

Part 1 Information

Contract Reference

TPL6522

Contract Title

**The Strand
Public Realm Works
Torquay**

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

A. Procurement Information

A1 Background Information

A.1.2 Context

Torquay is the largest of the three towns that collectively form Torbay in Devon. It is a coastal town of 67,000 people with a strong tourism sector but suffering from high levels of deprivation, low skills, and low productivity.

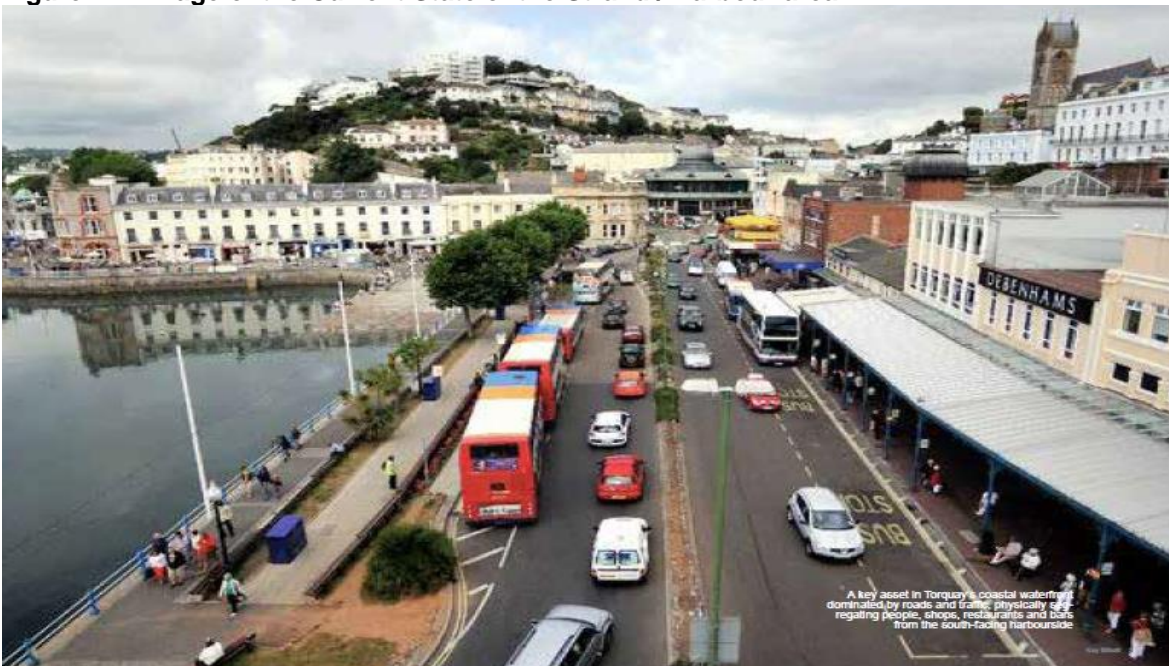
This is an exciting time for Torbay with a range of multi-million projects coming online including those being funded by the government’s Town Deal fund. It provides Torquay with a once in a generation opportunity to bring about significant change with a focus on the town centre.

One of those projects relates to significant and much needed investment to the public realm focused on the Strand and Harbour area of Torquay – this project.

A.1.3 Project Background

The Strand and Harbour area is a significant part of what makes the English Riviera unique and distinctive. It is the part of Torquay that most residents and visitors know and will be the place that determines the experience of those who visit. However, it needs significant investment.

Figure 1.1: Image of the Current State of the Strand / Harbour area



The quality of the public realm in this area has visibly declined over the last two decades. It gives a disappointing impression of Torquay, showing signs of under-investment and is dominated by the presence of multiple carriageways, bus and taxi parking creating an over dominance of traffic.

The dominance of traffic significantly reduces the legibility of the inner harbour and the comfort of pedestrians to spend time. It does not properly connect with the High Street, pedestrian spaces are limited, tired and unappealing, and the overall experience is poor.

As the focal point for regeneration in Torquay, improvements to the Harbour public realm, on the Strand and waterfront, are critical to its success. The Strand must become an attractive, safe, and appealing space.

