Step 8: Memorandum of Understanding and Pre Qualification Questionnaire
Tool 1: MOI & PQQ Template
This tool is for use in conjunction with Step 8 of the Commissioning Toolkit document

[INSERT NAME OF COMMISSIONING BODY]

[INSERT NAME OF PROJECT]

Memorandum of Information

and

Pre-Qualification Questionnaire

Issue Date: *[DATE]*

Response Return Deadline:
[●:●]* hours on *[DATE]

Assumptions:

- ***The MOI/PQQ is for use by GP Commissioners for commissioning "direct" or "community" pathology services via Option 2 – Competitive Tender or Option 3 Competitive System Wide Tender;***
- ***The MOI/PQQ is for an open tender (i.e. it is open to both NHS and independent sector organisations); and***
- ***The Commissioner will only be selecting one Preferred Bidder.***

Notes:

The MOI/PQQ should be drafted in clearly defined sections to aid the bidders. Often a bidding organisation will ask different departments to review and respond to the MOI/PQQ, and therefore dividing the document by workstream is useful.

The MOI should cover the following:

- ***Introduction – this section should set out the purpose of the MOI/PQQ (as set out above), how the document is structured and what the potential bidders need to do to participate further in the procurement.***
- ***Introduction to the Procurement – this section should cover the background to the procurement and an overview of the project and the services being tendered.***
- ***Scope of Services – this section should set out a general description of the services being put out to tender. This does not have to be in precise detail, particularly where the project relies on an element of discussion with and innovation from bidders, but it needs to be in enough detail so that bidders know enough about the project to participate further. Remember the detail will be issued at ITT.***
- ***Project Framework – this section should set out the timeline for the project and the rules for participation.***

The PQQ should cover the following:

- ***Introduction – this section should set out the purpose of the PQQ and the steps to completing and submitting a response.***
- ***Questionnaire – the questionnaire should be divided by workstream, for example:***
    - ***Pre-requisite requirements which will be designed to test the commitment of the potential bidder to the project and quickly rule out any non-compliant bids by asking the bidder to confirm that they have answered all of the questions;***
    - ***Legal and regulatory questions designed to test the legal structure and vires of the bidder, and to rule out any bidders which are subject to litigation.***
    - ***Financial questions designed to test the financial and economic standing of the bidder.***
    - ***Service requirements designed to test the experience, capacity and capability of the bidder to participate in the project and to provide the tendered services.***

- ***Transition questions designed to test how the bidder will manage any transition period between contract award and service commencement.***

Memorandum of Information
and
Pre Qualification Questionnaire

Document Version Control			
Version	Date	Author	Change

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Section 1: Purpose, Structure and Next Steps for Bidders

1 Purpose of this document:

1.1 This Memorandum of Information and Pre-Qualification Questionnaire provides an overview of Pathology Services [commissioned by ***[insert name of commissioner]] OR [***across ***[insert area/region]]*** and details of the:

(a) scope of services;

(b) project framework; and

(c) [project governance requirements] ***[DN: This section may not be required - see note at Section 5]***,

which are designed to implement the ***[Insert name of the project]*** (the **"Project"**).

1.2 The purpose of the Memorandum of Information is to provide Potential Bidders with sufficient information to enable them:

(a) to make an informed decision about whether they wish to participate in the Project; and

(b) to submit a response to the Pre-Qualification Questionnaire attached at Annex A.

2 Organisation of this document

2.1 This Memorandum of Information and Pre-Qualification Questionnaire is organised into the following sections:

Section 2:	**Introduction and Overview**
Section 3:	**Outline Scope of Services**
Section 4:	**The Project Framework**
Section 5:	**[The Project Governance]** ***[DN: This section may not be required - see note at Section 5]***
Section 6:	**PQQ Overview and Process**
Annex A:	**Pre-Qualification Questions**
Annex B:	**Pre-Qualification Questions Evaluation Criteria**
Annex C	**Glossary**

3 Next Steps for Bidders

Interested parties wishing to participate in the Project are asked to submit a response to the Pre-Qualification Questionnaire, in accordance with the requirements set out in Section 6, by submission to ***[insert name and address of recipient or web address of a project portal if one is being used]***. **Responses to the Pre-Qualification Questionnaire should arrive no later than *[●:●]* hours on *[date]*.**

Section 2: Introduction and Overview

[Drafting Note: Insert a description of the background to the Project. This should include the strategic drivers for the Project and what the commissioning body is looking to achieve. The following paragraphs are provided by way of example only and will need to be tailored to reflect the requirements of the individual Commissioner.]

1.1 The strategic drivers for the Commissioner's ***[Name]*** Project (the **"Project"**) arise primarily from the requirement to implement the recommendations of the Review of NHS Pathology Services in England chaired by Lord Carter of Coles in 2005 and 2009 (the Carter Report). Another key driver is the national Quality Innovation Prevention and Productivity (QIPP) programme.

