

Midland Metropolitan Hospital Project

ITPD Volume 3
5th September 2014



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Matters



Sandwell and West Birmingham Hospitals NHS Trust

Midland Metropolitan Hospital Project

Invitation to Participate in Competitive Dialogue

Volume Three

Commercial Document

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1 Introduction

- 1.1.1 The Trust begins the Competitive Dialogue process by issuing this Invitation to Participate in Dialogue (ITPD) and a project specific Project Agreement that represents the Trust's commercial position. The Trust intends that, through the Competitive Dialogue process, the draft Project Agreement will inform discussion to provide a best value for money solution that meets all of the Trust's requirements.
- 1.1.2 This Invitation to Participate in Dialogue volume 3 sets out the key commercial elements of the deal which have formed the basis for development of the Project Agreement.
- 1.1.3 The Project Agreement is based on the Department of Health (DH) standard form project agreement and schedules (Version 3, as amended July 2004, February 2006, November 2006) (DHSF) and has been tailored to reflect SoPC4 amendments, amendments required by HM Treasury's Standardisation of PF2 Contracts (which was issued in December 2012) and the specific elements of the Project. This tailoring has been agreed with the Department of Health Private Finance Unit (PFU). No amendments to the DHSF standard drafting will be considered unless revised standard form drafting is issued or made available by the DH prior to commercial close. The Trust has no power to accept suggested improvements to the DHSF drafting, nor will the Trust be permitted to discuss alternative methods of dealing with standard form concepts.
- 1.1.4 There are a number of issues which are the subject of current consultation and recent reports the final outcome of which may result in amended guidance, policy or best practice during the course of this procurement including:
- NHS pension regulations
 - Procurement regulations
 - TUPE regulations 2014
 - Finalisation of PF2 standard form drafting from HMT
- 1.1.5 The Trust will be monitoring the development of these consultations and guidance closely and may be obliged or wish, during the course of this procurement, to introduce requirements that reflect the final outcome of these including, but not limited to, where the outcome is reflected in final guidance, policy or best practice with which the Trust is obliged or wishes to comply.
- 1.1.6 The Trust intends to use the Competitive Dialogue process to ensure that the final design solution represents value for money for the project specific elements of the Project. By Closure of Dialogue it is a requirement that the parties will have discussed and resolved all commercial and price sensitive issues and the Project Agreement will be agreed in respect of this position with only minimal non-price sensitive issues outstanding. After Closure of Dialogue, only amendments that can be classified as clarification, specification and/or fine tuning will be accepted. Any such amendments must not affect the parameters of the Appointment Business Case approval.
- 1.1.7 Unless otherwise stated, all defined terms will have the same meaning as given in ITPD Volume 1.
- 1.1.8 This volume 3 of the ITPD and the Project Agreement reflect the Trust's position in delivering its requirements and describes the contractual structure and funding requirements that will enable bidders to develop their solutions and response to these requirements.

2 Commercial Points of the Deal

2.1 Scope of the Project

- 2.1.1** The key commercial elements of the scope of the Project on which the Project Agreement is based are as follows:
- 2.1.2** The Trust requires Project Co to construct a new acute hospital (the Facilities) in accordance with its requirements as specified in volume 2 of this ITPD.
- 2.1.3** The Project will be a new build development and has been named the Midland Metropolitan Hospital Project.
- 2.1.4** The development will take place on a 6.76Ha site adjacent to Grove Lane in Smethwick (the Site). The Trust does not currently operate any healthcare services from this site.
- 2.1.5** The Site is in the ownership of the Trust. We have voluntarily acquired circa 30% of the land and used NHS compulsory purchase order powers to acquire the remainder.
- 2.1.6** The Trust has vacant possession of the site and has commenced, and will continue, demolition to slab level.
- 2.1.7** The Trust currently intends to carry out the remediation of the land on a separate contract during the procurement, although as detailed in the OJEU Notice, it reserves the right to bring the land remediation within the scope of this procurement at any stage and/or the PF2 Contract. There will be early Dialogue with short listed bidders to agree a suitable scope of works for the remediation.
- 2.1.8** The surveys will be repeated at the end of the remediation and will be novated across to the Preferred Bidder. On the basis of these surveys, Project Co will take contamination risk.
- 2.1.9** The Trust will retain a number of facilities outside the Site. These buildings referred to as “Trust Retained Estate” are excluded from the Project and will be maintained by the Trust.
- 2.1.10** Project Co will have full responsibility for the Site (including the boundary) during the construction period except that: Project Co and the Trust will agree during dialogue access arrangements for third parties to construct other potential facilities such as a gym, crèche or academic building in an agreed space on the development control plan during the construction period.
- 2.1.11** Project Co will be required to install new utility infrastructure for the Facilities and to maintain this throughout the Operational Term.
- 2.1.12** Project Co will provide a full lifecycle maintenance service for the Facilities throughout the Operational Term.
- 2.1.13** Project Co will provide a Hard FM service to the Facilities during the Operational Term.
- 2.1.14** Project Co will provide, design supply and install a single integrated network infrastructure (wireless and wired).
- 2.1.15** During the Operational Term, the Trust will manage the single integrated network. Project Co will provide a network maintenance service in accordance with Schedule 14 for the first five years of the Operational Term.

