



**Municipal Building:  
Design and build for the  
cultural and creative transformation works  
to the Passmore Edwards Building,  
Falmouth**

**PART A: Invitation to Tender**

**Background, Instructions and Conditions of Tender**

**Suppliers should read this document first.**

# ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)

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## SECTION 1 – INTRODUCTION TO THE COUNCIL

### Background

- 1.1. Falmouth received Royal Charter in 1661. In 1974 Falmouth Town Council was established from the historic Falmouth Borough Council. Falmouth Town Council is the first tier of local government and plays a vital role in representing the interests of Falmouth's residents.
- 1.2. Falmouth is one the West Country's most vibrant towns with a population of 25,000.
- 1.3. Falmouth is shaped and influenced by its strong connection to the sea. Combining a fascinating maritime heritage with modern creativity, it is building a name for itself as one of the leading cultural and festival destinations.
- 1.4. Further information can be found here <https://www.falmouthtowncouncil.co.uk/>

### Introduction

- 1.5. This Procurement is being conducted in accordance with the Procurement Act 2023 ("the Act") as an above threshold Tender (Open Procedure). This document describes how the Procurement will be conducted, including details of the associated Procurement timetable the process and award criteria and how to respond to this opportunity. Suppliers are strongly encouraged to read this document before preparing their submission.
- 1.6. Please read all documents carefully, as failure to comply with this document may result in exclusion from the Procurement and / or the rejection of any submission.
- 1.7. This document should be read in conjunction with the any relevant Notices and any other Procurement documents which have been made available at this stage of the Procurement.
- 1.8. The Council reserves the right to issue updated versions of this document to Suppliers as and when the need arises, together with any changes to the Procurement or any other new information.
- 1.9. Please read and ensure compliance with the Procurement terms and conditions contained in Section 4 and 5.
- 1.10. Common terms and expressions shall have the meanings ascribed to them in the glossary of terms in Section 6.
- 1.11. All references to a 'section' are to a section in the Act unless otherwise stated.
- 1.12. All references to a 'paragraph', 'appendix' or 'annex' are to a paragraph, appendix or annex of this document unless otherwise stated.
- 1.13. All references to dates / times shall be in accordance with UK time (i.e. GMT/BST).
- 1.14. Should any additions or deletions or the provision of supplementary documentation be considered necessary prior to the date for submission of the Tender, these will be

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issued by the Council to Suppliers and will be deemed to then form part of the ITT.

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### SECTION 2 – OVERVIEW OF THE COUNCIL'S REQUIREMENT (KEY INFORMATION)

#### General requirements

- 2.1. The Council invites response to this Invitation to Tender (ITT) from suitably qualified suppliers ("Suppliers") for the provision of a professional services design team for design services to overhaul the Passmore Edwards Municipal Building as well as the build contractor.
- 2.2. The appointed Supplier will act as the lead professional design team and build contractor for the works element for the major transformation of the Municipal Building.
- 2.3. It should be noted that works consist of the following:
  - 2.3.1. Internal works to redesign the internal gallery space (see brief). Initially this is to undertake RIBA Stages 0-2 which will inform a submission for funding. If approved, there will be a second phase RIBA 3-4. The final stage RIBA Stages 5-6 will also be dependent on external funding applications.
  - 2.3.2. The construction element of the internal redesign.
  - 2.3.3. External works to undertake alterations to existing building comprising of thermal and energy related improvements, with associated repairs.
  - 2.3.4. The external works are at RIBA Stage 3 and have both [Listed Building Consent](#) and [planning permission](#).
- 2.4. With the above exception for the external works, where the appointed professional services design team will be required to undertake RIBA stages 4 onwards, for all other aspects of the work they will be required to provide the professional services to undertake all the relevant tasks through the RIBA stages, including surveys, technical studies, business planning and the design of a practical and economically viable solutions through to contract administration.
- 2.5. The Supplier would be required to ensure that the professional services design team has access to all of the required professional services to support this project and would include (but not limited to):
  - 2.5.1. Architectural Services (including acting as Principal Designer)
  - 2.5.2. Exhibition design
  - 2.5.3. Mechanical and Electrical Consultant (including fire expertise)
  - 2.5.4. Energy assessor (Simplified Building Energy Model calculations)
  - 2.5.5. Structural Engineer
  - 2.5.6. Acoustic Consultant
  - 2.5.7. Building Surveyor
  - 2.5.8. Cost Consultant / Quantity Surveyor

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### **2.5.9. Conservation Specialist**

2.5.10. Main contactor along with the necessary sub-contractors to deliver the physical build elements of the works as set out in the brief.

- 2.6. The successful bidder would also be required to undertake the necessary project management.
- 2.7. In awarding any resulting contract the intention is to appoint the professional services design team for the duration of the project, noting that continuation would be subject to a range of factors, including but not limited to further funding, performance and delivery.
- 2.8. In undertaking the work, the Council wish to continue to honour the ethos of the building's main funder, John Passmore Edwards, who was committed to 'funding the ladder, so others might climb' – offering free, accessible, quality cultural and learning opportunities for Falmouth's communities and visitors, as well as offering new experiences, perspectives and stories. Also acknowledging the civic pride that has traditionally been instilled in the building.
- 2.9. The building forms a bedrock for arts education, literacy and creative skills in the town, giving education providers access to a first-class resource showcasing a nationally significant art collection, also reflecting the historic tradition of supporting the arts in Falmouth. Currently, the building is multi-purpose but centred upon continued provision of public services incorporating a library, art gallery and council premises, including the historically significant Council Chamber.
- 2.10. Full details of the project and works required by the Supplier can be found in the accompanying brief.
- 2.11. Full details of the Tender can be found in the accompanying documentation, in particular:
- 2.11.1. Part A – Invitation to Tender Document (this document)
  - 2.11.2. Part B – Response Document (Tender)
  - 2.11.3. Schedule 1 – Price Schedule
  - 2.11.4. Appendix 1 - Design and build brief RIBA 0\_7 Municipal 2025\_07\_15Appendix 2 – RIBA Stages Summary
  - 2.11.5. Appendix 2 – RIBA Stages Summary
  - 2.11.6. Appendix 3 – Key Contract Particulars
  - 2.11.7. Appendix 4 – Asbestos Report (Sept 2016)
  - 2.11.8. Appendix 4(a) Asbestos survey 2009
  - 2.11.9. Appendix 5 - Falmouth Municipal Building Heritage Statement
  - 2.11.10. Appendix 6 - Building Survey Municipal Building, Falmouth with Appendices-1.2
  - 2.11.11. Appendix 7 - Passmore Edwards, Falmouth OCE October 24

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2.11.12. Appendix 8 - Cost Plan June 2025 - MEND Plus 6%

### Drawings

P\_0.1 - Falmouth library site plan

P240045 - 200 Location & Site Plans

P240045 - 201 Municipal Building Existing Ground & Mezzanine Floor Plans

P240045 - 202 Municipal Building Existing First Floor & Roof Plans

P240045 - 203 Municipal Building Existing Elevations

### **Budget and Contract details**

2.12. The estimated overall budget range for the external works is as below:

- 2.12.1. External works £2.6m (exc. VAT) for the purpose of the tender process
- 2.12.2. The construction costs for the internal works have yet to be determined and it will be part of the design phase to establish this. For estimating costs for the design phase, the Suppliers should work on an estimated construction cost of £2.5m
- 2.12.3. Professional services design team tender is between £200,000 and £235,000

2.13. The Terms and Conditions under which any Contract would be formed is JCT Design and Build Contract (DB 2024)

2.14. The Contract period is initially for a total of up to four years for the completion of the build element. The initial phase of design works is the 31 December 2025.