1.2 The Carter Report clearly identifies the optimum service delivery model for pathology through the formation of managed networks. ***[Note: Insert any evidence that the Commissioner has tested the recommendations of the Carter report for this particular Project (for example has the Commissioner issued an Outline Business Case presenting options for the Project?) The following paragraphs have been provided as examples only and must be tailored to reflect the steps taken in your organisation.]*** [The recommendations from the Carter Report have been tested further within the ***[the Commissioner's organisation]*** and were supported by ***[name]*** reports.

1.3 [In ***[month / year]***, responding to the Carter reports 2005 and 2009, the Commissioner's Operations Board (comprising the Chief Executives of the Clinical Care Groups in the region and executive officers of the Commissioner), sponsored a project to transform pathology services within the ***[area/region]***.]

1.4 [An agreed Outline Business Case provided for an option that aligns with the White Paper, "Equity and Excellence: Liberating the NHS".]

1.5 The agreed objective of the Project is to ***[insert agreed objective, for example "re-commission Community Pathology Services" for Option 2 or "commission Community Pathology Services via Clusters" for Option 3]***.

1.6 [All Community Pathology Services within ***[area]*** will be commissioned by [the Commissioner] and the Commissioner will enter into a Commissioning Contract with the Recommended Bidder(s).]

OR:

[All Community Pathology Services within ***[region]*** will be commissioned by the Commissioning Consortia via a Cluster model and each Cluster will enter into a Commissioning Contract(s). This will inevitably lead to some instability for other pathology services but it is expected that this will drive all parties to reconfigure the non-urgent hospital based pathology services and lead to system wide efficiencies and savings.

1.7 Bidders should note the following key issues:

[Note: Detail any key issues with the Project being undertaken.]

Examples for Option 2:

(a) the Project is primarily a commissioner-led commissioning of services to procure Community Pathology Services;

(b) the commissioning of Community Pathology Services will result in significant changes in resource deployment and payment flows and there is a risk of disruption to the local health economy; and

(c) the outcome for any given stakeholder in the system of participating in this process will vary significantly according to its current arrangements and the impact of the changes.

Examples for Option 3:

(a) the Project is primarily a commissioner-led collaboration and formation of Commissioning Consortia, to procure Community Pathology Services from Clusters via a common service specification;

(b) the reconfiguration of Community Pathology Services on the scale anticipated by the Project will result in significant changes in resource deployment and payment flows; and

(c) the outcome for any given stakeholder in the system of participating in the reconfiguration process will vary significantly according to its current arrangements and the impact of the changes.

1.8 It is anticipated that although an Any Willing Provider model may be more disruptive, the successful implementation of the Project will ensure the continued responsiveness of the provider models to commissioner needs post cluster formation and will create a framework that allows concerns to be addressed.

1.9 The Project has been designed to deliver the agreed service delivery model in which existing or new providers compete to form delivery models for Community Pathology Services. These provider models are expected to be created by re-commissioning Community Pathology Services with the view to reducing the volume of testing activity and associated services. Critical will be the transition and ramp-up from the current Commissioning Contract to the new Commissioning Contract. The provider models will be selected by:

(a) clinical/commissioner service outcomes;

(b) the affordability and value for money of the proposal. These and the corresponding re-configuration costs requested of the providers are required to produce savings to the Commissioner's health economy;

(c) minimum transition/ramp up length; and

(d) service resilience.

OR:

The Project has been designed to deliver the agreed service delivery model in which existing or new providers compete to form delivery models for Community Pathology Services. These provider models are expected to be created by consolidating the volume of testing activity and associated services. Critical will be the transition and ramp-up from the old model to the new reconfiguration model. The provider models will be selected by:

(a) clinical/commissioner service outcomes;

(b) the affordability and value for money of the proposal. These and the corresponding re-configuration costs requested of the providers are required to produce savings to the Commissioner's health economy;

(c) minimum transition/ramp up length; and

(d) service resilience.

1.10 ***[Drafting Note: State whether this procurement is open to the Independent Sector or whether it is intra-NHS only. For example: "The Project is an intra-NHS re-organisation and lead Bidders must be NHS Trusts. Bidders are permitted to use NHS and/or Independent Sector providers as sub-contractors".]***

1.11 The Project should fulfil the Commissioner's objective to ***[insert agreed objective, for example "increase capacity and future proof the provision of Community Pathology Services" if Option 2 OR "provide geographic and service coverage recognising that this may reduce the number of providers via the Clusters and lead to a system-wide restructuring" if Option 3]***. Providing high quality, efficient Community Pathology Services and innovation in service delivery are also key objectives for the Project.

Section 3: Outline Scope of Services

1 Introduction

1.1 The Commissioner is looking for Potential Bidders with the necessary capacity and capability (or a demonstrable ability to provide the necessary capacity and capability) to deliver high quality, efficient and clinically effective pathology services in a safe and compliant environment.

