

## **SECTION A – INSTRUCTIONS & INFORMATION**

### **A1 DEFINITIONS**

In this Invitation to tender the following words and expressions shall have the following meanings set out below:

<b>Term</b>	<b>Definition</b>
<b>Applicant</b>	Shall mean the organisation responding to this Invitation to Tender (ITT)
<b>Authority</b>	Shall mean Mid Devon District Council
<b>Supplier</b>	means the contractor appointed to provide the Goods for the Council
<b>Clarification Period</b>	means the time during which clarifications associated with the ITT or any support documentation may be sought in writing to the Contact Officer
<b>Commencement Date</b>	means the date when the Contract commences as indicated in section 3.3 of this ITT
<b>Consortia/Consortium</b>	Shall mean two (2) or more persons, at least one of whom is an economic operator, acting jointly for the purpose of being awarded a public contract (pursuant to Regulation 19 of the Public Contracts Regulations 2015)
<b>Contact Officer</b>	means Chanelle Busby (Procurement Manager) at Mid Devon District Council whose e-mail is <a href="mailto:cbusby@middevon.gov.uk">cbusby@middevon.gov.uk</a> and Tel: (01884) 234228. <i>[NB. Questions in relation to this contract should be submitted through the Question &amp; Answer (Q&amp;A) Facility on the Supplying The Southwest portal and not direct to the contact or any Officer]</i>
<b>Contract</b>	Shall mean the Agreement between the Contracting Authority and the Contractor for the provision of the Goods, which will be awarded to a successful Applicant(s).
<b>Contract Award Notice</b>	<b>For above threshold opportunities</b> , tells the market who won the contract through the Official Journal of the European Union.
<b>Contract Notice</b>	<b>For above threshold opportunities</b> , an official call for competition through the Official Journal of the European Union.
<b>Contractor/s</b>	Shall mean the Applicant/s awarded the contract culminating from an offer to supply accepted by the Contracting Authorities.
<b>Council</b>	means Mid Devon District Council
<b>Employers' Liability (Compulsory Insurance)</b>	Shall mean an insurance that enables organisations to meet the costs of <b>damages</b> and <b>legal fees</b> for employees who are injured or made ill at work through the fault of the employer. Employees injured due to an employer's negligence can seek compensation even if the organisation goes into liquidation or receivership.

	<p>The NHS can also claim the costs of hospital treatment (including ambulance costs) when personal injury compensation is paid. This applies to incidents that occur either on or after 29 January 2007.</p> <p>By law, an employer must have EL insurance and be insured for <b>at least £5 million</b>. Most insurers automatically provide cover of at least £10 million. The insurance must cover all the organisation's employees in England, Scotland, Wales and Northern Ireland.</p> <p>If the organisation is not a limited company, and you are the only employee or you only employ close family members, you do not need compulsory Employers' Liability Insurance. Limited companies with only one employee, where that employee also owns 50 per cent or more of the issued share capital in the company, are also exempt from compulsory Employers' Liability Insurance. However, there is nothing to prevent an exempt employer from choosing to buy this insurance in view of the financial security it can provide.</p>
<b>Form of Tender</b>	means the form submitted by the Applicant to the Council as part of the Tender, a draft of which is annexed at F3
<b>Goods/ Works/ Services</b>	Means the xxx as specified at Section B - Specification
<b>ITT</b>	means this Invitation To Tender
<b>Lead Applicant</b>	Shall mean the organisation leading the bidding process on behalf of its consortia or sub-contractor partners
<b>MDDC</b>	means Mid Devon District Council
<b>MEAT</b>	Shall mean Most Economically Advantageous Tender
<b>Member</b>	Shall mean the elected councillors representing the wards and the business-owners, residents and visitors thereof within the district of Mid Devon
<b>Official Purchase Order</b>	Shall mean the Authority's Official Purchase Order, to which these conditions apply
<b>OJEU</b>	Official Journal of the European Union
<b>Pricing Schedule</b>	means the schedule of prices at Section E required to be completed by the Applicant as part of the Tender
<b>Product Liability Insurance</b>	<p>In Product Liability Insurance terms, a product is any physical item that is sold or given away.</p> <p>Products must be 'fit for purpose'. The organisation is <b>legally responsible</b> for any damage or injury that a product it supplies may cause (in some circumstances this also includes products that the organisation does not manufacture).</p> <p>Product Liability Insurance covers the organisation against damages awarded as a result of damage to property or personal injury caused by the product. If damages are paid for personal injury, the NHS can claim to recover the costs of hospital treatment (including ambulance costs). This applies to incidents that occur either on or after 29 January 2007.</p>

