

Procurement Projects – Guide for Tenderers

1	The Procurement Process
	<p>New Forest District Council operate in accordance with The Procurement Act 2023 https://www.legislation.gov.uk/ukpga/2023/54/contents</p> <p>The Council uses a range of procurement procedures available under The Procurement Act 2023 (PA23). The key procedures are below:</p> <ul style="list-style-type: none"> • Open Procedure • Competitive Flexible Procedure • Dynamic markets • Framework Agreements including use of government approved framework agreements <p>The type of procedure used and any specific steps or phases will be shown in the instructions issued for each tender.</p> <p>Depending on the value and complexity of the procurement project, the Council will issue the following types of Procurement documentation to seek responses from the market place:</p> <ol style="list-style-type: none"> 1. Documented price checks via email or electronic quick quotes (via South East Business Portal (SEBP)) – Council officers undertake soft market testing to identify potential suppliers and obtain a written quotation representing best value for money. Applies where the total life contract value is estimated to be up to £15,000. 2. Request for Quotation (eRFQ) using the restricted procedure via a Service led desk-top email exercise (for low value contracts up to £25,000) or via our Procurement Team using the e-tendering system ProContract inviting a restricted number of suppliers selected from a prior soft market exercise (for contracts ranging from £25,000 up to £100,000). Typically used for works, goods and services required by the Council. In cases where soft market testing fails to identify sufficient competition, the Council may use the “open procedure” to advertise the opportunity to a wider marketplace. 3. Invitation to Tender (eITT) using the open OR restricted procedure via the e-tendering system ProContract hosted on SEBP - Used for Works, Goods and Service contracts in the range of £100,000 up to UK PA23 thresholds. If using the open procedure, it will be advertised on SEBP and the Central Digital Platform (CDP). 4. Invitation to Tender (eITT) – Issued where the likely tender value exceeds the financial thresholds set in <i>Schedule 2</i> of the <i>Procurement Act 2023</i> using the open or competitive flexible procedure via the e-tendering system, ProContract, hosted on SEBP for: Works, Goods and Service for contracts exceeding £5,372,609 for works and £214,904 for goods and services. Advertised on SEBP and Central Digital Platform (CDP).



	<p>The Council uses these procurement procedures to select and award business to;</p> <ul style="list-style-type: none"> • a single managing contractor OR • a number of preferred suppliers OR • an SME consortia led by a managing contractor who satisfy the Councils selection criteria and have submitted compliant bids under this tender exercise. <p>The awarded supplier(s) will be the preferred supplier(s) of the service.</p>
2	How to register on the Councils business portal
	<p>Suppliers should register free of charge on the South East Business Portal (SEBP) https://sebp.due-north.com/ under 'Supplier Registration' option. The SEBP is hosted by Proactis.</p>
3	The Councils approach to Third Party Accreditation
	<p>The Council wants to work with contractors / suppliers who have been independently accredited and certified. The benefits of the Council's approach to pre-qualification accreditation are:</p> <ol style="list-style-type: none"> a) Contractors have pro-actively shortened the tendering process and reduced the rework and costs involved in bidding for local government contracts. b) The Council has access to a list of vetted suppliers who wish to supply the Council. The vetting is a consistent and fair process, which takes place over the life of the contract and not just at the point of letting the contract. <p>'Third party accreditation' describes the assessment, by a third party organisation, of potential contractors / suppliers' generic suitability to contract with a Contracting Authority across a range of requirements (effectively an outsourced pre-qualification process although not specific to any one contract requirement). Third party accreditation results in the formal accreditation of those potential suppliers which successfully complete the process. The third party accreditation provider may be either a private or public sector organisation.</p> <p>Generally, third party accreditation is a desk-based process which examines documentary evidence of a supplier's financial viability, relevant insurance cover, and extant policies and procedures (including health and safety and equality among others). Site visits are not usually carried out and, apart from taking up references to validate the supplier's track record, the quality of product or service is not assessed or inspected.</p> <p>Third party accreditation should not be confused with an accreditation backed by a trade body, which is more likely to provide a 'quality mark' assessment based, for example, on process, site visits and work inspections. Similarly, appointment as a contractor under a Contract is not a badge of accreditation.</p> <p>The Council's Approach to Accreditation.</p> <p>If a third party accreditation is the Council's preference for a contract under tender, the supplier will usually be expected to be a registered member of a recognised accreditation standard provided by a third party organisation specialising in helping companies to be "fit-to-supply".</p> <p>The Council offers a flexible approach and recognises schemes founded or registered under the SSIP Safety Schemes in Procurement (See www.ssip.org.uk). The Accreditation for works / services projects should be linked to a recognised Health & Safety assessment. Other Schemes - Suppliers can propose other alternative accreditation standards they may be registered with, however the Council</p>



