

Flexible New Deal (FND) – Phase One

Invitation To Tender

Instructions For Bidders

30th July 2008

Before completing the Invitation to Tender (ItT) Tender Form you are advised to read carefully the;

- Provision Specification and Supporting Information for this procurement and these instructions;
- Provider Guidance pages on the Contracted Employment Services section of the Supplying DWP website;
http://www.dwp.gov.uk/supplyingdwp/what_we_buy/provider_guidance.asp;
- Draft DWP Terms & Conditions applicable to this contract, which are available as part of the ItT document suite; and
- Pricing Proposal and Pricing Proposal Guidance.

Flexible New Deal – Phase One

Invitation to Tender Instructions for Bidders

Introduction

1. These instructions, together with the Provision Specification and all other information to which they refer, are designed to ensure that all the organisations that are invited to tender are given the opportunity to compete on a fair and equal basis for these contracts. It is important that you provide all the information asked for in the format and the order specified.
2. You should answer all questions as accurately and concisely as possible and within the permitted page allowance. Where a question is not relevant to your organisation, this should be indicated with an explanation.
3. Please answer all questions in English.
4. If you do not provide the required information, make a satisfactory response to any question, or supply documentation referred to in responses, within the specified timescale, you may not be invited to participate further in this competition.
5. If you wish to participate in the second stage of this competition and submit a response to the ItT you are advised to familiarise yourself with the documents listed on the front of these instructions and ensure that you are adequately informed as to the nature of the requirement in order to prepare a properly detailed response.

The Procurement Process

6. Through the pre-qualification stage of this competition, DWP identified a short-list of organisations that were judged potentially suitable to become a Prime Contractor of Phase One FND.
7. This competition is for the provision of Phase One of the FND service in 14 contract areas, which includes 10 areas where customer choice, as described in the Provision Specification, will operate. The 14 contract areas are:

Contract Package Area	Number of Prime Contractors
Birmingham and Solihull	2
Black Country	2
Cambridgeshire and Suffolk Norfolk Lincolnshire and Rutland	2
Devon & Cornwall	1
Leicestershire and North Hants Nottinghamshire	2

Contract Package Area	Number of Prime Contractors
Central London Lambeth Southwark & Wandsworth	2
Greater Manchester Central Greater Manchester East and West	1
North and Mid Wales South East Wales	1
North and East Yorkshire and Humber Tees Valley	2
Edinburgh Lanarkshire and East Dunbartonshire Lothian and Borders Ayrshire, Dumfries, Galloway and Inverclyde	2
South Wales Valleys South West Wales	1
South Yorkshire Derbyshire	2
Surrey and Sussex Kent	2
Coventry and Warwickshire The Marches Staffordshire	2

8. Please note that you are only being invited to Tender for the areas in which you have been short listed. Tenders submitted for areas in which you have not been short listed will not be considered. You should complete and return all Tender Forms in accordance with these instructions for each of the areas in which you have been short listed. If you no longer wish to progress with your Tender for all or any of the areas that you have been short-listed for, please notify DWP in writing with an outline of your reasons for withdrawal to the address given at paragraph 52.
9. DWP reserves the right to validate the information declared to assist in the evaluation of Tenders. Reference site visits and/or presentations may be required.
10. DWP will award any contract to **one** legal entity only and it is critical that you are clear within your Tender document exactly who that legal entity will be, how it will be constituted and what Subcontractors you will be utilising. In the case of Special Purpose Vehicles (SPV), the new legal entity must be in place at the time of entering into a contract.

Contracting Strategy

11. You are reminded that the term “Prime Contractor” is used to describe an arrangement under which DWP contracts with a single legal entity who will deliver Flexible New Deal in one of the following ways:
 - (i) direct delivery of a proportion of the provision and sub-contracting of the remaining provision to other organisations; or

- (ii) sub-contracting of the entire provision to other organisations; or
- (iii) direct delivery by one organisation (N.B. Given the size and scale of the contracts it is unlikely that any single organisation could deliver FND as a sole deliverer, however, DWP are willing to consider such a Tender on its merits. Short listed organisations who do not intend to use Subcontractors will need to engage with local partners and stakeholders).

- 12. All contracts between the Prime Contractor and other organisations for the delivery of FND are therefore regarded by DWP as sub-contracts.
- 13. All Prime Contractors, regardless of their contracting strategy, will need to engage with a wide range of local partners and other stakeholders.

Sub-Contracting

- 14. The following section outlines how DWP expects Prime and sub-contractual relationships to work throughout the supply chains that deliver FND. It is not the intention of DWP to constrain Prime Contractors by defining the formal delivery relationships in these supply chains; however, DWP does expect the following principles to form part of a successful Tender and subsequently as contractual obligations for the delivery of FND and will be treated as such during the management of these contracts.
- 15. The term Sub-contractor(s) refers to all tiers of Subcontractors in the supply chain that will deliver FND.
- 16. You must specify in your responses to this ItT, which organisations you will sub-contract work, how you sourced them and describe in detail how you propose to manage and monitor the performance and quality of those Subcontractors.
- 17. You must include a signed statement from each proposed Sub-contractor using the Sub-contractor Declaration template provided at Part 3, Annexe 2 of the ItT Tender Form, to confirm that they have agreed details of the services that they will provide and that they are content with the associated funding arrangements. DWP will interpret your inclusion of these declarations as your agreement to their content. DWP expects that Prime Contractors and Subcontractors will, in addition to the above declaration, have formally agreed letters of intent.
- 18. DWP will not set any limit on the number of Subcontractors that you may use; what is important is that you are able to demonstrate your ability, either directly or through Subcontractors, to fully meet the needs of all customers within the particular locality in which you are bidding. DWP will also not set any limits on the number of tiers within the sub-contracting chain.
- 19. DWP does not advise or recommend the use of specific Subcontractors. However, we reserve the right to veto the use of a proposed Sub-contractor before, during and after any award of contract.
- 20. As part of the DWP Commissioning Strategy and in the interests of developing and supporting healthy, high performing supply chains you must ensure that all

