

Invitation to Negotiation Stage 1 (ITN1) for the  
provision of a Prime Provider for the delivery  
of Integrated Community Services to NHS  
Bath and North East Somerset CCG and Bath  
& North East Somerset Council

Tender ref: SCW/NHS11ECCG/00000164/2016

Bath & North East  
Somerset Council



**NHS**  
Bath and North East Somerset  
Clinical Commissioning Group

Level 5, South Plaza  
Marlborough Street  
Bristol  
BS1 3NX

Tel: 0117 984 1614

Our ref: SCW/NHS11ECCG/00000164/2016  
Date: 26/04/2016

Dear Bidder,

**SCW/NHS11ECCG/00000164/2016– Tender for the provision of Prime Provider for the delivery of Integrated Community Services to NHS Bath and North East Somerset CCG and Bath & North East Somerset Council**

Please find set out in this Invitation to Negotiate Stage 1 (ITN1) document the specification and additional information enabling you to bid to provide a Prime Provider for the delivery of Integrated Community Services (hereafter collectively and individually 'the Service') to NHS Bath and North East Somerset CCG and Bath & North East Somerset Council (the Commissioner).

This document is itself split in to a number of different sections, as follows:

**Section 1**

- Part A – Key information
- Part B – General information

**Section 2**

- Part C – Service Specifications

**Section 3**

- Part D – ITN1 evaluation methodology
- Part E – ITN1 evaluation questions and financial template
- Part F – Declarations

Those proposing to submit a Proposal are advised to read this document and its appendices and associated documentation very carefully to ensure they are fully aware of the nature and extent of the obligations to be accepted by them if awarded a contract.

Proposals must be submitted in the prescribed format no later than the time stated in Part A.

All enquiries regarding any aspect of this document or procurement process in general should be directed through the e-Procurement portal.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M. Pingstone', written over a faint rectangular box.

Mike Pingstone,  
**Associate Director of Procurement**  
**NHS South, Central & West Commissioning Support**

## **Section 1 – Information for bidders**

This section provides information on the tendering timetable and process, document submission instructions, and general information on items such as confidentiality, conflict of interest, pricing and freedom of information.

## Part A – Key Information

### 1. Procurement Process

- 1.1 This is a complex procurement and the Commissioner is of the view that there may be benefits to be gained from exploring the way services will be delivered. Further, the Commissioner wishes to explore the technical and legal Proposals which best meet its needs before inviting stage 2 participation (ITN2) to develop and negotiate proposals (based on the stage 1 proposals which emerge).
- 1.2 The Commissioner is following a form of Negotiated procedure and has pre-qualified a list of Bidders that are now invited to submit proposals to the Commissioner through this ITN1 stage.
- 1.3 Bidders that have received this ITN1 document are those that have responded to the Commissioner's OJEU advert through the e-Procurement system, and have been successful at pre-qualification stage. Such an organisation (whether a single organisation or a consortium) is referred to in this document as a "Bidder".
- 1.4 The purpose of this stage is to identify the proposal(s) and Bidder(s) that can best meet the Commissioner's requirements. Throughout the stages of the process, the Commissioner will assess Bidders' proposals, approach and suitability to deliver the Service and to confirm their understanding of the Commissioner's requirement for the services, enabling Bidders to bid to their strength during the subsequent ITN2 and any subsequent stage.
- 1.5 This ITN1 procurement stage is a competitive stage of the procurement, and Bidders will be formally evaluated and shortlisted as part of the stage.
- 1.6 The Services are healthcare services falling within Schedule 3 to the Public Contracts Regulations 2015 ("the Regulations").
- 1.7 The procurement of services listed in Schedule 3 of the Regulations is not subject to the full regime of the Regulations, but is instead governed by the "Light Touch Regime" contained within Chapter 3, Section 7 of the Regulations (Regulations 74 to 77).
- 1.8 For the avoidance of doubt the Commissioner will not be bound by the Regulations, the Treaty on the Functioning of the European Union (TFEU) or any other regulations or legislation except for the specific parts or circumstances that apply directly to the procurement of services listed in Schedule 3. The Commissioner is therefore not bound by many of the formalities and requirements of the Regulations may vary the conduct of the procurement including (without limitation) the conditions for participation, the times limits for contacting the contracting authority, and the award procedure to be applied.
- 1.9 In awarding the contract the Commissioner may take into account any relevant considerations including (but without limitation):
  - 1.9.1 the need to ensure quality, continuity, accessibility, affordability, availability and comprehensiveness of the Services;
  - 1.9.2 the specific needs of different categories of users, including disadvantaged and vulnerable groups;
  - 1.9.3 the involvement and empowerment of users; and

1.9.4 innovation.

- 1.10 Neither the inclusion of a Bidder selection stage, nor the use of any defined terms from the Regulations, nor the description of the procedure voluntarily adopted by the Commissioner ("Open", "Restricted", "Competitive Procedure with Negotiation", "Competitive Dialogue" or any other description), nor any other indication, shall be taken to mean that the Commissioner intends to hold itself bound by any of the Regulations, save those applicable to services coming within the scope of Schedule 3.
- 1.11 The procurement is being carried out in an open, transparent and proportionate manner that affords equal treatment of all economic operators.
- 1.12 The procurement is being carried out by NHS South, Central & West Commissioning Support (SCWCS) on behalf of the Commissioner.

## **2. Competitive process**

- 2.1 **Invitation to Negotiate stage 1 (ITN1)** - Short listed Bidders from the PQQ stage will be invited to submit written proposals in response to the questions and information set out in this ITN1 document. The criteria that will be used to assess the ITN1 are set out at Part D and the questions that need to be responded to as part of the ITN1 are set out in Part E.

Following receipt of the ITN1 Proposals, the Commissioner will assess and shortlist submissions.

The Commissioner will rank the ITN1 Proposals and invite the Bidders with the 2 highest scoring compliant Proposals to participate in the next stage of the competition.

