

Highways England

Fuel Card Reporting Services Contract (2020-2025)

**Instructions for Tenderers (IfT)**

**INSTRUCTIONS FOR TENDERERS FOR**

 **Highways England Fuel Card Reporting Services CONTRACT (2020-2025)**

**CONTENTS AMENDMENT SHEET**

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**Definitions**

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|  |  |  |
| Commercial Envelope |  | Is the area on the eSourcing portal within the Fuel Card Reporting Services IfT in which Tenderers should submit their Commercial Submission. |
| Commercial Evaluation PanelCommercial SubmissionContract NoticeeSourcing Portal or BravoFinance Score |  | is the group of assessors that assess the Commercial Submission Is the submission from Tenderers described in Section 9 of these Instructions.Is the notice published in the Contract Finder <https://www.contractsfinder.service.gov.uk/Notice/81d6f174-ca9b-4240-9a57-cdff17f5f17b>Is the web-based system used to conduct and manage the procurement process from Tender invitation, including all communications, provision of data and information and submissions. The eSourcing portal for this Tender is Bravo. Is the score for each Tenderer’s Commercial Submission determined by the Commercial Evaluation Panel.  |
| Lead Bidder |  | The tenderer that following the combination of the Quality Mark and the Finance Score provisionally ranks first prior to the Sustainability process. |
| Qualification Envelope |  | Is the area on the eSourcing portal in which Tenderers should submit their Submission 1 described in section 2.1.10(a) of this IfT |
| Quality Evaluation Panel |  | Is the group of assessors that assess the questions in the Quality Submission.  |
| Quality QuestionsQuality ScoreQuality Submission |  | The questions Tenderers are to answer as part of their Quality Submission;Means the Quality Mark as adjusted (if at all) by the Verification and Sustainability processes. The submission from Tenderers described in Section 8 of these Instructions.  |
| Selection Questionnaire |  | A self-declaration form completed by the Tenderer confirming that they do not contravene any of the grounds for exclusion from the tender described in Section 10 of this IfT.  |
|  |  |  |
| SME |  | Small and Medium Sized Enterprise describes any business with fewer than 250 employees and an annual turnover of less than £25 million. |
| Standstill Period |  | Is a period of at least ten (10) calendar days following the notification of an award decision in a contract tendered via Contract Finder before the contract is signed with the successful Tenderer. |
| Technical Envelope |  | Is the area on the eSourcing portal within the Fuel Card Reporting Services IfT in which Tenderers should submit their Quality Submission and Supporting Information.  |
| Tenderer |  | The organisation or any of its companies submitting a tender in accordance with these Instructions.  |
|  |  |  |
| Tender Panel |  | The Tender Panel consists of the combined Quality Evaluation Panel and the Commercial Evaluation Panel. |
| Total Score |  | The Total Score is the tenderer’s Quality Score combined with their Finance Score.  |
|  |  |  |

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# THE TENDER PROCESS

## General

### These Instructions apply to the submission of tenders for the Highways England Fuel Card Reporting Services.

### This tender process is carried out in adherence with the Public Contracts Regulations 2015, and the publication of a Contract Notice on the Contracts Finder website.

### The process will determine the most economically advantageous tender to Highways England. This will be a compliant and affordable tender which meets the selection criteria, and has the highest Total Score and which passes the Selection Questionnaire test described in section 4.7 of these Instructions.

### Tenders must be submitted in accordance with these Instructions. Tenders not complying with these Instructions may be rejected by Highways England whose decision in the matter will be final. These Instructions will not form part of the proposed Highways England Fuel Card Reporting Services Contract (2020-2025).

### Any queries from Tenderers are to be submitted by the named single point of contact (the eSourcing portal account holder) in their organisation, to the Procurement Officer.

### The contents of these Instructions and of any other documentation sent to Tenderers in respect of this tender process are provided on the basis that they remain the property of Highways England. Tenderers must not release information concerning the tender documents for publication in the press or on radio, television, screen or any other medium. Tenderers must not disclose the fact that they are tendering or release details of the tender documents, other than on an "in confidence" basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing their tender response. If a Tenderer is unable or unwilling to comply with this requirement it is required to destroy these Instructions and all associated documents immediately and not to retain any electronic or paper copies. Tenderers are required to conduct themselves in good faith in all dealings in relation to this tender process.

## Information Management

### Under the Freedom of Information Act 2000 (as amended) (“the FOI Act”), the Environmental Information Regulations 2004 (“EIR”) and the Public Contracts Regulations 2015 (“PCR”), Highways England may be obliged (subject to the application of any relevant exemptions and, where applicable, the public interest test) to disclose information relating to this tender process including any tenders received.

### Under the Cabinet Office Efficiency Reform Group’s Guidance Note dated December 2010 entitled “Transparency – Publication of New Central Government Contracts”, or any later revision, Highways England is obliged to publish any Highways England Fuel Card Reporting Services Contract (2020-2025) resulting from this competition, excluding only information which is exempt from disclosure pursuant to the FOI Act along with the EIR and PCR. The decision as to which materials are excluded from publication rests with Highways England in its sole discretion. Highways England’s initial view is that the only materials likely to be excluded from publication on this basis are as follows:

##### The Quality Statement

##### Prices in the Price List (but not the total value of the Highways England Fuel Card Reporting Services Contract (2020-2025))

##### EIR information

### All Central Government Departments and their Executive Agencies and Non-Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement - including ensuring value for money and related aspects of good procurement practice.

### For these purposes, Highways England may disclose within Government any of the Tenderer's documents and information (including any that the Tenderer considers to be confidential and/or commercially sensitive, such as specific tender information) submitted by the Tenderer to Highways England during this tender process. The information will not be disclosed outside Government. Tenderers taking part in this competition consent to these terms as part of the tender process.

### Tenderers should be aware that Highways England could receive requests for any information relating to the Highways England Fuel Card Reporting Services Contract (2020-2025) or tender under the FOI Act or the EIR. While Highways England reserves its discretion in responding to any such information request, Tenderers are invited to request that certain information is not disclosed or published if to do so would prejudice their legitimate commercial interests or is otherwise exempt from disclosure under the FOI Act or the EIR. Requests for non-disclosure under the FOI Act or the EIR must accompany the Tender and include:

#### clear and substantive justification; and

#### a time limit when any confidential information could be disclosed.

#### The terms of any confidentiality agreement may, if requested, be available for disclosure. Any request by the Tenderer under this paragraph will not be taken into account in the tender evaluation process, nor will it form part of any contract between Highways Englandand the Tenderer.