	<p>will want to assure itself that the standards are equivalent in terms of thoroughness and independence of tests / checks.</p> <p>The accreditation standard MUST be maintained for the duration of any contract resulting from this opportunity. Third party accreditation should not be confused with an accreditation backed by a trade body, which is more likely to provide a 'quality mark' assessment based, for example, on process, site visits and work inspections. The supplier will provide evidence of accreditation membership annually on the contract anniversary throughout the contract period.</p> <p>NOTE: Dependent upon the nature of the procurement category being sourced (via risk analysis) the Council may waive the requirement for suppliers to have third party accreditation.</p> <p>If accreditation is a requirement of the tender in question, a proforma will be included in the tender pack (as part of the Supplier Self Declaration Appendix C1) for completion by tenderers. Please complete the proforma to provide details of your company's third party accreditation certification OR confirm acceptance that your Company would join one of the Councils recognised schemes for the duration of any resultant business.</p>
4	<p>How the Council Advertises Procurement Opportunities</p> <p>New Forest District Council Procurement Contract Standings Orders sets the advertising threshold for forthcoming contract opportunities.</p> <p>The current threshold value applies to all contract opportunities where the contract total life cost exceeds £100,000. Advertisements are posted electronically to the following procurement portals;</p> <ul style="list-style-type: none"> • South East Business Portal https://sebp.due-north.com/ • Contracts Finder https://www.gov.uk/contracts-finder <p>In addition to above, contracts in excess of PA23 thresholds are advertised via:-</p> <ul style="list-style-type: none"> • Find a Tender Service (FTS) https://www.gov.uk/find-tender
5	<p>How to download, complete and return the Councils tender documents</p> <p>For your convenience, here is a summary of how you should submit your electronic tender response. For your e-tender to be considered, please comply with these instructions:</p> <ul style="list-style-type: none"> • All correspondence related to this eRFQ or e-ITT will be via the SEBP link as attached to the original invitation Email from the SEBP to your registered user. Only the supplier named contact registered on the SEBP portal using their personal ID and password combination will be able to view, download and upload contract documents. • Please acknowledge via SEBP your receipt of this tender pack confirming that you expect to submit a tender by the appointed time. Click on Intend to Submit / Decline button as appropriate. • Please use the Messaging function within the SEBP system for both technical and commercial Q&As. • Please upload your completed tender (including ALL response ProForma's) to the



