

TORBAY COUNCIL

Part 1 Information

Contract Reference

TASC0124

Contract Title

**Adult Social Care Transformation –
Delivery Partner**

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The Tender Documents can be made available in other formats. For further information please submit your request through the messaging facility on the Supplying the South West e-Tendering Portal

A Not Used

B Procurement Information

B1 Background Information

Torbay Council is seeking a provider who has a detailed understanding, and proven track record, in the delivery of efficiency savings in Adult Social Care.

Consideration of increasing volume and complexity of demand, building on our excellent work with the Community and Voluntary sector will be pivotal. In addition, measures to maximise our staff's ability to enable independence for people through the way they work and the services available, is important for us.

The supplier will need to be able to respond to the challenges which Torbay, and its partners, have identified be able to work within an integrated system. The supplier will understand local and national challenges and have tangible ways of addressing these.

Torbay is seeking fundamental and lasting change, which puts our residents first and delivers long term efficiencies in our model.

B2 Core Requirements

Applicants must be able to demonstrate they will meet any Core Requirements set out in Part 2 Specification for the whole term of this Contract.

B3 Contract Period

It is anticipated that the Contract will commence on 11 March 2024 or on a date to be agreed for a period of 12 months, subject to termination clauses within Terms and Conditions of Contract and as provided for in *72 Modification of contracts during their term* of the Public Contracts Regulations 2015. In the event of unforeseen delays to programme delivery not attributable to the Supplier or where ancillary / additional Services are identified to support delivery of the programme the Contract may be extended for a period of up to 12 further months or until the end of the allocated budget.

B4 Contracting Arrangements

The Authority is not purchasing on behalf of other contracting authorities, however the successful Applicant will be required to engage and directly work with staff from Torbay and South Devon NHS Foundation Trust.

B5 Division of Contract into Lots

This Contract is not being divided into Lots. This is because it is not practical due to the nature of the Contract.

B6 Contract Price

B6.1 Budget

The maximum contract value for the full term of the Contract and delivery of the change programme is £1,000,000 (excluding VAT), to include all costs of expenses associated with provision of the Services.

Please Note: Where the Applicant's proposed price exceeds the maximum contract value stated above the Applicant will be deemed to have failed the process in its entirety and will not be evaluated further.

B6.2 Price Review

The price offered by the Applicant in Part 7 Pricing Criteria must be:

- the cost of delivering the change programme over a 12 month period;
- and must be firm and fixed for the duration of the Contract.

The schedule in Part 7 Pricing Criteria has been structured to enable pricing to be provided for the 12 month programme term. The price will only be reviewed where the term is extended and all of the consultancy hours identified in the Pricing Schedule have been used or the Council has identified ancillary / additional Services to support delivery of the programme which incur additional costs.

B7 Variant Bids

Torbay Council will not consider variant bids.

B8 Procurement Timetable

Torbay Council proposes the following timetable for the award of the Contract(s):

Procurement Stage	Dates
Tender Documents Published	Tuesday 16 January 2024
Clarification Question Submission Deadline	Tuesday 23 January 2024
Clarification Responses Deadline	Tuesday 30 January 2024
Tender Submission Date & Time	Tuesday 06 February 2024 12:00 Noon
Evaluation Period	Wednesday 07 to Thursday 15 February 2024
Contract Award Decision and Approval to Award	Friday 16 February 2024

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Contract Award Notification	Monday 19 February 2024
Standstill Period	Tuesday 20 February to Friday 01 March 2024
Lead In Time (Contract Signing)	Monday 04 to Friday 08 March 2024
Contract Start	Monday 11 March 2024

Whilst Torbay Council reserves the right to change the above timetable and Applicants will be notified accordingly if there is a change, due to the Project's critical path, any request for an extension to this deadline which will impact on timescales for delivery is unlikely to be granted.

B9 Authority Representatives

Applicants are advised that Torbay Council Representatives will only respond to queries or questions in relation to this Tender opportunity through ProContract and are unable to respond to any questions raised verbally or by email.

Authority Authorised Representative:

Joanne Williams, Director of Adult Services

Procurement Representative:

Tracey Field, Head of Commercial Services

C Procurement Process

C1 Procurement Procedure

Torbay Council is inviting Bids from pre-selected Applicants under regulation 32 of the Public Contracts Regulations 2015 (SI 2015/102) relating to use of the negotiated procedure without prior publication.

C2 Stage One Selection

C2.1 Selection

Torbay Council will use a Selection process to test Applicants' previous experience, existing capacity, compliance with relevant legislation and their ability to demonstrate that there are no formal grounds for exclusion.

The Selection Questionnaire can be found in Part 4 Selection Questionnaire.

The Applicant's response will be evaluated in accordance with the scoring methodology set out in section 0 below.

Applicants will need to satisfy the requirements of Stage One in order for their Stage Two response to be evaluated.

Please Note: Applicants are required to submit responses to Part 3 Certificates and Declarations, Part 4 Selection Questionnaire, Part 5 Award Questionnaire AND Part 7 Pricing Criteria]

Torbay Council will then assess Part 4 Selection Questionnaire responses to ascertain that its minimum pass/fail requirements have been met. The pass/fail criteria is set out in C2.4 below.

C2.2 SQ Part 1 and 2

Where Applicants rely on other organisations to meet any of the selection criteria they must submit a completed SQ Part 1 and 2 for each of those organisations. This includes parent companies, affiliates, associates, or essential subcontractors. SQ Part 1 and Part 2 will be assessed in accordance with the selection criteria set out in C2.4 below.

