



## Part 1 Information

### Contract Reference

**TTDA0719**

### Contract Title

**Development Partner for Collaton St  
Mary and Preston Down Road Sites,  
Paignton**

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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 is in receipt of grant funding under the Ministry of Housing, Communities and Local Government (MHCLG)'s Land Release Fund (LRF) to bring forward two sites at Collaton St Mary Paignton (Lot 1) and Preston Down Road, Paignton (2) for residential development. This proposal has the full support of Torbay Strategic Planning.

Additional background available in the Marketing Brief for each Lot.

### 2.2 Land Options

Applicants must submit a response in respect of their proposals for the sites in Appendices 1 and 2.

### 2.3 Development Agreement Period

It is anticipated that the Agreement will commence on 28 May 2020 or at date to be agreed for a period of 5 years and may be extended by 12 months for up to 3 further 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 Council would propose to discuss in Dialogue with Applicants their views about the appropriate duration and programme and reserves the right to amend the procurement documents accordingly.

Torbay Council reserves the right not to award to any party.

## **2.4 Division of Contract into Lots**

This Agreement is being divided into Lots.

### **2.4.1 Lot 1 - Little Blagdon Farm, Collaton St Mary**

Little Blagdon Farm extends to c. 18.38 hectares (45.4 acres) of greenfield land, as shown verged red on the plan provided at Appendix 1. It is allocated as a Future Growth Area for housing in the Local Plan and has been subject to public consultation as part of the adopted Collaton St Mary Masterplan.

The Masterplan indicates delivery of c. 300 housing units within the northern portion of Little Blagdon Farm, extending to approx. 11.38 ha (28.12 acres). The fields to the south, extending to c. 7 ha (17.30 acres) shown as green field land in the Masterplan, are to be set aside for ecological offsetting and enhancement.

### **2.4.2 Lot 2 - Preston Down Road, Paignton**

The Council's ownership at Preston Down Road extends to c. 4.06 hectares (10.03 acres) provided within two separate land parcels to the north (2.11 hectares / 5.21 acres) and south (1.95 hectares / 4.82 acres) of Preston Down Road, as shown verged red on the plan provided at Appendix 2.

Both sites at Preston Down Road are 'identified' in the Torbay Local Plan as potential housing development sites. Torbay Council planning department is in the process of updating the Local Plan to allocate both sites for future housing development. An updated SHLAA is being commissioned and the Local Plan, with the Preston Down Road sites formally allocated, is expected to go to public consultation autumn 2019. We estimate that c. 135 housing units could be accommodated at Preston Down Road.

2.4.3 Applicants may submit Tenders for one, or for both Lots.

2.4.4 Applicants are not limited to the number of Lots they may be awarded.

2.4.5 Applicants must clearly indicate which Lot they are applying for by completing the relevant questions.

## **2.5 Payments for Land Transfer**

### **2.5.1 Land sales**

2.5.2 Financial offers are invited based upon a phased draw down of land parcels upon conditions being met by the development partner. The exact phasing structure will be subject to dialogue during the procurement process.

2.5.3 It is envisaged that the first phase drawn down will be triggered upon satisfaction of contractual conditions within the Development Agreement, namely the payment of land value and grant of an unconditional planning permission. Further land drawdowns will be made at milestones to be agreed however it is envisaged that these will be mid-way through the construction of a preceding phase upon the

satisfaction of conditions around delivery and quality and the further payment of land value.

2.5.4 It is further envisaged that the development partner will be granted a build licence over subsequent but yet to be drawn down phases in order to facilitate any infrastructure works.

#### 2.5.5 **Overage**

2.5.6 Overage proposals are sought from prospective development partners. An appropriately secured overage is sought on the basis of a shared uplift in any development surplus arising from the scheme. Given the grant funding available to the development partner it is essential that a wholly open book process is undertaken. The Council's preference is for an overage proposal linked to increase in net sales values and for the distribution of development surplus to be weighted in the Council's favour.

