**FURTHER COMPETITION**

**FOR**

**National Highways Dynamic Display System (DDS) Service Support: Engineering Remote Access Solution**

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# gENERAL

## This Further Competition seeks to determine the Most Economically Advantageous Tender Submission for National Highways.

## The indicative timetable for this Further Competition is included at Annex A.

## Tenderers are required to conduct themselves in good faith in all dealings in relation to this Further Competition. Tender Submissions must be made in accordance with this ITT. Tender Submissions and/or Tenderers not complying with this ITT will be rejected or excluded by National Highways.

## Any of the documents issued to Tenderers in connection with this Further Competition remain the property of National Highways. All such information issued to Tenderers may onfraly be used for the purpose of providing a Tender Submission. Such information should not be disclosed to persons unconnected with the Tender Submission. These provisions apply equally to documents (the property rights of which vest in a third party) supplied for the Further Competition.

## This ITT and the Tender Submission must be treated as private and confidential. Tenderers must not disclose the fact that they have been invited to submit a Tender Submission or release details of the ITT, other than on an “in confidence” basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the Tender Submission. Tenderers must not release information concerning this ITT for publication in the press or on radio, television, screen or any other medium.

# glossary

## In this Further Competition Invitation the following words and phrases have the following meanings:

## “**Customer**” means National Highways;

## “**Scoring Matrix**” means the range of marks that may be given to a Potential Provider depending on the quality of its response to a question

## “**Minimum Total Score**” means the minimum score that the Potential Provider must obtain in order to be awarded

## “**Total Score Available**” means the maximum potential score that can be awarded for a response to a question;

## “**Potential Provider**” means a company that submits a Tender in response to the Further Competition Invitation;

## “**Supplier**” means the Potential Provider with whom the Customer has concluded the Contract;

## “**Tender**” means the Potential Provider’s formal offer in response to the Further Competition

## “**Tender Clarifications Deadline**” means the time and date set out in section 4 for the latest submission of clarification questions; and

## “**Tender Submission Deadline**” means the time and date set out in section 4 for the latest uploading of Tenders.

# INFORMATION MANAGEMENT

## Under the Freedom of Information Act 2000, Public Contract Regulations 2015 (as amended) and the Environmental Information Regulations 2004 (EIR) National Highways may be obliged to disclose information relating to responses to this Further Competition including any Tender Submissions received.

## Under the Cabinet Office’s Guidance Note dated May 2012 entitled “Transparency – Publication of New Central Government Contracts”, or any later revision, National Highways is obliged to publish awarded Contracts, including the information submitted to National Highways by the successful Tenderer as part of the Further Competition, excluding only information which is exempt from disclosure pursuant to the Freedom of Information Act 2000 or the EIR. National Highways' initial view is that only materials likely to be excluded from publication on this basis are as follows:

### Details of any of staff listed in the Contract

### Information submitted within the Commercial Workbook

## The Tenderer may identify (with reasons) those materials which he wishes to see excluded from publication. The Tenderer acknowledges that the final decision as to which materials are excluded rests solely with National Highways. Any request by the Tenderer to exclude material is for information only and will not be taken into account in the assessment process, nor will it form part of any Contract between National Highways and the successful Tenderer.

## Tenderers should be aware that National Highways could receive requests for any information relating to this Further Competition. While National Highways reserves its discretion in responding to any such information request, Tenderers are invited to request that certain information is not disclosed or published if to do so would prejudice their legitimate commercial interests or it is otherwise exempt from disclosure under the Freedom of Information Act 2000 or the EIR. Requests for non-disclosure under the Freedom of Information Act 2000 or the EIR must accompany the Tender Submission and include:

### Clear and substantive justification;

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

## The terms of any confidentiality agreement would, if requested, be available for disclosure. Any request by the Tenderer under this paragraph is for information only and will not be taken into account in the tender assessment process, nor will it form part of any contract between National Highways and the successful Tenderer.

# Warranties

## This ITT is issued by National Highways in good faith. No warranty is given as to the accuracy or completeness of the information contained in it. Any liability for inaccuracy or incompleteness is expressly disclaimed by National Highways and its advisors. Tenderers are advised to satisfy themselves that they understand all the requirements of the contract before submitting their Tender Submission.

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

## National Highways reserves the right to cancel, amend or vary the Further Competition at any point prior to the award of the contract (whole or in part) and with no liability on its part.

## National Highways reserves the right not to accept the lowest or any Tender Submission for any reason.

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

# Communications

## For enquiries contact National Highways via the e-sourcing portal, at: https://crowncommercialservice.bravosolution.co.uk

## Contact with National Highways must be made to the Procurement Officer (Lee Bryant) via the e-sourcing portal only. Tenderers are prohibited from contacting any other members of National Highways' staff in relation to this ITT.

## Tenderers must immediately inform the Procurement Officer via the e-Sourcing portal if they have been contacted by anyone else from National Highways regarding this ITT.

## Failure to comply with the above may lead to the Tenderer’s Tender Submission being rejected. For the avoidance of doubt, this paragraph shall apply where a Tenderer contacts any of National Highways' staff (including any executive directors, non-executive directors and senior managers) in relation to this Further Competition, other than the prescribed route above. Failure to comply with the above may lead to your Tender Submission being rejected.