1.2 The purpose of this section is to:

(a) provide an overview of the existing pathology services [commissioned by the Commissioner]/[provision across [named area/region];

(b) [describe the aim of the service reconfiguration]; and

(c) outline the requirements for the Pathology Services which will form the basis of the service specification at the ITT stage of the Project.

2 Overview of Existing Pathology Services

2.1 Pathology is a highly complex and highly technical service, covering a range of disciplines, a range of response times, and a variety of delivery locations. "Pathology" is the single name covering a complex range of activities performed in a variety of different settings and via a number of different delivery methods. Pathology services are a vital critical enabler in arriving at the correct diagnosis, informing treatment and preventing infection in a very high percentage of secondary and tertiary patient episodes, as well as being a key element in many primary care interactions. It is also an essential element of research into the causes of disease and illness, their prevention and treatment.

2.2 Pathology services normally involve the collection of specimens, laboratory processing and analysis, reporting the results to the originating clinician along with an interpretation, and clinical advice. A key element of many pathology services is the involvement of consultant pathologists in assessing a patient and his/her related pathology test results and giving clinical advice on management/treatment.

[Drafting Note: Insert detail on the provision of Pathology Services in the area/region which is subject to this Project.]

3 [Aim of the Service Reconfiguration]

[Drafting Note: If this Project is a reconfiguration, you should include a section which details the aim of that reconfiguration. For example, it may be to ensure consistent and affordable service provision across a particular area/region.]

4 Outline Service Requirements

[Drafting Note: Use this section to explain to the Potential Bidder what services are being tendered. This should cover: (i) the types of test; (ii) volume; and (iii) workstream requirements such as workforce, IT and facilities.]

4.1 Each Potential Bidder will be expected to demonstrate that they will have the capacity and capability to deliver Pathology Services that include the analysis of the following tests:

Discipline	Total Volume

4.2 The full service specification will be issued at the ITT stage of the Project. The scope of services for Pathology Services will include, but is not be limited to:

[Drafting Note: Insert what you expect the Potential Bidders to cover – for example to provide analytical services, reporting services, collection services, order systems etc.]

4.3 It is expected that all Preferred Bidders will have full accreditation and will meet appropriate key quality indicators to ensure that high quality Pathology Services are delivered [to the Commissioner] OR [consistently across the [named area/region]].

4.4 Preferred Bidders will be required to have appropriate integrated governance system to ensure safe and effective service delivery. Preferred Bidders will be expected to deliver services in accordance with Good Clinical Practice and Good Industry Standards.

5 [Workforce] [Staff Transfers (TUPE)] [Training] [IT] [Facilities]

[Drafting Note: Insert any specific information relating to workstreams. For example, as a minimum, the services will need to be delivered by an appropriately trained workforce which complies with NHS Employment Check Standards 2010, the Code of Practice for the International Recruitment of Healthcare Professionals (December 2004) (the Code of Practice), Care Quality Commission Annual Regulatory Framework and the NHS Constitution. Equally, the facilities from which the services are delivered will need to meet all statutory requirements and be fit for purpose.]

Section 4: The Project Framework

1 PQQ

1.1 The PQQ is designed to evaluate the financial standing, capacity, capability and eligibility of Potential Bidders. Section 6 provides detailed information on its process and guidance on how to complete the PQQ and the evaluation questions and scoring.

1.2 The PQQ requires Potential Bidders to respond to questions on Legal, Financial and Service Requirements so as to satisfy the criteria described above.

1.3 Each Potential Bidder wishing to bid must respond to the PQQ by no later than ***[●]:[●]*** hours on ***[date]***.

1.4 The PQQ contains information on the process to select Potential Bidders to proceed to the next stage of the Project.

1.5 All further details of the PQQ process and its Evaluation are set out in Section 6.

2 [PQQ Bidder Day]

[Drafting Note: If the Project includes a bidder day at which further details will be provided to Potential Bidders, include a section setting out when and where that day will be held and how Potential Bidders are to confirm attendance.]

3 Invitation to Tender (ITT)

3.1 Following the closure of the PQQ phase, the Commissioner will issue those Bidders who have pre-qualified in accordance with the PQQ evaluation criteria an invitation to tender. Bidder(s) will be requested to submit final tenders confirming their PQQ responses and to place their bid for the Commissioning Contract.

3.2 The detailed requirements of the ITT, the information required from Bidder(s) and the timescales for submission of final tenders will be included in the ITT documentation.

4 Contract Award

4.1 The Preferred Bidder(s) will be awarded a Commissioning Contract from the Commissioner with an anticipated service commencement of ***[date]***. The Commissioning Contract will be provided to Bidders with the ITT documentation and will include details of the transition and its delivery programme. Potential Bidders should note that the Commissioning Contract can only be entered into after the Project's Full Business Case (FBC) has been approved by ***[●]***, this approval will also include any necessary ratification from the Commissioner.

5 Timeline

5.1 The anticipated timeline for the Project is set out in the table below. It should be noted that the dates are indicative dates only and may be subject to change.