C2.3 European Single Procurement Document

In accordance with Regulation 59 of the UK Public Contract Regulations 2015 Applicants may submit an XML version of the ESPD in place of Parts 1 and 2 of Part 4 Selection Questionnaire but must complete and submit Part 3 of the Selection Questionnaire.

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C2.4 Selection Criteria

Applicants are advised to ensure they have read and fully understand the criteria below, which will be used in the evaluation process:

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
Part 4 Selection Questionnaire		Pass		Pass
Part 1 Potential Supplier Information, comprising:	Torbay Council may exclude any Applicant who fails part or all of this section.			
Section 1 Potential Supplier Information	This will be assessed on the basis of pass or fail. In order for the response to be considered a pass it must be fully completed by the Applicant and the Applicant must demonstrate that they meet the requirements of this section.		Pass	Pass
Section 1 Bidding Model	This section will be assessed on the basis of pass or fail. The Applicant must demonstrate that the Bidding Model proposed meets the requirements of the tender to pass.		Pass	Pass
Part 2 Exclusion Grounds:	Torbay Council may exclude any Applicant who fails this section.			
Section 2 Grounds for Mandatory Exclusion	This will be assessed on the basis of pass or fail. Torbay Council may exclude any Applicant who answers 'Yes' in any of the situations set out in this section. The decision to exclude an Applicant in relation to the Exclusion Grounds will be subject to evidence of self-cleaning being provided by the Applicant demonstrating its reliability despite the existence of a relevant exclusion ground and Torbay Council considering such evidence to be sufficient.		Pass	Pass
Section 3 Mandatory and discretionary grounds relating	This will be assessed on the basis of pass or fail. Torbay Council may exclude any Applicant who answers 'Yes' to any of the situations set out in this section.		Pass	Pass

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
to the payment of taxes and social security contributions	Torbay Council reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.			
Section 4 Grounds for Discretionary Exclusion	<p>This will be assessed on the basis of pass or fail. Torbay Council may exclude any Applicant who answers 'Yes' to any of the situations set out in this section.</p> <p>The decision to exclude an Applicant in relation to the Exclusion Grounds will be subject to evidence of self-cleaning being provided by the Applicant demonstrating its reliability despite the existence of a relevant exclusion ground and Torbay Council considering such evidence to be sufficient.</p>		Pass	Pass
Section 5 Economic and Financial Standing	<p>This will be assessed on the basis of pass or fail.</p> <p>Assessment of Suitable Financial Standing</p> <p>Question 5.1, 5.2 or 5.3 – where the Applicant has provided the requested documentation, the response will be deemed a pass. Where the Applicant has not provided the requested documentation, the response will be deemed a fail. The information provided will only be assessed in respect of the successful Applicant(s) as part of Award Due Diligence.</p> <p>Question 5.4 – the Applicant is required to indicate whether their annual turnover for the previous 2 financial years is a</p>		Pass	Pass

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	<p>minimum of twice the Annual Contract Value of £1,000,000. A 'Yes' response will be considered to be a pass and a 'No' response a fail.</p> <p>Question 5.5 –where the applicant has confirmed they meet the requirement or the requirement is not applicable, this will be deemed a pass. Where they confirm they do not meet the requirement, this will be deemed a fail.</p> <p>Overall Assessment of Section 5</p> <p>At this stage Applicants will not be excluded from the process solely on the basis of failing one or more requirements in section 5. Torbay Council will consider all of the information provided by the successful Applicant(s) in their response to this section and undertake further financial checks, in accordance with Award Due Diligence below, to determine whether they have passed or failed this section in its entirety.</p> <p>Award Due Diligence</p> <p>The Council will carry out a credit check on the successful Applicant, using Dun and Bradstreet's Finance Analytics system. The information, together with the Applicant's response to the questions in section 5, will be used to ascertain whether a broad financial appraisal should be undertaken.</p> <p>Where the requirement for a broad financial appraisal is established through the evaluation of the Selection Questionnaire, the Council will undertake an assessment of the circumstances of the Contract and the Applicant to determine financial capacity, health and dependency. This appraisal will</p>			

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	<p>be used to inform an assessment of risk. In making this assessment, Torbay Council will appraise a range of financial information applying a broad commercial perspective, including an appraisal of the financial statements submitted by the Applicant and an appraisal of other relevant sources of financial information, including but not limited to Dun and Bradstreet's Finance Analytics system. Torbay Council will use the outcomes of this appraisal to determine the Applicant's financial standing and in its opinion the level of risk to Torbay Council and as such whether a guarantor will be required. Where the appraisal indicates to Torbay Council that the Applicant is a clearly unrealistic bidder with inadequate resources and without, in its opinion, adequate financial support guarantees, Torbay Council reserves the right to reject the Applicant's bid and the contract will not be awarded.</p>			
<p>Section 6 Technical and Professional Ability – Relevant Experience and Contract Examples</p>	<p>Question 6.1 or 6.2. In order for the response to be considered a pass, a response must be provided to 6.1 or 6.2 by the Applicant. Failing to provide an answer to at least one of these questions will be considered a fail.</p> <p>Question 6.3 If the Applicant is intending to sub-contract a proportion of the contract, then in order for the response to be considered a pass a response must be provided, not providing a response will be considered a fail.</p> <p>Torbay Council will assess the information provided by the successful Applicant(s) in their response to this section as part of award due diligence.</p>		Pass	Pass