sub-contractual relationships adhere to the DWP Code of Conduct provided as Annexe 1 to this document.

21. DWP will not prescribe contractual relationships within Prime Contractors' supply chains. However, contracts must represent a reasonable and negotiated allocation of risk and funding appropriate to the service provided, outcomes required and the terms agreed between the Prime Contractor and DWP.
22. Different contractual relationships will be appropriate depending on the nature of the service provided and outcomes required by a Sub-contractor. For example some Subcontractors may be integral to the delivery model and undertake an end to end service resulting in the direct delivery of job outcomes. In such cases it may be appropriate to mirror the terms and funding model of the Prime Contractor's agreement with DWP. In other cases Subcontractors may deliver a more specific service such as mentoring that will not necessarily achieve an outcome directly but forms a part of the overall delivery model. In such cases it may be appropriate, for example, to agree a call-off type arrangement and to not necessarily base payments on outcomes. However, it is for both parties to these contracts to agree specific terms that are acceptable to both parties and may or may not reflect the above examples.
23. Prime Contractors may also need to make ad-hoc purchases for services to support FND delivery, for example driving lessons or other standard training. DWP does not expect Prime Contractors to provide details of all potential ad-hoc suppliers or to seek our consent when using them. It is advised, however, that a list of such suppliers that you intend to use is included. Furthermore, DWP does not expect letters of intent or to be notified when these ad-hoc suppliers are changed. DWP does however, expect that the other principles outlined in this section and in the code of conduct are adhered with all Subcontractors.
24. Through sufficient contract length and reasonable terms of delivery and funding, all sub-contracts (subject to performance) will allow for recovery of costs and allow the Sub-contractor to make the appropriate level of planning and investment to deliver the contract. Furthermore, any termination clauses agreed with Subcontractors should include notice periods that are reasonable and appropriate to the level of investment made by the Sub-contractor.
25. While DWP accepts that Prime Contractors may need to make changes to their supply chain during the course of the contract any changes to Subcontractors prior to contract award or during the contract term will require written permission from DWP.
26. You are also reminded that Prime Contractors, if they are private or voluntary sector organisations will not be required to follow public sector competitive tendering rules for any of the work they propose to sub-contract. The pre-awarding of contract section within the Code of Conduct, Annexe 1 to this document, outlines the principles of behaviour which DWP expects when Prime Contractors sub-contract for FND.
27. DWP will make all payments for provision direct to the selected Prime Contractor within 30 calendar days of receipt of a valid invoice. The Prime Contractor too will be required to pay each of its Subcontractors within a

maximum period 30 days of receipt of a valid invoice. DWP expects all contractual relationships within the supply chain to adhere to this.

28. The responsibility for managing and monitoring Subcontractors' compliance with contractual requirements will rest entirely with the selected Prime Contractor. DWP will however seek evidence throughout the life of the eventual contract that the Prime Contractor is exercising this responsibility effectively and that, where necessary, it agrees continuous improvement plans with its Subcontractors.
29. The successful supplier will be required to report annually to DWP the total amount paid in each financial year to its third sector Subcontractors and/or partners for the delivery of this contract.
30. Where any Sub-contractor has grievance with their treatment by a Prime Contractor they may raise such issues with the relevant DWP contract manager. In such cases contract managers will, as appropriate and at their discretion, investigate the complaint and liaise with the aggrieved parties to broker a solution. This route, however, is a last resort for dispute resolution. DWP expects Prime Contractors and Subcontractors to have agreed dispute resolution procedures and will only intervene when best endeavours have been made by all parties involved to resolve such issues. DWP may require evidence of such endeavours. You are reminded that DWP will monitor the effectiveness of the management of Subcontractors and this feedback will be taken into account in the assessment of Tenders for future business by Prime Contractors.
31. With the exception of ad-hoc agreements as outlined above Prime Contractors must reflect the following clauses from the DWP Terms and Conditions in all their contracts with Subcontractors in the delivery of FND.

