



**South West**

**Maintenance and Response Contract**

**Instructions for Tenderers**

**Document 1: Tender Process**



---

**List of Contents**

<b>1</b>	<b>INTRODUCTION .....</b>	<b>4</b>
<b>2</b>	<b>THE TENDER PROCESS .....</b>	<b>4</b>
2.1	General .....	4
2.2	Documents.....	7
2.3	Tender Communications .....	8
2.4	Tender Conference .....	9
2.5	Not used .....	9
2.6	Inspections and Database Access .....	9
2.7	Tender Programme .....	10
2.8	Form of Contract .....	10
<b>3</b>	<b>TENDER AWARD .....</b>	<b>11</b>
	<b>ANNEX A - TENDER DOCUMENTS .....</b>	<b>12</b>
	<b>ANNEX B - FEEDBACK .....</b>	<b>13</b>

## **1 INTRODUCTION**

1.1.1 The Instructions for Tenderers consist of the following three documents:

Document 1: Tender Process

Document 2: Submission of Tenders

Document 3: Tender Assessment

1.1.2 Document 1 contains general instructions on what Tenderers need to do and how the award process will work.

1.1.3 Document 2 gives an overview of the documents that need to be submitted. There are five separate volumes:

Volume 1A – Selection Questionnaire

Volume 1B – Supporting Information

Volume 2A – Quality Submission A

Volume 2B – Quality Submission B

Volume 3 – Commercial Submission

1.1.4 Document 3 gives details of the evaluation process and evaluation criteria for the documents submitted in Volumes 1 to 3.

## **2 THE TENDER PROCESS**

### **2.1 General**

2.1.1 These Instructions apply to the tender process for the South West Maintenance and Response Contract

This tender process is carried out under the open procedure following the publication of the OJEU Contract Notice.

2.1.2 Highways England's Vision, Values and Key Objectives for the Maintenance and Response Contract are set out in Annex 2 of the Service Information.

2.1.3 The process is conducted in accordance with the open procedure under the Public Contracts Regulations 2015 and seeks to determine the most economically advantageous tender to Highways England. This will be a compliant and affordable bid which meets the selection criteria and which has a validated overall score higher than any other Tenderers' overall score.

2.1.4 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 contract.

- 2.1.5 For enquiries contact Highways England via the e-Sourcing portal <https://highways.bravosolution.co.uk> for South West Maintenance and Response Contract. The Procurement Officer for this competition is John Templer at Highways England. Contact with the Procurement Officer must be made via the e-Sourcing 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.
- 2.1.6 . Any queries from Tenderers are to be submitted by the named single point of contact (the Bravo account holder) in their organisation, to communicate with the Procurement Officer.
- 2.1.7 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 you are unable or unwilling to comply with this requirement you are 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.
- 2.1.8 Under the Freedom of Information Act 2000 (as amended) ("the Act"), the Environmental Information Regulations 2004 ("EIR") and the Public Contracts Regulations 2015, 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 the tender process including any tenders received.
- 2.1.9 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 contract resulting from this competition, excluding only information which is exempt from disclosure pursuant to the 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:
- Part B of the Quality Statement
  - Prices in the Price List (but not the total)

- EIR information.
- 2.1.10 Tenderers should be aware that Highways England could receive requests for any information relating to this contract or tender. 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 commercial interests or is otherwise exempt from disclosure under the Act. Requests for nondisclosure under the Act 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 would, if requested, be available for disclosure. Any request by the Tenderer under this paragraph is for information only and will not be taken into account in the tender assessment process, nor will it form part of any contract between Highways England and the Tenderer.
- 2.1.11 Tenderers must immediately advise Highways England and seek approval of such change if
- (a) their ownership or the ownership of any member of their tendering consortium (or their parent company) changes, or
  - (a) any organisation involved in the preparation of this contract is acquired by them or by any member of their consortium (or an associated company).
- 2.1.12 If Highways England considers that a change in ownership has created a potential conflict or approval is not obtained, Highways England may exclude the Tenderer from the tender assessment. If excluded, the Tenderer will be notified by the Procurement Officer.
- 2.1.13 If, at any time during the tender process and/or any subsequent contract, there is any change to a Tenderer's economic or financial standing which means that information submitted by the Tenderer 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 England reserves 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.
- 2.1.14 Highways England reserves the right to disqualify any Tenderer that fails to inform or advise Highways England in accordance with paragraphs 2.1.11 and 2.1.13.
- 2.1.15 These Instructions are made in good faith. No warranty is given as to the accuracy or completeness of the information contained in it. Any liability or inaccuracy or incompleteness is expressly disclaimed by Highways England and its advisers. Tenderers are advised to satisfy themselves that they

understand all of the requirements of the contract before submitting their tender.

