

# Volume One (1) – Information and Conditions of Tender



Tender for: Professional Services  
**THE FORMER ASSIZE COURT, DEVIZES**

Background Information, Instructions and  
Conditions of Tender

**Applicants should read this Volume first**

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# Information and Instructions

## Section 1 – About the Trust

### 1.1 The Trust

1.1.1 The Client is the Devizes Assize Court Trust (the Trust), which is Charitable Incorporated Organisation (CIO) formed in 2018 for the purpose of undertaking the full restoration of the former Assize Court building and its conversion and extension to provide new premises for the Wiltshire Museum.

1.1.2 The objects of the Charity are for the benefit of the public:

- to preserve property and buildings of historic or architectural interest or importance, in particular (but not limited to) in the area of Wiltshire;
- to advance the education of the public in the arts, culture and history, in particular through the maintenance of a museum; and
- to further such exclusively charitable objects according to the laws of England and Wales as the Trustees in their absolute discretion from time to time determine.
- <https://devizesassizecourt.org.uk/>

1.1.3 For this project DACT is working with the Wiltshire Museum (run by the Wiltshire Archaeological and Natural History Society - WANHS) and the Wiltshire Historic Buildings Trust Ltd. (WHBT).

1.1.4 The Wiltshire Archaeological and Natural History Society is a Registered Charity No. 1080096 and a Company Limited by Guarantee Registered in England no. 3885649. The Objects of the Charity are: to promote, foster interest in exploration, research and publication on the archaeology, art history and natural history of Wiltshire.

<https://wiltshiremuseum.org.uk>

1.1.5 The Wiltshire Historic Buildings Trust (WHBT), that has provided some of the funds for the purchase of the building and to enable initial studies to be undertaken, was established in 1967 as a not-for-profit Company, Limited by Guarantee (Company No. 909645) and a Registered Charity No.254087. In addition to making a financial contribution WHBT is providing technical advice and support. <https://whbt.org.uk>

## Section 2 – About the Tender

### 2.1 The Tender

2.1.1 The Devizes Assize Court Trust (DACT) is seeking tenders for professional services to undertake the project work necessary to design a scheme for the repair, conversion and extension of the former Assize Court in Devizes to provide new accommodation for the Wiltshire Museum. The tender seeks to appoint a principle Design Team to provide the professional services covering items:

RIBA stage 1 Preparation and Brief and;

RIBA stage 2 Concept design as outlined in the RIBA Plan of Work, to include submission / approval of applications for Planning Permission & Listed Building Consent.

2.1.2 Development of the project beyond this stage will depend on securing grants from public and private sources and this will also determine the rate of progress. It is possible that the appointed design team will be employed for the whole project, but this will be for a later decision and will depend on satisfactory performance and on the Trust securing sufficient funds to move to RIBA stages 3 to 7 (stage 3 Developed Design; 4 Technical Design; 5 Construction; 6 Handover; and 7 In use).

2.1.3 The Tender is seeking to appoint a Principle Professional Design Team that consists of:

- Architectural Services
- Cost Consultant
- Structural Engineering Services
- Mechanical Engineers Services

2.1.4 The building is located in Northgate Street, Devizes, Wiltshire, SN10 1JL and the site includes a parcel of vacant land to the rear.

2.1.5 There are four key aspects to this project:

- The careful conservation of the historic building to a standard commensurate to its grade II\* listing
- Creating spaces to accommodate the museum requirements
- A rear and possibly side extension (east) to provide the additional spaces needed
- Fitting out of the museum displays

2.1.6 Full details around the Tender can be found in the accompanying documentation:

- Volume 2 – Applicant Response (Supplier Questionnaire)
- Volume 3 – Applicant Response (Tender)
- Schedule 1 – Price Schedule
- Schedule 2 – Project Brief including:
  - Appendix A – Historic Importance – Statement of Significance
  - Appendix B – Introduction to Wiltshire Museum
  - Appendix C – The Planning Context
  - Appendix D – The Devizes Wharf Project – Additional Information
- Terms and Conditions The form of contract to be the RIBA Professional Services Contract 2018 – Architectural Services

## **2.2 Contract**

2.2.1 It is intended that any resultant Contract shall commence as soon after receipt of formal letter of award as may be agreed.

## **2.3 Insurance Levels**

### **2.3.1 Employer's Liability Insurance**

The Trust's minimum requirement for Employer's Liability Insurance is **£5m**

### **2.3.2 Professional Indemnity Insurance**

The Trust's minimum requirement for Professional Indemnity Insurance is **£2m**

### **2.3.3 Public Liability Insurance**

The Trust's minimum requirement for Public Liability Insurance is **£10m**

## **2.4 Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) (as amended)**

2.4.1 It is the responsibility of the Applicant to consider whether or not TUPE is likely to apply in the particular circumstances of this tender exercise and to act accordingly. Applicants should therefore take their own advice regarding the likelihood of TUPE applying. However, it is the view of the Trust that TUPE does not apply to this tender. Applicants should take account of the provisions contained in the Best Value Authorities Staff Transfers (Pensions) Direction 2007.

2.4.2 For more information please use the websites listed below:

[www.gov.uk/transfers-takeovers](http://www.gov.uk/transfers-takeovers)  
<http://www.opsi.gov.uk>

## **Section 3 – About the Procurement Process**

### **3.1 Procurement Procedure**

- 3.1.1 The procurement process to be followed is Restricted Procedure as outlined in the Public Contracts Regulations 2015.
- 3.1.2 The Trust is issuing this Selection Questionnaire (SQ) which sets out the process and forms stage one of the 'Restricted' procedure as outlined within the Public Contracts Regulations 2015.
- 3.1.3 The Trust requires the information sought in this questionnaire from Applicants in response to the OJEU contract notice.
- 3.1.4 The SQ sets out the information required by the Trust in order to assess the Applicant's suitability in terms of their technical knowledge, experience, capability/capacity, organisational and financial standing to meet the requirements.
- 3.1.5 The SQ will be available to every Applicant responding to the OJEU notice, and will be used in the first step of selecting Applicants to Bid. Selected Applicants will be notified in writing that they have been invited to participate further in the procurement. Unsuccessful Applicants will also be notified of the outcome of their SQ in writing.
- 3.1.6 At the conclusion of the SQ stage, the intention is to arrive at a short list of suitable Applicants to take forward to Tender Stage. Suitable Applicants to take forward to Tender stage will have:
- Passed all "Pass" questions in the SQ and;
  - Scored a minimum of 5 (Satisfactory) in the scored question.
- 3.1.7 Except in addition to the above this will not apply in the event of five or more Applicants scoring 8 (Good) or more, where only those who have scored minimum of 8 (Good) and passed all "Pass" questions in the SQ will be invited to Tender.