Clause	Description
1	Interpretation (relevant interpretations to be adapted to suit the subcontract)
3	Provider Obligations
5	Change Control
8	Prime Contractor's Employees and Subcontractors
11	Intellectual Property Rights and Data Protection (clauses 11 and 13 only)
14	Confidentiality and Freedom of Information
19	Termination
22	Assignment
23	Reputation and Public Service Considerations
27	Issued Property
29	Disclosure of Information
33	Jobcentre Plus Customer's Charter.
34	Fraud
36	Force Majeure
39	Waiver
46	The Authority's Premises
47	Law and Jurisdiction

Briefing Events

32. DWP will be holding a number of briefing events to explain the FND requirements and the ItT process more fully and to answer questions from potential Tenderers.
33. The ItT events are intended to:
- inform all short listed organisations about the detailed tendering processes including a walkthrough of the ItT;
 - bring short-listed organisations together with key local stakeholders including District Managers, Welsh Assembly, Scottish Government, representatives from the local City Consortia, LSC leads and other key local stakeholders to discuss the specific local labour market; and
 - facilitate an opportunity for short listed organisations to talk to potential local Subcontractors via a networking session during the afternoon at the District events.

National Event

34. We will hold one FND ItT national overview event in London on Monday 4th August 2008. This event will cover standard generic ItT, TUPE and other non location specific information.

Local Events

35. The purpose of the local events is to provide information that will allow short listed organisations to begin to develop their detailed delivery proposals in a way that best reflects the particular circumstances and needs of the individual contract areas and the needs of Jobcentre Plus customers; and to facilitate and support the networking and partnership foundations between organisations that are tendering to become a FND Prime Contractor and those organisations that wish to work on a sub contract basis to help deliver the FND targets.

Contract Area	Venue	Date
North & Mid Wales and South east Wales	Cardiff	5 th August 2008
North & East Yorkshire & Humber and Tees Valley	York	7 th August 2008
Coventry & Warwickshire, The Marches and Staffordshire	Coventry	7 th August 2008
South Yorkshire and Derbyshire	Sheffield	8 th August 2008
Cambridgeshire & Suffolk, Norfolk, and Lincolnshire & Rutland	Peterborough	8 th August 2008
Greater Manchester Central and Greater	Central Manchester	11 th August 2008

Contract Area	Venue	Date
Manchester East & West		
South Wales Valleys and South West Wales	Swansea	11 th August 2008
Lanarkshire & East Dunbartonshire, Edinburgh, Lothian & Borders and Ayrshire, Dumfries, Galloway & Inverclyde	Glasgow	12 th August 2008
Birmingham & Solihull	Central Birmingham	13 th August 2008
Surrey & Sussex and Kent	Guildford	13 th August 2008
Black Country	Wolverhampton	14 th August 2008
Central London and Lambeth, Southwark & Wandsworth	Central London	14 th August 2008
Leicestershire & Northamptonshire and Nottinghamshire	Leicester	15 th August 2008
Devon and Cornwall	Exeter	15 th August 2008

36. Short listed organisations will receive a letter from DWP inviting them to the relevant event(s).
37. DWP will also be holding financial surgeries where you can ask questions about the financial aspects of the ItT. More information about these surgeries will be provided shortly.

Submission of ItT Tender Forms

38. **You must submit a separate ItT Tender Form for each contract area that you intend to Tender for.**
39. All ItT Tender Forms must be submitted by a legally constituted organisation, or in the case of SPVs, the intended legal entity.
40. All ItT Tender Forms must be completed in plain English, on A4 paper, in Arial font size 12 and within the preset margins of the ItT Tender Form template. Sub-contractor Declarations, Organisational Charts, Process Maps and Implementation Plans (Gantt Charts) may be submitted as separate sheets and in a smaller font size as long as they are clear and easily readable. Process Maps, Organisational Charts and Implementation Plans (Gantt chart) may be submitted on A3 paper if preferred. Pricing Proposal documents must be completed in £ sterling and on the template provided, the assumptions page of which is not subject to page or word count restrictions. Failure to comply with these instructions may mean that your Tender is rejected.

41. Responses to Parts 3 – 13, inclusive, are subject to formal assessment. Your response to Parts 3 – 13, inclusive, should not exceed a maximum of 80 pages in total, including the questions. This page total does not include Annexes 1 and 2 to Part 3, the Process Map, Organisational Chart and Implementation Plans (Gantt Charts).
42. Any information in excess of what is asked for will not be considered, nor will any supplementary folders, brochures, papers or other supporting material that is intended to influence or interpret the written response to any given question.
43. Your response must be presented in the same sequence and using the same question references detailed in the ItT document. Please ensure when answering each Part that you do not cross reference to information contained in other Parts, as this will not be taken into account. You must also ensure that you include your rationale and provide evidence and examples to support your response.
44. All questions in all parts of the ItT Tender Form must be answered in full. If you do not provide all the information requested you may be eliminated from the competition.
45. You are advised not to make assumptions about your past or current relationship as a supplier to DWP, where applicable, or that any such issues will automatically be taken into account in the evaluation procedure.
46. DWP is committed to supporting Sustainable Procurement and encourages you to submit your ItT Tender Form on recycled paper and double sided printing, where possible. This is not a requirement and you will not be penalised if you are unable to meet this request.
47. Envelopes/packages must be plain and bear no reference to the name of your organisation. Franking machines that automatically print the company name must not be used. Tenders submitted in envelopes/packages that identify your organisation may not be considered. Tenders sent by registered mail will be accepted, but the envelope/package must not contain a printed or franked company logo.
48. It is the responsibility of your organisation to ensure that your completed ItT Tender Form is delivered no later than the appointed time. DWP does not undertake to consider Tenders received after the deadline unless clear evidence of posting is available (i.e. a clear post mark and/or a certificate of posting). Those Tenders received before the due date and time will be retained unopened until then.
49. You are required to submit:
 - One **original signed copy** of the completed ItT Tender Form;
 - One **original signed copy** of the completed ItT pricing proposal documents;
 - Four paper copies of the ItT Tender Form;
 - Two paper copies of the ItT Pricing Proposal documents;