- 2.1.16** Project Co will procure, purchase, supply, install and commission new equipment for the Project in accordance with Schedule 13 (Equipment) of the Project Agreement. Further details of the Trust's requirements are set out in Section 2.15 below.
- 2.1.17** It is not expected that the successful Consortium will be required to provide a fully managed equipment service. However the Trust is currently commencing procurement for a separate MES for some diagnostic medical equipment. The MES procurement is expected to reach preferred bidder whilst the Trust is in dialogue with two Bidders for MMH. If this proves to be the case, the Trust would facilitate dialogue to ensure the contracts are aligned.
- 2.1.18** Project Co will be expected to bid on the basis that Infrastructure (UK) and a third party equity provider may take equity stakes in the project. The third party provider will be identified by an equity funding competition at preferred bidder stage.
- 2.1.19** Project Co will be expected to bid on the basis that they will hold a funding competition at Preferred Bidder stage in accordance with DH and HMT guidelines to identify the best value senior debt funding route.

2.2 Site Strategy

- 2.2.1** The Site identified at Grove Lane for the new acute hospital comprises of an area of 6.76Ha bounded by the Grove Lane dual carriageway to the west, London Street to the north east, Cape Arm canal to the east, Grove Street to east and old Grove Lane to the south west.
- 2.2.2** The Site is a brown field site with many varied industrial premises some of which date from the nineteenth century.
- 2.2.3** Prior to its industrial development the Site formed part of the Moillet estate. The Trust has consulted with the SMBC archaeological department on the possible implications of this historical interest and agreed it is highly probable that no relevant remains survive.
- 2.2.4** The Area Action Plan (AAP) created by SMBC identifies the Grove Lane site for employment use to accommodate new health and ancillary uses for the Trust. The site can therefore be developed as a standalone development in the context of local regeneration which will be continuing in parallel across the AAP
- 2.2.5** The Trust activated its NHS compulsory purchase order (CPO) powers through a compulsory purchase inquiry in order to acquire and obtain clean title to the land.
- 2.2.6** Approximately 30% of the site was acquired by voluntary acquisition during 2010; the remainder has been acquired under the CPO.
- 2.2.7** The Trust has vacant possession of the Site.
- 2.2.8** The Trust will warrant title to the Site as set out in Clause 7 of the Project Agreement.
- 2.2.9** The Trust's warranty will extend to extinguishment of easements, restrictive covenants and rights of way.
- 2.2.10** The Trust will demolish the existing structures to ground floor slab level prior to handover to Project Co.

2.2.11 The Trust currently intends to carry out the remediation of the land on a separate contract during the procurement, although as detailed in the OJEU Notice, it reserves the right to bring the land remediation within the scope of this procurement at any stage and/or the PF2 Contract.

2.2.12 There will be early Dialogue with short listed bidders to agree a suitable scope of works for the remediation. The remediation works will be warranted and together with the surveys will be novated across to the Preferred Bidder. On the basis of these surveys, Project Co will take contamination risk.

2.3 Primary Infrastructure

2.3.1 Project Co shall, after engaging with the primary utility providers and having gained a full understanding of any limitations of supply to the Site, negotiate the provision of new utility infrastructure for the Facilities. All negotiations with the primary utility providers must be completed prior to the submission of Draft Final Bids.

2.3.2 Within the land acquired under compulsory purchase, there are three electricity substations, two of which have been decommissioned by the Trust. There are also likely to be gas and water mains which traverse the Site. There is an agreement with British Waterways whereby surface water from the Site flows into the Cape Arm canal.

2.3.3 The Trust will carry out any works necessary to all these services to complete the Site demolition to slab level but it will be for Project Co to ensure that all necessary services are maintained / replaced in accordance with their negotiations with infrastructure suppliers and in a manner which ensures that they can meet all obligations under the Project Agreement.

2.4 Ground Conditions

2.4.1 The Project Agreement (at Clause 15 (the Site)) sets out the Trust's commercial position in respect of ground conditions and contamination. Project Co is required to take full ground condition and all Site related risk.

2.4.2 As described in 2.2.11 the Trust currently intends to carry out the remediation of the land on a separate contract during the procurement, although as detailed in the OJEU Notice, it reserves the right to bring the land remediation within the scope of this procurement at any stage and/or the PF2 Contract.