## Any queries from Tenderers regarding the ITT documents must be made by the final date and time shown on the e-sourcing portal.

## All Tenderer queries will only be responded to via the e-sourcing portal. If any response requires a change to the ITT or tender documents, then any amendment(s) will be issued via the e-sourcing portal.

## Tender Amendments are changes to the documents that may be made to any of the tender documents issued, and these will only be issued via the e-Sourcing portal. Only in exceptional circumstances will amendments be issued after Tenders have been received. In such circumstances, the Procurement Officer will notify all Tenderers of the required action.

## National Highways staff and their consultants do not have the authority to make any changes to tender documents. Such changes will only be through a Tender Amendment issued by the Procurement Officer. If a statement is made in an amendment that a Tenderer considers is not in accordance with the ITT documents, then the Tenderer should immediately refer the matter to the Procurement Officer as a query.

## Confidential queries from Tenderers shall not be accepted or responded to. If a query is received that is marked confidential, the Tenderer will be asked to either re-phrase it so it can be published, or withdraw it.

## Tenderers are required to, by the deadline stipulated in Annex A:

### name all members of their team assembling the Tender Submission (including nomination of a primary contact within their organisation to liaise with the Procurement Officer)

### declare any prior involvement of any member of their Tender Submission team (including any members of a Tenderer’s supply chain) in any existing National Highways project likely to create a potential, perceived or actual conflict of interest with this project, and put forward its proposals for how the Tenderer is preventing any such conflicts of interest (an “Ethical Wall” statement).

### Throughout this competition, Tenderers must update National Highways of any changes to their team assembling the Tender Submission.

### National Highways may ask the Tenderer to propose and implement further means of mitigating the conflict of interest to National Highways satisfaction, ask for an individual(s) to be removed from the Tender Submission team, or reject the Tenderer from further participation in this Further Competition if the Tenderer’s proposals will not prevent a conflict of interest. A “conflict of interest” is any circumstance which could be perceived as the artificial narrowing or distortion of competition and/or could be perceived as unduly favouring or disadvantaging any Tenderer participating in this Further Competition.

### Tenderers should note the requirements of the specification for this Further Competition which can be found within the draft Task Order.

### Tenderers must assure themselves and National Highways that any conflict of interest will not materialise if they plan to tender for this opportunity.

# Change of status

### Tenderers must immediately advise National Highways if their ownership or the ownership of any member of their supply chain (or their parent company) changes, or their organisation completes the takeover of, or merges with, another Tenderer that is participating in this Further Competition.

### If it is considered that a change in ownership has created a potential conflict, National Highways will seek measures to mitigate risk of conflict. A “conflict” or “potential conflict” is any circumstance which National Highways believes has or could impact on the fair, transparent and non-discriminatory nature of this Further Competition.

# Documents

## The following documentation pack comprises the Further Competition Tender Documentation:

### **Order Schedules (Including Order Form)**

### **Invitation to Tender (This Document)**

### **Commercial Workbook**

### **Quality Questions**

### **Specification**

# SUBMITTING Documents

## Not Used.

## The Tender Submission will comprise the quality submission and the financial submission

## The Quality Submission must follow the structure set out and cover the items identified in the Table 2 of Annex B.

## Tender Submissions and supporting documents must be written in English.

## Tender Submissions must be submitted in accordance with this ITT. Tender Submissions must not be qualified or accompanied by statements or a covering letter that might be construed as rendering the Tender Submission equivocal. National Highways decision as to whether or not a Tender Submission complies with this ITT will be final.

## Tender Submissions not received by the deadline on the e-sourcing portal may be excluded from further consideration and returned to Tenderers. Tender Submissions must remain open for acceptance for 120 calendar days from the date the Tender Submission was submitted.

## The Tender Submission should be returned together with the documents listed below via National Highways' e-sourcing portal.

## Documents are to be Microsoft Office 365 compliant or PDF formats.

## The following online forms are included at Annex F. Tenderers must indicate their acceptance by completing the relevant fields via the technical envelope on the e-sourcing portal:

### Anti-Collusion Certificate;

### Anti-Bribery Code of Conduct;

### Anti-Fraud Code of Conduct;

### Armed Forces Covenant;

### Tender declarations.

# Quality Submission

## Tenderers are to include in their Quality Submission, via the technical envelope on the e-sourcing portal:

## Tenderers upload a single document in response to the Quality questions in table 2 of Annex B. Tenderers must not exceed the stipulated page limit for each Quality question. Text must be in Arial font and not smaller than 11 point.

## **Note 1:** Quality assessment will only be on the contents of the Quality Submission and nothing else. The submission must therefore contain all the information which Tenderers wish to be considered.

## It is important to note that proposals made by the Tenderer in the Quality Submission are contractual commitments which will be incorporated into, and become an actionable term of the Contract.

## The Quality Submission will be included within the Draft Task Order (Annex 2 Part B)

## If the responses to the Quality questions exceed the total word limit then the excess words beyond the limit will be disregarded. If Tenderers consider that the word limit is insufficient to provide the information required by this ITT, then a tender query should be raised via the e-sourcing portal. No guarantee can be given that the word limit will be increased.

## The word limit and font size relate to all the entire Quality questions as the case may be including paper covers, title pages and annexes but excluding any Gantt chart. Text no smaller than 8 point should be used for drawings, diagrams and flow charts. The pages of the single document which contains the responses to the Quality questions must be numbered. Page numbers and other header or footer information may be included in the margin space.