## Change of Status

### Tenderers must immediately advise Highways England and seek approval of such change if, following submission of their tender:

#### their ownership or the ownership of any member of their tendering consortium (or its or any of parent companies) changes, or

#### any legal entity involved in the preparation of another tender for this contract is acquired by them or by any member of their tendering consortium (or any of their associated companies).

#### they or any member of their purchasing consortium (or any of their associated companies) completes the takeover of, or merges with, another Tenderer (or an associated company of that Tenderer).

### If Highways Englandconsiders that a change in ownership of the Tenderer has (i) created an actual or perceived conflict of interest that cannot be remedied by other less intrusive measures or (ii) approval is not obtained pursuant to paragraph 1.3.1 Highways England may exclude the Tenderer from the tender evaluation. If excluded, the Tenderer will be notified by the Procurement Officer.

### If, at any time during the tender process there is any change to a Tenderer’s economic or financial standing which means that information submitted by the Tenderer in its Selection Questionnaire is no longer correct or the Tenderer’s ability to perform the contract materially deteriorates, the Tenderer must immediately inform Highways England in writing. Highways Englandreserves the right to reconsider the economic or financial standing and where necessary, disqualify a Tenderer who has previously passed the Selection Questionnaire stage of this procurement process.

### Highways England reserves the right to disqualify any Tenderer that fails to inform or advise Highways England in accordance with paragraphs 1.3.1 and 1.3.3.

## Tender Warranties

### These Instructions are issued in good faith. No warranty is given as to the accuracy or completeness of the information contained in them. Any liability for inaccuracy or incompleteness is expressly disclaimed by Highways England and its advisors. Tenderers are advised to satisfy themselves that they understand all the requirements of the Highways England Fuel Card Reporting Services Contract (2020-2025) before submitting their tender.

### Nothing in these Instructions shall be taken as constituting an offer (whether implied or otherwise), or any agreement, whether express or implied, between Highways England and any other party.

### Highways England reserves the right to cancel, amend or vary the tender process (in whole or in part) at any point prior to the award of the Highways England Fuel Card Reporting Services Contract (2020-2025) and with no liability on its part.

### Highways England reserves the right not to accept the lowest priced Tender for any reason.

### Highways England and/or its advisors are not liable for any costs resulting from any amendment or cancellation of this tendering process nor any other costs, charges, fees, expenses, claims or disbursements (howsoever arising and including third party costs) incurred by those tendering for this contract opportunity. Tenderers submit a Tender at their own risk and expense.

### Tenderers are to note that all information provided as part of their Tender must be true and accurate. Highways England reserves the right to reject any tender if the Tenderer provides misleading or false information.

### Tenderers are deemed to understand fully the processes that Highways England is required to follow under relevant European and UK legislation, particularly in relation to the Public Contracts Regulations 2015.

## Tender Documents

### The documents provided to Tenderers are listed in the following Tables.

### **Table 1.5.1**

|  |  |
| --- | --- |
| Tendering Instructions | Highways England Fuel Card Reporting Services Contract IfT |
| Highways England Fuel Card Reporting Services Contract Selection Questionnaire |
| Additional Information | Highways England Fuel Card Reporting Services Contract Tender Query Form |
| Highways England Anti-Bribery Code of Conduct  |
| Highways England Anti-Fraud Code of Conduct |
| Highways England Information Assurance Solutions  |
| Highways England Fair Payment Charter |
|  Highways England IT Security Policy |
|  Highways England Company Records Policy |
|  Highways England Data Handling Policy |
| Commercial Documents | Highways England Fuel Card Reporting Services Contract Price List  |
| Contractual Agreement |  Highways England Short Form Purchase of Services Terms and Conditions Highways England Fuel Card Reporting Services Form of Agreement |
| Contract Specification  | Highways England Fuel Card Reporting Services Contract Specification |

 The following parts of the tender documents are included in an editable form to allow preparation of the information required:

### **Table 1.5.2**

|  |
| --- |
|  Highways England Short Form Purchase of Services Terms and Conditions |
| Highways England Fuel Card Reporting Services Contract Tender Query Form  |
| Highways England Anti Bribery Code of Conduct  |
| Highways England Anti-Fraud Code of Conduct |
| Highways England Information Assurance Solutions  |
| Highways England Fair Payment Charter  |
| Highways England Fuel Card Reporting Services Contract Selection Questionnaire  |
| Highways England Data Handling Policy |
| Highways England Company Records Policy |
| Highways England IT Security Policy |

### If Tenderers experience any difficulties in locating documents listed above, or within any of the reference documents, then a tender query must be raised via the eSourcing portal.

### Any prints, specifications, data, calculations and analyses issued to Tenderers in connection with this tender remain the property of Highways England. All such information issued to Tenderers may only be used for the purpose of tendering. Such information should not be disclosed to persons unconnected with the tender and should be returned to Highways England on completion of the tender procedures. These provisions apply equally to other information supplied for the purpose of the tender the property rights of which rest in a third party.

## Tender Communications

### Any queries from Tenderers regarding the tender documents must be made to the Procurement Officer via the eSourcing portal using the Tender Query Form provided. They must be sent no later than the date shown in the Tender Programme below. Tender queries submitted outside the tender query period will not be accepted, unless agreed otherwise by the Procurement Officer. All details of the query are to be included on the Tender Query Form, and no further attachments are to be sent unless specifically requested by the Procurement Officer. One question should be asked on each row of the Tender Query Form and additional rows can be inserted as required.

### Where a Tenderer believes that their query (and subsequent answer) is confidential, for example, specific questions about their tendering model, Tenderers can ask that their query and answer is treated as confidential. For each query marked as confidential, the Procurement Officer will need to be satisfied that there is a genuine concern before restricting wider disclosure to other Tenderers. If the Procurement Officer does not consider that their question should be treated as confidential then the Procurement Officer shall advise the Tenderer and ask the Tenderer if they wish to withdraw their question or resubmit it without the confidential marking. Highways England reserves the right, at its own discretion, to circulate the question and answer to all others providing that Highways England deems both the question and answer as non-confidential, relevant and of benefit to all the Tenderers.