All Bidders who submit responses at the ITN1 stage will receive appropriate feedback from the Commissioner at the conclusion of the stage.

- 2.2 **Invitation to Negotiate stage 2 (ITN2)** - Following conclusion of the ITN1 stage, shortlisted Bidders will be invited to the second stage of the competition by the issue of an ITN2.
- 2.3 ITN2 will set the evaluation criteria, sub-criteria and weightings that will apply to the evaluation of ITN2 stage proposals. The Commissioner reserves the right to update and refine evaluation questions and requirements (compared to those used in ITN1) in order to receive comprehensive bids.
- 2.4 This stage will involve the Commissioner and remaining Bidders entering into open, constructive and 2-way negotiations concerning technical and financial aspects of the submissions and other relevant aspects of the procurement defined by the Commissioners.
- 2.5 The timetable, agenda and appointments for negotiations meetings will be set out in the ITN2 document.
- 2.6 The Commissioner reserves the right to award the Service based on the proposals received at ITN2 stage, or to seek further proposals from all remaining Bidders. The Commissioner will notify remaining bidders of any decision to extend the Stage 2 negotiation phases. The Commissioner also reserves the right to initiate any number of further negotiation stages.
- 2.7 The Commissioner will evaluate the Final Tenders received (whether that be at ITN2 or any subsequent stage) and the Bidder with the most economically advantageous Final Tender will be recognised as the Preferred Bidder.

- 2.8 The Commissioner will work with the Preferred Bidder in negotiating outstanding issues in order to optimize and finalize the terms of the contract during the Preferred Bidder Stage. This may involve (but will not be limited to) clarifying and confirming commitments of the Preferred Bidder's proposal. This stage will not be expected involve any substantial negotiation or changes on contractual issues affecting price and risk allocation and the Commissioner reserves the right to reject the Preferred Bidder if it seek to significantly change its proposal at this stage.
- 2.9 Bidders should note that the Preferred Bidder appointment and stage does not constitute an award decision and the Commissioner will further decide whether it will award the contract to the Preferred Bidder after the successful conclusion of the Preferred Bidder Stage.
- 2.10 If the Commissioner decides to proceed to award the contract to the Preferred Bidder then it will notify and debrief unsuccessful Bidders by the issue of Award Decision Notices and commence a voluntary 10 day standstill period.

### 3. Tendering Timetable

A provisional timetable for the ITN1 is given below. Bidders should be aware that the dates are subject to change.

No	Stage	Dates
1	ITN1 released to Bidders	26/04/2016
2	ITN1 Compliance questions returned	29/04/2016
3	Mid-ITN1 stage event	04/05/2016
4	ITN1 Bidder Dialogue	11/05/2016
5	ITN1 Clarification deadline	13/05/2016
6	ITN1 submission closing date	23/05/2016
7	ITN1 shortlisting	06/06/2016
8	Bidder Negotiation Meetings on ITN1 Proposals	07/06/2016 – 10/06/2016

### 4. Award Criteria

- 4.1 No contracts will be awarded as part of this ITN1 stage.
- 4.2 Bidders will be selected to the subsequent ITN2 stage based on the criteria and questions defined in Parts D and E.
- 4.3 Prior to a final award, the Commissioner may request confirmation that the Preferred Bidder's organisational, legal and financial capacity and capability to perform the contract has not altered negatively in any material way since the PQQ stage of the procurement, or to further test and/or understand the Preferred Bidder's organisational, legal or financial structure in any way they see fit. Upon receipt of such information, the Commissioner shall be entitled to revisit the selection and/or evaluation of the Bidder and exclude the Bidder if necessary, as a result of that process.

The Commissioner reserves the right to award all, none or part of the Services as set out.

## **5. Key Officers**

- 5.1 The authorised officer for this programme is:  
Tracey Cox  
Chief Officer, BaNES CCG
- 5.2 The lead officer for this programme is:  
Sue Blackman  
YCYW Programme Lead, BaNES CCG and Local Authority
- 5.3 The procurement lead for this programme is:  
Mike Pingstone  
Associate Director of Procurement  
South, Central & West Commissioning Support
- 5.4 The main point of contact for administrative and logistical matters is:  
Rebecca Harris  
Clinical Procurement Assistant  
South, Central & West Commissioning Support  
Tel: 0117 984 1508

## **6. Contract Form and Term**

- 6.1 The Commissioner will be contracting for the Service using the National NHS Standard Contract. Links to the current contract (at the time of drafting this ITN1 document) can be found below, and Bidders should carefully study these documents to ensure they are familiar with the obligations on them should they be awarded a contract.

<https://www.england.nhs.uk/nhs-standard-contract/16-17/>

No material negotiation on the core terms of the contract will be entertained by the Commissioner, and refusal to accept the terms will cause a Bidder's proposal to be rejected.

- 6.2 Contracts will be for an initial term of 7 years, with a possible extension of any period or periods up to a further 3, as defined and at the discretion of the Commissioner. Services are planned to commence from 1st April 2017.

## **7. Communications**

- 7.1 The Commissioner will send all short listed Bidders a copy of the ITN1 (this document), any Addenda, and any other documents and materials relevant to the procurement via the e-Procurement system at no cost.
- 7.2 The Commissioner has designated the above named (5.3 & 5.4) staff to be its point of contact for the Procurement.
- 7.3 All contact relating to this procurement must be undertaken through the e-Procurement system. Any direct contact made with any member of the Project team in relation to the procurement of this service will be re-directed through the e-Procurement system, and may jeopardise the continuing participation of the Bidder in the process.
- 7.4 Each Bidder must designate an individual (the Authorised Representative) to whom the Commissioner should address all materials relevant to the

procurement process, and must ensure that these are registered within the e-Procurement system. If the Bidder is made up of multiple organisations, the Authorised Representative should be a contact from the Lead organisation.

