

**Test Housing
Association Ltd**

**Project Particulars and ESPD
Guidance**

for

**Gas Services and Reactive Repairs
and Ad-hoc Boiler & Full System
Renewal Contract 2018 – 2023**

1 Guidance Notes for Completing the European Standard Procurement Document (ESPD)

1.1 Purpose of the ESPD

The purpose of this ESPD is to allow Test Housing Association to determine if the contracting organisations who expressed an interest in this project provide the mandatory standard information contained with the attached ESPD. Test Housing Association will use the information provided by contracting organisations to determine a pass or fail. Any contractors who fail to provide the required information in the ESPD will be removed from the process and the tender will not be considered.

1.2 Questionnaire Layout

All information requested should be provided in the order and format of the sections as set out within the ESPD and completed in strict accordance with the requirements set out within this document.

1.3 ESPD Responses

Completed ESPD's must be submitted via the Public Contracts Scotland Web Portal.

Potential contracting organisations are advised that their responses may be reproduced and that no further indication or request prior to publication will be made.

Only information provided as a direct response to the questionnaire will be evaluated. Potential bidders should respond to the questionnaire on the basis that Test Housing Association has no prior knowledge of their organisation. Information and detail which forms part of general company literature or promotional brochures etc. will not form part of the evaluation process. Marketing material should not be included.

Supplementary documentation may be attached to the questionnaire where bidders have been directed to do so. Such material must be clearly marked with the name of the organisation and the question to which it relates. Please note that Test Housing Association may require clarification of the answers provided or ask for additional information.

The response should be submitted by an individual of the organisation, company or partnership who has authority to answer on behalf of that organisation, company or partnership.

Bidders should be aware that erroneous or incorrect responses may result in their removal from the process and/or tender list(s). In the event that this is only discovered once invitations to tender have been issued, the bidder may be required to return the tender documents which will be deemed void. In the case where the error or misrepresentation is not discovered until after the contract is awarded, Test Housing Association reserves the right to terminate the contract and all costs incurred by us as a result of the termination shall be recoverable from the provider under the contract.

1.4 Consortiums

If applying on behalf of a **consortium**, please list the names and addresses of all other members of the consortium. Please note that the questionnaire will be evaluated on the basis of the details supplied in the questionnaire and, if shortlisted, an Invitation to Tender will be issued to the nominated lead organisation only. Contracts will normally be entered into with the nominated lead organisation and all members of the consortium, who will in these circumstances each be required to execute the Contract together with all ancillary documentation, evidencing their joint and several liability in respect of the obligations and liabilities of the Contract. It will be for members of the consortium to sort out their respective

duties and liabilities amongst each other. For administrative purposes, any associated documentation will be sent to the nominated lead organisation.

NOTE: If a consortium is appointed to this Contract the members of the consortium will be required to form a single legal entity before entering into this Contract.

1.5 New Organisations

Newly established organisations should provide the maximum information possible. Where no financial accounts have been produced then draft accounts, certified by an external accountant, should be submitted for the trading period since establishment. Experience can be provided from working with previous organisations as long as this information can be evidenced as per the ESPD.

1.6 Mandatory/Discretionary Exclusion

Questions relating to Economic/Financial Standing, Criminal Convictions and Business Probity carry both mandatory and discretionary exclusion from the process. The remaining sections of the ESPD will not be assessed where a mandatory and/or discretionary exclusion has been confirmed.

In the case of a discretionary exclusion the level of remedial action taken to prevent future occurrences/breaches must be demonstrated clearly and unequivocally otherwise the decision will always be in preference of exclusion.

1.7 Questions

Should a contracting organisation wish to raise a question or query in relation to the ESPD then this should be done via the Public Contracts Scotland Tender portal. The last date for submission of a question or query is **12.00 noon on 30 January 2018**. All responses to questions and/or queries will be done via the portal. All contracting organisations will be able to view the responses.

Test Housing Association does however reserve the right not to respond to a question and/or query or to circulate a response where it considers that the answer to that question and/or query would or would be likely to prejudice its own commercial interests.

1.8 Submission

ESPD's are to be returned on/by **12 Noon on 2 February 2018** via the Public Contracts Scotland Tender Postbox as set-out in 8.2 of this ESPD document.

