Contract ref: 301892

**Pre-qualification questionnaire**

for

OFGEM’s 2018 Network Innovation Competition (NIC)

to

**Western Power Distribution (WPD)**

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| Responses to be submitted by: | **27th October 2017** |
| Responses should be directed to WPD's innovation department via: | **wpdinnovation@westernpower.co.uk** |
| Response to be marked for the attention of: | **Jonathan Berry / Paul Dodimead** |
| Questions should be answered in English. |  |
| This PQQ sets out the information which is required by WPD in order to assess the suitability of applicants to meet the requirement for: | |
| Providing a Network Innovation Competition (NIC) Bid for the 2018 competition as set out in Ofgem’s NIC Governance Document (Section 3.0). | |
| **Please note that completed responses received after the closing date and time will be rejected.** | |

## **1. *Introduction***

No information contained in this pre-qualification questionnaire ("PQQ") or in any communication made by **Western Power Distribution (South West) plc, Western Power Distribution (South Wales) plc, Western Power Distribution (East Midlands) plc and Western Power Distribution (West Midlands) plc** (company numbers: 02366894, 02366985, 02366923, 03600574 respectively) whose registered offices are at Avonbank Feeder Road Bristol BS2 0TB **("WPD")** and any applicants in connection with this PQQ shall be relied upon as constituting a contract, agreement or representation that any contract shall be offered in accordance with this PQQ. WPD reserve the right to change without notice the basis of, or the procedures for, the competitive tendering process or to terminate the process at any time. Under no circumstances shall WPD incur any liability in respect of this PQQ or any supporting documentation.

WPD will not reimburse any costs incurred by applicants in connection with preparation of their responses to this PQQ.

**2. *Additional Information***

All requests for clarification or further information in respect of this PQQ should be addressed to the relevant Buyer as detailed on the front page of this PQQ. No approach of any kind in connection with this PQQ should be made to any other person within, or associated with, WPD.

This PQQ is being provided on the same basis to all applicants.

WPD expressly reserve the right to require an applicant to provide additional information supplementing or clarifying any of the information provided in response to the requests set out in this PQQ.

## **3. *Instructions for Completion***

Applicants should follow the instructions outlined below when completing this PQQ.

Applicants should answer all questions as accurately and concisely as possible in the same order as the questions are presented. Where a question is not relevant to the applicant, this should be indicated, with an explanation.

#### Please note that applicants are required to sign a number of declarations in section C. An applicant who fails to sign any of these declarations and/or amends the wording of any of these declarations may be excluded from the process.

The information supplied will be checked for completeness and compliance before responses are evaluated.

Failure to furnish the required information, make a satisfactory response to any question, or supply documentation referred to in responses, within the specified timescale, may mean that an applicant is not invited to participate further. Some questions are evaluated on a pass / fail criteria.

If you are asked to supply copies of documents, please supply the document itself rather than sending WPD a link to a webpage on which the document can be found.

You must submit your completed PQQ direct via email to the relevant Buyer detailed on the front page of this PQQ. Completed PQQs may be submitted at any time before the closing date.

## **4. *Queries about the procurement***

WPD will not enter into discussions of the requirements at this stage.

Any questions about the procurement should be submitted in writing to the Buyer as detailed in paragraph 2. If WPD consider any question or request for clarification to be of material significance, both the question and the response will be communicated, in a suitably anonymous form, to all applicants who have responded; have expressed an interest; or show an interest before the closing date for the submission of the PQQ.

## **5. *Provider selection***

The objective of the qualification process is to assess the responses to the PQQ and select applicants to proceed to the next stage.

WPD may disqualify any applicant who:

(i) has been convicted of one of the offences in Section C Part 1; or

(ii) fulfils one of the criteria in Section C Part 2; or

(iii) fails to sign any of the declarations in section C and/or amends the wording of any of these declarations.

The applicants who comply with the above grounds shall be selected to participate in the next stage on the qualification criteria and questions listed in the PQQ, subject to down-selection. A shortlist of applicants will be drawn up and invited to the face to face meetings.

WPD reserves the discretion to take through only the 8 top scoring applicants to the next stage.  In the event that fewer than 8 applicants qualify to proceed to the next stage, WPD reserves the right to conduct the next stage with only the qualifying applicants if in WPD’s opinion there are sufficient remaining participants to ensure genuine competition.

**6*. Completing the PQQ***

The applicant should complete all of sections A, B and C.

To annotate the check boxes after “Yes” or “No”, double click on the relevant box and then select the “checked” button under “Default value” section of the box that appears. Click “OK”.

