#### Annex D – Tender Information Questionnaire (TIQ)

**Section A - Notes for completion**

1. The ‘Tenderer’ (i.e. the legal entity seeking to be invited to the next stage of the procurement process and responsible for the information provided) is intended to cover any economic operator(s) as defined by the Public Contract Regulations 2015 and could be a registered company; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
2. This questionnaire (has been designed to assess the suitability of the Tenderer to deliver Highways England*’s* contract requirement(s).
3. Please ensure that all questions are completed in full, and in the format requested. Failure to do so may result in your tender being disqualified. If the question does not apply to you, please state clearly ‘N/A’ and advise why question does not apply to you.
4. Should you need to provide additional Appendices in response to the questions, these should be numbered clearly and listed as part of your declaration. A template for providing additional information is provided at the end of this document.
5. Please return a completed version of this TIQ with the other elements of the tender via *Employer’s* e-Sourcing portal for **NTLC**at <https://highways.bravosolution.co.uk>
6. Whilst reserving the right to request information at any time throughout the procurement process, Highways Englandmay enable the Tenderer to self-certify that there are no mandatory/ discretionary grounds for excluding their organisation(s). When requesting evidence that the Tenderer can meet the specified requirements (such as the questions in section 7 of this TIQ relating to Technical and Professional Ability) Highways Englandmay only obtain such evidence after the final tender evaluation decision i.e. from the winning Tenderer only.

**Sub-contracting arrangements**

1. Where the Tenderer proposes to use one or more sub-contractors to deliver some or all of the contract requirements, a separate Appendix must be used to provide details of the proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for
2. Highways Englandrecognises that arrangements in relation to sub-contracting may be subject to future change, and may not be finalised until a later date. However, Tenderer must be aware that where information provided to Highways Englandindicates that sub-contractors are to play a significant role in delivering key contract requirements, any changes to those sub-contracting arrangements may affect the ability of the Tenderer to proceed with the procurement process or to provide the service required. After the tender has been submitted, the Tenderer must therefore notify the Procurement Officer immediately of any change in the proposed sub-contractor arrangements. Highways England reserves the right to reject any Tenderer prior to any award of contract, based on an assessment of the updated information.
3. If the Tenderer completing this TIQ is doing so as part of a proposed consortium, the following information must be provided;

* names of all consortium members;
* the lead member(s) of the consortium who will be contractually responsible for delivery of the Agreement (if a separate legal entity is not being created); and
* if the consortium is not proposing to form a legal entity, full details of proposed arrangements within a separate Appendix.

1. Please note that Highways England may require the consortium to assume a specific legal form if awarded the contract, to the extent that a specific legal form is deemed by *Employer* as being necessary for the satisfactory performance of the contract.
2. All members of the consortium will be required to provide the information required in all sections of the TIQ as part of a single composite response to Highways England i.e. each member of the consortium is required to complete the form.
3. Where you are proposing to create a separate legal entity, such as a Special Purpose Vehicle (SPV), you should provide details of the actual or proposed percentage shareholding of the constituent members within the new legal entity in a separate Appendix.
4. Highways England recognises that arrangements in relation to a consortium bid may be subject to future change. Tenderer should therefore respond on the basis of the arrangements as currently envisaged. Tenderer are reminded that the Procurement Officer must be immediately notified of any changes, or proposed changes, in relation to the bidding model so that a further assessment can be carried out by applying the selection criteria to the new information provided. Highways England reserves the right to reject any tender prior to any award of contract, based on an assessment of the updated information.

**Confidentiality**

1. When providing details of contracts in answering section 6 of this TIQ (Technical and Professional Ability), the Tenderer agrees to waive any contractual or other confidentiality rights and obligations associated with these contracts.
2. Highways England reserves the right to contact the named customer contact in section 6 regarding the contracts included in section 6. The named customer contact does not owe Highways England any duty of care or have any legal liability, except for any deceitful or maliciously false statements of fact.
3. Highways England confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than as required under the FOIA, Public Contract Regulations 2015, to the Cabinet Office and/or contracting authorities defined by the Public Contract Regulations 2015.