## Tenderers may be requested to provide an overview presentation of their tender submission to National Highways. If requested, National Highways will provide further details. This will not be scored.

# FINANCIAL Submission

## Tenderers are to include in their Financial Submission, via the commercial envelope on the e-sourcing portal:

### A completed Commercial Workbook;

### Evidence of their Credit Rating;

## A statement regarding potential, actual or perceived conflicts of interest that may be relevant to the Services. National Highways requires that any potential, actual or perceived conflicts of interest in respect of the Services are identified in writing and that Tenderers outline what safeguards would be put in place to mitigate the risk of actual or perceived conflicts arising during the delivery of the Services.

## The Commercial Workbook must be completed using, and in compliance with, the instructions and prohibitions shown on that document.

# ASSESSMENT

## Not Used

## National Highways' assessment of the Tender Submissions will be carried out in stages.

## **Stage 1**

### The Procurement Officer will check Tender Submission for completeness and compliance. This will include checking:

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

#### the format of submitted documents is correct

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

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

#### that there are no conflicts of interest, perceived or otherwise, that would jeopardize the competition

#### that no qualifying letters or statements accompany the Tender Submission or it includes anything that would render it equivocal

### A Tender Submission that does not meet these conditions may result in the Tender Submission being rejected. National Highways' decision will be final.

## **Stage 2**

### In the second stage:

#### The Quality Assessment Panel members will independently assess and mark the response to each quality question in accordance with the Scoring Matrix as outlined in Annex C.

#### The Financial Assessment Panel members will assess the Financial Submission in accordance with the methodology outlined within this ITT.

### During the second stage tender clarification questions about the Quality Submission or the Financial Submission may be issued to Tenderers by the Procurement Officer. These are to allow members of the Quality Assessment Panel or the Financial Assessment Panel to clarify any ambiguous aspects.

### Any uncertainty, lack of clarity or potential errors in any part of the Financial Submission will be dealt with via a tender clarification question issued by the Procurement Officer. If a response to a clarification question provides information not requested, then this information will not be disclosed to the Quality Assessment Panel or the Financial Assessment Panel as the case may be. Note that a Tenderer may not receive any tender clarification questions.

### The Quality Assessment Panel assesses the Quality Submission by awarding marks against each of the questions in Table 2 of Annex B. The mark for each quality question is determined using the Scoring Matrix as outlined Table 1 in Annex C.

### In scoring the Financial Submission, the Financial Assessment Panel will use the ‘Total Price for Assessment Purposes’ from the Commercial Workbook, and will apply Formula 1 at Annex D to convert the ‘Total Price for Assessment Purposes’ into the Financial Score. Financial Scores will be expressed to one decimal place. Any negative scores will be normalised to zero. Annex E provides a theoretical tender scenario to demonstrate how financial scores are calculated.

### Tenderers should note that National Highways will investigate a potentially abnormally low tender as provided for under regulation 69 of the Public Contracts Regulations 2015 (as amended) on any aspect of a Tender and at any stage of the process.

## **Stage 3**

### At the third stage the Quality Assessment Panel will convene for consensus marking of the Quality Submissions. During consensus, final Quality marks for each tenderer for each quality question are agreed along with the supporting rationale.

### The minimum quality requirement is to achieve the total quality score shown below table 2 in Annex B. A Tenderer that fails to achieve that minimum quality mark will not be considered further and have its Tender Submission rejected.

### The Tenderer’s Quality Marks will be converted into Quality Scores using Formula 2 at Annex D. The quality score and the financial score will be combined in the ratio as shown in Annex B table 1 to obtain a total combined score. The total combined score will be expressed to one decimal place. The Tenderer that will be considered further (the preferred Tenderer) will be the Tenderer with highest total combined score. Annex E provides a theoretical worked example.

## **Stage 4**

### The fourth stage is verification of the highest scoring Tenderer’s Quality Submission and/or Financial Submission. Verification is only upon the highest scoring Tenderer.

### Tenderers must provide evidence of their Credit Rating within for the purposes of Verification. The Credit Rating Threshold is S&P ‘Investment Grade’ (i.e BBB- or higher) or an equivalent from a reputable Credit Rating Agency.

### Failure to provide satisfactory evidence to verify any part of the Tender Submission may result in the Tender being rejected.

### National Highways will assess the highest scoring Tenderer’s company financial standing as part of verification. Full details of the financial standing assessment process can be found in Annex G.

### Subject to the outcome of the economic and financial standing tests undertaken National Highways will contact the Tenderer ranked first before Tender acceptance if a parent company guarantee (or other security agreed in accordance with these Instructions) is required, specifying the required guarantor or other security.

### If the Tenderer ranked first fails the assessment or fails to comply with any request made, the Tenderer who is ranked second in Total Score has its tender evaluated in accordance with the verification process. This process is repeated until the highest ranked remaining Tenderer passes the verification assessment.

# Standstill and Award

## When all internal governance procedures have been completed, the Procurement Officer informs all Tenderers which Tender Submission National Highways proposes to accept (if any). The Procurement Officer starts a ten-clear calendar day standstill period by issuing notifications and assessment feedback reports via the e-sourcing portal. Note that these will only be issued in writing and there will be no feedback meetings or phone calls during the standstill period.