1.9 Disqualification at ESPD Stage

Test Housing Association may disqualify any potential contracting organisation who fails to:-

- provide satisfactory response to any questions in this ESPD, inadequately or incorrectly completes any question, this includes following all instructions on the completion of answers to the questions
- Provide a satisfactory response to the Pass / Fail gateway questions. For the avoidance of doubt any Fail will result in disqualification
- do not provide the required subcontractor information requested
- submit its completed ESPD by the deadline given in the Notice advertising this contract on the Public Contracts Scotland Procurement Portal

Modification of this ESPD document other than detailing answers is not permitted and may result in the potential contracting organisation being excluded from further participation in the process.

1.10 Fair Work Practices

We draw your attention to the fact that, if selected to receive the Invitation to Tender, you will be required to demonstrate how you will promote fair working practices in the delivery of this contract and in turn help secure best value for Test Housing Association.

1.11 Non-collusion & Anti-bribery Compliance

We draw your attention to the fact that, if selected to receive the Invitation to Tender, you will be required to complete a non-collusion & anti-bribery certificate as part of your bid.

1.12 Disclaimer

The information on the Contract and the requirements of Test Housing Association contained in this ESPD document are preliminary only and will be superseded by the tender invitation documents. The information is given in good faith for the guidance of applicants, but no warranty or representation is given as to the accuracy or completeness of the information enclosed. Test Housing Association shall not be under any liability for any error, misstatement or omission and none of the information shall be considered to constitute a Contract or part of a Contract. Test Housing Association reserves the right not to follow up this ESPD.

2 CONTRACT TITLE

Gas Services and Reactive Repairs and Ad-hoc Boiler & Full System Renewal Contract

3 TIMETABLE

The following timetable is indicative and subject to change.

Stage	
Issue of ESPD	21 January 2018
Closing date & time for submission of questions	30 January 2018
Closing date & time for return of completed ESPD	2 February 2018
Receive, sort & evaluate submitted Docs	2 February 2018 to 9 February 2018
Issue ITT & QMS to successful applicants	9 February 2018
Return date for ITT	2 March 2018
Receive, sort & evaluate submitted ITT & QMS	2 March 2018 to 9 March 2018
Contract Award & Pre-Start Meeting	WC 12 March 2018
Transitional Period	12 March 2018 to 19 March 2018
Estimated Implementation Date	19 March 2018

These dates are estimated only and may change based on operational requirements

Please note that if a new contractor is successful there will likely be an overlap and transitional period to allow the incumbent contractor to complete ongoing repairs and programmed services in our 10 month cycle. This 'Handover Period' will be discussed and agreed with any new contractor should that situation occur

4 EXPLANATION OF THE REQUIREMENT

4.1 A Brief Overview of Test Housing Association

TEST Housing Association is one component of TEST as an organisation. The other components are TEST Community Supports and Community Lifestyles, who are support providers. Test operates as a not for profit charity.

TEST provides support and housing, but not necessarily together, in many parts of Scotland. Test Housing Associations stock is traditional build, ranging from sandstone tenements to modern timber kit developments.

Test has 713 properties with approx 2/3rds of these occupied by persons with a disability. Disabilities range from mild learning difficulties to more profound learning difficulties, physical difficulties and mental health issues.

The remainder are non supported tenancies. It is important to note that, while many of Test's tenants will be in receipt of support during any pre-arranged works, the nature of tenant's disabilities require greater diligence with regard to :- All H&S issues with regard to trips, falls, mechanical and electrical tools, sharps etc. It is also important that the nature of any conversation with supported tenants is kept free from any content that could give rise to anxiety, distress or be misconstrued in any way.

Contractors will sometimes be required to interact with support staff and take direction from them, regarding any special circumstances or requirements within or around the properties. This does not include deviating from the works specification, without consulting with the Maintenance Officer/ Maintenance team.

Contractors should utilise local support staff and HO maintenance admin. staff in parallel with any access arrangements made directly with the tenant themselves, in order to minimise non accesses.