Milestone	Date
Issue MOI/PQQ	
[Bidder Day]	
Bidders complete PQQ and submit to the Commissioner	
PQQ Evaluated and bidders selected	
ITT issued	

Milestone	Date
ITT returned	
Evaluation of ITTs	
Preferred Bidders appointed prior to FBC approval	
FBC preparation and approvals	
Commissioning Contracts awarded	
Service Commencement Date	

5.2 Further details and/or updates relating to the timeline above will be provided to Potential Bidders as and when appropriate.

Section 5: Governance

1 Management and Structure

[DN: This section is only required if the Commissioner is a group of GP commissioners procuring pathology services on behalf of the group. If the Commissioner is a consortium, please include details of the governance structure including the decision-making process.]

Section 6: PQQ Overview and Process

1 Introduction

1.1 The Pre-Qualification Questions are set out in Annex A. The evaluation criteria is attached at Annex B.

1.2 A summary of the Pre-Qualification Questions and their respective weightings are shown in the table below:

Section	Heading	Weighting
Section A	Bidder Information	For Information
Section B	Legal and Regulatory	Pass/Fail
Section C	Financial and Economic Standing	[●]%
Section D	Service Requirements	[●]%
Section E	Declaration	Pass/Fail
Section F	Confidentiality	Pass/Fail
Section G	Ineligibility Conditions Summary	For Information

2 PQQ Process

2.1 Response return deadline

The deadline by which responses to this PQQ must be received by the Commissioner is ***[●]:[●]*** hours on ***[date]***.

2.2 While Potential Bidders are preparing their submissions, they will be able to obtain further information by means of written requests for clarifying information ***[via the contact address set out in paragraph 2.4 below OR though the Commissioner's procurement portal at [web address]]***.

2.3 PQQ responses should be submitted ***[in portable document format (PDF) via the Commissioner's procurement portal using the following link [insert link] OR in hardcopy format to the contact address set out in paragraph 2.4 below]*** by ***[●]:[●]*** hours on ***[date]***.

2.4 Contact address

[Insert address]

2.5 Potential Bidders should note the following:

(a) The Commissioner reserves the right not to award any Commissioning Contract as a result of the Project, and to terminate the Project without any award.

(b) Subject to the above, the Commissioner will be evaluating responses to this PQQ and selecting Potential Bidders to proceed to the ITT stage of the Project.

(c) Any statements or information provided and which is subsequently found to be untrue or materially misleading, and any material information which ought reasonably to have been provided in response to any question in this PQQ but which has not, may (at the discretion of the Commissioner) disqualify the Potential Bidder's application and any ensuing Commissioning Contract award.

(d) The Commissioner reserves the right to request appropriate independent evidence to support any response to, or any statement made as part of a Potential Bidder's response to this PQQ and to raise any clarification questions on a Potential Bidder's response.

(e) Potential Bidders are required to achieve a "pass" for the questions set out in Sections A, B, C, D, E, F and G and the Commissioner will score Potential Bidders' responses to the questions in Sections ***[C and D]*** and will rank them in the order of highest scoring Potential Bidder first. If ***[number]*** or more Potential Bidders pass the PQQ, the ***[number]*** highest scoring Potential Bidders will be invited to participate further in the Project by being invited to proceed to the invitation to tender stage of the Project. If less than ***[number]*** Potential Bidders pass the PQQ, all Potential Bidders who pass the PQQ will be invited to proceed to the invitation to tender stage of the Project. ***[Drafting Note: You need to carefully define what sections Bidders have to pass, how they will be scored, how they will be ranked, and how the Commissioner will decide how to pre-qualify Bidders and how many should be taken through to ITT.]***

(f) Failure on the part of a Potential Bidder to comply with any of the requirements of this PQQ may result in that Potential Bidder not being invited to participate further.

(g) Text boxes in each section of the PQQ which include the word 'Response' indicate that a response is expected.

(h) If additional documents are required to answer a question fully, they should be clearly referenced within the Potential Bidder's main response. ***[The filename must follow the format: section and question number followed by an appropriate file name – for example A1 filename.pdf.]***

(i) It is the Potential Bidder's responsibility to ensure that all questions have been correctly answered in its PQQ submission. The Commissioner will not be seeking further clarification if questions are incorrectly answered – for example, stating 'yes' in answer to a question and then entering 'n/a' when asked to provide further details is an incorrect response and will be marked down accordingly when the Potential Bidder's response is scored.

(j) The PQQ asks preliminary questions the aim of which is to enable the Commissioner to select suitable Bidders to invite to tender. Potential Bidders may be asked to re-confirm that information given in response to this PQQ remains correct, or to disclose to the Commissioner any material changes.

2.6 Freedom of Information Act 2000 and Environmental Information Regulations 2004

(a) Potential Bidders should note that the Commissioner is subject to the provisions of the Freedom of Information Act 2000 (**"FOIA"**) and the Environmental Information Regulations 2004 (the **"Regulations"**). This means that information may be subject to disclosure to the public unless an exemption applies. This includes such things as:

(i) information in any tender or PQQ response submitted to the Commissioner;

(ii) information in any contract to which the Commissioner is a party;

(iii) information about costs, including invoices submitted to the Commissioner; and

(iv) correspondence and other papers.

