



South West

Maintenance and Response Contract

Instructions for Tenderers

Document 3: Tender Assessment

**INSTRUCTIONS FOR TENDERERS FOR
MAINTENANCE AND RESPONSE CONTRACT
DOCUMENT 3: TENDER ASSESSMENT
CONTENTS AMENDMENT SHEET**

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0 TENDER ASSESSMENT**0.1 General**

- 0.1.1 Highways England assessment of tenders will be carried out in four stages. In the first stage, the Procurement Officer will check for tender compliance. In the second stage the Selection Questionnaire will be assessed by a Selection Questionnaire Assessment Panel. For the third stage a Quality Assessment, Health and Safety Assessment and a Financial Assessment Panel will judge tender submissions, based wholly on the contents of the tender submission (subject to clarifications set out below) which must therefore contain all the information which Tenderers wish to be considered. The fourth stage will involve the validation of the quality submission, the commercial submission and a sustainability check of those tenders identified for validation.
- 0.1.2 A flow chart of the evaluation process together with a worked example of the marking/scoring process is given in Annex D.
- 0.1.3 The Financial Assessment Panel, the Quality Evaluation Panel, and the Health and Safety Assessment Panel will work independently and will not have access to each other's assessments prior to validation and the sustainability check.
- 0.1.4 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 of the Tenderers solely to assist it in its consideration of their tender but shall be under no obligation to do so.
- 0.1.5 The Tenderer acknowledges that any documents and information submitted by him as part of his tender or for assessment and/or validation purposes represent his proposals for meeting Highways England's requirements, but do not in any way override or modify those requirements. If awarded the contract, the Tenderer will remain liable to comply with all the obligations set out in the documents forming part of the contract. The Tenderer will not be relieved from compliance with these obligations by any:
- (a) validation, due diligence or sustainability check carried out by the Highways England on any part of the tender,
 - (b) evidence, assumptions or other information provided by the Tenderer with his tender or for the purposes set out in paragraph (a) above or
 - (c) clarification requested by Highways England and provided by the Tenderer (whether orally or in writing) as part of the assessment process.

1 STAGE 1: TENDER COMPLIANCE

1.1.1 In this stage the Procurement Officer will undertake an initial check for tender compliance.

1.1.1 A tender that:

- (a) is not submitted in accordance with these Instructions and the tender documents including any tender amendments,
- (b) is qualified or accompanied by statements or a covering letter that might be construed as rendering the tender equivocal or
- (c) includes unauthorised alterations or additions made to any component of the tender documents,

may result in the tender being rejected. Highways England's decision will be final.

2 STAGE 2: SELECTION QUESTIONNAIRE

2.1.1 The economic and financial standing of the Tenderer will be assessed by the Selection Questionnaire Assessment Panel using the information supplied in the Selection Questionnaire and information supplied by Dun and Bradstreet. The assessment will be completed on a pass/fail basis against the financial tests outlined in the Selection Questionnaire. If the Tenderer cannot provide a guarantee in line with these instructions, then the tender will not be considered further.

2.1.2 The Selection Questionnaire Assessment Panel will assess the responses to the mandatory and discretionary rejection criteria entered in the Bravo Qualification Envelope. Assessments will be made in the event of a 'yes' response being given against one or more of the discretionary rejection criteria questions, with details of the relevant incident and remedial actions taken subsequently forming the information to be assessed. Following this further assessment, if Highways England is not satisfied then the tender will not be considered further.

2.1.3 The Selection Questionnaire Assessment Panel will also assess the tenderers Constructionline information entered in the Bravo Qualification Envelope (if applicable). If you have entered Constructionline details that are found to be invalid, then your tender will not be considered further.

2.2 Questionnaire Evaluation Process**Important Notice**

2.2.1 Highways England will exclude a Supplier who is guilty of serious misrepresentation in providing any information referred to within the Public

Contracts Regulations 2015 or who fails to provide any such information requested by Highways England.

2.3 Section A - Organisation and Contact Details

Section A 1.1 – For information only.

Section A1.2 – Consortia and Subcontracting: If relevant additional information is not provided at various questions the Supplier may be excluded.

Section A 1.1.12 (Non UK Business) – Licensing and registration: If relevant information is not provided in response to 1.6.1 and 1.6.2 the Supplier may be excluded.

Section A 1.8 – Contact details: If not fully completed the Supplier may be excluded.

2.4 Section B- Economic and Financial Standing

2.4.1 Suppliers will be asked to provide a Constructionline account (if applicable) where Highways England will cross check economic and financial standing. Where Constructionline is not available then audited accounts will need to be supplied. See Financial Source Data below (2.4.4).

2.4.2 Suppliers' responses will be used to undertake an assessment of their organisation's economic and financial standing. A Supplier will be contacted by Highways England if this assessment indicates that a parent or other type of guarantee is required.

