Part 1 Information

Contract Reference

TCORP2119

Contract Title

Re-opening of Torbay Council Standing List for

Lot 2 – Approved Social Worker Agency Providers

2020-2024

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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

1 Availability of the Tender Documents

In order to give potential Applicants unrestricted, full, direct and free of charge access to the Tender Documents (***the Documents***) Torbay Council is providing the Documents in PDF format in the Opportunities Area of the Supplying the South West e-Tendering portal (***ProContract***).

In order to access amendable versions of the Documents and to submit a response Applicants must be registered on ProContract. Applicants should then register an interest to access the opportunity, download the Documents for completion and submit a response.

For details on how to register, access an opportunity and submit a response refer to Appendix A ProContract User Guide.

2 Procurement Information

2.1 Background Information

Torbay Council currently utilises its new Standing List of Approved Temporary Agency Staff Providers for both Approved Temporary Agency Staff Providers and Approved Social Worker Agency Providers.

This is the first re-opening opportunity, since the Standing List commenced on 03 January 2020.

The purpose of this retender process is to identify successful Providers who will be selected for a place on the new Standing List for Lot 2 - Approved Social Worker Agency Providers only.

Only those Applicants who meet the Authorities minimum requirements, by passing all of the Pass/Fail criteria and achieving an appropriate score will be placed on the Standing Lists There is no limit to the number of Providers that will be selected to join the List.

The Standing List provides no guarantee of any work to the Provider. The Standing List contains only a list of Providers who are pre-qualified to put forward Candidates for a temporary position, when the need arises.

When a new requirement for an Agency Worker arises, all Providers on the Standing List for Lot 2 - Approved Social Worker Agency Providers, will be invited to put forward Candidate's for the available temporary position and the selection will be based upon an

assessment of the Candidate's CV and the outcome following an interview undertaken by the Authority.

The new Standing Lists will be opened every 12 months as a minimum, to enable new Providers to apply to join either of the Lists. New Applicants will have to follow the same Tender process in order to be selected for a place on the Standing List.

The Council reserves the right to re-open the Standing List at any time during the life of the Agreement if it is determined there is insufficient capacity to meet recruitment needs or where a specialist requirement not covered by the existing suppliers is identified.

PLEASE NOTE: Torbay Council will be re-opening the Standing List for Lot 1 (Approved Temporary Agency Staff Providers) at a later date, as due to the current Coronavirus (COVID-19) pandemic, the Council does not currently have the staff resource to open both Lots 1 and 2.

2.2 Minimum and Mandatory Requirements

Applicants must be able to demonstrate they will meet any Minimum and Mandatory Requirements set out within Part 3 Specification for the whole term of this Contract.

2.3 Contract Period

The Standing Lists for Lot 2 commenced on 03 January 2020 for a period of up to four (4) years, or until the end of the allocated budget, 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.

The Standing Lists for Lot 2 will be opened every 12 months to enable new Providers to apply to join the Lists. New Applicants will have to follow the same Tender process in order to be selected for a place on the Standing List.

2.4 Division of Standing List into Lots

This Contract is being divided into Lots as follows:

Lot 1 - Approved Temporary Agency Staff Providers

The Authority requires Agency Providers that are able to supply for temporary (Professional and other roles) positions. The types of positions that will typically be requested are listed below:

- Accountant
- Barrister
- Business Support Officer
- Customer Services Advisor
- Environmental Health Officer
- Finance Officer
- Housing Options Officer
- Human Resources Advisor
- Hut Moving Crew (Beaches)

- Legal Officer
- Parking Services Manager
- Payroll Officer
- Planning Officer

Applicants should note that this is not an exhaustive list of the roles that may be required to be filled during the life of the Contract.

Lot 2 - Approved Social Worker Agency Providers

The Authority requires Agency Providers that are able to supply:

- Service Manger
- Head of Service
- Social Worker
- Experienced Social Worker
- Specialist (Advanced/Consultant) Social Worker
- Assistant Team Manager
- Team Manager/Independent Reviewing Officer

Applicants should note that this is not an exhaustive list of the roles that may be required to be filled during the life of the Contract.