- 7.5 It is the Bidder's responsibility to notify the Commissioner of any change to the Authorised Representative's name or other contact details. This should be completed on the e-Procurement system. Bidders may request that, for convenience, electronic correspondence be copied to individuals other than their Authorised Representative, but the Commissioner accepts no liability for this and will consider all information sent to the Authorised Representative to have been received by the Bidder.
- 7.6 The Commissioner will not be responsible for or bound by (a) any oral communication or (b) any other information or contact, occurring outside the official communication procedures specified herein.
- 7.7 The rules of contact set forth in this document apply throughout the Procurement Process. These rules are designed to promote an open, fair, unbiased and legally defensible procurement process. Contact for the purposes of this process includes in person, telephone, electronic mail (e-mail), written or other communication.

## **8. ITN1 Return Instructions**

- 8.1 Submission of the 5 Compliance Questions must be received no later than **12midday on 29<sup>th</sup> April 2016**. The Commissioner will not accept submissions received after the deadline except, at its absolute discretion, where it considers it appropriate to do so in exceptional or genuinely unforeseeable circumstances. Responses to the 5 Compliance Questions must be made as a single attachment to a Correspondence within the In-Tend messaging system.
- 8.2 Submissions for the 18 Core ITN1 Questions ('the ITN1 submission') must be received no later than **12midday on 23<sup>rd</sup> May 2016**. The Commissioner will not accept submissions received after the deadline except, at its absolute discretion, where it considers it appropriate to do so in exceptional or genuinely unforeseeable circumstances. Responses to the 18 Core ITN1 Questions must be made against the pre-set questionnaire within the In-Tend system.
- 8.3 Please note that bidders are responsible for ensuring safe receipt of their proposals at each stage. The Commissioner will not accept responsibility or liability for or arising from late or non-receipt of an ITN1 submission. Proof of transmission will not be accepted as proof of receipt.
- 8.4 All submission documentation must be sent through the relevant part of the e-Procurement system. Submissions will not be accepted by any other route except in exceptional circumstances.
- 8.5 Bidders must submit an ITN1 submission based on the needs of the Commissioner as described in this document and the Service Specification.
- 8.6 All documents submitted through the e-Procurement system must be in a format that is readable in all versions of the Microsoft Office suite as far back as the 2003 version, or Adobe Acrobat. Additionally, all attached spreadsheet and text responses must be fully available for manipulation (i.e. not locked for editing or presented as a PDF document).

Images within documents should be appropriately compressed to ensure document sizes do not become unmanageable.

All electronic files submitted should be clearly and logically named, including the bidder's name and the question number to which that electronic file relates.

Any diagrams or artwork use within responses must be legible when printed on A4 using standard settings in black and white.

8.7 The ITN1 submission shall be submitted in the format and order as stipulated, and derogations or omissions from that format may result in the Commissioner rejecting the submission. Bidders should respond to each bullet point when responding to questions. Supporting documentation, appropriately cross-referenced, may also be submitted in support of the answers, though Bidders should ensure that the number or scale of appendices submitted does not become burdensome to evaluators. Generic and promotional material should not be included, and will be ignored.

8.8 Bidders may make use of supporting documents (appendices to questions etc. only where truly relevant and appropriate. Any appendix that the Commissioner judges to be essentially the continuation of a question response, and therefore a circumvention of the word limit, will be rejected and ignored.

Where the bidder wishes to appendix a lengthy document such as a staff handbook, they should include the relevant extract from the document, not the entire document. Any appendix in excess of 10 pages sides of A4 paper may be rejected and ignored for the purposes of evaluation.

8.9 Consortium or partnership bids should identify one organisation as the 'Lead Organisation' in order to co-ordinate their Bid responses.

8.10 Bidders should ensure that their submissions are complete when they are submitted and that all accompanying documentation is provided, as changes or additions to submissions may not be accepted after the submission due date. A specific exception to this is in the case of arithmetic or administrative errors that are clearly correctable and do not alter the substance of the bid.

8.11 Bidders preparing to submit a consortium or partnership bid should carefully read point 9, below to ensure they meet all submission requirements concerning changes to consortium membership and other relevant issues.

## **9. Consortium Bids**

9.1 Consortia and / or other forms of multiple-organisation bid will be accepted by the Commissioner.

9.2 Such organisations are under no obligation to make legally binding arrangements at this stage; however the manner in which they would intend to do so, along with the roles and responsibilities of the members, will be tested and evaluated.

Bidders may attach pre-contractual agreements (letters of intent, Memoranda of Understanding, Heads of Terms) made between bidder members to demonstrate the strength of the planned relationships in support of their bid.

9.3 The Lead Bidder at ITN1 stage must have been Lead Organisation at all previous stages of the procurement (i.e. the PQQ stage) and must continue to

be the Lead Organisation in subsequent stages of the competition (accepting the planned establishment of a Special Purpose Vehicle etc.).

The role of Lead Organisation may not change within an individual bid, and a non-Lead Organisation at ITN1 stage may not become a Lead Organisation within any ITN2 or subsequent submission.

- 9.4 The Commissioner reserves the right to require the consortium to form a legal entity before entering the contract and/or to require consortium members to be jointly or severally liable for the performance of the Contract or to provide any other form of appropriate and proportionate guarantee or warranty.

## **10. Bidder Clarifications**

- 10.1 Bidders should read this ITN1 as soon after receipt as possible. Alongside this document, the background details already published (the Memorandum of Information or OJEU notice, Pre-Qualification Questionnaire, ITN1 and all other relevant information provided by the Commissioner) should provide all the information required at this stage. It is the bidder's responsibility to seek clarification in interpretation of any item in this document.
- 10.2 The objective of bidder clarifications is to give bidders the opportunity to submit questions to the Commissioner concerning issues of clarity concerning either the process or the substance of the proposed Services. . Any queries arising from this ITN1 (or any tender documents and communications) which may have a bearing on the Bid submission to be made by Bidders should be raised.
- 10.3 Where Bidders require further information on details within this or other bid documentation, they must submit clarification questions through the e-Procurement messaging system. Clarification questions received by any other means will be rejected.
- 10.4 Responses to clarification questions will be anonymised and sent out to all other Bidders during the period of the ITN1. The only exception to this is where a question concerns an individual bidder's unique circumstance.
- 10.5 The Bidder clarification stage will close at **12pm on 13<sup>th</sup> May 2016**. Questions submitted after this date will not receive a response except in exceptional circumstances, or where the question concerns a system issue (i.e. difficulties with the e-Procurement system itself).