## 2.6 **Variant Bids**

As this is a Competitive Dialogue process there is no requirement for the inclusion of variant bids and therefore these will not be accepted by Torbay Council. Bids will only be accepted if they are considered to conform to the Council's minimum/mandatory requirements in the Development Agreement/Specification.

Applicants are encouraged to be innovative in their thinking when preparing bids and to provide any suggestions and solutions that provide a more cost effective and value for money solution.

## 2.7 **Procurement Timetable**

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

Procurement Stage	Dates
<b>Stage 1</b>	
Sent Call for Competition	Tuesday 08 October 2019
Stage One Tender Documents Published	Wednesday 09 October 2019
<b>Deadline for Clarification Questions</b>	<b>Friday 25 October 2019 at 12:00 noon</b>
Clarification Responses Deadline	Within 5 working days
<b>Stage One SQ Submission Deadline</b>	<b>Thursday 07 November 2019 at 12:00 noon</b>
Stage One SQ Evaluation Period	07 – 13 November 2019

Moderation & SQ Outcome Notifications & Invitations to Site Visits & both rounds of Dialogue	14 - 15 November 2019
<b>Stage 2</b>	
Site Visits	Mon 25 November 2019
<b>Initial Dialogue Meetings</b>	<b>Mon 02 December – Mon 09 December 2019</b>
Stage Two Invitation to Submit an Outline Solution (ISOS) Published	Friday 13 December 2019
<b>Deadline for Clarification Questions</b>	<b>Friday 03 January at 12:00 noon</b>
Clarification Responses Deadline	Within 5 working days
<b>Stage Two ISOS Submission Deadline</b>	<b>Monday 20 January 2020 at 12:00 noon</b>
Stage Two Evaluation Period ISOS	Tues 21 January 2020 – Monday 10 February 2020
<b>Stage Two 2<sup>nd</sup> Dialogue Meetings</b>	<b>Tue 11 February – Monday 17 February 2020</b>
Stage Two Outcome Notifications and Formal Conclusion of Dialogue	Thursday 20 February 2020
<b>Stage 3</b>	
Stage Three Invitation to Submit a Final Solution (ISFS) Published	Monday 24 February 2020
<b>Stage Three ISFS Submission Deadline</b>	<b>Wednesday 25 March 2020 at 12:00 noon</b>
Stage Three Evaluation Period ISFS	26 March – 08 April 2020
Final Clarification Meetings (if Required)	Mon 20 April – Fri 24 April 2020
Moderation Meeting & Confirmation of Preferred Bidder	Mon 27 April – Thurs 30 April 2020
Final Decision Making and Contract Approval	Friday 01 May – Friday 08 May 2020
Stage Three Outcome Notifications and Award of Preferred Bidder Status	Mon 11 May – Fri 15 May 2020
Standstill Period	Mon 18 May – Weds 27 May 2020
<b>Project Start</b>	<b>Thursday 28 May 2020</b>

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

**Please Note:** Torbay Council has tight timescales for this process in order to comply with the LRF conditions. Applicants must advise the Council of any concerns they may have about the Procurement Timetable during the Stage One Selection stage of this process only. Applicants must ensure their relevant personnel are available for Dialogue on all the relevant dates.

## 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:**

Claire Cushion – Senior Development Surveyor

**Procurement Representative:**

Joanna Pascoe – Procurement Category Lead

## 2.9 Site Visits at Stage 2 (ISOS) only

It is intended that site visits will take place during the period stated in the Procurement Timetable and will be offered to Applicants who have passed the Stage One Selection criteria and received an Invitation to Participate in Dialogue.

It is intended that site visits will take place on Monday 25 November 2019.

Applicants should notify Torbay Council through ProContract, by no later than **Friday 22 November 2019 at 12:00 noon** that they wish to attend the site visits and whether they wish to visit both Lot 1 and Lot 2 sites.

Applicants should provide the name and a telephone number for the individual through whom arrangements for the site visits are to be made. Torbay Council will then contact that individual to arrange a specific time. Applicants will be limited to a maximum of two representatives.