(b) In the event that a Potential Bidder considers that any information supplied by it is either commercially sensitive or confidential in nature, this should be specifically highlighted with the reasons for its sensitivity given and an explanation of the grounds for exempting that information from disclosure. The Potential Bidder should note that even where it has indicated that it considers the information to be commercially sensitive or confidential in nature, the Commissioner may be required to disclose it under the FOIA or the Regulations if a request is received. Information marked as commercially sensitive or confidential by the Potential Bidder should not be taken to mean that the Commissioner accepts any duty of confidence by virtue of that marking.

2.7 Confidentiality

Potential Bidders are advised that they will, if invited to tender, be required to provide a confidentiality undertaking to the Commissioner in a form considered appropriate by the Commissioner.

2.8 Conflicts of Interest

The Commissioner requires that all actual or potential conflicts of interest that a Potential Bidder may have are identified and resolved to their satisfaction. Potential Bidders should notify the Commissioner of any actual or potential conflicts of interest in their response to the PQQ.

ANNEX A

Pre-Qualification Questionnaire

Section A – Pre-requisite Requirements

[Drafting Note: The questions in this section should be designed to confirm that the bidder has taken time to respond to each of the questions in the PQQ.]

(A1) Please confirm that all of the questions in this PQQ have been answered. Failure on the part of a Potential Bidder to answer all of the questions in this PQQ may result in that Potential Bidder not being invited to participate further in this Project.

Confirmation (Yes/No)	

(A2) Please note that *all* of the following questions relate to matters which are considered fundamental to a Potential Bidder's ability to perform, and must therefore be answered in the affirmative in order for the Potential Bidder to be allowed to progress. If the Potential Bidder is unable to provide confirmation on any or all of these criteria, any other information provided in response to this PQQ will not be considered.

Criteria		**Confirmation (Yes/No)**
A2.1	Confirm the Potential Bidder's willingness to commit to transparency in providing information and pricing in all of the documents under the Project.	
A2.2	Confirm the Potential Bidder's willingness to commit to accept the TUPE and other attendant liabilities.	
A2.3	Confirm the Potential Bidder's willingness to commit to providing information where requested on the effect on pathology services not included in the Project.	

(A3) Please provide the name and other required contact details of the Potential Bidder.

Potential Bidder name	
Address	
Telephone	
Fax	
Email	
Website address	
Potential Bidders nominated Representative	
Name	

Address	
Telephone	
Fax	
Email	

(A3) Potential Bidders must provide a statement confirming the capacity of their project team to allocate sufficient resources to the Project from PQQ completion through to Service Commencement.

Response (max [●] words)	

Section B – Legal and Regulatory

[Drafting Note: This section is designed to elicit information on the bidder's legal structure – consider asking questions on litigation against the bidder, circumstances likely to give rise to litigation, and any criminal conduct.]

(B1) If the Potential Bidder intends to use NHS or IS providers, please provide details of the Potential Bidder's partnership, consortium, co-bidder or joint venture arrangements with such providers (whether as part of a Cluster or by virtue of a sub-contracting arrangement) and explain the proposed role of each provider

Response (max [●] words)	

(B2) Please confirm that the Potential Bidder has the necessary consents, powers and authority to bid for and provide the Pathology Services.

Response (Yes/No)	

(B3) Not withstanding the fact that Regulation 23 of the Public Contracts Regulations 2006 does not apply to this Project, please provide a statement that none of the grounds for rejecting a Potential Bidder set out in Regulation 23 and listed in Section G of this PQQ are applicable to the Potential Bidder. These include both the mandatory and discretionary grounds for rejection where such grounds exist or the Potential Bidder is uncertain, details should be provided.

Response (max [●] words)	

Section C – Financial and Economic standing

[Drafting Note: If bidders are likely to submit bids as a partnership or joint venture arrangement, then all lead parties should be required to respond to all financial PQQ questions. If appropriate, this requirement should be made clear in this section. In addition, consider whether it is appropriate for responses to cover material subcontractors.]

(C1) Please provide details of an appropriate risk rating and supporting documentation for the last three quarters and reasons for any movement. As an example, if the Potential Bidder is a Foundation Trust, the Commissioner will expect the submission of its respective Financial and Governance risk ratings. If the Potential Bidder is not a Foundation Trust, an estimated Financial and Governance risk rating should be provided and fully justified based on the principles set by Monitor. ***[If the Potential Bidder is an independent sector provider of direct pathology services, the Commissioner will expect the submission to include its credit rating.]***

Response (max [●] words)	

(C2) Regarding the Potential Bidder's financial accounts:

(C2.1) Please attach an electronic copy of the three years latest annual reports and audited accounts of the Potential Bidder. If three years are not available, the latest available set of accounts should be submitted. Please note draft, abbreviated and unsigned accounts will not be accepted. Accounts submitted must be those of the organisation directly linked with the bid rather than group accounts.

