



Part 1 Information

Contract Reference

TCORP1017

Contract Title

**Independent Examination of Torquay,
Paignton and Brixham Peninsula
Neighbourhood Plans**

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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***) the Authority 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, in agreement with the Qualifying Bodies (Torquay Neighbourhood Forum, Paignton Neighbourhood Forum, Brixham Peninsula Neighbourhood Forum), is seeking to procure independent examiners to undertake the examination of each of the submitted Neighbourhood Plans.

Neighbourhood Forums were first designated in 2012, and were re-designated by full Council on 7 December 2017. This is a unique situation, with 100% land coverage of Torbay Unitary Authority across three Neighbourhood Areas with a total population in excess of 130,000 to be examined simultaneously. Each of the Neighbourhood Plans propose land-use allocations/designations.

More information can be found in Part 2 Specification.

2.2 Minimum Requirements

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

2.3 Contract Period

It is anticipated that the Contract will commence on 5th March 2018 or at date to be agreed for the period up until Friday 11th May 2018 and may be extended in rolling one month periods with agreement and subject to sufficient 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.

2.4 Division of Contract into Lots

This Contract is being divided into three Lots, one for each Neighbourhood Plan:

Lot 1 - Torquay

Lot 2 - Paignton

Lot 3 - Brixham Peninsula

Applicants may submit Tenders for one or more Lots. Applicants must indicate on the cover of Part 4 Award Questionnaire which Lot(s) they are applying for. If an Applicant wishes to apply for more than one Lot, this must be indicated on the cover of Part 4 Award Questionnaire, but only one Questionnaire needs to be submitted. However an individual Examiner will be limited to examining one particular Lot only. Therefore organisations bidding for more than one Lot must clearly demonstrate their capacity to provide separate Examiners for each Lot within their Tender Submission.

Contract Award will be based on tender evaluation and preference where possible. However if no Applicants bid for one particular Lot then the Authority reserves the right to allocate that Lot to the second highest scorer from the remaining two Lots in accordance with the example below:

Lot 1 – no bids

Lot 2 – Applicant 1 score 60 – awarded Lot 2

Applicant 2 score 55

Applicant 3 score 52

Lot 3 - Applicant 1 score 65 – awarded Lot 3

Applicant 2 score 59

Applicant 3 score 54

The Authority would allocate the Lot 1 Contract to Lot 3 Applicant 2 following this principle.

2.5 Contract Price

The price offered by the Applicant in Part 5 Pricing must be firm and fixed for the duration of the Contract. The schedule in Part 5 Pricing has been structured to enable pricing to be provided for the whole life of the Contract. Therefore no further price reviews will be available.

2.6 Variant Bids

The Authority will not consider variant bids.

2.7 Procurement Timetable

The Authority proposes the following timetable for the award of the Contract(s):

| Procurement Stage | Dates |
|--|--|
| Tender Documents Published | Monday 8 th January 2018 |
| Clarification Question Submission Deadline | Monday 22 nd January 2018 |
| Clarification Responses Deadline | Monday 29 th January 2018 |
| Tender Submission Date & Time | Monday 5 th February 2018, 12:00 Noon |
| Evaluation Period | 6 th - 16 th February 2018 |
| Contract Award Notification | Monday 19 th February 2018 |
| Contract Meeting (if necessary) | Monday 5 th March 2018 (or a convenient date to be agreed) |
| Contract Start | Monday 5 th March 2018 |

The Authority 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 the Authority 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:

Tracy Brooks – Senior Strategy and Project Officer

Procurement Representative:

Joanna Pascoe – Procurement Category Lead

2.9 Site Visit

The Authority does not propose to undertake formal site visits. Applicants may visit the area 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 the Authority. Where possible, if site visits are anticipated post contract award this should be included within the offer. All site visits shall be assumed to be unaccompanied. Where this is not possible (i.e. site access) all parties shall be notified.

3 Procurement Process

3.1 Procurement Procedure

This Procurement is being undertaken in accordance with the Authority's Contract Procedures and in accordance with the Public Contracts Regulations 2015 (SI 2015/102).