2.15. Due to the nature of the design elements needing to be completed, confirmation on funding envelope and the estimated figures for the construction works, the build element will be submitted to pricing on a cost plus method. The contract will require to be an open book arrangement to enable costs of the build to be priced against the profit as set out in the submitted Price Schedule to this tender.

### **Insurance Levels**

2.16. The Council's minimum requirements for insurance (Minimum Cover for each and every incident) are:

- 2.16.1. Employer's Liability (min. statutory limit as laid down by legislation) = £5m.
- 2.16.2. Professional Indemnity = £2m.
- 2.16.3. Public Liability Insurance = £10m



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

- 2.17. Your attention is drawn to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"). As the Council would be neither the transferor nor the transferee of the staff in the circumstances of any contract awarded as a result of this competitive process, consideration of the application of TUPE in this case is not a matter of direct concern to the Council. Nevertheless, you may wish to note that it is the Council's view that TUPE is not likely to apply. It is your responsibility, however, to consider whether or not TUPE applies in the specific circumstances of your Tender and you must seek your own legal advice on this matter and must not rely on the Council's view being correct in law. The Council accepts no liability whatsoever for any loss or damages or any other costs as a result of the aforesaid regulations.
- 2.18. If you have a contrary view to that of the Council on the applicability of TUPE, it would be helpful if you would advise the Council giving your reasons, prior to the Tender return date.

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### SECTION 3 – THE PROCUREMENT PROCESS

#### Preliminary Market Engagement

- 3.1 There has not been any specify preliminary market engagement conducted in relation to this tender.
- 3.2 Standstill Period in line with the Procurement Act 2023 – Section 51 <https://www.legislation.gov.uk/ukpga/2023/54/section/51> will apply.

#### Procurement Timetable

- 3.3 Please note the Council reserves the right, in its absolute discretion, to amend the Procurement Timetable or extend any time period in connection with the Procurement. Any changes to the Timetable will be notified to the Suppliers.

Activity	Date
Date Tender Notice published	18/07/2025
Supplier visits	07/08/2025 to 08/08/2025
Deadline for Supplier clarification questions	14/08/2025
Council responses to Supplier clarification questions	18/08/2025
<b>Return of Tender at 14:00 hrs</b>	<b>26/08/2025</b>
Assessment period	26/08/2025 to 08/09/2025
Presentations & interviews	04/09/2025
Contract Award Notice published (Assessment summaries issued and Mandatory Standstill Period Commences)	08/09/2025
Mandatory Standstill Period (ends midnight on)	17/09/2025
Commencement of contract	18/09/2025
Formalise contract award	03/10/2025
Contract Details Notice published	03/10/2025
Initial Contract end date – subject to Town Regeneration and Investment Programme (TRIP) funding - Part of UK Shared Prosperity Fund	31/12/2025
Final target end date (Build element)	17/09/2029

- 3.4 Please note that the Council reserves the right, in its absolute discretion, to amend the Procurement Timetable or extend any time period in connection with the Procurement. Any changes to the Timetable will be notified to the Suppliers.

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### Service Levels, Service Credits and Key Performance Indicators (KPIs)

- 3.5 Milestone 1 - Internal works to redesign the internal gallery space (see brief). Initially this is to undertake RIBA Stages 0-2 which will inform a submission for funding (by 31 Dec 2025).
- 3.6 End Milestone - External works need to be completed by 31<sup>st</sup> March 2029, subject to Arts Council England - Museum Estate and Development (MEND) funding.
- 3.7 Discharge of planning condition for external work; Secure planning and listed building consent for internal works; Delivery to RIBA 6 for internal and external design work; compliance with funding deadlines
- 3.8 Compliance to open book accounting to enable cost plus pricing of the build elements of the works.

### Key dependencies

- 3.6. Funding – At the time of Tender not all funding has been allocated and / or there are specific requirements of the funding organisation(s) which need to be applied.
- 3.7. Business Continuity – Contactor needs to be cognisant of the active services in the building and mitigating the disruption to service delivery e.g. sourcing alternative temporary premises

### Contract risks

- 3.8. Potential design limitations due to Listed Building / Conservation Status – The building is listed and sited within a Conservation area. Any appointed Supplier will need to be cognisant of the needs to design within the parameters of all necessary Planning and Local Authority Regulations
- 3.9. Potential design and construction limitations should be considered due to building structure and age. The buildings dates back to late Victorian period (1894-1896). Any appointed Supplier will need to take into account the need to balance traditional build methods, any material deteriorations due to age and interweaving traditional techniques and modern materials.
- 3.10. Time constraints around undertaking works in peak season – The building is centrally located within the town centre and significantly footfall, especially in peak tourism season
- 3.11. Divergence of public and key stakeholder opinion
- 3.12. Failure to secure capital funding for delivery of internal and external building works. RIBA stages will form break clauses within the contract; FTC will also underwrite design phase RIBA 0-4 in the event of funding not being secured.

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- 3.13. Risks will be fully assessed in consultation with the client and contractor teams following appointment.

### Site Visits

- 3.14. If Suppliers wish to visit the site as part of preparation of their Tender, the Council must be contacted in advance. Suppliers are only permitted access to the site by pre-arranged appointment with the Council.