**Please note:** In order to maintain fairness and transparency Applicants are asked not to raise questions with Officers during the site visits, but to submit any questions arising from the site visits through the Messaging facility on the opportunity on [www.supplyingthesouthwest.org.uk](http://www.supplyingthesouthwest.org.uk) only.



## 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 195-473135 dated 09 October 2019. This Procurement is being undertaken following the Competitive Dialogue Procedure as outlined within the Directive (2014/24/EU) and implemented in the United Kingdom by The Public Contracts Regulations 2015 (SI 2015/102).

The Competitive Dialogue Procedure is a staged process meaning that, at Stage One Selection, Torbay Council is able to limit the number of suitable Applicants invited to Stage Two – Invitation to Submit Outline Solutions (ISOS) and is able to further reduce the number of Applicants invited to participate at Stage Three – Invitation to Submit Final Solution (ISFS), by applying the award criteria specified in these tender documents, until such time as a Final Solution is identified.

**Please Note:** Torbay Council reserves the right to repeat Stage Two – Invitation to Submit an Outline Solution (ISOS) as a re-iterative process until it arrives at a point where Applicants have submitted Final Detailed Solutions that achieve the Council's requirements. Should further submission, feedback and dialogue stages be required the tender timetable will be amended accordingly.

### 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 Selection Questionnaire.

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 establish a shortlist of Applicants who will be invited to participate in Dialogue.

The minimum number of Applicants who will be invited to participate in Dialogue following the evaluation at Stage One Selection, will be the 3 highest scoring SQ submissions for each Lot. Torbay Council reserves the right to proceed with fewer than 3 Applicants for each Lot through to Dialogue if the requirements at Stage One Selection are not satisfied by the minimum number of Applicants.

The maximum number of Applicants who will be invited to participate in Dialogue following the evaluation of Stage One Selection will be, for each Lot, the 5 highest scoring SQ submissions in its absolute discretion.

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The Selection stage will 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.

**Please Note:** Applicants applying for both Lots 1 and 2 need only complete Parts 1 and 2 and up to Part 3 section 5 of the Selection Questionnaire for one of the Lots; the information provided will be used to evaluate the Applicant's response for both Lots.

Applicants are required to clearly indicate whether their responses to the remaining questions in Part 3 Selection Questionnaire relate to Lot 1 or Lot 2. Applicants who are applying for Both Lots must complete the questions for Both Lots individually, so that their responses can be evaluated for Both Lots on an individual basis.

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

**In order to pass Section 8 Project Specific Questions to Assess Technical and Professional Ability – Short Listing Questions, Applicants must achieve a minimum score of 50% across all the questions for each Lot applied for.**

**Please Note:** Applicants should submit responses to Part 3 Selection Questionnaire and Part 6 Certificates and Declarations only. All other tender information provided is for **information only** and Applicants will be contacted after the evaluation of Stage One Selection to advise them whether or not they will be invited to proceed to Stage Two – Invitation to Submit Outline Solution (ISOS).

#### 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.

Applicants will need to satisfy the requirements of Stage One in order to receive a formal Invitation to Submit Outline Solution (ISOS) and proceed to Stage Two.

The Council reserves the right at its absolute discretion to take a minimum of 3 and a maximum of 5 highest scoring Applicants through to Dialogue.

For Information

### 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
<b>Part 3 Selection Questionnaire</b>		<b>Pass</b>		<b>Pass</b>
<b>Part 1 Potential Supplier Information, comprising:</b>	<b>Torbay Council may exclude any Applicant who fails part or all of this section.</b>			
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
<b>Part 2 Exclusion Grounds:</b>	<b>Torbay Council may exclude any Applicant who fails this section.</b>			
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	<p>This will be assessed on the basis of pass or fail. Torbay Council may exclude any Applicant who answers 'Yes' to any of the situations set out in this section.</p> <p>The decision to exclude an Applicant in relation to the Exclusion Grounds will be subject to evidence of self-cleaning being provided by the Applicant demonstrating its reliability despite the existence of a relevant exclusion ground and Torbay Council considering such evidence to be sufficient.</p>		Pass	Pass
<b>Part 3 Selection Questions</b>	<b>Torbay Council may exclude any Applicant who fails part or all of this section.</b>			
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><b>Assessment of Suitable Financial Standing</b></p> <p><b>Question 4.1</b> – 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</p>		Pass	Pass