- One electronic copy of the ItT Tender Form on CD. The CD should be clearly marked with your organisation's name, Phase One FND ItT and the contract package area;
- One electronic copy of the ItT Pricing Proposal documents on CD; and
- Depending on the legal form of your organisation, you must also submit the following financial documents;

Type of Tendering organisation	Single Company	Subsidiary with parent guarantee	Subsidiary without parent guarantee	SPV (for each of the participants of the SPV)
1. Last 2 years audited accounts	Y	Y	Y	Y
2. Latest year draft end of year accounts (if not included in 1.)	Y	Y	Y	Y
3. Year to date management accounts, including profit and loss, balance sheet	Y	Y	Y	Y
4. Current year forecast, including profit and loss account, balance sheet and cash flow	Y	Y	Y	Y
5. Post balance sheet events	Y	Y	Y	Y
6. Parent company guarantee	N	Y	N	If in place
7. Cross group guarantees	N	Y	N	If in place
8. Legal form/status	N	N	N	Y
9. Creditor arrangements (variations from normal arrangements)	Y	Y	Y	Y
10. Shareholders profile	Y	N	N	Y

50. Given the sensitive nature of some elements of the financial data required, your pricing proposal documents, financial documents and electronic version must be enclosed within a separate sealed envelope and submitted with the ItT documentation for each Tender. This separate envelope should bear your organisation's name, the contract package area and be clearly marked **RESTRICTED – FINANCIAL**.

51. The financial information will be passed to the financial team to open and examine as part of the price evaluation and financial capability assessment. It will only be accessed and retained by that team who will hold all such information on a restricted basis. The finance team will be subject to confidentiality agreements which explicitly ensure that they are aware of the nature of the information and the impact and consequences of any disclosure. The finance team will ensure that reports and products are produced in a manner not to expose such information to others unless written confirmation of the release from the individual organisation concerned is obtained

52. If the financial data requested above is not in £ sterling, a conversion to £ sterling of the key data must also be provided along with details of the conversion rate used.
53. Please ensure that for **each** contract package area all copies of the documents/CDs requested above are packaged together in **one** parcel and that the separate sealed envelope containing the Pricing Proposal documents /CDs is also included inside that parcel.
54. Tenders should be sent in a sealed envelope/parcel clearly marked **“CONFIDENTIAL: Phase One Flexible New Deal”** to:
- Nigel Kitteridge,
Commercial Employment Provision
Commercial Directorate
Department for Work & Pensions
Level 4
Mayfield Court
56 West Street
Sheffield
S1 4EP
55. Completed Tenders should be received at the above address no later than the closing deadline of **12:00 Noon GMT on Wednesday 12th November 2008**.
56. DWP may at its own absolute discretion extend the closing date and time for receipt of Tenders specified in paragraph 53. Any such extension will apply to all short listed organisations.

Non-Compliant Tenders

57. Your Tender may be rejected if any of these instructions are not complied with, if any of the documents in this ItT pack are altered or if full information is not given by the stated deadline.
58. DWP reserves the right to reject any Tender where the proposed price is above the indicative budget for the contract as defined in Annexe 3 of the Provision Specification or more than half of the indicative budget in contract package areas with two suppliers.

Consistency of Tender Information

59. Please note that it is your responsibility to ensure that the information you provide remains consistent throughout the competition. Under no circumstances will you be permitted to make any amendments to your completed Tender after the closing date of the competition.
60. You should notify DWP promptly of any perceived ambiguity, inconsistency or omission in this ItT, any associated documents or information issued to you during the procurement process.

Status of Tenders

61. DWP does not undertake to accept any Tender and reserves the right to accept the whole or any part of any Tender, unless you stipulate otherwise. DWP reserves the right to reject a Tender if you propose to add to or substitute any terms or conditions which are at variance with, or inconsistent with, our terms and conditions, or are otherwise unacceptable to DWP.
62. Your Tender should remain open for acceptance for a period of not less than six months after the due date for the return of Tenders. A Tender valid for a shorter period may be rejected.
63. A contract will not exist and work may not commence until a formal contract has been signed and dated by DWP and by the successful Supplier.

Amendments to Tender Documents

64. At any time prior to the deadline for the receipt of Tenders, DWP may modify the ItT and draft terms and conditions by amendment. Any such amendments will be issued by DWP to all short listed organisations by 29 October 2008. In order to give short listed organisations reasonable time in which to take the amendment into account in preparing their Tenders, DWP may, at its discretion, extend the deadline for the receipt of Tenders.

Evaluation

65. All completed Tenders will be subjected to separate formal quality and price evaluation, the results of which will be used to form an assessment of your ability and capacity to deliver Phase One Flexible New Deal contracts.
66. Contracts will be awarded on the basis of the most economically advantageous tender in each contract area i.e. that which, in the opinion of DWP, offers the best combination of quality, price and risk. DWP reserves the right to restrict the number of contracts awarded to any single legal entity due to capacity concerns and/or the need to maintain a competitive and diverse supplier base.