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	<p>Torbay Council will contact any named organisation(s) to confirm that the information provided is accurate. Applicants should ensure they make any named organisation(s) aware that their details have been provided and that they will be contacted to verify the information.</p> <p>Where it has not been possible to verify the examples provided, at the sole discretion of Torbay Council the Applicant may fail this requirement and the contract will not be awarded.</p>			
Section 7 Additional Questions (7.1 to 7.6)	<p>Question 7.1 will be assessed on the basis of pass or fail. The Applicant must demonstrate they meet all the requirements. The successful Applicant will be required to provide evidence of compliance as part of the due diligence process.</p> <p>For Question 7.5 where the applicant has confirmed they meet the requirement, this will be deemed a pass. Where they confirm they do not meet the requirement, this will be deemed a fail.</p> <p>[Questions 7.6(a), (b) and (c) will be assessed on the basis of pass or fail. In order for the response to be considered a pass it must be fully completed by the Applicant. Completed responses will not be assessed at this stage, but any information provided may be used as part of the broad financial appraisal of the successful Applicant.]</p>		Pass	Pass
Section 7 Additional Questions (7.12)	<p>Question 7.12(a)(i) will be assessed on the basis of pass or fail. In order for the response to be considered a pass it must be completed by the Applicant.</p>		Pass	Pass

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	<p>[For Questions 7.12 (a) (ii) and 7.12 (a) (iii) responses will not be assessed at this stage, but any information provided may be used as part of the broad financial appraisal of the successful Applicant.</p> <p>Question 7.12(b) will be assessed on the basis of pass or fail. The Applicant must demonstrate they meet all the requirements. A Yes response is a pass and the successful Applicant will be required to provide evidence that they meet the requirements as part of award due diligence].</p> <p>Torbay Council may exclude any Applicant who answers ‘No’ to any of the requirements set out in this section. The decision to exclude an Applicant in relation to a ‘No’ response will be subject to the justification they provide in the response box in 7.12(b) and Torbay Council considering such evidence to be insufficient.</p> <p>[Where award due diligence indicates to Torbay Council that the evidence provided does not demonstrate the Applicant’s ability to meet the requirements, Torbay Council reserves the right to reject the Applicant’s bid.</p>			

C3 Stage Two Award

C3.1 Award Evaluation

Torbay Council will only undertake an evaluation of Most Economically Advantageous Tender (MEAT) criteria of those Applicants who have satisfied the requirements of Stage One Selection.

The Award criteria have been designed to assess MEAT, taking into account a combination of Quality, and Price. The top scoring Applicant will be considered to have been successful.

The Applicant's response will be evaluated in accordance with the scoring methodology set out in section C4 below.

Please Note: All percentage scores will be calculated to two decimal places.

Where the scoring for two or more Tender submissions is tied, the top scoring Applicant will be the Applicant who has achieved the higher combined score for Method Statements 1 and 2.

Applicants are advised to ensure they have read and fully understand the criteria below, which will be used in the evaluation process:

Stage Two Award	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
Quality Award Questionnaire (Sections A & B)		80.00%		
Method Statements	These criteria will be assessed in accordance with the zero to five scoring basis as set out in C4.2 below.		50.00%	
	Method Statement 1		25.00%	Non weighted score of 3
	Method Statement 2		30.00%	Non weighted score of 3

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Stage Two Award	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
Technical Questions	This/These criteria will be assessed in accordance with the zero to five scoring basis as set out in C4.2 below.		25.00%	
	<i>Technical Question 1</i>		8.00%	
	<i>Technical Question 2</i>		5.00%	
	<i>Technical Question 3</i>		4.00%	
	<i>Technical Question 4</i>		8.00%	
Pricing Criteria		20%		
Pricing Schedule	This criteria will be assessed in accordance with the comparative scoring basis as set out in C4.3 below.		20.00%	
	<i>Pricing Criteria</i>		20.00%	

C4 Scoring Methodology

Responses will be assessed using one, some or all of the following methods:

C4.1 Pass/Fail

Evaluation criteria assessed on a pass/fail basis are those where either meeting the requirement is essential to Applicant's ability to deliver the Contract, or it is a prerequisite for the Authority to assess the commercial viability of an Applicant's bid. They will usually relate to questions where a Yes or No response can be provided. The ability to meet the requirement will achieve a Pass and the Applicant will achieve a fail where they are unable to meet the requirement.

Where an Applicant fails one or more Pass/Fail criteria they may be deselected from participating further in the process and will be notified accordingly. Applicants should refer to the evaluation criteria contained in sections C2.4 and C3.1

The criteria will also set out how the Applicant should evidence their ability to meet the requirement, this will be either:

- within their response to the mandatory criteria itself
- during due diligence prior to contract award.

If the Applicant is not able to subsequently evidence the ability to meet the requirement the response will be considered to be a fail and the Applicant will be deselected from participating further in the process and will be notified accordingly.

C4.2 Zero to Five Scoring

Evaluation criteria assessed on a scoring basis will be evaluated using the zero to five scoring system in the table on the next page.

The scoring system is based on the degree to which the Applicant satisfies the requirement and provides sufficient evidence to support their response.