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	<p>opportunity to submit any missing financial information where it is considered this will not afford the Applicant any unfair advantage.</p> <p><b>Question 4.2(a)</b> – the Applicant is required to indicate whether their Net Worth (Balance Sheet) for each of the previous two financial years is, as a minimum, equal to the estimated Capital Expenditure to be incurred to deliver the Development Agreement under this project. A ‘Yes’ response will be considered to be a pass and a ‘No’ response a fail.</p> <p><b>Overall Assessment of Section 4</b></p> <p>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 accordingly.</p> <p><b>Due Diligence</b></p> <p>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:</p>			

Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
	<ul style="list-style-type: none"> <li>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.</li> </ul>			
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	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

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Stage One Selection	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
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	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 – Short Listing Questions	This section will be scored in accordance with the scoring system set out at 3.6.3 below.	100%		<b>Applicants must achieve a minimum score of 50% across all the questions for each Lot</b>

**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**

#### **3.3.1 Invitation to Participate in Dialogue**

A minimum of 3 and, in the absolute discretion of the Council, a maximum of 5 of the highest scoring Applicants who have passed Stage One Selection will be invited to Participate in Dialogue for each Lot.

The form of the invitation is attached at Appendix B.

#### **3.3.2 Initial dialogue meetings**

The initial Dialogue Meetings will take place in order to discuss the commercial and legal basis of the Outline Solutions expected at Stage Two of this process. The Council reserves its right to issue further clarification of the number and purpose of the meetings and may do so at any time. The Council will issue agendas in advance of each meeting so as to inform Applicants about the topics to be discussed.

3.3.3 Only Applicants invited by Torbay Council to Submit an Outline Solution (ISOS) at Stage Two, are required to complete and submit the following initial Tender information:

- Part 4 Outline Solution;
- Part 5 Land Value; and
- Part 6 Certificates and Declarations.

These Invitations to Submit Outline Solutions will be issued only after Dialogue meetings have been held. The Outline Solutions will be evaluated in accordance with the scoring methodology set out in section 3.6.3 below.

Once the Outline Solutions have been evaluated the Council reserves its right to reduce the number of Applicants participating in the Dialogue phase and the next round of Dialogue meetings. The Council will notify the Applicants of their scores and whether or not on the basis of that score the Applicant has been deselected. The next Dialogue meetings will recommence as stated in the Tender Timetable.

#### **3.3.4 Post ISOS Stage of Dialogue**

Torbay Council will provide Applicants with initial feedback on their Outline Solutions.

The second Dialogue Meetings will take place in order to further discuss the commercial and legal basis of the Final Solutions expected at Stage Three of this process. The Council reserves its right to issue further clarification of the number and purpose of the meetings and



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may do so at any time. The Council will issue agendas in advance of each meeting so as to inform Applicants about the topics to be discussed.

Once Torbay Council has decided to formally conclude the Competitive Dialogue stage they will inform all Applicants and invite the Applicants remaining in the process to submit their Final Solution by a common deadline which should take into account the results of the Competitive Dialogue process.

### **3.4 Stage Three**

#### **3.4.1 Invitation to Submit a Final Solution (ISFS)**

Following the evaluation of the information completed and submitted at Stage Two – Invitation to Submit an Outline Solution (ISOS), only Applicants invited by Torbay Council to Submit a Final Solution (ISFS) at Stage Three are required to complete and submit the following further Tender information:

- Part 4 ISFS Submission;
- Part 5 Land Value; and
- Part 6 Certificates and Declarations.

The Applicant's response will be evaluated in accordance with the scoring methodology set out in section 3.6.3 below.

