

TORBAY COUNCIL

Part 1 Information

Contract Reference

TCORP1920

Contract Title

Occupational Health Services

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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 Procurement Information

1.1 Background Information

This procurement is for Occupational Health Services for Torbay Council and is being undertaken as a Further Competition, Calling-Off from the ESPO Framework 985 – Occupational Health Services (utilising Lot 1 – General Occupational Health Services).

This service is required for the Authority's directly employed staff, wholly owned companies (including South West Infrastructure Services Company Limited (SWISCo)) and also customers of the Authority such as Schools, Academies, and other third party organisations who purchase Human Resources (HR) services from the Authority, through a Service Level Agreement.

South West Infrastructure Services Company Ltd referred to as SWISCo throughout these documents are a wholly owned company of Torbay Council and deliver several statutory services on their behalf as well as undertaking some commercial activities. SWISCo employs in the order of 260 front line personnel delivering the services and a further 40 managerial and back office staff.

The services include, amongst others, waste and recycling collections, highway works, parks, gardens and open spaces maintenance, street cleansing and motor vehicle maintenance. These services all include several hazards that require health surveillance as well as professional drivers requiring statutory medicals.

The role of the Occupational Health Service provider will be to provide advice, support and recommendations on a range of Occupational Health Services to management and staff. These services will include pre-employment screening, medical referrals, capability/ill health retirement assessments and the provision of health surveillance.

It is presumed that the successful Applicant will be providing the majority of appointments via the telephone, or via a virtual platform such as Zoom or Microsoft Teams. There may be occasional requirements for the Authority to specifically request a fact to face appointment. However, with regards to SWISCo, there is a specific requirement for their staff which will require face to face consultations, as outlined in the Part 2 Specification Occupational Health Services – for South West Infrastructure Services Company Ltd (SWISCo).

1.2 Mandatory Requirements

Applicants must be able to demonstrate they will meet any Mandatory Requirements set out in the Part 2 Specifications (for Core Council use and for use by South West Infrastructure Services Company Limited (SWISCo), who are a wholly owned company of Torbay Council) for the whole term of this Contract.

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1.3 Contract Period

It is anticipated that the Contract will commence on 04 January 2021 or at date to be agreed for a period of 2 years and may be extended for a period of up to 2 further year(s) 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.

1.4 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.

1.5 Contract Price

1.5.1 Budget

The maximum contract value for the initial period of the contract for both Core Council and SWISCo requirements is as follows:

Core Council: £100,000.00

SWISCo: £40,000.00

The maximum value allowed for year one is £70,000.00

The maximum total permissible value for years 1 and 2 cannot exceed £140,000.00

Please Note: Where the Total Price for the following:

- a) Pre-employment Health Screening;
- b) Management Referrals (based on 1 hour and ¾ hour appointment slots)

(for both Council and SWISCo) exceeds this budget the Applicant will be deemed to have failed this section of the process and will not be evaluated further.

1.5.2 Price Review

Should the Contract be extended after the initial 2 year period, the price will be reviewed using the following mechanism:

RPI.

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 9 of the Contract.

1.6 Procurement Timetable

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

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Procurement Stage	Dates
Tender Documents Published	Wednesday 04 November 2020
Clarification Question Submission Deadline	Wednesday 18 November 2020
Clarification Responses Deadline	Monday 23 November 2020
Tender Submission Date & Time	Monday 30 November 2020 no later than 12:00 noon
Evaluation Period	Tuesday 01 – Wednesday 09 December 2020
Contract Award Approval	Thursday 10 December 2020
Contract Award Notification	Friday 11 December 2020
Standstill	Monday 14 December – Wednesday 23 December 2020
Contract Start	Monday 04 January 2021

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

1.7 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:

Jane May, HR Officer, Policy, Organisational Development and Wellbeing.

Paul Reynolds, Occupational Health, Safety and Environment Officer, SWISCo

Procurement Representative:

Lawrence Brown, Procurement Officer

1.8 Site Visit

Torbay Council does not propose to undertake formal site visits. Applicants may visit the sites prior to completing their offer to ensure they are fully familiar with the site locations. Claims on the grounds of lack of knowledge of site locations/conditions will not be accepted by Torbay Council.

2 Procurement Process

2.1 Procurement Procedure

This procurement is being undertaken following a Further Competition process in accordance with the Directive (2014/24/EU) and implemented in the United Kingdom by the Public Contracts Regulations 2015 (SI 2015/102).

The Authority intends to conduct a Further Competition process, utilising ESPO Framework 985 – Occupational Health Services (Lot 1 – General Occupational Health Services) to obtain the Services required.

2.2 Award

Torbay Council will only evaluate the Tender submissions of those Applicants who meet any mandatory Pass/Fail requirements.