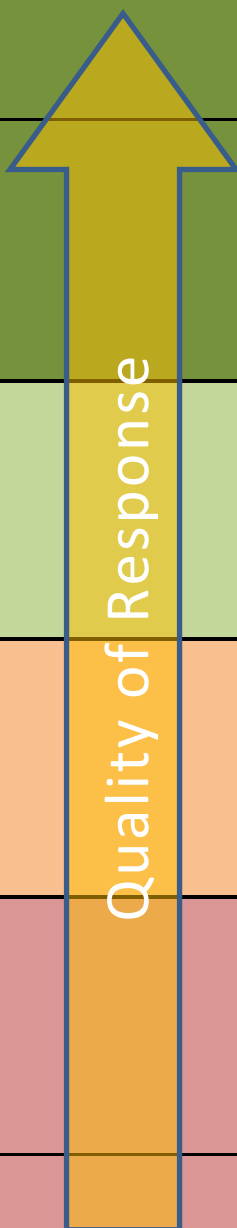
Where an Applicant's response is considered to have achieved a score of three, a further assessment will be made to determine whether the response has met the criteria required for a score of four or five to be awarded.

The Council's usual approach to evaluation of Tenders is for each Panel member to undertake an independent assessment of bids. The Panel will then come together in a Moderation Meeting, where a consensus score will be agreed.

Please Note: Where an Applicant's response is considered not to satisfy all of the core requirements, the maximum score achievable will be two, regardless of whether the Applicant exceeds the requirement in relation to some aspects of their response.

The scoring system awards the highest marks to those Applicants who, in addition to fully satisfying the core requirements, demonstrate their ability to meet some or all of the additional contract specific requirements or offer further services.

Score 5 - Excellent	Excellent demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the core requirements and most or all of the additional requirements, with evidence to support the response. Response identifies significant added value and/or innovation.
Score 4	Good demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the core requirements and some or most of the additional requirements, with evidence to support the response. Response identifies potential added value.
Score 3	Satisfactory demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the core requirements, with sufficient evidence to support the response.
Score 2	Demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the majority of the core requirements and/or limited evidence to support the response.
Score 1	Poor demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the core requirements, with little or no evidence to support the response.
Score 0 - Unacceptable	Does not comply and/or unacceptable demonstration by the Applicant of the ability, understanding, experience, skills, resource & quality measures required to deliver the core requirements, with little or no evidence to support the response.



Scoring Example:

Sub Criteria % = 15.00%			
Applicant	Assessment	Score Awarded	%Score
Applicant A	Exceeds the requirement, with an exceptional demonstration of relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract, with evidence of significant added value/innovation	5	15.00%
Applicant B	Fully satisfies the requirement, provides sufficient evidence to demonstrate their ability to deliver the contract and offers some potential added value.	4	12.00%
Applicant C	Only meets some of the requirements, provides adequate evidence to demonstrate their ability to meet those requirements satisfied within the response and offers some added value and innovation in relation to aspects of their offer.	3	9.00%
Applicant D	Only meets some of the requirements, provides adequate evidence to demonstrate their ability to meet those requirements satisfied within the response and offers some added value and innovation in relation to aspects of their offer.	2	6.00%
Applicant E	Applicant says they fully satisfy the requirement, but provides insufficient evidence to demonstrate relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract.	2	6.00%
Applicant F	Applicant does not provide sufficient assurance that they have the relevant ability, understanding, experience, skills, resource & quality measures required to satisfy the majority of the requirements.	1	3.00%
Applicant G	Applicant does not provide sufficient assurance that they have the relevant ability, understanding, experience, skills, resource & quality measures required to satisfy any of the requirements.	0	0.00%

C4.2.1 Thresholds

The quality criteria have thresholds attributed to specific award criteria, which are detailed in the table at C3.1 and Part 5 Award Questionnaire.

Applicants are required to meet all thresholds set in C3.1 in order to be eligible to be awarded the Contract.

C4.2.2 Not Used

C4.3 Comparative Scoring

Evaluation criteria assessed on a comparative basis are those where the Applicant's response can be compared to that of other Applicants, for example in relation to Pricing criteria:

- Price: Applicants offering the lowest price will score maximum marks out of a possible 100 and Applicants submitting higher prices will be awarded marks proportionate to their distance from the lowest price.
- In the event an Applicant submits a bid which results in any of the Pricing evaluation criteria being a zero, in order to return a score for the other Applicants the price used for evaluation purposes will be £0.01.
- Social Value: Applicants offering the highest monetary benefit will score maximum marks out of a possible 100 and Applicants with lower monetary benefit will be awarded marks proportionate to their distance from the highest monetary benefit.

Scoring Example 1:

$\frac{\text{Lowest Price}}{\text{Applicant's Price}} \times \text{Available Marks} = \text{Score}$		
Lowest Price: £1,000,000		Criteria: 60.00%
Applicant	Price	Score
Applicant A	£1,000,000	60.00%
Applicant B	£1,100,000	54.55%
Applicant C	£1,273,050	47.13%
Applicant D	£1,899,999	31.58%

Scoring Example 2:

$$\frac{\text{Lowest Price}}{\text{Applicant's Price}} \times \text{Available Marks} = \text{Score}$$

Lowest Price: £0.01		Criteria: 60.00%
Applicant	Price	Score
Applicant A	£0.00	60.00%
Applicant B	£1,100,000	0.00000055% Awarded Score to 2 Decimal Places 0.00%
Applicant C	£1,273,050	0.00000047% Awarded Score to 2 Decimal Places 0.00%
Applicant D	£1,899,999	0.00000032% Awarded Score to 2 Decimal Places 0.00%

C4.4 Character, Word and Page Limits

Character, word or page limits relate to the maximum number of characters, words or pages Applicants can submit.