### The Procurement Officer for this competition is Darrel Waka at Highways England. Contact with the Procurement Officer must be made via the eSourcing portal only. Except where otherwise directed in these Instructions, Tenderers must not contact any person in relation to this competition other than the Procurement Officer or, if nominated, their designated deputy. The name of any designated deputy will be confirmed in writing.

### All tender queries made in accordance with these instructions will be responded to by the Procurement Officer via a tender query response. Tender queries regarding the tender documents and the responses to the tender queries will be issued regularly to all Tenderers via the eSourcing portal. If any answer requires a change to the tender documents, then a tender amendment will be issued via the eSourcing portal.

### Tender amendments are changes to the tender documents that are made in writing by the Procurement Officer and issued to all Tenderers via the eSourcing portal. Only in exceptional circumstances will tender amendments be issued after the closing date for submission of tenders in the form of a post tender amendment. In such circumstances, the Procurement Officer will notify all Tenderers of the required action.

### Highways Englandofficers and their consultants do not have the authority to make any change to the tender documents except through a tender amendment issued by the Procurement Officer. If a statement is made at any meeting that a Tenderer considers is not in accordance with the tender documents, then the Tenderer must refer the matter to the Procurement Officer as a tender query.

## Tender Launch Webinar

### Tenderers will have the opportunity to engage with members of Highways England’s team via a Tender Launch Webinar. There will be one Tender Launch Webinar and the indicative date is set out in the Tender Programme below. Should the date change, the Procurement Officer will notify all Tenderers via the eSourcing portal messaging system. Tenderers wishing to attend must notify the Procurement Officer within 72 hours of the date of the Tender Launch, via eSourcing portal messaging.

### The Tender Launch Webinar will be held to explain, discuss and answer questions on the tender process. During this webinar, the following presentations will be given by Highways England:

##### the proposed Highways England Fuel Card Reporting Services Contract (2020-2025) by Highways England, identifying and explaining any specific issues of importance to the tender submission,

##### the tender process and timetable,

##### the tender submission requirements and evaluation approach

##### There will also be a Question and Answer session allowing Tenderers to further clarify Highways England’s requirements.

### Tenderers will have an opportunity to ask questions at this Webinar but must not rely upon any statement made by Highways England’s team unless subsequently confirmed in writing by the Procurement Officer. Any questions raised will be treated as tender queries and published following the Tender Webinar.

### All information provided at the Tender Webinar including presentations, questions and answers will be made available in writing through the eSourcing portal.

### Any questions that cannot be answered during the Tender Launch Webinar will be recorded and responded to via the eSourcing portal in the same manner as tender queries.

## Tender Programme

### The indicative tender programme is shown in the Table below:

### **Table 1.8.1**

|  |  |  |
| --- | --- | --- |
| **Item** | **Activity** | **Date** |
| 1 | Issue Contract Notice | 10/02/2020 |
| 2 | Issue Tender Documents | 28/02/2020 |
| 3 | Tender Launch Webinar  | 04/03/2020 |
| 4 | Deadline for receipt of tender queries | 11/03/2020 |
| 5 | Deadline for tender submissions | 18/03/2020 |
| 6 | Written Tender submission assessment | 19/03/2020 - 27/03/2020 |
| 7 | Tender Consensus 1 & 2 | 30/03/2020 - 03/04/2020 |
| 8 | Internal approvals | 06/04/2020 - 15/04/2020 |
| 9 | Notification of intention to award | 15/04/2020 |
| 10 | Standstill (10 calendar days) including feedback | 15/04/2020 - 27/04/2020 |
| 11 | Contract award | 28/04/2020 |
| 12 | Mobilisation | 28/04/2020 - 11/05/2020 |
| 13 | Go Live | 12/05/2020 |

## Form of Contract

#### Tenderers should note that the form of contract between Highways England and the successful Tenderer will be the  **Highways England Short Form Purchase of Services Terms and Conditions**. The successful Tenderer will be required to enter into the agreement on the terms contained in the award letter.

#### Highways England is bound by the Public Contracts Regulations 2015, and as such cannot enter into any negotiations on the tender or terms of the form of contract.

#### Any Tenderer who is unwilling to accept the terms of the contract will be disqualified from the process.

# Submission of Tenders

## General

### Tenders and supporting documents must be written in English and priced in Pounds Sterling.

### Tenders are to be presented as four separate submissions. The documents contained within each submission are detailed below.

### Tenderers are to note that all documents below must be completed and returned for their submission to be assessed as compliant. Failure to do so may result in the tender being rejected.

### All the documents listed below must be submitted as separate documents (files) that are clearly identifiable from the document name within the respective Submissions 1 to 4.

### Tenders must be submitted in accordance with these Instructions and the tender documents including any tender amendments. Tenders must not be qualified or accompanied by statements or a covering letter that might be construed as rendering the tender equivocal. Unauthorised alterations or additions must not be made to any component of the tender documents as this may render your tender invalid and your tender may be rejected. Highways England’s decision as to whether or not a tender complies with these Instructions will be final.

### Tenders not submitted via the eSourcing portal by the tender return date in Table 1.7.1 will be excluded from further consideration. Offers must remain open for acceptance for 210 calendar days from the tender return date.

### Documents are to be in Microsoft Word 2010 (or above), Adobe PDF or Microsoft Excel 2010 (or above) for commercial documents and must be set to portrait orientation. Where a Tenderer wishes to use a different file format this must be raised as a tender query in accordance with the procedure set out above. Please note, that the Tenderers response must not be submitted as a scanned PDF image.

### When uploading tender submissions Tenderers are to upload the electronic files separately for each submission, as set out in 2.1.10 below. Where a submission requires multiple files to be uploaded these can be combined in a single zip file. No file is to be larger than 20Mbytes. Label each Zip file with the Tenderers name and Submission number.

### No unauthorised alteration or additions must be made to any component of the tender documents. The tender must be submitted via the eSourcing portal at <https://highways.bravosolution.co.uk> for the Highways England Fuel Card Reporting Services Contract (2020-2025).

### Before a tender can be accepted the Tenderer must answer all the confirmation statements within the eSourcing portal Technical Envelope, confirming that it has read, understood and accepted specific documents.