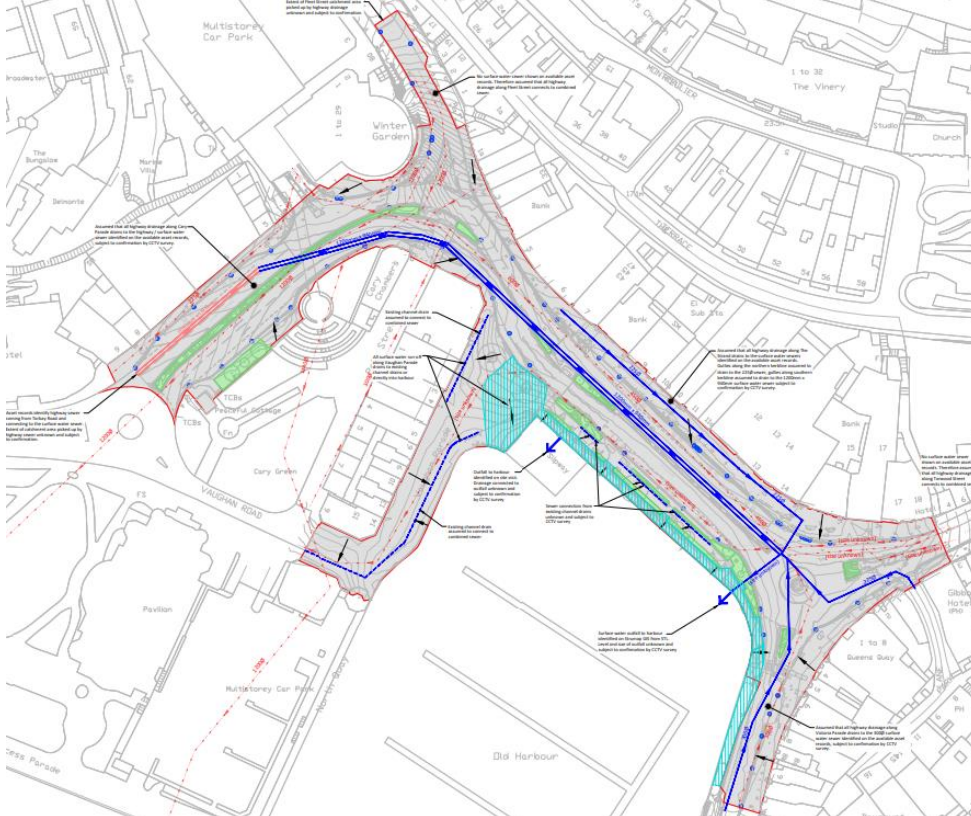
A.1.4 Proposed Investment

Stage 4 design work is complete which is supported by a suite of survey and technical information. A detailed list of survey work and supporting information is included as Appendices.

Taking into account current fluctuations in worldwide materials supplies and to secure adequate materials for this project, Torbay Council has pre-ordered the specialist paving, kerbing and granite materials required for the scheme. These items have been detailed within Appendix L

The redline area for proposed public realm improvements is illustrated below. It should be noted that the area on Vaughan Parade does not form part of this tender and will possibly be part of a second phase if funding can be found at some point in the future. For reference, the General Arrangement Drawing is included as Figure 1.2.

Figure 1.2: General Arrangement Drawing, illustrating proposed scheme area



This scheme aligns with community wishes supported by the Local Plan, Neighbourhood Plan, Torquay Town Centre Masterplan, and the Council's Transformation Strategy for Torbay's Town Centres. It has been consulted upon with key users of the space including transport users (Stagecoach, Torbay Taxi Association, Harbour Authority, and other service providers), as well as the Council's Highways and SWISCo.

The ambition of this scheme is to provide a high-quality public space by significantly reducing vehicular movement along the Strand whilst enhancing the pedestrian environment. The key design features of the scheme are as follows.