### **3.2 Instructions for Completion**

- 3.2.1 All response must be in English and costs submitted are to be presented in GBP, exclusive of VAT, but inclusive of all other costs where not stated in the Pricing schedule.
- 3.2.2 Where details are provided by the Applicant in literature that they submit in connection with the response, they must ensure that clear cross-references are given to the Trust.
- 3.2.3 The following documents must be completed, signed and returned with the tender:
- Certificates and Declarations
  - Selection Questionnaire
  - Specification Response / Method Statements
  - Pricing Schedule
- 3.2.4 Any information relating to the Trust and supplied by the Trust shall be kept by the Applicant in strictest confidence.
- 3.2.5 Applicants are advised that the Trust is not bound to accept the lowest tender submitted, nor to reimburse any expense incurred during the process.

### 3.3 Clarification Process

- 3.3.1 All clarification enquiries should be directed to the Authorised Representative shown below and by no later than the date indicated in the Procurement Timetable.
- 3.3.2 Bidders must not seek to contact any other officer's or Trustee from DACT WANHS or WHBT in relation to this invitation to tender. Any attempt to do so could result in that bidder being disqualified from this tender process.
- 3.3.3 Applicants are advised that where such enquiries have been made, and it is appropriate to do so, the Trust will provide access to all Applicants and interested parties a copy of the Clarification and the written reply, with anonymity preserved.
- 3.3.4 The process for providing updates on Clarification will be via publishing updates on the Trust's website where the tender is published and via Contracts Finder. In addition, Applicants and interested parties are asked to provide their contact details to the Authorised Representative whereby the Trust will endeavour to provide relevant updates.

### 3.4 Trust Representatives

- 3.4.1 No person in the Trust's employ or other agent, except as so authorised by the Trust Authorised 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 Trust.
- 3.4.2 The project will be managed by a DACT Working Group, which consists of Trustees, and others who have been selected for their expertise in a range of disciplines. This group will be supported by a Client Project Manager to assist in the specific tasks outlined above. It is anticipated that the makeup of the Working Group will vary as the project proceeds depending on the various stages and specific requirements.

Trust Authorised Representative Contact Details	
Name: Colin Johns (Architect)	Email: <a href="mailto:cj@bradfordonavon27.co.uk">cj@bradfordonavon27.co.uk</a>

### 3.5 Format of Response / Submission

- 3.5.1 The response must be delivered by no later than the time and date stated on Volume 2 Applicants Offer, and submitted to [info@devizesassizecourt.org.uk](mailto:info@devizesassizecourt.org.uk)
- 3.5.2 When submitting your response, please be aware of the speed of Internet connection, system configuration and general web traffic that may impact time required to complete the transaction. Loading and submitting of the tender must be completed by the submission deadline.

### 3.6 Validity Period

- 3.6.1 The Tender response must remain valid for acceptance for a period of 90 days from return date.

### 3.7 Procurement Timetable

3.7.1 This procurement will follow a structured and transparent process, to ensure that all Applicants are treated equally. The key dates for this procurement are anticipated to be as follows:

Procurement Stage	Applicable to	Dates
Publication of advertisement by	SQ	09 05 19
Documents issued / available to Applicants	SQ	
Latest date for Clarification questions to be submitted by	SQ	23 05 19
Clarification responses to be issued by	SQ	29 05 19
<b>Selection Questionnaire Return Deadline (23:59 hrs)</b>	<b>SQ</b>	<b>10 06 19</b>
SQ Evaluation Period	SQ	17 06 19
<b>NOTE – ONLY THOSE SUPPLIERS WHO PASS SQ STAGE TO BE INVITED TO SUBMIT FORMAL TENDER</b>		
Issue ITT to shortlisted suppliers	ITT	19 06 19
Site Visits (to be confirmed)	ITT	26 06 19
Latest date for Clarification questions to be submitted by	ITT	10 07 19
Clarification responses to be issued by	ITT	17 07 19
<b>Tender Return Deadline (23:59 hrs)</b>	<b>ITT</b>	<b>24 07 19</b>
Evaluation	ITT	14 08 19
Interviews	ITT	21 08 19
Standstill Period (starts)	ITT	02 09 19
Standstill Period (ends)	ITT	12 09 19
Contract start	ITT	01 10 19

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

### 3.8 Evaluation Approach

3.8.1 Bids will be evaluated in two parts:

- Selection
- Award

3.8.2 The Trust will first evaluate is the Selection Questionnaire (SQ) response (if applicable). Applicants not satisfying the elements of the SQ will be excluded from the remainder of the process and their bid shall not be considered further. Applicants who satisfy the SQ stage (if applicable) will have the remainder of their bid evaluated in accordance with the Award Criteria.

### 3.9 Selection Questionnaire

- 3.9.1 Selection is the process by which the Trust is able to assess the suitability of the Applicant to undertake work on behalf of the Trust. The questions asked within Selection Questionnaire are compliant with Regulation 57 of the Public Contracts Regulations 2015.
- 3.9.2 The Trust requires all Applicants to complete all sections of the Selection Questionnaire included within Volume Two (2) Applicant's Offer in accordance with the submission requirements outlined within this Volume One (1). Any Applicants who do not fully meet the requirements of or misrepresent any information or evidence provided in relation to Regulation 57 may be excluded from further consideration.
- 3.9.3 The Applicant's responses to the Selection questions should be succinct, concise and as brief as possible and self contained not referring to additional documents or other supporting statements other than the European Single Procurement Document (ESPD). The Trust will accept submission of the following parts/sections of the ESPD as part of any submission:
- i. ESPD Part II (A,B,C,D)
  - ii. ESPD Part III (A,B,C,D)
- 3.9.4 Where Applicants choose to submit all or any part of the ESPD in place of an element required in the Selection questions this must be clearly identified and referenced by the Applicant. Any ESPD responses will be assessed in the same way as any other response.

#### **Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.**

- 3.9.5 This standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion. If there are grounds for exclusion, there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning).
- 3.9.6 A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2.
- 3.9.7 For example, these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).
- 3.9.8 Alternatively, you can submit the completed Exclusion Grounds of the [EU ESPD \(Part III\)](#) as a downloaded XML file as an appendix to your Submission.

#### **Supplier Selection Questions: Part 3**

- 3.9.9 If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.
- 3.9.10 If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay we reserve the right to amend the contract award decision and award to the next compliant bidder.

## Consequences of misrepresentation

- 3.9.11 If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.
- 3.9.12 The Trust proposes to use the following criteria to evaluate Selection Questionnaire submissions:

Section	Title	Type of Question	Weighting (%)
Part 1	Potential supplier information	Information only	Not evaluated and scored
Part 2	Exclusion grounds (Mandatory and Grounds for discretionary exclusion)	Pass/fail	In the event of a supplier being awarded a 'fail', the remainder of their submission will not be evaluated and they will be eliminated from the process.

**NOTE ON EVALUATION:** Ideally the Trust would be seeking confirmation that the Contractor has not been or is not currently in breach of any of the Grounds for Exclusion. If Grounds for Exclusion have applied or currently apply, then the Trust would be seeking clarity on what measures have been put in place to self-cleanse as set out by the Regulations. Where Grounds for Exclusion previously applied or currently apply and suitable evidence and measures to self-cleanse cannot be demonstrated, this will be deemed a "fail". Reference will be made to Crown Commercial Services Procurement Policy Note: Standard Selection Questionnaire (SQ) Action Note 8/16, 9 September 2016 – Appendix C. See:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/558531/PPN\\_8\\_16\\_StandardSQ\\_Template\\_v3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/558531/PPN_8_16_StandardSQ_Template_v3.pdf)

Part 3 Section 4	Economic and financial standing	Pass/Fail	In the event of a supplier being awarded a 'fail', the remainder of their submission will not be evaluated and they will be eliminated from the process.
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**NOTE ON EVALUATION:** In addition, the Trust will carry out a financial check on the Applicant. The financial check may occur as part of the procurement process or at contract award. The Trust reserves the right to use the services of an independent third party to assess the financial standing / appraisal.