2.4.3 The Trust has commissioned two sets of surveys on the land. The first in 2007 to inform the development of the PSC and the second in 2014. The second set is expected to complete in August 2014. The surveys were procured on the basis that if Project Co undertook the remediation of the land they would be able to rely on these surveys following novation from the Trust

2.4.4 All surveys will be available to Bidders in the data room.

2.4.5 If, as currently expected, the Trust carries out the remediation of the land during the procurement period, the remediation will be warranted. Project Co would then be able to rely on the warranties and the 2014 surveys following novation.

2.4.6 The intention is that Project Co will take ground structure and contamination risk in accordance with Clause 15 of the Project Agreement.

2.5 Phasing

2.5.1 Given that this will be a new build on a site which is not being used by the Trust, the Trust expects that the development will be achieved in a single phase. The Trust's PSC design is a single phase delivery with a construction period of twenty seven months. Whilst Bidders may propose phased schemes they

should be aware that it is very unlikely that the VFM advantages of such a scheme would outweigh the disadvantages to the Trust of continuing to run three acute sites for an extended period. If any Consortium wishes to propose a phased bid this should be discussed with the Trust prior to incurring significant costs on the development of the proposal. Please refer to the provisions on Reference Bids and Variant Bids in Volume 4 of this ITPD.

2.6 Early Works

- 2.6.1 For the avoidance of doubt it is not expected that any early works will be associated with this project.

2.7 Independent Tester

- 2.7.1 The Trust proposes to use the standard form agreement for appointment of the Independent Tester.
- 2.7.2 This has been modified to specify that the costs will be split 50:50 between the Trust and Project Co and that the Trust expects to be separately invoiced for its share.
- 2.7.3 Bidders in CD Stage 3 are asked to assume an overall IT cost of £500,000 of which 50% will be paid by Project Co in the middle of the construction period. The IT will be appointed by the Trust and Preferred Bidder.

2.8 Planning

- 2.8.1 In 2006/07 the Right Care Right Here partnership held a public consultation on their proposals including the new hospital. Following this, an outline planning application complete with Design and Access Statement was submitted to SMBC on the 4th April 2008. This outline planning application was for the redevelopment of the Site to provide a new acute hospital (Use Class C2) and supporting education, research and administration centre (Use Class B1 (a) and (b), together with a gym (D2), crèche (D1) and car parking.
- 2.8.2 SMBC granted outline planning approval on 29th October 2008. This approval was valid for six years. To ensure the approval covered the procurement period, the Trust applied for a further six year extension to outline planning consent and this was granted in July 2013 taking the approval to July 2019. The approval and extension, including the reserved matters, is included in the Project Agreement issued with this ITPD volume 3 at Schedule 8 part 1 appendix A.
- 2.8.3 Project Co will be responsible for obtaining and implementing all requisite development consents (including full planning consent). The Trust expects Project Co to take lead responsibility for delivery of the reserved matters. In so far as Project Co will require actions from the Trust to deliver Full Planning Consent, this will be agreed during Competitive Dialogue and set out in the final Project Agreement with clear roles and responsibilities.
- 2.8.4 On 11th June 2010 SMBC and the Trust entered into an agreement under S111 of the Local Government Act 1972. This set out the form of the S106 agreement the Trust agreed to enter into as the different interests in the land were acquired and the proposed obligations on the Trust in respect of the entire site should it acquire and commence development of the site. The Trust did acquire two land interests under voluntary acquisition in June 2010 and signed a S106 agreement relating to those interests. A further S106 agreement has been signed for each of the two tranches of land acquired under the CPO. All three agreements are included in the Project Agreement included with this ITPD volume 3 at Schedule 8 part 1 appendix B.
- 2.8.5 Project Co shall observe and perform the developer's obligations detailed in the Section 106 Agreement and as set out in Clause 16 of the Project Agreement (excluding payment of the various sums detailed which the Trust will fund directly).

- 2.8.6 It is the Bidders responsibility to ensure that prior to the submission of Draft Final Bids the design solution accords with the SMBC planning guidance both generally and specifically to this Project and to satisfy all outstanding planning conditions. Any costs for obtaining detailed planning consent must be included in the Final Bid cost.

2.9 Regeneration

- 2.9.1 The community served by the Trust is one of the most deprived in England and suffers from high levels of chronic ill health. The Trust considers it has a moral obligation to improve the health of its local population and this is the underlying aim of the RCRH Programme of which this scheme is a part. The link between poverty and health is well established so it follows the Trust has a responsibility to ensure that as far as possible the construction of the new hospital will act as a catalyst for the economic and social regeneration of the local area.

- 2.9.2 The Trust expects Project Co to participate in achieving these objectives and Bidders' plans and proposals to do so will be evaluated in accordance with the Trust's Evaluation Methodology as described in ITPD4.