- Minimizing traffic along the Strand by:
 - Reducing the roadway on the Strand to one lane in each direction.
 - Relocating all bus stops (Strand) to a new bus facility on Cary Parade.
 - Limiting taxi provision to one small rank on the north side of the Strand whilst providing smaller ranks nearby.
 - A new right-hand turn for buses at the lower end of Fleet Street, avoiding buses using the Strand.
 - A new signalled right-hand turn only exit from Fleet Walk MSCP.
- Increased and enhanced pedestrian areas (attractive seating areas with improved planting and better desire lines) – significant pedestrian realm around the Clock Tower facilitated by a new T-junction connecting Victoria Street and the Strand.
- Improved access to sustainable transport modes (promoting public services, walking & cycling), including a new 3-metre segregated cycle path.
- Improved access and wayfinding (better connectivity to wider assets of the town).
- New surface materials and lighting (to make the space feel ambient and safer).

CGI images are shown in Figures 1.3 and 1.4 as follows.

Figure 1.3. Aerial Image (Stage 4) of the Proposed Scheme



Figure 1.4: Street View Image (Stage 4) of the Proposed Scheme



TDA - on behalf of the Council - is now seeking to appoint an experienced Contractor to act as Principal Contractor to supply labour and plant to progress redevelopment of the scheme.

The specific requirements are set out in the accompanying 'Works Information' Document.

A.1.5 Other Information

The Harbour area is the focus of significant transformative change; with a number of high-profile schemes already completed, underway or proposed.

This includes a 130-bedroom Hampton by Hilton at the lower end of Torwood Street (now complete) and a 120-bedroom Premier Inn hotel adjacent to the Terrace MSCP (Terrace Road / Montpellier Road) behind Debenhams (anticipated for completion end of 2023 / early 2024). The Premier Inn is being developed by Willmott Dixon for and on behalf of Torbay Council.

Following Torbay Council's acquisition of Debenhams last year, there are proposals for conversion and/or redevelopment of this site however redevelopment of this site is not expected to commence until early 2023 at the very earliest. Further details will be provided to the Preferred Bidder upon appointment.

A2 Core Requirements

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

A3 Contract Period

It is anticipated that Preferred Bidder status will be awarded on 24th February 2023, with the Contract commencing on 17th April 2023. The works shall be completed by Friday 1st March 2024, 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.

A4 Contracting Arrangements

The Authority is not purchasing on behalf of other contracting authorities.

A5 Division of Contract into Lots

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

A6 Contract Price

A6.1 Price Review

The price offered by the Applicant in the Part 8A Pricing must be firm and fixed until practical scheme completion. No further price reviews will be available.

A7 Procurement Timetable

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

| Procurement Stage | Dates |
|--|---|
| Stage 1 Tender Documents Published | Friday 16 December 2022 |
| Clarification Question Submission Deadline | Thursday 09 February 2023 17:00 |
| Clarification Responses Deadline | Thursday 16 February 2023 |
| Stage 1 Tender Submission Date & Time | Thursday 23 February 2023 12:00 noon |
| Stage 1 Evaluation Period | 23 February to 09 March 2023 |
| Appointment of Preferred Bidder | 10 March 2023 |
| Stage 2 Tender Process | 13 March to 07 April 2023 |
| Stage 2 Evaluation | 10 to 21 April 2023 |
| Contract Award Notification | 21 April 2023 |
| Contract Commencement | Monday 08 May 2023 |

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

A8 Authority Representatives

Applicants are advised that Authorised 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 Representatives:

Nigel Mills – Town Centre Regeneration Manager, TDA

Richard Salter, Lead Engineer – Urban Design, TDA

Procurement Representatives:

Adam Harmer, Senior Procurement Officer, Torbay Council

David Llewellyn – Framework Manager, Pagabo

A9 Site Visit

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

B. Procurement Process

B1 Procurement Procedure

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

Added Value Portal t/a Pagabo and acting on behalf of QE Facilities Limited awarded a Framework Agreement called National Framework for Civils and Infrastructure under the Find a Tender (FTS) identification reference number of 2021/S 000-023278, which started on 01/06/22. This procurement is a call-off from Lot 1, South West, Road Transport.