3.2 Stage One Selection

The Authority will use a Qualitative Selection process to test the Applicant's 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 3.4 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.

3.2.1 Online Questionnaire

Applicants should note they may be required to respond to some of the Selection Questions on-line, where this is required details can be found in Part 3 Selection Questionnaire.

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3.2.2 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: | The Authority 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: | The Authority 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. The Authority may exclude any Applicant who answers 'Yes' in any of the situations set out in this section. The Authority 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 |
|---|--|---------------|--------------|-----------|
| Section 3 Grounds for Discretionary Exclusion | This will be assessed on the basis of pass or fail The Authority may exclude any Applicant who answers 'Yes' in any of the following situations set out in this section | | Pass | Pass |
| Part 3 Selection Questions | The Authority may exclude any Applicant who fails part or all of this section. | | | |
| Section 4 Economic and Financial Standing | <p>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.</p> <p>Assessment of Suitable Financial Standing</p> <p>In order to demonstrate they have suitable financial standing to meet the following minimum requirements:</p> <ul style="list-style-type: none"> • The Applicant's annual turnover, for the previous 2 financial years, must be a minimum of twice the Annual Contract Value of £8,000 per examination¹; and • The Applicant must yield a Failure Score of 50 or more on the financial check which the Authority will undertake through the credit management agency DNBi. The credit check relates to the D&B Failure Score which identifies the level of risk of a business failing. Please Note: Unless the Applicant states otherwise the credit check will be carried out using the company registration number given at 1.1(e) of Section 1 Potential Supplier Information. <p>Please Note:</p> | | Pass | Pass |

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 |
|---------------------|---|---------------|--------------|-----------|
| | <ul style="list-style-type: none"> In responding 'Yes' to question 4.2(a) the Applicant is making a self-declaration that they meet the Authority's annual turnover requirement² and giving permission for the financial check to be undertaken. Where the Applicant responds 'No' to question 4.2(a) they must provide details at 4.2(b) or they will be deemed to have failed this section in its entirety. <p>Submissions will be assessed as follows:</p> <ol style="list-style-type: none"> Where the Applicant refuses permission for the credit check to be undertaken they will be deemed to have failed this section in its entirety, their submission will not be evaluated further and they will be notified accordingly. Where the Applicant fails the turnover requirement and the credit check yields a Failure Score of below 30 they will be deemed to have failed this section in its entirety, their submission will not be evaluated further and they will be notified accordingly. Where: <ol style="list-style-type: none"> the Applicant fails the turnover requirement and the credit check yields a Failure Score between 30 and 49; or the Applicant passes the turnover requirement and the credit check yields a Failure Score of below 50; or the credit check does not yield a Failure Score and the Applicant either passes or fails the turnover | | | |

² The successful Applicant may be required to evidence that they meet the turnover requirement.

| Stage One Selection | Evaluation Criteria | Main Criteria | Sub-Criteria | Threshold |
|--|---|---------------|--------------|-----------|
| | <p>requirement;</p> <p>The financial information will be referred to the Authority's Finance Department for further investigation. The Finance Department will make a decision on whether the Applicant's financial standing is deemed suitable to meet the Authority's minimum requirements or not. Applicant's made be contacted to provide the additional financial information stated in question 4.1.</p> <p>Where the Finance Department considers the Applicant's financial standing to be suitable they will be deemed to have passed this section.</p> <p>Where the Finance Department considers the Applicant's financial standing is not suitable they will be deemed to have failed this section in its entirety their submission will not be evaluated further and they will be notified accordingly.</p> <p>Please Note: The Corporate Finance Department's decision is final.</p> | | | |
| 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 | This section will be assessed on the basis of pass or fail. The | | Pass | Pass |

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| Stage One Selection | Evaluation Criteria | Main Criteria | Sub-Criteria | Threshold |
|--|---|---------------|--------------|-----------|
| the Modern Slavery Act 2015 | Applicant must demonstrate they meet the requirements, if applicable. | | | |
| Section 8 Insurance | This section will be assessed on the basis of pass or fail. The Applicant must demonstrate they meet all applicable requirements. | | Pass | Pass |
| Section 8 Project Specific Questions to Assess Technical and Professional Ability – Mandatory Pass / Fail Requirements | This section will be assessed on the basis of pass or fail. The Applicant must demonstrate they meet all applicable requirements. | | Pass | Pass |

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

The Authority 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 3.4 below.