<b>Professional Indemnity Insurance</b>	<p>Shall mean a liability cover that provides protection for negligent advice or a service provided by the organisation, it also protects against damages the organisation becomes liable for in relation to mistakes made such as errors of judgement, basic administration errors, mislay of or damage to clients' documents. It is designed to safeguard it against claims made by clients for any resulting financial loss or damage to their reputation. This type of insurance should also cover legal fees and costs.</p> <p>Individuals and organisations that provide professional advice or consultancy services need Professional Indemnity cover.</p>
<b>Public Liability Insurance</b>	<p>Shall mean an insurance that covers members of the public or customers coming to the organisation's premises or if the organisation's staff go to theirs (including if the organisation is based 'at home'). It covers any awards of damages given to a member of the public because of an injury or damage to their property caused by the organisation. It also covers any related <b>legal fees</b>, costs and expenses as well as costs of hospital treatment (including ambulance costs) that the NHS may claim from the organisation.</p> <p>Premiums are based on the type of business and rated on an estimate for the level of activity of the business.</p>
<b>Specification</b>	Shall mean the detailed description of the Council's requirements
<b>Submission</b>	<p>Shall mean the correct and proper process for submitting the Applicant's bid electronically. All bids shall be submitted in accordance with the 'Submitting the Tender Response' section of the ProContract 'How to Guide' Supplier Guide entitled 'Responding to Tenders', which can be found from the 'Help' screen on the system.</p> <p>Applicants will not e-mail their bids directly to any named person/s within the Authority or to any of the Authority's generic e-mail addresses.</p> <p>Applicants will not attach their bids to any part of the ProContract system other than described within the document referred to above.</p> <p>Applicants will not send their bids to the Authority in a paper or other 'hard' format unless specifically requested to do so within the associated bid documentation.</p> <p>Any Submissions that do not accord with the guidelines set out above shall be considered as non-compliant and will be treated as such.</p>
<b>Supplying the South West</b>	Shall mean the e-Tendering portal through which the Authority advertises procurement opportunities and conducts procurement processes electronically

<b>Tender Documents</b>	Shall mean your written offer to Contract Goods at the cost/s or rate/s specified in any subsequent documentation
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<b>A2</b>	<b>DEFINITIONS SPECIFIC TO THIS PROCUREMENT</b>
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CV – Cardiovascular

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## **A3 THE PROCUREMENT OPPORTUNITY**

### **3.1 Background Information**

Mid Devon District Council is committed to providing a market leading leisure experience; exciting times with a £0.9M extension to Exe Valley Leisure Centre currently underway. To reflect our aspiration for the future we want more than an equipment supplier; we want a strategic leisure partner. A partner that can help us stay at the forefront of a fast moving industry. We want this to be a true partnership that maximises the opportunity at our existing three leisure centres and creates capacity to seek new opportunities. This notice articulates the core offer; yet it is clear we expect our partner to work with us on new opportunities within the framework of our strategic partnership.

### **3.2 Contract Period**

The contract shall be for a period of 5 years plus a possible 5 year extension subject to performance.