Evaluation of Quality

67. Your Tender(s) will be evaluated against key quality criteria set out in the ItT Tender Form. DWP evaluation teams will assess each Tender against the key criteria listed in the ItT Tender Form and will score them on the following basis:

EXCELLENT Score 5	COMPLETELY MEETS THE REQUIREMENT AND ADDS SIGNIFICANT ADDED VALUE The Tender meets the requirements to deliver an excellent quality service, and offer a realistic prospect of performance in excess of the minimum standards. The Tender offers significant added value in terms of detailed supporting evidence and examples, with sound rationale and justifications providing full and additional assurance around the quality of the Tender.
----------------------	--

<p>VERY GOOD Score 4</p>	<p>COMPLETELY MEETS THE REQUIREMENT AND ADDS SOME ADDED VALUE</p> <p>The Tender meets the requirements to deliver a good quality service, and offers a realistic prospect of performance in excess of the minimum standards. The Tender offers some aspects of added value in terms of detailed supporting evidence and examples to provide full assurance around the quality of the Tender.</p>
<p>GOOD Score 3</p>	<p>COMPLETELY MEETS THE REQUIREMENT</p> <p>The Tender fully meets the requirements and offers a service that is good quality. The Tender provides sufficient evidence to provide assurance that it is deliverable and realistic.</p>
<p>DOUBTFUL Score 2</p>	<p>MEETS SOME OF THE REQUIREMENT BUT FAILS IN PARTS</p> <p>The Tender meets the requirement in parts but is unclear and unconvincing in others. Some risks to the delivery of the service are identified or insufficient information was provided to give assurance that the minimum requirement is met.</p>
<p>POOR Score 1</p>	<p>SIGNIFICANTLY FAILS TO MEET THE REQUIREMENT</p> <p>The Tender significantly fails to meet the requirement in most or all key areas. Significant risks to the delivery of the service are identified or insufficient information is provided to give assurance that the minimum requirement is met.</p>

68. Minimum standards will apply to Parts 3, 4, 5, 7 and 10 of the Tender Form. Failure to achieve a score of 3 in these sections, prior to applying the relevant weighting, will result in automatic elimination from the competition.
69. Completed ItT responses, excluding your financial responses, will be shared with Jobcentre Plus District Managers and City Strategy Pathfinders (these are listed in Annex 1, paragraph 1.42 of the Provision Specification and Supporting Information). These stakeholders will be invited to comment on the completed Tender from a local perspective. They will not be invited to take part in the evaluation process; Tenders will only be evaluated by DWP evaluation team, taking into account these external stakeholders' comments. If you require further details on the external stakeholders that will be reviewing your Tender and providing comments please email: sheffieldmayfieldcourt.flexiblenewdeal@dwp.gsi.gov.uk.
70. The weightings attached to each question are as follows:
- Delivery Method 4
 - Customer Journey 4

- Stakeholder Engagement 4
- Performance Offer 5
- Skills and Experience 4
- Management and Quality 3
- Human Resource 3
- Fraud Prevention 2
- Premises and Facilities 2
- Implementation Plan 2
- Volume Fluctuations 1

71. The score for each question will be multiplied by its respective weighting to give a total score. This total score will contribute 50% to the overall Tender mark.

Evaluation of Price

72. Further information on the evaluation of price, instructions on how to complete the pricing form as well as the pricing form itself are included in the ItT pack.

73. You are required to provide predicted costs plus a margin/surplus, including inflation assumptions for each contract year; this will represent the fixed and firm Total Contract Price.

74. Price evaluation will be on the basis of the Average price per outcome. This will be calculated to incorporate Short Job Outcomes, Sustained Job Outcomes and Service Fee.

75. In accordance with the financial scoring regime, the average price per job outcome will be converted into a score. This will contribute 50% to the overall Tender mark.

Calculation of Overall Tender Mark

76. The quality and price scores will be combined to produce an overall tender mark. These scores will be ranked to produce an overall merit list for each contract package.

Capability and Capacity Assessment

77. Financial and non-financial aspects of Tenders, including the information in your response to Part 14 and the financial documents provided, will be considered, including where you have offered across a number of contract packages, in the overall offer made.

78. To make this assessment DWP will assess a number of factors including the following:
- The aggregate level of business potentially to be awarded to each organisation (where applicable);
 - The aggregate level of financial risk inherent to each organisation (where applicable);
 - Feasibility of Short Job Outcomes and Sustained Job Outcomes proposed;
 - Impact of risk (underlying volume, performance, choice) on financial position;
 - The level of assurance presented regarding financial facilities which will be used to manage cash flow; and
 - The organisation's ability to successfully implement and deliver the contracts for which they have been selected, within the required timescales.
79. The capability assessment will not affect the scores awarded to you or the ranking of offers for each contract package. However, DWP reserve the right to limit the amount of business it is prepared to award should the above assessment reveal that an overall offer represents an unacceptable level of risk. DWP also reserves the right to limit the number of contracts awarded to any single legal entity in the interests of maintaining a competitive and diverse supplier base.

Clarification Process

80. During the evaluation process, DWP may wish to clarify or discuss aspects of your response to the ItT. In those instances DWP will send any questions by e-mail or fax to your named contact person, who should e-mail or fax back a written or typed response by the deadline that will be given to you.