### How to respond to this opportunity

- 3.15. All response must be written in English and costs submitted are to be presented in Pounds Sterling, exclusive of VAT, but inclusive of all other costs where not stated in the Pricing Schedule.
- 3.16. The response must be delivered by no later than the time and submission date stated.
- 3.17. Suppliers must consider the necessary document sizes, speed of Internet connection, system configuration and general web traffic that may impact on the time required to complete the transaction.
- 3.18. Information submitted must be relevant and proportional to what has been set out within the Tender Pack. Where details are provided by the Supplier in literature that they submit in connection with the response, they must ensure that clear cross-references are given to the Council.
- 3.19. The Council has not provided a word limit for responses to the Award questions; however, the Council would like to inform Suppliers that responses should be relevant to the question and be **proportionate in length**. Supporting information may be submitted, provided it is clearly referenced in the question to which it relates and appended to the main bid.
- 3.20. Supplier responses must not be qualified, conditional or accompanied by statements that might be construed as rendering the tender equivocal. Qualified or conditional tenders are very likely to be rejected. The Council's decision as to whether a tender is acceptable will be final.
- 3.21. Tender response must remain valid for acceptance for a period of 90 days from return date.
- 3.22. Information provided by the Supplier in the Tender shall constitute an irrevocable offer to the Council that shall form part of any subsequent contract between the parties.
- 3.23. All information related to the Council and supplied in connection with this procurement shall be kept by the Supplier in strictest confidence.
- 3.24. Suppliers are advised that the Council is not bound to accept the lowest tender submitted, nor to reimburse any expense incurred during the tender process.

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### Clarification Process

- 3.25. All clarification enquiries should be directed to the Authorised Representative and by no later than the date indicated in the Procurement Timetable detailed elsewhere in this document.
- 3.26. Suppliers are advised that where such enquiries have been made, and it is appropriate to do so, the Council will distribute to all Suppliers a copy of the Clarification and the written reply, with anonymity preserved.

### Council Representatives

- 3.27. No person in the Town Council's employ or other agent, except as so authorised by the Council Authorised Representative, has any authority to make any representation or explanation to Suppliers as to the meaning of the Contract or any other document or as to anything to be done or not to be done by Suppliers or the successful Supplier or as to these instructions or as to any other matter or thing so as to bind the Council.

#### Council Authorised Representative contact details:

Name: Morwenna Lewis, Cultural Services Director

Jackie George – Client project manager:

Email: [procurement@falmouthtowncouncil.com](mailto:procurement@falmouthtowncouncil.com)

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### The assessment process and award criteria

- 3.28. The objective of the assessment process, including the award criteria and assessment methodology is to assess the responses to the Tender and select a Supplier to deliver the contract for the Council at best value.
- 3.29. Tenders will be assessed on the Most Advantageous Tender (MAT) offer i.e. the offer that is considered to provide best value to the Council based on an effective combination of quality, cost and service factors.
- 3.30. The assessment will be carried out as below:

#### Preliminary Checks

- 3.31. Tenders will be subject to preliminary checks to verify that the submission is complete and compliant, including
- 3.31.1. Tenders have been submitted on time, are considered complete and meet the requirements of the ITT to enable them to be assessed.
- 3.31.2. Supplier has not contravened any of the terms and conditions of the Tender process.
- 3.32. Tenders that do not meet the above preliminary checks will not proceed to the next stage of the assessment.

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### STAGE ONE – Procurement Specific Questionnaire

- 3.33. Tenders that meet the above preliminary checks must also meet the minimum requirements (Score question and / or Pass / Fail questions) of the Procurement Specific Questionnaire of the Tender Response Document (Part B).
- 3.34. The Procurement Specific Questionnaire can be seen in the Tender Response Document (Part B), this is based on the Government Commercial Function standard template. The table below sets out the questions and the methodology of how each question will be assessed.

No.	Question (Please refer to Tender Response document for full question)	Criteria	Methodology
<b>Preliminary Questions</b>			
1	What is your name? (supplier name)	n/a	For information
2	What is your central digital platform unique identifier?	n/a	For information (but note, where above threshold Supplier would be required to be registered)
3	Bidding as a single supplier (with or without sub-contractors) or as part of a group or consortium	n/a	For information
4	Not used		
5	Are you on the debarment list?	Pass / Fail	<p><b>Pass</b> – A pass will be where the information has been provided in the Tender Response Document is complete and it is assessed that the Supplier is not on the debarment list or following assessment conditions of Regulations <u>57</u>, <u>58</u> and <u>59</u> of the <u>Procurement Act 2023</u> are met.</p> <p><b>Fail</b> - A Supplier may “fail” and therefore be excluded from the procurement on the grounds of providing insufficient or false information or where highlighted that they are on the Government disbarment list and conditions in Regulations <u>57</u>, <u>58</u> and <u>59</u> of the <u>Procurement Act 2023</u> are not met.</p>
Part 1 – confirmation of core supplier information			

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No.	Question (Please refer to Tender Response document for full question)	Criteria	Methodology
6	<p>Provision of up to date information on Central Digital Platform (either share code or PDF download)</p> <p>You must submit up-to-date core supplier information on the Central Digital Platform and share this information with us.</p>	Pass / Fail	<p><b>Pass</b> - Where the information has been provided complete and up to date and in line with the requirements set out in the Tender Response Document and it is assessed as up to date and complete.</p> <p><b>Fail</b> – Where following assessment either this has not been provided and / or the information is insufficient or false information.</p> <p>[Please Note: Financial assessments will be conducted in line with disclosed criteria in question 13 below].</p>
Part 2 – additional exclusions information			
Part 2A – associated persons (to be completed if using associated persons)			
7	Are you relying on any associated persons	n/a	For information (if unsure reference should also be made to conditions in Regulations <u>22(9)</u> and <u>26</u> and <u>57, 58</u> and <u>59</u> of the <u>Procurement Act 2023</u> )
8	(if yes to 7 above) Supplier/associated person, please confirm which condition(s) of participation you are relying on them to satisfy	n/a	For information
9	<p>(if yes to 7 above) For each associated person, you must confirm they are registered on the Central Digital Platform.</p> <p>You must submit up-to-date core supplier information on the Central Digital Platform and share this information with us.</p>	Pass / Fail	<p><b>Pass</b> - Where the information has been provided complete and up to date and in line with the requirements set out in the Tender Response Document and it is assessed as up to date and complete.</p> <p><b>Fail</b> – Where following assessment either this has not been provided and / or the information is insufficient or false information.</p>

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No.	Question (Please refer to Tender Response document for full question)	Criteria	Methodology
10	(if yes to 7 above) Are any of your associated persons on the debarment list?	Pass / Fail	<p><b>Pass</b> – A pass will be where the information has been provided in the Tender Response Document is complete and it is assessed that the Associated Person is not on the debarment list or following assessment conditions of Regulations <u>57</u>, <u>58</u> and <u>59</u> of the <u>Procurement Act 2023</u> are met.</p> <p><b>Fail</b> – An Associated Person may “fail” and therefore be excluded from the procurement on the grounds of providing insufficient or false information or where highlighted that they are on the Government disbarment list and conditions in Regulations <u>57</u>, <u>58</u> and <u>59</u> of the <u>Procurement Act 2023</u> are not met.</p> <p>[Please Note: Financial assessments will be conducted in line with disclosed criteria in question 13 below].</p>
Part 2B – list of all intended sub-contractors (to be completed if intending to use sub-contractors)			
11	Provide: details of all suppliers who you intend to sub-contract	n/a	For information
12	Are any of your intended sub-contractor is on the debarment list.	Pass / Fail	<p><b>Pass</b> – A pass will be where the information has been provided in the Tender Response Document is complete and it is assessed that the sub-contractor is not on the debarment list or following assessment conditions of Regulations <u>57</u>, <u>58</u> and <u>59</u> of the <u>Procurement Act 2023</u> are met.</p> <p><b>Fail</b> - A sub-contractor may “fail” and therefore be excluded from the procurement on the grounds of providing insufficient or false information or where highlighted that they are on the Government disbarment list and conditions in Regulations <u>57</u>, <u>58</u> and <u>59</u> of the <u>Procurement Act 2023</u> are not met.</p>
Part 3 – questions relating to conditions of participation			
Part 3A – standard questions			
13	Not used		
14	Not used		