The Council intends to update the gym equipment at each of the sites on one of the following basis:

<b>Year</b>	<b>Option 1</b>	<b>Option 2</b>
2017	EVLC all	EVLC CV & Resistance refurb
2018	LMLC CV	LMLC CV
2019	CVSC CV	CVSC
2020		EVLC Resistance
2022	EVLC CV	
2023	LMLC all	
2024	CVSC all	

### **3.3 Procurement Timetable – Competitive procedure with negotiation**

The Authority proposes the following timetable for the award of the Contract(s):

Publish Contract Notice	03/07/2017
Submission of Request to participate (expression of interest)	03/08/2017
Documents distributed to Applicants (ITT)	03/07/2017 – 03/08/2017
Clarification questions to be submitted by	12 noon 08/08/2017
Clarification responses to be issued by	5pm 10/08/2017
Submission of ITT	14/08/2017
Initial evaluations	15-16/08/2017

Presentations/ Negotiation	17-18/08/2017
Final specification distributed to applicants	22/08/2017
Submission of final bids	06/09/2017
Evaluation	07-15/09/2017
Decision	28/09/2017
Standstill period	29/09/2017 – 09/10/2017
Contract Award	9/10/2017
Contract Award Notice	Maximum of 30 days from contract award
Lead time for delivery (10 weeks)	w/c 18/12/2017

The Authority reserves the right to change the above timetable and Applicants will be notified accordingly if there is a change.

### 3.4 Authority Representative

No person in the Authority's employ or other agent, except as so authorised by the Authority Authorised Officer or Procurement Representative, has any authority to make any representation or explanation to Applicants as to the meaning of the Contract or any other document or as to anything to be done or not to be done by Applicants or the successful Applicant or as to these instructions or as to any other matter or thing so as to bind the Authority.

<b>Authority Authorised Representative contact details:</b>	
Name: Corinne Parnall	Email: <a href="mailto:cparnall@middevon.gov.uk">cparnall@middevon.gov.uk</a>
Job title:	Tel: 01884 234320
<b>Procurement Representative contact details</b>	
Mrs Chanelle Busby Procurement Manager	Email: <a href="mailto:cbusby@middevon.gov.uk">cbusby@middevon.gov.uk</a>
	Tel: 01884 234228

### 3.5 Consortia and Sub-contracting

Where an Applicant wishes to make its application as a Consortium or utilising sub-contractors the Authority advises the group of organisations to select a Lead Applicant in whose name the ITT response is to be submitted. The Lead Applicant is advised to confirm precisely what the arrangements are within the ITT including providing the names of all of the organisations to be involved, the nature and extent of their involvement and proposals regarding the structure and management of the Consortium or arrangements. Such details should be provided within Section F Forms and should enable the Authority to assess the overall Consortium or core supply base.

The Lead Applicant should provide details of the actual or proposed percentage shareholding of the constituent members within the Consortium or the exact nature of and degree to which the Services will be sub-contracted.

Applicants that wish to bid as a Consortium or sub-contractor are discouraged from also making their own individual application or from participating in

Consortia or providing sub-contracting arrangements for multiple Lead Applicants.

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

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

Please note that the Authority reserves the right to require a successful Consortium to form a single legal entity in accordance with regulation 19 of the Public Contracts Regulations 2015.

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#### 4.1 Procurement Procedure

The procurement procedure that the Authority has selected is a competitive procedure with negotiation in accordance regulation 29 of the Public Contracts Regulations 2015 and with the Authority's Contract Procedure Rules

Invited Applicants will submit an initial tender which will form the basis for subsequent negotiations. The Authority may negotiate with Applicants on the initial and subsequent tenders submitted by them, except for the final tender.

The Authority reserve the right to award the contract based on the initial tenders without further negotiation.

Initial and subsequent tenders shall be evaluated in accordance with the criteria outlined at 4.2 Evaluation and the information used as a means to inform further negotiations.

Once negotiations are concluded, the Authority will notify all remaining Applicants of the deadline to submit final tenders that will be evaluated in accordance with the criteria outlined at 4.2 Evaluation and the information contained within it shall be used by the Authority as the means to make a Contract award decision.

The Authority reserves the possibility to award the contract on the basis of the initial tenders without negotiation.

This procedure may take place in successive stages in order to reduce the number of tenders to be negotiated by applying the award criteria specified within this document.

All procurement activity will be carried out with full consideration for the following principles:

1. Equal treatment
2. Non-discrimination
3. Mutual Recognition
4. Proportionality
5. Transparency

#### 4.2 Evaluation

The evaluation process is a critical part of the tender process and is the means by which the Authority is able to assess to whom to award the Contract.

The information disclosed by Applicants in its bid will be used in this evaluation process and for evaluation purposes only, except where indicated otherwise.