Where an Applicant's response exceeds any limit set, those elements of the response which fall outside of that limit will not be evaluated.

D Tender Requirements

D1 Communication

All communication between Torbay Council and Applicants will take place through ProContract, this includes but is not limited to:

- (a) clarification questions;
- (b) submission of Confidentiality Agreements and issue of confidential Documents;
- (c) requests to participate in site visits;
- (d) suggestions and queries in relation to the Terms and Conditions;
- (e) post tender clarification questions;
- (f) invitations to demonstrations, interviews or presentations;
- (g) outcome notification letters.

Applicants must not make direct contact with Council officers, during the procurement process regarding this tender.

Please Note: Applicants are responsible, at all times during the Tender process, for checking whether any messages or amendments have been issued and should not rely solely upon automatic notification from ProContract.

D2 Tender Clarification

Please Note: Torbay Council will only accept clarification questions, including queries or suggestions on the Terms and Conditions, during the clarification period stated in the Procurement Timetable, unless the question is directly related to a response issued by Torbay Council on or after the deadline for submission of questions.

Where the Tender is being run as a 2 stage process queries or suggestions on the Terms and Conditions may only be raised during Stage One.

Torbay Council will not negotiate on any of the substantive terms of the Documents.

Responses to clarification questions will be provided to all Applicants except where the question:

- (a) is innovation based, in which case the response will only be provided to the Applicant who raised the question; or
- (b) relates to confidential Documents, in which case the response will only be provided to Applicants who have submitted a Confidentiality Agreement.

Torbay Council will endeavour to respond to clarification questions within 5 working days of the date the question is submitted, or the next working day if the question is submitted on a non-working day.

The identity of Applicants raising questions will remain confidential.

Applicants are responsible for ensuring they read and understand all of the responses to questions that have been raised.

Applicants will need to register an interest in the Tender on ProContract in order to access responses to clarification questions or receive communications from Torbay Council regarding amendments to the Documents.

D3 Amendment to Documents

Amended Documents will be made available in both the publicly accessible opportunities area of ProContract and within the tender opportunity itself, except where the amendment relates to a confidential Document. Where changes are substantial and Torbay Council considers Applicants need additional time to take these changes into account, the Tender Submission deadline will be extended in accordance with the Public Contracts Regulations 2015.

Where the amendment relates to a confidential Document the amended Document will only be shared with those Applicants who have submitted a Confidentiality Agreement.

Amended Documents will form part of the resultant Contract.

Please Note: Applicants are responsible for ensuring they have read all communications and the amended Documents and will be considered to have taken any amendments into account when preparing their submission.

D4 Post Tender Clarification

Post tender clarification will be for the purposes of clarifying or supplementing the content of an Applicant's submission or Torbay Council's requirements where this would not be discriminatory to other Applicants. Questions may be issued to one, some or all Applicants as appropriate.

Please Note:

- Where post tender clarification results in modification to an Applicant's Tender Torbay Council reserves the right to reject the Tender.
- Where the post tender clarification results in substantial modification to the Contract Torbay Council reserves the right to restart or abandon the Tender process.
- Failure to respond to post tender clarification questions within the specified timescale may result in the Applicant's Tender being rejected.

D5 The Tender Documents

The Documents are and shall remain the intellectual property of Torbay Council. Applicants may only copy or reproduce the Documents for the purposes of their response. If no response is submitted the Applicant shall delete any Documents downloaded.

Where an Applicant identifies an error or omission within the Documents they should immediately notify Torbay Council through ProContract. Torbay Council will then rectify the error or omission and issue any amended Documents.

Some tenders will include confidential Documents and the tender Documents will then include a separate Confidentiality Agreement appendix. Any Documents considered by Torbay Council to be of a confidential nature will not be made publicly available. Applicants

are responsible for ensuring that confidential Documents are treated as such, are used only for the purposes of this tender and are not disclosed in whole or part to any 3rd party without Torbay Council's prior written consent.

Applicants can access confidential Documents by completing and submitting the Confidentiality Agreement through the ProContract Messaging Facility.

Torbay Council may reproduce the whole or any portion of submitted Tenders for the purpose of tender evaluation.

D6 Preparation and Completion of Tenders

Applicants are responsible for ensuring they fully understand the requirements and have all the information they need to enable them to submit a response, within the time required. Torbay Council will not accept any claims related to an Applicant's failure to read and understand the Documents.

Applicants are responsible for meeting any costs, expenses or liabilities incurred in connection with this process, including if it is terminated or amended by Torbay Council. Torbay Council will not be responsible, nor will they pay for any expense or loss which may be incurred by Applicants in the preparation of their Tenders, or any other aspect of the Tender process.