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No.	Question (Please refer to Tender Response document for full question)	Criteria	Methodology
15	Levels of insurance cover	Pass / Fail	Suppliers will be required to self-certify whether they already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover. This will be marked on a “pass/fail” basis. If you does not meet or does not commit to the Council’s minimum requirements, this will be classed as a “fail”. If you are the Preferred Supplier and you fail to provide the necessary evidence then Preferred Supplier status will move to the provider in 2nd place and so on if necessary.
16	Not used		
17	Not used		
18	Not used		
19	Technical Ability – Subcontractor management	Pass / Fail	<b>Pass</b> – Supplier is assessed as setting out a clear explanation of how it has previously maintained healthy supply chains with its subcontractors. <b>Fail</b> – Supplier is assessed as not having set out a clear demonstration of how it has previously maintained healthy supply chains with its subcontractors.
20	Not used		
21	Not used		
22	Health and Safety –in accordance with CAS (Common Assessment Standards)	Pass / Fail	Pass - Where the information has been provided complete and in line with the requirements set out in the Procurement Specific Questionnaire and deemed to have met the conditions as set out. Fail - Where either this has not been provided and / or the information is insufficient or false information.

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No.	Question (Please refer to Tender Response document for full question)	Criteria	Methodology
23	Environmental Management in accordance with CAS (Common Assessment Standards)	Pass / Fail	<p>Pass - Where the information has been provided complete and in line with the requirements set out in the Procurement Specific Questionnaire and deemed to have met the conditions as set out.</p> <p>Fail - Where either this has not been provided and / or the information is insufficient or false information.</p>
24	Quality Management in accordance with CAS (Common Assessment Standards) (WORKS ONLY)	Pass / Fail	<p>Pass - Where the information has been provided complete and in line with the requirements set out in the Procurement Specific Questionnaire and deemed to have met the conditions as set out.</p> <p>Fail - Where either this has not been provided and / or the information is insufficient or false information.</p>

- 3.35. If all aspects of this Procurement Specific Questionnaire are passed, then the submission will be subject to the price and qualitative assessment as detailed below.

### STAGE TWO – Award Criteria

- 3.36. Tenders will be assessed on the basis of the total weightings of:

- 3.36.1. Quality 60%
- 3.36.2. Social Value 10%
- 3.36.3. Price 30%

- 3.37. The quality aspects are to be based on the below approach:

#### **Pass / Fail Questions**

- 3.38. Confirmation of RIBA Chartered status (Pass / Fail)
- 3.39. Confirmation of Principal Designer and Principal Builder status under CDM (Pass / Fail)
- 3.40. Confirmation of contracting under the stated terms of Contract (Pass / Fail)

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### Method Statements

Sub Criteria		Main Criteria
<b>Criteria: Quality</b>		<b>60%</b>
Sub Criteria: Understanding the brief	36%	
Sub Criteria: The Design Team	16%	
Sub Criteria: Delivery Method and Programme	16%	
Sub Criteria: Construction delivery phase	16%	
Sub Criteria: Partnering and Collaboration	16%	
<b>Criteria: Social Value</b>	100%	<b>10%</b>
<b>Criteria: Price</b>		<b>30%</b>
Sub-Criteria – Stage 1 & 2 (Fixed Price) – Internal works only	30%	
Sub-Criteria – Stage 3 to 7 (Based on estimated construction price)	70%	
<b>TOTAL Quality / Price</b>		<b>100%</b>

3.41. The technical assessment of the qualitative elements is carried out independently of the Pricing aspects, with the intention that the information on the Pricing element only be disclosed to the assessors post the completion of the qualitative assessment specifically:

- 3.41.1. Score objectively in line with set questions and score methodology as set out in the Tender pack
- 3.41.2. Scores to be recorded and comments recorded on the reasons to justify the score
- 3.41.3. Scores to form part of overall scores around the Award decision.

## ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)

### Scoring structure for method statements

SCORING MATRIX FOR QUALITY CRITERIA		
Score	Assessment	Definition
5	Excellent	<p>An excellent response submitted in terms of detail and relevance which clearly fully meets or meets the vast majority the requirements with no negative implications and evidence in their ability and / or proposed methodology to deliver a solution.</p> <p>Excellent evidence has been provided to show not only what will be delivered but will give comprehensive detail of how this will be achieved. The response will have made clear how their proposal relates directly to the requirements and is specific, rather than general, in the way proposed solutions will deliver the desired outcomes.</p>
4	Good	<p>A good response submitted in terms of detail and relevance that meets the requirements without significant negative implications or inconsistencies. The Supplier demonstrates the understanding of the requirement and evidence of their ability and / or proposed methodology to deliver the requirements.</p> <p>Good evidence has been provided to show not only what will be delivered but will give relevant detail of how this will be achieved. The response will have made clear how the proposal relates directly to the requirements and is specific, rather than general, in the way proposed solutions will deliver the desired outcomes.</p>
3	Satisfactory	<p>A satisfactory response submitted in terms of the level of detail, accuracy, relevance and evidence in their ability and / or proposed methodology to deliver the requirements. Aspects of the response may be satisfactory but there are some omissions of important factors or negative indications that reduce the extent to which the requirements will be met.</p> <p>There is a lack of some clarity or detail in how the required outcomes will be achieved. Evidence is provided but may be generic in parts and is not specifically directed toward the desired outcomes.</p>
2	Reservations	<p>The response meets some of the requirement but there are clearly reservations, either in understanding the requirement, and / or details around proposed methodology, and / or limited evidence to support the response. There would be concerns that the approach would require intervention or create ongoing issues in delivery of the requirements.</p> <p>Not sufficient evidence has been provided to suggest how the requirements will be met. Parts of the response is vague with little or no detail and evidence given on how to meet requirements. Evidence provided is considered weak or is unclear on how this relates to the requirements.</p>

## ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)

<b>1</b>	<b>Serious reservations</b>	<p>Limited response provided, or a response that is inadequate, inaccurate and / or only partially addresses the question. Serious reservations of the response provided, either in understanding the requirement, and / or details around proposed methodology, and / or little evidence to support the response.</p> <p>This includes major weaknesses or gaps in the information provided. The response displays a poor understanding of the requirement and there are major doubts around the ability to deliver the requirements. The whole response is vague with little or no detail given of how to meet the requirements. Evidence provided is considered inappropriate or has a lack of clarity on how it relates to the requirements.</p>
<b>0</b>	<b>Unacceptable</b>	<p>The response is unacceptable and does not comply with the requirements.</p> <p>Insufficient or no information provided to demonstrate that the requirement is understood and no relevant evidence to support the response.</p> <p>No response to the question or a response that is significantly irrelevant or inaccurate.</p>

### Commercial / Price Assessment

3.42 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 Supplier's to return as part of their response.