This stage of the evaluation is called the Award stage.

**The following criteria and weightings will be applied in the evaluation of the submitted responses:**

Award Criteria	Sub Criteria % Breakdown	% Criteria Breakdown
Quality Criteria		<b>70%</b>
Design & Layout	20%	
Proposed Equipment	40%	
Maintenance/ technical support	5%	
Added Value	30%	
References	5%	
Price		<b>30%</b>
Total cost of contract delivery*	40%	

\*The following is used to calculate the pricing score:

$$\text{Score} = \frac{\text{Lowest bid price}}{\text{Your bid price}} \times 30\%$$

### 4.3 Award Process

Award criteria are those that can be considered in assessing the Most Economically Advantageous Tender and as such Applicants responses to the questions asked should give a clear indication of what the organisation is offering for the price/s quoted in Section E the Pricing Schedule.

### 4.4 Award Questions

The Award questions can be found in Section D Award and are for all Applicants to answer in full.

Applicants should be aware that the responses provided to the questions within the award section of Section D Award will be evaluated against a marking system that awards the highest marks to Applicants who show innovation, creativity, further relevant details and information that could potentially enhance the Applicants proposal. It should be noted that to achieve the highest marks available for the question you should not only meet but exceed the basic requirements of the question.

The Authority has not provided a word limit for responses to the questions in Section D Award; however the Authority would like to inform Applicants that

responses should be relevant to the question and applicable in length. Supporting information may be submitted, provided that it is clearly referenced in the question to which it clearly relates and appended to the main bid.

Any responses to any questions in this section or any other part of your bid that are later found to be incorrect against any of the questions or requirements in the Award sections may lead to you being exempted from this or any future procurement processes lead by the Authority and could cause the termination of any resultant Contract.

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## 4.5 Marking Guidelines

The questions within Section D Award will be evaluated against the following marking system:

Score 0	No response	No response	
Score 1	Extremely Weak	Very poor proposal/ response; does not cover the associated requirements, major deficiencies in thinking or detail, significant detail missing, unrealistic or impossible to implement and manage	<b>Weak</b>
Score 2	Very Weak	Poor proposals/ response; only partially covers the requirements, deficiencies in thinking or detail apparent, difficult to implement and manage	
Score 3	Weak	Mediocre proposal/ response, moderate coverage of the requirements, minor deficiencies in either thinking or detail, problematic to implement and manage	
Score 4	Fair- Below Average	Proposal/ response partially satisfies the requirements, with small deficiencies apparent, needs some work to fully understand it	<b>Fair - Good</b>
Score 5	Fair – Average	Satisfactory proposal/ response, would work to deliver all of the Authority's requirements to the minimum level	
Score 6	Fair – Above Average	Satisfactory proposal/ response, would work to deliver all of the Authority's requirements to the minimum level with some evidence of where the Applicant could exceed the minimum requirements	
Score 7	Good	Good proposal/ responses that convinces the Authority of its suitability, response slightly exceeds the minimum requirements with a reasonable level of detail	
Score 8	Strong	Robust proposal/ response, exceeds minimum requirements, including a level of detail or evidence of original thinking which adds value to the bid and provides a great deal of detail	<b>Strong - Excellent</b>
Score 9	Very Strong	Proposal/ response well in excess of expectations, with a comprehensive level of detail given including a full description of techniques and measurements employed	
Score 10	Outstanding/ Excellent	Fully thought through proposal/ response, which is innovative and provides the reader with confidence of the suitability of the approach to be adopted due to the complete level of detail provided	

#### **4.6 Clarification and Circular Advices**

If your organisation has any questions relating to the procurement process as a whole, please contact the Procurement Representative detailed within this Section A Instructions and Information.

There will be no negotiations of any of the substantive terms of the documents. Only clarification queries relating to the documents will be answered.

Applicants shall submit all clarification questions via the Supplying the South West e-Tendering portal before twelve (12) noon on the date given at 3.3 Procurement Timetable of this Section A Instructions and Information.

Applicants should note that unless your question is innovation based, responses will be provided to all Applicants. The identity of Applicants raising any questions will remain confidential and you should refrain from signing off your name or company in the content of your question.