## **11. Commissioner Clarifications**

- 11.1 The Commissioner reserves the right to require Bidders to clarify or amplify their bid submissions, with any such request made to the Bidder's nominated representative. The Commissioner retains a general discretion at any stage of this procurement process to seek clarification or amplification from any Bidder in relation to any aspect of the bid submission.
- 11.2 Clarification questions for these purposes from the Commissioner will be required to be answered within a set time of request. Failure to respond adequately or in a timely manner to clarification questions may result in a Bidder not being considered further in the procurement.
- 11.3 The Commissioner may contact (or may require the Bidder to contact on its behalf) any of the customers, subcontractors or consortium members to whom information relates in a PQQ response, ITN1 submission or any other

document, to ask that they testify that information supplied is accurate and true.

- 11.4 The Commissioner reserves the right to seek third party independent advice or assistance to validate information submitted by a Bidder and/or to assist in the bid evaluation process.

## **12. Mid-ITN1 Dialogue meetings**

- 12.1 Additional to the clarification process conducted through the e-Procurement messaging system described above, the Commissioner is making 1:1 dialogue meetings available to Bidders. Meetings will be held on 11<sup>th</sup> May 2016.
- 12.2 These dialogue meetings are intended to provide a further opportunity for Bidders to have conversations with the Commissioner about the requirements of this ITN1 and to engage in outline discussions with the commissioner concerning their emerging bid proposals.
- 12.3 Timings for the dialogue meetings will be provided to bidders on Tuesday, 3<sup>rd</sup> May 2016, subsequent to the successful completion and evaluation of the Compliance Question set.
- 12.4 Any clarifications issues arising as a result of the meetings will be communicated to all Bidders.
- 12.5 Points of discussion at the dialogue meetings will include (but not be limited to):
- 12.5.1 Interoperability and partnership working
  - 12.5.2 Estates
  - 12.5.3 Financial sustainability
  - 12.5.4 Governance – corporate, clinical

## **13. Amendments to the process or Services**

- 13.1 The Commissioner reserves the right to
- 13.1.1 amend the process, evaluation questions, evaluation criteria, Contract or Service Specifications or any procurement requirement at any point during the procurement process and to issue modifications to this ITN1 or any subsequent procurement document used in this procedure.
  - 13.1.2 Not to consider Bids other than those specified;
  - 13.1.3 To alter the timetable to contract award;
  - 13.1.4 To cancel, withdraw from, or recommence the tender process at any stage;
  - 13.1.5 Not to award the contract.
- 13.2 Any amendments will be communicated at the Commissioner's earliest opportunity to all bidders through e-Procurement.
- 13.3 Where the Commissioner makes such an amendment, it will ensure that Bidders have an appropriate amount of time in which to respond to the amendment.

## **Part B - Other General Information**

### **1. Conditions for Tendering**

#### **Definitions**

In these conditions of Tendering, unless the context otherwise requires, the following expressions shall have the following meanings:-

“The Commissioner” means NHS Bath and North East Somerset CCG and Bath & North East Somerset Council

“The Contract” means an agreement to provide the specified services subject to the Terms and Conditions of Contract specified in the Invitation to Tender.

“Project” means Prime Provider for the delivery of Integrated Community Services

“The Services” means Services to be provided under the terms of the Contract

The Service Specification" means the specification for the Services referred to in Part C of this ITN1.

“The Bidders” shall include any person whom this Invitation to Negotiate is addressed, and any person who proposes to or does submit a tender for the Services.

In these conditions, unless the context otherwise requires: -

- : words imparting the masculine gender include the feminine gender;
- : words imparting the singular shall include the plural and vice versa:
- : words imparting persons include corporations and vice versa:
- : references to appendices are references to the appendices and schedules to the Invitation to Tender and Conditions of Contract

Any notice to a Bidder required under the Conditions to be given in writing shall be deemed to be duly served at the time of actual delivery if delivered, or at the time of delivery in ordinary course of post, if posted in a pre-paid envelope addressed to the Bidder by name of the Bidder's last known place of abode or business or, in the case of a company, at the registered office of the company.

### **2. Terms and Conditions**

Every proposal received by the Commissioner shall be deemed to have been made subject to these conditions unless the Commissioner shall previously have expressly agreed in writing to the contrary.

No alteration may be made in the Form of Tender or the accompanying documents. If any alteration is made, or if any of these terms and conditions is not fully complied with, the tender may be rejected.

The Bidder shall be deemed to have satisfied himself before and during the tender as the correctness and sufficiency of his tender for the provision of the Services.

### **3. Preparation of the Tender**

The Bidder must obtain for himself at his own expense all information necessary for the preparation of his tender.

Information supplied to the Bidder by the Commissioner, its agent(s) or assignees, is supplied to the Bidder only for general guidance in the preparation of the tender. The Bidder must satisfy by its own investigations the accuracy of any such information, and no responsibility is accepted by the Commissioner or its agents for any loss or damage of whatever kind and howsoever caused arising from the use by the Bidder of such information.

All Bidders are solely responsible for their costs and expenses incurred in connection with the preparation and submission of Bids and participation in this and all future stages of this procurement. Under no circumstances will the Commissioner be liable for any costs or expenses borne by Bidders or any of its supply chain, partners or advisers in this procurement process.

### **4. Waiver**

An express waiver or variation of any of these Conditions made in writing by the Authorised Officer for the Commissioner shall bind the Commissioner, otherwise, no other officer of the Commissioner has the authority to vary or waive any of these Conditions.