2.4.3 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 Supplier whose financial standing is considered insufficient for the proposed Contract, will go on to the next Stage in the bidding process if it is able to provide either a Parent Company Guarantee or other suitable form of guarantee acceptable to Highways England.

Financial Source Data

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

- Suppliers will be asked to provide the financial information described in one of 1.13.3, 1.16.3 or 1.19.3 of Section B in the Bravo Qualification Envelope if they do not have a valid Constructionline account.
- In addition, if they do not have a valid Constructionline account where the Suppliers organisation is a subsidiary in a group, one of

the responses described in a) through d) are required for the subsidiary (unless Highways England subsequently requests such information about the organisation with overall responsibility for the group).

- Where a consortium or association is proposed, if they do not have a valid Constructionline account, one of the responses described at a) through d) below are required for each member of the consortium.

- (a) a. A copy of their audited accounts for the most recent two years.
- (b) 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).

- (c) 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.
- (d) *Alternative means of demonstrating financial status if trading for less than a year.*

Evaluation of the financial information provided in the Questionnaire

- 2.4.5 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:

- 2.4.6 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 factors¹

²The 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 Supplier sits within, rather than simply applying arbitrary rules or ratios.

2.4.7 Total Liabilities/Shareholder Funds ratio is a basic test of a company's solvency.

- A 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.

Profit/Loss before

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

2.4.8 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 Supplier turnover.

If;

- the Supplier's minimum yearly turnover is less than twice the contract value; and
- the annualised contract value exceeds 25% of the Supplier's turnover this is a FAIL.

If however the Supplier has failed the financial evaluation solely because

- the Supplier's minimum yearly turnover is less than twice the contract value; and
- the ratio of the Annualised Contract Value to Turnover is greater than 25%,

and if the Supplier is a subsidiary, a parent company guarantee ("PCG") will be requested

- In the case of independent traders or companies without a parent company, where the Supplier has failed the financial evaluation solely because the ratio of the Annualised Contract Value to Turnover

For this reason there may be a number of mitigating factors that would result in a FAIL marking being changed to a PASS.

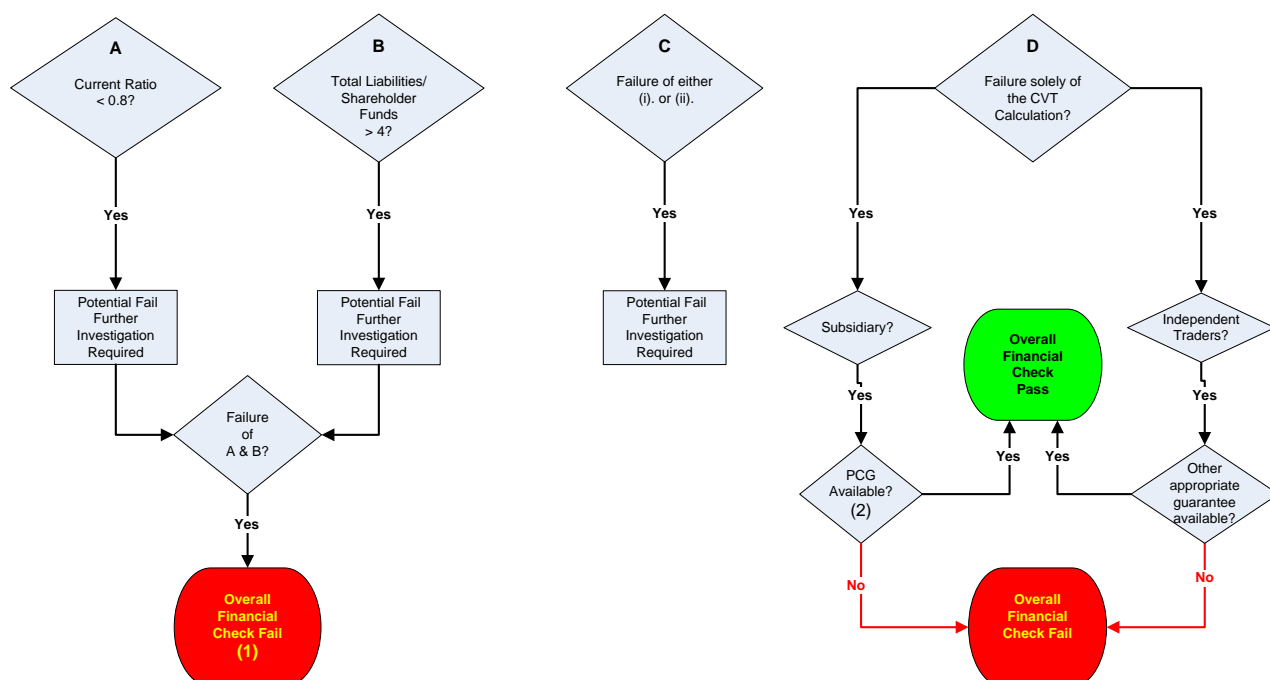
It is not possible to list here every mitigating factor that may be considered on an discrete basis; However, examples of mitigating factors could include a Loss before Tax failure, where the candidate has engaged in extensive or long term research and development, capital investment or expansion through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

is greater than 25%, some appropriate form of guarantee other than a PCG will be requested where considered necessary for a particular contract

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

2.4.9 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.