- 2.9.3 The Bid Deliverables on which Bidders will be evaluated are detailed in ITPD4 but broadly look at the Bidders plans and proposals to achieve objectives in the following areas.

2.9.3.1 The construction of the building(s) and ongoing management are expected to generate employment and training opportunities for long term unemployed and other disadvantaged groups.

2.9.3.2 Project Co (and its supply chain) is expected to give local suppliers fair and equal access to its supply chain opportunities when sourcing goods and services.

- 2.9.4 A more detailed brief on the Trust's requirements with regard to regeneration is included at appendix A to this ITPD volume 3.

2.10 Hard FM

- 2.10.1 Project Co will be required to provide a Hard FM service, maintaining the fabric of the buildings and estate and ensuring their lifecycle replacement during the Operational Term.

- 2.10.2 The scope of Hard FM service to be provided is as follows:

- Lifecycle replacement
- Routine, planned, reactive and statutory maintenance services
- Control and management of utilities
- Grounds maintenance and snow clearance

- 2.10.3 The scope of elective services (a new concept introduced by PF2) to be provided is as follows:

- PAT testing
- Management and implementation of pest control measures
- External window cleaning
- Internal cleaning of all glazing above 2 metres from internal floor level

- 2.10.4 There is a further category of service introduced by PF2 called Minor Maintenance Obligations. Included within Minor Maintenance Obligations is: internal wall finishes, ceiling finishes, interior door and window repair, lighting consumables, graffiti removal and other minor maintenance. There is

flexibility for the Trust as to whether or not to include such obligations of Project Co. The Trust will be requiring Project Co to carry out these functions.

- 2.10.5** The Trust's requirements are fully set out in Schedule 14 (Service Requirements) of the Project Agreement.
- 2.10.6** Soft FM services are not included within the scope of requirements except for physical requirements which have been include in the Trust specifications (this is in line with PF2 which states that such services should be managed by the Trust or through other service providers on short term contracts).
- 2.10.7** Soft FM services in the new hospital will be provided either directly by the Trust or a third party. Operational policies for Soft FM Services have been developed to ensure a good fit with Hard FM. Bidders should note that the interface between the Trust and Project Co in relation to Soft FM services provided by the Trust should be managed by Project Co within the framework of the Project Agreement. No indemnities, warranties or excusing causes will be provided by the Trust in this regard.
- 2.10.8** The Trust expects that Project Co will provide proposals on how best to deliver value for money throughout the life of the Contract.
- 2.11 TUPE**
- 2.11.1** It is proposed to transfer some members of the Trust's Hard FM staff to Project Co under TUPE. Some staff will remain employed by the Trust to maintain the retained estate.
- 2.11.2** The Trust has established a steering group to engage and communicate with estates staff and to work in partnership to develop the approach to staff transfer and has started dialogue with the Trade Unions to develop the staff involvement framework for the procurement process.
- 2.11.3** The Trust is currently undertaking a consultation with the Trust estates staff to agree the most appropriate way of identifying staff who will transfer to Project Co. Included in the Project Agreement at Schedule 30 are details of all current Trust estates staff and the number of staff by trade that the Trust anticipates retaining. During Stage 3 Bidders should base their costs on the full list reduced pro rata by the numbers retained. We anticipate the consultation will be complete by the end of Stage 3 of Competitive Dialogue. At that point the Trust will issue Bidders with an amended Schedule 30 identifying staff likely to transfer. This must be fully priced in the Draft Final Bids.
- 2.11.4** The Trust will also issue updated employee lists at the following points prior to signing the agreement.
- One month prior to close of Dialogue
 - One month prior to Financial Close
- 2.11.5** The Trust is willing to consider proposals from Bidders during Dialogue which incorporate structured training programmes prior to commencement of service for those staff that will transfer to allow training in Project Co.'s methods. The Trust expects transfer will take place at commencement of service.

2.12 Interim Services

- 2.12.1** Interim services are not included in the scope of the Project.

2.13 Energy

- 2.13.1** The impact of the new facility will be influenced by both the activities of those operating the building and those occupying the building and therefore, it is recognised that the minimisation of such impacts will be as a result of partnerships.