## To award the Contract, National Highways will initially issue an award letter to the successful Tenderer. Subsequent to that, the Procurement Officer will check, update and issue a finalised version of the Contract suite to the successful Tenderer, for signatures and return.

## National Highways, upon receipt, will then also sign the Contract and issue a jointly signed copy to the successful Tenderer.

## National Highways intends to award the Contract but reserves the right not to proceed with any of the Tender Submissions received in response to this ITT.

## Details of awarded contracts will be published on the Contracts Finder website in accordance with regulation and internal governance procedures.

# ANNEX a – INDICATIVE PROCUREMENT PROGRAMME

## The timetable for this Further Competition is set out in the table below.

## The Customer may change this timetable at any time. Potential Providers will be informed if changes to this timetable are necessary.

## The Customer must receive all Tenders before the Tender Submission Deadline.

## Tenders after the Tender Submission Deadline may be rejected by the Customer to ensure that all Potential Providers are treated fairly. The decision whether to reject a Tender received after the Tender Submission Deadline is made entirely at the Customer’s discretion.

|  |  |
| --- | --- |
| DATE | ACTIVITY |
| 02 September 2022 | Publication of this ITT |
| 23 September 2022 | Deadline for Tenderer’s to submit Tender Queries |
| 30 September 2022 | Deadline for Tender Submissions |
| 3 October – 28 October 2022 | Tender Assessment |
| 1 November – 7 November 2022 | Verification |
| 8 November – 17 November 2022 | Start of Standstill period (10 Calendar Days) |
| 18 November 2022 | Award Call-off Agreement |

Table 1 - Tender Submission Timescales

# Annex B – AWARD CRITERIA

|  |  |
| --- | --- |
| Criteria | Percentage weightings |
| Quality | 70% |
| Price | 30% |

Table 2 - Quality and Price Weightings

|  |  |  |  |
| --- | --- | --- | --- |
| Q# | Question | Question | Sub - Weighting |
| 1 | Tenderer Information | Please state your full company name. This must be the same as the contracted entity named on the CCS DPS Agreement. | For Information Only |
| 2 | Supplier Personnel Details | Please provide the name, telephone number and email address of your proposed Supplier’s Representative  Please provide the name, telephone number and email address of your proposed contact for service of any Termination Notice(s) | For Information Only |
| 3 | Key Sub-Contractors | For each proposed Key Sub Contractor, please provide   1. The name, registered address and Company Number of any Key Sub Contractors 2. Detail of the deliverables each Key Sub Contractor will deliver 3. The % of the Call-Off value estimated to be spent with each Key Sub Contractor 4. The key role of each Key Sub Contractor in the Deliverables 5. Credit Rating of each Key Sub Contractor 6. Credit Threshold of each Key Sub Contractor | For Information Only |

Table 3 - Tenderer Information

|  |  |  |  |
| --- | --- | --- | --- |
| Q# | Question | Question | Sub - Weighting |
| 1 | Confirmations | Please provide confirmation that  You will ensure the Services you may provide remains compliant with all specifications and standards referenced in the documentation comprising this Further Competition during the lifetime of any Contract, including any applicable warranty period | Pass/Fail |
| 2 | Confirmations | Please provide confirmation that  You will ensure there is handover of all relevant documents and information at the end of this contract to an incoming supplier and/or National Highways. This will include but not limited to providing the incoming supplier with information that has been collated and held for the purposes of the services delivered under the Contract. | Pass/Fail |

Table 4 - Pass/Fail Criteria

|  |  |  |  |
| --- | --- | --- | --- |
| Q# | Question Name | Question |  |
| 1 | Proposed Solution | See ‘Quality Questions’ for details | 25% Weighting |
| 2 | Proposed Solution | See ‘Quality Questions’ for details | 20% Weighting |
| 3 | Supplier Experience | See ‘Quality Questions’ for details | 20% Weighting |
| 4 | Staff / Key People | See ‘Quality Questions’ for details | 15% Weighting |
| 5 | Service Support/Warranty | See ‘Quality Questions’ for details | 10% Weighting |
| 6 | Social Value & Environmental | See ‘Quality Questions’ for details | 10% Weighting |
| Total | | | 100% |

Table 5 - Quality Questions

# Annex C - Marking the Quality Submission

|  |  |  |
| --- | --- | --- |
| Scoring Matrix | | Mark |
| For the purposes of this table, “Requirements” refers to the content of the relevant question (as relevant to the Deliverables which form the subject matter) and corresponding reference documentation for the question being scored | | |
| Unacceptable | An **Unacceptable** score will be applied if the response:   1. fails to demonstrate an approach that meets the Requirements or demonstrates an approach which is unacceptable and does not meet the Requirements | 0 |
| Poor or Limited Quality | A **Poor or Limited** quality score will be applied if the response:   1. is of poor or limited quality and/or it demonstrates an approach which meets some but not all the Requirements and/or there are one or more material weaknesses or material omissions in the quality of the response and/or the approach to delivering the Requirements | 3 |
| Satisfactory | A **Satisfactory** score will be applied if the response:   1. is of satisfactory quality and demonstrates an approach which meets the Requirements in all respects and/or there is one or more minor reservations or minor omissions in the quality of the response and/or the approach to delivering the Requirements | 5 |
| Good | A **Good** score will be applied if the response:   1. is of good quality and demonstrates an approach which meets the Requirements in all respects | 7 |
| Excellent | An **Excellent** score will be applied if:   1. is of excellent quality and demonstrates an approach which meets the Requirements in all respects. The response also demonstrates an approach which exceeds some or all of the Requirements which will offer demonstrable benefits to the provision of the Deliverables (as relevant to the Quality Question) | 10 |

Table 6 - Scoring Matrix

# Annex D – Commercial Assessment Formulas

## The maximum mark available for Price will be 100. This mark will be awarded to the most economically advantageous tender based on the total figure calculated within the Commercial Workbook in regard to the ‘Total Charges for Assessment’.