2.4.10 The annual contract value of **TBA** is to be used for comparison purposes.



(1)

If a parent company exists and passes the economic and financial standing tests stated above, and confirms (see [2.12]) 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

- 2.4.11 D&B Comprehensive report: D&B Scores and Ratings are produced using a combination of mathematical modelling, 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.
- 2.4.12 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.
- 2.4.13 D&B Failure Score: The D&B Failure Score 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.
- 2.4.14 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.

2.5 Section C - Grounds for mandatory exclusion

- 2.5.1 This is a pass/fail test. A Supplier who does not pass the test will be excluded from further consideration.
- 2.5.2 You 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).
- 2.5.3 If you have answered "yes" to question 1.37.11 (in the Bravo SQ) 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.

'Self-cleaning'

- 2.5.4 Any Supplier that answers 'Yes' to any questions in Section C must provide sufficient evidence, via conditional questions that follow, which 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 supplier has to demonstrate it has taken such remedial action, to the satisfaction of Highways England in each case.
- 2.5.5 If such evidence is considered by Highways England (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.
- 2.5.6 In order for the evidence referred to above to be sufficient, the Supplier 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.
- 2.5.7 The measures taken by the Supplier 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, the Supplier shall be given a statement of the reasons for that decision.
- 2.5.8 A Supplier who does not pass the test will be excluded from further consideration if it cannot demonstrate to Highways England's satisfaction that appropriate remedial action has been taken to prevent further non compliances.

2.6 Section D- Grounds for discretionary exclusion Part 1

- 2.6.1 This is a pass/fail test.
- 2.6.2 Highways England may exclude any Supplier who answers 'Yes' in any questions;
- 'Self-cleaning'
- 2.6.3 Any Supplier that answers 'Yes' to any questions in Section D must provide sufficient evidence, via the conditional questions that follow, which 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 supplier has to demonstrate it has taken such remedial action, to the satisfaction of Highways England in each case.

- 2.6.4 If such evidence is considered by Highways England (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.
- 2.6.5 In order for the evidence referred to above to be sufficient, the Supplier 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.
- 2.6.6 The measures taken by the Supplier 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, the Supplier shall be given a statement of the reasons for that decision.
- 2.6.7 A Supplier who does not pass the test will be excluded from further consideration if it cannot demonstrate to Highways England's satisfaction that appropriate remedial action has been taken to prevent further non compliances.

Conflicts of interest

- 2.6.8 In accordance with question 1.48.7 on Bravo, Highways England may exclude the Supplier 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.
- 2.6.9 Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the Supplier to inform Highways England, detailing the conflict via the conditional Bravo form question that follows (1.53.1). 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 Supplier.

2.6.10 Suppliers are required to notify of any potential conflicts of interest. Where a 'no' response is provided for questions in Section D the Supplier will receive a pass. Where a 'no' response cannot be given,

- (a) Highways England is entitled to exclude a Supplier from further consideration;
- (b) Suppliers may 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 Supplier 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.

Taking Account of Bidders' Past Performance

2.6.11 Highways England may assess the past performance of a Supplier (through a Certificate of Performance 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 Supplier completing this SQ. Highways England may also assess whether specified minimum standards for reliability for such contracts are met.

2.6.12 In addition, Highways England may re-assess reliability based on past performance at key stages in the procurement process (i.e. supplier selection, tender evaluation, contract award stage etc.). Suppliers 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).

2.7 Sections D- Grounds for discretionary exclusion Part 2

2.7.1 This is a pass/fail test.

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

Occasion of Tax Non-Compliance

2.7.3 If an OONC falls within the mandatory exclusion criteria under the Regulations then Highways England will have no option but to exclude the Tenderer from further consideration.

2.7.4 If an OONC is not within the mandatory exclusion criteria then Highways England may use discretion in relation to how to respond to an OONC. The acceptability of mitigating factors needs to be set against the particular

context and nature of the OONC that is certified. The following are examples of mitigating factors which may be taken into account:

- Since the transactions were entered into which gave rise to the OONC, the company's senior management, or key senior personnel with responsibility for tax matters, have changed and the new personnel have stated to the contracting authority that they will not engage in similar tax avoidance;
- The company's overall policy concerning tax planning has changed to become more in line with government objectives regarding tax avoidance;
- The OONC was an isolated one and there is no indication that the business generally adopts an "aggressive" tax stance.