**Please ensure that all of the following sections are completed in full. Failure to do so may result in disqualification from this PQQ process.**

**Section A**

1. **General Information**

1.1 Please complete the main address and contact details for correspondence relating to this competition.

|  |  |
| --- | --- |
| Company Name |  |
| Name |  |
| Position |  |
| Address |  |
| Telephone |  |
| Fax |  |
| Email |  |

### 1.2 In the last three years, have any finding of unlawful discrimination (e.g. sex, disability or race discrimination, age, sexuality, religious belief) been made against the applicant by any court of law, employment tribunal or equivalent?

Yes  No

1.3 In the last three years, has the applicant been subject to any prosecutions, infringement notices or other actions by the Health and Safety Executive or Environment Agency (or other equivalent regulator in another EU Member State) in respect of any breach or suspected breach of health and safety or environmental legislation?

Yes  No

If the answer to either question 1.2 or 1.3 is Yes, please give the following details in relation to each adverse finding:

|  |  |  |  |
| --- | --- | --- | --- |
| **Date** | **Regulator** | **Finding** | **Steps taken as consequence** |
|  |  |  |  |
|  |  |  |  |

1.4 In the last three years, has the applicant had any contract with a public body or a utility contract terminated early for reasons of significant or persistent poor performance, or has the applicant had claims for damages or other action taken against it in relation to significant or poor performance under such a contract?

Yes  No

If the answer to question 1.4 is yes, please give the following details in relation to each contract:

|  |  |  |  |
| --- | --- | --- | --- |
| **Date** | **Utility / Public Body** | **Action taken by the utility / public body** | **Any subsequent steps taken by the applicant as consequence** |
|  |  |  |  |
|  |  |  |  |

**2.0** **Financial Information**

2.1 Are there any significant financial factors that may impact on the ability of the applicant to provide the goods/services/works in the near future (e.g. mergers, take-overs, material pending or threatened litigation or claims, rationalisation, or any contingent liability or loss)?

Yes  No

If yes please provide details:

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|  |

2.2 Is there any material pending or threatened litigation or other legal proceedings connected with similar projects against the applicant and/or any of its named supply chain members (sub-contractors) that may affect delivery of this project?

Yes  No

If yes please provide details:

**Section B**

**1.0 Project specific questions**

1.1 Please detail the qualifications and experience of the people within your organisation who manage and deliver the goods/services/works to be provided under the agreement.

1.2 Do you intend to subcontract any part of the proposed contract to another applicant?

Yes  No

(If yes, please provide details).

1.3 Please provide details of any quality control measures operated by the applicant in relation to the goods/services/works to be provided.

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1.4 Please provide details of any quality assurance certification that you hold which is relevant to the provision of the goods/services/works.

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1.5 Do you have a Business Continuity Plan?

Yes  No

(If yes, you must be able to supply a copy upon request)

Is this communicated to staff?

Yes  No

(If yes, you must be able to supply a copy upon request)

If so, please provide detail as to how this is done:

1.6 Does your Business Continuity Plan cover:

Pandemic (significant staff reductions) Yes  No  N/A

Blackstart (widespread loss of electricity) Yes  No  N/A

Acts of terrorism Yes  No  N/A

Severe weather Yes  No  N/A

Coastal flooding Yes  No  N/A

River flooding Yes  No  N/A

Telecommunication failure Yes  No  N/A

Vehicle fuel shortage Yes  No  N/A

I.T. Disaster recovery Yes  No  N/A

Cyber attacks Yes  No  N/A

1.7 Has someone within your business been appointed to assess and manage Business Continuity in the event of a risk interrupting your normal daily business?

Yes  No

(If yes, please set out below the name, title and contact details of the individual(s) and any deputies.)

(If no, please set out below how the risks identified in 1.8 will be managed by the applicant.)

1.8 Do you have business procedures for:

(a) verifying staff identity (including residency);

Yes  No

(b) confirming staff's right to work in the UK or other country of performance of the proposed contract;

Yes  No

(c) staff completion of self-declaration of criminal record?

Yes  No

(If yes, you must be able to supply a copy for all of the above upon request)

WPD expects the applicant to have these procedures in place. An unsatisfactory answer will lead to exclusion from the procurement.