Applicants are required to complete and submit 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 1.1.1 below.

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2.2.1 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.

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 score on Pricing.

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				
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
Total Score Available (MEAT)		100%		%
Quality				
Method Statements	The questions within this section will be assessed on the zero to five scoring basis.	40.00%		20%
Technical Questions	The questions within this section will be assessed on the zero to five scoring basis.	17.00%		8.5%
Social Value				

Stage Two Award	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
Qualitative	The questions within this section will be assessed on the zero to five scoring basis.	3.00%		N/A
Price				
<p>Combined Pricing – for services for Core Council and SWISCo</p>	<p>The questions within this section will be assessed on the comparative scoring basis.</p> <p>The Pricing evaluation will be based on Occupational Health Services for Core Council and SWISCo, as follows:</p> <p>Applicants must submit all required costs within Part 5 Pricing Submission. The Pricing evaluation for Core Council and SWISCo will be calculated by adding together the Total prices (the unit cost multiplied by numbers per annum within the last 12 months) as detailed within Part 5 Pricing Schedule, as follows:</p> <ul style="list-style-type: none"> • Unit Cost per Pre-employment Health Screening • Unit Cost per Appointment (based on a 1 hour appointment slot only. (Please refer to Part 5 Pricing Schedule)); • Unit Cost per Appointment (based on a 3/4 hour appointment slot only. (Please refer to Part 5 Pricing Schedule)); <p>to provide a 'Grand Total' Core Service Costs Annual Price for the Service (within Cell I51). Please note that the Total Costs will automatically calculate.</p>	40.00%		N/A

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Stage Two Award	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	<p>Applicants with the lowest 'Grand Total' 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.</p> <p>Applicants must not alter or amend the format of the spreadsheet in any way and must submit it as an Excel document.</p>			

2.3 Scoring Methodology

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

2.3.1 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.

2.3.2 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	The 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.

2.3.3 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.
- 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:

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

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%

3 Tender Requirements

3.1 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.

3.2 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.

Torbay Council will not negotiate on or 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.

3.3 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.

3.4 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.

3.5 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.

3.6 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.

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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.

3.7 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 response 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

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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.

3.8 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 3.9);
- (b) it is considered by Torbay Council to be incomplete (see 3.10) 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.

3.9 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

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Finance section.

3.10 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.

3.11 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.

3.12 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.

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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

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the formal Contract documents being signed by both parties, unless written agreement to do so has been given by Torbay Council's Legal Service.

4 Glossary

4.1 Tender Documents

The following documents, together with the Appendices and Links at 4.2 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 – Core Council	Contains Authority’s requirements in relation to the goods, services or works being procured.	No
Part 2 Specification - SWISCo	Contains SWISCo’s requirements in relation to the goods, services or works being procured.	No
Appendix C - ESPO 985_19 Specification	Contains the ESPO Framework 985 Specification requirements – <i>to be read in conjunction with both Part 2 Specification documents.</i>	No
Part 3 Selection Questionnaire	Not Used	N/A
SQ Part 1 and 2 Declaration	Not Used	N/A
Appendix A – ProContract User Guide	Contains user guidance for the ProContract system. – <i>for reference purposes only.</i>	No
Appendix E - Torbay Council Corp Health & Safety Policy	Contains Torbay Council’s Health & Safety Policy – <i>for reference purposes only.</i>	No
Part 4 Award Questionnaire	Contains the Award Questions and may include mandatory requirements, method statements and/or technical questions.	Yes

Document	Purpose	For Completion and Submission
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
Appendix B - CESG Cloud Info Security Questionnaire	Contains CESG Cloud Info Security Questionnaire.	Yes <i>(for Applicants who are offering a Cloud-based service)</i>
Appendix D - Data Processing Agreement	Contains Torbay Council's Data Processing Agreement.	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

4.2 Appendices and Links

4.2.1 Appendix A ProContract User Guide;

4.2.2 Appendix B CESG Cloud Info Security Questionnaire - *for all Applicants who are offering a Cloud-based service to complete, sign and submit with their bid submissions;*

4.2.3 Appendix C ESPO 985_19 Specification – *to be read in conjunction with both Part 2 Specification documents;*

4.2.4 Appendix D Data Processing Agreement – *for all Applicants to complete, sign and submit with their bid submissions;*

4.2.5 Appendix E Torbay Council Corporate Health & Safety Policy.

4.3 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 <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.
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.
Contractor	The Applicant awarded the Contract culminating from an offer to supply accepted by Torbay Council.

Term	Definition
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.
Supplying the South West	Means the same as ProContract.
Tender	The invitation to bid for this Contract; and / or

Term	Definition
	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.