5 BRIEF DESCRIPTION OF THE PROPOSED WORKS

Gas Services and Reactive Repairs and Ad-hoc Boiler & Full System Renewal Contract to approximately 573 (Gas) dwellings, generally within Test operating areas of Central & Southern Scotland as per the attached **Test Gas boiler records ESPD Jan 2018** but may include a wider geographical area in future

Servicing works will be completed within a 10 month programme to allow for access and 100% completion of all servicing to all properties. The contract will be 36 months contract with option of 2 x single year extensions (Servicing and Safety checks to be carried out as per the provide schedule and programme to be provided by Test HA)

5.1 Form of Contract

JTC MTC 2011 form of contract and the Contract shall be monitored on Test Performance Indicators (KPI's).

5.2 Name of Parties

Test HA has appointed the following team for the proposed works:-

Employer, Contract Administrator & Principal Designer
Test HA

6 ESPD Assessment Criteria

ESPD Assessment Criteria is detailed on the ESPD v1.9 document

Please note that if you are short-listed for the next stage, the pre-qualification score will not be taken into consideration in the course of interview (only if deemed necessary by the tender board), references and tender assessment stages of the appointment process.

6.1 Quality Assessment Panel and Methodology

The information provided in Part B – Information Regarding Economic/Financial Standing will be evaluated by Test HA Finance Department.

For the remaining sections Test Housing Association panel members will assess each ESPD separately. A score of 0-10 will be given for individual or groups of questions in compliance with the scoring matrix detailed below. An indication of how responses will be scored is provided in the matrix. Each panel member will use their own judgement as to what they consider constitutes a satisfactory response or otherwise. No sub-criteria will be used.

Once the assessment is completed the panel will short-list those contractors to be invited to tender. We are looking to take the **six (6) highest scoring** bidders through &/or those who score the required threshold 70% or 70 marks and above. If we only score 4 above the 70% threshold then we will only take the 4 through to be invited to submit a tender. The minimum that we will take through to tender stage will be 3. Thereafter, a letter will be issued to each Contractor advising on the outcome of the process. De-briefing information will also be provided where requested.

Bidders must pass the minimum standards sections of the ESPD (Scotland), Part III. Sections A, B & D - Suitability, Financial & Quality/H&S/Environmental sections of Part IV will be scored on a pass/fail basis.

Section C - Technical of Part IV of the ESPD (Scotland) will be used to score using the questions and weighting below.

- | | | |
|-----------|---|------|
| • 4C.1: | Examples of similar works | 25% |
| • 4C.2: | Workforce and quality control | 15% |
| • 4C.4 | IT systems & Real-time Reporting | 15% |
| • 4C.6.1: | Educational and professional qualifications | 15% |
| • 4C.7: | Environmental Management | 7.5% |
| • 4C.9: | Tools, plant & technical equipment | 15% |
| • 4C.10: | Sub-contracting | 7.5% |

6.2 Selection Criteria

Question 4A.1 (Suitability) - the bidder is enrolled in the relevant professional or trade registers: The Main Contractor & their sub-contractors must provide their company number. They must hold membership and accreditations with GasSafe and NICEIC or SELECT or equivalent organisations. They must have BS OHSAS 18001 (or equivalent), or have, within the last 12 months or are in the process of working toward successfully meeting the assessment requirements of a construction related scheme in registered membership of the Safety Schemes in Procurement (SSIP) forum e.g. CHAS. **Evidence must be provided by appending the Certificates**

Scoring: Pass or Fail

Question 4B.1.2 (Economic & Financial Standing) – the bidder should provide its average yearly turnover for the number of years specified in the relevant Contract Notice: Bidders will require having an average yearly turnover of **£750,000 GBP** for the last 3 years. As evidence for the ESPD (Scotland) question 4B.1.2. **Evidence must be provided by submitting your last 3 years accounts.**

Scoring: Pass or Fail

Question 4B.5.1 (Economic & Financial Standing) – the Bidder confirms they already have or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated in the relevant Contract Notice: It is a requirement of this contract that bidders hold, or can commit to obtaining the types and levels of insurance required prior to award: **Evidence must be provided**

- Employer's (Compulsory) Liability Insurance 5,000,000 GBP
- Public Liability Insurance 5,000,000 GBP
- Professional Indemnity Insurance 1,000,000 GBP