**Section C - Mandatory Questions**

**1. Mandatory Ineligibility**

We confirm that, to the best of our knowledge, that:

The applicant or its directors or any other person who has powers of representation, decision or control of the named organisation has not been convicted of any of the following offences:

(a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA;

(b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906, where the offence relates to active corruption;

(c) the offence of bribery, where the offence relates to active corruption;

(ca) bribery within the meaning of section 1 or 6 of the Bribery Act 2010;

(d) fraud, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities, within the meaning of—

(i) the offence of cheating the Revenue;

(ii) the offence of conspiracy to defraud;

(iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;

(iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;

(v) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;

(vi) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;

(vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;

(viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or

(ix) making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of the Fraud Act 2006;

(e) money laundering within the meaning of section 340(11) of the Proceeds of Crime Act 2002;

(f) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;

(g) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994;

(h) an offence in connection with the Modern Slavery Act 2015; or

(i) any other offence within the meaning of Article 45(1) of the Public Sector Directive as defined by the national law of any relevant State.

“active corruption” means corruption as defined in Article 3 of the Council

Act of 26 May 1997 or Article 3(1) of Council Joint Action 98/742/JHA.

|  |  |
| --- | --- |
| **Name of bidder** |  |
| **Signed** |  |
| **Print Name** |  |
| **Position** |  |
| **Date** |  |

# 2. Discretionary grounds for rejection

The applicant confirms that it:

(a) being an individual is not a person in respect of whom a debt relief order has been made or is not bankrupt and has not had a receiving order or administration order or bankruptcy restrictions order or a debt relief restrictions order made against him or has not made any composition or arrangement with or for the benefit of his creditors or has not made any conveyance or assignment for the benefit of his creditors or does not appear unable to pay or to have no reasonable prospect of being able to pay, a debt within the meaning of section 268 of the Insolvency Act 1986, or article 242 of the Insolvency (Northern Ireland) Order 1989, or in Scotland has not granted a trust deed for creditors or become otherwise apparently insolvent, or is not the subject of a petition presented for sequestration of his estate, or is not the subject of any similar procedure under the law of any other state;

(b) being a partnership constituted under Scots law has not granted a trust deed or become otherwise apparently insolvent, or is not the subject of a petition presented for sequestration of its estate;

(c) being a company or any other entity within the meaning of section 255 of the Enterprise Act 2002 has not passed a resolution or is not the subject of an order by the court for the company’s winding up otherwise than for the purpose of bona fide reconstruction or amalgamation, nor had a receiver, manager or administrator on behalf of a creditor appointed in respect of the company’s business or any part thereof or is not the subject of similar procedures under the law of any other state;

(d) has not been convicted of a criminal offence relating to the conduct of his business or profession;

(e) has not committed an act of grave misconduct in the course of his business or profession;

(f) has fulfilled obligations relating to the payment of social security contributions under the law of any part of the United Kingdom or of the relevant State in which the organisation is established;

(g) has fulfilled obligations relating to the payment of taxes under the law of any part of the United Kingdom or of the relevant State in which the economic operator is established;

(h) is not guilty of serious misrepresentation in providing any information referred to within this regulation or regulation 24 or 27 and has not failed to provide such information in response to a request by the contracting authority.

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| **Name of bidder** |  |
| **Signed** |  |
| **Print Name** |  |
| **Position** |  |
| **Date** |  |

# 3. Confidentiality Undertaking

From the date of this confidentiality undertaking ("**Undertaking**"), the applicant may acquire certain Confidential Information (as defined below) from WPD and the applicant agrees to provide this Undertaking in respect of such Confidential Information.

**It is agreed as follows**:

1. **Definitions**

In this Undertaking, words and phrases shall have the same meaning as in the PQQ. The following additional definitions shall apply:

"**Confidential Information**" means any commercial or technical information in whatever form including, without limitation, business, statistical, financial, marketing and personnel information, acquired by the Recipient or which is disclosed by WPD or any of its Group Companies to the Recipient from the date of this Undertaking and marked confidential or, if disclosed orally, is identified as confidential at the time of disclosure.

"**Engagement**" means the engagement of the Recipient by WPD to provide goods, works and/or services following submission of a tender which has been accepted by WPD.

"**Group Company**" means in relation to either party, its subsidiaries, its holding companies and any subsidiaries of any such holding company, "**subsidiary**" and "**holding company**" having the meanings ascribed to those terms in Section 1159, Companies Act 2006 and "Group Companies" shall be construed accordingly.

"**Recipient**" means the applicant who submits a response to the PQQ to WPD.