PLEASE NOTE: This Retender opportunity is for Lot 2 (Approved Social Worker Agency Providers) only. Torbay Council will be re-opening the Standing List for Lot 1 (Approved Temporary Agency Staff Providers) at a later date, as due to the current Coronavirus (COVID-19) pandemic, the Council does not currently have the staff resource to open both Lots 1 and 2.

2.5 Charge Rate

Lot 2 - Approved Social Worker Agency Providers

With reference to the Pricing for Lot 2 – Approved Social Worker Agency Providers, due to the market conditions of providing Social Care Agency Workers, it has been decided that set per-hour Pay Rates will be paid for each type of Social Worker provided. This set Pay Rate will be the same for every Agency Provider on the Social Worker Standing List. Please refer to Part 5 Pricing for further information.

It is a Mandatory requirement that Applicants agree to be paid these set Pay Rates, in co-operation with the Memorandum of Co-Operation.

For Lot 2 only, Charge Rates will be negotiated on an individual basis. But Applicants must also please state what their charge rates will be for each post detailed within Lot 2 Pricing Schedule. This must be expressed as a percentage figure of the Pay Rate per Hour.

Charge Rate variation during the term of the Contract will be by negotiation only.

Any price variations will not take effect until they have been mutually agreed by both parties in accordance with the *Change Control Procedure* at Schedule 11 of the Standing List Agreement.

2.6 Variant Bids

The Authority will not consider variant bids.

2.7 Revised Procurement Timetable

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

Procurement Stage	Dates
Tender Documents Published	Monday 30 March 2020
Clarification Question Submission Deadline	Tuesday 21 April 2020 by 5:00pm
Clarification Responses Deadline	Thursday 23 April 2020
Tender Submission Date & Time	Thursday 30 April 2020 no later than 12:00 noon
Evaluation Period	Friday 01 May – Friday 15 May 2020
Standing List Award Notification	Tuesday 19 May 2020
Standstill Period	-
Standing List Start (Standing List has already commenced)	Friday 03 January 2020

Torbay Council reserves the right to change the above timetable and Applicants will be notified accordingly if there is a change.

2.8 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:

Lot 2 - Debbie Harkness - Assistant Business Manager, Children's Services

Procurement Representative:

Lawrence Brown Procurement Category Lead

3 Procurement Process

3.1 Procurement Procedure

Torbay Council is inviting expressions of interest and Bids from Applicants in response to the OJEU Contract Notice identification number 2019/S 159-392832 dated 20 August 2019. This Procurement is being undertaken following the Open Procedure as outlined

within the Directive (2014/24/EU) and implemented in the United Kingdom by The Public Contracts Regulations 2015 (SI 2015/102).

3.2 Stage One Selection

3.2.1 In completing Part 3 Selection Questionnaire, Applicants should not assume that Torbay Council has any prior knowledge of the Applicant, its practice, reputation or its involvement in existing services, projects or procurements. In evaluating Part 3 Selection Questionnaire, except as set out in 3.2.2 below, Torbay Council will only consider information provided in the response to the SQ.

3.2.2 Notwithstanding 3.2.1, Torbay Council may take account of any prior knowledge it has of the Applicant, its practice, reputation or its involvement in existing services, projects or procurements to the extent that such knowledge indicates that information contained in the Applicant's SQ submission is false, misleading or inaccurate.

3.2.3 Qualitative Selection

Torbay Council will use a Qualitative 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 3 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 Selection Questionnaire, Part 4 Award Questionnaire, Part 5 Pricing AND Part 6 Certificates and Declarations.

Torbay Council will then assess Part 3 Selection Questionnaire responses to ascertain that its minimum pass/fail requirements have been met. The pass/fail criteria is set out in 3.2.5 below.

3.2.4 European Single Procurement Document

In accordance with Regulation 59 of the UK Public Contract Regulations 2015 and EU Implementing Regulation 2016/7 Applicants may submit an XML version of the ESPD in place of Parts 1 and 2 of Part 3 Selection Questionnaire, but must complete and submit Part 3 of Part 3 Selection Questionnaire.