**Section B - Selection Questionnaire**

1. **- Tenderer information**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **1.1 Tenderer details** | **Answer** | | | |
| Full name of the Tenderer completing the TIQ |  | | | |
| Registered company address |  | | | |
| Registered company number |  | | | |
| Registered charity number |  | | | |
| Registered VAT number |  | | | |
| Name of immediate parent company |  | | | |
| Name of ultimate parent company |  | | | |
| Please mark ‘X’ in the relevant box to indicate your trading status | i) a public limited company | ▢ Yes/No | | |
| ii) a limited company | ▢ Yes/No | | |
| iii) a limited liability partnership | ▢ Yes/No | | |
| iv) other partnership | ▢ Yes/No | | |
| v) sole trader | ▢ Yes/No | | |
| vi) other (please specify) | ▢ Yes/No | | |
| Please mark ‘X’ in the relevant boxes to indicate whether any of the following classifications apply to you | i)Voluntary, Community and Social Enterprise (VCSE) | ▢ Yes/No | | |
| ii) Small or Medium Enterprise (SME) [[1]](#footnote-2) | ▢ Yes/No | | |
| iii) Sheltered workshop | ▢ Yes/No | | |
| iv) Public service mutual | ▢ Yes/No | | |
| **1.2 Tendering model** | | | |  |
| **Please mark ‘X’ in the relevant box to indicate whether you are;** | | | |  |
| a)      Tendering as a prime contractor and will deliver 100% of the key contract deliverables yourself | | | ▢ Yes/No |  |
| b)      Tendering as a prime contractor and will use third parties to deliver some of the services  If yes, please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for. | | | ▢ Yes/No |  |
| c)       Tendering as prime contractor but will operate as a managing agent and will use third parties to deliver all of the services  If yes, please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for. | | | ▢ Yes/No |  |
| d)      Tendering as a consortium but not proposing to create a new legal entity.  If yes, please include details of your consortium in the next column and use a separate Appendix to explain the alternative arrangements i.e. why a new legal entity is not being created.  Please note that Highways England may require the consortium to assume a specific legal form if awarded the Agreement, to the extent that it is necessary for the satisfactory performance of the Agreement. | | | ▢ Yes/No  **Consortium members**  **Lead member** |  |
| e)      Tendering as a consortium and intend to create a special purpose vehicle (SPV).  If yes, please include details of your consortium, current lead member and intended SPV in the next column and provide full details of the biding model using a separate Appendix. | | | ▢ Yes/No  **Consortium members**  **Current lead member**  **Name of Special Purpose Vehicle** |  |

|  |  |
| --- | --- |
| **1.3 Contact details** | |
| Tenderer contact details for enquiries about this TIQ | |
| Name |  |
| Postal address |  |
| Country |  |
| Phone |  |
| Mobile |  |
| E-mail |  |

|  |  |  |
| --- | --- | --- |
| **1.4 Licensing and registration (please mark ‘X’ in the relevant box)** | | |
| 1.4.1 | Registration with a professional body  If applicable, is your business registered with the appropriate trade or professional register(s) in the EU member state where it is established (as set out in Annex XI of directive 2014/24/EU) under the conditions laid down by that member state). | ▢ Yes  ▢ No  If Yes, please provide the registration number in this box. |
| 1.4.2 | Is it a legal requirement in the state where you are established for you to be licensed or a member of a relevant organisation in order to provide the requirement in this procurement? | ▢ Yes  ▢ No  If Yes, please provide additional details within this box of what is required and confirmation that you have complied with this. |

1. **Grounds for mandatory exclusion**

A Tenderer will be excluded from the procurement process if there is evidence of convictions relating to specific criminal offences including, but not limited to, bribery, corruption, conspiracy, terrorism, fraud and money laundering, or if you have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security obligations (except where this is disproportionate e.g. only minor amounts involved).