#### **3.4.2 Final Clarification Meetings (if required)**

Final clarification meetings will be arranged, if required. The final clarification meeting is not the opportunity to amend or add to submissions already submitted. Applicants should note their Method Statement and/or Technical Question scores may not be amended following the clarification meeting. No further dialogue will take place at this point, but the Council also reserves the right in addition to apply Regulation 30(17) and 30(20) of Public Contract Regulations 2015.

Applicants must be available for the timescales indicated within the Procurement Timetable at section 2.7.

Applicants will be contacted through the Supplying the South West e-tendering portal. The invitation will detail the date, time and location and the required content of the meeting, which will include any specific questions/topics to be covered.

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### 3.5 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	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
<b>ISOS</b>		<b>70.00%</b>		
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
Method Statements Design	The questions within this section will be assessed on a scoring basis.		30.00%	
Technical Questions Land Value	The questions within this section will be assessed on a scoring basis.		3.00%	
Land Value – Part 5 Land Value	The questions within this section will be assessed on the comparative scoring basis at 3.6.2 below.		37.00%	

Stage Three	Evaluation Criteria	Main Criteria	Sub-Criteria	Threshold
<b>ISFS</b>		<b>100.00%</b>		
Method Statements Quality	<p>The questions within this section will be assessed on a scoring basis.</p> <p><i>Design – 30%</i></p> <p><i>Local Economy and Social Value – 5%</i></p> <p><i>Community Engagement – 5%</i></p> <p><i>Sustainability – 5%</i></p> <p><i>Timescale – 5%</i></p> <p><i>Draft Contract – 10%</i></p>		60.00%	
Technical Questions Land Value	<p>The questions within this section will be assessed on a scoring basis.</p> <p><i>Land Price – 30%</i></p> <p><i>Land Price Rationale – 10%</i></p>		40.00%	

### 3.6 Scoring Methodology

Responses will be assessed on the following basis:

#### 3.6.1 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 Torbay Council'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 deselected from participating further in this process and will be notified accordingly.

#### 3.6.2 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 highest price will score maximum marks out of a possible 100 and Applicants submitting lower prices will be awarded marks proportionate to their distance from the highest price.

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

### 3.6.3 Zero to Five Scoring

Where evaluation criteria are being assessed on a scoring basis, a zero to five scoring system will be used in accordance with the guidelines in the table below. 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.

<b>Score 5</b>	<b>Excellent</b>	Exceeds the requirement. Exceptional demonstration by the Tenderer of the relevant ability, understanding, experience, skills, resource & quality measures required to provide the supplies / services. Response identifies factors that will offer potential added value, with evidence to support the response.
<b>Score 4</b>	<b>Good</b>	Satisfies the requirement with minor additional benefits. Above average demonstration by the Tenderer of the relevant ability, understanding, experience, skills, resource & quality measures required to provide the supplies / services. Response identifies factors that will offer potential added value, with evidence to support the response.
<b>Score 3</b>	<b>Acceptable</b>	Satisfies the requirement. Demonstration by the Tenderer of the relevant ability, understanding, experience, skills, resource & quality measures required to provide the supplies / services, with evidence to support the response.
<b>Score 2</b>	<b>Minor Reservations</b>	Satisfies the requirement with minor reservations. Some minor reservations of the Tenderer's relevant ability, understanding, experience, skills, resource & quality measures required to provide the supplies / services, with little or no evidence to support the response.
<b>Score 1</b>	<b>Serious Reservations</b>	States they satisfy the requirement but major reservations. Considerable reservations of the Tenderer's relevant ability, understanding, experience, skills, resource & quality measures required to provide the supplies / services, with little or no evidence to support the response.
<b>Score 0</b>	<b>Unacceptable</b>	Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the Tenderer has the ability, understanding, experience, skills, resource & quality measures required to provide the supplies / services, with little or no evidence to support the response.

## 4 Tender Requirements

### 4.1 Tender requirements

These Tender requirements apply to the Selection Questionnaire stage, ISOS and to the ISFS stage of this procurement process; any reference in these requirements to "Tender" or, to the "Tender process" or to the "Tender Submission" will as the context so requires be a reference to the Selection Questionnaire, the ISOS and the ISFS stage, as the case may be.