If undertaking a credit check it shall yield a position of risk for the organisation. The Trust will obtain an Experian credit rating report of each organisation that submits a compliant Selection Questionnaire. The credit rating scores (referred to as "Experian Scores") will be evaluated as set out below and is a "Pass / Fail" question.

PASS / FAIL (demonstrated by Experian Score)	Description
FAIL	Very poor solvency, financial strength and economic standing of between 0 to 20 very high risk which is unacceptable to the Trust
	Poor solvency, financial strength and economic standing demonstrated of between 21 to 40 above average risk which is unacceptable to the Trust
PASS	Acceptable solvency, financial strength and economic standing of between 41 to 60 average risk which is acceptable to the Trust
	Good solvency, financial strength and economic standing demonstrated between 61 to 80 below average risk which is acceptable to the Trust
	Excellent solvency, financial strength and economic standing of between 81 to 100 minimum risk which is acceptable to the Trust

If Experian Score is returned with a score of 41 or above, then the Applicant shall be deemed to have passed this element of the evaluation process.

If the Trust is unable to obtain a credit score or the credit score returned is 40 or below the Trust shall form a review of the Applicant's accounts available from Companies House. If company accounts are not available, then the Trust shall request the Applicant to submit the financial information as indicated by the Applicant's response in Question 4.1 to verify the Applicant's economic and financial standing. Using this evidence, the Trust will determine an Applicant's suitability, taking all of the available facts into account including the subject matter of the Contract and the risk factors inherent to it.

Where the Trust rules that an Applicant is suitable to progress with the procurement process the Applicant shall be judged to have passed this element of the evaluation process.

Where the Trust rules that an Applicant is not suitable to progress with the procurement process the Applicant shall be judged to have "failed" this element of the evaluation process. The Trust's professional judgement is final. In the event of the Applicant being awarded a 'fail' the Applicant will be eliminated from the procurement process.

Part 3 Section 5	Consortia / sub-contractors	Pass/Fail	In the event of a supplier being awarded a 'fail', the remainder of their submission will not be evaluated and they will be eliminated from the process.
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**NOTE ON EVALUATION:** In the event that the Applicant is looking to work with and utilise others then the Trust will be seeking clarity around how any consortia / sub-contract relationship would work. The Trust would be looking to ensure that there is a clear legal relationship in relation to Consortia / sub-contractors (including roles and responsibilities for what parts of the work), those partners are reputable, and that any arrangement does not expose unnecessary risk to the Trust. The Trust would be seeking a clear understanding on how any formal contract with the Applicant would work to ensure that it is a legal entity. Where the legal status cannot be made clear, or in the case where it is deemed the consortia / sub-contract relationship presents unnecessary risks then it will be deemed a "fail".

Part 3 Section 6	Technical and professional ability - Demonstration of related Technical and Professional Ability and experience. The response would also include references, e.g. contract details of two examples of projects you have been involved with and that can be approached for a reference	Scored section (Only scores of 5 (Satisfactory) and above will be considered for taking forward to Tender stage.	In the event of a supplier being awarded a score of less than 5 (Satisfactory), the remainder of their submission will not be evaluated and they will be eliminated from the process.
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**NOTE ON EVALUATION:** The Trust will be looking for evidence of a Contractor who can demonstrate experience in the successful delivery of similar contracts to clients through formal contract arrangements.

The Trust will be looking for evidence to support that the Applicant has proven experience of providing similar professional services and across different sectors at a scale, size and scope which can be used as supporting the ability of the Applicant to deliver under any contract that may be awarded as a direct result of this Tender process. The Applicant (and associate Team) will have suitable Professional accreditation (e.g. RIBA).

This experience would be required to be in a historical and conservation setting with complexities of working with a wide range of stakeholders and other required professionals. Accordingly, the response should include demonstrating successful engagement with clients, key external stakeholders and interest groups, understanding and application of sound project / programme management principles, and the logistical knowledge to deliver projects / programmes on time, to budget and to the expectations of the client and key stakeholders.

The Applicant would be expected to demonstrate clear communications, good methodology around logistics, planning and delivery of construction projects, dealing in an engaged way with a range of stakeholders including sound communication. Understanding of project management approach and the commercial relationship to formalise this will also be of importance to demonstrate.

The response would be supported by credible reference sites and referees that support the findings. Response that does not evidence and provide such assurances will be scored lower.

Part 3 Section 7	Modern Slavery Act 2015	Pass/Fail	In the event of a supplier being awarded a 'fail', the remainder of their submission will not be evaluated and they will be eliminated from the process.
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**NOTE ON EVALUATION:** If a relevant organisation, then the Trust would be seeking evidence that the Contractor is compliant with the Modern Slavery Act. If the organisation is a relevant organisation and not compliant then this would be deemed a "fail".

Part 3 Section 8			
8.1	Insurance	Pass/Fail	In the event of a supplier being awarded a 'fail', the remainder of their submission will not be evaluated and they will be eliminated from the process.
<b>NOTE ON EVALUATION:</b> The Trust would be seeking confirmation that the required insurance and levels of insurance exist, and that they would be maintained during any contract that would be awarded, or in the case that they do not exist currently that the Contractor would firstly be able to obtain the required levels of insurance and would if successful in the Tender actually obtain that insurance. If this cannot be demonstrated, then this would be deemed a "fail".			
Part 3 Section 8			
8.2	Health & Safety Management	Pass/Fail	In the event of a supplier being awarded a 'fail', the remainder of their submission will not be evaluated and they will be eliminated from the process.
<b>NOTE ON EVALUATION:</b> The Trust will be looking for evidence to support that the Applicant robust processes to ensure Health and Safety arrangements are in place and as such the Applicant has a positive track record in ensuring Health and Safety in a suitable market sector. This would include experience as acting as Principal Designer in relation to the Construction (Design and Management) Regulations.  Where the Applicant has had previous situations of failings and remedial matters around Health and Safety, the Trust will want to understand the severity of these failings, what lessons have been learned and what remedial measures / lessons have been put in place. Where the failings are deemed significant and / or the Applicant cannot provide assurances to future practices then this shall be deemed a "fail".			

3.9.13 In the event of a supplier being awarded a 'fail', the remainder of their submission will not be evaluated and they will be eliminated from the process.

#### Information Only Questions

3.9.14 These must be completed but will be used for information purposes only and not scored. However, failure to provide sufficient information as requested may still lead to disqualification for non-compliance. It is important that where a question does not apply this is recorded as 'Not applicable' or 'None' in the spaces provided.