Scoring: Pass or Fail

Question 4C.1 (Technical & Professional Ability) - Relevant examples of works carried out in the past five years as specified in the Contract Notice: Bidders will be required to provide 2 examples of delivering contracts of a similar scope, size and nature, within the last 5 years that demonstrate that they have the relevant experience to deliver the works to similar clients that Test HA support. Test has 713 properties in total with approx 2/3rds of these occupied by persons with a disability. Disabilities range from mild learning difficulties to more profound learning difficulties, physical difficulties and mental health issues. Contractors will at times require interacting with support staff and taking direction from them, regarding any special circumstances or requirements within or around the properties. Include Client name, contact details including phone and email, contract sum, start & completion date, Project Description to include project name, KPI's (targets & results), CSS results (targets & results). No more than 2 Page of Ariel 11 point per example. Also bidders must arrange to get the attached reference form completed, **the reference form must be completed and returned with the ESPD or it will be scored as zero.**

Scoring: 25% of overall marks based on attached scoring methodology

Question 4C.2 (Technical & Professional Ability) - Please provide details of the technicians or technical bodies the bidder can call upon, especially those responsible for quality control in relation to this procurement exercise: Bidders will be required to provide details of their workforce, skills, qualifications and experience and their procedures for ensuring quality control together with any external organisations that the company uses to measure QC. Please provide sample certificates of Training of the workforce. **No more than 2 pages of Ariel 11 point for this response, sample certificates can be appended**

Scoring: 15% of overall marks based on attached scoring methodology

Questions 4C.4 - Please provide a statement of the relevant supply chain management and/or tracking systems used: Bidders will be required to provide details of their effective IT system and demonstrate that you have an IT system capable of end to end processes with Test HA IT system your business order generation, stock management, management of your supply chain and handheld technology to ensure Real-time flow of works orders, MI and

invoicing. **No more than 4 pages of narrative Ariel 11 point for this response. Appendices may also be attached to this to demonstrate links to existing clients systems or a hyperlink to bidders test system to allow Test HA access to view**

Scoring: 15% of overall marks based on attached scoring methodology

Question 4C.6.1 (Technical & Professional Ability) - The following educational and professional qualifications are held by the service provider or the contractor itself: Bidders will be required to provide details of their admin, support, supervisory & managerial staff professional qualifications, experience and suitability for management & control of the work being carried out. Outline the roles and responsibilities within the contract. As a minimum it will be expected that the contract supervisor/manager has SSSTS or equivalent experience in the sector. Please provide sample certificates of Training & Professional Qualifications of admin, support, supervisory & managerial staff. **No more than 2 pages of Ariel 11 point for this response, sample certificates can be appended**

Scoring: 15% of overall marks based on attached scoring methodology

Question 4C.7 (Technical & Professional Ability) - Please provide details of the environmental management measures which the bidder will be able to use when performing the contract: Bidders will be required to provide details of their environmental management measures in connection with recycling and systems to be used within the contract. Provide details of any targets and actual recycling capabilities. A good response will provide specific examples. **No more than 2 pages of Ariel 11 point for this response.**

Scoring: 7.5% of overall marks based on attached scoring methodology

Question 4C.9 (Technical & Professional Ability) - Please provide details of relevant tools, plant or technical equipment available to you in relation to this procurement exercise: Bidders are required to demonstrate that they have (or have access to) the relevant tools, PPE, plant, equipment, van, welfare & technical equipment to deliver the contract. Provide details of tools and equipment; any PPE supplied; any plant you think will be required; van and welfare facilities for operatives and back office technical support & equipment to facilitate the completion of the contract. **No more than 2 pages of Ariel 11 point for this response.**

Scoring: 15% of overall marks based on attached scoring methodology

Question 4C.10 (Technical & Professional Ability) - Please provide details of the proportion (i.e. percentage) of the contract that you intend to sub-contract: For contractors using sub-contractors, list all activities which you are proposing to sub contract and the firms you have selected to sub contract to. Provide details of how you have selected each sub-contractor their capability, how you will manage the sub contracts and the form of sub contract you will use. **(you must provide a completed ESPD for all your proposed sub-contractors or you will be removed from this selection process and the remaining sections will not be scored)**

Scoring: 7.5% of overall marks based on attached scoring methodology

Question 4D.1 (Quality Assurance Schemes & Environmental Management Standards) - Will the bidder be able to produce certificates drawn up by independent bodies: Quality Management Procedures: The bidder MUST HOLD a UKAS (or non UKAS equivalent) accredited independent third party certificate of compliance in

accordance with BS EN ISO 9001 (or equivalent) or the bidder must have a relevant and signed Quality Policy. **Evidence must be provided**