Notification

81. All short listed organisations who have submitted a Tender will be notified of the outcome of the ItT process by week commencing 9th February 2009.
82. Successful organisations will be approached to ensure that they are still able and willing to deliver the contract to the agreed date. Those organisations selected to proceed will be assigned "Preferred Bidder" status and will be invited to go forward to Post-Tender Discussions.
83. DWP will publish an Award Notice in the Official Journal of the European Union in accordance with the Public contracts Regulations 2006 within 48 days of the award of a contract.

84. Those organisations assigned Preferred Bidder status will be required to submit an Executive Summary of their Tenders. The summary should be no more than ten pages in length and should be a genuine summary of the key aspects of the Tender. This summary will be shared with external stakeholders such as City Strategy Pathfinders and Local Authorities. Furthermore, the summary may be provided as a response to FOI requests.

Post-Tender Discussions

85. Preferred Bidders will be required to hold discussions with DWP representatives at the earliest opportunity to resolve any outstanding issues and finalise their proposals for delivery. This process is for clarifying and supplementing the content of the Tender. Preferred Bidders will not be able to make changes to the fundamental aspects of their Tender after the Tender return date. Following satisfactory completion of this process, DWP may award a contract for the delivery of the Phase One FND service.

Feedback

86. All Tenderers will receive feedback on their Tenders following the award of contracts.

Inducements/Collusion

87. Offering an inducement of any kind in relation to this competition will disqualify your organisation from being considered and may constitute a criminal offence. Also, you must not try to obtain any information about anyone else's Tenders before the completion of this competition, or make any arrangements with anyone else about how or whether they should participate. Subject to any discussions which you may need to have with other organisations with whom you intend to submit a Tender as an SPV, please note the following requirements, any breach of which will invalidate your Tender.
 - 85.1. you must not try to obtain any information about anyone else's Tender or proposed Tender before the time limit for delivery of Tenders; and
 - 85.2. you must not make any arrangements with anyone else about whether or not they should Tender; and
 - 85.3. you must not communicate to any party other than the DWP the amount or approximate amount of your proposed Tender or information which would enable the amount or approximate amount to be calculated (except where such disclosure is made in confidence to obtain necessary quotations for the preparation of the Tender or insurance);
 - 85.4. you must not enter into any agreement or arrangement with any other party as to the amount of any Tender to be submitted;

Costs and Expenses

88. You will not be entitled to claim from DWP any costs or expenses that you may incur in preparing and or submitting your Tenders at either stage of this procurement exercise. This applies whether or not your or any other organisation is successful. It also applies to any additional cost you may incur as part of this competition if DWP modifies or amends its requirements. In addition, we reserve the right to cancel this Tender exercise if circumstances should arise that would make this necessary.
89. Under no circumstances will DWP be liable for any costs or expenses borne by any potential Subcontractors, suppliers or advisers in relation to this Tender process

Accreditation

90. DWP will only award contracts to organisations that have been accredited. Accreditation is carried out by Momenta on behalf of DWP. Prior accreditation is not a condition of bidding for contracts, but unless you already hold a current accreditation from Momenta you must be willing to go through the accreditation process if you are selected as a Preferred Bidder. Once you have been accredited, the details will be held on a Provider Register and you will not be required to submit the information again in order to Tender for further contracts during the subsequent 12 months. However, you will be required to ensure that the information is updated on an annual basis.
91. Accreditation checks will be carried out on the following areas:
- Legal entity;
 - Proof of insurance;
 - Health and Safety;
 - Environmental policies; and
 - Compliance with diversity and equal opportunities policies in respect of Jobcentre Plus customers and suppliers' staff, including non-discrimination on grounds of gender, sexual orientation, ethnicity, disability, sexual orientation, religion or belief. This also includes compliance with the requirement to make "reasonable adjustments" within the meaning of the Disability Discrimination Act.
92. You should also take careful note of the terms and conditions of contract relevant to these requirements.

Confidentiality

93. DWP may disclose detailed information relating to Tenders to its officers, employees, agents or advisers, subject to the duty to protect each organisation's commercial confidentiality in relation to its Tender.

94. DWP also reserves the right to disseminate information that is materially relevant to the procurement to all short listed organisations, even if the information has only been requested by one Short listed organisation, subject to the duty to protect each Short listed organisation’s commercial confidentiality in relation to its Tender.

Freedom of Information

95. DWP is committed to open government and to meeting its responsibilities under the Freedom of Information Act 2000 (FoIA). All information supplied by you as part of this competition will be treated as commercial in confidence until the Tender assessment process has been completed and a contract awarded. Subsequently however, all information submitted to DWP may need to be disclosed in response to a request under the FoIA. If a request is received, we may also be required to disclose details of unsuccessful Tenders.
96. We may also decide to include certain information in the publication scheme which we maintain under the Freedom of Information Act. If you consider that any of the information included in your Tender is commercially sensitive, please identify it and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. You should be aware that, even where you have indicated that information is commercially sensitive, we may be required to disclose it under the Act if a request is received. However, we would contact you to discuss any such request that is made.
97. If a request for information under the FoIA is received DWP is required to form an independent judgement of whether the information is exempt from disclosure under the FoIA and whether the public interest favours disclosure. Accordingly, DWP cannot guarantee that any information marked “confidential” or “commercially sensitive” will not be disclosed.”
98. Where a short listed organisation receives a request for information under the FoIA during the procurement process this must be immediately passed to DWP and the organisation must not attempt to answer the request without first consulting the DWP.
99. DWP acknowledges that some elements of a Tender may be covered by the Data Protection Act and therefore these would not be disclosed under the requirements of Freedom of Information.