3.9.15 Where sections are scored as being '**Pass / Fail**' the following definitions will apply:

Definition	Criteria
Pass	Demonstration of a clear response given with good level of detail and evidence to support the response from the Applicant in line with and applicable to the Selection Questionnaire question.
Fail	A limited, or non-complete response from the Applicant and / or not relevant or demonstrating the expectations as set out and applicable to the Selection Questionnaire question.

3.9.16 In the event of a supplier being awarded a 'fail', the remainder of their submission (including evaluation of the actual tender response) will not be evaluated and they will be eliminated from the process.

**Selection Scoring Rationale**

3.9.17 Scored Standard questions will be scored in accordance with the scoring rationale below:

Response	Score	Definition
Unacceptable	0	An unacceptable or irrelevant response provided.
Poor	2	Response is partially relevant and poor. Provides little or limited evidence of experience and competence in the required field.
Satisfactory	5	Response is relevant and acceptable. Demonstrates a reasonable amount of experience and adequate level of expertise but lacks detail in certain areas or with some aspects missing.
Good	8	Response is relevant and good. The response is sufficiently detailed to demonstrate a good amount of experience and expertise covering all aspects
Excellent	10	Response is completely relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a broad depth of relevant experience and excellent level of expertise with all areas covered to a very high standard.

### 3.10 Award Criteria

- 3.10.1 Award is the process that considers the extent to which the Applicant's Bid delivers the Most Economically Advantageous solution to the Trust's requirements and as such Applicants responses to the questions asked should give a clear indication of what the organisation is offering for the quoted price.
- 3.10.2 The Trust has not provided a word limit for responses to the Award questions however, the Trust would like to inform Applicants that responses should be relevant to the question and be proportionate in length. Supporting information may be submitted, provided that it is clearly referenced in the question to which it relates and appended to the main bid.
- 3.10.3 The following Award criteria and weightings will be applied in the evaluation of the Applicants response:

Evaluation Criteria Breakdown		Means of Evaluation	
Confirmation of RIBA Chartered status		(Pass / Fail)	
Confirmation of Principal Designer status under CDM		(Pass / Fail)	
Confirmation of contracting under [STATE CONTRACT TERMS]		(Pass / Fail)	
		Sub Criteria	Main Criteria
<b>Criteria: Quality</b>		<b>70%</b>	
Sub Criteria: The Design Team	25%		
Sub Criteria: Understanding the brief	25%		
Sub Criteria: Delivery Method and Programme	25%		
Sub Criteria: Partnering and Collaboration	25%		
<b>Criteria: Price</b>		<b>30%</b>	
Sub-Criteria – Fixed Price Stage 1 & 2	75%		
Sub-Criteria – Estimated Price Stages 3 - 7	25%		

- 3.10.4 Technical Evaluation element to be carried out independently of the Pricing aspects of the Evaluation, with the intention that the information on the Pricing element only be disclosed to the Evaluators post the completion of the Technical Evaluation. Specifically:
- Score objectively in line with set questions and score methodology as set out in the Tender pack;
  - Scores to be recorded and comments recorded on the reasons to justify the score;
  - Scores to form part of overall scores around the Award decision.

### 3.11 Scoring Guidelines

3.11.1 The questions asked of Applicants as part of their response to the tender shall be scored using the marking system described within this section. Applicants should refer to the Trust's requirements to ensure that they meet what is set out. All scored question shall be evaluated in accordance with the guidelines below:

Scoring Matrix for Quality Criteria		
Score	Judgement	Interpretation
5	Excellent	Exceptional demonstration of the relevant ability, understanding, experience, skills, resource and/or quality measures required to provide the services. Full evidence provided where required to support the response.
4	Good	Above average demonstration of the relevant ability, understanding, experience, skills, resource and/or quality measures required to provide the services. Majority evidence provided to support the response.
3	Acceptable	Demonstration of the relevant ability, understanding, experience, skills, resource and / or quality measures required to provide the services, with some evidence to support the response.
2	Minor Reservations	Some minor reservations of the relevant ability, understanding, experience, skills, resource and / or quality measures required to provide the services, with little or no evidence to support the response.
1	Serious Reservations	Considerable reservations of the relevant ability, understanding, experience, skills, resource and / or quality measures required to provide the services, with little or no evidence to support the response.
0	Unacceptable	Does not comply and/or insufficient information provided to demonstrate that there is the ability, understanding, experience, skills, resource and / or quality measures required to provide the services, with little or no evidence to support the response.

### 3.12 Commercial / Price Evaluation

3.12.1 The Pricing Document contains the details and requirements relating to the price element of this Tender. This may include, but is not limited to, the inclusion of specific instructions, documents, templates, pricing structures, etc for the Applicant's to return as part of their response.

3.12.2 Price shall be evaluated using the following scoring methodology, with the Tenderer's prices being scored on a comparative basis. For example:

3.12.3 This will be done by recording the lowest price submitted by any of the Tenderers, then for each Tenderer, dividing this lowest price by the Tenderers' price and then multiplying it by the allocated weighting (e.g. 30% if that is the percentage chosen by the Trust). The equation set out below explains this in a simpler way:

$$(\text{Lowest Price} \div \text{Tenderer's price}) \times \text{Weighting} = \text{Score}$$

3.12.4 To accompany the above there is a worked example below to help explain this. The example assumes only 3 prices were submitted and that price was awarded 30% of the overall marks (i.e. quality 70%). Figures shown are purely illustrative:

Price: Stages 1 and 2 (75% of 30% total)

	L	W	Tenderer 1		Tenderer 2		Tenderer 3	
Evaluation Elements	Lowest Submitted price (£)	Sub Weighting %	Tendered Price	Score	Tendered Price	Score	Tendered Price	Score
Total Contract Sum	£65,000	100	£75,000	86.67	£65,000	100.00	£85,000	76.47
<b>Total Score</b>		<b>100</b>		<b>86.67</b>		<b>100.00</b>		<b>76.47</b>
<b>Sub weighting</b>		<b>75%</b>		<b>65.00</b>		<b>75.00</b>		<b>57.35</b>

Price: Stages 3 to 7 (25% of 30% total)

	L	W	Tenderer 1		Tenderer 2		Tenderer 3	
Evaluation Elements	Lowest Submitted price (£)	Weighting %	Tendered Price	Score	Tendered Price	Score	Tendered Price	Score
Total Contract Sum	£95,000	25	£100,000	71.25	£100,000	71.25	£95,000	100.00
<b>Total Score</b>		<b>25</b>		<b>71.25</b>		<b>71.25</b>		<b>100.0</b>
<b>Sub weighting</b>		<b>25%</b>		<b>17.81</b>		<b>17.81</b>		<b>25.00</b>

**Totals (out of 30%)**

Tenderer 1  $65.00 + 17.81 \times 30\%$  Price weighting = **24.84%**

Tenderer 2  $75.00 + 17.81 \times 30\%$  Price weighting = **27.83%**

Tenderer 3  $57.35 + 25.00 \times 30\%$  Price weighting = **24.71%**

These scores would be added to the quality scores for the individual suppliers based out to 70%

### **3.13 Interview / Presentation**

- 3.13.1 As part of the evaluation process the Trust will require interviews with shortlisted Applicants. The intention of the interview will be an opportunity for the Applicant to reinforce their Tender submission and to physically bring to life their proposal.
- 3.13.2 It will also afford the Trust with the opportunity to clarify points from the initial desktop evaluation of the Applicants Tender. The interview will not be scored, however, the Trust may as a result of clarifications obtained from the sessions look to adjust initial desktop evaluated scores.