Scoring: Pass or Fail

Question 4D.2 (Quality Assurance Schemes & Environmental Management Standards)- Will the bidder be able to produce certificates drawn up by independent bodies: Environmental Management Procedures: The bidder MUST HOLD a UKAS (or non UKAS equivalent) accredited independent third party certificate of compliance in accordance with BS EN ISO 14001 (or equivalent) or the bidder must have a relevant and signed Environmental Policy. **Evidence must be provided**

Scoring: Pass or Fail

6.3 Scoring Methodology

Performance	Judgement	Score
Meets all the Client's requirements in the area being measured in accordance with the Contract Documents so that the Works will be delivered in an excellent way that will be highly responsive to the needs of Customers, the Client and other stakeholders.	Excellent	10
Meets most of the Client's requirements in the area being measured almost completely so that the Works will be delivered in a nearly excellent way that will be responsive to the needs of Customers, the Client and other stakeholders.	Nearly Excellent	9
Meets the Client's requirements in the area being measured well although not completely in one or two aspects but still so that the Works will be delivered in a very good way that will be responsive to the needs of the Customers, the Client and other stakeholders.	Very Good	8
Meets the Client's requirements and standards in the areas being measured well but not completely in some aspects but still so that the Works will be delivered well and in a way that is reasonably responsive to the needs of the Customers, the Client and other stakeholders	Good	7
Meets the Client's requirements in the areas being measured in the majority of aspects but fails in some aspects so that the Works will be delivered in a reasonable way that recognises the needs of Customers, the Client and other stakeholders.	Reasonable	6
Meets the Client's requirements in the area being measured in the majority of aspects but fails in some fundamental aspects so that there will be only satisfactory arrangements for the Works.	Satisfactory	5
Meets the Client's requirements in the area being measured in some fundamental aspects but fails in the majority of aspects so that there will be only moderately satisfactory arrangements for the Works.	Moderately Satisfactory	4
Meets the Client's requirements in the area being measured in some minor aspects but fails in the majority of aspects so that there will be unsatisfactory arrangements for the Works.	Unsatisfactory	3
Fails to meet the Client's requirements in the area being measured in nearly all aspects so that there will be poor delivery of the Works.	Poor	2
Significantly fails to meet the Client's requirements in the area being measured so that there will be very poor delivery of the Works.	Very Poor	1
Either no answer is given or the Tenderer's proposals in that area	Extremely	0

completely fail to meet the Client's requirements in the area being measured or do not answer the question raised.	Poor	
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Where an assessment indicates that a score falls between two categories, half marks may be awarded.

Each aspect of the Tender evaluation (Method Statement review) will generally be undertaken by a panel. Where this is done, the individual scores of the panel members will be averaged to arrive at a combined score for each item. This score will be multiplied by the weighting for that item to give a total score for that aspect of the Tender.

7 INFORMATION ON THE APPOINTMENT PROCESS STAGES

The purpose of this quality assessment is to assist the Selection Board to assess the skills and experience of the applicants and their capacity to meet the requirements of the Contract for which they wish to be considered for tendering.

The ESPD is issued in accordance with the terms of the Contract Notice issued in relation to this project.

Test Housing Association is using a **Restricted (Dual)** tendering process for the selection of a contractor in accordance with the procurement best practice.

The appointment of a Contractor will be made on the basis of an initial quality assessment stage and thereafter successful Contractors being invited to tender.

Stage 1 – The Pre Qualification Questionnaire will be assessed on the basis of a 100% Qualitative Assessment via PCS. We are looking to take the **six (6) highest scoring** bidders through &/or those who score the required threshold 70% or 70 marks and above. If we only score 4 above the 70% threshold then we will only take the 4 through to be invited to submit a tender. The minimum that we will take through to tender stage will be 3. However, Test Housing Association reserves the right to invite more or less should the scoring not reflect aspirational requirements.

Stage 2 – Successful Contractors from Stage 1 shall be directly invited to Tender. The contract award will be determined by reference to a MEAT (Most Economically Advantageous Tender) evaluation based on a 40/60 Price/Quality ratio. Details will be set out in the Invitation to Tender (ITT) and Quality Methodology Statement (QMS) documents at stage 2. The Employer is not bound however to accept the lowest or any tender.