If you have answered “yes” to question 2.2 on the non-payment of taxes or social security contributions, and have not paid or entered into a binding arrangement to pay the full amount, you may still avoid exclusion if only minor tax or social security contributions are unpaid or if you have not yet had time to fulfil your obligations since learning of the exact amount due. If your organisation is in that position please provide details using a separate Appendix. You may contact the Procurement Officer for advice before completing this form.

|  |  |  |
| --- | --- | --- |
| **2.1 Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?** | **Please indicate your answer by marking ‘X’ in the relevant box.** | |
| **Yes** | **No** |
| 1. conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime; |  |  |
| 1. corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906; |  |  |
| 1. the common law offence of bribery; |  |  |
| 1. bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983; |  |  |
| 1. any of the following offences, where the offence relates to fraud affecting the European Communities’ financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities: |  |  |
| (i) the offence of cheating the Revenue; |  |  |
| (ii) the offence of conspiracy to defraud; |  |  |
| (iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978; |  |  |
| (iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006; |  |  |
| (v) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994; |  |  |
| (vi) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993; |  |  |
| (vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969; |  |  |
| (viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or |  |  |
| (ix) the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act; |  |  |
| 1. any offence listed— |  |  |
| (i) in section 41 of the Counter Terrorism Act 2008; or |  |  |
| (ii) in Schedule 2 to that Act where the court has determined that there is a terrorist connection; |  |  |
| 1. any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f); |  |  |
| 1. money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002; |  |  |
| 1. an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996; |  |  |
| 1. an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004; |  |  |
| 1. an offence under section 59A of the Sexual Offences Act 2003; |  |  |
| 1. an offence under section 71 of the Coroners and Justice Act 2009 |  |  |
| 1. an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or |  |  |
| 1. any other offence within the meaning of Article 57(1) of the Public Contracts Directive— |  |  |
| (i) as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or |  |  |
| (ii) created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland. |  |  |
| **Non-payment of taxes**  **2.2 Has it been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which your organisation is established (if outside the UK), that your organisation is in breach of obligations related to the payment of tax or social security contributions?**  If you have answered Yes to this question, please use a separate Appendix to provide further details. Please also use this Appendix to confirm whether you have paid, or have entered into a binding arrangement with a view to paying, including, where applicable, any accrued interest and/or fines? |  |  |

1. **Grounds for discretionary exclusion – Part 1**

Highways England may exclude any Tenderer who answers ‘Yes’ in any of the following situations set out in paragraphs (a) to (i);

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| --- | --- | --- |
| **3.1 Within the past three years, please indicate if any of the following situations have applied, or currently apply, to your organisation.** | **Please indicate your answer by marking ‘X’ in the relevant box.** | |
| **Yes** | **No** |
| 1. your organisation has violated applicable obligations referred to in regulation 56 (2) of the Public Contract Regulations 2015 in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Public Contracts Directive as amended from time to time; |  |  |
| 1. your organisation is bankrupt or is the subject of insolvency or winding-up proceedings, where your assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State; |  |  |
| 1. your organisation is guilty of grave professional misconduct, which renders its integrity questionable; |  |  |
| 1. your organisation has entered into agreements with other economic operators aimed at distorting competition; |  |  |
| 1. your organisation has a conflict of interest within the meaning of regulation 24 of the Public Contract Regulations 2015 that cannot be effectively remedied by other, less intrusive, measures; |  |  |
| 1. the prior involvement of your organisation in the preparation of the procurement procedure has resulted in a distortion of competition, as referred to in regulation 41, that cannot be remedied by other, less intrusive, measures; |  |  |
| 1. your organisation has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions; |  |  |
| 1. your organisation—   (i) has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or  (ii) has withheld such information or is not able to submit supporting documents required under regulation 59 of the Public Contract Regulations 2015; or |  |  |
| (i) your organisation has undertaken to |  |  |
| (aa) unduly influence the decision-making process of the contracting authority, or |  |  |
| (bb) obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure; or |  |  |
| (j) your organisation has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award. |  |  |

* 1. **Conflicts of interest**

In accordance with question 3.1 (e), Highways England will exclude the Tenderer if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.

Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the Tenderer to inform Highways England, detailing the conflict in a separate Appendix. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by Highways England should not represent a conflict of interest for the Tenderer.

* 1. **Taking Account of Tenderers’ Past Performance**

In accordance with question (g), Highways England may assess the past performance of a Tenderer (through a Certificate of Performance, example at the end of this TIQ, provided by a customer or other means of evidence). Highways England may take into account any failure to discharge obligations under the previous principal relevant contracts of the Tenderer completing this TIQ. Highways England may also assess whether specified minimum standards for reliability for such contracts are met.