This is a tender for Stage One Assessment within a Two-Stage Open Book process to result in an Award of a Pre-Construction Services Agreement (PCSA) to a Preferred Bidder. The Preferred Bidder will work with the Client Team under the PCSA, with the option to proceed to the award of an NEC3 Option A contract.

All works awarded following completion of the Two Stage tender process and which make up the subsequent contract will be subject to a Pagabo Framework Usage Fee of 0.9% which must be allowed for separately as part of final tender price.

B2 Award

Applicants are required to complete and submit Part 3 Certificates and Declarations, Part 5 Mandatory Criteria, Part 6 Award Questionnaire, Part 8A Pricing – Preliminaries, OH&P & PCSA, and Part 8B Pricing – Activity & Cost Reduction Schedules.

B2.1 Award Evaluation

Torbay Council will only undertake an evaluation of Most Economically Advantageous Tender (MEAT) criteria of those Applicants who meet any mandatory Pass/Fail requirements.

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

The Applicant's response will be evaluated in accordance with the scoring methodology set out in section B3 below.

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

Where the scoring for two or more Tender submissions is tied, the top scoring Applicant will be the Applicant who has achieved the higher score on Price.

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 |
|---------------------------|--|---------------|--------------|-------------|
| Mandatory Criteria | | Pass | | Pass |
| Section A Question A1 | This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section. Please Note: Question A1 evidence will be assessed on the zero to five scoring basis set out in section B3.3 where a score of 2 or more will be considered a pass and a score of 1 or below will be considered a fail. | | Pass | Pass |
| Section B | This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section. | | Pass | Pass |
| Question B1 | This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section. Evidence will be assessed on the zero to five scoring basis set out in section B3.3 where a score of 3 or more will be considered a pass and a score of 2 or below will be considered a fail. | | Pass | Pass |
| Question B2 | This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude | | Pass | Pass |

| Stage Two Award | Evaluation Criteria | Main Criteria | Sub-Criteria | Threshold |
|-----------------|---|---------------|--------------|-----------|
| | <p>any Applicant who fails this section.</p> <p>Evidence will be assessed on the zero to five scoring basis set out in section B3.3 where a score of 3 or more will be considered a pass and a score of 2 or below will be considered a fail.</p> | | | |
| Question B3 | <p>This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section.</p> <p>Evidence will be assessed on the zero to five scoring basis set out in section B3.3 where a score of 3 or more will be considered a pass and a score of 2 or below will be considered a fail.</p> | | Pass | Pass |
| Question B4 | <p>This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section.</p> | | Pass | Pass |
| Question B5 | <p>This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section.</p> | | Pass | Pass |
| Question B6 | <p>This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section.</p> <p>Evidence will be assessed on the zero to five scoring basis set out in section B3.3 where a score of 3 or more will be considered a pass and a score of 2 or below will</p> | | Pass | Pass |

| Stage Two Award | Evaluation Criteria | Main Criteria | Sub-Criteria | Threshold |
|--------------------------|---|---------------|--------------|-----------|
| | be considered a fail. | | | |
| Question B7 | <p>This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section.</p> <p>Evidence will be assessed on the zero to five scoring basis set out in section B3.3 where a score of 3 or more will be considered a pass and a score of 2 or below will be considered a fail.</p> | | Pass | Pass |
| Question B8 | <p>This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section.</p> <p>Evidence will be assessed on the zero to five scoring basis set out in section B3.3 where a score of 3 or more will be considered a pass and a score of 2 or below will be considered a fail.</p> | | Pass | Pass |
| Section C Question C1 | This criteria will be assessed on the basis of pass or fail as set out in section B3.1. Torbay Council will exclude any Applicant who fails this section. | | Pass | Pass |

| | | | | |
|-------------------------------------|--|----------------|---------------|---------------|
| Total Score Available (MEAT) | | 100.00% | | |
| Quality Criteria | | | 30.00% | 15.00% |
| Section A | This section is for information purposes only. | | N/A | N/A |