2.8 Section E – Technical Ability and Relevance Criteria

2.8.1 This is assessed on a Pass/Fail basis.

2.8.2 The assessment of the Technical Ability and Relevance Criteria will be based on all the information supplied in the Reference Contract Data Sheets, using the attributes and scoring criteria in the table below. All Reference Contracts must achieve a Pass:

2.8.3 The Selection Questionnaire Assessment Panel will also assess the responses to the technical ability and relevance criteria. The assessment will be completed on a pass/fail basis. In the event of a tender being given a "fail" against any of the technical ability and relevance criteria, the tender will not be considered further.

Technical Ability and Relevance Criteria		Attributes	Criteria which constitute a “Pass”
1.1	Description of Contract	Is the Reference Contract similar to the technical content of the contract being advertised?	<p>e.g. <i>Highways asset maintenance based? (mandatory requirement)</i></p> <p><i>-Is an incident response service included? (mandatory requirement)</i></p> <p><i>- Is severe weather delivery included</i></p> <p><i>- principal contractor role (mandatory requirement)</i></p>
1.2	Contract Management	Is the Reference Contract demonstrating good Contract Management?	<ul style="list-style-type: none"> • Evidence of contract delivered according to contract requirements • Evidence of alternative solutions/methods • Evidence of contract completed within time and budget • Evidence of relevant competent behaviours

2.9 Section F – Insurance

- 2.9.1 Assessed as pass/fail that the required insurances are in place or the tenderer can commit to obtaining them.

2.10 Section G – Compliance with Equality Legislation

- 2.10.1 Assessed as pass/fail based on satisfying Highways England that equality legislation will be complied with.

2.11 Section H – Environmental Management

- 2.11.1 Assessed as pass/fail based on satisfying Highways England that environmental legislation will be complied with.

2.12 Section I – Health and Safety

- 2.12.1 Assessed as pass/fail based on meeting Highways England's health and safety requirements

3 STAGE 3**3.1 Marking of the Quality Statement**

- 3.1.1 A Quality Assessment Panel will determine how much the Quality Statement provides Highways England with confidence that Highways England's objectives will be delivered. In marking the Quality Statement, the panel will take into account all the material supplied in Volume 2 and the Resource Schedules (except the health & safety statements).
- 3.1.2 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 marking, the Quality Assessment Panel will seek clarifications from the Tenderer via the Procurement Officer. Clarifications will be sought during the marking process to remove any uncertainty over the meaning of the Quality Statement. If a clarification provides information not requested by the Procurement Officer, then this information will not be accepted by Highways England and will not be considered as part of the evaluation process and may lead to the rejection of a tender.
- 3.1.3 Any uncertainty over the meaning of the Quality Statement will be removed via clarifications before the Quality Assessment Panel complete their marking. No further requests for clarifications on the Quality Statement will be made after the marking is completed.
- 3.1.4 The Quality Assessment Panel will award marks for the assessment criteria and determine the total mark using the marking system set out below. Total quality marks will be expressed to one decimal place.

3.1.5 The minimum quality requirement for this contract is to reach a threshold of 60 for the total quality mark. A tender that has failed to achieve the minimum quality requirements may not be considered further in the tender assessment, and if excluded, the Tenderer will be notified by the Procurement Officer.

3.1.6 A tender that has failed to achieve the threshold of 60 for the total quality mark but which has not been excluded from further tender assessment will be given a total quality mark in accordance with paragraph 3.1.4 above.

Part A

3.1.7 Marks will be based on all the information supplied in Part A. - The Approach dealing with the risks listed in Table 2A.2 of Volume 2A together with the Service Plan listed in the contract data, and Contract Overview identified in Volume 2B will be evaluated.

3.1.8 Marks will be awarded against each process using the marking matrix in Table 3.1.1

Part B

3.1.9 Marks will be awarded against each process based on all the information supplied in Part B using the marking matrix in Table 3.1.2.

3.1.10 Part B marks may be reduced during Validation and Sustainability based on further requested evidence.

Summary

3.1.11 The mark given for each process will be the lower of the individual marks for Part A and Part B as set out in Table 3.1.3.

3.1.12 The mark is a measure of Highways England's level of confidence that the Tenderer will deliver the project objectives. The higher the total mark, the lower the risks to delivery and the more confidence Highways England will have that best value will be delivered.