3.2.5 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 3 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
Section 1 Contact Details and Declaration	This section will be assessed on the basis of pass or fail. The Applicant must fully complete this section.		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. 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.		Pass	Pass

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	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.			
Section 3 Grounds for Discretionary Exclusion	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. 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
Part 3 Selection Questions	**Torbay Council may exclude any Applicant who fails part or all of this section.**			
Section 4 Economic and Financial Standing	This will be assessed on the basis of pass or fail. The Applicant must demonstrate that they meet the requirements of this section in order to pass it in its entirety. **Assessment of Suitable Financial Standing** **Question 4.1** – where the Applicant has indicated that they will provide the requested documentation i.e. they have answered 'Yes', to one or more of the options listed and have provided the financial information indicated in their response, the response will be deemed a pass. Where the Applicant has responded 'No' or has not provided the financial information they have indicated they will provide, the response will be deemed a fail. Torbay Council may give the Applicant the		Pass	Pass

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	opportunity to submit any missing financial information where it is considered this will not afford the Applicant any unfair advantage. **Question 4.2(a)** – the Applicant is required to indicate whether their annual turnover for the previous 2 financial years is a minimum of twice the Annual Standing List Value of: • Approved Temporary Agency Staff Providers: £365,045.00[1]. • Approved Social Worker Agency Providers: £3,105,000.00[1]. **Please note:** Torbay Council is working to reduce its Agency Staff Provider spend, so it cannot be assumed that future spend through either Standing List will be similar to the figures above. A 'Yes' response will be considered to be a pass and a 'No' response a fail. **Overall Assessment of Section 4** Where an Applicant has failed question 4.1 and/or question 4.2(a) Torbay Council will consider the information provided at 4.2(b) before determining whether the Applicant has failed this section in its entirety. Where the Applicant has provided sufficient information or assurance at 4.2(b) they will pass this section. Where an Applicant fails this section they will be deemed to have failed this stage in its entirety, their submission will not be evaluated further and they will be notified			

[1] The annual contract value is defined as the minimum anticipated spend over the life of the contract divided by the length of the contract, including any extensions.

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	accordingly. **Due Diligence** As part of the pre-award due diligence process, an appraisal will also be undertaken on the winning Applicant's submission. Torbay Council will undertake an assessment of the circumstances of the Contract and the Applicant, which may include the following approach: • A broad financial appraisal of the Applicant will be undertaken to determine financial capacity, health and dependency. This appraisal will 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 Credit Reporter 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.			

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
Section 5 Further Details in Relation to Applicants who are Part of a Wider Group	This section is for information purposes and will not be assessed, other than for checking that it has been completed where applicable.		N/A	N/A
Section 6 Technical and Professional Ability – Relevant Experience and Contract Examples	This section will be assessed on the basis of pass or fail. The Applicant must demonstrate they have relevant experience in delivering similar requirements, or are able to explain why they are unable to provide a minimum of one example.		Pass	Pass
Section 7 Requirements under the Modern Slavery Act 2015	This section will be assessed on the basis of pass or fail. The Applicant must demonstrate they meet the requirements, if applicable.		Pass	Pass
Section 8 Insurance	This section will be assessed on the basis of pass or fail. The Applicant must demonstrate they meet all the requirements.		Pass	Pass
Section 8 Project Specific Questions to Assess Technical and Professional Ability – Mandatory Pass / Fail Requirements	Question 8.2 a) of this section will be assessed on the basis of pass or fail. Question 8.2 b) will be scored will be scored in accordance with section 3.4.2, below. The minimum score in order to achieve a Pass for this question is 3/5. If an Applicant's score for this question does not achieve 3/5, their Tender Submission will be rejected and not evaluated further and they will be informed accordingly. The Applicant must demonstrate they meet all the requirements.		Pass Pass	Pass Minimum score of 3/5

Please Note: The Applicant must submit a completed SQ Part 1 and 2 Declaration for each organisation that it relies on to meet the selection criteria (including parent companies, affiliates, associates, or essential subcontractors). SQ Part 1 and Part 2 Declarations will be assessed in accordance with the criteria above.