- 2.1.16 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.
- 2.1.17 Highways England reserves the right to cancel, amend or vary the tender process at any point prior to the award of the contract (in whole or in part) and with no liability on its part.
- 2.1.18 Highways England reserves the right not to accept the lowest or any tender for any reason.
- 2.1.19 Highways England and/ or its advisers 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.
- 2.1.20 Tenderers 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.
- 2.1.21 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.
- 2.1.22 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.
- 2.1.23 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 bid 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.

## **2.2 Documents**

- 2.2.1 The documents provided to Tenderers are listed in Annex A.

2.2.2 If Tenderers experience any difficulties in locating documents listed within Annex A, or within any of the reference documents, then a tender query must be made via the Bravo e-Sourcing portal.

2.2.3 Any drawings, 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 must not be disclosed to persons unconnected with the tender and must be securely destroyed. These provisions apply equally to drawings and other information supplied for the purpose of the tender, the property rights of which rest in a third party.

### 2.3 Tender Communications

2.3.1 Any queries from Tenderers regarding the tender documents must be made via the e-sourcing portal using the Tender Query Form provided, and sent to the Procurement Officer via the e-sourcing portal **no later than the date shown in 2.7.1 below**, unless instructed otherwise by the Procurement Officer.

2.3.2 All tender queries will be responded to by the Procurement Officer provided it is submitted before the deadline as referenced in 2.3.1 above. If any response requires a change to the tender documents then a tender amendment will be issued via the e sourcing portal.

2.3.3 Tender amendments are changes to the tender documents that are made in writing by the Procurement Officer and issued to all Tenderers. Only in exceptional circumstances will tender amendments be issued after tenders have been submitted. In such circumstances, the Procurement Officer will notify all Tenderers of the required action.

2.3.4 Highways England officers 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.

2.3.5 Tenderers to note that Highways England will refer any tender queries requesting TUPE information to the relevant Provider and ensure (as far as possible) that responses are provided, but will not guarantee the accuracy or completeness of any information provided. Any request for an extension of the Tender period on the grounds that a tenderer has not been provided with sufficiently detailed information about employees who may be subject to a TUPE transfer as a result of the provision of the services will not be given.

**2.4 Tender Conference**

2.4.1 Tenderers will have the opportunity to meet the members of Highways England's team at a tender conference. There will be one tender conference and the indicative date is set out at 2.7 below. Tenderers wishing to attend must notify the Procurement Officer within one week of the date of commencement of the Invitation to Tender, via Bravo messaging.

2.4.2 The conference will be held to explain, discuss and answer questions on the tender process. During this conference, the following presentations will be given by Highways England.

- A presentation on the proposed contract by Highways England, identifying and explaining any project specific issues of importance to the tender submission
- A presentation by the Procurement Officer, setting out the tender process and timetable
- A presentation focussing on the tender return requirements
- A presentation of the tender assessment approach by Highways England as detailed in these Instructions
- A Question and Answer session

2.4.3 Tenderers will have an opportunity to ask questions at this conference but must not rely upon any statement made by Highways England's team unless confirmed in writing by the Procurement Officer. Any questions raised will be treated as tender queries and dealt with in accordance with the procedure set out at section 2.3 above.

**2.5 Not used****2.6 Inspections and Database Access**

2.6.1 Tenderers wishing to visit any land or property associated with the contract must notify the Procurement Officer within one week of the date of commencement of the Invitation to Tender, via Bravo messaging.

2.6.2 Liability for any damage or disturbance caused to such land or property rests with the Tenderer.

2.6.3 Tenderers requiring access to Highways England's databases are to provide the name of one nominated person and confirm which databases they require access to. Tenderers must provide this information to the Procurement Officer within one week of the Invitation to Tender.

## 2.7 Tender Programme

2.7.1 The indicative tender programme is shown below:

Item	Activity	Date
1	Tender documents available on Bravo	30/08/16
2	Tender Conference	12/09/16
3	Tour of Depots	19 - 23/9/16
4	Data Room visits	27 – 28/09/16
5	Last date for tender queries	14/10/16
6	Tenders returned	28/10/16
7	Assessment (Stages 1, 2 & 3)	31/10/16 – 09/12/16
8	Preferred bidder identified	09/12/16
9	Validating the quality statement, financial information and undertaking sustainability checks	23/01/17 – 10/02/17
10	Initial notification of winning tender and feedback to Tenderers	13 – 20/02/17
11	10 day standstill period	20/02/17
12	Award contract	03/03/17
13	starting date	06/03/17
14	<i>access date</i>	01/07/17

## 2.8 Form of Contract

2.8.1 The successful Tenderer should note that the form of contract is the NEC3 Term Service Contract April 2013 and additional conditions of contract listed in the Contract Data issued with these Instructions, will form the basis of the agreement between Highways England and the successful Tenderer. The successful Tenderer will be required to enter into the agreement on the terms contained in the form of contract (please see Annex A). Highways England is bound by the Public Contract Regulations 2015 and 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.