| | | | | |
|---|---|--|-------|-----|
| Method Statement B1 Scheme Delivery | This criteria will be assessed on the zero to five scoring basis set out in section B3.3. | | 7.00% | N/A |
| Method Statement B2 Programme | This criteria will be assessed on the zero to five scoring basis set out in section B3.3. | | 6.00% | N/A |
| Technical question C1 Organisation | This criteria will be assessed on the zero to five scoring basis set out in section B3.3. | | 6.00% | N/A |
| Method Statement C2 Quality | This criteria will be assessed on the zero to five scoring basis set out in section B3.3. | | 6.00% | N/A |
| Method Statement C3 Managing Utilities and other Stakeholders | This criteria will be assessed on the zero to five scoring basis set out in section B3.3. | | 5.00% | N/A |

| | | | | |
|------------------------------|--|--|---------------|------------|
| Social Value Criteria | | | 10.00% | N/A |
| Qualitative Criteria | This criteria will be assessed in accordance with the requirements set out in Part 7 Social Value Requirement. | | 7.00% | |
| Quantitative Criteria | This criteria will be assessed in accordance with the requirements set out in Part 7 Social Value Requirement. | | 3.00% | |

| | | | | |
|-------------------------|--|--|---------------|------------|
| Pricing Criteria | | | 60.00% | N/A |
|-------------------------|--|--|---------------|------------|

| | | | | |
|--|---|--|--------|-----|
| Part 8A Pricing – Preliminaries, Overheads and Profits, and PCSA. | This criteria will be assessed on the comparative scoring basis set out in section B3.4. Applicants offering the lowest 'Grand Total' price in section D Summary of Part 8A Pricing 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. | | 60.00% | N/A |
| Part 8B Pricing – Activity and Cost Reduction Schedules | This section is for information purposes only. | | N/A | N/A |

B3 Scoring Methodology

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

B3.1 Pass/Fail

Evaluation criteria assessed on a pass/fail basis are those where meeting the requirement is essential to Applicant's ability to deliver the Contract. They will usually relate to questions where a Yes or No response can be provided. The ability to meet the requirement will achieve a Pass and the Applicant will achieve a fail where they are unable to meet the requirement.

Where a Pass/Fail criteria is assessed on a scoring basis, a threshold using the zero to five scoring matrix will be required to achieve a pass.

Where an Applicant fails one or more Pass/Fail criteria they will be deselected from participating further in the process and will be notified accordingly.

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

- within their response to the mandatory criteria itself;
- within their responses to the Award questions; and/or
- during due diligence prior to contract award.

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

B3.2 Thresholds

The quality criteria have thresholds attributed to the mandatory requirements and across the total of all five Method Statements/Technical Questions. These are detailed in the table at B2.1.

The highest scoring Applicant is required to achieve the stated threshold across the total of all five Method Statements/Technical Questions in order to be awarded Preferred Bidder status.

Where the highest scoring Applicant's response has not met one or more of the required thresholds, Preferred Bidder Status will be awarded to the next highest scoring Applicant who has met all of the thresholds.

B3.3 Zero to Five Scoring

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

| | | |
|----------------|------------------|--|
| Score 5 | Excellent | Exceptional demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract with in-depth relevant evidence to support the response. Response exceeds the requirement and identifies factors that will offer significant added value and/or innovation. |
| Score 4 | Good | Above average demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource |

| | | |
|----------------|---------------------------|--|
| | | & quality measures required to deliver the Contract with significant relevant evidence to support the response. Response satisfies the requirement and identifies factors that will offer potential added value. |
| Score 3 | Acceptable | Adequate demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract, with sufficient relevant evidence to support the response. Response satisfies the requirement |
| Score 2 | Minor Reservations | Some minor reservations of the Applicant's relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract, with some relevant evidence to support the response. Response does not meet the requirement. |
| Score 1 | Major Reservations | Some major reservations of the Applicant's relevant ability, understanding, experience, skills, resource & quality measures required to deliver the Contract, with little relevant evidence to support the response. Response does not meet the requirement. |
| Score 0 | Unacceptable | Does not comply and/or insufficient information provided to demonstrate that the Applicant has the ability, understanding, experience, skills, resource & quality measures required to deliver the Contract, with no evidence to support the response. Response does not meet the requirement. |

The scoring system is based on the Applicant's ability to fully satisfy the requirement and provide sufficient evidence to support their response.