3.3 Stage Two Award

Torbay Council will only evaluate the Stage Two submissions of those Applicants who have satisfied the requirements of Stage One Selection and meet any mandatory requirements for Stage Two.

Applicants are required to complete and submit Part 3 Selection Questionnaire, Part 4 Award Questionnaire, Part 5 Pricing and Part 6 Certificates and Declarations.

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

3.3.1 **Award Evaluation**

The Award criteria have been designed to assess the Most Economically Advantageous Tender (MEAT) and the top scoring Applicant will be considered to have been successful.

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
Part 4 Award Questionnaire and Part 5 Pricing Submission		**100%**		**%**
Applicable to Lot 2 only - Approved Social Worker Agency Providers				
Mandatory Criteria	The questions within this section will be assessed on the basis of pass or fail. Torbay Council may exclude any Applicant who fails this section.		Pass	Pass
Technical Questions	The questions within this section will be assessed on a scoring basis.		100.00%	50.00%
Pricing	The Pricing within this section will be evaluated will be assessed on the basis of pass or fail.		Pass	Pass

Stage Two Award	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	Torbay Council may exclude any Applicant who fails this section.			

3.4 Scoring Methodology

3.4.1 Pass/Fail

Evaluation criteria assessed on a pass/fail basis are those where meeting the requirement is essential to Applicant's ability to deliver the Contract. 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 questions they will be deselected from participating further in the process and will be notified accordingly.

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

- within their responses to the Award questions; or
- during due diligence prior to contract award.

If the Applicant does not evidence 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.

3.4.2 Zero to Five Scoring

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

Score 5	**Excellent**	**Exceeds the requirement**. Exceptional demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract. Response identifies factors that will offer significant added value and/or innovation, with evidence to support the response.

Score 4	**Good**	**Satisfies the requirement with minor additional benefits**. Above average demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract. Response identifies factors that will offer potential added value, with evidence to support the response.
Score 3	**Acceptable**	**Satisfies the requirement.** Adequate demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract, with sufficient evidence to support the response.
Score 2	**Minor Reservations**	**Minor reservations on the Applicant's ability to satisfy the requirement.** Some minor reservations of the Applicant's relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract, with little or no evidence to support the response.
Score 1	**Serious Reservations**	**Major reservations on the Applicant's ability to satisfy the requirement.** Considerable reservations of the Applicant's relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract, with little or no evidence to support the response.
Score 0	**Unacceptable**	**Does not meet the requirement.** Does not comply and/or insufficient information provided to demonstrate that the Applicant has the ability, understanding, experience, skills, resource & quality measures required to deliver the Contract, with little or no evidence to support the response.

The scoring system is based on the Applicant's ability to fully satisfy the requirement and provide 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.

Please Note: Where an Applicant's response is considered not to satisfy the requirement and/or adequately demonstrate the ability to deliver the Contract 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 requirement, demonstrate to a high level they have the relevant ability, understanding, experience, skills, resources and quality measures in place and/or offer added value or innovative solutions.

Scoring Example:

Applicant	Assessment	Score
Applicant A	Fully satisfies the requirement and provides sufficient evidence to demonstrate their ability to deliver the contract	3
Applicant B	Fully satisfies the requirement, provides sufficient evidence to demonstrate their ability to deliver the contract and offers some potential added value.	4
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.	2
Applicant D	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

a) The Requirement

Applicants will be initially assessed against all of the requirements within Part 2 Specification.

3.4.3 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.

Scoring Example:

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

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%

4 Tender Requirements

4.1 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.

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.

4.2 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 of 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.

4.3 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 necessary the Tender Submission deadline will be extended to enable Applicants time to take these changes into account.

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.

4.4 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.

Where post tender clarification results in substantial modification to the Contract Torbay Council reserves the right to restart or abandon the Tender process.