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

3.44 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. The equation set out below explains this in a simpler way:

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

3.46 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 60% of the overall marks (i.e. quality 40%). Figures shown are purely illustrative:

	<b>L</b>	<b>W</b>	<b>Tenderer 1</b>		<b>Tenderer 2</b>		<b>Tenderer 3</b>	
Assessment Elements	Lowest Submitted price (£)	Sub Weighting %	Tendered Price	Score (%)	Tendered Price	Score (%)	Tendered Price	Score (%)
Total Contract Sum	£65,000	60	£75,000	52.00	£65,000	60.00	£85,000	45.88

## ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)

Price Score (%)		60		52.00		60.00		45.88
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3.47 These scores would be added to the quality scores for the individual suppliers in this example Tenderer 1 being the preferred supplier to be awarded the contract.

	Sub Weighting %	Tenderer 1	Tenderer 2	Tenderer 3
Price score	60	52.00	60.00	45.88
Quality	40	38.00	27.00	38.00
<b>TOTALS</b>	<b>100</b>	<b>90.00</b>	<b>87.00</b>	<b>83.00</b>

### Supplier Presentation

3.48 It is the intention to hold Supplier presentations as part of this Procurement.

3.49 The intention of the presentation is to:

- 3.49.1 Help the assessment panel to clarifying queries on various aspects of the tender response
- 3.49.2 Give Suppliers an opportunity to demonstrate areas of their bid that may not be fully possible to explain in a written submission
- 3.49.3 Give the Suppliers the opportunity to highlight and emphasise any key features and aspects of their proposal

3.50 The presentation is an opportunity for the Council to clarify the Tender responses; it is not an opportunity for Suppliers to offer a new proposal or new responses.

3.51 The presentation will not be scored but following it individual scores awarded to Suppliers by assessment panel members may change and they may go up, down or stay the same.

3.52 Only those Suppliers who are within 15% of the initially top ranked Supplier from the initial moderation of scores will be taken forward to the presentation stage.

## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

### **SECTION 4 – PROCUREMENT CONDITIONS (General)**

#### **Procedural requirements**

- 4.1. This document together with all other associated documents provided to Suppliers in connection with this Procurement contain procedural requirements which Suppliers must follow. Failure to comply with or follow any procedural requirement may result in the exclusion of the Supplier from the Procurement at the Council's sole discretion.

#### **Central Digital Platform**

- 4.2. Suppliers that wish to participate in this Procurement are responsible for ensuring that the Central Digital Platform contains complete, accurate and up-to-date information about their organisation and any Associated Suppliers which are relevant for the purposes of this Procurement. Suppliers must notify the Council immediately if it is unable to register on the Central Digital Platform and/or provide accurate and up-to-date information via the Central Digital Platform.

#### **Transparency (Procurement Legislation)**

- 4.3. Suppliers should note that, in accordance with general transparency obligations and procurement law obligations under the Act, the Council routinely publishes details of its procurement processes and awarded contracts. This includes, but is not limited to, the contract value, the identity of the successful Supplier, compliance with payment obligations and contract performance. Compliance with these obligations may involve the Council taking steps without consultation with Suppliers. Where required under the Act, a copy of the contract will be published (subject to making any reasonable and proportionate redactions permitted under the Act).
- 4.4. Where required, the Council will disclose on a confidential basis any information it receives from Suppliers during the Procurement to any third party engaged by the Council for the specific purpose of assessing or assisting the Council in assessing the Supplier's submission. In providing such information the Supplier consents to such disclosure.

#### **Modifying the Procurement**

- 4.5. Neither the Tender Notice, this document nor any information given as part of the Procurement shall be regarded as a commitment or representation on the part of the Council (or any other person) to enter into a contractual agreement.
- 4.6. The Council reserves the right to cancel the Procurement at any point and / or to choose not to award any contract [or lot] as a result of this Procurement.
- 4.7. Suppliers will remain responsible for all costs and expenses incurred by them, their staff, and their advisers or by any third party acting under their instructions in connection with this Procurement. For the avoidance of doubt, the Council is not liable for any costs or expenditure resulting from any cancellation or amendment of this Procurement.

## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

- 4.8. The Council reserves the right at any time:
- 4.8.1. to issue amendments, modifications or additional information to any documentation which forms part of this Procurement, including the Procurement terms and conditions.
  - 4.8.2. to require a Supplier to clarify their proposal(s) and/or tender submission in writing and/or provide additional information – failure by a Supplier to respond adequately may result in their tender submission being rejected.
  - 4.8.3. to alter the Procurement Timetable for this Procurement.
  - 4.8.4. to rewind and re-run any part of the Procurement on the same or alternative basis.

### **Confidentiality and publicity**

- 4.9. Save to the extent made publicly available by the Council, the information in this document (together with all attachments and any other information communicated to Suppliers during the Procurement) is made available on the condition that it is treated as confidential information by the Supplier and is not disclosed, copied, reproduced, distributed or passed to any other person at any time except in order to comply with legal obligations or for the purpose of enabling a submission to be made to the Council, provided that such person has given an undertaking prior to the receipt of the relevant information (and for the benefit of the Council) to keep such information confidential.
- 4.10. Suppliers must not take part in any publicity activities with any part of the media about this Procurement without obtaining the express prior written agreement of the Council. When requesting prior written agreement, Suppliers are required to detail the proposed media coverage including format and content of any publicity.

### **Freedom of information and environmental information**

- 4.11. The Council is subject to the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). All information submitted to the Council may be disclosed in response to a request made pursuant to the FOIA or the EIR.
- 4.12. In respect of any information submitted by a Supplier that it considers to be commercially sensitive, the Supplier should:
- a) clearly identify which information is considered commercially sensitive
  - b) explain the potential implications of disclosure of such information
  - c) provide an estimate of the period of time for which the Supplier considers that such information will remain commercially sensitive
- 4.13. The Council will endeavour to:



## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

- a) hold confidential all information submitted by a Supplier that it identifies as being commercially sensitive
- b) consult with a Supplier about commercially sensitive information before making a decision on any FOIA requests and EIR requests received

4.14. Suppliers should note, however, that the final decision on any FOIA request and EIR request rests with the Council, subject to applicable law. Even where information is identified as commercially sensitive, unless an exemption/exception provided for under the FOIA/EIR is applicable, the Council will be obliged to disclose that information in response to a request. Accordingly, the Council cannot guarantee that any information marked 'commercially sensitive' will not be disclosed.