If an Applicant does not achieve a minimum score of 5/10 for each of their Method Statement and Technical Question responses their Tender Submission will not be evaluated further, they will be deemed to have failed this process and they will be informed accordingly.

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% | | % |
| Mandatory Criteria | The questions within this section will be assessed on the basis of pass or fail. The Authority may exclude any Applicant who fails this section. | | Pass | Pass |
| Method Statements | The questions within this section will be assessed on a scoring basis. | | 30% | Minimum score of 5/10 or 15% |

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| Stage Two Award | Evaluation Criteria | Main Criteria | Sub-Criteria | Threshold |
|---------------------|--|---------------|--------------|-------------------------------------|
| Technical Questions | The questions within this section will be assessed on a scoring basis. | | 30% | Minimum score of 5/10 or 15% |
| Pricing | <p>Applicants must submit Part 5 Pricing completed for the following categories and inclusive of Expenses:</p> <p>1) General Examination Day Rate – 30%</p> <p>2) Public Hearing Day Rate – 10%</p> <p>Both scores for the separate categories will be added together to form the Applicant's pricing score.</p> <p>Applicants with 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.</p> | | 40% | |

3.4 Scoring Methodology

Responses will be assessed on the following basis:

3.4.1 Pass/Fail

Where evaluation criteria are being assessed as either a pass/fail, the response will be assessed as either a pass or a fail. Guidance as to the Authority's minimum requirements in relation to what constitutes a pass or a fail can be found within each question.

Should an Applicant fail one or more questions, they will be considered to have failed the Tender process in its entirety and shall be

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deselected from participating further in this process and will be notified accordingly.

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3.4.2 One to Ten Scoring

Where evaluation criteria are being assessed on a scoring basis, a one to ten scoring system will be used in accordance with the guidelines in the table below. The scoring system awards the highest marks to Applicants who show innovation, creativity, further relevant details and information that could potentially enhance the Applicant's proposal. It should be noted that to achieve the highest marks available for the questions you should not only meet but exceed the requirements of the specification.

| | | | |
|----|-----------------------|---|--------------------|
| 0 | No response | No response | |
| 1 | Extremely Weak | Very poor proposal/response; does not cover the associated requirements, major deficiencies in thinking or detail, significant detail missing, unrealistic or impossible to implement and manage | Weak |
| 2 | Very Weak | Poor proposal/response, only partially covers the requirements, deficiencies in thinking or detail apparent, difficult to implement and manage | |
| 3 | Weak | Mediocre proposal/response, moderate coverage of the requirements, minor deficiencies either in thinking or detail, problematic to implement and manage | |
| 4 | Fair - Below Average | Proposal/response partially satisfies the requirements, with small deficiencies apparent, needs some work to fully understand it | Fair - Good |
| 5 | Fair – Average | Satisfactory proposal/response, would work to deliver all of the Authority's requirements to the minimum level | |
| 6 | Fair - Above Average | Satisfactory proposal/response, would work to deliver the majority of the Authority's requirements to the minimum level with some evidence of where the Applicant could exceed the minimum requirements | |
| 7 | Good | Good proposal/response that convinces the Authority of its suitability, response slightly exceeds the minimum requirements with a reasonable level of detail | Strong - Excellent |
| 8 | Strong | Robust proposal/response, exceeds minimum requirements, including a level of detail or evidence of original thinking which adds value to the bid and provides a great deal of detail | |
| 9 | Very Strong | Proposal/response well in excess of expectations, with a comprehensive level of detail given including a full description of techniques and measurements employed | |
| 10 | Outstanding/Excellent | Fully thought through proposal/response, which is innovative and provides the reader with confidence of the suitability of the approach to be adopted due to the complete level of detail provided | |

4 Tender Requirements

4.1 Communication

All communication between the Authority 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: The Authority 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 the Authority on or after the deadline for submission of questions.