#### The following Submission 1 (Highways England Fuel Card Reporting Services Contract Selection Questionnaire) must be completed and submitted by Tenderers via the eSourcing portal Qualification Envelope.

|  |
| --- |
| **Submission 1 (Qualification)** |
| PART 1: Supplier information |
| PART 2: Exclusion grounds |
| PART 3: Selection questionnaire |

####  The following Submission 2 (Quality) documents are to be completed and submitted by Tenderers via the eSourcing portal Technical Envelope.

|  |
| --- |
| **Submission 2 (Quality)** |
| Quality Statement  |

#### The following Submission 3 (Commercial) documents are to be completed and submitted by Tenderers via the eSourcing portal Commercial Envelope.

|  |
| --- |
| **Submission 3 (Commercial)** |
| Highways England Fuel Card Reporting Services Contract Price List |

#### Tenderers are required to return Submission 4 (Supporting Information) via the eSourcing portal Technical Envelope. Supporting Information is composed of 10 statements confirming commitment to adhering to Highways England’s relevant policies. Failure to provide compliant statements in Submissions 4 may result in the tender being rejected.

|  |
| --- |
|  **Submission 4 (Supporting Information)** |
| 1. A Small and Medium Sized Enterprises (SME) Subcontracting Statement
 |
| 1. Proposed Information Assurance Solutions
 |
| 1. A completed and signed Fair Payment Charter
 |
| 1. A completed and signed Anti-Fraud Code of Conduct
 |
| 1. A completed and signed Anti Bribery Code of Conduct
 |
| 1. A summary of relevant insurance policies and certificates
 |
| 1. A statement undertaking responsibility for dealing with insurance claims (or parts of such claims) within the excess amount
 |
| 1. Any request for non-disclosure under the Freedom of Information Act 2000
 |
| 1. Confirmation that the Named Parent Company(s) will enter into the Parent Company Guarantee (if required)
 |
| 1. Legal Opinion for non-United Kingdom Registered Companies
 |

### The Tenderer must review the relevant mandatory requirements and

#### Answer “Yes” to the corresponding question in the eSourcing portal

#### Provide the requested documentation within the tender return. Failure to do so may lead to the tender being rejected.

# Information to support Submissions 1 & 4

## Small and Medium Sized Enterprises (SME)

###  Highways England is committed to removing barriers to SME participation in its contracts and this includes subcontracting opportunities. If Tenderers are proposing to subcontract part of this contract, they should provide assurance that they have considered how SMEs could play a part and details of the measures they have put in place to encourage and enable their participation as their subcontractors. If awarded the Highways England Fuel Card Reporting Services Contract (2020-2025), Tenderers will be asked to provide regular information about their spend with SMEs under the contract and Highways England may publicise good practice on its websites and report such expenditure to other Government Departments. A SME subcontracting statement is not required if the Supplier has classified itself as a SME.

## Proposed Information Assurance Solutions

### Every Government Department including the companies it owns is required to take suitable precautions to safeguard its information. Information Assurance is the confidence that information and communications systems will protect the information they handle, and will function as and when they need to under the control of legitimate users. Tenderers are to provide a description of their proposals for handling information so that the suitability of their proposed Information Assurance solutions can be assessed.

### Tenderers are to answer the questions in the table provided in the eSourcing portal Technical Envelope, giving descriptions where appropriate. This section is not scored as such, but is a straight pass/fail against all these questions generally. If Tenderers answer ‘no’ to any of the questions it does not necessarily mean they would fail however they must provide enough information to show that their policies and processes would align to Highways England' policy, and how. The Procurement Officer may request further information to clarify any aspect of the response.

### Highways England will assess whether the Information Assurance solutions submitted provide adequate protective security for personal and confidential information in accordance with Highways England’s Data Handling Policy. The Procurement Officer may refer any concerns to the appropriate Tenderer; unless the Tenderer is able to demonstrate that its proposals can be relied on, the tender will be rejected.

## Insurance

### Tenderers should be prepared to submit a summary of relevant insurance policies and certificates where appropriate and when required. Failure to do so will result in the tender being rejected.

## Parent Company Guarantee

### Tenderers must confirm that a parent company meeting the requirements of clause 3.4.3 will enter into a parent company guarantee in respect of the performance of the Tenderer’s obligations under the Highways England Fuel Card Reporting Services Contract (2020-2025) if required.

### For the purposes of this provision, “Tenderer” shall be construed as referring separately to each party comprising the Tenderer, if more than one.

### The Tenderer must identify and propose a parent company guarantor that meets the Economic and Financial Standing tests set out in Highways England Fuel Card Reporting Services Contract Selection Questionnaire. The proposed parent company guarantor will be checked for financial standing. If the proposed parent company guarantor does not meet the financial standing tests set out in these Instructions, the tender may be rejected. The Tenderer must note that the Highways England Fuel Card Reporting Services Contract (2020-2025) allows for Highways England to request a parent company guarantee prior to contract award or at any point during the contract period.

### If the Tenderer does not have a parent company, or does not have a parent company that meets the Economic and Financial Standing tests set out in Highways England Fuel Card Reporting Services Contract Selection Questionnaire, to these instructions, the Tenderer must contact the Procurement Officer no later than 1 week prior to tender return to discuss an acceptable alternative guarantor or other form of performance security. Examples of alternative forms of guarantee could include performance guarantees, performance bonds and letters of credit which will need to be agreed by the Procurement Officer prior to tender return. If an acceptable guarantor or other form of performance security cannot be agreed, the tender may be rejected. The Tenderer must submit from the stated guarantor either

#### A certified copy of a Board minute of the guarantor clearly and unambiguously confirming that it will enter into the parent company guarantee when requested, or

#### If the guarantor is

##### registered in the United Kingdom under the Companies Act 2006, a letter signed by the company secretary and a director (or two directors) of the guarantor clearly and unambiguously confirming that it will enter into the parent company guarantee when requested, or

##### not registered in the United Kingdom under the Companies Act 2006

### a letter signed by the equivalent under the law applicable to the guarantor of the company secretary and a director (or two directors) of the guarantor clearly and unambiguously confirming that it will enter into the parent company guarantee when requested and

### a legal opinion from a lawyer or law firm acceptable to Highways England) which is qualified and registered to practise in the jurisdiction in which the guarantor is incorporated, confirming the validity of the guarantor’s commitment under applicable local law; the legal opinion must be addressed to Highways England on a full reliance basis and the liability of the lawyer or law firm giving the opinion must not be subject to any financial limitation unless otherwise agreed by Highways England.