2. **Use of the Confidential Information**

2.1 In consideration of WPD agreeing to make the Confidential Information available to the Recipient, the Recipient agrees with WPD as follows:

(a) the Recipient shall not make any use of the Confidential Information except for the purpose of the Engagement or considering the Engagement and in particular (but without limitation) shall not use any of the Confidential Information for any other commercial purpose;

(b) the Recipient shall hold the Confidential Information in the strictest confidence and shall not disclose or divulge any part of the Confidential Information to any third party and shall restrict access to the Confidential Information to its Group Companies and such of the Recipient's directors, officers and employees as strictly need to have access for the purpose of the Engagement or considering the Engagement and the Recipient shall impose upon all such persons obligations of confidentiality equivalent to those contained in this Undertaking and the Recipient shall be responsible for ensuring that all such persons comply with these obligations;

(c) the Recipient shall adhere to any procedures prescribed by WPD and for ensuring the security of Confidential Information;

(d) the Recipient shall keep all Confidential Information and all information generated by the Recipient based on it separate from all documents and other records of the Recipient;

(e) the Recipient shall not make copies of the Confidential Information unless strictly required for the purpose of the Engagement or considering the Engagement;

(f) the Recipient shall not photograph any of WPD's property; and

(g) the Recipient shall, at the request of WPD made at any time, return to WPD or (or if WPD so agrees, destroy or completely remove) all the Confidential Information in the Recipient's possession or under its control and all documents and other material (including all electronically generated or stored data) containing or embodying the Confidential Information (or any part of it) together with all copies, analyses, memoranda or other notes made by the Recipient and which are in its possession, custody or control that bear or incorporate any part of the Confidential Information.

2.2 The obligations contained in this clause 2 shall continue notwithstanding the fact that the applicant is no longer participating in the procurement or the termination of the Engagement for any reason.

3. **Application of restrictions**

The restrictions and confidentiality obligations contained in clause 2 shall not apply:

(a) to any disclosure of Confidential Information authorised by WPD required by law or any regulatory or government authority to which the Recipient is subject;

(b) to any Confidential Information already known by the Recipient (if the Recipient can prove such knowledge to WPD by documentary evidence);

(c) to any Confidential Information lawfully obtained by the Recipient, without restriction as to disclosure, from a third party legitimately in possession of it and permitted to make such a disclosure;

(d) to any Confidential Information which is or becomes public knowledge except through the Recipient's negligence or breach of this Undertaking; or

(e) to any Confidential Information which was developed by or for the Recipient independently of any disclosure by WPD.

4. **Indemnity**

The Recipient shall be liable for any breach of any of the terms of this Undertaking by the Recipient or any of its directors, officers, employees or Group Companies and the Recipient shall fully indemnify and hold WPD harmless against any losses, costs, claims, damages or expenses incurred by WPD either as a result of the unauthorised disclosure by the Recipient of any of the Confidential Information or as a result of the breach of any of the terms of this Undertaking.

5. **Intellectual Property rights**

5.1 All intellectual property rights in the Confidential Information including but not limited to copyright, trademarks, design rights and patents, together with any moral rights, shall at all times remain the property of WPD and no licence or any proprietary right shall be granted to the Recipient other than for the purposes specified under this Agreement.

5.2 Any and all intellectual property rights created during the Engagement and based on Confidential Information disclosed by WPD are hereby assigned by way of future assignment to WPD. To the extent that any such rights cannot be assigned by way of future assignment, the Recipient shall execute all necessary documentation to record this assignment.

6. **Waiver**

Any failure or delay of WPD to enforce or to exercise, at any time or for any period of time, any term or any right arising pursuant to this Undertaking does not constitute, and shall not be construed as, a waiver of such term or right and shall in no way affect WPD's right to enforce and exercise it.

7. **Invalidity**

To the extent that any provision of this Undertaking is found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of this Undertaking, it shall not affect the enforceability of the remainder of this Undertaking nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.

8. **Exclusion of third party rights**

No term of this Undertaking is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it, save that any Group Company of WPD shall be entitled to enforce the obligations set out in clause 2.1 in respect of any Confidential Information disclosed to the Recipient.

9. **Governing law and jurisdiction**

This Undertaking shall be governed by and construed in accordance with English law and each of the parties irrevocably submits for all purposes in connection with this Undertaking to the exclusive jurisdiction of the courts of England.

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| --- | --- |
| **Name of applicant** |  |
| **Signed** |  |
| **Print Name** |  |
| **Position** |  |
| **Date** |  |

# 4 Declaration

# We confirm that all information submitted in our response to the PQQ is accurate and up-to-date.

|  |  |
| --- | --- |
| **Name of applicant** |  |
| **Signed** |  |
| **Print Name** |  |
| **Position** |  |
| **Date** |  |