	<p>SEBP prior to the close deadline. Please leave sufficient time to do this as uploading times can vary dependant of file size. (Tip: Use PDF documents where possible to reduce file sizes).</p> <ul style="list-style-type: none">• The "Form of Tender" document (see tender response documents) MUST be separately attached as a .pdf document to enable easy access at the Councils "tender opening ceremony". Please complete the "Form of Tender" as requested. <p>Your completed tender response must be uploaded to the South East Business Portal using the link provided no later than the specified tender CLOSE DATE.</p> <p>Please note: Suppliers can upload / amend their tender response via the SEBP at any time prior to the close date. The tender response is secure and only visible to the supplier up until the close deadline date / time at which point the system is locked to the supplier and contents become visible to the opening Council (in this case New Forest District Council). Outside of an evidenced failure of the SEBP system, documents must not be Emailed on or before the deadline date as ALL documents are held on the secure server of SEBP. This is a requirement to evidence and demonstrate that a fair tender procedure has been conducted.</p> <p>In preparing a tender response you must not make any changes to the text of the documents as supplied to you. You are only permitted to add information where indicated. Each and every point in the e-ITT documents must be responded to. It is important that bids are completed in full compliance with the requirements set out in this invitation and that ALL Supplier Response Appendices are completed. Please do not include any further information, brochures or other literature unless it is specifically requested in this document.</p> <p>Tender responses not available / visible to the Council in the SEBP response section after the submission deadline will not be considered (unless the Council have given prior notification to ALL tenderers of an extension period). All costs in submitting the tender will be covered by the tenderer and there will be nil contribution from the Council.</p> <p>The information provided by the Council in connection with this e-ITT is provided in good faith but does not purport to be comprehensive and Tenderers should carry out their own due diligence checks as to the full extent of the Council's requirements before submitting a Tender.</p> <p>Contacting New Forest District Council relating to this tender:</p> <ul style="list-style-type: none">• Please use the "messaging" facility within the SEBP system for both Technical & Commercial questions.• New Forest District Council - Procurement contact: procurement@nfdc.gov.uk
6	How to raise Questions during a tender exercise
	<p>To raise questions and receive a response from the Council during the tender activity, please use the 'Messaging' option and click on 'Create a new message'; the Council will receive an auto e-alert notifying us of the message and will endeavour to respond in a timely manner.</p>



7	How to Contact the SEBP (hosted by Proactis) for system related issues
	<p>If you are experiencing problems with your SEBP connection (e.g. login / password issue) please contact Proactis by logging a ticket on the Supplier Support Portal</p> <p>Suppliers are reminded to check their ProContract accounts reflect their latest team structure. Tip: Use Group email addresses to ensure you do not miss opportunities.</p>
8	How the Council evaluates tender responses



8.1 Supplier Self-Declaration:

The Council carries out a risk assessment for all procurement projects to determine if the contract under tender represents a risk to the Council's delivery to the public (financially or operationally). The risk assessment will determine projects where the Council will require tenderers to submit a Supplier Self Declaration as part of the tender process.

The purpose of the Supplier Self-Declaration is to assist the Council in the evaluation of bids submitted for a tender opportunity. Under the Procurement Act 2023 the Council is permitted to ask relevant and proportionate "conditions of participation", designed to enable it to assess "whether candidates have the legal and financial capability, or the technical ability, to perform the contract".

Prior to evaluation of tender responses, the Council will assess the Supplier Self-Declaration (**Appendix C1**) submitted by the tenderers. This is a pass / fail stage undertaken before tender submissions are evaluated.

8.2 Financial Appraisal:

As part of the evaluation of a tenderer's self-declaration submission, the Council will obtain an independent financial appraisal report from **Dun & Bradstreet Ltd**
<http://www.dnb.co.uk/scores-data/failure-score>

The D&B report (called failure score) provides the Council with an overall financial risk score which will be used to assess the applicant's financial standing. The D&B Failure Score ratings (0-100) are matched to a pass/fail result as detailed below:

- Score of 0 to 10 will mean automatic **"FAIL"** of your SELF DECLARATION and you will be excluded from the procurement process.
- Score of 11 to 50 will be a **"PASS - SUBJECT TO"** provision of a suitable guarantee or commitment** if/when deemed appropriate.
- Score of 51 and over is a **"PASS"** (note: The Council reserves the right to request a suitable guarantee or commitment** if/when deemed appropriate on a case by case basis).

****Performance Bond or Parent Company Guarantee**

The Supplier Self Declaration form requires tenderers to confirm their commitment to obtain either a Performance Bond or Parent Company Guarantee prior to contract award, if the Council deems this necessary. Evidence of the assurance required will be requested during the tender process (if your firm is short-listed) and prior to contract award. If your organisation is unable to provide the evidence at that point, the Council will be unable to proceed with the contract award. Please note: a financial appraisal (using the same financial appraisal and evaluation process) will be carried out on the Parent Company to assess their suitability to act as Guarantor.