Table 3.1.1: Marks awarded for Part A - Approach

Proposed Approach	How well the proposed approach, together with the resources, Service Plan and Contract Overview, demonstrates an understanding of the contract objectives and addresses the main management and technical risks relating to the contract. The correct activities are undertaken to deliver the Performance Requirements and the approach recognises the practical steps (ie not simply words) where Quality Policy themes/behaviours are reflected to successfully deliver the objectives.	Mark
Weak	The approach, resources, and plans fail to manage the risk, fail to demonstrate a good understanding of the key objectives, resource needs and performance requirements, and fail to recognise the necessary quality policy themes and behaviours.	1-5
Good	The approach, resources, and plans manage the risk well, demonstrate a good understanding of the key objectives, resource needs and performance requirements, and recognise the necessary quality policy themes and behaviours.	6-8
Excellent	The approach, resources, and plans manage the risk excellently, demonstrate an excellent understanding of the key objectives, the resource needs, and performance requirements, and fully recognise the necessary quality policy themes and behaviours.	9-10

The Quality Policy themes/ behaviours are detailed in Annex 16 – Quality Management to the Service Information, and consist of: Pace, Right, Lean, Easy to do business with, and Collaborative.

Table 3.1.2: Marks awarded for Part B - Evidence

Evidence	How well the evidence from previous projects provides confidence that the proposed approach is likely to be successfully delivered	Mark
Weak	There is little evidence that the proposed approach, plan resources and prices have been developed from and has contributed to the successful delivery of similar services. There is little evidence that the themes and behaviours have been embraced whilst delivering other projects.	1-5
Good	There is a good level of evidence that the proposed approach, plan, resources and prices have been developed and has contributed to the successful delivery of similar services. There is good evidence that the themes and behaviours have been embraced whilst delivering other projects.	6-8
Excellent	There is excellent evidence that the proposed approach, plan, resources and prices have been developed and has contributed to the successful delivery of similar services using formal continual improvement processes. There is excellent evidence that the themes and behaviours identified have been embraced whilst delivering other projects.	9-10

Table 3.1.3: Assessment of the Quality Statement

Specific Risk		Part A Marks	Part B Marks	Combined Mark	Weighting	Weighted Mark
		Approach on this contract	Evidence from past projects	Lower of Mark A and B		Lower of Mark A and B
C4	Cost Reimbursable - Reactive				15.0%	
C6	Payments and Disallowed Costs				15.0%	
D3	Network Programming and Coordination				17.5%	
O1	Deliver Reactive Maintenance				17.5%	
O2	Deliver Incident Response				17.5%	
O3	Deliver Severe Weather Service				17.5%	
Total Quality Mark					100%	

3.2 Health and Safety Statement

- 3.2.1 The Health and Safety Assessment Panel will undertake a health and safety assessment of the Tenderer's submission. This will include an assessment of whether information provided is suitable to ensure that the requirements of The Construction (Design and Management) Regulations 2015 can be met. The assessment of the Health and Safety Statement shall be undertaken against the criteria stated in Tables 3.2.1 – 3.2.3.
- 3.2.2 Tenderers must therefore be able to satisfy Highways England that they are competent and will have available adequate resources for health and safety. The Procurement Officer may refer any concerns to the appropriate Tenderer, unless the Tenderer is able to demonstrate that its proposals are suitable and can be relied on, the tender will be rejected.
- 3.2.3 A tender with a Combined Mark of 3 or less for any Specific Risk will be scored as a fail overall and the tender will not be considered further
- 3.2.4 A tender with a Total H&S Mark of less than 60% will be assessed as a fail overall and the tender will not be considered further.

Table 3.2.1: Assessment of Health and Safety Statement Part A - Proposals

	How well do the proposals in the Health and Safety Statement give confidence that the health and safety aspects of the contract will be delivered?	Mark
Fail	The proposals do not give confidence that the health and safety requirements of the contract will be delivered.	1-3
Weak	The proposed resources and approach appear just sufficient for the methodology described, and health and safety management proposals are fair OR The proposals give some confidence that the health and safety requirements of the contract will be delivered.	4-5
Good	The proposals show a well thought out approach to manage the health and safety aspects of the contract and the resources appear reasonable to mitigate the risks associated with the services. OR The proposals give confidence that the health and safety requirements of the contract will be fully delivered.	6-8
Excellent	The proposals give a high degree of confidence that all health and safety requirements of the contract will be fully delivered.	9-10

Table 3.2.2: Assessment of Health and Safety Statement Part B - Evidence

Evidence	How well the evidence from previous projects provides confidence that the proposed approach is likely to be successfully delivered	Mark
Fail	There is no evidence that some or all of the proposals have been developed from and have contributed to the successful delivery of similar services previously.	1-3
Weak	There is little evidence that the proposals have been developed from and have contributed to the successful delivery of similar services previously.	4-5
Good	There is a good evidence that the proposals have been developed from and have contributed to the successful delivery of similar services previously.	6-8
Excellent	There is excellent evidence that the proposals have been developed from and have contributed to the successful delivery of similar services previously.	9-10

Table 3.2.3: Assessment of the Health and Safety Statement

Specific Risk		Part A Marks	Part B Marks	Combined Mark	Weighting	Weighted Mark
		Approach on this contract	Evidence from past projects	Lower of Mark A and B		Lower of Mark A and B
1	Organisational Arrangements				20%	
2	Arrangements for CDM duties				20%	
3	Identification and mitigation of specific H&S risks				20%	
4	Resourcing for H&S				20%	
5	Improving H&S performance				20%	
Total H&S Mark					100%	

3.3 Small and Medium Enterprises (SME) Subcontracting Statement

- 3.3.1 This statement does not form part of the tender assessment and will not be assessed.