Response	

(C2.2) Please give details of any material changes in the business structure or financial standing of the Potential Bidder since the date of the last set of audited accounts or any changes likely to take effect within the next twelve months.

Response (max [●] words)	

(C2.3) Has the Potential Bidder had any qualifications within its accounts for the last three sets of accounts? If "Yes" please provide an explanation.

Response (max [●] words)	

(C2.4) Please detail any changes in accounting policy since the last published accounts or any planned changes in accounting policy.

Response (max [●] words)	

(C3) Potential Bidders should note that the Commissioner will carry out its own review of publicly available information dating back 12 months. The Commissioner will use [●] additional data source to inform the Commissioner's evaluation of financial health.

[Drafting Note: Other questions could include: (i) likely covenantors or guarantors for the clinical proposals; (ii) existing financial commitments or liabilities which could have an adverse effect upon the Bidder's ability to meet the requirements of the project; (iii) current bank and finance facilities; (iv) breaches of banking covenants; (v) payment of creditors/ debts as and when they fall due; (vi) evidence of professional risk indemnity insurance of which the Bidder has the benefit.]

Section D – Service Requirements

[Drafting Note: This section should be used to elicit information about the bidders' experience, capacity, accreditation and performance for the services being tendered. If it is likely that the bidder will not be the sole provider of the services, you should make it clear in this section that the bidder should respond to each question for each service supplier.]

Experience

(D1) Please provide details of the geographical coverage of the **existing** pathology provision for Pathology Services for **each** of the pathology service providers. The response should include:

(a) map(s) of the respective geographical regions where Pathology Services are supplied by each pathology service provider;

(b) the population covered by each pathology service provider;

(c) list of the [PCT(s) or PCT cluster(s)][Clinical Commissioning Groups] that each pathology service provider is commissioned to provide Pathology Services;

(d) list of the GP practices that each pathology service provider is commissioned to provide Pathology Services;

(e) the number of **current** operational pathology laboratories with a short description of the Pathology Services, including list of disciplines, provided, the address of each laboratory, its capacity and utilisation;

(f) a description of relevant experience of each pathology service provider of delivering Pathology Services to NHS organisations;

(g) a description of relevant experience of each pathology service provider of delivering Pathology Services to organisations outside the NHS (including any international experience);

(h) areas of particular expertise of each pathology service provider highlighting any service awards or major recognition; and

(i) details of Pathology Services decommissioned in the last three years and reasons for any such decommissioning.

Response (max [●] words)	

Capacity

(D2) ***[Drafting Note: If you require the bidders to have the capacity to deliver a certain number of tests, you should expressly include a question asking the bidders to demonstrate that they have the capacity to deliver such volume of tests.]***

(D3) Please provide details of the geographical coverage of the **proposed** pathology provision for Pathology Services for the **Potential Bidder** (which includes each of its pathology service providers). The response should include:

(j) map(s) of the respective geographical regions where Pathology Services will be supplied

by the Potential Bidder ***[with the anticipated increase in activity in accordance with the additional volumes stated at D2 above]***;

(k) list of the [PCT(s) or PCT cluster(s)][Clinical Commissioning Groups] that the Potential Bidder is anticipating to be commissioned to provide the proposed Pathology Services;

(l) list of the GP practices that each pathology service provider is commissioned to provide Pathology Services;

(m) the number of **proposed** operational pathology laboratories with a short description of the Pathology Services, including list of disciplines, provided, the address of each laboratory, its capacity and utilisation.

Response (max [●] words)	

(D4) Please provide details for each pathology service provider's experience ***in the last 3 years*** in providing Pathology Services.

Response	**Blood Sciences (including Haematology, Clinical Biochemistry and Immunology)**	**Microbiology (including Virology and Mycology)**	**Cervical Cytology and HPV testing**	**[Other (please list)]**
(i) the annual total activity data for test carried out for each set of pathology disciplines				
(ii) the annual activity data for GPs tests carried out for each set of pathology discipline				
(iii) the **existing** total capacity and utilisation rates of each set of pathology disciplines				
(iv) the **proposed** laboratories, total capacity and utilisation rates of each set of pathology disciplines				

Accreditation

(D5) Please provide details of all nationally and internationally recognised accreditations achieved for each Pathology Service Supplier such as Care Quality Commission, Clinical Pathology Accreditation or other equivalent national or international accreditation standards, in the last 3 years. Potential Bidders should insert further columns to the table of there are more than three proposed Pathology Service Suppliers.

Response	**Pathology Service Supplier 1**	**Pathology Service Supplier 2**	**Pathology Service Supplier 3**
(i) the accreditation(s) achieved by discipline			
(ii) the outcome for each the accreditation listed in (i) for the last 3 years			
(ii) the full report of the latest accreditation results listed in (i).			
(iii) any "conditions" or areas of weakness identified during the accreditation(s) listed in (i).			
(iv) any action plans proposed to address identified "conditions" or weaknesses accreditation(s) listed in (i).			