### If the Tenderer does not return a certified copy of a Board minute or a signed letter and evidence of authority (and, where paragraph 1.12.5 applies, a legal opinion) as may be required above, then its tender may be rejected.

## Legal Opinion for non-United Kingdom Registered Companies

### If the Tenderer, or a consortium member of the Tenderer, or a proposed parent company guarantor is not a company incorporated in and subject to the laws of England and Wales (a “Foreign Entity”), then the Tenderer is required to provide a legal opinion from a lawyer or law firm which is

### qualified and registered to practise in the jurisdiction in which the Foreign Entity is incorporated and

### acceptable to Highways England (the Tenderer must discuss this with the Procurement Officer prior to tender return).

### The legal opinion must be submitted via the eSourcing portal Qualification Envelope and addressed to Highways England on a full reliance basis and the liability of the lawyers or law firm giving the opinion is not to be subject to any to financial limitation unless otherwise agreed by Highways England in writing (the Tenderer must discuss this with the Procurement Officer prior to tender return).

### The legal opinion must also cover the following matters:

### confirmation that:

### the Foreign Entity is a corporation duly incorporated in the relevant jurisdiction, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated;

### that if successful the Foreign Entity has full power to execute, deliver, enter into and perform its obligations under the Highways England Fuel Card Reporting Services Contract (2020-2025) / parent company guarantee;

### all necessary corporate, shareholder and other action required to authorize the execution and delivery by the Foreign Entity of the Highways England Fuel Card Reporting Services Contract (2020-2025) / parent company guarantee and the performance by it of its obligations under it have been duly taken;

### confirmation of the proposed signatories/method of execution and confirmation that this will constitute valid execution by the Foreign Entity;

### the execution and delivery by the Foreign Entity of the Highways England Fuel Card Reporting Services Contract (2020-2025) / parent company guarantee, and the performance of the obligations will not conflict with or violate:

### the constitutional documents of the Foreign Entity;

### any provision of the laws of the jurisdiction in which it is incorporated;

### any order of any judicial or other authority in the jurisdiction in which it is incorporated; or

### any mortgage, contract or other undertaking which is binding on the Foreign Entity or its assets; and

### (assuming that the Highways England Fuel Card Reporting Services Contract (2020-2025) / parent company guarantee is binding under English law), the agreement constitutes legal, valid and binding obligations of the Foreign Entity enforceable in accordance with its terms;

### notification of any other formalities to be complied with under local law which may be necessary to enforce the Highways England Fuel Card Reporting Services Contract (2020-2025) / parent company guarantee in the Foreign Entity’s place of incorporation, including for example notarisation, legalisation or registration of the Highways England Fuel Card Reporting Services Contract (2020-2025) / parent company guarantee;

### notification of whether withholding is required to be made by the Foreign Entity in relation to any monies payable to Highways England under the Highways England Fuel Card Reporting Services Contract (2020-2025) / parent company guarantee;

### confirmation that Highways England will not be deemed to be resident or domiciled in the foreign jurisdiction by reason of the Foreign Entity’s entry into the Highways England Fuel Card Reporting Services Contract (2020-2025) or the guarantor’s entry into the parent company guarantee; and

### confirmation that the Foreign Entity and its assets are not entitled to immunity from suit, pre-judgment attachment or restraint or enforcement of a judgment on grounds of sovereignty or otherwise in the courts of England and Wales in respect of proceedings against it in relation to the Highways England Fuel Card Reporting Services Contract (2020-2025) / parent company guarantee.

### If a legal opinion

### does not confirm all the matters listed in paragraph 3.5.3(a),

### does not include the notification required by paragraph 3.5.3 (b),

### indicates that withholding is required to be made under paragraph 3.5.3 (c) or

### does not provide the confirmations required by paragraphs 3.5.3 (d) and 3.5.3 (e)

then the tender may be rejected.

# tender EVALUATION stages

## General

### Highways Englandassessment of tenders will be carried out in the following six stages.

### During the evaluation period, Highways England reserves the right to seek clarification in writing or by means of a clarification meeting (and confirmed in writing) from any or all the Tenderers solely to assist in its consideration of their tender but shall be under no obligation to do so.

### The Tenderer acknowledges that any documents and information submitted as part of its tender represent the proposals for meeting Highways England’s requirements, but do not in any way override or modify those requirements. If awarded the Highways England Fuel Card Reporting Services Contract (2020-2025), the Tenderer will remain liable to comply with all the obligations set out in the documents forming part of the contract. The Tenderer shall not be relieved from compliance with these obligations by any:

#### Compliance or Sustainability check carried out by Highways England on any part of the tender,

#### Evidence, assumptions or other information provided by the Tenderer to support the process in paragraph (a) above or

#### Clarification requested by Highways England and provided by the Tenderer (whether orally or in writing) as part of the evaluation process.

## Stage 1 - Compliance

### In this stage, the Procurement Officer will undertake an initial check of the material submitted by the Tenderer for tender completeness and compliance with these Instructions, including:

#### correct documents & submissions have been made in accordance with submission requirements

#### the format of submitted documents is correct

#### the page count and font size in submitted documents is correct

#### that no further documents were submitted beyond those required

#### the Selection Questionnaire in Submission 1 has been self-certified as a pass

### A tender that does not meet these conditions may result in the tender being rejected. Highways England’s decision will be final.

## Stage 2 – Evaluation

### In this stage, the members of the Quality Evaluation Panel will individually assess the answers provided by the tenderer in Submission 2 (Quality) to the four questions in section 8.3 of these Instructions. Quality evaluation methodology is included in Section 5 - Quality Assessment.

### The minimum quality requirement for this contract is to reach a threshold of 60% for the overall quality submission.

### The Commercial Evaluation Panel will assess Submission 3 (Commercial). Commercial evaluation methodology is included in Section 6 - Commercial (Cost) Scoring. The Commercial Evaluation Panel will also identify the issues to be raised with the Tenderer by the Tender Panel at the Sustainability stage.