### **5. Form of Bid**

The Bidder is required to complete all declarations contained at Part F. Failure to complete this may result in your Bid being non-compliant and may not be evaluated.

### **6. Changes to PQQ and Tender Information**

Bidders are under a duty to notify the Commissioner promptly should any information contained in their previous responses (PQQ etc.) or their response to this ITN1 cease to be accurate.

If a Bidder fails to do so, this will entitle the Commissioner to disqualify that Bidder from the process, or where the Bidder has been awarded a contract as a result of this procurement process, the Commissioner shall be entitled to terminate that contract.

All bidder declarations completed at PQQ stage should remain valid for the entirety of the tendering process

If the Commissioner is notified, or otherwise becomes aware, that any information supplied by a Bidder in either its PQQ, its ITN1 responses is incorrect, it may seek clarification and updated information and may re-evaluate that Bidder against its short-listing selection criteria and/ or where relevant the Bidder's ITN1 response against its evaluation criteria and may, as a result of such re-evaluation, remove the Bidder from the procurement process (where the Bidder no longer meets the short-listing selection criteria) and/or re-score the Bidder's bid and adjust that bid's ranking against the other bids received.

### **7. Canvassing**

If the Bidder or any person employed by the Bidder, whether or not to the Bidder's knowledge:

- Offers, gives or agrees to give to any person any gift or consideration of any kind as an inducement or reward for taking or for not taking action in relation to the contract or any other contract with the Commissioner; and/or
- Canvasses any of the Project Team in connection with the Project; and/or
- Contacts any officer of the Commissioner prior to the contract being awarded about any aspect of the services in a manner not permitted by this document (including without limitation a contact for the purposes of discussing the possible transfer to the employment of the Bidder of such officer for the purpose of the Project),

The Bidder will be disqualified (without prejudice to any other civil remedies available to the Commissioner and without prejudice to any criminal liability which such conduct by a Bidder may attract).

## **8. Confidentiality**

Subject to the exceptions referred to below, the Information in this ITN1 (and subsequent ITN2) is made available by the Commissioner and Bidders should not copy, reproduce, distribute or pass the information to any other person at any time or allow any of these things to happen:

- Bidders shall not use the Information for any purpose other than for the purposes of making, or deciding whether to make, a Bid;
- Bidders shall not discuss information or any aspect of this bidding process in the media nor make any media or publicity statement or comment in relation to it without the express consent of the Commissioner in writing.
- Bidders shall treat all information relating to their Proposals and Tender as confidential and where the information needs to be copied to parties supporting the Bidder, then the parties shall treat it as confidential. Bidders may disclose, distribute or pass Information to another person associated with their Proposal and Tender if either:

This is done for the sole purpose of enabling a Bid to be made and the person receiving the Information undertakes in writing to the Bidder to keep the Information confidential on the same terms as set out in this ITN1, or the Bidder obtains the prior written consent of the Commissioner in relation to such disclosure, distribution or passing of Information.

The Commissioner may disclose detailed information relating to the Bids to Commissioner Executives, officers or advisors.

The Commissioner also reserves the right to disseminate information that is materially relevant to the Project to all Bidders, even if the information has only been requested by one Bidder giving due regard to the confidentiality of the Bidder's tender proposal at the relevant stages of the competition.

## **9. Tender for the Services**

Tenders must be submitted for the provision of the Services as set out in Part D and other parts of this document as appropriate, upon the Terms and Conditions of this document including without prejudice as to the generality of the foregoing Terms and Conditions of the Contract.

**10. Language**

All bids must be completed in English

**11. Signatures**

All documents requiring a signature **MUST** be signed:-

- where the Bidder is an individual, by that individual;
- **or**
- where the Bidder is a partnership, by two duly authorised partners;
- **or**
- where the Bidder is a company or public body, by two directors or by a director and the secretary, such persons being duly authorised for that purpose.

**12. Copyright**

The copyright in this document is vested in the Commissioner and its advisers and may not be reproduced, copied or stored in any medium without the prior written consent of the Commissioner.

This document, and any document issued as supplemental to it, are and shall remain the property of the Commissioner and must be returned upon demand.

**13. Contract Award**

The Commissioner is not bound to accept the lowest or any tender, nor will it be responsible for, or pay, any expenses or losses which may be incurred by the Bidder in the preparation and completion of his tender.

If and when a tender is successful and a contract award decision is reached, a written notification will be sent to all of the Bidders, both successful and unsuccessful and a formal debrief offered to unsuccessful Bidders upon written request to the Commissioner.

**14. Amendments to Tender Submissions**

At any time prior to the deadline for receipt of tenders, the Commissioner may modify the tender documents. The deadline for submission of tenders may be altered to allow for significant amendments to be fully assessed and taken into account by bidders.

**15. Costs**

The Commissioner accepts no liability to pay for any work undertaken by any Bidder or other organisation in connection with its Bid or participating in any stage of this tendering process. All costs, expenses and liabilities incurred by Bidders in connection with the bidding and due diligence process for these Services ("Tender Costs") shall be borne by Bidders.

For the avoidance of doubt this includes (but are not limited to) costs and fees incurred by Bidders in instructing lawyers, designers, accountants and other advisors, participation in negotiations, and preparation and submission of any tender documentation.

By returning its response to this document, the Bidder confirms its understanding and acceptance of the fact that it shall have no claim whatsoever against the Commissioner in respect of such costs and fees and in particular (but without limitation) the Commissioner shall not make any payments to any Bidder save as expressly provided for in any agreement if and when any such agreement is entered into.

For the avoidance of doubt the Commissioner accepts no liability for abortive costs of unsuccessful Bidders at any stage, or abortive costs in the event that the Commissioner decides to abandon, vary or recommence the award procedure.

## **16. Modification and Withdrawal of Tenders**

No submission may be modified after the deadline for receipt.

Submissions may be withdrawn at any time before the award of Contract, providing such intention is expressed in writing to the Bidder (and in the case of a Consortium, the Lead Organisation). Any such withdrawal must be made through the e-Procurement system.

