial points</li> <li>• Submission requirements</li> </ul>
Business Change	<ul style="list-style-type: none"> <li>• Implementation Approach</li> <li>• Implementation Timeline</li> <li>• Supporting the delivery of effective business change</li> <li>• Enabling Benefits Realisation</li> <li>• Resources</li> </ul>
Financial	<ul style="list-style-type: none"> <li>• Total Cost of Ownership</li> </ul>

## APPENDIX C - Dialogue Protocol

Please see separate document

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**APPENDIX D - Evaluation Criteria and Weightings**

**Award Criteria**

**Note to Bidders:** Set out below are the tier 1, tier 2 and tier 3 award criteria and weightings that will be applied by the Councils to assess the most economically advantageous tender, during the tender/dialogue stage of this procurement. This information is being made available to the Bidders from the date of publication of the OJEU Contract Notice as part of the procurement documents.

Tier 1		Tier 2		Tier 3	
Criteria	Weighting	Criteria	Weighting	Criteria	Weighting
Quality	60%	<b>Delivering the Councils' Requirements</b> How the Solution will deliver the Councils' required Business requirements.	33%	Meeting our requirements – Finance	4%
				Meeting our requirements – Payments and Income	4%
				Meeting our requirements – Human Resources	4%
				Meeting our requirements - Payroll	4%
				Meeting our Overarching Requirements	7%
				Meeting our Non-Functional Requirements	10%
		<b>Delivering the Programme</b>		Responses to question on Programme Timeline	5%

Tier 1		Tier 2		Tier 3	
Criteria	Weighting	Criteria	Weighting	Criteria	Weighting
		<b>Services and Timeline</b>	15%	Responses to question on Programme Management and Governance	3%
				Responses to questions on Technical Delivery Services	4%
				Responses to question on Implementation Services	3%
		<b>Delivering Future Change</b>	5%	Responses to question on how future change is delivered	5%
		<b>Legal / Commercial</b>	7%	Please note that there are no Tier 3 Criteria relating to Legal / Commercial	
<b>Price</b>	40%	<b>Total Cost of Ownership – TCO</b>	32%	Please note that there are no Tier 3 Criteria relating to Price	
		<b>Performance Management Framework</b>	3%		
		<b>Cost of Future Change</b>	5%		