### **3.14 Notification of Award**

- 3.14.1 The Trust will notify all Applicants of the Trust's award decision and will apply a Standstill Period in line with the Public Contracts Regulations 2015 (Regulation 87).

## **Section 4 – Conditions of Tender**

### **4.1 Trust's Warranties and Disclaimers**

- 4.1.1 The fact that an Applicant has been invited to bid does not necessarily mean that the Applicant has completely satisfied all the Trust's criteria and the Trust may require further information as appropriate and assess this as part of the evaluation process.
- 4.1.2 The Applicant shall have no claim whatsoever against the Trust in respect of such matters and in particular (but without limitation) the Trust shall not make any payments to the successful Applicant save as expressly provided for in the (Call-Off) Contract and (save to the extent set out in the (Call-Off) Contract) no compensation or remuneration shall otherwise be payable by the Trust to the Applicant in respect of the services by reason of the specification being different from that envisaged by the Applicant or otherwise.
- 4.1.3 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 Trust does not accept any liability or responsibility for the adequacy, accuracy or completeness of such information. The Trust 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.
- 4.1.4 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.
- 4.1.5 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 Trust 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.

### **4.2 Bribery Act**

- 4.2.1 The Bribery Act 2010 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>.

### **4.3 Public Services (Social Value) Act**

- 4.3.1 The Public Services (Social Value) Act 2012 brings in a statutory requirement for public authorities to have regard to economic, social and environmental well-being in connection with public services contracts in a way that is relevant to the subject matter of the contract and compliant with the Public Contracts Regulations 2015. Applicants must note that they may be asked to comply with particular requirements based around such considerations as part of the selection and/or award process.

## **4.4 Freedom of Information Act 2000 and Environmental Information Regulations 2004 and Data Protection Act 2018**

- 4.4.1 The Trust is subject to the provisions of the Freedom of Information Act 2000 (“FOIA”) and the Environmental Information Regulations 2004 (“EIR”). This provides that anyone can ask the Trust for any information held by it, or on its behalf and, unless an exemption applies, the information must be supplied. This means that all the information which an Applicant has provided in respect of this procurement and may provide in future to the contracting authorities will be subject to the FOIA or EIR.
- 4.4.2 In the absence of special circumstances, any part of the procurement documentation may be regarded as not subject to any exemptions, and therefore capable of being disclosed under the FOIA or EIR.
- 4.4.3 In respect of any completed Bid, where the Trust is required to consider whether any information contained therein should be disclosed further to the FOIA, it will be necessary to consider whether any exemption applies. Where the Applicant considers that any of the information contained in its Bid is subject to any exemption, this shall be stated in the submitted Bid at Volume Two (2) Applicant’s Offer and Price Schedule with an explanation setting out what exemption it considers applicable and the reasons for it. The Trust may have regard to this explanation when considering its response to FOIA requests.
- 4.4.4 The attention of Applicants is drawn to Section 43 of the Freedom of Information Act Guidance ([http://www.ico.gov.uk/for\\_organisations/guidance\\_index/freedom\\_of\\_information\\_and\\_environmental\\_information.aspx](http://www.ico.gov.uk/for_organisations/guidance_index/freedom_of_information_and_environmental_information.aspx)) which provides that information may be exempt information if it constitutes a trade secret, or if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the Trust). Applicants are further advised that, if the Trust considers this exemption applies, it will then be necessary for the Trust to determine whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **4.5 Transparency**

- 4.5.1 As part of the transparency the Trust may also publish the contract entered into with the successful Applicant.

## **4.6 GDPR and Data Protection Act 2018**

- 4.6.1 The Applicant and Trust shall comply with the provisions of the EU General Data Protection Regulation (GDPR) and the DPA 2018 where it applies in regards to any contract resulting from this procurement procedure.

## **4.7 Modern Slavery Act 2015**

- 4.7.1 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 see <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>.

## **4.8 Late Payment Directive 2015**

4.8.1 The Trust must maintain compliance with the following legislation:

- Late Payment of Commercial Debts (Interest) Act 1998
- Late Payment of Commercial Debts Regulations 2002
- Late Payment of Commercial Debts Regulations 2013

4.8.2 The latter set of Regulations implements an EU Directive on late payment (Directive 2011/7/EU). In line with this directive, the Trust requires that all contracted suppliers pay their sub-contractors within 30 days.

## **4.9 Study of the Document**

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

4.9.2 Applicants are expected to read, understand and agree to the Volumes (including the terms and conditions) of the document as they will in their entirety form part of the resultant Contract.

4.9.3 The Applicant is required 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 Bid. No claims whatsoever shall be entertained arising out of the Applicants failure to study the documents; the information provided will be relied upon as being true and accurate and will form part of the Contract with 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.

4.9.4 The Applicant's price 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.

4.9.5 The Applicant is responsible for all costs, expenses and liabilities incurred by the Applicant in connection with preparing its Bid.

## **4.10 Consortia and Sub-contracting**

4.10.1 Where an Applicant wishes to make its application as a Consortium or utilising sub-contractors the Trust advises the group of organisations to select a Lead Applicant in whose name the Bid is to be submitted.

4.10.2 The Lead Applicant is advised to confirm precisely what the arrangements are within its Bid 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 the Selection Questionnaire where appropriate and should enable the Trust to assess the overall Consortium or core supply base. All members of the consortium are required to provide the information required in all sections of the Selection Questionnaire.

4.10.3 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 Supplies/Services or Works will be sub-contracted.

4.10.4 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.

- 4.10.5 The Trust 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 Trust 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.
- 4.10.6 The Trust may then make a further evaluation of that Applicant or Contractor by applying the Selection criteria to the new information provided. In the event that the Trust's evaluation of the new information results in an outcome that is different from the original, the Trust 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.
- 4.10.7 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.
- 4.10.8 Please note that the Trust 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.
- 4.10.9 Where an Applicant requires additional time in the procurement process to establish relationships with suitable consortia partners it is advised to notify the Trust at the earliest convenience and request an extension to the procurement timescales. Applicants may do this through the messaging facility described at the clarification section.

## **4.11 Ownership**

- 4.11.1 The procurement documentation and all copies thereof are and shall remain the property of the Trust 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 Trust upon demand.

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

- 4.12.1 Should the Applicant find discrepancies in, or omissions from, the procurement documents, the Trust shall be immediately notified by the Applicant:
- 4.12.2 Should any additions or deletions arising from such notification, or in the event that the Trust requires an amendment to be made, these will be issued by the Trust to all Applicants and will be deemed to form part of the documentation.
- 4.12.3 The Trust reserves the right to extend any date of submission accordingly.