In its absolute discretion Torbay Council may either waive or insist on strict compliance with any of the requirements set out below and may issue further or supplemental or additional requirements and/or amend the requirements stated below, at any stage during this procurement process.

### 4.2 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 Contract;
- (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.

### 4.3 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.

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

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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.

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

#### **4.5 Post Tender Clarification**

Post tender clarification will be carried out in accordance with the requirements of Regulation 30(17) of the Public Contracts Regulations 2015 and Torbay Council reserves the right to apply Regulation 30(17) and (20) in its absolute discretion. 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.

#### **4.6 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 3<sup>rd</sup> 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.

**Please Note:** Some confidential Documents may not be made available until Stage Two of the process.

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

## 4.7 Preparation and Completion of Tenders

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

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

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

- (a) all entries including responses to questions, rates, price totals or any other endorsements must be typewritten in English and in £ sterling. Handwritten responses will not be accepted;
- (b) responses must be submitted in the documents as provided or on-line where required;
- (c) the format and layout of the response documents must not be altered;
- (d) Part 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.

## 4.8 Submission and Opening of Tenders

Applicants should submit all documentation electronically through ProContract ([www.supplyingthesouthwest.org.uk](http://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.

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## 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 at Stage One by a member of the Procurement Team and at Stages Two onwards by an independent Verifier in the presence of a member of the Procurement Team.

## 4.9 Rejection of Tenders

Torbay Council will reject Tenders in the circumstances described below at (a)-(e) and may do so 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 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
- (e) Torbay Council has become aware at any point that the Applicant has been afforded a competitive advantage or has a conflict of interest that cannot be rectified.

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

- (a) the price has been assessed as being abnormally low (see 4.10);
- (b) it is considered by Torbay Council to be incomplete (see 4.11) 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 Applicant has or purports to have reserved in their submission the right to comment on or negotiate any of the Documents;
- (g) the tender has been qualified in any way; or
- (h) it is in breach of any condition contained within it.

## 4.10 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.

## 4.11 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.

## 4.12 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. Such moderation may result in evaluation scores being increased or decreased before final confirmation.

**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

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## 4.13 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.

Whilst Torbay Council has and will use reasonable endeavours to see that all information given to Applicants is both truthful and accurate, it in no way warrants the same and Applicants must satisfy themselves as to the accuracy of any information provided by Torbay Council, its servants, agents or advisers during this procurement process. Torbay Council accepts no responsibility or liability whatsoever for any loss or damage of whatever kind and howsoever caused arising from or in consequence of the use by Applicants of such information.

In submitting a response Applicants will be confirming and warranting 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;
  - (e) all information, representations and other matters of fact communicated (whether in writing or otherwise) to Torbay Council by an Applicant, its employees, agents or sub-contractors in connection with or arising out of this procurement exercise were at the time submitted and at all times thereafter up to date of Contract award true, complete and accurate in all respects;
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- (f) it has made its own investigations and research and has satisfied itself in respect of all matters (whether actual or contingent) relating to their submission;
- (g) it has full power and authority to enter into the Contract;
- (h) it is of sound financial standing and has and will have sufficient premises, working capital, skill, personnel, IT, infrastructure and other resources available to it to perform the Contract;
- (i) it has not submitted its Tender and will not have entered into the Contract in reliance upon any representation (oral, in writing or otherwise) that may have been made by or on behalf of Torbay Council;
- (j) it is not currently in discussions or negotiation about a merger, amalgamation or takeover (whether by itself or in another entity).

In the event that it is discovered that any of these confirmations and/or warranties are breached by an Applicant, Torbay Council may exclude that Applicant from further participation in the procurement exercise and/or cancel any award decision made and award the Contract to another organisation.

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, suspend or alter the timetable for the tendering procedure at any time and/or not award any Contract at all or award a Contract for one or either but not both Lots. If such action is taken, Applicants will be notified through ProContract and if it does so Torbay Council shall have no liability to Applicants for any costs incurred or losses suffered.