Equation 1 - Total Price Score

## The ‘Total Charges for Assessment’ will be calculated by multiplying the estimated hours for each of grade of staff by the blended Day Rate.

## The following formulae will be applied to ascertain the overall weighted Quality Score:

Equation 2 - Quality Assessment

# Annex E – Example Assessment

## The Tables below provide an example of a theoretical tender assessment. This annex has been included for demonstration purposes only, so that the process for calculating both financial and quality scores is understood by the tenderers.

## Table 1 - Price and Quality Weightings (as seen in Annex B – Award Criteria)

|  |  |
| --- | --- |
| Criteria | Weighting (out of 100) |
| Quality | 70 |
| Price | 30 |

|  |  |  |  |
| --- | --- | --- | --- |
| Tenderer | Commercial Workbook Section | Weighting | Assessment price |
| A | Total Prices for Assessment Purposes | 100% of commercial; 30% of Tender total | £250,000 |
| B | Total Prices for Assessment Purposes | 100% of commercial; 30% of Tender total | £220,000 |
| C | Total Prices for Assessment Purposes | 100% of commercial; 30% of Tender total | £270,000 |

Table 7 - Theoretical Tenderer Assessment Price and Score

|  |  |  |
| --- | --- | --- |
| Tenderer | Commercial Workbook Section | Scoring Calculation |
| A | Total Prices for Assessment Purposes | 30% x (220,000/250,000) = 26.4% |
| B | Total Prices for Assessment Purposes | 30% x (220,000/220,000) = 30.0% |
| C | Total Prices for Assessment Purposes | 30% x (220,000/270,000) = 24.4% |

Table 8 – Tender Conversion of Prices to Financial Scores

|  |  |  |  |
| --- | --- | --- | --- |
| Tenderer | Quality Score | Quality Calculation | Quality Score |
| A | 65.0% | 70% x (65/100) = 45.5% | 45.5% |
| B | 80.0% | 70% x (80/100) = 56.0% | 56.0% |
| C | 70.0% | 70% x (70/100) = 49.0% | 49.0% |

Table 9 - Conversion of Quality Marks to Quality Scores (Quality is weighted as 70% of the Tender total)

|  |  |  |
| --- | --- | --- |
| Tenderer | Total Score | Position |
| A | (26.4% + 45.5%) = **71.9%** | 3rd |
| B | (30.0% + 56.0%) = **86.0%** | 1st |
| C | (24.4% + 49.0%) = **73.4%** | 2nd |

Table 10 - Total Combined Scores

# Annex F – ONLINE FORMS

National Highways, working with its suppliers in good faith and in a spirit of mutual trust and respect, is committed to preventing and identifying collusion, meeting the principles of fair payment, meeting the principles of anti-bribery (as enacted by the Bribery Act 2010 and Ministry of Justice guidance), and working fairly, honestly, with integrity and transparency. National Highways seeks to gain the same commitment from Suppliers through their acknowledgement of these declarations upon submission of Tenders.

Anti-Collusion Certificate

1. We certify that this Tender is made in good faith, and that we have not fixed or adjusted the amount of the Tender in accordance with any agreement or arrangement with any other person(s).
2. We also certify that, prior to the award of any Agreement for the work, we have not and will not:
   1. communicate the amount or approximate amount of the Tender to any person[[1]](#footnote-2) outside of the parties pertaining to this Tender procedure, other than:

i. the Secretary of State (or a person duly authorised by him); or ii. where the confidential disclosure of the approximate amount of the Tender was necessary to obtain insurance premium Tenders required for the Agreement.

* 1. enter into any agreement or arrangement with any person outside of the parties pertaining to this Tender that such person shall refrain from submitting a Tender, that they shall withdraw any Tender once offered, or vary the amount of any Tender to be submitted.
  2. pay, give or offer to pay any sum of money or other valuable consideration directly or indirectly to any person outside of the parties responsible for this Tender for doing, having done, causing, or having caused to be done any act or thing of the sort described at (a) or (b) in relation to any other Tender.

1. We further certify that the principles described in paragraph 2 have been, or will be, brought to the attention of all sub-contractors, suppliers and associated companies providing services or materials connected with the Tender and any Agreement entered into with such sub-contractors, suppliers or associated companies will be made on the basis of compliance with the above principles by all parties.

Fair Payment Charter

1. We will strive to meet the ‘Fair Payment’ commitments set out below. We will additionally seek to embed the principles throughout our supply chain.