Any instruction by the Council prior to the due date will be issued to all Applicants via the Supplying the South West e-Tendering portal.

If during the period the Authority or Awarding Authority in the case of a Framework Agreement issues any circular letters to Applicants in order to clarify or alter part of the documents, then such circular letters shall form part of the Contract and Applicants shall be deemed to have taken account of them in preparing their bid. Applicants shall also promptly acknowledge any circular letters that they receive.

#### **4.7 Applicant Site Visits**

The Applicant may visit the sites prior to completing its offer by contacting the Authority Authorised Representative at 3.4 to ensure that he is fully familiar with the site locations.

The information in the attached Appendices is given as an indication of the general requirements of the Contract. Claims on the grounds of lack of knowledge of site locations/conditions will not be accepted by the Authority.

#### **4.8 Presentations & Negotiation**

The Authority reserves the right to invite Applicants to attend a presentation at which stage it will be a requirement to reinforce your position by presenting your bid to the key stakeholders involved followed by discussion around the content of your bid and subsequent negotiation on your offering.

Applicants will be contacted to be invited to these meetings. The invite will detail the date, time and location and the required content of any presentation.

Applicants short listed and invited to presentation/ negotiation must be available for the dates indicated within the timetable at this section A Instructions and Information. Specific dates/times for each Applicant's presentation will be

finalised and Applicants will be informed after the Authority has received the Tenders.

#### **4.9 General Conditions**

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

Should the Contract be extended to its full term, any price variations will be by negotiation only, following the process as stated above. All prices submitted shall be in pounds sterling and shall be exclusive of Value Added Tax (VAT) or in the unit prescribed by the ITT documentation

#### **4.10 Rejection of Offers**

The Authority may at its absolute discretion refrain from considering or reject any offer if: it is incomplete or vague or is submitted later than the prescribed date and time; or it is not in accordance with the approved format and all other provisions of the documents or is in breach of any condition contained within it.

Any Submission in respect of which the Applicant:

Has directly or indirectly canvassed any Official, Member or Officer of any of the Authority or obtained information from any other person who has been contracted to carry out the delivery of the contract for the Authority concerning the award of the Contract or who has directly or indirectly obtained or attempted to obtain information from any such Official, Member or Officer concerning any other Applicant; or

Fixes or adjusts the prices shown in Section E Pricing Schedule by or in accordance with any agreement or arrangement with any other person; or

Communicates to any person other than the Authority the amount or approximate amount of the prices shown in Section E Pricing Schedule except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the bid or for the purposes of insurance or financing; or

Enters into any agreement with any other person that such other person shall refrain from submitting an offer or shall limit or restrict the prices to be shown or referred to by another Applicant; or

Offers to agree to pay to any person having direct connection with the procurement process or does pay or give any sum of money, inducement or valuable consideration, directly or indirectly, for doing or having done or

causing or having caused to be done in relation to any other Applicant or any other person's proposal, any act or omission,

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

#### **4.11 Acceptance of Offers**

The Authority shall accept what it considers to be the Most Economically Advantageous Tender. The Authority reserves the right to award the business in whole to one Applicant, in part to more than one Applicant or to make no award at all. The Authority is prepared to consider part bids as appropriate.

#### **4.12 Award of Contract**

The successful Applicant shall conclude a formal Contract with the Council, which shall embody the Applicant's offer. No Applicant may consider itself successful unless and until a formal Contract has been signed by a Duly Authorised Officer of the Authority and co-signed by the Applicant's Authorised Officer.

The offer shall remain open for acceptance for a period of six (6) months from the closing date for the receipt of Submissions.

#### **4.13 Bribery Act**

The Bribery Act 2010 modernises the law on bribery and came in to force on 01 July 2011. The Act requires Public Bodies to ensure that they have procedures in place to prevent bribery by persons associated with them.

As part of this responsibility all Applicants should make themselves aware of the obligations set out at <http://www.justice.gov.uk/legislation/bribery>.