In addition, Highways England may re-assess reliability based on past performance at key stages in the procurement process (i.e. tender evaluation, contract award stage etc.). Tenderer may also be asked to update the evidence they provide in this section to reflect more recent performance on new or existing contracts (or to confirm that nothing has changed).

* 1. **‘Self-cleaning’**

Any Tenderer that answers ‘Yes’ to questions 2.1, 2.2 and 3.1 must provide sufficient evidence, in a separate Appendix, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively “self cleans” the situation referred to in that question. The Tenderer has to demonstrate it has taken such remedial action, to the satisfaction of Highways England in each case.

If such evidence is considered by Highways England (whose decision will be final) as sufficient, the Tenderer concerned shall be allowed to continue in the procurement process.

In order for the evidence referred to above to be sufficient, the Tenderer shall, as a minimum, prove that it has;

* paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
* clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
* taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The measures taken by the Tenderer shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by Highways England to be insufficient, Highways England shall be given a statement of the reasons for that decision.

1. **Grounds for discretionary exclusion – Part 2**

Highways England reserves the right to use its discretion to exclude a Tenderer where it can demonstrate the Tenderer’s non-payment of taxes/social security contributions where no binding legal decision has been taken.

“Occasion of Tax Non-Compliance” means:

1. any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:
   * + 1. a Relevant Tax Authority successfully challenging the Tenderer under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
       2. the failure of an avoidance scheme which the Tenderer was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
2. the Tenderer’s tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Contract Date or to a penalty for civil fraud or evasion.

|  |  |  |
| --- | --- | --- |
| From 1 April 2013 onwards, have any of your company’s tax returns submitted on or after 1 October 2012; (Please indicate your answer by marking ‘X’ in the relevant box). | | |
| 4.1 | Given rise to a criminal conviction for tax related offences which is unspent, or to a civil penalty for fraud or evasion; | ▢ Yes  ▢ No |
| 4.2 | Been found to be incorrect as a result of:   * + - HMRC successfully challenging it under the General Anti-Abuse Rule (GAAR) or the “Halifax” abuse principle; or     - a tax authority in a jurisdiction in which the legal entity is established successfully challenging it  under any tax rules or legislation that have an effect equivalent or similar to the GAAR or the “Halifax” abuse principle; or     - the failure of an avoidance scheme which the Tenderer was involved in and which was, or should have been, notified under the Disclosure of Tax Avoidance Scheme (DOTAS) or any equivalent or similar regime in a jurisdiction in which the Tenderer is established. | ▢ Yes  ▢ No |
| If answering “Yes” to either 4.1 or 4.2 above, the Tenderer may provide details of any mitigating factors that it considers relevant and that it wishes Highways England to take into consideration.  This could include, for example:   * + Corrective action undertaken by the Tenderer to date;   + Planned corrective action to be taken;   + Changes in personnel or ownership since the Occasion of Non-Compliance (OONC); or   + Changes in financial, accounting, audit or management procedures since the OONC.   In order that Highways England can consider any factors raised by the Tenderer, the following information must be provided:   * A brief description of the occasion, the tax to which it applied, and the type of “non-compliance” e.g. whether HMRC or the foreign tax authority has challenged pursuant to the GAAR, the “Halifax” abuse principle etc. * Where the OONC relates to a DOTAS, the number of the relevant scheme. * The date of the original “non-compliance” and the date of any judgement against the Tenderer, or date when the return was amended. * The level of any penalty or criminal conviction applied. | | |