3.4 Information Assurance

- 3.4.1 Highways England will assess whether the Information Assurance solutions submitted provide adequate protective security for personal and confidential information in accordance with 1.2 of Volume 1B. 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.

3.5 Financial Scoring

- 3.5.1 A Financial Assessment Panel will determine a total price for each Tenderer on the following basis:

- (a) The lump sum amounts in Schedule A
- (b) The total of the Schedule of rate items amounts in Schedule C tested against expected SoR work
- (c) An allowance for cost reimbursable items
- (d) An inflationary allowance calculated using the Office for Budget Responsibility (OBR) forecast for inflation over the *service period*, as published at the *base date*, applied in accordance with clause X1 of the Conditions of Contract.

- 3.5.2 The Financial Assessment Panel will be provided with the Contract Overview (part of the Quality Statement) for information purposes.

- 3.5.3 The total price for each Tenderer will be discounted to take account of the time value of money (i.e discounted by 3.5% per annum) to provide a present value.

- 3.5.4 The Financial Assessment Panel will check that the resources and costs in the Resource Schedules (or the estimating output as supplied by the Tenderer) and the prices in the Price List correspond. If they do not correspond and the Tenderer fails to provide a satisfactory explanation the tender will be rejected.

- 3.5.5 Examination of documents may detect errors in computation that may undermine the reliability of the tender. Tenders may be corrected 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 either confirm the corrected tender or withdraw from the competition.

3.6 Converting the present value to a financial score

3.6.1 The Tenderer with the lowest present value which has not been excluded from further tender assessment, will be given a score of 100. The score of other Tenderers, who have not been excluded from further tender assessment, will be calculated by deducting from 100 one point for each full percentage point by which their price is above the lowest price. If a tender is subsequently excluded from further tender assessment these scores will be recalculated.

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

3.7 Combining Quality and Financial Scores

3.7.1 The Total quality mark and the financial score for each tenderer will be combined in the ratio 80:20 applied to the quality (80) and financial scores (20) respectively. The combined score will be rounded to the nearest one decimal place. If any two Tenderers have the same combined score they will be ranked in order of highest quality score.

3.7.2 An affordability review of the highest scoring tender will be carried out. If the price of the highest scoring tender is considered to be unaffordable then Highways England may

- revise the scope and request all Tenderers to submit new tenders or
- cancel this Invitation to Tender and evaluation process

3.7.3 The tender with the highest combined score and an affordable price will be validated. In the event of more than one Tenderer with the same total score, these tenders will be validated.

3.7.4 For the purposes of paragraph 3.7.5:

(a) Consortium means a consortium of two or more persons or organisations who together

- comprise the Tenderer by way of an unincorporated joint venture or
- comprise all the members of any Incorporated Joint Venture Party which is the Tenderer.

(b) Consortium Member means an organisation or person which is a member of a Consortium.

3.7.5 In order to ensure the resilience of the network and promote the participation of a diverse supplier base in Highways England's procurements, a market share test will be applied. If the tender of:

- the Tenderer,
- any Consortium Member of an unincorporated joint venture, or
- the parent company of any Consortium Member of an incorporated joint venture,

with the highest total score is awarded the contract, and when combined with:

- (a) any other existing Asset Support (ASC) Contracts, Managing Agent Contractor (MAC) contracts and/or Maintenance and Response (M&R) contracts which are not being replaced by these current competitions awarded to the Tenderer and
- (b) any other competition for a proposed Asset Support Contract or Maintenance and Response Contract where the Tenderer is currently in Stage 2, or later stage, of the tender assessment process

would mean the Tenderer/ Consortium Member/ parent company, if awarded such further contracts, would be the Provider/ Contractor for:

- (c) six (6) or more Asset Support Contracts, Managing Agent Contracts and or Maintenance & Response Contracts

then Highways England will not consider that tender further. The tender with the next highest total combined score is then considered for market share. This process continues until a tender is identified that passes the market share test.

- 3.7.6 The Procurement Officer will inform Tenderers whether or not they have been identified for validation. Such notifications must not be taken as inferring acceptance of any tender.

4 STAGE 4

4.1 Validation and Sustainability

- 4.1.1 The Quality Assessment Panel, Health and Safety Assessment Panel and the Financial Assessment Panel will combine (the Panel) to validate any part of those tenders that have been identified for validation. The Panel will collaborate on the items to be validated.
- 4.1.2 The Panel will not reconsider the Part A Quality marks, nor will it seek or permit any further clarifications in relation to the Quality Statement. The tender cannot be modified during the validation stage, and therefore Part B marks cannot be increased above those assessed in Stage3.