**3 TENDER AWARD**

- 3.1.1 Highways England reserves the right not to proceed with any proposal made in response to this invitation.
- 3.1.2 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. Tenderers will be given written feedback on their tender shortly after the assessment has been completed as set out in Annex B.
- 3.1.3 Prior to the award of any contract the Preferred Bidder must provide evidence that insurance required by the contract is in place.
- 3.1.4 Any drawings and other documents not returned with the tender should be deleted from the Tenderer's computers and all hard copies destroyed.
- 3.1.5 Details of the contract award will be published in the Official Journal of the European Union.

**ANNEX A - TENDER DOCUMENTS**

(a) The following documents are provided to Tenderers:

<i>Document Title</i>	
1.	Instructions for Tenderers
2.	Contract Data Parts One and Two
3.	Z Clauses
4.	Form of Agreement (Form of Agreement by Deed)
5.	Service Information
6.	Price List
7.	Network Information
8.	Fair Payment Charter (Technical Envelope on Bravo)
9.	Anti Bribery Code of Conduct (Technical Envelope on Bravo)
10.	Anti Fraud Code of Conduct (Technical Envelope on Bravo)
11.	Anti-Collusion Certificate (Technical Envelope on Bravo)
12.	Pre-Construction Information
13.	Schedule of Cost Components
14.	Quality Submission Answer Booklet
15.	Tender Query Form
16.	Form of Tender Questions (Technical Envelope on Bravo)
17.	Lump Sum Resource Schedule
18.	Schedule of Rates Resource Schedule

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

<i>Document Title</i>	
1.	Selection Questionnaire (Qualification Envelope on Bravo)
2.	Tender Query Form
3.	Contract Data Part Two
4.	Pricing List Schedules A, B and C
5.	Lump Sum Resource Schedule
6.	Schedule of Rates Resource Schedule
7.	Information Assurance document (Technical Envelope on Bravo)
8.	Quality Submission Answer Booklet

**ANNEX B - FEEDBACK**

To assist Tenderers, the feedback below will be provided following the completion of the tendering process and will be issued with the notice of the award decision in accordance with Regulation 86 of the Public Contracts Regulations 2015.

**1. Contract Requirements**

- Criteria for award of contract –
- The reason for the decision including the characteristics and relative advantages of the successful tender.
- Combined Scores, ranked and anonymised for each tenderer, except for the named successful tenderer the contract may be awarded to.
- Requirements for tender return – information provided as part of the bid:
  - Volume 1 – Initial Assessment
  - Volume 2 – Quality Submission
  - Volume 3 – Commercial Submission

**2. Review of Compliance**

- Tender Assessment Procedure – summary of tender clarifications sought during Stage 3 if applicable.

**3. Assessment Process**

- Quality Scoring – summary of the Quality Statement marking process as set out in the Instructions for Tenderers.
- Financial Scoring – summary of the Financial information scoring process as set out in the Instructions for Tenderers.
- Determining the Lead Bidder – summary of the combined Mark/Price Score as set out in the Instructions for Tenderers.

**4. Quality Assessment**

- Quality Marks, ranked and anonymised for each tenderer, except for the named successful tenderer the contract may be awarded to.
- A breakdown of your individual quality mark for each section of the Quality Statement together with;
  - positives and areas of concern including the weighted quality mark for each section
  - the characteristics and relative advantages of the successful tender, [and the score (if any) obtained]

**5. Financial Assessment**

- Financial Scores, ranked and anonymised for each tenderer, except for the named successful tenderer the contract may be awarded to.
- A template of the structured approach taken in the tender assessment process.

- A breakdown of your individual assessed total price for financial tender assessment purposes and the characteristics and relative advantages of the successful tender, [and the score (if any) obtained].

#### **6. Validation and Sustainability**

- A breakdown of the issues raised during your validation together with a record of the responses received and the marks for each of the quality criteria.
- A breakdown of your combined and weighted quality marks and financial scores after validation including the positives and any areas of concern.
- A summary of the sustainability process and any issues and areas of concerns raised.

#### **7. Additional information required by Regulation 86**

- Any additional information required by Regulation 86 (3).

All feedback will be offered in written format only.