8.3 Council Generated Financial Appraisal:

In the event that the Council is unable to obtain a financial appraisal score from Dun & Bradstreet Ltd as above, the Council may ask tenderers to provide financial information (as per section 20 of Supplier Self Declaration) to enable Council's Finance / Audit team to carry out an in house financial analysis in order to calculate a



scores rating out of 100 that will correspond to the three classifications above (FAIL / PASS SUBJECT TO / PASS). The Councils financial appraisal will use the following calculations to arrive at a score out of 100;

Pre Tax Profit/Surplus – latest trading year (accounts)	7.5
Percentage of change in Pre-Tax Profit/Surplus between the latest 2 years evaluated	7.5
Percentage of change in Tangible Net Worth based on the most recent 2 years of statutory accounts submitted.	20
Tangible Net Worth based on latest set of statutory accounts (please see below for how this is calculated)	35
Current Ratio	15
Gearing	15
Total	100

The following scoring mechanism will be used to assess all elements of this financial evaluation:

Excellent	100%
Good	75%
Satisfactory	50%
Unsatisfactory	0%

Example: (the organisation in this example below will have achieved an overall 'Pass')

Criteria	Evaluation Outcome	Score
Pre Tax Profit – latest trading year (accounts)	Satisfactory (50%)	50% of 7.5 = 3.75
Percentage of change in Pre-Tax Profit between 2 years evaluated	Satisfactory (50%)	50% of 7.5 = 3.75
Percentage of change in Tangible Net Worth between the latest 2 years evaluated	Satisfactory (50%)	50% of 20 = 10
Tangible Net Worth figure based on the latest set of accounts	Satisfactory (50%)	50% of 35 = 17.5



Current Ratio	Excellent: (100%)	100% of 15 = 15
Gearing	Good	75% of 15 = 11.25
Total		61.25
<p><u>Tangible Net Worth (TNW)</u></p> <p>Tangible Net Worth is calculated on the following basis:</p> <p>Total Assets less Intangible Assets less Total Liabilities = Tangible Net Worth</p> <p><i>(Intangible Assets: this may include assets such as Goodwill, Capitalised R&D, Franchise Costs etc.)</i></p> <p>If your organisation has a negative Tangible Net Worth but believes there are specific factors which should be taken into account these will be considered. Consideration of these factors may lead to assurance being sought such as a Parent Company Guarantee (e.g. for Inter-Company loans).</p> <p>Note: Self-declaration submissions that fail any question from the pass/fail section will not progress any further in the process and the supplier will be informed of their exclusion via the SEBP.</p> <p>8.4 Evaluating Tender Responses: The Council will establish an evaluation panel for each tender to review, assess and recommend award outcomes. Compliant tender submissions that have been received before the close date / deadline time will be evaluated against the evaluation criteria set out in the tender instructions.</p> <p>8.5 Evaluation Criteria: The Council's evaluation and award decision will be based on the Best Price Quality Ratio over the contract lifetime taking into account Cost and Service Quality of the tendered offering. The Council requires reliable, innovative and financially stable suppliers with the ability to “meet or exceed” our requirements.</p> <p>The evaluation criteria will be based on a pre-determined percentage split of the Cost and Service Quality elements of the tender brief. The % percentage split will be set out in the Invitation to Tender (eITT). E.g. 60% Cost vs. 40% Service Quality. Sub-criteria % weightings will generally be applied to specific elements of the Cost and Service Quality. E.g. the Service Quality element (40%) may be divided into 4 sub-elements each weighted at 10%. Likewise the Cost element (60%) may have 2 sub-elements worth 40% and 20% respectively.</p> <p>The Council's Evaluation panel will score tenders based on the cost and service quality weightings set out in Invitation to Tender (eITT). Please see the eITT Appendix C2 for evaluation criteria weighting and sub-weighting.</p> <p>8.6 Scoring Methodology: Cost Element</p> <p>Cost: The evaluation panel will analyse the bid distribution (see fig. 1) of tenders</p>		



received by the close date to ensure that the tendered brief was clearly understood by ALL tenderers.