1. Companies have the right to receive correct full payment as and when due. Deliberate late payment or unjustifiable withholding of payment is ethically not acceptable;
2. ‘Fair Payment’ will apply equally between National Highways, the lead contractor and throughout the supply chain;
3. The process will be transparent and members of the supply chain will have certainty of how much and when they will be paid;
4. Companies will consider, where appropriate, operating relevant contracts on an open book basis;
5. The correct payment will represent the work properly carried out, or products supplied, in accordance with the contract. Any withholding of payment due to defects or non-delivery will be proportionate and demonstrably justified in line with arrangements made at the time of contract;
6. To ensure effective and equitable cash flow for all those involved, all contracts will provide for regular payments and have payment periods not exceeding 30 days from receipt of invoice;
7. In order to avoid payment delays, National Highways and all supply chain members will agree payment procedures at the outset of their contracts. Payment will be through electronic BACS transfer and will apply throughout the supply chain;
8. Monitoring compliance with these principles will be built into the performance management requirements pertaining to this Agreement.

Anti-Bribery Code of Conduct

1. We confirm that we acknowledge the commitments set out below and have (and shall) maintain equivalent principles throughout our supply chain.
2. We are committed to ensuring that our business operates with the upmost integrity.
3. We, and those employed by us, will not:
   * 1. Offer, promise, pay or provide bribes[[2]](#footnote-3) to any person;
     2. Request, agree to accept or receive bribes;
     3. Offer hospitality to National Highways staff that would

breach the following requirements:

* + - 1. Gifts other than low-value items such as diaries or calendars (up to £15 in value). Calendars, diaries or other small items of office equipment may be offered and accepted but the gift must bear the company's name or insignia and can legitimately be regarded as being in the nature of advertising material;
      2. Benefits and/or hospitality such as cocktail parties, receptions, presentations and conferences;
      3. Invitations to social, cultural and sporting events; or iv. Overnight accommodation and travel to and from a venue at which an event is being held.

1. We are committed to having robust procedures and controls in place within the parties pertaining to this Tender to minimise the risk of bribery with the aim of preventing bribery and confirm that we:
   1. Have a zero-tolerance of bribery offences throughout our organisation(s);
   2. Conduct risk assessments to identify and monitor potential bribery risks;
   3. Adopt due diligence measures to vet and approve third parties performing services on our behalf;
   4. Have clear, practical and accessible policies and procedures to address potential risks of bribery, and to prevent bribery;
   5. Provide education and awareness to all our employees;
   6. Have a mechanism in place to allow employees to report potential bribery issues in confidence and have a process to deal with reports protecting the reporting individual;
   7. Deal effectively with any occurrences of bribery; and
   8. Act at all times in good faith, impartially and in accordance with a position of trust.

Anti-Fraud Code of Conduct

1. We confirm that we acknowledge the commitments set out below and have (and shall) maintain equivalent principles throughout our supply chain.
2. We are committed to ensuring that our business operates with the utmost integrity.
3. We, and those employed by us, will not commit any fraudulent acts or carry out any of the following acts which could amount to fraud including, but not limited to:
   1. Submission of false or inflated claims or invoices for

payment or reimbursement;

* 1. Intentional distortion of financial statements or other records;
  2. False or fraudulent financial reporting or making false or fictitious entries concerning accounts, equipment or supplies;
  3. Forgery or alteration of any documents such as cheque, bank draft or any other financial documents, including destruction or removal of records;
  4. Impropriety in the handling or reporting of money or financial transactions;
  5. Theft or misappropriation of assets or funds;
  6. Disclosure of confidential information to third parties without authority for personal gain; and
  7. The payment of excessive prices or fees where they are not justified.

1. We agree to:
   1. Keep accurate and up to date records showing all payments made and received and all other advantages given and received, and permit

National Highways to inspect those records as required; and

* 1. Promptly notify National Highways of any breach of these principles.

Armed Forces Covenant

1. The Armed Forces Covenant is a public sector pledge from Government, businesses, charities and organisations to demonstrate their support for the armed forces community. The Covenant was brought in under the Armed Forces Act 2011 to recognise that the whole nation has a moral obligation to redress the disadvantages the armed forces community face in comparison to other citizens, and recognise sacrifices made.
2. The Covenant’s 2 principles are that:
   1. The armed forces community should not face disadvantages when compared to other citizens in the provision of public and commercial services
   2. Special consideration is appropriate in some cases, especially for those who have given most such as the injured and the bereaved.
3. National Highways encourages all Bidders and their suppliers, to sign the Corporate Covenant, declaring their support for the Armed Forces community by displaying the values and behaviours set out therein.
4. Guidance on the various ways you can demonstrate your support through the Corporate Covenant is at

https://www.gov.uk/government/publications/corporate-covenant-pledge

1. If you wish to register your support you can provide a

point of contact for your company on this issue to the Armed Forces Covenant Team at the The Corporate Covenant website, so that the MOD can alert you to any events or initiatives in which you may wish to participate. The Covenant Team can also provide any information you require in addition to that included on the website.

1. The information above is not a condition of working with National Highways now or in the future, nor will this issue form any part of the

Tender evaluation, award procedure or any resulting Framework Agreement or subsequent Contract. However, National Highways very much hopes you will want to provide your support.