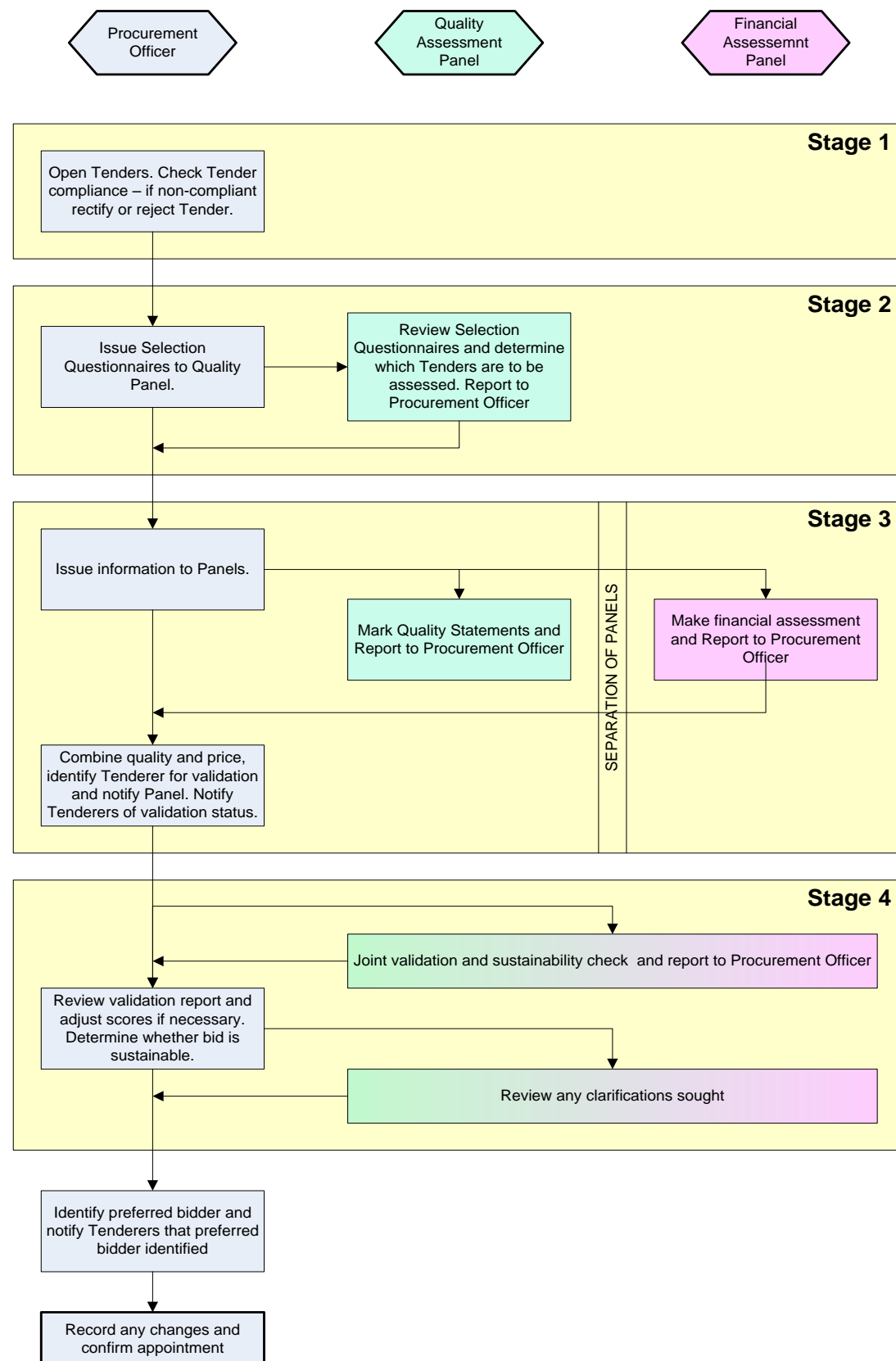
- 4.1.3 In validating Part B of the Tenderers' Quality and Health and Safety Statements, the Panel will use any practical means, and may approach any person or organisation named in the Quality or Health and Safety Statement as part of the validation. The validation may include review of any submitted information and/or meetings with the Tenderer. The Panel may also seek further information or an explanation of any elements of the pricing information.
- 4.1.4 The validation will seek to provide Highways England with the confidence that the Tenderer will be able to deliver the requirements of the contract sustainably, that the tender provides suitable resource to deliver the proposed approach, that the prices are suitable to provide the proposed resources and that the tender has been developed from past evidence to support this. As part of this validation the Panel may ask to be provided with original evidence that demonstrates that the allowances made are based on costs actually incurred. The Panel may wish to interview appropriate accounting staff to provide the level of satisfaction required.
- 4.1.5 Where the Panel does not have sufficient confidence in the evidence, the most relevant Part B evidence mark(s) from Stage 3 will be reduced, and the Tenderer's total quality mark similarly reduced. The Panel may consider all of the evidence available to it during the tender process, not only in respect of the quality submission, but also in respect of the financial submission, in order to validate the Part B evidence marks.
- 4.1.6 Evidence will be sought on areas that the Panel considers to be high risk or key areas. This will be a risk based assessment based on the confidence given by evidence provided. The Panel will look to evaluate, but will not be limited to, the following:
- the evidence to substantiate the build-up and calculations behind any of the lump sum resources (Schedule A),
 - the evidence to substantiate the build-up and calculations behind any of the Schedule of Rate items (Schedule B and Schedule C),
 - the evidence to substantiate the build-up and calculation behind any of the component of fee (both Direct Fee and Subcontract Fee),
 - the evidence to substantiate the claims in Part B evidence to the proposed approach,
 - the evidence that Quality Themes and behaviours have been delivered previously, or will be delivered,
 - the evidence that prices are based on forecast Defined Cost (or forecast cost where appropriate),