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 12 months from the closing date and may be extended by mutual agreement.

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 to be completed and submitted at Stage One
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 to be completed and submitted at Stage One
Part 4 Outline Solution	Contains the Award Questions and may include mandatory requirements, method statements and/or technical questions.	Yes to be completed and submitted at Stage Two
Part 5 Final Solution	Contains the Award Questions and may include mandatory requirements, method statements and/or technical questions.	Yes to be completed and submitted at Stage Three
Part 6 Certificates and Declarations	Contains the Certificates and Declarations to which all Applicants must conform.	Yes

Document	Purpose	For Completion and Submission
		at Stage One, Stage Two and Stage Three

## 5.2 Appendices and Links

5.2.1 Appendix A ProContract User Guide

5.2.2 Appendix B Invitation To Participate in Dialogue (ITPD) document

5.2.3 Selection Questionnaire – List of Mandatory and Discretionary Exclusions:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/551130/List\\_of\\_Mandatory\\_and\\_Discretionary\\_Exclusions.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf)

5.2.4 Selection Questionnaire – EU Definition of an SME:

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

5.2.5 Selection Questionnaire – PSC Guidance:

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



## 5.3 Definitions

Term	Definition
<b>Applicant</b>	An organisation that may respond to this Tender.
<b>Authority Authorised Representative</b>	The Officer leading the Tender process on behalf of Torbay Council who will be responsible for managing the resultant Contract.
<b>Award</b>	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.
<b>Award Questions</b>	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.
<b>Bidding Model</b>	The Applicant's proposals relating to any consortia or sub-contracting arrangements that will be put in place in order to deliver the Contract.
<b>Call for Competition</b>	The Contract Notice sent electronically for publication in the Official Journal of the European Union.
<b>Confidential Information</b>	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.
<b>Consortia/Consortium</b>	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.
<b>Contract</b>	The Contract or Contracts to be awarded by Torbay Council at the end of this procurement process.
<b>Contract Term</b>	The length of the Contract including extensions, if available.
<b>Contracting Authority</b>	Torbay Council and any other Authority on whose behalf Torbay Council may be working.



Term	Definition
<b>Contractor</b>	The Applicant awarded the Contract culminating from an offer to supply accepted by Torbay Council.
<b>Messaging Facility</b>	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.
<b>Documents</b>	All of the tender documents in relation to this Tender.
<b>Eligible Users</b>	Any organisation given access to the Contract resulting from this Tender.
<b>ISDS</b>	Invitation to Submit a Detailed Solution. Submission of a refined proposal following competitive dialogue at Stage Three of the procurement process.
<b>ISOS</b>	Invitation to Submit an Outline Solution. Submission of an initial proposal at Stage Two of the procurement process. This will form the basis of the competitive dialogue at Stage Two of the procurement process.
<b>Lead Applicant</b>	The organisation leading the bidding process on behalf of its consortia or sub-contractor partners.
<b>Lot</b>	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.
<b>Official Purchase Order</b>	Torbay Council's Official Purchase Order, to which these conditions apply.
<b>ProContract</b>	The e-tendering portal through which Torbay Council advertises opportunities and conducts Tenders.
<b>Price Review Mechanism</b>	The mechanism that will be used during the life of the Contract to review and vary the price.
<b>Procurement Representative</b>	The Procurement Officer who is leading the procurement process on behalf of Torbay Council.
<b>Public Contracts Regulations</b>	The UK legislation concerning public procurement, which can be found at: <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a> .

Term	Definition
<b>Relevant Tax Authority</b>	The organisation responsible for administering tax policy in the country in which the Applicant's organisation is established.
<b>Standstill</b>	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.
<b>Supplying the South West</b>	Means the same as ProContract.
<b>Tender</b>	The invitation to bid for this Contract; and / or The Applicant's response to this tender opportunity.
<b>Torbay Council</b>	The Contracting Authority
<b>Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE)</b>	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.