Tender declarations

1. Your name
2. Your position
3. I confirm that I am authorised to submit Tenders and acknowledge the contents of the Anti-Collusion Certificate, Fair Payment Charter, Anti-Bribery Code of Conduct and Anti-Fraud Code of Conduct on behalf of the Supplier in question.
4. I confirm that this Tender and any Agreement which may result from it shall be based upon the documents listed in the ITT. I acknowledge that National Highways is unable to enter into negotiation on the terms and conditions to be used, that any Agreement that may result from this Tender shall be subject to English law, and confirm that any resulting Agreement will be based on the model contract document as stipulated in the ITT.
5. I confirm that this Tender consists of all the relevant documents as requested in the ITT and has been submitted in accordance with the ITT. I have not qualified or accompanied the Tender with statements or a covering letter that might be construed as rendering the Tender equivocal. I acknowledge that Tenders not complying with this ITT may be rejected by National Highways whose decision in the matter will be final.
6. I confirm that this Tender shall remain open for acceptance for 120 calendar days from the deadline for Tenders.
7. I confirm that this ITT has been treated as private and confidential by all parties pertaining to this Tender and will continue to be treated in such a manner until otherwise directed by National Highways.
8. I confirm that we have taken account of our legal and statutory obligations, as well as all relevant Government codes and policies (e.g. taxes, environmental protection, employment protection and working conditions) where they are applicable to our Tender.
9. I acknowledge that, under the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs) as amended, National Highways is obliged (subject to the application of any relevant

exemptions and, where applicable, the public interest test) to disclose information in response to requests for information. I acknowledge that National Highways could receive requests for any information relating to this Agreement or Tender procedure and may be legally obliged to release information.

I confirm that if this offer is accepted we will execute such documents in the form of the Agreement within 10 days of being called on to do so.

# Annex G – Financial standing assessment

**Economic and Financial Standing Assessment**

Regulation 58(7) of the Public Contracts Regulations 2015 allows a contracting authority such as National Highways to impose requirements ensuring that economic operators expressing an interest in bidding for an opportunity will, if successful, possess the necessary economic and financial standing to perform the contract to be awarded.

The assessment process described below allows National Highways to take a proportionate, flexible, contract specific and not unduly risk averse view of your economic and financial standing. It takes account of the principles contained in the Guidance Note for Assessing and Monitoring the Economic and Financial Standing of Bidders and Suppliers (revised December 2020) which forms part of the government’s Outsourcing Playbook.

The assessment methodology comprises three separate economic and financial standing tests (EFSTs):

* Test 1 is an assessment using a Dun & Bradstreet (D&B) comprehensive report;
* Test 2 is an assessment using the turnover figure from your most recent financial statements compared to the projected annual value of the contract being procured;
* Test 3 is an assessment of four accounting ratios using information from your last two years’ financial statements.

Each of these three tests will result in you being rated as High, Medium or Low risk. In this context “risk” means the risk of you not being able to perform the contract for its full duration were you to be successful in the procurement. Your overall risk rating will accord to whichever is your highest risk rating from among the three individual EFSTs.

The information that National Highways will use to conduct Test 2 is taken from your most recent set of audited financial statements and for Test 3 is taken from your last two years audited financial statements. If no such audited financial statements are available, then unaudited financial statements will be used instead. With Test 3 the overall risk rating is determined by the highest individual risk rating for any of the four ratios in either of the two years.

**Consequences of being assessed High risk**

If you are assessed as High risk National Highways will engage in dialogue with you. This will identify National Highways concerns and ask if you can provide any mitigation, e.g. more recent unpublished or management accounts showing an improvement in your financial position or details of an agreed but unannounced re-capitalisation, merger or takeover.

If you are unable to provide any, or sufficient, mitigation National Highways reserves the right to exclude you from further participation in the procurement.

If you can provide mitigation then unless this is sufficient to downgrade your risk assessment to Low your continued participation in the process will be made conditional upon you providing a written commitment to obtain either a parent company guarantee or other form of financial security should you be successful in the procurement.

**Consequences of being assessed Medium risk**

If you are assessed as Medium risk National Highways will engage in dialogue with you in the manner described above.

If you are unable to provide any, or sufficient mitigation as to why your risk rating should be downgraded to Low your continued participation in the procurement will be made conditional upon you providing a written commitment to obtain either a parent company guarantee or other form of financial security should you be successful.

**Consequences of being assessed Low risk**

If you are assessed as Low risk no dialogue is required and you will be allowed to continue to participate in the procurement process.

**Parent Company Guarantee or Other Form of Financial Security**

Where your continued participation in the procurement process is conditional upon you committing to provide a parent company guarantee your parent company must itself achieve a Low or Medium risk rating when subjected to the three EFSTs set out below.

If you are:

1. a company without a parent company, or
2. a company whose parent company does not achieve a Low or Medium risk rating for the three EFSTs

then National Highways will accept a suitable form of alternative financial security. This will be in the form of an on demand bond issued by a reputable financial institution with a credit rating of at least BBB+ and with a value of 10% of overall contract value

**The Three Economic and Financial Standing Tests (EFSTs)**

**Test 1 – Dun and Bradstreet Comprehensive Business Credit Report**

To conduct Test 1 National Highways will obtain a Dun & Bradstreet (D&B) comprehensive business credit report about your company.

The D&B comprehensive business credit report contains D&B scores and ratings which are produced using a combination of mathematical modelling, expert rules, skilled business analysis and 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.