Applicants are advised to note the following when completing their response:

- (a) all entries including responses to questions, rates, price totals or any other endorsements must be typewritten in English and in £ sterling. Handwritten responses will not be accepted;
- (b) responses must be submitted in the Documents as provided or on-line where required;
- (c) the format and layout of the response Documents must not be altered;
- (d) Part 3 Certificates and Declarations may be submitted in pdf format, but all other response Documents must be submitted in the format issued;
- (e) responses should be made in full and should not refer to information provided elsewhere in the Submission;
- (f) responses should fully address the requirements and should not rely on any knowledge the Council may have of your organisation or any contracts held with the Council, as your bid can only be evaluated on the basis of the information contained within it;
- (g) your responses should be written in English, in sentences with spaces between the words. Symbols or any other characters inserted between words instead of spaces is not acceptable. Any information that exceeds the word limits stated or that is not provided in the correct format will be redacted from your response and will be excluded from the evaluation;
- (h) supporting Documents / appendices will only be evaluated where these have been permitted within the response;
- (i) appendices, where permitted, must be clearly referenced within the response;
- (j) where a question does not apply to an Applicant they should clearly state N/A in the response section;

- (k) individual evaluators may not evaluate the entire response and the evaluation panel may include other stakeholders, such as partner organisations or people who use Council services;
- (l) do not make any assumptions about your past or current supplier relationship with Torbay Council or assume that such prior relationships will be taken into account in the evaluation procedure;
- (m) all Documents must be completed in full, in accordance with any specific instructions set out within the Document and signed where required.

Please Note: Failure to complete or submit any of the Documents in accordance with Torbay Council's requirements may result in the Tender being rejected.

As arrangements relating to consortium bids or sub-contracting may change Applicants should respond on the basis of the arrangements envisaged at the time the Tender is submitted. Torbay Council must be notified immediately of any changes or proposed changes in relation to the bidding model, so that a further assessment against the selection criteria can be made. Torbay Council reserves the right to deselect the Applicant prior to any award of contract, based on an assessment of the updated information.

Where Applicants rely on other organisations to meet any of the selection criteria they must submit a completed SQ Part 1 and 2 Declaration for each of those organisations. This includes parent companies, affiliates, associates, or essential subcontractors.

Before submitting any documentation, Applicants need to understand the nature of Torbay Council's transparency commitments for tenders and contracts and the scope of Torbay Council's ability to withhold material. What will be disclosed does not differ from that currently disclosable under Freedom of Information legislation, but Applicants must ensure they understand the limitations on Freedom of Information exemptions for confidentiality and commercially sensitive information. **Please Note:** Applicants are requested to clearly identify any Documents or information contained within their submission which they consider to be commercially sensitive either during the tender process or after conclusion of the Contract.

Please Note: Applicants are expected to read, understand and confirm their acceptance of the Terms and Conditions before submitting their Tender. Where an Applicant reserves the right to comment or negotiate on them at a later date, this may result in the Tender being rejected.

D7 Submission and Opening of Tenders

Applicants should submit all documentation electronically through ProContract (www.supplyingthesouthwest.org.uk) using the Response Wizard as directed in the 'Supplier Guide' located in the help section or in Appendix A ProContract User Guide.

Applicants are responsible for ensuring:

- (a) they have submitted all of the required Documents in the correct format;
- (b) their response is submitted by the deadline. **Please Note:** any submissions classified by ProContract as late will be rejected.

In the event Torbay Council is made aware of any technical issues with ProContract, which may prevent Applicants from meeting the submission deadline, the deadline may be extended. However Applicants are strongly advised to submit their Tender in good time.

Where an Applicant decides not to submit a Tender Torbay Council requests that the Applicant formally 'Opts Out' through ProContract, giving the reasons for non-submission. Torbay Council may contact Applicants who have expressed an interest but have not submitted a Tender, in order to understand their reasons for non-submission.

An Applicant's submitted Tender will constitute an irrevocable offer to provide the required goods, services or works.

Technical Support

Any Applicants who experience problems with ProContract should contact the support desk:

ProContractSuppliers@proactis.com

Or click on the Help link at the bottom of the web page.

Please Note: If your issue is time sensitive call:

0330 005 0352

This line is available 09:00 to 17:30 Monday to Friday (excluding English bank and public holidays).

All Tenders will remain electronically sealed until the Submission deadline, when they will be unsealed by an independent Verifier in the presence of a member of the Commercial Services Team.

D8 Rejection of Tenders

Torbay Council will only reject Tenders where rejection is without prejudice to any other civil remedies available to Torbay Council or any criminal liability which the Applicant's conduct may attract.

Torbay Council will reject any Tender where:

- (a) submission was made after the date and time specified on the Documents;
- (b) submission was not made through ProContract;
- (c) the Applicant has not accepted Torbay Council's Terms and Conditions. **Please Note:** Torbay Council will seek clarification from the Applicant prior to rejecting the Tender;
- (d) the Applicant acts in any way improperly, including but not limited to canvassing, price fixing or inducements (which relate to offences under the Bribery Act 2010, Section 117 of the Local Government Act 1972 or any future legislation);
- (e) Torbay Council has become aware at any point that the Applicant has been afforded a competitive advantage or has a conflict of interest that cannot be rectified; or
- (f) Torbay Council has, after evaluation and moderation, determined that a

threshold has not been achieved.

Torbay Council may at its absolute discretion reject any Tender where:

- (a) any situation(s) set out in regulation 57(8) of the Public Contracts Regulations 2015 are found by the Council to apply to the Applicant;
- (b) it is not in accordance with the required format;
- (c) the Applicant alters the Documents in any way;
- (d) it is considered by Torbay Council to be incomplete (see D8.2) or vague;
- (e) any of the information provided by an Applicant is found to be inaccurate
- (f) the Applicant contradicts itself in terms of any information provided;
- (g) the Applicant fails to demonstrate it will meet its TUPE obligations, where applicable to the contract;
- (h) the price has been assessed as being abnormally low (see D8.1);
- (i) the Applicant's price exceeds Torbay Council's declared budget;
- (j) the Applicant does not respond to post tender clarification questions within the specified timescale;
- (k) the tender has been qualified in any way; or
- (l) it is in breach of any condition contained within it.