## Stage 3 – Quality Consensus

### Following the Quality Evaluation stage, a consensus meeting will be held between members of the Quality Evaluation Panel to agree the Quality Mark and rationale for each question evaluated.

## Stage 4 - Total Score

### The lead bidders Total Score will be derived using table 4.6 below. In this competition, the most economically advantageous tender will be determined by applying a quality weighting of 60% and price a weighting of 40%.

### The Tenderer with the highest Total Score will move forward to Stages 5 and 6 - (Sustainability and Selection Questionnaire).

### Table 4.6

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | Quality Submission | Financial Score | 60% Quality Score | 40% Financial Score | Total Score |
|  | *[i]* | *[ii]* | *[i \* 0.6]**[iv]* | *[ii \*0.4]**[v]* | *{iv + v]* |
| Tenderer A | 72 | 78 |  43.2 | 31.2 | 74.4 |
| Tenderer B | 63 | 91 |  37.8 | 36.4 | 74.2 |

## Stage 5 – Sustainability

### This stage will involve a sustainability check of the tender or tenders identified for the Sustainability process. This is usually the tender of the Lead Bidder determined in accordance with Stage 4 (Total Score), however on occasion it may be necessary to carry out this check on two or more tenders. This is necessary where there is no clearly defined gap between the quality scoring of two bidders.

### In the Sustainability stage, the Quality Panel and Financial Panel will be combined to form the Tender Panel, who will consider the sustainability of the overall proposed solution to identify risks that would reduce Highway England’s confidence in delivery.

### The Sustainability process will focus on providing Highways England confidence that the tenderer can fully perform the Highways England Fuel Card Reporting Services Contract (2020-2025), for the price submitted without risk of it failing.

### For each Tenderer identified for the Sustainability process, the Tender Panel will review a list of sustainability issues identified by the Commercial Evaluation Panel or the Quality Evaluation Panel during their respective evaluation of the Quality and Commercial Submissions.

### Key topics identified for Sustainability (i.e. issues that may raise concern that the tenderer may not be able to deliver the Highways England Fuel Card Reporting Services Contract (2020-2025) for the price submitted) will be notified to the Tenderer in advance of any meeting with the Tenderer and answers/information will be recorded as part of the overall tender evaluation procedure.

### During the Sustainability process the Tender Panel may request evidence or explanation on any element to substantiate the build-up and calculations behind any rates or data within the Commercial Submission.

### Tenderers should note that the Sustainability process is in addition to and without prejudice to Highways England’s rights to undertake due diligence in relation to a potentially abnormally low offer under the Public Contracts Regulations 2015, as amended. Highways England may undertake due diligence in relation to a potentially abnormally low offer on any aspect of a tender and at any stage of the procurement process.

## Stage 6 – Selection Questionnaire

### When instructed, the tenderer with the highest Total Score after Stage 5 – Sustainability may be required to submit the evidence which supports their declarations in Parts 1 and 2 of the Selection Questionnaire in Submission 1 within the time stated. Highways England will check the evidence which supports the answers given to the Selection Questionnaire before the award of the Highways England Fuel Card Reporting Services Contract (2020-2025). If the required evidence is not provided within the time stated in the instruction or the evidence does not support the statements made in the Selection Questionnaire the tender may be rejected.

### Highways England will assess the responses to Part 3 of the Selection Questionnaire which are on a pass/fail basis. In the event of a tender being given a “fail” against any of the criteria, the tender will be rejected.

### Highways England will contact the tenderer with the highest Total Score if a parent company guarantee (or other guarantee or security agreed in accordance with these Instructions) is required before its tender can be accepted and will specify the parent company from whom a parent company guarantee must be provided.

### If the Tenderer with the highest Total Score passes the Selection Questionnaire evaluation then that Tenderer is awarded the Highways England Fuel Card Reporting Services Contract (2020-2025).

### If the Tenderer with the highest Total Score fails the Selection Questionnaire evaluation the Tenderer with the next highest Total Score has its Selection Questionnaire evaluated.

### This process continues until a Tenderer with a Total Score higher than other Tenderers and which passes the Selection Questionnaire evaluation has been identified. This Tenderer is awarded the Highways England Fuel Card Reporting Services Contract (2020-2025).

# QUALITY ASSESSMENT

## Introduction

### The Quality Evaluation Panel comprises of individuals who independently evaluate the Quality Submission (Stage 2 above) and then meet as a panel to provide Consensus on the scoring of the Quality Submission (Stage 3 above). The Quality Evaluation Panel will undertake an evaluation of the Quality Submission by determining their level of confidence in the Tenderer being able to provide the Service using the matrix in Table 5.3 below.

### In evaluating the Quality Submission, a Quality Mark will be allocated for each Quality Question.

### Clarifications are statements requested from Tenderers by the Procurement Officer to remove any ambiguity from tenders. Clarifications will be recorded in writing. If necessary to complete their evaluation, the Quality Evaluation Panel will seek clarifications from the Tenderer via the Procurement Officer. Clarifications will be sought during the evaluation process to remove any uncertainty over the meaning of anything within the Quality Submission. If a clarification provides information not requested by the Procurement Officer, then this information will be disregarded by Highways England.

### After Evaluation the Quality Evaluation Panel meets to agree in Consensus the Quality Mark for each question.

### The Total Quality Score for each tenderer will be derived from the Quality Marks produced at Stage 3 (Quality Consensus).

## Scoring Criteria

### In the scoring table in section 5.3 below levels of confidence are defined as follows:

#### **High** level of confidence means no weaknesses identified in the area being assessed.

#### **Good** level of confidence means one or more weaknesses identified in the area being assessed that are unlikely to affect overall delivery of the contract requirements.

#### **Limited** level of confidence means one or more weaknesses identified in the area being assessed that are likely to affect overall delivery of the contract requirements.

#### **No confidence** means one or more weaknesses identified in the area being assessed that would be expected to prevent delivery of some or all of the contract requirements.