The D&B Risk Indicator is based on daily monitoring of the subject company's financial and other key strategic activities, and is predictive of the probability that the company will fail. The D&B Risk Indicator is a score from 1 to 4, where 1 represents a minimum risk of failure, 2 a lower than average risk of failure, 3 a higher than average risk of failure and 4 a high risk of failure.

For Test 1

* a D&B score of 4 will be regarded as High risk
* a D&B score of 3 will be regarded as Medium risk
* a D&B score of 1 or 2 will be regarded as Low risk.

**Test 2 – Annual Turnover Relative To Annual Contract Value**

Test 2 involves calculating a ratio by dividing the annual turnover from your most recent year’s audited financial statements by the estimated annual value of the contract to be awarded. Where the estimated annual contract value is expected to vary the average estimated annual contract value is used (i.e. total estimated contract value divided by number of years of contract duration).

The estimated value of the contract is shown on the notice that National Highways publishes on the Find a Tender and/or Contracts Finder portals.

For example, if you have an annual turnover of £17 million and the estimated average annual contract value is £10 million then your turnover ratio will be 1.7.

A turnover ratio of less than 1.5 is High risk.

A turnover ratio of between 1.5 and 2 is Medium risk.

**Test 3 – Financial Ratios**

Test 3 involves an analysis of the four accounting ratios (a) -(d) below

Each ratio will be calculated based on your last two years audited financial statements.

If you receive two or more High risk ratings for the same year in either of the two years your overall risk rating for Test 3 will be assessed as High. If you receive one High risk rating in either or both of the two years your overall risk rating for Test 3 will be assessed as Medium. If you receive no High risk ratings in either of the two years your overall risk rating for Test 3 will be assessed as Low.

1. Pre-Tax Margin Ratio

This ratio is calculated by dividing your company’s annual pre-tax profits by your annual turnover expressed as a percentage.

A result that is below 0% (i.e. negative) is High risk

A result that is between 0% and 2% is Medium risk

1. Finance Cover Ratio

This ratio is calculated by dividing your operating profit plus finance income by your finance expenses. It is a test of whether you are generating enough profit to service your interest-bearing debt.

A result that is less than 1 in is High risk

A result that is between 1 and 2 is Medium risk

1. Current Ratio

This is calculated by dividing your current assets by your current liabilities. It is a test of whether you have sufficient liquid assets, e.g. cash, short term debtors and stock to meet your outstanding current liabilities, e.g. trade creditors, bank overdraft, lease payments and interest due.

A result that is less than 0.8 is High risk

A result that is between 0.8 and 1 is Medium risk

1. Debt to Equity Ratio

This is determined by dividing your total liabilities by your shareholder equity. It is a basic test of your solvency.

A result that is more than 4 is High risk

A result that is between 3 and 4 is Medium risk

**Assessing Consortia and Joint Ventures**

Where you are part of an incorporated JV or consortium its economic and financial standing will be assessed in the same way as any other individual tenderer, i.e. it will be subject to the three EFSTs described above. If it is a new special purpose vehicle it may not have audited accounts in which case the EFSTs will be applied to the best available financial data.

Where you are part of an unincorporated JV or consortium the three EFSTs will be applied to you and the other members of the JV/consortium as follows.

Test 1 - All members of the consortium or joint venture will be assessed using a Dun and Bradstreet comprehensive report.

Test 2 - For the purposes of calculating the ratio between turnover and annual contract value each member of the JV/consortium is assessed separately. Its annual turnover will be compared against a share of the annual contract value proportionate to its participation in the JV or consortium. For example, in a JV of three members where they each contribute in the proportion of 50%, 30% and 20% the first member’s turnover will be compared against 50% of the annual contract value, the second member’s against 30% and the third member’s against 20%. If the JV does not specify the proportions in which each member contributes their respective turnovers will be compared against equal shares of the annual contract value (i.e. the annual contract value divided by number of JV members).

Test 3 - To calculate the ratios all members of the consortium or joint venture are separately assessed.

For each of the three EFSTs if any member of the consortium or joint venture is assessed as High risk and cannot provide any, or sufficient, mitigation during dialogue with National Highways the entire JV/consortium will be excluded from the procurement unless that member is removed or replaced by another member that is not assessed as High Risk or is assessed as High risk but can provide mitigation.

If any member of the consortium or joint venture is (i) assessed as High risk but is able to provide mitigation (but not enough to be downgraded to Low risk) or (ii) is assessed as Medium risk it will be required to agree to provide a parent company guarantee or other form of security consistent with its joint and several liability under the contract the JV/consortium would be awarded were it to be successful in the procurement.

**Repetition of Economic and Financial Standing Assessment**

National Highways will repeat the EFSTs if it has any concerns that there has been a change in your circumstances or if new information becomes available since the initial assessment.

Where the contract to be awarded is a framework agreement National Highways reserves the right to repeat the EFSTs prior to awarding a contract.

1. The word 'person' includes any persons and any body or association, incorporated or unincorporated; 'agreement’ or ‘arrangement' includes any transaction, formal or informal and whether legally binding or not; and 'work' means the work in relation to which the quotation is made. [↑](#footnote-ref-2)
2. A bribe for this purpose being the provision of any financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so. [↑](#footnote-ref-3)