## **4.13 Terms and Conditions**

- 4.13.1 The applicable terms and conditions accompany this tender. Applicants will be required to declare that they have read and understood and will comply with said clauses as part of the submission process.
- 4.13.2 Any queries regarding the terms and conditions, including an Applicant's request to suggest alternative drafting on some or all of the clauses contained therein, may be raised during the

clarification period and in accordance with the Clarification Process. The Trust requests that Applicants' comments, queries and/or suggestions are clear and precise, otherwise they may be rejected.

- 4.13.3 Where the Trust is in agreement with any changes to the terms and conditions proposed during that period it will update and republish the relevant documentation and all Applicants will be notified accordingly. The Trust reserves the right to extend the submission deadline date in order to allow Applicants sufficient time to take these changes into account. Where the Trust is not in agreement with any changes those proposals shall have been judged to have been rejected and the Trust shall provide an explanation to the Applicants as to the reason/s why it has been judged so.
- 4.13.4 When the period for clarification has closed Applicants shall no longer be allowed to raise any further queries regarding the terms and conditions and the Applicant shall not be permitted to reserve their right to comment or negotiate upon the terms and conditions at any point thereafter.
- 4.13.5 Applicants are required to agree to the terms and conditions associated with this procurement opportunity as part of the submission process and the Trust reserves its right to class any Bid submitted to the contrary as non-compliant. All such Applicants shall be judged to have failed with their submitted Bids, shall be evaluated no further and notified accordingly.
- 4.13.6 The Contractor(s) shall accept the terms and conditions as they are drafted in the final Contract. No further negotiation shall take place nor changes allowed. Where a Contractor disputes this position the Trust reserves the right to withdraw the Contract award and class the submission as non-compliant.

#### **4.14 Clarification and Circular Advices**

- 4.14.1 Upon commencement of the procurement process the Applicant shall not approach any member of the Trust in relation to the opportunity, other than via the agreed contact email.
- 4.14.2 Applicants should note that unless your question is innovation based, responses will be provided to all Applicants. Where a question is of a commercially confidential nature and the Applicant does not wish it or the associated answer to be shared with other Applicants, the Applicant shall state this clearly within its question. The identity of Applicants raising any questions will remain confidential.
- 4.14.3 Relevant questions together with the answers will be posted on Contracts Finder and it will be the requirement for the Applicant to check any updates.
- 4.14.4 When Applicants first access the procurement documentation they should satisfy themselves that they have seen any messages posted. It is in the Applicant's interest to visit the messages area regularly as clarifications may fundamentally affect their planned response.

#### **4.15 Completion of the Document**

- 4.15.1 For the avoidance of doubt all of the sections included within Volume Two (2) Applicant's Offer, Price Schedule must be completed and submitted by the Applicant in order to be considered by the Trust as a fully complete and official Bid.
- 4.15.2 Any Bids made omitting any of the sections, or any of the requirements therein, will be considered as incomplete and may be disqualified from further evaluation and therefore exclusion from the procurement process.
- 4.15.3 Documents should only be completed and submitted in the format in which they currently

appear. It is essential that Applicants do not re-format or re-brand any of the procurement documentation in accordance with their own standards on formatting. An example of this is if the documents are issued in Microsoft Word format, the Trust requires them to be returned in the same format.

- 4.15.4 Applicants will answer all appropriate questions and sign (if possible) where specified. Applicants will clearly reference its replies and any supporting documentation.
- 4.15.5 Any pro-formas must be fully completed even if your organisation has previously submitted Bids to the Trust. It is not sufficient to cross-refer to previous responses.
- 4.15.6 Where an Applicant requires assistance in completing the documents or meeting the submission requirements it is advised to notify the Trust at the earliest convenience and request additional support, to include meeting with the Trust Authorised Representative.

## **4.16 Applicant Site Visits**

- 4.16.1 Prior to the submission of Tenders access to the site will be made available and arrangements will be made for the building to be open for a visit. Please note that great care is necessary in inspecting the interior due to the poor condition and all intending to visit should come equipped accordingly (e.g. PPE / Hard Hats). Floors are uneven or missing and there are unguarded hazards such as defective stair wells from the former basement cells to the prisoner docks. Internally all surfaces, especially the floors, are extremely dirty and it is possible that there may still be pigeons in the building.
- 4.16.2 DACT will arrange for a temporary lighting for the time the building is open and due to Health and Safety considerations site visits will be escorted.
- 4.16.3 The information in the attached schedules 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 Trust.
- 4.16.4 Applicants should email the Authorised Officer to confirm their attendance which will be limited to three persons from each team. This is the only opportunity to visit the site during the Tender period.

## **4.17 Alternatives and Variations**

- 4.17.1 Innovative offers may be made in addition to making a full and complete Bid unless otherwise stated. The submission of an alternative or variant Bid will not be considered if the Applicant fails to make a compliant Bid in the prescribed format.
- 4.17.2 Should the Applicant wish to offer a variation or alternative Bid, including innovations to the Specification, please complete the Bid as described. This will constitute the 'compliant Bid'.
- 4.17.3 The Applicant's alternative or variant Bid should be prepared separately and submitted as such, giving clear details of your organisation's departure from the compliant Bid.
- 4.17.4 Applicants may submit alternative or variant Bids in instances where it believes it is able to offer an innovative solution to a 'traditional' specification or where elements of its proposed service delivery deviate from the specification and/or procurement requirements such that this may render an Applicant's Bid as non-compliant.

## **4.18 Return of Document**

- 4.18.1 Documents must be returned in the correct and proper process for submitting the Applicant's Bid electronically. All Bids shall be submitted via the email address highlighted.
- 4.18.2 Applicants will not email their Bids directly to any named person(s) within the Trust.
- 4.18.3 Applicants will not send their Bids to the Trust in a paper or other 'hard' format unless specifically requested to do so within the associated bid documentation.
- 4.18.4 It is the Applicant's responsibility to ensure that its Bid is submitted prior to the deadline date/time.
- 4.18.5 Any submissions that do not accord with the guidelines set out above shall be considered as non-compliant and will be treated as such.
- 4.18.6 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 deadline 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, for example.
- 4.18.7 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.

## **4.19 Applicant's Warranties**

- 4.19.1 In submitting their Bid the Applicant warrants and represents and undertakes to the Trust 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 Supplies/Works or Services will be requested produce evidence of such to the Trust;
  - 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 Trust) which may adversely affect such financial standing in the future.

## **4.20 Evaluation of Bids**

- 4.20.1 All Bids will be treated equally and assessed with transparency throughout the evaluation process. The successful offer(s) will be that which achieves the highest score within a best value framework (optimum combination of whole-life costs and quality) in line with the best value principles of Most Economically Advantageous Tender (MEAT).
- 4.20.2 The evaluation process is a critical part of the procurement process and is the means by which the Trust is able to assess to whom the Trust wishes to select to progress to the next stage of this procurement process and/or award the Contract.
- 4.20.3 The information disclosed by Applicants in its Bid will be used for the purposes of evaluation and shall form part of the resultant Contract. The Trust's evaluation will consist of two (2) distinct stages: Selection and Award.
- 4.20.4 Any responses to any of the Selection or Award questions or any other part of your Bid that are later found to be incorrect may lead to you being exempted from this procurement process or any future procurement process lead by the Trust and could cause the termination of any resultant Contract.