The selection stages are as follows:

- ESPD responses received and evaluated,
- Selection of a short list of contracting organisations will be invited to tender for the contract,
- ITT & QMS issued,
- ITT & QMS received and evaluated,
- Interviews may be held only if required,
- Contract award,
- Site start.

8 COMPLETING & RETURNING THE ESPD

8.1 Completing the ESPD

All interested applicants to the public notice should download the ESPD for completion.

Contracting organisations wishing to be considered for Tendering for the Contract must complete all of the questions within the ESPD; include supporting documentation as necessary return their submission **via the Public Contracts Scotland Website portal**.

E-mailed submissions direct to the Association will not be accepted.

The information disclosed in this questionnaire will be used to complete a pre-qualification evaluation to decide on a shortlist of applicants who will then be invited to tender for the Contract. Any invitation to tender based on the evaluation of this questionnaire does not imply any representation by Test Housing Association as to financial stability, technical competence or ability in any way to supply and/or provide the services required.

8.2 Responses to the ESPD

Responses to the ESPD must be completed electronically and the required information provided as directed from section **6.2 - Selection Criteria** above and appended as separate responses.

Unanswered questions will be given a nil score and may result in the application being rejected.

Please note that no other information will be considered in the pre-qualification assessment and applicants **MUST NOT** submit additional information other than that requested in the ESPD or they will be disqualified.

Appended information should only be submitted where they relate directly to, and provide an answer to a question in the ESPD. They must be clearly marked to indicate the question they refer to and be detailed/listed by the applicant in the List of Enclosures/Attachments – information must only be provided if directly relevant to the questions asked. E.g. Question 4A.1 - Response, Question 4B.1.2 - Response etc

The answers given will be used by the selection panel to assess the quality and suitability of the applicants and their capacity to meet the overall requirements of the Contract.

Careful consideration should be given to the questions and Contractors should formulate their answers to convey to the selection panel the Company's capacity to undertake the project.

Applicants are advised that their responses may be reproduced by Test Housing Association and that no further indication or request will be made. Such reproduction will be for use by Test Housing Association solely in connection with the assessment exercise.

As part of the process, a financial assessment of Contractors will be carried out. Test Housing Association may use a third party financial assessment service to determine Contractors financial position, and will use financial statements submitted by Contractors to verify information or gain further detail. Test Housing Association will access similar information for any Parent Company declared within the ESPD or identified by the third party service as being the immediate or ultimate Parent of your Company.

We draw your attention to the fact that failure to provide the requested information or particulars for the relevant question(s) may result in elimination.

Test Housing Association may seek evidence at a later date to confirm your answers.

In accordance with the Data Protection Act 1998, it should be noted that any information provided in respect of this contract award process may be recorded on a computerised data file. Such information will be processed by Test Housing Association in accordance with the terms of the Data Protection Act 1998.

Tenderers should note that, subsequent to award of Contract, certain information they provide in the questionnaire may ultimately have to be disclosed in accordance with Test Housing Association policies regarding openness and accountability.

Please note that Test Housing Association will not reimburse any costs and expenses incurred by the applicant in submitting an ESPD for consideration.

Failure to complete and return the questionnaire by the due time and date will eliminate the applicant from further participation in the tender process.

The appointment process including scoring of the ESPD's, will involve Test Housing Association staff and could include representatives from any Consultants and Design Team.

8.3 Returning the ESPD

Completed ESPD documents must be uploaded electronically via the Public Contracts Scotland Website portal in accordance with the timetable indicated

8.4 Data Protection & GDPR

Throughout the tendering process and life of the contract tenderers are required to be fully compliant with all aspects of the Data Protection Act 1998 and subsequent GDPR regulations due into force in May 2018, this includes all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner. Tenderers will be required to promptly notify Test HA of any breach of the security measures required to be in place. Non-compliance will be regarded as a material default entitling Test HA to terminate any agreements with immediate effect.

In accordance with the Data Protection Act 1998 and subsequent GDPR regulations due into force in May 2018, it should be noted that any information provided in respect of this contract award process may be recorded on a computerised data file. Such information will be processed by Test HA in accordance with the terms of the Data Protection Act 1998.