1. **- Economic and Financial Standing**

|  |  |  |
| --- | --- | --- |
|  | **FINANCIAL INFORMATION** | |
|  |  | |
| 5.1 | **Please provide one of the following to demonstrate your economic/financial standing;**  Please indicate your answer with an ‘X’ in the relevant box. | |
| 1. A copy of the audited accounts for the most recent two years |  |
| 1. A statement of the turnover, profit & loss account, current liabilities and assets, and cash flow for the most recent year of trading for this organisation |  |
| 1. A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position |  |
| 1. Alternative means of demonstrating financial status if any of the above are not available (e.g. Forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status). |  |
| 5.2 | Where Highways England has specified a minimum level of economic and financial standing and/or a minimum financial threshold within the evaluation criteria for this TIQ, please self-certify by answering ‘Yes’ or ‘No’ that you meet the requirements set out here. | ▢ Yes  ▢ No |
| 5.3 | **(a) Are you are part of a wider group (e.g. a subsidiary of a holding/parent company)?**  If yes, please provide the name below:   |  |  | | --- | --- | | Name of the organisation |  | | Relationship to the Tenderer completing the Selection Questionnaire |  |   If yes, please provide ultimate/parent company accounts if available.  If yes, would the ultimate/parent willing to provide a guarantee if necessary?  If no, would you be able to obtain a guarantee elsewhere (e.g from a bank?) | Yes/No  Yes/No  Yes/No  Yes/No |

1. **– Technical and Professional Ability**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 6 | **Relevant experience and contract examples** | | |  |
| Please provide details of up to three contracts, in any combination from either the public or private sector, that are relevant to Highways England’s requirement. Contracts for supplies or services must have been performed during the past three years. Works contracts must be from the past five years, and VCSEs may include samples of grant funded work.  The named customer contact provided should be prepared to provide written evidence to Highways England to confirm the accuracy of the information provided below.  Consortia bids must provide relevant examples of where the consortium has delivered similar requirements; if this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle will be created for this contract) then three separate examples must be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).  Where the Tenderer is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the services, the information requested must be provided in respect of the principal intended provider(s) or sub-contractor(s) who will deliver the supplies and services. | | |  |
|  |  | Contract 1 | Contract 2 | Contract 3 |
| 6.1 | Name of customer organisation |  |  |  |
| 6.2 | Point of contact in customer organisation  Position in the organisation  E-mail address |  |  |  |
| 6.3 | Contract start date  Contract completion date  Estimated Contract Value |  |  |  |
| 6.4 | In no more than 500 words, please provide a brief description of the contract delivered including evidence as to your technical capability in this market. |  |  |  |
| 6.5 If you cannot provide at least one example for questions 6.1 to 6.4, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up. | | | | |
|  | | | | |

1. **Additional TIQ modules**

Tenderers who self-certify that they meet the requirements for these additional modules will be required to provide evidence of this if they are successful at contract award stage. Please indicate your answer in the relevant boxes.

**A Project Specific Questions to assess Technical and Professional ability**

* Referring to the “Location Graphic” in Annex C of the NTLC Service Information, the tenderer **must** confirm their solution is within the required area and will be available for the start of contract.

**B - Insurance**

|  |  |  |
| --- | --- | --- |
| 1. | Please self-certify whether you already have, or can commit to obtain, prior to the award of the Contract, the levels of insurance cover indicated below:  Employer’s (Compulsory) Liability Insurance =  *(Minimum)* £ 5 million\*  Public Liability Insurance = £ 10 million  \* It is a legal requirement that all companies hold Employer’s (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.  or  If the answer to the above is no, please self-certify can commit to obtain, prior to the award of the contract, the levels of insurance cover indicated above | Yes/No  Yes/No |

**C - Compliance with equality legislation**

|  |  |  |
| --- | --- | --- |
| For organisations working outside of the UK please refer to equivalent legislation in the country that you are located. | | |
| 1. | In the last three years, has any finding of unlawful discrimination been made against your organisation/consortium by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)? | Yes/No |
| 2. | In the last three years, has your organisation/consortium had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds or alleged unlawful discrimination?  If you have answered “yes” to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.  If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.  You may be excluded if you are unable to demonstrate to Highways England’s satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring. | Yes/No |
| 3. | If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations? | Yes/No |

**D - Environmental Management**

|  |  |  |  |
| --- | --- | --- | --- |
| 1. | Has your organisation or a consortium member been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?  If your answer to the this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.  Highways England will not select a Tenderer(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless Highways England is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches. | Yes/No | |
| 2. | If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation? | Yes/No |  |