Performance

(D6) Please provide details of the quality of the Pathology Services for each Pathology Service Supplier. The response should include 3 years of data for:

(a) measures in place to improve clinical effectiveness including, but not limited to, the results for key performance indicators in the following areas:

(i) measures to avoid overuse, underuse and misuse of Pathology Services including addressing the potential inappropriate use of tests;

(ii) contribution of the Pathology Services to appropriate clinical decision making in other clinical services;

(iii) error rates including those relating to the pre-analytical, analytical and post-analytical stage in the process;

(iv) repeat testing rates (including test results logged as "unsuitable" or require repeat due to delays in transit, testing or laboratory error);

(v) critical reporting to service users;

(vi) reflex and reflective testing; and

(vii) data interpretation and request for advice for further action;

(b) all serious incidents requiring investigation (SIRI) related to the pathology services;

(c) overall turnaround times for test requests from primary care

(d) turnaround times for the following test requests from primary care:

(i) full blood count;

(ii) urea and electrolytes;

(iii) urine microscopy, culture and sensitivity;

(iv) glycosylated haemoglobin A1C;

(v) rheumatoid factor; and

(vi) cervical cytology specimen,

(e) complaints relating to Pathology Services and any resulting action taken;

(f) GP / user experience outcomes;

(g) patient experience outcomes for phlebotomy services; and

(h) other relevant information demonstrating the clinical effectiveness, safety efficiency and timeliness of the pathology service provision.

Response (max [●] words)	

Other

(D7) Please provide details of any Pathology Services, or disciplines, outside the scope of the Service Requirements that the Potential Bidder is considering significantly reducing its provision, divesting or ending provision completely as a result of the proposed reconfiguration of primary care pathology services.

Response (max [●] words)	

Section E - Declaration

On completion of the PQQ, please read the declaration below. This page should then be printed, completed, signed, scanned and uploaded to the e-tendering portal *[insert web address]*

I certify that the information supplied in the questionnaire is accurate to the best of my knowledge and belief and accords with the basic criteria of eligibility as set out in the Project Pre-Qualification Questionnaire and that we have not collaborated with other Potential Bidders in the completion of this questionnaire.

I also understand it is a criminal offence, punishable by imprisonment, to give or offer any gift or consideration whatsoever as an inducement or reward to any servant of a public body, therefore I hereby certify and undertake and bind and oblige ourselves and our Connected Persons (as defined below) that we and our Connected Persons have not canvassed or solicited nor will in the future canvass or solicit any officer or employee of the Commissioner, the Trust or the Commissioners or any person acting as an adviser for the Commissioner, the Trust or the Commissioners in connection with the selection of Potential Bidders and/or the selection of any submissions, proposals or bids in relation to this project and that our Connected Persons have not nor will so canvass or solicit.

For the purposes of this declaration "Connected Persons" means any person connected with us within the meaning given by Section 1122 of the Corporation Taxes Act 2010 and any of the respective directors, officers, employees, solicitors, accountants, bankers or other financial or professional advisers of us and/or of our Connected Persons. Other expressions used in this declaration shall, unless otherwise stated, have the meanings assigned to them in the PQQ issued by the Commissioner.

I agree that we shall be responsible for any failure on the part of Connected Persons to abide by such terms to the same extent as if such failure had been our own action or omission.

I hereby declare that I am authorised by the under mentioned Potential Bidder to supply the information given above and that, at the date of signing, the information given is a true and accurate record.

Signed _____

Name _____

Position _____

Per pro _____

Date _____

An authorised signatory, in his/her own name, on behalf of the Potential Bidder, must sign a copy of this declaration.

Section F – Confidentiality Undertaking

CONFIDENTIALITY UNDERTAKING

To: ***[Name of Commissioner]***

[DATE]

[Insert name of Project] **(the "Project") – Confirmation of non-disclosure of confidential information**

Disclosure

1 In consideration of you disclosing to us of any information concerning the Project (whether or not such information is contained in documents or otherwise) (the **"Protected Material"**), we hereby agree to keep the Protected Material confidential. Accordingly, we shall not, without the prior written consent of the Commissioner, either:

(a) communicate or otherwise make available the Protected Material to any third party (other than to any employee or subcontractor of ours who needs to have access to the Protected Material strictly in connection with performing obligations directly connected to the tender process, provided that we ensure that such employee or subcontractor complies with the confidentiality obligations set out in this undertaking; or

(b) use the Protected Material for any purpose other than directly in connection with the Project tender process.

2 We may disclose the Protected Material to the minimum extent required by:

(a) any order of any court of competent jurisdiction or any competent judicial, governmental or regulatory body; or

(b) the rules of any listing authority or stock exchange on which our shares are listed or traded; or

(c) the laws or regulations of any country with jurisdiction over our affairs (provided, in the case of a disclosure under the Freedom of Information Act 2000, none of the exemptions to that Act applies to the Protected Material disclosed).