<i>Fig.1 Bid Distribution Analysis</i>		
Low Bid	Central Group	High Bid
£30	£90 £95 £97 £100 £105	£200

8.7 Abnormally Low Bid Scenario: The bid distribution diagram (fig.1) shows a group of bids in the centre and a small number of outriders described as low and high bids. The central group distribution indicates that the brief was clearly understood by those bidders. However, the Low bid requires further examination.

When considering an Abnormally Low Bid, the Council will:

- Apply the objectives of PA2023 regarding treating suppliers the same unless a difference between the suppliers justifies different treatment.
- Follow the **Checklist for Abnormally Low Bids*** to ensure we seek clarification for all and every aspect of a tender which is considered to be abnormally low
- Advise bidders whose Low Bid Tender is a direct result of failure to complete the mandatory tender forms promptly in the evaluation process
- In any bidder clarification, expressly reference which specific elements of a tender proposal considered to be abnormally low and the reasons for such a consideration
- Be aware that there is no single definition of "abnormally low tender" but it is fitting and expedient to apply the notions of reliability, viability and genuineness when considering responses from bidders
- Verify if the tender is one that is likely to deliver the contract that the contracting authority is looking to procure
- Retain a clear audit trail of all evaluation documentation and clarifications within the procurement process
- Give the bidder sufficient opportunity to explain their pricing in writing before making any decision

***Checklist for Abnormally Low Bid:**

The low bid scenario (as per example in fig.1 above) requires very careful examination because it is possible that the bidder has not fully understood the commission. The risk being that because they are so far outside the central group, that if appointed, it is likely that their work would not be sustainable without recourse to cost up variations. In addition the service quality could be impacted simply because insufficient resources have been allowed for in the bid proposal.

If the tender submission is identified as an "Abnormally Low Bid" due to being significantly outside the central grouping then Councils evaluation panel will initially check that the mandatory cost proformas (included in the tender pack) have been completed by the bidder in line with the tender instructions. If this check finds that the low bid is due to significant and major failures to complete the tender response forms in full, then Council reserves the right to reject the tender from the process. The Tenderer will be informed via the SEBP. This is in line with the Council's policy not to allow for secondary bids after the tender close date as this would be unfair on those bidders who have correctly presented their tender costs and completed the Council's response form(s) in a compliant manner. It is the Tenderers responsibility to correctly complete the tender response forms.

If the initial check finds no missing data from the tender submission, the analysis will then drill down into the cost proposal to identify potential reasons or elements contributing to the low bid submission. The evaluation panel will consider “should cost” estimates, in-house benchmark data and may seek third party advice as appropriate and proportionate. They will also check for mathematical errors and/or pricing omissions that may have contributed to a low overall cost submission. This may result in a clarification request to the tenderer via the SEBP messaging function.

If required, post tender clarifications may be requested via the SEBP messaging function to notify the tenderer(s) that the Council considers their price to be abnormally low, and to give tenderers reasonable opportunity to demonstrate that it will be able to perform the contract for the price offered. The Council’s evaluation panel will include these clarifications in the overall cost evaluation score. If these clarifications fail to provide such assurances the Council will mark the bid as “non-compliant” and inform the tenderer of its decision and reason to exclude the bid from the process.

The evaluation panel will check very carefully to ensure the tendered cost proposals confirmed as “compliant” are error free, sustainable, fully deliver the Councils outcome specification and represent value for money should a contract be awarded.

8.8 Scoring Methodology: Cost Element

Following the bid distribution analysis, the evaluation of the Cost element will set the lowest compliant bid (that delivers the outcome specification in full) as the benchmark to which other bids will be compared pro-rata.