**E - Health and Safety**

|  |  |  |
| --- | --- | --- |
| 1. | Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements. | Yes/No |
| 2. | Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?  If your answer to this question was “Yes”, please provide details in a separate Appendix of any enforcement/ remedial orders served and give details of any remedial action or changes to procedures you have made as a result.    Highways England will exclude any Tenderer(s) that have been in receipt of enforcement/remedial action orders unless the tenderer(s) can demonstrate to Highways England*’s* satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches. | Yes/No |
| 3. | If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations? | Yes/No |

1. **Declaration**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | I declare that to the best of my knowledge the answers submitted to these questions are correct. I understand that the information will be used in the selection process to assess my organisation’s suitability to be invited to participate further in this procurement, and I am signing on behalf of......................... (**Insert name of Tenderer**).  I understand that the Highways England may reject my submission if there is a failure to answer all relevant questions fully or if I provide false/misleading information. I have provided a full list of any Appendices used to provide additional information in response to questions.  I also declare that there is no conflict of interest in relation to Highways England’s requirement.  The following appendices form part of our submission;   |  |  | | --- | --- | | **Section of TIQ** | **Appendix number** | |  |  | |  |  | | |
| **TIQ COMPLETED BY** | |
| 8.1 | Name |  |
| 8.2 | Role in organisation |  |
| 8.3 | Date |  |
| 8.4 | Signature |  |

**TIQ – Template for Appendices**

|  |
| --- |
| **Appendix Number -** |
| **Tender Information Questionnaire section -** |
| **Question number -** |
|  |

**Section C - Certificate of Performance**

Name of Supplier………………………….(“Supplier”)

Contract Title……………………………...(“Contract”)

Customer………………………………… (“Customer”)

**Contract**

Details of the Contract to which this certificate relates are set out in the table below:

|  |  |  |  |
| --- | --- | --- | --- |
| Contract Number | Customer Contact (name, address, telephone number and e-mail) with whom [the Departmental Body] can raise further queries should we wish to do so | Contract title plus brief description of goods supplied and/or services provided, and the consideration received | The dates on, or between, which the goods or services were (and/or were to be) sold or provided |
| *[Details to be completed by tenderer]* |  |  |  |

**Performance**

**OPTION A:**

We hereby certify that, to the best of our knowledge and belief, the Supplier has satisfactory supplied the goods and/or services described in the table in accordance with the Contract.

**OR**

**OPTION B:**

We are unable to certify that the Supplier has satisfactory supplied the goods and/or services described in the table above in accordance with the Contract for the following reasons:

…………………………………………………………………………………………………

…………………………………………………………………………………………………..

…………………………………………………………………………………………………

*(please continue on a separate page where there is insufficient space)*

|  |
| --- |
| **Guidance for Customers**  If you are unable to certify that the Supplier has satisfactorily supplied the goods and/or services in accordance with the Contract, please provide the reason or reasons why performance was not in accordance with the Contract. These may include:   1. delays in supplying the goods and/or services; 2. failures to supply all the goods and/or services in accordance with scope set out in the Contract; 3. failures to meet any service levels and/or supply the goods and/or services in accordance with quality standards; 4. any other failure by the Supplier to comply with its obligations under the Contract;   You may wish to take legal advice in relation to completing this certificate. |

**Liability of any customer certifying**

Whilst the Customer believes the information in this certificate to be truthful and accurate, the Customer does not assume any responsibility and does not assume any liability and so cannot give any guarantee or make any representation or warranty as to the contents of this certificate. The Customer shall therefore not be liable for and hereby excludes liability for any loss, damage (including any special, exemplary, indirect, incidental, consequential damages, cost or associated legal fees) that may suffered as a result of use of the certificate and its content, to the fullest extent permitted by law.

Nothing in this certificate shall affect, or constitute a waiver of, the Customer’s rights or remedies in relation to the Contract.

Signed…………………………………………………….[To be signed by the person with sufficient knowledge of and responsibility for the contract in question] for and on behalf of [insert customer] *[in the event of self-certification this certificate of performance should be signed by the tenderer]*

Name…………………………………..

Date…………………………………….