- the evidence that the commercial approach to risk is realistic and appropriate and
 - the evidence that the Tenderer will be able to deliver the requirements if the tender is accepted,
 - further detail and evidence used to produce the Health and Safety Statement
- 4.1.7 The contract must operate as a viable business for both partners. Highways England seeks to have the required level of service at an affordable cost, whilst providing a profit for the winning Tenderer. Tenders will be subject to scrutiny, and may be rejected if considered not sustainable.
- 4.1.8 The Panel will review the material submitted with the tender to verify that the resources proposed are likely to deliver the level of service set out in the Quality Statement and may seek further clarification from the Tenderer to enable it to understand the submission better. These clarifications may be sought in writing or at a meeting called for that purpose (and confirmed in writing).
- 4.1.9 Tenderers to note that this sustainability check 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.
- 4.1.10 Highways England may require the Tenderer to provide further written details of the constituent elements of the overall tendered amount or the tendered rates or tendered fee percentage or any other information which Highways England considers relevant.
- 4.1.11 Failure to provide satisfactory evidence to support any part of this aspect of the tender may result in the tender being rejected.

4.2 Determining the Preferred Bidder

- 4.2.1 Following validation, if the Tenderer's score remains the highest, then that Tenderer becomes the Preferred Bidder. Unless
- validating the financial information has led to the rejection of the tender,
 - the selected items fail the validation tests in accordance with the specification or
 - the Tenderer's score has been changed, and is no longer the highest score

- 4.2.2 In this event an affordability review is carried out on the Tenderer with the next highest total combined score from Stage 1 that passes the market share test is validated. If a tender that originally failed the market share test, but following a change in circumstance may pass the market share test, that tender is reconsidered.
- 4.2.3 The Tenderer with the next highest total combined score is validated. This process continues until a tender with a validated total combined score higher than other bidders has been identified. This Tenderer then becomes the Preferred Bidder.
- 4.2.4 The Procurement Officer will inform Tenderers whether or not they have been identified as the Preferred Bidder. Such notifications must not be taken as inferring acceptance of any tender.

ANNEX D - DETERMINATION OF SUCCESSFUL TENDERER**Flow Chart showing the tender evaluation process**

A worked example.

Table D1: Detailed Quality Marking For Tender A

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Heading		Part A Marks	Part B Marks	Combined Mark	Weighting	Weighted Mark
		Approach on this contract	Evidence from past projects	Lower of Mark A and B		Lower of Mark A and B
C4	Cost Reimbursable - Reactive	8	8	8	15.0%	12.0
C6	Payments and Disallowed Costs	6	8	6	15.0%	9.0
D3	Network Programming and Coordination	8	6	6	17.5%	10.5
O1	Deliver Reactive Maintenance	7	7	7	17.5%	12.3
O2	Deliver Incident Response	8	9	8	17.5%	14.0
O3	Deliver Severe Weather Service	8	9	8	17.5%	14.0
Total Quality Mark					100%	71.8

Table D2: Scoring

Quality	
Tender	Quality Mark
A	71.8
B	81.3
C	71.2
D	75.7
E	65.3

Highest Quality

Price				
Tender	Price	%age above lowest	Deduction	Financial Score
A	£300,000,000	15.4%	15	85
B	£280,000,000	7.7%	7	93
C	£270,000,000	3.8%	3	97
D	£320,000,000	23.1%	23	77
E	£260,000,000	0.0%	0	100

Highest Financial

Combined			
Tender	80% of Quality Mark	20% of Financial Score	Total
A	57.4	17.0	74.4
B	65.0	18.6	83.6
C	57.0	19.4	76.4
D	60.6	15.4	76.0
E	52.2	20.0	72.2

Highest Combined