Where the Applicant is relying on the capacity of a consortium member or sub-contractor and that organisation does not meet any relevant selection criteria and the Applicant is unable to replace the organisation with an alternative, if required by Torbay Council, this may result in the Applicant's Tender being rejected.

D8.1 Abnormally Low Tenders

Where an Applicant's price has been assessed as being abnormally low Torbay Council will require the Applicant to explain the price proposed and will assess the explanation in accordance with the guidance set out in the Public Contracts Regulations 2015. The Tender will only be rejected where the evidence provided does not satisfactorily account for the low price or where the Applicant has obtained State Aid that has resulted in a distortion in competition.

Advice in assessing the explanation may be sought from Torbay Council's Corporate Finance section.

D8.2 Incomplete Tenders

Tenders will be considered incomplete where the Applicant has not:

- (a) submitted all of the required Documents, including any supporting information requested;
- (b) fully completed all of the Documents required;
- (c) responded to all of the questions; or
- (d) submitted the Documents in the required format.

D9 Evaluation and Award

All accepted Tenders will be evaluated in accordance with the evaluation criteria set out in the Documents.

Torbay Council will only complete a full evaluation of Tenders which meet conditions of tender and have not been rejected for any of the reasons set out above (see D8).

Where the Applicant is relying on the capacity of a consortium member or sub-contractor and that organisation does not meet any relevant selection criteria Torbay Council reserves the right to require the Applicant to replace the organisation with an alternative.

The evaluation will be carried out by an Evaluation Panel and will be moderated by a member of the Procurement Team.

Please Note: Not all Panel members may assess every question, but all Tenders will be evaluated in the same manner and by the same Panel. Evaluation Panels may not comprise solely of Torbay Council's Officers, but may also include other key stakeholders, such as partner organisations and people who use Council services.

On completion of the evaluation process approval to award the Tender will be sought in accordance with Torbay Council's approval procedure.

Torbay Council is not bound to make any award of Contract. If the Contract is awarded it will be on the basis of the most economically advantageous tender, which may not be the lowest price offered.

All Applicants will be notified of the Tender outcome at the same time, unless where previously notified their Tender has been rejected. Notification will be through ProContract.

Please Note: Applicants will be advised through ProContract of any changes to the decision date.

Torbay Council will comply with the requirements of *Regulation 87 Standstill period* of the Public Contracts Regulations 2015.

D10 Legal and Contracting Arrangements

Information supplied by Torbay Council as part of the tender process is supplied in good faith and Applicants must satisfy themselves as to the accuracy of such information. Torbay Council accepts no responsibility for any loss or damage arising from the use by Applicants of such information. All information issued to Applicants must be treated as confidential.

Applicants must ensure that they are fully familiar with the nature and extent of the obligations that they will take on if their Tender is accepted.

This Tender will be run in accordance with the requirements of regulations *24 Conflicts of interest* and *41 Prior involvement of candidates or tenderers* of the Public Contracts Regulations 2015.

Where the successful Tender is on behalf of a consortium Torbay Council may require the consortium to assume a specific legal form or require joint liability for the execution of the Contract, where this is considered necessary for the satisfactory performance of the

Contract.

The information provided by Applicants will be relied upon to be true and accurate and will form part of the Contract with the successful Applicant. **Please Note:** If any of the information provided by an Applicant is found to be inaccurate the Applicant may be excluded from further participation in this or any future Tender issued by Torbay Council and could lead to termination of any resultant Contract.

In submitting a response Applicants will be confirming to Torbay Council that:

- (a) they have satisfied themselves of the accuracy and viability of all prices or rates stated within their response;
- (b) all prices or rates quoted will (unless otherwise provided for in the Contract) cover all of the Applicant's obligations under the Contract;
- (c) they have obtained all of the necessary information in relation to risks, contingencies or any other circumstances which reasonably influence or affect their bid;
- (d) their Tender is accurate and sufficient.

Torbay Council may, at its absolute discretion, extend the closing dates and times by amending the Tender on ProContract. Prospective Applicants will receive notification of the change of submission date and time. Unless any such extension has been granted, Tenders submitted after the submission dates and times will not be considered.

Torbay Council may, at its sole discretion, terminate the tendering procedure at any time. If such action is taken, Applicants will be notified through ProContract.

Torbay Council reserves the right to restart or abandon the Tender process where the lowest price submitted exceeds its estimate or available budget.

The Applicant's offer shall remain open for acceptance for a period of 6 months from the closing date and may be extended by mutual agreement.

Please Note: if the successful Applicant does not accept the Terms and Conditions as drafted Torbay Council reserves the right to withdraw the Contract award and class the submission as non-compliant.

Any acceptance of the Tender by Torbay Council will be communicated in writing to the Applicant and upon that acceptance the Contract shall become binding on all parties. Prior to issuing the Contract the successful Applicant may be required to provide evidence, including but not limited to, the accuracy of their self-assessment within Part 4 Selection Questionnaire and compliance with any Contractual requirements, such as insurances, disclosure and barring service checks and policies and procedures.

Please Note: If the successful Applicant is unable to provide this evidence Torbay Council reserves the right to withdraw the Contract award and class the submission as non-compliant.

The successful Applicant will not be allowed to commence performing the Contract prior to the formal Contract Documents being signed by both parties, unless written agreement to do so has been given by Torbay Council's Legal Service.