Timetable

ItT issued by DWP to Short Listed Organisations	30 th July 2008
Deadline for ItT Questions	29 th October 08
Final Distribution of Questions and Answers	5 th November 08
Deadline for ItT responses	12.00 Noon GMT 12 th November 08

ItT Clarification	12 th November 08 to 30 th January 09
ItT Evaluation	begins w/c 20 th November 08
Preferred Bidders Notified	w/c 9 th February 09
Post Tender Discussions	begin w/c 16 th February 09
Contract Award	w/c 13 th April 09
Implementation and Transition	20 th April 09 to 2 nd October 09
Service Commencement	5 th October 09

Questions & Answers

100. If you require any further information to enable you to complete a response to the ItT or if you wish to query any aspect of this competition, please contact: sheffieldmayfieldcourt.flexiblenewdeal@dwp.gsi.gov.uk
101. You should note that DWP responses to all enquiries from short listed organisations will be made anonymous and sent to all short listed organisations by email in the form of a Question and Answer brief. You should indicate if a question is of a commercially sensitive nature where disclosure of such a question and the answer would be likely to prejudice your commercial interests. However, if the DWP at its sole discretion either does not consider that the question is of a commercially confidential nature or is one which all short listed organisations would potentially benefit from seeing both the question and the answer, DWP will invite the organisation submitting the question to either:
- (i) declassify the question and allow the question and answer to be circulated to all short listed organisations; or
 - (ii) withdraw the question if the short listed organisation still considers the question to be commercially confidential.”
102. The closing deadline for the submission of enquiries to which DWP will respond is **Wednesday 29th October 2008**

Disclaimer

103. DWP does not make any representation or warranty as to the accuracy or completeness of the ItT and supporting documents or reasonableness of any assumption on which it is based. DWP accepts no liability to short listed organisations whatsoever and howsoever arising and whether resulting from the use of the ItT or any deficiencies in or omissions from the ItT.
104. Any terms and conditions and Schedules submitted to you during the procurement process are draft documents, unless stated expressly in writing to

constitute a contract. They are subject to contract and without prejudice to DWP's legal position or that of any agent or representative of DWP.

105. Whilst all reasonable endeavours have been, and will be, made to inform short listed organisations accurately of the requirements of DWP, short listed organisations should form their own conclusions about the methods and resources needed to meet these requirements. In particular, DWP accepts no liability for representations, writings, negotiations or understandings in connection with the procurement made by DWP (whether directly or by its agents or representatives), except in respect of any fraudulent misrepresentation made by it.
106. Any assumptions provided by DWP are intended only to assist the short listed organisations in developing their Tender and are not intended to excuse the Short listed organisation from meeting all of its obligations under the Agreement or from any liability for its failure to do so.
107. DWP does not accept any responsibility for any estimates made by short listed organisations of resources to be employed in meeting DWP's requirements or for any other assumption that you may have drawn or will draw from any pre-contract discussions.
108. Statements by DWP (whether directly or by its agents or representatives) as to the future process and timing of the procurement reflect DWP's current intentions, and DWP reserves the right to vary the procurement procedure and/or timetable by notice in writing, including terminating it altogether.
109. By issuing this ITT DWP shall not be bound to accept any Tender and reserves the right not to conclude an agreement for some or all of the services for which Tenders are invited. DWP reserves the right to accept part or all of any Tender submitted.
110. DWP does not undertake to accept any Tenders detailed in any short listed organisation's response to the Invitation to Tender.
111. You must note that a contract will not exist and work may not commence until a formal contract for Flexible New Deal services between DWP and the successful Supplier has been agreed and signed by both parties.
112. DWP reserves the right to limit the number of contracts we award to any one organisation following an assessment of their financial viability and capacity. DWP also reserves the right to limit the number of contracts awarded to any single legal entity in the interests of maintaining a competitive and diverse supplier base.
113. Your participation in the procurement is conditional upon you agreeing to and complying with these conditions and instructions.
114. Failure to comply with these conditions and instructions shall entitle DWP, at its sole discretion, to cease to involve you in the procurement without liability on DWP's part.

Complaints Process

115. DWP is committed to public sector best practice. Competitive processes are governed by EU law and UK legislation and conducted in accordance with OGC standards. In all commercial activity DWP pursues the highest standards of professionalism, ethical conduct and impartiality.
116. DWP are always ready to receive feedback on our competitive processes, whether positive or negative and will respond to complaints using this complaints process.
117. If you wish to make a complaint about this procurement, details of the DWP complaints process can be found through the following weblink:
http://www.dwp.gov.uk/supplyingdwp/purchasing_in_dwp/complaints.asp

ANNEXE 1: DWP CODE OF CONDUCT

- 1.1 This Code of Conduct spells out the key values and principles of behaviour which DWP expects of providers and which are essential for creating healthy, high performing supply chains. Providers who contract with DWP will be expected to operate in accordance with the Code of Conduct.