## **4.21 Applicant's Price**

- 4.21.1 The price offered by the Applicant shall be firm and fixed for the duration of the Contract. Any percentage discounts that may be applied must be detailed by the Applicant in its Bid. Price variation during the Contract term 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 Trust and Applicant and the former receives confirmation in writing from the latter.
- 4.21.2 All prices submitted shall be in pounds sterling and shall be exclusive of Value Added Tax (VAT).
- 4.21.3 The Applicant's price will be evaluated in accordance with the scoring methodology and weightings as set by the Trust and declared within Volume Two (2) Applicant's Offer and Price Schedule.

## **4.22 Errors and Omissions in the Applicant's Bid**

- 4.22.1 If the Trust discovers errors or omissions in the Bid, the Applicant may be required to justify the price or item(s) concerned. Any price adjustments to the Bid made by agreement between the parties concerned shall be confirmed in writing by the Applicant to the Trust before final acceptance of the Bid.

## **4.23 Abnormally Low Bids**

- 4.23.1 In the event that the Trust receives a Bid which is abnormally low, in accordance with Regulation 69 of the Public Contracts Regulations 2015, it shall require the Applicant to explain in writing the price or cost proposed in the submission. The Trust shall assess the information provided by the Applicant and may reject the Bid where the evidence supplied does not satisfactorily account for the low level of price or costs proposed.

## **4.24 Trust Site Visits**

- 4.24.1 The Trust reserves the right to pay a site visit to short listed Applicant's premises and/or exemplar site/s at which it performs the service required under the Contract.
- 4.24.2 Applicants may or may not be contacted to be made aware that a site visit will take place. Any notification that is made will detail the date, time and details of those Officers that are anticipated to attend.
- 4.24.3 Applicants must grant access to any premises requested to be visited by the Trust within that allocated time period.
- 4.24.4 Site visits will be for the purpose of ensuring that Applicants are appropriately skilled and experienced to deliver the service required under the Contract and that any claims made to that effect are accurate.

## **4.25 Demonstrations and Presentations**

- 4.25.1 The Trust reserves the right to invite Applicants, to attend a presentation or demonstration at which stage it will be a requirement to reinforce your position by presenting your bid to the key stakeholders involved. Where this forms part of the evaluation this will be detailed in Volume Two (2) Applicant's Offer.
- 4.25.2 Applicants will be contacted to be invited to the presentation / demonstration. The invite will detail the date, time and location and the required content of the demonstration / presentation, which will include any specific questions / topics to be covered and the marking system.
- 4.25.3 Presentations / demonstrations will be for the purpose of ensuring that shortlisted Applicants have full comprehension of all that is required under this Contract and that all information submitted is accurate.

## 4.26 Rejection of Offers

4.26.1 The Trust may at its absolute discretion refrain from considering or reject a Bid if:

- (i) it is incomplete or vague or is submitted later than the prescribed date and time; or
- (ii) it is not in accordance with the approved format and all other provisions of the documents;  
or
- (iii) is in breach of any condition contained within it.

4.26.2 The Trust reserves the right, subject to relevant legislation, at any time to reject any Bid and / or terminate the procurement process with one or all of the Applicants.

4.26.3 The Trust reserves the right to disqualify any or all Applicants who make material changes to, or (in the Trust's opinion) a material change takes place in respect of, any aspect of either its pre-qualification submission or Bid unless substantial justification can be provided to the satisfaction of the Trust.

4.26.4 Any submission in respect of which the Applicant:

- has directly or indirectly canvassed any Official, Member, Officer, Agent or Advisor of the Trust or obtained information from any other person who has been contracted to supply Supplies or provide the Service or Works to the Trust concerning the award of the Contract or who has directly or indirectly obtained or attempted to obtain information from any such Official, Member, Officer, Agent or Advisor concerning any other Applicant; or
- fixes or adjusts the prices by or in accordance with any agreement or arrangement with any other person; or
- communicates to any person other than the Trust the price or approximate price except where such disclosure is made in confidence in order to obtain quotations necessary for the bid preparation 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 Trust provided always that such non-acceptance or rejection shall be without prejudice to any other civil remedies available to the Trust or any criminal liability which such conduct by an Applicant may attract.

## 4.27 Acceptance of Offers

4.27.1 The Trust does not bind itself to accept the lowest or any Bid, and reserves the right to accept a Bid either in whole or in part, or such item or items specified in the procurement documents, and for such place or places of delivery as it thinks fit, each item and establishment being for this purpose considered as bid for separately, or to make no award at all.

## **4.28 Award of Contract**

- 4.28.1 Submitted documents shall constitute an irrevocable offer to provide the Services. Any acceptance of it by the Trust shall be communicated in writing to the Applicant. Upon such acceptance the Contract shall become binding on all parties.
- 4.28.2 The successful Applicant shall conclude a formal Contract with the Trust, 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 Trust and co-signed by the Applicant's Authorised Officer.
- 4.28.3 The offer shall remain open for acceptance for a period of six (6) months from the closing date for the receipt of submission.

## **4.29 Intellectual property**

- 4.29.1 All rights, to the designs, recommendations and costs in written or electronic form must be assigned to the Trust. Intellectual copyright will remain with the original author.

## **4.30 Confidentiality**

- 4.30.1 Bidders are to treat this invitation to tender as confidential and not to share it outside of their bidding team.