This is achieved by setting the lowest compliant cost bid as a denominator to compare all other cost bids. E.g. Best bid A of £100 = 100% and compares to bid B of £120 as: $\frac{£100}{£120} \times 100\% = 83\%$. Therefore, if Cost has been weighted at 60%, then bid A will achieve a score 60% (being the best bid 100% of 60% weighting) and bid B of £120 achieves 50% (being 83% of 60% weighting).

In some tenders, the Council will require tenderers to set out a method statement or process layout describing the start-to-finish activities with detailed costings. In such tenders, the quality of the Cost Method will be scored using the 0-10 scoring method as detailed in section 8.10 herein. This qualitative scoring will allow the Council to assess the tenderers approach and understanding of the project.

8.9 Request for Cost Improvement / Value Engineering proposals: If during the Cost analysis of compliant tenders the evaluation panel decide that bidders should provide additional value engineering proposals, this will be requested of ALL bidders to ensure fairness. The Council may need to request improved costs due to budget constraints or to seek further innovation from suppliers who have submitted a tender by the stated close date. Any requests for further cost improvement or value engineering proposals will be processed via the SEBP as a “post tender clarification” with a revised deadline set for responses. Note: Suppliers can decide not to submit further proposals and exclude themselves from the tender process.

8.10 Scoring Methodology: Service Quality Element

Service Quality questions in the tenderers response proforma have a weighted score per main element (Service-Quality) and by sub-question. The scoring method for Service-Quality employed by the Councils evaluation team uses a linear points based scale as described below:



Points	Score Band	Score Description Guide
Score		
0	Fail	No response provided OR non-compliant submission
1		<i>Moderation zone - between 0 and 2</i>
2	Very Poor	Falls significantly short of meeting the Council's requirements
3		<i>Moderation zone - between 2 and 4</i>
4	Poor	Achieves a basic minimum standard but falls short of meeting the Council's requirements
5		<i>Moderation zone - between 4 and 6</i>
6	Satisfactory	Satisfactorily meets the Council's requirements and is supported by clear evidence
7		<i>Moderation zone - between 6 and 8</i>
8	Good	Meets the Council's requirements and is further supported by evidence of some added value and quality benefits to the Council
9		<i>Moderation zone - between 8 and 10</i>
10	Very Good	Meets / Exceeds the Council's requirements and is further supported by evidence of significant added value and quality benefits to the Council

Note: The 0-10 scoring method will also apply to the Cost element for some tenders in situations where the Council requires tenderers to submit a fully priced cost method (See section 8.8).

Scoring application for Quotation / Tender Phases: Each service quality question set in the tenderers response proforma (normally eITT Appendix C2) has a defined percentage weighting. The evaluation panel will assess tenderers responses and apply an even points score (0,2,4,6,8,10) based on the characteristics described in the above table. Evaluation moderation may use the odd points integers (1,3,5,7,9) to weight scores more finely to provide greater granularity.

The points score will be factored against the % weighting set for each Service-Quality question. E.g. a tenderers response to a question weighted at 20% that is scored by the evaluation panel at 8 (good) out of 10 points, would achieve a total score of $8/10 (0.8) \times 20\% = 16\%$.

Overall Scores / Ranking: The total overall percentage scores for cost, service and quality (out of 100%) will be ranked in descending order and the tenderer who achieves the highest % score will be first placed and subject to contract be the successful awarded tenderer.

Tied bid for 1st place: In the event of a tie for first place between compliant bids, the evaluation panel will take into consideration the ratio % between the Cost score and Service Quality score of the tied bids. The tenderer with the highest score for the highest weighted elements of the Cost and Service Quality elements will be deemed the winner and awarded the Contract. E.g. If the tender is weighted in favour of Cost then the bidder with highest cost score will be judged the winner. Likewise if the tender is weighted in favour of Service Quality then the bidder with highest Service Quality score will be judged the winner.

If this fails to split the tied bids (because the Cost/Service Quality ratio is 50:50), then the evaluation panel will firstly award on the best cost £ value. If the tendered costs are identical then the award will be based on the scores achieved against the highest weighted service quality question.