- 2.13.2 The energy use performance target will be set for a maximum of 42GJ/100m³ per annum for the Facilities.
- 2.13.3 In addition to encourage carbon reduction Bidders will be required to design and build the Facilities to achieve a BREEAM 2011 Healthcare 'Excellent' score under ENE01.
- 2.13.4 The Trust places major importance on the sustainability of the energy solution. Solutions are likely to score higher where they incorporate affordable proposals for energy production that have a minimum carbon footprint.
- 2.14 IMT**
- 2.14.1 The Trust has developed an IMT Strategy (available in the Data Room) to inform the development of a 'digital hospital'. We envisage a world where all systems are able to be linked and have reflected this in our specifications.
- 2.14.2 The Trust will require Project Co to design and build a single integrated network delivering wired and wireless coverage to agreed criteria at completion. The details of which are set out at Schedule 8 part 3 of the Project Agreement.
- 2.14.3 There will also be post completion testing one month after full occupation of the hospital to ensure wireless coverage remains adequate in occupied space. The Trust will retain 5% of the monthly Unitary Payment until these post completion tests are passed and will retain the right to step in and improve the coverage at Project Co.'s expense if it is not corrected within one month of failing the post completion tests.
- 2.14.4 Once delivered by Project Co in accordance with the paragraphs above the Trust will manage the single integrated network across the Site during the operational phase.
- 2.14.5 The Trust requires Project Co to utilise that network for building management and other systems.
- 2.14.6 The Trust's hardware, software, systems and management services remain outside the scope of the project.
- 2.14.7 The Trust has included within its infrastructure requirements sufficient data points to run a patient entertainment system to the bed head, but the patient entertainment system itself is not within the scope of this project. This will be delivered internally or by a third party provider.
- 2.15 Equipment**
- 2.15.1 The Trust has developed a comprehensive approach to equipping the new build.
- 2.15.2 The Trust is planning to transfer some medical and other equipment for MMH and procure the remainder partly through traditional procurement methods and partly through a managed equipment service (MES) except as specified in Schedule 13.
- 2.15.3 We have defined which Equipment types (categorised A – P) are best managed by the Trust or by Project Co. Project Co will be required to provide, install, maintain and replace certain items of fixed medical equipment which will be specified and selected by the Trust. The provision, installation, maintenance and replacement of all other equipment will be the responsibility of the Trust.
- 2.15.4 The categories (A-P) mentioned above can be mapped onto the traditional equipment groups 1 to 4. However, the categories enable greater granularity of detail when defining how each item of Equipment is managed within the Project. Both categories and groupings have been applied to Equipment components contained within the room datasheets. It should be noted that the application of groupings to equipment components may well differ from those published in ADB by the

Department of Health. This definition is contained within the Equipment Responsibility Matrix (ERM) defined in schedule 13.

2.15.5 The Equipment required is driven by the Schedule of Accommodation and clinical function of each room or area. An initial generic Equipment schedule has been developed and reconciled with the Trust's rolling Equipment replacement profile. This has been used to model the project's equipping requirements, predict transferring Equipment and what will need to be procured as new. The final Equipment schedule will be contained within the room datasheets and will be agreed prior to Closure of Dialogue.

2.15.6 The Trust is currently commencing procurement for a separate MES for some diagnostic medical equipment. The MES procurement is expected to reach preferred bidder whilst the Trust is in dialogue with two Bidders for MMH. If this proves to be the case, the Trust would facilitate dialogue to ensure the contracts are aligned.

2.16 Beneficial Access

2.16.1 The Trust (and any specified Trust party such as an MES or other contractor) will require access to the Facilities prior to the Actual Completion Date for the purpose of installing and commissioning certain items of fixed medical equipment. The access required is detailed in schedules 12 and 13 and clause 22. During the Dialogue the Trust will agree with each Bidder an Outline Commissioning Programme which will form part of Schedule 12. This will reflect the Beneficial Access arrangements required by the Trust and these will flow through into the Final Commissioning Programme. The construction programme must be managed to facilitate these requirements. The Commissioning plan and tests required for completion are described in Schedule 12 .

2.17 Retail Opportunities

2.17.1 The Trust does not currently expect Project Co to manage any of the general retail opportunities within the hospital and all responsibility for putting in place arrangements for the occupancy of such retail space shall remain with the Trust, including delivery of retail catering services internally.

2.18 Car Parking

2.18.1 Construction, maintenance and lifecycle of car parking infrastructure (excluding barrier equipment) will be included in the project. Car park management (including supply and maintenance of barrier equipment) will remain the responsibility of the Trust.

2.18.2 The Trust will require Project Co to provide infrastructure to support the car park barriers and the Trust will require beneficial access to install.

2.19 Payment Mechanism

2.19.1 The Trust has developed a detailed, fully calibrated, payment mechanism as set out in Schedule 18 of the Project Agreement issued with this ITPD3. This payment mechanism is based on HMT proposals for PF2 adjusted to be sector and project specific.

2.19.2 Key features to the payment mechanism include:

- An adjustment for the capital contribution to be made by the Trust, returning the annual charge to what it would have been in the absences of the contribution to determine deductions for Unavailability.
- An appendix for Access issues where the operation of Trust services is seriously impacted as additional facilities are Unavailable (e.g. Lifts, main entrance).

- Bedding in for new service providers. This drafting has been included to assist Project Co. Full wipe clean of the measures toward termination will not be accepted.