#### **4.14 Counter Terrorism and Security Act 2015**

Section 29 of the Counter Terrorism and Security Act 2015 places a duty on Local Authorities in the performance of their duties to have "due regard to the need to prevent people from being drawn into terrorism". The Act requires the Authority to ensure that its procedures help to ensure a better understanding of radicalisation so that strategies can be put in place to deal with it.

As part of this responsibility all Applicants should make themselves aware of the obligations set out at <http://www.legislation.gov.uk/ukpga/2015/6/contents>.

#### **4.15 Modern Slavery Act 2015**

Regulation 19 of the Modern Slavery Act 2015 incorporates the offences under Section 1,2 or 4 of the Modern Slavery Act 2015 into Regulation 57 of the Public Contract Regulations as grounds for mandatory exclusion at selection stage. Section 54 of the Act also requires businesses which meet certain criteria to prepare and publish a slavery and human trafficking statement.

As part of this responsibility all Applicants should make themselves aware of the obligations set out at <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>.

#### **4.16 Local Government Transparency Code 2015**

The Government has set out the need for greater transparency across its operations to enable the public to hold public bodies and politicians to account. This includes commitments about public expenditure, intended to help achieve better value for money.

As part of the transparency agenda, the Government has made the following commitments for procurement and contracting.

Local authorities must publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000.

For each contract, the following details must be published

- reference number
- title of agreement
- local authority department responsible
- description of the goods and/or services being provided
- supplier name and details
- sum to be paid over the length of the contract or the estimated annual spending or budget for the contract<sup>17</sup>
- Value Added Tax that cannot be recovered
- start, end and review dates
- whether or not the contract was the result of an invitation to quote or a published invitation to tender, and
- whether or not the supplier is a small or medium sized enterprise and/or a voluntary or community

Applicants and those organisations looking to bid for public sector contracts should be aware that if they are awarded a new government contract, as a public sector organisation, we will publish that contract. In some circumstances, some information will be made unreadable before they are published so we comply with existing law and for protecting national security.

As part of the tendering process, when submitting your bids, you should identify which pieces of information you regard as being sensitive and would not want published. We will then assess this information (along with the rest of the contract) against the exemptions set out by the Freedom of Information Act



when considering which contractual information should or should not be published.

#### **4.17 Intermediaries Regulations (IR35)**

The new rules on payments to intermediaries came into force on 6<sup>th</sup> April 2017. Public sector bodies have to decide if a worker contracted and paid via an intermediary would be an employee, if engaged directly. If so, the rules are 'in scope' and the fee payer is required to deduct income tax and employee National Insurance ('NIC') from the 'deemed earnings' and remit these sums to HM Revenue & Customs, together with employer's NIC.

MDDC uses the Employment Status Service tool provided by HMRC to determine whether the rules apply to all new engagements. If they do, the supplier will be paid via the Councils payroll system and the necessary deductions made.

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## **A5 UNDERSTANDING THE PROCUREMENT DOCUMENTATION**

### **5.1 Structure of the Document**

This document is split in to four (4) sections as follows:

Sections for Information	Sections for Completion and Return
Section A Instructions and Information	Section C Supplier Questionnaire
	Section D Award
Section B Specification	Section E Pricing
	Section F Forms

For the avoidance of doubt, only those Sections numbered C, D, E and F inclusive require completion and Submission by the Applicant.

The Submission of Sections C, D, E and F will be considered by the Authority to be a fully complete and official offer.

Any Submissions made omitting Section C, D, E or F, will be considered as incomplete and will be treated as such. Documents should only be completed in the format in which they currently appear and resubmitted in the original sections as stated above.

**It is essential that Applicants do not re-format, re-brand or consolidate any of the sections in accordance with their own standards on formatting in order to aid the Authority's evaluation process.**

Applicants are expected to read, understand and agree to all sections of the document as it will in its entirety form part of the resultant Contract. A Submission checklist is enclosed in Section F Forms for all Applicants to complete.

### **5.2 Terms and Conditions**

The Terms and Condition of Contract applicable to this opportunity can be found on the Supplying the South West e-Tendering portal. Applicants will be required to declare that they have read and understood and will comply with said clauses as part of the document return process as detailed at 5.9 Return of Document of this Section A Instructions and Information.