## Table 5.3 – Quality Statement - Written Scoring

|  |  |
| --- | --- |
| Mark | To what extent does the tenderer’s response demonstrate they are likely to meet the requirements and contribute to the delivery of the contract? The response will be assessed based on Highways England’s confidence in the following areas:• The methodology and/or resources will successfully deliver the requirements.• The methodology represents efficiencies, continual improvement, and/or additional value.• The tenderer will act in a collaborative manner throughout the contract duration.• The methodology will contribute to the successful delivery of the contract.• The methodology is supported by evidence and therefore is highly likely to be delivered.   |
| 1 | The response provides an **Unsatisfactory** level of confidence which means one of more significant weaknesses or omissions identified in the area being assessed which may prevent delivery of some or all of the contract requirements. |
| 3 | The response provides a **Limited** level of confidence which means one or more weaknesses identified in the area being assessed that are likely to affect delivery of some or all the contract requirements that may require significant or ongoing intervention. |
| 5 | The response provides an **Adequate** level of confidence which means one or more weakness identified in the area being assessed that may affect delivery of some or all the contract requirements that may require some intervention. |
| 7 | The response provides a **Good** level of confidence which means one or more weaknesses identified in the area being assessed that may require little or no intervention, however unlikely to affect the delivery of all of the contract requirements. |
| 9 | The response provides a **High** level of confidence which means no weaknesses are identified in the area being assessed, and meets all the contract requirements, and may involve additional value to the requirements. |

## Quality Statement Scoring Formula and Weighting For Each Question

#### The score for each question in section 8.3 is determined by dividing the Quality Mark for that question by the maximum available mark for that question (which in this case will be 9) and multiplying the result by the question weighting shown in the final column of the table in section 8.3. The result is multiplied by one hundred.

#### Example

##### Quality Question Q1 = Quality Mark awarded for question Q1 divided by maximum available score (9) and the result multiplied by the weighting for that question (40%) and then multiplied by 100 and rounded to one decimal place.

Quality Question Q2 = Quality Mark awarded for question Q2 divided by maximum available score (9) and the result multiplied by the weighting for that question (25%) and then multiplied by 100 and rounded to one decimal place.

#### Repeat for all three questions

## Table 5.6 - Worked Example

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Question** | **Quality Mark** | **Maximum Available Mark** | **Question Weighting** | **Weighted Score for Question** |
| Q1 | 5 | 9 | 40% | 22 |
| Q2 | 9 | 9 | 25% | 25 |
| Q3 | 9 | 9 | 35% | 35 |
| **TOTAL** |  |  |  | **82.0** |

## Quality Mark

### In this example the weighted score of 82.0 will be multiplied by 60% to give the total Quality Score. This will be taken forward to Sustainability.

# commercial (Cost) Scoring

## Methodology

### The Commercial Evaluation Panel will be provided with the response to the Quality Submission questions for information purposes.

### A Commercial Evaluation Panel will determine a total price for each Tenderer on the basis of the total of prices submitted within the Highways England Fuel Card Reporting Services Contract Price List.

### The Commercial Evaluation Panel will check that the resources it considers a tenderer needs to deliver the Highways England Fuel Card Reporting Services Contract (2020-2025) and the tendered prices correspond. If they do not correspond and the Tenderer fails to provide a satisfactory explanation the tender may be rejected.

### Examination of documents may detect errors in computation that may undermine the reliability of the tender. Tenders may be corrected by the Commercial Evaluation Panel to take into account misplaced decimal points, etc., or patent errors in arithmetic. Tenderer’s will be notified and asked within 2 working days/by return to confirm the corrected tender. Failure to agree may result in the tender being rejected.

### The Commercial Evaluation Panel will undertake a review of the tenderers submitted rates and prices to ensure that in its reasonable opinion they are sufficient to provide a sustainable service. As part of this review the Commercial Evaluation Panel may ask to be provided with original evidence that demonstrates that the allowances made are reflected of forecasted costs incurred. This is a critical process and Tenderers should ensure appropriate time and resources are offered to support this. The Commercial Evaluation Panel may wish to interview appropriate staff to provide the level of satisfaction required. Failure to provide satisfactory evidence to support any part of this aspect of the submission may result in the tender being rejected.

### Any prices, components or assumptions which the Commercial Evaluation Panel feel warrants additional evidence or discussion will be confirmed and discussed during the Sustainability stage (Stage 5). This is a critical process and Tenderers should ensure appropriate time is offered to support this. Where the Commercial Evaluation Panel are not satisfied that the prices, components or assumptions reflect a sustainable tender, then the Tenderer’s Quality Mark may be reduced as described in Section 4.5.

### The Tenderer with the lowest total price will be given a Finance Score of 100. The Finance Score of other Tenderers will be calculated by deducting from 100 one point for each full percentage point by which their total price is above the lowest total price. If the tender with the lowest total price is subsequently excluded from further tender evaluation these scores will be recalculated. A worked example appears in Table 6.2.

### This tender is using a ratio of 60% quality and 40% price therefore the percentages derived under paragraph 6.1.7 are multiplied by 40% to give the final weighted Commercial Score.

### The estimates, allowances and adjustments above are estimates for tender evaluation purposes only and there is no guarantee that work to evaluation values will be carried out during the contract period.

## Table 6.2: Commercial (Cost) Score – Worked Example

|  |
| --- |
| **Commercial Evaluation**  |
| **Lowest Price** | **£55,000** |   |
| Tenderer | Price | Lowest Price Rank | Variance from Lowest | Adjusted Score | Weighted Score (x40%) |
| A | £55,000 | 1 | 0% | 100 | 40 |
| B | £60,000 | 2 | 9% | 91 | 36 |
| C | £65,000 | 3 | 18% | 82 | 33 |

### The weighted Finance Score is then added to the weighted total Quality Mark to confirm the Tenderer with the highest Total Score that will be taken into Stage 5 (Sustainability).

# Tender award

## General

### Highways England reserves the right not to proceed with any proposal made in response to this invitation.

### As soon as possible once the award decision has been made, Highways England will inform the unsuccessful Tenderers of its decision in accordance with Regulation 86 of the Public Contracts Regulations 2015. This will trigger the start of the Standstill Period.

### The successful Tenderer needs to confirm that the relevant insurances referred to in section 3.3. are able to be placed before contract starting date as set out in Highways England Short Form Purchase of Services Terms and Conditions.

### Following contract award any documents not returned with the tender should be deleted from the Tenderer’s computers and all hard copies destroyed.

### Details of the contract award will be published in Contract Finder.

# Quality SUBMISSION

## Introduction

### Tenderers must submit their Quality Submission (Submission 2) following the structure set out and cover the items described in this document.