2.19.3 The approach taken to the payment mechanism will be consistent with the approach to the Project Agreement. The Trust will expect bidders to highlight any payment mechanism concerns early in the Dialogue phase and to develop their Draft Final Bids based on the outcome of dialogue with the Trust. As explained in Volume 4 of this ITPD, once Dialogue has been closed, no further amendment to the payment mechanism and its calibration will be possible.

2.20 Key Financial Considerations

2.20.1 The Trust has set out its initial affordability position in the Outline Business Case (OBC). The key inputs are summarised as follows. Capital costs are stated at PUBSEC 200 and revenue at 2012/13 price base.

- Unitary Payment £26.12m
- Outturn project cost of £353m
- Works cost excluding VAT £285m
- Gross Internal Floor Area (GIFA) 79,828m²

2.20.2 Bidders should note that the OBC was based on the assumption that Project Co will remediate the land and therefore the financial targets in Volume 4 will reflect an adjustment to these figures.

2.20.3 Bids are to remain valid and fixed for a period of 6 months from the planned date of Financial Close included in the programme provided to Bidders in the IFTB. In the event of further delay, the only costs that may change are capex, lifecycle and FM costs. Capex and lifecycle will be adjusted on the basis of RPI. Such adjustment will only begin from the date occurring 6 months after the end of the planned month of Financial Close.

2.20.4 Bidders should be aware that the Service Payment will not be considered in isolation; bid affordability will be evaluated in the context of the overall impact on affordability, including (but not exclusively) the Trust's analysis of factors such as:

- Commercial innovation
- Impact on Trust's clinical running/staffing costs;
- Estimated value for money of energy proposals;
- Estimated income from Trust operation of car parking services;
- Whole life cost of equipment for which the Trust is responsible under the specification, i.e. outside the PFI scope (although independent of the bid, this will impact on the Trust's affordability ceiling for the Service Payment); and
- Any other resulting savings/revenue available to the Trust (for example reduced soft FM services costs).

2.20.5 When preparing Final Bids, Bidders should consider the impact of VAT and other taxes on the Trust and explore alternative scenarios to allow SWBH to benefit from VAT and tax efficiencies within the overall procurement.

2.20.6 Bidders will be asked to submit prices based on a Reference Bid which reflects partial indexation of the Service Payment based on RPI for the proportion of the Service Payment that recovers purely fixed costs only, e.g. debt interest and repayment.

2.20.7 Where applicable, indexation shall be applied once annually each 1st April, using February indices.

2.21 Equity Funding Competition

2.21.1 The Trust is inviting Bidders to bid on the basis that they will hold a funding competition at Preferred Bidder stage in accordance with guidance published by HMT on PF2 equity to identify a third party equity provider for an agreed percentage of equity (such guidance which requires disclosure of prescribed information during the procurement and the provision of reports and opinions from legal and insurance advisors to Project Co, the technical advisor to the senior funder and the model auditor, in each case supported by a letter of reliance to all shareholders including 3rd party providers).

2.21.2 The competition will be to identify a long term investor(s) to hold a significant minority stake in the equity of Project Co (alongside IUK EU). The Preferred Bidder will be expected to meet the full risk capital requirement of its Project Co in the event that IUK EU chooses not to invest and / or that the equity funding competition does not achieve the best VfM outcome.

2.21.3 Historically, funders even when part of a Consortia at PQQ, have commissioned due diligence following the appointment of the Preferred Bidder. This has often resulted in the re-opening of commercial terms, something which is inconsistent with both the legal requirements of Competitive Dialogue and the ABC process.

2.21.4 In order to provide potential participants in an equity funding competition with an appropriate level of understanding of the project and to limit any re-opening of commercial points, the Trust will require the advisors to the Preferred Bidder to provide any necessary assurance to the third party equity providers and Infrastructure UK.

2.21.5 More detail around the equity funding competition process is set out in ITPD 4 at section 4.

2.22 Senior Debt Funding Competition

2.22.1 The Trust is inviting Bidders to bid on the basis that they will hold a funding competition at Preferred Bidder stage in accordance with DH and HMT guidelines to identify the best value senior debt funding route.

2.22.2 Historically, funders even when part of a Consortia at PQQ, have commissioned due diligence following the appointment of the Preferred Bidder. This has often resulted in the re-opening of commercial terms, something which is inconsistent with both the legal requirements of Competitive Dialogue and the ABC process.

2.22.3 In order to provide potential participants in a senior debt funding competition with an appropriate level of understanding of the project and to limit any re-opening of commercial points, the Trust will require the participation of shortlisted Bidders in the appointment of due diligence advisors to be novated to the Preferred Bidder and then to Funders.

2.22.4 The Trust will agree, with the three Bidders selected from the PQQ, a funding competition protocol and roles and responsibilities at each stage. The four organisations will agree a shortlist of due diligence advisors and will jointly interview and select legal, technical and insurance due diligence advisors. Details of this process can be found in ITPD4.