### **Requirements on sub-contractors and consortium**

4.15. If requested to do so by the Council, a Supplier will be required to enter into a legal arrangement with other members of a consortium or with any parties which are relied on in order to satisfy the conditions of participation relating to this Procurement (in accordance with section 72 of the Act). Acceptance of this request shall be considered a mandatory requirement and failure to accept the same may result in the Supplier's exclusion from the Procurement.

### **Parent company guarantee or other securities**

- 4.16. The Council reserves the right to require a parent company guarantee or alternative equivalent form of security should the Supplier be successful in this Procurement. [A draft guarantee is included in [Schedule X to the draft contract.]
- 4.17. Where the Supplier's parent company is incorporated outside the United Kingdom, the Council will require a legal opinion from an independent firm of lawyers practising in that jurisdiction (at the Supplier's own cost and expense) as to the capacity/authority of the parent company to enter into the parent company guarantee and the enforceability of the terms of the parent company guarantee in the relevant overseas jurisdiction.
- 4.18. Notwithstanding the above, the Council may specify minimum contractual financial security requirements as appropriate having regard to the financial assessment undertaken during this Procurement. Where the Council specifies any financial security requirements, acceptance of the requirements shall be considered a mandatory condition and failure to accept the same may result in the Supplier's exclusion from the Procurement.

### **Non-collusion, non-canvassing**

- 4.19. Any attempt by a Supplier or their advisers to influence the Procurement in any way may result in the exclusion of the Supplier, without prejudice to any other civil or legal remedies available to the Council and without prejudice to any criminal liability that such conduct by a Supplier may attract.
- 4.20. Specifically, Suppliers must not directly or indirectly at any time:

## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

- 4.20.1. Devise or amend the content of their submissions in accordance with any agreement or arrangement with any other person, other than in good faith with a person who is a proposed partner, subcontractor, consortium member insurance provider or provider of finance.
  - 4.20.2. Enter into any agreement or arrangement with any other person as to the form or content of any other submission or offer to pay any sum of money or valuable consideration to any person to effect changes to the form or content of any other submission.
  - 4.20.3. Enter into any agreement or arrangement with any other person that has the effect of prohibiting or excluding that person from submitting a response in this procurement.
  - 4.20.4. Canvass any employees, members or agents of the Council in relation to this procurement.
  - 4.20.5. Attempt to obtain information from any of the employees, members or agents of the Council or their advisors concerning another Supplier or submission.
  - 4.20.6. Carry out any other co-operation or collusion with another Supplier or any other person which the Council considers capable of undermining fair competition.
- 4.21. By participating and submitting a formal declaration in line with this procurement Suppliers are confirming that they (and / any parties related to this procurement) do not breach non-collusion and non-canvassing requirements stated. The Council will be entitled to rely on the acceptance of this position.

### **Conflicts of interest**

- 4.22. Suppliers are responsible for ensuring that no actual, potential or perceived conflicts of interest (within the meaning of the Procurement Act 2023) exist between themselves and the Council or its advisers. Suppliers must notify the Council immediately of any actual, potential or perceived conflict of interest.
- 4.23. In the event of any actual, potential or perceived conflict of interest, the Council shall in its absolute discretion decide on the appropriate course of action. The Council reserves the right to:
- 4.23.1. Exclude any Supplier that fails to notify the Council of an actual, potential or perceived conflict of interest, or where an actual conflict of interest exists
  - 4.23.2. Request further information from any Supplier and require any Supplier to take reasonable steps to mitigate a conflict of interest. This may include requiring any Supplier to enter into a specific conflict of interest agreement with the Council. Failure to do so may result in the Supplier being excluded from participating in, or progressing as part of, the procurement process

## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

- 4.24. The Council strongly encourages Suppliers to contact the Council as soon as possible should it have any concerns regarding actual, potential or perceived conflicts of interest.

### **Conflict assessments**

- 4.25. The Council confirms that, prior to the issue of the Tender Notice in this Procurement, a conflict assessment has been prepared in accordance with the Act.

### **Anti-competitive behaviour**

- 4.26. Suppliers are reminded of their obligations under applicable competition laws. The Council may require evidence from Suppliers that their arrangements are not anti-competitive and reserves the right to require any Supplier to comply with any reasonable measures which may be needed to verify that no anti-competitive arrangements are in place.
- 4.27. Any evidence of anti-competitive behaviour may result in a Supplier being disqualified from the Procurement. The Council also reserves the right to refer any suspected breaches of applicable competition laws to the relevant authorities including, but not limited to, the Competition and Markets Council and the Serious Fraud Office.
- 4.28. Suppliers should note that anti-competitive behaviour may result in the Supplier being excluded from bidding for contracts under Schedule 7, Paragraph 7 of the Procurement Act 2023. Where a relevant decision has been made by the Competition and Markets Council under the Competition Act 1998, the Supplier may also be excluded from bidding for contracts under Schedule 6, paragraph 41 and may be added to the debarment list and/or be liable for civil and/or criminal penalties.

### **Contract**

- 4.29. A Tender submission is an offer to enter into a contract on the terms of the contents of the submission. Notification of an award decision does not constitute acceptance by the Council. Any document submitted by a Supplier shall only have contractual effect when it is contained within an executed written contract.
- 4.30. The Supplier's final tender submission must remain valid for acceptance for a period of 90 days from the date of its submission or until any procurement challenge/s have been resolved.

### **Supplier warranties**

- 4.31. In responding to this invitation, the Supplier warrants, represents and undertakes to the Council that:
- 4.31.1. It understands and has complied with the conditions set out in this document
  - 4.31.2. All information, representations and other matters of fact communicated (whether in writing or otherwise) to the Council by the Supplier, its staff or

## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

agents in connection with or arising out of the Procurement are true, complete and accurate in all respects, both as at the date communicated and as at the date of the submission of the response to this document

4.31.3. It has made its own investigations and undertaken its own research and due diligence, and has satisfied itself in respect of all matters (whether actual or contingent) relating to the invitation and has not submitted its response in reliance on any information, representation or assumption which may have been made by or on behalf of the Council (with the exception of any information which is expressly warranted by the Council)

4.31.4. it has full power and authority to respond to this document and to perform the obligations in relation to the contract and will, if requested, promptly produce evidence of such to the Council

4.32. Suppliers should note that the potential consequences of providing incomplete, inaccurate or misleading information include that:

4.32.1. the Council may exclude the Supplier from participating in this Procurement

4.32.2. the Supplier may be excluded from bidding for contracts under Schedule 7, Paragraph 13 of the Act

4.32.3. the Council may rescind any resulting contract under the Misrepresentation Act 1967 and may sue the Supplier for damages

4.32.4. if fraud or fraudulent intent can be proved, the Supplier may be prosecuted and convicted of the offence of fraud by false representation under section 2 of the Fraud Act 2006, which can carry a sentence of up to 10 years or a fine (or both) – if there is a conviction, then the Supplier may be excluded from bidding for contracts under Schedule 6, Paragraph 15 of the Act and may be added to the debarment list

### **Third parties**

4.33. Nothing in these terms is intended to confer any rights on any third party under the Contracts (Rights of Third Parties) Act 1999. This does not affect any right or remedy of any person which exists or is available apart from that Act.