Please Note: Failure to respond to post tender clarification questions in a timely manner may result in the Applicant's Tender being rejected.

4.5 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.

4.6 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) 6 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) where a word or page limit has been set any portion of the response which exceeds that limit will not be evaluated;
(g) supporting documents / appendices will only be evaluated where these have been permitted within the response;
(h) appendices, where permitted, must be clearly referenced within the response;
(i) where a question does not apply to an Applicant they should clearly state N/A in the response section;
(j) 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;
(k) do not make any assumptions about your past or current supplier relationship with Torbay Council or to assume that such prior relationships will be taken into account in the evaluation procedure;
(l) all Documents must be completed in full 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 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.

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 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. Applicants cannot reserve the right to comment or negotiate on them at a later date.

4.7 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 Procurement Team.

4.8 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's price exceeds Torbay Council's declared budget;
(d) 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;
(e) 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); or
(f) 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.

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

(a) the price has been assessed as being abnormally low (see 4.9);
(b) it is considered by Torbay Council to be incomplete (see 4.10) or vague;
(c) it is not in accordance with the required format;
(d) the Applicant alters the Documents in any way or misrepresents itself in terms of any previous information provided;
(e) the Applicant does not respond to post tender clarification questions in a timely manner;
(f) the tender has been qualified in any way; or
(g) it is in breach of any condition contained within it.

4.9 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.

4.10 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.

4.11 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 accepted Tenders which meet all of the mandatory requirements as set out within the Documents.

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, whether this is to award or not to award the Contract. 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.

4.12 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 Torbay Council will require the successful Applicant to provide evidence of 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.

5 Glossary

5.1 Tender Documents

The following documents, together with the Appendices and Links at 5.2 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 Selection Questionnaire	Contains the Selection Questions and may include the requirement for Applicants to provide some on-line responses.	Yes
Part 4 Award Questionnaire	Contains the Award Questions and may include mandatory requirements, method statements and/or technical questions.	Yes
Part 5 Pricing	Contains the Applicant's pricing proposals for this Tender.	Yes
Part 6 Certificates and Declarations	Contains the Certificates and Declarations to which all Applicants must conform.	Yes
Terms and Conditions of Contract	Contains the terms and conditions under which the resultant Contract will operate	No Applicants are required to confirm acceptance as part of their response

5.2 Appendices and Links

5.2.1 Appendix A ProContract User Guide;

5.2.2 Appendix B Acceptable Behaviour Policy;

5.2.3 Appendix C Drivers Policy;

5.2.4 Appendix D Disclosure and Barring DBS Policy;

5.2.5 Appendix E Eligibility to Work in the UK;

5.2.6 Appendix F Fluency Duty Guidance;

5.2.7 Appendix G Recruitment Policy;

5.2.8 Appendix H References Policy and Guide (May 2018);

5.2.9 Appendix I Agency Worker Booking Form;

5.2.10 Appendix J Usage Report;

5.2.11 Appendix K Example Job Descriptions (folder) for Lot 2 – Approved Social Worker Agency Providers;

5.2.12 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

5.2.13 Selection Questionnaire – EU Definition of an SME:

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

5.2.14 Selection Questionnaire – PSC Guidance:

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

5.3 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 will be responsible for managing the resultant Contract.
Award	The process by which Torbay Council will determine the successful bidder in accordance with *Regulation 67 Contract award criteria* 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 Contract Notice sent electronically for publication in the Official Journal of the European Union .
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 *Regulation 19 Economic operators* 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	The Applicant awarded the Contract culminating from an offer to supply accepted by Torbay Council.
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.
Documents	All of the tender documents in relation to this Tender.
Eligible Users	Any organisation given access to the Contract resulting from this Tender.
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.
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.
Relevant Tax Authority	The organisation responsible for administering tax policy in the country in which the Applicant's organisation is established.
Standstill	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.

Term	Definition
Supplying the South West	Means the same as ProContract.
Tender	The invitation to bid for this Contract; and / or The Applicant's response to this tender opportunity.
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.