2.23 Deed of Safeguard

2.23.1 The Trust has issued the standard form Deed of Safeguard in schedule 20 to the Project Agreement. The precise form of wording to be used will be dependent on whether the Trust is a Foundation Trust at Financial Close and will be confirmed with DH at that time.

2.24 Reimbursement of Bid Costs

- 2.24.1 The Trust intends that the CD process will be conducted in a structured and efficient manner consistent with the achievement of the necessary commercial certainty so that the costs incurred by Bidders and the Trust are proportionate to the project objectives.
- 2.24.2 The Trust's objective is therefore to ensure that the "at risk" costs of bidding this scheme are no greater than they need to be for a scheme of this size and nature (in terms of service provision). The development of the scheme to date has been designed to achieve that objective and, in meeting its obligations under PF2, the Trust has structured the procurement phase so that it should be no longer than 18 months from the issue of the contract notice to the appointment of a Preferred Bidder. The Indicative Timetable in Section 3.1 of Volume 4 of this ITPD demonstrates this.
- 2.24.3 The Trust intends to keep the issue of bid costs under review as its procurement proceeds. Where there has been a robust competition between Bidders, each providing a final bid proposal that is affordable and value for money, and the Trust believes that, as a result of new procurement procedures and/or the manner in which the Trust has conducted the procurement, there has been a significant increase in the costs of the unsuccessful Bidder, which the Bidder could not reasonably have controlled or mitigated, the Trust will consider making a contribution towards those costs.
- 2.24.4 When forming a judgement, the Trust will be informed by PFU's recommendation.
- 2.24.5 The Trust would reserve the right to carry out due diligence to confirm the amount of any costs incurred by Bidders should it be minded to make any contribution towards bid costs.

2.25 Insurance

- 2.25.1 The Trust will require Project Co to effect and maintain in force the insurances identified in Schedule 21 (Required Insurances) of the Project Agreement throughout the duration of the Agreement or for particular activities undertaken during its course. Bidders are required to confirm that their proposals comply in full with the requirements of Clause 36 and Schedule 21 (Required Insurances) of the Project Agreement. Clause 36 has been updated in line with the provisions of SOPC4 and PF2 as applicable.
- 2.25.2 The insurance requirements can broadly be classified as follows:
- property damage
 - contractor's all risks
 - third party public and products liability
 - delay in start-up and business interruption
- 2.25.3 The insurances identified above and in Schedule 21 should not be viewed as limiting a Bidder from considering other additional forms of insurance. However, only premiums for the policies listed in Schedule 21 should be priced in the bid.
- 2.25.4 Bidders will be required to provide information regarding the insurances they are obliged to take out throughout the duration of the Project Agreement, including the completed Insurances Pro-forma included in Volume 4 of the ITPD and confirmation that the insurance costs reconcile with those identified in the Financial Model. Bidders are also required to clearly identify the assumptions applied in determining the "long run median level" for premiums as per SoPC3 Guidance (Section 24.8.2).
- 2.25.5 All insurance provisions must be fully agreed together with other costs prior to close of Dialogue.

ITPD Volume 3 Appendix A Regeneration Brief

Introduction

The Trust serves a particularly deprived community with much higher than average levels of chronic ill health. There is an established link between the material well-being and long term employment opportunities of a community and their on-going health. The Trust considers it to be a core aim of the Project to ensure that the maximum regeneration benefits from the Project are reinvested in the community we serve and as such we have incorporated regeneration deliverables into the evaluation criteria.

In recognition of this aim the Trust has been working with Sandwell MBC and Birmingham City Council ("the Partners") to understand what level of benefits we might expect and to set some parameters by which Bids may be evaluated. The Partners will be represented in the group that evaluates the regeneration deliverables proposed in the Bids. It will include representatives from both Sandwell and Birmingham local authorities who are recognised as employment and skills delivery agents and provide tools which provide open and fair access for local suppliers.

Bidders will be invited to provide a strategy detailing how they propose to maximise regeneration benefits. This will be one of the scored deliverables which will be evaluated as part of the evaluation criteria and should be incorporated into Project Co Proposals in schedule 8 part 4.

Bidders will also be required to provide regeneration monitoring reports to the Trust during the construction and operational periods. As part of the evaluation process, Bidders are requested to provide example formats for those reports showing the benchmarks which will be used. The formats of the reports will be agreed with the Trust during Dialogue.

There are three main areas which we expect Bidders to address in their Bid:

1. Providing Access to Construction Employment through the Project

The Trust's aims are:

- to increase construction skills in order to reduce long term unemployment; and
- to offer employment and training to unemployed people.

The Bid should propose employment targets for the construction contractor (and subcontractors) for recruitment to positions which fulfil these aims.