## Definitions

<b>Ad hoc Service Requests</b>	Shall mean requests from the Trust for additional Services beyond the scope of the Core Services as detailed in the specification and associated Schedules.
<b>Applicant</b>	Shall mean the organisation responding to the procurement through the procurement process
<b>Authorised Operatives / Contractor's Operatives</b>	Shall mean appointed person(s) duly authorised by the Appointed Contractor eligible to undertake duties in connection with delivery of the Contract.
<b>Authorised Personnel (Trust)</b>	Shall mean appointed person(s) of the Trust eligible to make necessary formal instructions in connection with the delivery of the Contract.
<b>Trust Authorised Representative</b>	Shall mean the main client Officer for the procurement process and/or resultant Contract
<b>Award</b>	Shall mean the process by which the Trust shall determine to whom the Contract will be awarded in accordance with the criteria listed at Regulation 67 of the Public Contracts Regulations 2015
<b>Awarding Trust</b>	Shall mean the organisation for whom the resultant Contract will be performed; this may be a different organisation than is referred to under Trust (in instances where the Trust is procuring a Contract on behalf of another organisation, for example)
<b>Bid / Tender</b>	Shall mean the Applicant's offer to the Trust, which shall be submitted as the completed procurement documents
<b>Clarification</b>	Shall mean the process by which queries on the Trust's procurement document are raised by the Applicants and the process by which queries on the Applicant's Bid are raised by the Trust
<b>Commercially Sensitive information</b>	Shall mean the information listed by an Applicant within its Bid at Volume Two (2) Applicant's Offer and Price Schedule comprising the information of a commercially sensitive nature relating to the Contractor, its intellectual property rights or its business or which the Contractor has indicated to the Trust that, if disclosed by the Trust, would cause the Contractor significant commercial disadvantage or material financial loss
<b>Consortia / Consortium</b>	Shall mean the information listed by an Applicant within its Bid at Volume Two (2) Applicant's Offer / Appendix A and Price Schedule comprising the information of a commercially sensitive nature relating to the Contractor, its intellectual property rights or its business or which the Contractor has indicated to the Trust that, if disclosed by the Trust, would cause the Contractor significant commercial disadvantage or material financial loss
<b>Contract</b>	Shall mean a formal and legally binding agreement entered in to between two or more parties to provide Supplies, Services or Works in return for financial remuneration including all documents to which reference may properly be made in order to ascertain the rights and obligations of all the parties involved
<b>Contract Notice</b>	Shall mean the publication in the OJEU of an Trust's intention to procure a public supplies, services, or works Contract
<b>Contracting Authority</b>	Shall mean the Trust and any other organisation on whose behalf the Trust may be working
<b>Contractor</b>	Shall mean the Applicant awarded the Contract culminating from an offer to supply accepted by this Trust
<b>Core Services</b>	Shall mean the main defined Services forming the delivery and fulfilment of the Contract, as set out in the Specification and associated Schedules.
<b>DACT Trust</b>	Shall refer to Devizes Assize Community Trust – see also the Trust
<b>Data Protection Legislation</b>	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
<b>Default / Default Notice</b>	Shall mean a failure to perform as set out against the Key Performance Indicators within this Contract and the associated Notice issued to the Contractor outlining the default and corrective actions required to rectify.
<b>Employers' Liability (Compulsory Insurance)</b>	Shall mean an insurance that enables organisations to meet the costs of damages and legal fees 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. The NHS can also claim the costs of hospital treatment (including ambulance costs) when personal injury compensation is

	<p>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 at least £5 million. 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>Evaluation</b>	Shall mean the process through which the Applicant's Bid is reviewed in accordance with the Evaluation Criteria, following which a decision to award a Contract is made
<b>Evaluation Criteria</b>	The means by which the Trust will Evaluate an Applicant's Bid, to include all of the issues that must be considered so as to be able to judge the suitability of an Applicant's Bid
<b>GDPR</b>	the General Data Protection Regulation ( <i>Regulation (EU) 2016/679</i> )
<b>Invitation to Tender (ITT)</b>	Shall mean the written request by the Trust for an interested Applicant to submit a written Bid to facilitate the Trust's requirements
<b>Key Performance Indicators (KPI)</b>	Shall mean the standards of performance against which overall performance is to be assessed under the Contract by the Contractor
<b>Lead Applicant</b>	Shall mean the organisation leading the bidding process on behalf of its consortia or sub-contractor partners
<b>Lowest Price</b>	Shall mean a means of evaluation whereby all Applicants to a procurement process will be assessed solely on the basis of their offer of price
<b>Mandatory Requirements: Pass/Fail</b>	Shall mean the Trust's essential requirements that Applicants will be required to demonstrate their ability to meet so as to be able to pass through to the next stage of the procurement process
<b>Mandatory Requirements: Scored</b>	Shall mean the Trust's essential requirements that Applicants will be required to demonstrate their ability to meet and that will be scored so as to be able to pass through to the next stage of the procurement process and/or as part of the Award criteria
<b>Most Economically Advantageous Tender (MEAT)</b>	Shall mean a means of evaluation whereby all Applicants to a procurement process will be assessed the basis of their offer of a combination of both quality factors and price
<b>Officer</b>	Shall mean the individual completing the procurement documents on behalf of the Trust
<b>Official Purchase Order</b>	Shall mean the Trust's Official Purchase Order, to which these conditions apply
<b>OJEU</b>	Shall mean the Official Journal of the European Union
<b>Premises</b>	Shall mean the various sites as detailed within the associated Schedules that are to be serviced by the Services defined under this Contract.
<b>Pricing</b>	Shall mean the value placed on a Bid by the Applicant that will purchase their offer to facilitate the Trust's requirements as set out in Schedule 1 - Price
<b>Procurement</b>	Shall mean the acquisition of Supplies, Services or Works from an external source
<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>Project Brief</b>	This is a document which outlines to bidders the nature of the good / services or works against which you wish them to submit an expression of interest as outlined in Schedule 2 – The Brief
<b>Public Contracts</b>	Shall mean the legislation of the United Kingdom concerning the procedures for

<b>Regulations 2015</b>	the award of public works contracts, public supply contracts and public service contracts
<b>Public Liability Insurance</b>	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 legal fees, costs and expenses as well as costs of hospital treatment (including ambulance costs) that the NHS may claim from the organisation. Premiums are based on the type of business and rated on an estimate for the level of activity of the business.
<b>Restricted</b>	Shall mean the procurement process determined by the Public Contracts Regulations 2015, which includes the publication of an OJEU Contract Notice plus a Supplier Questionnaire and Invitation to Tender prior to the award of a Contract
<b>Selection</b>	Shall mean the process by which Applicants will be selected to move forward to the next stage of the procurement process, in accordance with the criteria listed at Regulation 58 of the Public Contracts Regulations 2015 and the accompanying Selection Questionnaire
<b>Selection Questionnaire (SQ)</b>	Shall mean the process by which Applicants will be selected to move forward to the next stage of the procurement process, in accordance with the criteria listed at Regulation 58 of the Public Contracts Regulations 2015
<b>Services</b>	Shall mean a system supplying a need such as communications and transport, utilities such as electricity and fuel, the provision of advice or the performance of routine maintenance or repair work
<b>Service Failure(s)</b>	Shall mean failure(s) by the Contractor to perform the Services as set out under the Contract and in line with the expectations of the Trust and the Key Performance Indicators as set out in Table 1.
<b>Specification</b>	Shall mean the detailed description of the Trust's requirements as set out in both the Brief and Volume 3
<b>Standstill</b>	Shall mean the period between the notification of the Trust's intention to award a Contract and the award of the Contract, in accordance with Regulation 87 of the Public Contracts Regulations 2015
<b>Supplies</b>	Shall mean the items offered by an Applicant and/or the items requested by the Trust
<b>Trust</b>	Shall mean the organisation preparing the procurement documents and / or the organisation for whom the resultant Contract will be performed
<b>TUPE</b>	Shall mean the "Transfer of Undertakings (Protection of Employment) Regulations 2006" as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014"
<b>Volume One (1) Instructions and Information</b>	Shall mean the document containing advice to Applicants concerning the way that the procurement process will be conducted and the way in which the documentation should be completed - the Selection and Award criteria to be used in the procurement process and shall be the document in which the Applicant shall make its response to those criteria plus pricing and information concerning the Applicant's organisation
<b>Volume Two (2) Supplier Questionnaire Response</b>	Shall mean the document containing information specific to the Applicant response to the Supplier Questionnaire
<b>Volume Three (3) Supplier response in relation to the Tender</b>	Shall mean the document containing information specific to the Applicant response to the Tender (post Selection Questionnaire stage)