The Authority will not negotiate on or 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 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.

The Authority 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 in order to access responses to clarification questions and receive communications from the Authority 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 the Authority'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 the Authority 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 the Authority. 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 the Authority through ProContract. The Authority will then rectify the error or omission and re-issue any amended Documents.

Any Documents considered by the Authority to be of a confidential nature will not be made publicly available. Applicant 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 the Authority's prior written consent.

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

The Authority 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. The Authority 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 the Authority. The Authority 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 form 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 the Authority 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 the Authority'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. The Authority 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. The Authority 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 the Authority 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 the transparency commitments for tenders and contracts and the scope of the Authority'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 the Authority is made aware of any technical issues with ProContract, which may prevent Applicants from meeting the submission deadline, the deadline will be extended.

Where an Applicant decides not submit a Tender the Authority requests this is done by formally 'Opting Out' through ProContract, giving the reasons for non-submission. The Authority 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**](mailto: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, in the presence of an independent Verifier and a member of the Procurement Team.

4.8 Rejection of Tenders

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

The Authority 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 the Authority's declared budget;
- (d) the Applicant has not accepted the Authority's Terms and Conditions. **Please Note:** the Authority 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) the Authority 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.

The Authority 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 the Authority 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 the Authority 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 the Authority'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.

The Authority 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 the Authority'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 the Authority's approval procedure.

The Authority 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.

4.12 Legal and Contracting Arrangements

Information supplied by the Authority as part of the tender process is supplied in good faith and Applicants must satisfy themselves as to the accuracy of such information. The Authority 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 the Authority 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 the Authority and could lead to termination of any resultant Contract.

In submitting a response Applicants will be confirming to the Authority 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 its bid;
- (d) their Tender is accurate and sufficient.

The Authority 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.

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

The Authority 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 the Authority reserves the right to withdraw the Contract award and class the submission as non compliant.

Any acceptance of the Tender by the Authority will be communicated in writing to the Applicant and upon that acceptance the Contract shall become binding on all parties.

Prior to issuing the Contract the Authority 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 the Authority 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 the Authority'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 |
| SQ Part 1 and 2 Declaration | Contains the Part 1 and Part 2 of the Selection Questionnaire, which must be completed by any organisations the Applicant relies on to meet the selection criteria. This document must be submitted by the Applicant on their behalf. | Yes, if applicable |
| Part 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 which all Applicants must conform to. | Yes |
| Terms and Conditions of Contract | Contains the terms and conditions under which the resultant Contract will operated under | No Applicants are required to confirm |

| Document | Purpose | For Completion and Submission |
|----------|---------|--------------------------------------|
| | | acceptance as part of their response |

5.2 Appendices and Links

5.2.1 Appendix A ProContract User Guide

5.2.2 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

5.2.3 Selection Questionnaire – EU Definition of an SME:

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

5.2.4 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 |
|--|---|
| Applicant | An organisation that may respond to this Tender. |
| Authority | Torbay Council. |
| Authority Authorised Representative | The Officer leading the Tender process on behalf of the Authority who will be responsible for managing the resultant Contract. |
| Award | The process by which the Authority 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 the Authority'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 the Authority considers is of a confidential 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 the Authority. |

| Term | Definition |
|-------------------------------------|---|
| Messaging Facility | The area within ProContract where Applicants submit clarification questions and Confidentiality Agreements during the tender process and through which the Authority 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 which a single procurement process has been divided into. The use of lots potentially allows for multiple providers to be appointed following One procurement process. |
| Official Purchase Order | The Authority's Official Purchase Order, to which these conditions apply. |
| ProContract | The e-tendering portal through which the Authority 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 the Authority |
| 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 the Authority 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. |