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

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

Please Note: Where an Applicant's response is considered not to satisfy the requirement and/or adequately demonstrate the ability to deliver the Contract the maximum score achievable will be two, regardless of whether the Applicant exceeds the requirement in relation to some aspects of their response.

The scoring system awards the highest marks to those Applicants who, in addition to fully satisfying the requirement, demonstrate to a high level they have the relevant ability, understanding, experience, skills, resources and quality measures in place and/or offer added value or innovative solutions.

Scoring Example:

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

B3.4 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 and the quantitative element of the Social Value criteria:

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

Scoring Example 1:

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

| Lowest Price: £1,000,000 | | Criteria: 60.00% |
|--------------------------|------------|------------------|
| Applicant | Price | Score |
| Applicant A | £1,000,000 | 60.00% |
| Applicant B | £1,100,000 | 54.55% |
| Applicant C | £1,273,050 | 47.13% |
| Applicant D | £1,899,999 | 31.58% |

Scoring Example 2:

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

| Lowest Price: £1,000,000 | | Criteria: 80.00% |
|--------------------------|------------|------------------|
| Applicant | Price | Score |
| Applicant A | £1,000,000 | 80.00% |
| Applicant B | £1,100,000 | 72.73% |

| | | |
|-------------|------------|--|
| | | Awarded Score to 2 Decimal Places 0.00% |
| Applicant C | £1,273,050 | 62.84% Awarded Score to 2 Decimal Places 0.00% |
| Applicant D | £1,899,999 | 42.11% Awarded Score to 2 Decimal Places 0.00% |

Scoring Example 3 (Social Value):

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

| Highest Score: 16 | | Criteria: 3% |
|--------------------------|-----------------|---------------------|
| Applicant | SV Score | Score |
| Applicant A | 16 | 3.00% |
| Applicant B | 6 | 1.13% |
| Applicant C | 12 | 2.25% |
| Applicant D | 11 | 2.06% |

B3.5 Social Value Scoring

Please Note: the scoring basis and evaluation criteria for Social Value are set out in Part 7 Social Value Requirement.

B3.6 Character, Word, and Page Limits

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

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

C. Tender Requirements

C1 Communication

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

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

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

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

C2 Tender Clarification

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

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

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

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

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

The identity of Applicants raising questions will remain confidential.

Applicants are responsible for ensuring they read and understand all 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.

C3 Amendment to Documents

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

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

Amended Documents will form part of the resultant Contract.

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

C4 Post Tender Clarification

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

Please Note:

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

C5 The Tender Documents

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

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

Some tenders will include confidential Documents and the tender Documents will then include a separate Confidentiality Agreement appendix. Any Documents considered by Torbay Council to be of a confidential nature will not be made publicly available. Applicants are responsible for ensuring that confidential Documents are treated as such, are used only for the purposes of this tender and are not disclosed in whole or part to any 3rd party without

Torbay Council's prior written consent.

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

C6 Preparation and Completion of Tenders

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

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

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

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

- the evaluation procedure;
- (m) all documents must be completed in full, in accordance with any specific instructions set out within the Tender Document and signed where required.

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

As arrangements relating to consortium bids or sub-contracting may change Applicants should respond on the basis of the arrangements envisaged at the time the Tender is submitted. Torbay Council must be notified immediately of any changes or proposed changes in relation to the bidding model, so that a further assessment 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.

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

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

C7 Submission and Opening of Tenders

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

Applicants are responsible for ensuring:

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

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

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

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

Technical Support

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

ProContractSuppliers@proactis.com

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

Please Note: If your issue is time sensitive call:

0330 005 0352

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

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

C8 Rejection of Tenders

C8.1 Torbay Council will only reject Tenders where rejection is without prejudice to any other civil remedies available to Torbay Council or any criminal liability which the Applicant's conduct may attract.