## Quality Statement

### The Quality Statement addresses the questions provided in section 8.3.

### In summary, the purpose of the Tenderer’s Quality Statement is to provide Highways England with an acceptable level of confidence, that both:

#### the approach is adequate for a competent and experienced contractor to successfully deliver the service, and

#### the Tenderer has the necessary competence, capability and capacity to deliver this approach and can evidence this using relevant experience.

### The Quality Statement must be presented as one submission comprising the Tenderer’s proposed approach to provide the Service as described in the Highways England Fuel Card Reporting Services Contract (2020-2025), and evidence showing how the approach proposed has been developed from the successful delivery of similar work.

### The Quality Statement should address Highways England’s specific requirements. Evidence may include reference to projects from other sectors where transferable skills and capabilities can be demonstrated. Where an innovative process has been proposed, evidence may include reference to how the process has been developed in concept and tested.

### Where there are shortfalls in the Tenderer’s previous experience, or there are risks associated with the service there must be an explanation detailing how these shortfalls will be overcome that provides confidence that the approach will be adequately managed. The Tenderer must state if they believe there to be no shortfall in previous experience.

### The Tenderer’s response must clearly articulate and include the following four areas when addressing the questions (referencing Scoring Criteria in Table 5.3):

#### The methodology and resources that will deliver the service.

#### The proposed measures to represent additional value to the delivery of the service.

#### How it will act in a collaborative manner to continually deliver and improve the service for the full contract period.

#### Evidence that the proposed approach is likely to be delivered

## Table 8.3 - Quality Statement (Questions)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Question** | **Indicative Page Limit (total 8 overall)** | **Max Score Available** | **Weighting** |
| 1. | Methodology & Value for MoneyPlease detail your proposed solution to meet Highways England’s required specification. To support this, please provide a case study, detailing where you have operated similar Fuel Card Reporting Services for a customer.Your response should demonstrate fully how your solution will meet the requirements detailed within the specification. | **3** sides A4 | 9 | 40% |
| 2. | Customer Service Please describe your approach to customer service.Your response should demonstrate, but not be limited to, how you will engage with both ourselves and our fuel card provider and how will you ensure effective collaboration throughout the duration of this contract. | **2** sides A4 | 9 | 25% |
| 3. | MobilisationPlease provide details of the typical implementation processes that you would propose if awarded this contract.Your response should demonstrate, but not be limited to, the management of any transition of the services from another provider. This may include:* The major sequence of the various activities required
* Pre-mobilisation
* Mobilisation
* Anticipated timescales
* Resource assumptions (for both client and service provider)
* Information / approvals typically required from the Client
 | **3** sides A4 | 9 | 35% |

### The Quality Statement must not exceed the following total page limit: 8 sides of A4 paper. Each page must include a page number. The page limit includes all text included in the Quality Statement, title pages, drawings, diagrams, flow charts and any annexes.

### Tenderers may use A3 paper in lieu of A4, but each A3 sheet will be counted as two A4 sheets.

### Text must be presented in “Arial” font and be no smaller than 11 point, no less than single-spaced with the margins set at 2.54 cm. Text used for figures, tables, drawings, sketches, diagrams and flow charts must be no smaller than 8 point.

### The pages of the Quality Statement must be numbered, and responses to each question should be numbered as per the ‘Number’ in the first column of Table 8.3. Page numbers and other header or footer information may be included in the margin space.

### Subject to paragraph 8.3.6 if Submission 2 exceeds the page limits set out above then Highways England will disregard the content of the pages after the limit has been exceeded.

### If Tenderers consider that the page limit is insufficient to provide the information required by these Instructions, then a tender query should be raised to the Procurement Officer. No guarantee can be given that the page limit will be increased.

# Commercial submission

### Tenderers must submit a Commercial Submission (Submission 3) which follows the structure set out and covers the Items described in this document.

## Completed Contract Data Part Two

### The Tenderer is to include the completed Contract Data Part Two.

## Commercial Price List

### For Submission 3, the tenderer is to include a priced ‘Highways England Fuel Card Reporting Services Contract’ Price List.

### Tenderers are not permitted to:

#### price any item, rate, fee, percentage or adjustment within another item, rate, fee, percentage and adjustment,

#### cross subsidise any item, rate, fee, percentage or adjustment within any other item, rate, fee, percentage or adjustment,

#### make any assumptions regarding the use or relevance of any item, rate, fee, percentage, adjustment or quantity or

#### duplicate any price.

### Tenderers who price on any other basis and/or make any such assumptions may be rejected.

### Where a Tenderer prices an item, rate, fee or percentage or adjustment as zero, the Tenderer must provide Highways England with a detailed explanation of why the item, rate, fee, percentage or adjustment is zero. This information must be included in Submission 3.

### In the event that a Tenderer prices an item, activity, rate or percentage as zero, the Tenderer is confirming that both the Tenderer’s forecast price and actual price will not include anything for it.

### In the event that a Tenderer includes a credit for any item, rate, fee or percentage, the Tenderer must provide Highways England with a schedule showing:

#### a detailed explanation of how and why there is a credit in relation to each item, rate, fee or percentage where a credit is said to exist, and

#### details of how each credit identified is consistent with the terms of the Highways England Fuel Card Reporting Services Contract (2020-2025). This information must be included by the Tenderer's in Submission 4. A credit must be shown against the price of an item or activity to which the credit relates.

### Tenderers are to note that these Instructions for Tenderers and the Highways England Fuel Card Reporting Services Contract (2020-2025) do not provide for working capital or any other loans to Tenderers as part of this procurement process and Highways England can confirm that loans will not be provided by Highways England in any circumstances.

## Price List Guidance

#### All tenderers rates shall exclude VAT at the prevailing rate.

#### Fee is as described in terms of contract.

### Details within this Cost Breakdown will be used at the Sustainability stage of assessing tenders, detailed within the Instructions for Tenderers (IfT) document.

# SELECTION QUESTIONNAIRE

### Tenderers will have satisfactorily completed the Selection Questionnaire which can be found in Highways England Fuel Card Reporting Services Contract Selection Questionnaire. Those suppliers who were successful at this stage will been made aware of this fact via Bravo and officially invited to continue through this tender process