The attached Appendix A shows an example of a methodology for calculating a simple jobs and skills target demonstrating an aspiration that the Trust considers reasonable for such a target. In calculating this example, the Trust has consulted with the Partners on targets achieved in other public sector construction projects

Bidders could meet the target through providing a range of different new entrant opportunities e.g. training placements, apprenticeships.

The currency for this target is "person weeks" and the breakdown of the person weeks would be at the discretion of the Bidders. Actual performance will be recorded in a monthly monitoring report and reviewed throughout the construction period.

If Bidders prefer to use a different method to set the employment target(s) within their Bid, this should be discussed and agreed with the Trust during Dialogue.

The Trust expects that Final Bids will include the intention that all training posts will be advertised (not necessarily exclusively) through Sandwell MBC and Birmingham City Council.

The Trust expects the Bid to address how Bidders will ensure that the employment benefits will be delivered across the entire supply chain including construction subcontractors. In meeting these requirements, the Trust anticipates that a significant percentage of the target person weeks secured through the contract will be delivered by employees engaged in delivery of the contract at the Site. In this regard, the Trust is currently minded to require that no less than [50%] of the target person weeks are delivered in this way

2. Providing Access to Facility Management Employment and Skills in the operational phase of the Project

The Trust's aims are:

- to increase facilities management skills which will reduce long term unemployment and ; and
- to offer employment and training to unemployed people.

The Bid should set employment targets for the Hard FM Contractor for recruitment to positions which fulfil these aims.

After consultation with the Partners, the Trust's expectation is that this target should be at least 20% of new employees recruited in each calendar year of the Operational Term

The Trust expects that the strategy will include the intention that all training posts will be advertised (not necessarily exclusively) through Sandwell MBC and Birmingham City Council.

3. Maximising the Benefits to the Supply Chain

The Trusts aims are to:

- Maximise the economic and environmental benefits of the construction; and
- Ensure that procurement for the new hospital supports the Trust's commitment to carbon reduction.

The Partners have developed comprehensive services which allow suppliers to access local businesses through the www.FinditinBirmingham.com and www.ThinkSandwell.co.uk websites.

The Trust expects the Bids to commit to a minimum level of usage of these websites as follows:

1. All contracts and work(s) packages for the supply of materials, components and sub-contract services that the contractor tenders should be accessible made transparent and advertised including on finditinsandwell.co.uk and finditinbirmingham.com giving all suitable organisations the opportunity to express an interest to compete to supply goods and services.
2. Organisations who apply through finditinsandwell.co.uk and finditinbirmingham.com shall be considered for pre-qualification on an equal footing to organisations who apply through any other route.

3. Notification of contract and work package awards will be published including through finditinsandwell.co.uk and finditinbirmingham.com, providing the contact information of suppliers, so that second, third and lower-tier opportunities can be expedited and made transparent.
4. Project Co will encourage its supply chain to adopt procurement measures similar to those adopted by Project Co.
5. Suppliers at every level of the supply chain will be encouraged to attend or participate in 'meet the buyer' type networking events organised by thinksandwell and finditinbirmingham to further promote supply opportunities.
6. Suppliers at every level of the supply chain will be encouraged to participate in thinksandwell's skills development training aimed at improving the pre-qualification skills and competitiveness of the regions supply chain.

The Trust will ensure that Bidders are made aware of further procurement opportunities including those provided by thinksandwell and finditinbirmingham which they may choose to take up.

At Draft Final Bid the Trust will expect Bidders to include specific proposals of items to be sourced responsibly and an expected percentage of overall materials and components cost to be procured in this way.

APPENDIX A - EMPLOYMENT & SKILLS REQUIREMENTS

The following is an example of methodology for calculating a jobs and skills target within the Midland Metropolitan Hospital Regeneration Strategy.

Total estimated labour costs £103M (based on 60% of total construction build costs of £171M).

Total Works Costs for PSC	£171M
Estimated construction labour costs	£103M

From other similar schemes we are aware that contractors have been able to commit to 60 person weeks of relevant job placements per £1m construction labour costs.

Calculation for target person weeks:

Construction labour costs £103m x
 60 person weeks per £1m invoiced against construction labour costs
 $103 \times 60 = 6,180$ person weeks

An example of how this may be broken down is:

	P Weeks
30 apprentices @ minimum 104 weeks =	3,120
10 graduate placements/internships @ min 25 weeks =	250
50 other trainee opportunities @ max 52 weeks =	2,600
52.5 work placement opportunities @ 4 weeks =	210
Total person weeks =	6,180

The breakdown of the person weeks will be at the discretion on the contractor and actual performance will be subject to review throughout the contract implementation period.

These targets should be cascaded down the supply chain to ensure sub-contractors are contributing to the contractual targets.