### **Applicable law**

4.34. The law of England is applicable to this Procurement.

4.35. Suppliers must agree to submit to the exclusive jurisdiction of the Courts of England and Wales in relation to any dispute arising out of or in connection with this Procurement.

## ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)

### SECTION 5 – OTHER PROCUREMENT CONDITIONS

#### General assessment information

- 5.1. Suppliers may be required to clarify its submission. If in the opinion of the Council the Supplier fails to provide an adequate response to one or more points of clarification, or fails to respond by the given deadline, the Supplier may be excluded from progressing further in the process.
- 5.2. The Council is under no obligation to “follow up” with the Supplier to obtain information found to be missing.
- 5.3. Suppliers may provide information to support their responses to the method statement questions, provided the supporting information is cross-referred to in the relevant method statement(s). The supporting information must be provided as separate attachments and submitted via the details provided. The supporting information must be listed/attached in the same order as it is cross-referenced in the numbered method statements and the cross-reference must identify the specific information within the supporting document which is being relied on to support the substantive response. Supporting information which is not cross-referenced in a method statement response will not be considered. Where word limits are applicable to a question, these do not include the supporting information itself (certificates etc.) but the cross-references to the supporting material within the method statement response will count towards the word limit. Diagrams, pictures and charts embedded into the method statement response may include words but only to the extent that those words are necessary to enable the assessment panel to understand or interpret the diagram, picture etc. The inclusion of any words within diagrams, pictures etc. which go beyond what is strictly necessary to enable the assessment panel to understand the diagram, picture etc. will be disregarded for the purpose of the evaluation of a Supplier’s substantive response to the method statement. The referenced supporting information and any diagrams, pictures etc. embedded in the method statement itself must only support the substantive response to the method statement question and not provide the answer by its content. Where word limits are applicable to a question, any words found to be over the limit will not be assessed.
- 5.4. Suppliers must make sure that they answer what is being asked. Anything that is not directly relevant to the particular question should not be included.
- 5.5. Suppliers should also make sure that their answers inform not just what they have or will do, but how they did it or will do it, and what their proposed timescales are (as relevant) supported by examples or evidence to support the responses as appropriate.
- 5.6. Please do not cross reference for other responses or information as each question will be assessed individually, one by one in order.

## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

### **Acceptance of Tender and Award of Contract**

- 5.7. The Tender Pack and the submission of the Tender shall not in any way bind the Council to enter into a contract with the Supplier or involve the Council in any financial commitment whatsoever in this respect.
- 5.8. It is the responsibility of the Supplier to ensure that the pricing and delivery methodology within its supply chain will hold for the acceptance period. The Supplier must notify the Council immediately if anything affects their Tender within the acceptance period.
- 5.9. No alteration to the successful Tenderer's position post award of the contract will be accepted, unless this is due to external factors beyond the control of the Tenderer, is acceptable to the Council and is in accordance with any applicable legislation.
- 5.10. Unless and until a formal agreement is prepared and executed, the Tender Pack, the Supplier's submission, together with the Council's written acceptance shall constitute a binding contract between both parties.
- 5.11. The Council is not bound to accept the lowest or any Tender and may accept the whole or part of any Tender at its discretion.
- 5.12. Where the pricing of a Tender is abnormally low the Council reserves the right to reject the Tender in accordance with the requirements for further investigation under the Procurement Act 2023 Section 19 (3) c.

### **Rejection of Tender**

- 5.13. The Council may disqualify any Supplier who:
  - 5.13.1. Fails to meet the requirements set out in the Tender Pack;
  - 5.13.2. Fails to provide a satisfactory response to any questions in the Tender Response Document (Part B) or inadequately or incorrectly completes any question;
  - 5.13.3. Is awarded a score of '0' for any of the qualitative questions at stage one or two;
  - 5.13.4. Submits an incomplete or vague Tender or submits its Tender later than the prescribed date and time;
  - 5.13.5. Submits a Tender that is qualified, conditional or accompanied by statements that might be construed as rendering the tender equivocal;
  - 5.13.6. (whose) circumstances change to the extent that the Supplier ceases to meet the qualification criteria, or who makes material changes to any aspect of its Tender, unless substantial justification can be provided to the satisfaction of the Council and such change is in accordance with applicable legislation;

## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

- 5.13.7. Has directly or indirectly canvassed any official of the Council or obtained information from any other person who has been contracted by the Council concerning the award of the contract or who has directly or indirectly obtained or attempted to obtain such information;
- 5.13.8. Fixes or adjusts the amount of their Tender by or in accordance with any agreement or arrangement with any other person;
- 5.13.9. Communicates to any person other than the Council the amount or approximate amount of the figures shown in the proposed Tender except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the Tender or for the purposes of insurance or financing;
- 5.13.10. Enters into any agreement with any other person that such other person shall refrain from submitting a Tender or shall limit or restrict the figures to be shown or referred to by another Supplier;
- 5.13.11. Offers to agree to pay to any person having direct connection with the Tender 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 Supplier or any other person's proposed Tender, any act or omission;
- 5.13.12. In connection with the award of the contract commits an offence under the Prevention of Corruption Acts 1889 to 1916 or gives any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
- 5.13.13. The Council shall reserve the right to conduct due diligence to check Supplier details with Companies House and other open information sources or seek verification directly from the Supplier in relation to this information.

### **Notification**

- 5.14. Following assessment of the Tenders the Council will make a decision on which, if any, Tender shall be accepted.
- 5.15. Suppliers will be notified of whether they are in Preferred Supplier status, or not. The Council will contact the Supplier assessed as Preferred Supplier status to request all necessary evidence from the self-declarations made within the Procurement Specific Questionnaire when the Council will carry out the final assessment to ensure the evidence is satisfactory. If the evidence is satisfactory, the Council will provide all suppliers with details of the outcome of the assessment along with feedback of the submissions received.

## ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)

### Transparency Code

- 5.16. As part of the Government Transparency Code Local Authorities to publish details of payments over £500 (net of VAT) are published on the Authorities website, these can be viewed at this link: [Transparency, our data \(iow.gov.uk\)](https://www.iow.gov.uk/transparency)

### Council Representatives

- 5.17. No person in the Council's employ or other agent, except as so authorised by the Authorised Officer, has authority to make any representation or explanation to Suppliers as to the meaning of the agreement or any other document within the Tender Pack or as to anything to be done or not to be done by Suppliers or the Successful Supplier.

### Incomplete or Erroneous Errors / Missing information / Omissions

- 5.18. The Council reserves the right to seek clarification from Suppliers in connection with their responses where information submitted appears to be incomplete or erroneous or where specific documents are missing. The Council reserves the right for the to request the Supplier to submit, supplement, clarify or complete the information or documentation provided in connection with the response to this invitation. Any information requested must be returned in the defined period set by the Council.
- 5.19. The Council reserves to right to discount any information from the clarification not received in line with the defined steps outline to the Supplier and is not under any obligation to use that information further as part of the process.
- 5.20. Suppliers should be aware that submission of a Tender that contains incomplete or erroneous errors, missing information or omissions such as required documents may result in their Tender being deemed a non-compliant submission.

### Council's Warranties and Disclaimers

- 5.21. The Council may require further information as appropriate and assess this as part of the Tender assessment process.
- 5.22. The Supplier shall have no claim whatsoever against the Council in respect of such matters and in particular (but without limitation) in respect of the contract by reason of the specification being different to that envisaged by the Supplier or otherwise.
- 5.23. Whilst the information in the Tender Pack has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. The Council does not make any representation or warranty (express or implied) with respect to the information contained in the Tender Pack or with respect to any written or oral information made or to be made available to any Supplier or its professional advisors.
- 5.24. Each Supplier who downloads the Tender Pack 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 Agreement.



## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

- 5.25. This Tender Pack is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a Supplier to submit a Tender or enter into any other binding agreement.

### **Suppliers Responsibilities**

- 5.26. A Supplier shall be deemed to have satisfied itself before submitting its Tender as to the accuracy and sufficiency of the information provided within the Tender Pack which shall cover all obligations under the Contract and a Supplier 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 Tender.
- 5.27. The Supplier is responsible for obtaining all information necessary for the preparation of its Tender and all costs, expenses and liabilities incurred by a Supplier in connection with the preparation and submission of a Tender shall be borne by the Supplier.

### **Consortia Arrangements**

- 5.28. The Council recognises the opportunity for organisations/businesses to form consortia for the purposes of Tendering.
- 5.29. The Council is unable to provide any advice to organisations/businesses on the forming and setting up of consortia and therefore your business/organisation should instead seek (where appropriate) its own independent advice on this matter.
- 5.30. The Council may require further evidence regarding the structure and operation of your proposed consortium arrangements. This may include but not necessarily be limited to joint working agreements, memorandum of understanding, and governance arrangements. Failure to provide this evidence, when asked, may lead to your submission being excluded.
- 5.31. In the case of a consortium which is intended to be jointly and severally liable (e.g. a new legal entity) the Council will require evidence/information from each of the relevant consortium members relating to all questions in this questionnaire.
- 5.32. In the case of all other forms of consortia which are not jointly and severally liable, the Council will require evidence/information from each of the relevant consortium members relating to all questions in this questionnaire with the exception of Financial Standing. In this instance, the only financial information which will be assessed will be that relating to the organisation/business which directly contracts with the Council (i.e. the lead organisation). The Council may also require a further guarantee such as a parent company guarantee or commitment to obtain a performance bond from that lead organisation. In some instances a collateral warranty may be requested from all or some consortium members, particularly where a consortium member is delivering a significant/fundamental part of the contract.
- 5.33. It is recognised that arrangements in relation to consortia may be subject to future change. Your response should reflect the arrangements as they are currently

## **ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)**

envisaged. You must immediately notify the Council of any proposed changes to your consortium membership or structure. The Council will review and consider the changes and will assess what impact this has on your submission (i.e. questionnaire or Tender). Please note that the Council reserves the right to exclude your questionnaire/Tender submission at any stage during a Tender process based on these changes.

### **Intellectual Property Rights**

- 5.34. Intellectual property rights (IPR) to original ideas, designs, concepts or plans contained in any document, plan, specification, drawing or design submitted in response to this process will vest with the Council unless copyright is claimed prior to submission of such materials to the Council.

### **Tie Breaker**

- 5.35. In the event of a tied score of two or more Suppliers following the assessment of the tenders then the award of the preferred Supplier will be based on the most competitive price received, that being the lowest total price of the bids returned
- 5.36. In the event that lowest total price is not a determining factor around the tie, then the scores will be based on the highest individually weighted method statement for the quality assessment, where there is more than one method statement which has a same weighting then it will be the combined scores of those method statements with that weighting.

## ABOVE THRESHOLD INVITATION TO TENDER (OPEN PROCEDURE)

### SECTION 6 – GLOSSARY OF DEFINED TERMS

**Assessment Panel** shall mean the assembled personnel with the relevant qualifications, skills and experience to assess Supplier submissions.

**The Council** shall mean Falmouth Town Council.

**Central Digital Platform** shall mean the central platform for the transfer of information between Contracting Authorities and Suppliers as set out in Regulations 5 of the Procurement Regulations 2024.

**Invitation to Tender (ITT)** shall mean the process related to this Tender.

**Mandatory Standstill Period** shall mean the formal period applied prior to the Council being able to conclude formal contract arrangements with the Most Advantageous Tender submission as set out in Chapter 5 Regulation 51 of the Act.

**Most Advantageous Tender (MAT)** shall mean the method to be applied when considering the assessment and award criteria of the Tenders as set out in Regulation 19 (2) of the Act.

**Notices** shall mean the relevant formal Notices referred to within the Act and the Procurement Regulations 2024.

**Procurement** shall mean the process in relation to this specific Tender.

**Procurement Act 2023 (the Act)** shall mean the formal [procurement legislation](#) which governs public sector procurement

**Procurement Specific Questionnaire** shall mean the questionnaire used within this procurement process for determining grounds for inclusion of a Supplier which is informed and based on the Government Commercial Function template - [\(PA 2023\) Procurement specific questionnaire | Procurement Pathway](#)

**Procurement Timetable** shall mean the table within this document which sets out key dates and times (where relevant) related to this Procurement and includes the formal date and time for the formal submission of Tenders by Suppliers.

**Social Value** shall mean the [Public Services \(Social Value\) Act 2012](#)

**Suppliers** shall mean the collective term for suitably qualified suppliers, who may potentially bid or not to this Tender.

**Tender** shall mean the Tender in connection to this specific Procurement process.

**Tender Pack** shall mean all of the documents which form part of this Procurement process.

**Tender Response Document (Part B)** shall mean the document supplied as part of this Tender Pack which is designed for Supplier submissions.

**Terms and Conditions** shall mean the formal contractual terms under which any awarded contract would be formed.