Those Applicants that wish to make comments in relation to the terms and conditions may do so prior to Submission and on the e-tendering system itself. However, the Authority does not offer any warranty that any comments made by agencies will be accommodated in the final contract.

### **5.3 Study of the Document**

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

The Applicant is required to examine the documents and to obtain all information as it may require them to make a bid. The Applicant shall be deemed to have satisfied itself as to the correctness and sufficiency of its Submission. No claims whatsoever shall be entertained arising out of the Applicants failure to study the documents; the information you provide will be relied upon as being true and accurate and will form part of the Contract for the successful Applicant. If any of the information given by your organisation within the document is subsequently identified as being inaccurate, this may exclude your organisation from further consideration.

Applicants shall be deemed to have satisfied themselves before making their Submission as to the accuracy and sufficiency of the prices and rates as stated in Section E Pricing Schedule which shall (except in so far as it is otherwise provided in the Contract) cover all obligations under the Contract and Applicants shall also be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect its bid.

The Applicant is responsible for obtaining all information necessary for the preparation of its bid and all costs, expenses and liabilities incurred by the Applicant in connection with it shall be borne by the Applicant.

#### **5.4 Completion of Documents**

All entries such as rates, price totals or any other endorsements entered must be typewritten in English.

Applicants will answer all appropriate questions and sign (if possible) where specified. You may continue on a separate sheet where necessary. Applicants will clearly reference their replies and any supporting documentation.

Any pro-formas must be fully completed even if your organisation has previously submitted information. It is not sufficient to cross-refer to previous responses.

#### **5.5 Innovative Offers**

Innovative offers may be made *in addition* to making a full and complete Submission. The Submission of an innovative offer will not be considered if the Applicant fails to make a complete Submission in the prescribed format.

#### **5.6 Alternatives and Variations**

Should the Applicant wish to offer a variation or alternative to the Specification detailed within this document, including innovations to any Services identified, please complete the Tender as described, answering the questions asked against the Specification provided at Section B and submitting the relevant pricing within Section E Pricing Schedule: the 'standard bid'. Your alternative or variant bid should be prepared separately and submitted as such, giving clear details of your organisation's departure from the specification or where your innovations alter other parts of the Tender, for example any Contract clauses or pricing. No alternative or variant shall be considered by the Authority without the Submission of a 'standard' bid.

### **5.7 Discrepancies, Omissions and Enquiries concerning the Documents**

Should the Applicant find discrepancies in, or omissions from, the documents, the Authority's Procurement Representative shall be immediately notified by the Applicant.

### **5.8 Errors and Omissions**

Should any additions or deletions to the documents be considered necessary prior to the date for Submission, these will be issued by the Authority to Applicants and will be deemed to then form part of the documents; the Authority reserves the right to extend any date of Submission accordingly.

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

### **5.9 Return of Document**

Documents must be returned electronically via the Supplying the South West Tenders e-Tendering portal. Should you experience any problems with Supplying the South West, please contact the support desk [swsupport@due-north.com](mailto:swsupport@due-north.com) or call 0844 334 5204. This line is available between 08:30 and 17:00 Monday to Friday (excluding English bank holidays).

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

Submissions made after the date and time specified on the documents or to a different address, electronically or otherwise, will not be considered under any circumstances.

### **5.10 Non Submission**

If no offer is to be made, this must be indicated via the Supplying the South West portal. In order that the Authority can better understand its Applicant base, your comments regarding the reasons behind your non-Submission would also be appreciated. These can also be made via the Supplying the South West portal.

### **5.11 Ownership**

The documents which constitute the offer and all copies thereof are and shall remain the property of the Authority and save for the purposes of the bid, must not be copied or reproduced in whole or in part and must be returned to the Authority upon demand.

### **5.12 Applicant's Warranties**

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

It has full power and authority to enter into the Contract and provide the Services will if requested produce evidence of such to the Authority;

It is of sound financial standing and the Applicant and its partners, directors, officers and employees are not aware of any circumstances (other than such circumstances as may be disclosed in the audited accounts or other financial statements of the Applicant submitted to the Authority) which may adversely affect such financial standing in the future.

### **5.13 Authority's Warranties and Disclaimers**

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

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

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

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

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