Any withdrawal of a submission is irrevocable, and any Bidder withdrawing their submission will be automatically excluded from the rest of the tender process.

## **17. Freedom of Information Environmental Information Regulations 2004, Transparency Requirements, Debriefing and OJEU Publication**

### *FOIA and EIR*

The Commissioner is subject to the requirements of the Freedom of Information Act 2000 (the "Act") and the Environmental Information Regulations 2004 ("EIR"). Accordingly, all information submitted to it may need to be disclosed by the Commissioner in response to a request under either the Act or the EIR (a "Request").

In making any submission during this procurement process, each Bidder acknowledges and accepts that information contained therein may be disclosed by the Commissioner under the Act or EIR without consulting the Bidder, although the Commissioner will endeavour to consult with the Bidder and consider its views before doing so.

If Bidders consider that any information made available to the Commissioner is commercially sensitive, they should identify it and explain (in broad terms) what harm may result from disclosure, and the time period applicable to that sensitivity. Even where information made available to the Commissioner is

marked commercially sensitive, the Commissioner shall be entitled (acting in its sole discretion) to disclose it pursuant to a Request. Please also note that information marked "confidential" or equivalent by Bidders does not bind the Commissioner to any duty of confidence by virtue of that marking.

Exemptions to disclosure pursuant to a Request do exist and the Commissioner reserves the right to determine (acting in its sole discretion) whether there is any available exemption and whether to disclose any information made available to it by Bidders pursuant to any Request. If you are unsure as to the Commissioner's obligations under the Act or EIR regarding the disclosure of sensitive information please seek independent legal advice.

### *Government Transparency Policy*

In December 2010 the United Kingdom government published a requirement for all new central government contracts to be published in full from 1st January 2011. This includes all Invitation to Tender documents for procurements over £10,000 in value, and covers all central government departments including the NHS.

The requirements state that contracts awarded as of the 1st January 2011, and Invitations to Tender published as of the 1st of December must be published in full on a new government website, known as "Contracts Finder". Documents comprising a contract would be expected to include at a minimum:

- The specification
- Terms and conditions
- Overall pricing (and potentially the pricing breakdown if known)
- Associated schedules (which may include the winning tenderer's bid where this forms part of the contract)

Bidders are advised that there are very limited provisions for excluding information from publication, and that any contract awarded by the Commissioner from the 1st of January 2011 will become publically available. The requirements do not extend to bids themselves except where they form part of the final contract, and the Commissioner will continue to publish information contained in bids only where required to do so under the FOIA.

Please note that confidentiality clauses to prevent publication of contracts for these purposes will not be accepted and that participation by Bidders in any tender will be taken as acknowledgement and acceptance of these requirements.

### *Debriefing*

Bidders should be aware that the Commissioners will be providing information about the characteristics and relative advantages of the successful bidder in debriefing unsuccessful bidders on the reasons of any award decision reach by the Commissioner in order to comply with transparency obligations under EU procurement rules.

In particular, the Commissioner reserves the right to provide details of the price score attained by the winning Bidder as part of this process and

participation by Bidders in any tender will be taken as acknowledgement and acceptance of these conditions.

#### *OJEU Publication*

The Commissioner reserves the right to publish the overall contract price of the successful Bidder in any contract award notice to be published in the Official Journal of the European Union in accordance with Regulation 31 of the Public Contracts Regulations 2006 (as amended) and participation by Bidders in any tender will be taken as acknowledgement and acceptance of condition

#### **18. TUPE**

The attention of Bidders is drawn to the provisions of the European Acquired Rights Directive EC77/187 and TUPE (Transfer of Undertakings Protection of Employment Regulations). TUPE may apply to the transfer of the Contract from the present supplier to the new one, giving the present supplier's staff (and possibly also staff employed by any present sub-contractors) the right to transfer to the employment of the successful Tenderer on the same terms and conditions. The above does not apply to the self-employed.

Tenderers are advised to form their own view on whether TUPE applies, obtaining their own legal advice as necessary.

To assist in this process the Commissioner will be seeking relevant workforce details from the present providers. The Commissioner provides no warranty as to the accuracy of any such information supplied and accepts no liability for any inaccuracies that are contained within it or for any omissions from such information. Bidders must form their own view and make their own enquiries as to whether TUPE will apply and as to the workforce implications if it does.

This information will be supplied to Bidders at a subsequent stage of the process on the basis that it is treated as strictly confidential; that it is not disclosed except to such people within the Tenderer's organisation, and to such extent as is strictly necessary for the preparation of the tender; that the Bidders will observe the Information Commissioner's Office's Data Protection Good Practice Note on Disclosure of Employee Information under TUPE and that it is not used for any other purpose. By requesting this information from the Commissioner a Bidder will be deemed to have agreed to abide by these obligations of confidentiality.

The successful Bidder will be required to indemnify the Commissioner against all possible claims under TUPE.

#### **19. Law**

This entire tender process, and any Agreement arising from it, shall be governed by and construed in accordance with the laws of England and in the event of any dispute relating thereto the parties hereto submit to the jurisdiction of the Courts of England.

#### **20. Accuracy of Information**

The Information in this document has been prepared by the Commissioner in good faith but does not purport to be accurate, complete and exhaustive, or to have been independently verified.

Bidders should not rely on the Information and should carry out their own due diligence checks and verify the accuracy of the Information.

No information in this document is warranted by the Commissioner or its advisers and further shall not be taken nor deemed a promise or representation as to the future.

Neither the Commissioner, its advisers, nor the officers, members, partners, employees, other staff, agents or advisers of any such person makes any representation or warranty (expressed or implied) as to the accuracy, reasonableness or completeness of the Information provided in this document or at any other stage of the procurement process for this Project leading up to the execution of the Contract nor shall any of them be liable for any loss, damage or expense (other than in respect of fraudulent misrepresentation) arising as a result of reliance on any such information.