Values

- 1.2 The Code of Conduct will be underpinned by a set of core values to be upheld by top-tier and delivery providers. They should:
- act with integrity;
 - have respect for their partners (actual and potential), including the use of fair contracting and funding arrangements;
 - ensure transparency, non-discrimination, equal treatment and accountability in relationships between both parties;
 - ensure prompt and receptive responses to market place issues and challenges;
 - encourage the sharing of good practice;
 - promote equality and diversity in their own workforce and their supply chain; and
 - be committed to achieving the best possible outcomes for our customers.

Pre-awarding of contract

- 1.3 Sub-contracting opportunities should be advertised as openly and widely as possible.
- 1.4 Application processes at the sub-contracting level should be open and fair, as simple as possible, consistent, and in proportion to the size of contract.
- 1.5 Short listed top-tier providers cannot insist that potential delivery providers negotiate only with them and not their competitors.
- 1.6 There will be no “poaching” potential delivery provider staff during sub-contracting negotiations.
- 1.7 Top-tier providers should ensure transparency in providing timely feedback to unsuccessful delivery providers.
- 1.8 Both parties should agree the terms of delivery at the outset and with additional agreement on how risk is to be allocated.

- 1.9 Top-tier providers with longer contracts will offer contracts to delivery providers of sufficient length (subject to performance) to enable long-term planning and investment.
- 1.10 Funding should be on a basis that is fair to the different organisations involved and reflects relative ability to bear particular risks. All providers will need, through the contract tendering process, to offer prices and have plausible expectations of what they can deliver, so that they are in a position to recover their costs.

Post-awarding of contract

- 1.11 Top-tier providers will live up to any commitments they make to delivery providers at the time of contract award.
- 1.12 Monitoring requirements and management information should not be overly bureaucratic and should be consistent, proportionate, clearly specified and agreed at the start of the contract.
- 1.13 Neither top-tier nor delivery providers will engage in restrictive practices such as colluding on price.
- 1.14 The development of smaller providers will be supported and encouraged.
- 1.15 The top-tier provider should provide a reasonable level of extra support for new entrants into the market.
- 1.16 There should be transparency between top-tier and delivery providers about decisions or referrals of customers including the level and type of support needed.
- 1.17 Timing of payments should be consistent and agreed with both parties, to ensure the level of risk is minimal on the delivery provider.
- 1.18 Top-tier providers should consider making payments in advance of expenditure (where appropriate and necessary) in order to achieve better value for money.
- 1.19 There will be open lines of communication between providers to ensure any issues are resolved as soon as they arise as far as is practicable.
- 1.20 Contracts between top-tier/delivery providers will allow a sufficient termination period, which will be agreed at the outset.
- 1.21 Top-tier providers should not seek to obstruct or prevent delivery providers from presenting reasonable strategic or operational grievances to DWP.

Equality and Diversity

- 1.22 All providers will have effective equality and diversity policies and will abide by DWP policy on equality and diversity where relevant and proportionate to the contract.

1.23 Top-tier and delivery providers should promote diversity and equality in their ways of working, in relation to their own staff, their supply chain and in the delivery of services.

1.24 **DWP will undertake to:**

- uphold these standards as a good commissioner;
- monitor and enforce the Code of Conduct consistently and fairly;
- allow a sufficient period of time for short-listed organisations to fully develop their tender proposals, including development of partnership and consortia arrangements. In the case of larger procurement exercises this will not generally be less than 12 weeks;
- act as stewards of the supply chain in its initial stages supporting providers and Contract Managers in the implementation activity from contract award through to live running;
- actively promote awareness of and adherence to the use of the Code of Conduct by top-tier providers and delivery providers;
- provide a grievance route for delivery providers who believe that the Code of Conduct is not being adhered to; and
- ensure that delivery providers can have a 'voice' direct to DWP, not just as a vehicle for talking about common problems, but as an opportunity to share insights that are best understood by those dealing with our customers.

TUPE

1.25 DWP will request that all tenders that are submitted include a statement as to whether they believe TUPE applies or not. Whether or not TUPE applies in any specific set of circumstances is ultimately a matter for the courts. It would not therefore be either possible or proper for DWP to make a definitive statement on its applicability.

1.26 DWP will facilitate where necessary the exchange of full and complete TUPE information during the tendering process and between out-going providers of the service and the incoming service provider. We shall expect the transferor and transferee to reach agreement on compliance with the information provisions of TUPE and will not be offering any warranties as to the completeness of any information where we facilitate exchange (since we have no way of assuring this).

1.27 DWP will consider carefully the implications of contracting with a provider who is offering non-TUPE terms. Where an organisation had assumed it did not apply, we would want to explore the extent to which risks arising from that – including risk of their view being overturned in court – had been mitigated. We are prepared to disregard TUPE costs in deciding on contract award, but would not get involved in subsequent disputes between the new supplier and the old.

- 1.28 Where contracts will potentially involve the transfer of staff from the public sector, the Cabinet Office Statement of Practice will apply.
- 1.29 DWP or providers may from time to time propose amendments or developments to this Code, which will be the subject of consultation before any changes are introduced.

http://www.civilservice.gov.uk/iam/cs_policy/employment/code_practice.asp