C8.2 Torbay Council will reject any Tender where:

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

C8.3 Torbay Council may at its absolute discretion reject any Tender where:

- (a) the price has been assessed as being abnormally low (see C8.4);
- (b) it is considered by Torbay Council to be incomplete (see C8.5) or vague;
- (c) it is not in accordance with the required format;
- (d) the Applicant alters the Documents in any way
- (e) any of the information provided by an Applicant is found to be inaccurate
- (f) the Applicant contradicts itself in terms of any information provided;

- (g) the Applicant does not respond to post tender clarification questions within the specified timescales;
- (h) the tender has been qualified in any way; or
- (i) it is in breach of any condition contained within it.

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

C8.4 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.

C8.5 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.

C9 Evaluation and Award

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

Torbay Council will only complete a full evaluation of accepted Tenders which meet all of the mandatory requirements as set out within the Documents.

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

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

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

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

All Applicants will be notified of the Tender outcome at the same time, whether this is to award or not to award the Contract. Notification will be through ProContract.

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

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

C10 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 Preferred Bidder. **Please Note:** 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 submission is false, misleading, or inaccurate. If any of the information provided by an Applicant is found to be inaccurate the Applicant may be excluded from further participation in this or any future Tender issued by Torbay Council and could lead to termination of any resultant Contract.

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

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

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

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

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

The Applicant's offer shall remain open for acceptance for a period of 3 months from the closing date and may be extended by mutual agreement.

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

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

Prior to issuing the Contract the Preferred Bidder may be required to provide evidence, including but not limited to, their appointment to the Pagabo Framework and compliance with any Contractual requirements, such as insurances, disclosure and barring service checks and policies and procedures. **Please Note:** If the Preferred Bidder is unable to provide this evidence Torbay Council reserves the right to withdraw the award and class the submission as non-compliant.

The Preferred Bidder 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.

D. Glossary

D1 Tender Documents

The following documents, together with the Appendices and Links at D2 below, form the tender documents:

| Document | Purpose | For Completion and Submission |
|---|---|-------------------------------|
| Part 1 Information | Contains information on the procurement process and instructions on how it will be conducted. | No |
| Part 2 Specification | Contains Authority's requirements in relation to the goods, services or works being procured. | No |
| Part 3 Certificates and Declarations | Contains the Certificates and Declarations to which all Applicants must conform. | Yes |
| Part 4 Selection Questionnaire | Contains the Supplier questionnaire, which all applicants must complete. | Not Used |
| Part 5 Mandatory Criteria | Contains the mandatory requirements. | Yes |
| Part 6 Award Questionnaire | Contains the Award Questions and may include method statements and/or technical questions. | Yes |
| Part 7 Social Value Requirement | Contains information for Applicants on the submission and evaluation of social value requirements | Yes |
| Part 8A Pricing - Preliminaries, OH&P & PCSA | Contains the Applicant's pricing proposals for Preliminaries, and PCSA development as well as proposed percentages for Overheads and Profits this Tender. | Yes |
| Part 8B Pricing – Activity & Cost Reduction Schedules | Contains the Applicant's pricing proposals and cost reductions against specific activities. This document is for information only and will not be evaluated as part of Stage One of the opportunity | Yes |

| Document | Purpose | For Completion and Submission |
|----------------------------------|--|---|
| Terms and Conditions of Contract | Contains the draft Pre-Construction Agreement under which the resultant services will operate. | Applicants are required to confirm acceptance as part of their response |

D2 Appendices and Links

- D2.1 Appendix A ProContract User Guide
- D2.2 Appendix F Torbay Council Health and Safety Policy Statement
- D2.3 Appendix G Social Value Portal Do's and Don'ts for Applicants
- D2.4 Appendix H Torbay Council TOMs Framework
- D2.5 Appendix I Sub-Localities
- D2.6 Appendix J Torbay Council Environment and Carbon Neutral Policy
- D2.7 Appendix K1 Works Information (Part 1 – Contents)
- D2.8 Appendix K2 Works Information (Part 2A – Drawings)
- D2.9 Appendix K3 Works Information (Part 2B – Drawings)
- D2.10 Appendix K4 Works Information (Part 2C – Drawings)
- D2.11 Appendix K5 Works Information (Part 2D – Drawings)
- D2.12 Appendix K6 Works Information (Part 2E – Drawings)
- D2.13 Appendix K7 Works Information (Part 3 – Standard Details)
- D2.14 Appendix K8 Works Information (Part 4 – Pre-Construction Information)
- D2.15 Appendix K9 Works Information (Part 5 – Specification)
- D2.16 Appendix K10 Works Information (Part 6 – Traffic Signals)
- D2.17 Appendix L – Pre-Ordered Material Quantities
- D2.18 Social Value Portal Project Link:

<https://socialvalueportal.force.com/s/supplierregistration?svpprojectid=8e0-0000-1GIN7>

D3 Definitions

| Term | Definition |
|-----------------------|--|
| Torbay Council | The contracting authority |
| Applicant | An organisation that may respond to this Tender. |

| Term | Definition |
|--|---|
| Authority Authorised Representative | The Officer leading the Tender process on behalf of Torbay Council who may be responsible for managing the resultant Contract. |
| Award | The process by which Torbay Council will determine the Preferred Bidder in accordance with <i>Regulation 67 Contract award criteria</i> of the Public Contracts Regulations 2015. |
| Award Questions | The written response submitted by the Applicant to evidence their ability to meet Torbay Council's requirements, which will form part of the evaluation process upon which award of the Contract will be based. |
| Bidding Model | The Applicant's proposals relating to any consortia or sub-contracting arrangements that will be put in place in order to deliver the Contract. |
| Confidential Information | Any information or documents which Torbay Council considers to be confidential in nature and which will only be made available to Applicants who sign and submit a Confidentiality Agreement. |
| Consortia/Consortium | Two or more persons, at least one of whom is an economic operator, acting jointly for the purpose of being awarded a public contract in accordance with <i>Regulation 19 Economic operators</i> of the Public Contracts Regulations 2015. |
| Contract Term | The length of the Contract including extensions, if available. |
| Contracting Authority | Torbay Council and any other Authority on whose behalf Torbay Council may be working. |
| Contractor, Provider or Supplier | The Applicant awarded the Contract culminating from an offer to supply accepted by Torbay Council. |
| Documents | All of the tender documents in relation to this Tender. |
| Eligible Users | Any organisation given access to the Contract resulting from this Tender. |
| Evidence | The provision of examples, facts, data, case studies or other such information that will validate or support |

| Term | Definition |
|-------------------------------------|--|
| | statements made in an Applicant's response in order to demonstrate they have the relevant ability, skills, resource, and quality measures required to meet the Council's requirements. |
| Lead Applicant | The organisation leading the bidding process on behalf of its consortia or sub-contractor partners. |
| Lot | One of a number of categories of goods or services into which a single procurement process has been divided. The use of lots potentially allows for multiple Contractors to be appointed following a single procurement process. |
| Official Purchase Order | Torbay Council's Official Purchase Order, to which these conditions apply. |
| Price Review Mechanism | The mechanism that will be used during the life of the Contract to review and vary the price. |
| Procurement Representative | The Procurement Officer who is leading the procurement process on behalf of Torbay Council. |
| Public Contracts Regulations | The UK legislation concerning public procurement, which can be found at: www.legislation.gov.uk . |
| Relevant Tax Authority | The organisation responsible for administering tax policy in the country in which the Applicant's organisation is established. |
| Social Value | A process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment. |
| Social Value Portal | The online portal used by the Council to procure, measure, manage and report on Social Value within its Contracts. |
| Standstill | The period, as set out in Regulation 87 of the Public Contracts Regulations 2015, immediately following notification of the award decision to Applicants during which Torbay Council must not enter into the Contract. |

| Term | Definition |
|---|--|
| SVP | Social Value Portal |
| Tender | The invitation to bid for this Contract; and / or The Applicant's response to this tender opportunity. |
| Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) | The regulations which govern how employers must deal with transfer of staff when a service or business changes hands from one employer to another in order to ensure the principal terms of employees' rights are protected. |