**Section D - TIQ Evaluation Process**

**Important Notice**

D3.1 The *Employer* will exclude a Tenderer who is guilty of serious misrepresentation in providing any information referred to within the Public Contracts Regulations 2015, as amended, or who fails to provide any such information requested by us.

**Section 1: Organisation and Contact Details**

D3.2

**Section 1.1 –** For information only.

**Section 1.2 –** Tendering Model: If relevant additional information is not provided for 1.2 (b), (c), (d) and (e) the Tenderer may be excluded**.**

**Section 1.3 –** Contact details: For information only. If not fully completed the Tenderer may be excluded**.**

**Section 1.4 –** Licensing and registration: If relevant information is not provided in response to 1.4.1 and 1.4.2 the tender may be excluded**.**

**Section 2- Grounds for mandatory exclusion**

D3.3 **Pass/fail.**

This is a pass/fail test, the criteria are set out in TIQ Section 2 Introduction. A Tenderer who does not pass the test will be excluded from further consideration**.**

D3.4 **Sections 3 and 4 - Grounds for discretionary exclusion Part 1 and Part 2**

**Pass/fail.**

This is a pass/fail test, the criteria are set out in TIQ Section 3 Introduction and Section 4 Introduction.

A Tenderer who does not pass the test may be excluded from further consideration.

D3.5 **Pass/fail**.

Tenderers are required to notify of any potential conflicts of interest. Where a ‘no’ response is provided in TIQ paragraph 3.1 the Tenderer will receive a pass. Where a ‘no’ response cannot be given,

Highways England is entitled to exclude a Tenderer from further consideration;

Tenderers may set out set out in a separate document the relevant details and may offer a written demonstration that the factors that might give rise to a conflict of interest are not capable of distorting competition or contract delivery and management or that appropriate measures can be put in place to minimise the risk. Highways England will consider such written demonstration and may fail the Tenderer from any further consideration in this procurement process if the written demonstration does not satisfy Highways England that the conflict of interest or its risk will be fully mitigated.

**Section 5 - Economic and Financial Standing**

D3.6 Tenderers’ responses will be used to undertake an assessment of their organisation’s economic and financial standing. A Tenderer will be contacted by Highways England if this assessment indicates that a parent or other type of guarantee is required.

D3.7 The assessment of risk seeks to be based on sound business judgement, rather than just the application of formulae, and Highways England will avoid imposing overly restrictive turnover requirements unless there are good reasons for doing so. A Tenderer whose financial standing is considered insufficient for the proposed Contract, will go on to the next Stage in the evaluation if they are able to provide either a Parent Company Guarantee or other suitable form of guarantee acceptable to Highways England*.*

D3.8 Complete with ‘Yes’ or ‘No’ answers, supporting evidence **may** be requested.

**Financial Source Data**

D3.9 Highways England will use different sources of information as part of the evaluation process.

* Tenderers will be asked to provide the financial information described in 5.1, 5.2 and 5.3 TIQ Section 5, Annex D.
* In addition, where the Tenderers organisation is a subsidiary in a group, the responses described in a) through c) are required for the organisation with overall responsibility for the group.
* Where a consortium or association is proposed, the responses described ata) through c) below are required for each member of the consortium.

a. A copy of their audited accounts for the most recent two years.

b. A statement of the organisations turnover; profit and cash flow for the most recent full year of trading or, where a full year of trading has not been completed the same information for the period applicable.

*NOTE If this information is not available in an audited format please provide an end of period balance sheet or make the response specified at c).*

1. A statement of the organisation’s cash flow forecast for the current year and a letter from the organisation’s bank outlining the current cash and credit position.
2. Alternative means of demonstrating financial status if trading for less than a year.

D3.10 **Evaluation of the financial information provided in the TIQ**

The following financial indicators are used to assess the candidate’s suitability and stability to determine if they pass Financial Assessment and proceed to tender assessment.

**Information taken from accounts:**

* 1. The Current Ratio (Current Assets/Current Liabilities). This indicates whether or not a business has sufficient liquid assets e.g. cash, short term debtors and stock to meet its outstanding current liabilities e.g. trade creditors, bank overdraft, lease payments, interest due.
* A current ratio of less than 0.8 is a FAIL, unless there are mitigating factors

The financial evaluation process is designed to take an informed view of a company’s financial status in the context of the country, market and category the candidate sits within, rather than simply applying arbitrary rules or ratios.