E Glossary

E1 Tender Documents

The following Documents, together with the Appendices and Links at E2 below, form the tender Documents:

Document	Purpose	For Completion and Submission
Part 1 Information	Contains information on the procurement process and instructions on how it will be conducted.	No
Part 2 Specification	Contains Authority's requirements in relation to the goods, services or works being procured.	No
Part 3 Certificates and Declarations	Contains the Certificates and Declarations to which all Applicants must conform.	Yes
Part 4 Selection Questionnaire	Contains the Selection Questions and may include the requirement for Applicants to provide some on-line responses.	Yes
SQ Part 1 and 2 Declaration	Contains the Part 1 and Part 2 of the Selection Questionnaire, which must be completed by any organisations the Applicant relies on to meet the selection criteria. This document must be submitted by the Applicant on their behalf.	Yes, if applicable
Part 5 Award Questionnaire	Contains the Award Questions and may include method statements and/or technical questions.	Yes
Part 7 Pricing Criteria	Contains the Applicant's pricing proposals for this Tender.	Yes
Terms and Conditions of Contract	Contains the terms and conditions under which the resultant Contract will operate	No

E2 Appendices and Links

E2.1 Appendix A ProContract User Guide

E2.2 Appendix K Policy, Procedure and Plan Requirements

E2.3 Selection Questionnaire – List of Mandatory and Discretionary Exclusions:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

E2.4 Selection Questionnaire – EU Definition of an SME:

<http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/>

E2.5 Selection Questionnaire – PSC Guidance:

<https://www.gov.uk/government/publications/guidance-to-the-people-with-significant-control-requirements-for-companies-and-limited-liability-partnerships>

E3 Definitions

Term	Definition
Torbay Council	The Contracting Authority
Applicant	An organisation that may respond to this Tender.
Authority Authorised Representative	The Officer leading the Tender process on behalf of Torbay Council who may be responsible for managing the resultant Contract.
Award	The process by which Torbay Council will determine the successful bidder in accordance with <i>Regulation 67 Contract award criteria</i> of the Public Contracts Regulations 2015.
Award Questions	The written response submitted by the Applicant to evidence their ability to meet Torbay Council's requirements, which will form part of the evaluation process upon which award of the Contract will be based.
Bidding Model	The Applicant's proposals relating to any consortia or sub-contracting arrangements that will be put in place in order to deliver the Contract.
Call for Competition	The Notice published on Find a Tender and Contracts Finder.
Confidential Information	Any information or Documents which Torbay Council considers to be confidential in nature and which will only be made available to Applicants who sign and submit a Confidentiality Agreement.
Consortia/Consortium	Two or more persons, at least one of whom is an economic operator, acting jointly for the purpose of being awarded a public contract in accordance with <i>Regulation 19 Economic operators</i> of the Public Contracts Regulations 2015.
Contract Term	The length of the Contract including extensions, if available.
Contracting Authority	Torbay Council and any other Authority on whose behalf Torbay Council may be working.

Term	Definition
Contractor, Provider or Supplier	The Applicant awarded the Contract culminating from an offer to supply accepted by Torbay Council.
Documents	All of the tender Documents in relation to this Tender.
Eligible Users	Any organisation given access to the Contract resulting from this Tender.
Evidence	The provision of examples, facts, data, case studies or other such information that will validate or support statements made in an Applicant's response in order to demonstrate they have the relevant ability, skills, resource and quality measures required to meet the Council's requirements.
Lead Applicant	The organisation leading the bidding process on behalf of its consortia or sub-contractor partners.
Lot	One of a number of categories of goods or services into which a single procurement process has been divided. The use of lots potentially allows for multiple providers to be appointed following a single procurement process.
Messaging Facility	The area within ProContract where Applicants submit clarification questions and Confidentiality Agreements during the tender process and through which Torbay Council will post its replies.
Official Purchase Order	Torbay Council's Official Purchase Order, to which these conditions apply.
ProContract	The e-tendering portal through which Torbay Council advertises opportunities and conducts Tenders.
Price Review Mechanism	The mechanism that will be used during the life of the Contract to review and vary the price.
Procurement Representative	The Procurement Officer who is leading the procurement process on behalf of Torbay Council.
Public Contracts Regulations	The UK legislation concerning public procurement, which can be found at: www.legislation.gov.uk .

Term	Definition
Relevant Tax Authority	The organisation responsible for administering tax policy in the country in which the Applicant's organisation is established.
Standstill	<p>The period, as set out in Regulation 87 of the Public Contracts Regulations 2015, immediately following notification of the award decision to Applicants during which Torbay Council must not enter into the Contract; or</p> <p>The period, following the publication of a Voluntary Ex Ante Transparency (VEAT) Notice notifying the outcome of a negotiated procedure without prior publication, during which Torbay Council must not enter into the Contract.</p>
Supplying the South West	Means the same as ProContract.
Tender	<p>The invitation to bid for this Contract; and / or</p> <p>The Applicant's response to this tender opportunity.</p>
Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE)	The regulations which govern how employers must deal with transfer of staff when a service or business changes hands from one employer to another in order to ensure the principal terms of employees' rights are protected.
Variant Bids	A response to this tender in which the Applicant proposes innovative or alternative approaches to meeting the Council's minimum and mandatory requirements. All variant bids must be capable of being assessed in accordance with the stated evaluation criteria and must be accompanied by a non-variant tender.