All tenderers/interested parties will be advised of our award decision in line with our tender timeline set out in the eITT. Due to the commercial interests of ALL tenderers the Council will not disclose detailed information of the winning/unsuccessful bids to other parties involved in the bid process, subject to any of the obligations under the Freedom of Information Act 2000.

However a summary of tender scores will be made available.



9	Interviews as part of the evaluation process
	<p>Our evaluation method may include a formal interview of shortlisted tenderers based on scores achieved under Cost and Service Quality criteria. Short-listed tenderers will be invited to present their tender submission to the evaluation panel in New Forest District Council Offices, or via Microsoft Teams. The interview date will be set out in the eITT instructions. Your teams should be available within 48 hours of notice to present. Invitations and agenda will be issued via the SEBP. The interview will not introduce any new evaluation criteria. The interview itself will not be scored. Tenderers presentations and responses to the evaluation panel clarification questions will be used to supplement, test and explore in more detail the tendered responses from bidders. The evaluation panel will review scores allocated to each question in the evaluation matrix at Appendix C2 be refined (up, same or down) in the light of the content of the presentations made to the panel.</p>
10	The Council's right to reject Tenders:
	<p>The Council does not undertake to accept the lowest nor any tender and reserves the right without liability to Tenderers (including without limitation liability for any bid costs):</p> <ul style="list-style-type: none"> a) to make a joint award b) to exclude a tender as non-compliant following bid distribution analysis c) to cancel or withdraw from the tender process at any stage d) not to award a contract for the works, goods or services described e) to require Tenderers to promptly to clarify their Tender in writing (via the SEBP) and or provide additional information and f) to amend the terms of the tender instructions including proposed timescales <p>The Council reserves the right to reject a Tender where:</p> <ul style="list-style-type: none"> a) such Tender is submitted after the submission deadline, is completed incorrectly, is materially incomplete or otherwise fails to meet the requirements set out in the tender instructions or any other requirements that have been notified to Tenderers; b) any of the circumstances set out in the Procurement Act 2023 entitling the Council to disqualify the Tenderer apply to the Tenderer at any stage during the tender process regardless of whether or not such Regulations apply to this tender process; c) the tenderer is guilty of material misrepresentation in relation to its Tender submission and/or the process; d) the Tenderer contravenes any of the requirements of the tender instructions; e) the Tenderer fails to respond promptly and adequately to any reasonable request from the Council for clarification or additional information; f) there is a change in identity, control, financial standing or other factor impacting on the selection and/or evaluation process affecting the Tenderer; or g) such Tender is submitted on terms that amend those set out by the Council in the tender instructions including but not limited to the terms and conditions of contract, <p>The rejection of a Tender will not prejudice any other remedy civil or otherwise available to the Council.</p> <p>The e-ITT shall not confer any contractual rights on Tenderers.</p>



11	Reference Contracts
	<p>Tenderers may be requested to provide contract references (for prior client projects) to demonstrate their experience and competence in the delivery of the subject being tendered. The request for references will be set out in the tender response forms (normally Appendix C2 – Cost Service Quality response form).</p> <p>References provided should ideally be for similar goods, services or works carried out for other public sector or private sector clients during the last 3 years (for goods / services) or 5 years (for works).</p> <p>Notes:</p> <p>These should NOT be contracts relating to New Forest District Council as they will not be scored. However, you are free to add a concise list of any prior NFDC contracts won, contact point and date as additional information only.</p> <p>The Council may at its own discretion contact named referees to obtain feedback concerning the tenderers performance under the reference contracts.</p>
12	TUPE
	<p>Some tenders may include (in the view of the Council) a requirement for Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") to be applied to the Service being procured.</p> <p>The Tenderer must be prepared to accept all liabilities which may arise as a consequence of the application of TUPE. Tenderers may request information with regard to the terms and conditions of employment of the employees currently engaged in the provision of the Service together with details of any pension scheme provided. Each Tenderer must complete and return a formal confidentiality undertaking as set out in Appendix E1 of the ITT confirming that the information provided will not be used for any purpose other than the preparation of their bid, and will not be disclosed to any third party.</p> <p>In the event of any Service Provider to Service Provider TUPE transfer, the Council expects the Service Provider to liaise directly with the incumbent Service Provider regarding their staff and to work with the incumbent Service Provider to fulfil its and their respective obligations under TUPE. In the event that the Council is able to supply TUPE information it has received from its incumbent Service Provider, they shall act merely as a conduit for that information and does not and shall not warrant and/or represent the accuracy, validity or completeness of any such information made available by it.</p> <p>For the avoidance of doubt, the Councils shall accept no liability in respect of any such information or any liabilities under TUPE in respect of any transferring staff.</p> <p>Under TUPE, there is an obligation to consult with recognised trade unions and representatives of the incumbent Service Provider's employees about any likely consequences for those employees. Tenderers will be expected to provide all necessary information required by the Council and its incumbent Service Provider to enable them to do this.</p> <p>Tenderers should include anticipated TUPE costs in their Pricing Schedule.</p>