For this reason there may be a number of mitigating factors that would result on in a fail marking being changed to a pass

It is not possible to list here every mitigating factor that may be considered on an discrete basis. However examples of mitigating factors could include a Loss before Tax failure, where the candidate has engaged in extensive or long term research and development, capital investment or expansion through acquisition, where all other aspects of the company and/or it’s parent’s performance indicate that the company is in a sound financial position

B Total Liabilities/Shareholder Funds ratio is a basis test of a company’s solvency

* Total liabilities/shareholder funds ratio more than 4 is a FAIL.
* If both of the above ratios have a FAIL score, then the overall financial assessment score is a FAIL

C Profit/Loss before

1. Pre-tax loss of more than 50% of net assets is a FAIL
2. Pre-tax loss of more than 5% turnover and pre-tax loss for 3 years is a FAIL

D The Annualised Contract Value/Turnover ("CVT”) Calculation indicates whether a business runs the risk of overtrading and short term insolvency. This is an analysis of the size of the proposed annual contract relative to the annual Tenderer turnover.

* If the Tenderer’s minimum yearly turnover is less than twice the contract value; and
* if the annualised contract value exceeds 25% of the candidate’s turnover this is a FAIL. If however the Tenderer has failed the financial evaluation solely because the ratio of the Annualised Contract value to Turnover is greater than 25%, and if the Tenderer is a subsidiary, some appropriate form of parent company guarantee (“PCG”) will be requested.
* In the case of independent traders or companies without a parent company, where the Tenderer has failed the financial evaluation solely because the ratio of the Annualised Contract value to Turnover is greater than 25%, some appropriate form of guarantee other than a PCG will be sought

Parent Company Guarantee – Escalation Process: The D&B Comprehensive Report gives details of the Group structure from parent through to ultimate parent. Using this information, it is possible to assess each company in the parent hierarchy using the financial data contained in their D&B Comprehensive Reports. The resulting primary indicators will determine which company in the parent hierarchy is the most suitable to provide a parent company guarantee. This may be any company in the hierarchy from the applicant’s immediate parent to the ultimate global parent. Please be aware this process may result in financial assessment of the Ultimate Parent Company (“UPC”). In such cases a form of guarantee will be required confirming the parent company is willing to act as a Parent Company Guarantor. If after assessment the highest level of parent in the company hierarchy is unable or unwilling to provide financial assurance or if the Ultimate Parent financial assessment is failed, the Tenderers application will not be taken any further.

* If the contract value has a range then the mid-point range is taken for comparison purposes



**Figure 1**

D3.11 If a parent company exists and passes the economic and financial standing tests stated above, and confirms (see 3.6) that it will provide a parent company guarantee in the form set out in this contract, then the tender will be considered.

**D& B information**

E D&B Comprehensive report: D&B Scores and Ratings are produced using a combination of mathematical modeling, expert rules, skilled business analysis and many years of experience of insolvency trends. D&B carefully analyse all business failures, and compare them with the normal population of actively trading companies, to identify those events which are most significant and predictive in nature, and which could affect the status of a business.

F D&B Risk Indicator The indicator is based on daily monitoring of both the company's financial and other key strategic activities, and is therefore reflective of the company’s current financial status. The D&B Risk indicator is the Failure Score (see below), combined with expert rules to generate a Risk Indicator from 1 to 4, where 1 is minimum risk and 4 is High Risk. A D&B risk indicator of 4 is a FAIL.

G D&B Failure Score: This measure indicates how an organisation’s risk of failure compares to other organisations in the same country and industry segment. It is a relative measure of risk from 1 to 100, where ‘1’ represents organisations that have the highest probability of failure in the next 12 months and ‘100’ the lowest probability of failure.

H D&B Delinquency Indicator Score: Predicts the likelihood that an organisation will pay its bills in a severely delinquent manner over the next 12 months. “Delinquency” is defined as an organisation that, according to Trade Experiences collected by D&B, has paid less than 75% of Trade Experiences within terms and more than 10% paid 90+ days late.

1. [↑](#footnote-ref-2)