3 The obligations set out in paragraph 1 shall not apply, or shall cease to apply, to such of the Protected Material as we can show to the reasonable satisfaction of the Commissioner:

(a) has become public knowledge other than through disclosure by us in breach of this agreement; or

(b) was already known to us prior to disclosure by the Commissioner; or

(c) has been received by us from a third party who did not to our knowledge acquire it in confidence from you or from someone owing a duty of confidence to the Commissioner.

Return of the Protected Material

We shall, whenever the Commissioner so request, return all documents and other records of the Protected Material or any of it in any form and whether or not such document or other record was itself provided by the Commissioner.

Governing law and jurisdiction

This undertaking shall be governed by and construed in accordance with the laws of England and the parties hereby submit to the exclusive jurisdiction of the English courts.

We hereby acknowledge and accept the contents of this undertaking

Signed ……..

Authorised Signatory on behalf of …….

Date ……..

Section G – Ineligibility Conditions Summary

SUMMARY OF CRITERIA FOR THE REJECTION OF ECONOMIC OPERATORS PROVIDED BY REGULATION 23 OF THE PUBLIC CONTRACTS REGULATIONS 2006 (SI 2006 No 5)

Regulation 23 of the Public Contracts Regulations 2006 (**"Regulation 23"**) sets out the grounds on which an economic operator must normally be deemed ineligible to tender for, or be awarded a public contract.

The Commissioner reserves the right to reject a Potential Bidder if they fall within one of the ineligibility criteria set out in Regulation 23. Rejection under Regulation 23 (1) is normally mandatory when an economic operator has been convicted of any of the following offences:

(a) Conspiracy within the meaning of section 1 of the Criminal Law Act 1977 where that conspiracy relates to participation in a criminal organisation as defined in Article 2(1) of Council Joint Action 98/733/JHA;

(b) Corruption within the meaning of section 1 of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;

(c) The offence of bribery;

(d) Fraud, where the offence relates to fraud affecting the financial interests of the European Communities as defined by Article 1 of the Convention relating to the protection of the financial interests of the European Union, 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 and the Theft Act 1978;

  (iv) Fraudulent trading within the meaning of section 458 of the Companies Act 1985;

  (v) Defrauding the Customs within the meaning of the Customs and Excise Management Act 1979 and the Value Added Tax Act 1994;

  (vi) Destroying, defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968;

  (vii) An offence in connection with taxation in the European Community within the meaning of section 71 of the Criminal Justice Act 1993; or

(e) Money laundering within the meaning of the Money Laundering Regulations 2003; or

(f) Any other offence within the meaning of Article 45(1) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 as defined by the national law of any relevant State.

For the purposes of this Project and on the basis of the grounds in Regulation 23(4) a Potential Bidder may be deemed to be ineligible to tender where it:

(g) Is in a state of bankruptcy, insolvency compulsory winding up, administration, receivership, composition with credits or any analogous state, or subject to relevant proceedings;

(h) Has been convicted of a criminal offence relating to business or professional conduct;

(i) Has committed an act of grave misconduct in the course of a business or profession;

(j) Has not fulfilled obligations relating to payment of social services contributions;

(k) Has not fulfilled obligations relating to payment of taxes;

(l) Is guilty of serious misrepresentations in supplying information further to this or other projects; or

(m) Is not in possession of the necessary licence, authorisation or professional qualification required for the provision of the primary care services covered by this Project.

ANNEX B

PQQ Evaluation Criteria

ANNEX C

Glossary

In this MOI and PQQ the following definitions shall apply:

"Bidder"	means a Potential Bidder that has been short-listed through the PQQ evaluation process and been invited to tender;
"Cluster"	means a managed network based on a hub and spoke model of delivery;
"Commissioner"	means [●];
"Commissioning Contract"	means the contract for Pathology Services to be awarded to the Preferred Bidder;
"DH"	means the Department of Health;
"FBC"	means Full Business Case;
"FOIA"	means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner, the Department of Constitutional Affairs, the Office of Government Commerce and the NHS in relation to such legislation or relevant codes of practice to which the DH is subject;
"IM&T"	means Information Management and Technology;
"ITT"	means Invitation to Tender;
"MOI"	means the this Memorandum of Information;
"Pathology Services"	means pathology services that are commissioned by the Commissioner directly from existing pathology providers and that are subject to this MOI and PQQ;
"Potential Bidder"	means an organisation intending to respond to the PQQ;
"PQQ"	means the Pre-Qualification Questionnaire set out in Annex A of this MOI;
"Preferred Bidder"	means the Bidder selected as the preferred bidder for the Project;
"Project"	means the ***[Name]*** Project; and
"TUPE"	means the Transfer of Undertakings Protection of Employment Regulations 2006 (SI/2006/246).