Any persons considering making a decision to enter into contractual relationships with the Commissioner on the basis of the information provided (or any subsequent procurement document issued during this competition procedure) should make their own investigations and their own independent assessment of the requirements for the provision of the Services and associated issues and should seek their own professional financial, technical and legal advice.

Bidders shall be deemed to have carried out their own due diligence enquiries and investigations prior to entering the Contract and in any event shall be deemed to have done so. The subject matter of (and representations in) the Information shall only have contractual effect when it is contained in the express terms of Contract executed as a deed.

Except in relation to data warranted by the Commissioner as finally agreed in the Contract, Bidders shall further be deemed to have carried out all necessary research, investigations and due diligence and all necessary enquiries in order to have satisfied themselves as to the nature, extent, volume and character requirements of the services, their obligations described in this document, the extent of the personnel, equipment, property and assets which may be required and any other matter which may affect their Proposals and Tenders, pricing, projections or financial modeling.

The Commissioner shall not make any payments to the successful Bidder or any other Bidder save as expressly provided for in the Contract(s) and no compensation or remuneration shall otherwise be payable by the Commissioner to the successful Bidder by reason of the scope of the works, services or requirements relating to the tender being different from that envisaged by the successful Bidder or otherwise.

The ITN1 (or any subsequent procurement document issued during this competition procedure) is not intended to provide the basis of any investment decision and should not be considered as a recommendation by the Commissioner or any of its advisors to any recipient.

## **Section 2 –Service Specifications**

This section provides copies of the Service Specification(s)

## **Part C - Specification of Requirements**

**The Service Specification is provided as an attached document within the e-Procurement system. If bidders have difficulty opening the document then they should contact Rebecca Harris through the e-Procurement messaging system.**

### **Section 3 – ITN1 evaluation methodology and questions**

This section provides the methodology and criteria for the scoring of tender submissions, along with the questions to be answered.

## Part D – Tender Evaluation

### 1. Evaluation process

#### 1.1 Introduction

Proposals are required from Bidders that have been shortlisted from the Pre-Qualification stage of this tender exercise. 'Bidder' refers to either a single organisation or multiple organisations that are submitting a single bid.

The evaluation of ITN1 will be based on a Most Economically Advantageous Tender (MEAT) approach.

The Commissioner reserves the right to vary the award procedure for any fair, transparent and proportionate reason at its sole discretion.

#### 1.2 Evaluation model

This evaluation model at Part D (and the questions at Part E) will be used to evaluate Proposals.

The purpose of the ITN1 stage is to shortlist Bidders so as to enable the Commissioner to further explain the service requirement in order to improve the quality of the subsequent ITN2 and/or any Final Tenders.

Meetings as part of the evaluation process will aim to clarify any areas of confusion, address any perceived gaps in the specification, and explore potential solutions and models of delivery. By this, shortlisted bidders will have gained a better understanding of the requirement prior to the Invitation to Negotiate stage 2 (ITN2).

Evaluation of the ITN1 will be used to shortlist and feedback to Bidders, and scores at this ITN1 stage will not count towards the evaluation of any subsequent tendering stages.

#### 1.3 Outline process

Evaluation of submissions will be conducted in the following stages:

##### **ITN1 Stage**

- 1 Compliance Question evaluation
- 2 Full ITN submission scoring stage - Qualitative evaluation of bids
  - a. Compliance check (word counts, completeness)
  - b. Individual interim scoring
  - c. Clarifications
  - d. Moderation meetings
  - e. Score collation
- 3 Shortlisting

##### **Negotiation stage**

- a. Negotiate

##### **ITN2 release to Shortlisted Bidders**

## **2. Compliance Question Evaluation**

The Commissioner has requested a formal response to 5 Compliance Questions by no later than **12midday on 29<sup>th</sup> April 2016.**

The Compliance Questions will be evaluated on a Pass/Fail basis, with any score of 'Fail' on any of the 5 questions resulting in the Bidder being excluded from any further participation in the process.

Shortlisting on the basis of the Compliance Questions will be completed on Tuesday, 3<sup>rd</sup> May 2016.

## **3. Compliance Review**

Full ITN1 responses will first be checked for completeness and compliance with the below requirements before responses are evaluated. The compliance review will check that Proposals:

- Are submitted by the due date and time;
- Contain all declarations completed and signed;
- Are within set word limits for each relevant question;
- Use appendices and attachments in an acceptable manner;

Where in the opinion of the Commissioner a Proposal does not meet the above criteria then it may be deemed non-compliant, and the bidder disqualified. In this event, further evaluation of the Proposal will not be undertaken.

## **4. First round scoring stage - Quality evaluation of bids**

Subsequent to the Compliance Review, Evaluators will complete an individual evaluation of submissions based on the responses received. Evaluators will be required to provide an explanation in support of each score.

Individual evaluation scores will be moderated in order to achieve a single agreed score for each question. This single agreed scoring will have weighting applied and the total score will be used as one of the shortlisting criteria.

## **5. Shortlisting**

### **ITN1 Evaluation Criteria (and sub-criteria)**

Following the first round scoring stage, Bidders will be shortlisted where they meet all of the following criteria:

- Are within the top 2 scoring Bidders
- Has attained at least 50% as the final weighted score subsequent to moderation.

All Bidders who submit responses at the ITN1 stage will receive appropriate feedback from the Commissioner at the conclusion of the process.

## **6. Evaluation panel and role of evaluators**

The evaluation methodology provides the evaluation panel with a way of applying a clear rationale to their decision making, and will ensure equality in the treatment of Bidders.

## 6.1 Evaluation Panel Roles and Responsibilities

Members of the evaluation panel will:

- Read and review documentation
- Evaluate submissions
- Attend evaluation meetings as appropriate
- Attend clarification meetings as appropriate
- Contribute to any shortlisting recommendation

Evaluators will be taken from a number of relevant disciplines. Individual evaluators will evaluate the specific questions within submissions that are relevant to their area of assessment.