13	Confidentiality and Freedom of Information
	<p>The Council is subject to the provisions of the Freedom of Information Act 2000 and Environmental Information Regulations 2004 ("the Information Laws") which set out a general presumption of disclosure of information upon receipt of a request from members of the public or any interested parties.</p> <p>The Council shall be responsible for determining at its absolute discretion whether information it holds including information submitted by Tenderers:</p> <ul style="list-style-type: none">a) is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004; andb) is to be disclosed in response to a request for information. <p>If you consider that any of the information submitted to the Council by you is exempt from disclosure under the Information Laws then this should be stated in writing at the time the information is supplied to us together with the reason for considering it exempt. On receipt of an information request relating to such matters we will, where reasonably practicable, consult with you in considering any such request before disclosing such information.</p> <p>Tenderers are deemed to acknowledge that the Council may, acting in accordance with the Information Laws and associated codes of practice, disclose information:</p> <ul style="list-style-type: none">a) without consulting Tenderers, orb) following consultation with the relevant Tenderer and having taken its views into account. <p>Any questions and requests for information submitted by a Tenderer in respect of the tender opportunity and the tender process generally and the Council's answers thereto may be communicated to the other Tenderers unless the Council considers there are overriding issues of commercial confidentiality.</p> <p>The contents of the Tender are confidential and are not to be disclosed to any third party subject to any obligation under the Freedom of Information Act 2000.</p>
14	Canvassing and Collusive Tendering
	<p>Any Tenderer who directly or indirectly canvasses any member of the Council, Executive Member (Councillors) or their agents concerning the award of the Contract or who directly or indirectly attempts to obtain information concerning any other tenders or proposed tender will be disqualified. The Council shall not consider for acceptance and shall accordingly reject any tender submitted by a tenderer who:</p> <ul style="list-style-type: none">• Calculates, fixes or adjusts the percentages and fees shown in the tender by or

	<p>in accordance with any agreement or arrangement with any other person other than authorised officers of the Council or their agents; or</p> <ul style="list-style-type: none"> • Communicates to any person other than authorised officers of the Council or their agents the percentages or fees or Hourly rates in the tender prior to formal tender acceptance; or • Enters into any agreement with any other person that such other person shall refrain from submitting a tender or shall fix or adjust the percentages or fees to be shown by another tenderer in their tender. • Offers to agree to pay any person having direct connection with this tender 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 tenderer or any other persons proposed tender, any act or omission. • Any such non-acceptance or rejection of a tender by the Council is always without prejudice to any other civil remedies available to the Council or any criminal liability which such conduct by a tenderer may attract. It is the responsibility of the Tenderer to ensure that he/she is fully conversant with the nature and extent of the obligations they will be under in the event that the Contract is awarded. <p>Should any additions or deletions to any part of the ITT, supplementary clauses or additional information be considered necessary prior to the date for submission of tenders, these will be issued to all Tenderers by the Council and will be deemed to form part of the ITT.</p>
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