## 7. Scoring mechanism and criteria for ITN1 stage

### 7.1 Scoring matrices

Subsequent to submissions being deemed compliant at the Compliance Review, the following scoring matrices will be applied to submissions

#### 7.1.1 Pass / Fail questions

Assessment	Interpretation
Pass	Confirms compliance / acceptance with the requirement
Fail	Does not confirm compliance / acceptance with the requirement

#### 7.1.2 Quality questions

Assessment	Interpretation	Score
Deficient	Response to the question (or an explicit requirement) significantly deficient or no response received	0
Limited	Limited information provided or a response that is inadequate or only partially addresses the question	1
Acceptable	An acceptable response submitted in terms of the level of detail, accuracy and relevance	2
Comprehensive	A comprehensive response submitted in terms of detail and relevance	3
Superior	As Comprehensive but to a significantly better	4

Assessment	Interpretation	Score
	degree or likely to result in increased quality (including improvement through innovation)	

### 7.1.3 Weightings

Quality questions are split into sections with specified weightings. Individual questions within each section are weighted only where specified within the ITN1 Question document.

### 7.1.4 Word limits

Each of the 5 Compliance Questions has a word limit of 500 words.

Each of the 18 full ITN1 questions has a word limit of 1,500 words.

## 8. Clarification questions on bid submissions

The Commissioner may ask clarification questions at any time during the evaluation period.

The timeframe for responding to clarification questions from the Commissioner will be in the order of 3 working days. The failure to respond to a clarification from the Commissioner in the requested timeframe will lead to the submission being evaluated in an un-clarified state.

Clarification questions will act to clarify information already provided, or resolve ambiguity within a submission.

All clarification questions will be communicated through the e-Procurement system.

## 9. Negotiation purpose

Following shortlisting, the Commissioner will enter in to a negotiation with each of the remaining Bidders. The purpose of the negotiation will be:

- Ensure Bidders have a full understanding of the Commissioner's service requirements
- Ensure Bidders have a full understanding of the Commissioner's tendering process
- Allow the Commissioner and Bidder to openly explore potential improvements or innovations in the service that could be applied at ITN2 and subsequent stages
- Support the submission of high quality submissions at subsequent stages

No formal evaluation will take place during the negotiation stage.

## 10. General Points

### 10.1 Completeness

Bidders are required to answer all questions and respond fully to each question.

Evaluators will not be reviewing all Sections of your response, and only responses to specific questions will be reviewed by some Evaluators. Your response to each Question should therefore constitute your complete response to that Question.

Bidders should not assume that any information provided by them during any other phase of the Procurement, or to the Commissioner in any other context, will be considered or referred to for evaluation.

In evaluating a submission, the Commissioner will only consider information provided in response to this ITN1. Bidders should not assume that the Commissioner has any prior knowledge of the Bidder or their Bidder Members, its practice or reputation, or its involvement in existing services, projects or procurements.

Bidders are wholly responsible for the accuracy and completeness of the information provided in response to this ITN1. This includes information submitted in relation to Bidder Members.

## **10.2 Bidder identity and Publicity**

The Commissioner reserves the right to generally disclose the identity of bidders at any stage of the tendering process. In the event of disclosure, the Commissioner will advise Bidders of the nature and extent of the disclosure, and the reason that disclosure is taking place.

Bidders shall not undertake (or permit to be undertaken) at any time, whether at this stage or prior to entering into the Contract, any publicity activity with any section of the media in relation to the Project other than with the prior written agreement of the Commissioner. Such agreement shall extend to the content of any publicity. In this paragraph the word "media" includes (but without limitation) radio, television, newspapers, trade and specialist press, the internet and email accessible by the public at large and the representatives of such media.

## Part E – Tender evaluation questions

This Part E contains the questions that Bidders must respond to in order to submit a proposal. This Part E pertains only to the full ITN1 submission that must be submitted by **12midday on 23<sup>rd</sup> May 2016** rather than the 5 Compliance Questions that must be submitted on 29<sup>th</sup> April 2016.

The following is required within a submission:

- Response to all 18 questions
- All other requested documents as applicable, in the format prescribed
- Bidder Declaration complete and signed as found at Part F.

### Questions

- Bidders must submit an answer for every question.
- Individual questions each have a word limit of 1.500 words. Bidders should refer to the detail on word limits within this document to ensure their bid is compliant.
- Appendices should only be used where necessary, and must be relevant to the question. No generic or unreferenced organisational literature should be submitted as it will be ignored.
- Bidders should number their responses clearly and in the same order as the questions. Each question response should be uploaded against the appropriate Placeholder within the In-Tend system.

**The Quality questions are provided within the In-Tend system and also as a PDF document within In-Tend. If bidders have difficulty opening the document then they should contact Rebecca Harris through the e-Procurement messaging system.**

## **Part F - Declarations**

Tenders must be submitted in the format contained in this documentation, and must be accompanied by the following signed declarations:-

There is one declaration that you must complete.

**NHS Bath and North East Somerset CCG and Bath & North East Somerset Council**

**1 Form of Tender**

**Please read the declaration below**

I agree:

- 1.1 That this offer and any contracts arising from it shall be subject to the Terms of Bid, the Terms and Conditions of Contract; and
- 1.2 to supply the services in respect of which its bid is accepted (if any) to the exact quality, sort and price specified in the bid Schedule in such quantities, to such extent and at such times and locations as ordered; and
- 1.3 that this bid is made in good faith and that the Bidder has not fixed or adjusted the amount of the offer by or in accordance with any agreement or arrangement with any other person. The Bidder certifies that it has not and undertakes that it will not:
  - 1.3.1 communicate to any person other than the person inviting these bids the amount or approximate amount of the bid, except where the disclosure, in confidence, of the approximate amount of the bid was necessary to obtain quotations required for the preparation of the bid, for insurance purposes or for a contract guarantee bond;
  - 1.3.2 enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from making an offer or as to the amount of any bid to be submitted.

Signed: (1) ..... Designation: .....

Witness: (2) ..... Designation: .....

for and on behalf of .....

Date: .....