

Bid assessment framework information note

IN 19/01 January 2019



This is a formal document that alerts our stakeholders to a change in the way that we regulate the water sector in England and Wales.

About this document

We want companies to use markets to benefit customers and the environment. The bidding market for water resources allows third parties to submit bids to provide solutions to help meet a water company's future water needs.

All companies submitted draft bid assessment frameworks in September 2018 along with their draft business plans. We assessed these as part of our initial assessment of business plans (IAP). We are encouraged with the overall engagement from companies with developing their bid assessment frameworks. We expect these to translate to positive market behaviours. That said, many companies produced bid assessment frameworks that fell short of high quality and so further work is required.

This information note sets out what we expect from companies, and the role we will play, until the beginning of the 2020-25 period and beyond. It sets out the timescale and actions we expect from companies, provides a summary for each of the three key principles and lists good practice examples where companies demonstrated a commitment beyond minimum compliance levels. This note builds on, rather than supersedes, certain elements discussed in [appendix 8 to our final methodology](#) and includes information to help address specific company actions.

Background

Our Water 2020 work showed that potential third parties are being deterred by a lack of information, search/bidding costs and incumbents' bias towards their own in-house solutions. We are implementing a package of policies, including company bid assessment frameworks, and requiring companies to publish [market information](#).

Our approach to companies' bid assessment frameworks was set out in [appendix 8 to our final methodology](#). The bid assessment frameworks build on existing processes and obligations, such as water resources planning requirements, procurement principles and competition obligations – but with

a focus on ensuring consistency and transparency across the sector. Each incumbent was required to produce a bid assessment framework that shows a clear commitment to the key procurement principles of transparency, equal treatment, non-discrimination and proportionality. This is so the bid assessment frameworks support the third party bidding market for water resources, demand management and leakage services by ensuring third party options are assessed fairly.

The bid assessment framework and market information complement our [trading and procurement codes](#) and [water trading incentives](#) which are designed to encourage greater levels of water trading between companies.

Timescales and next steps

Preparation for industry launch in April 2020

Between now and April 2020 (at the latest) we encourage all companies to prepare for implementation by developing relevant processes and promoting their bid assessment framework, for example by:

- **undertaking an in-house bid assessment framework trial** to ensure the process is easy to follow and the criteria are robust;
- **maintaining and updating published market sharing information**, capturing the supply / demand surplus / deficit in each water resource zones; and
- **promoting and advertising bid assessment frameworks** as an opportunity to expand the industry market and deliver efficiencies, and encourage and welcome third party bids.

Resubmission and publishing of bid assessment frameworks

We have published the initial assessment of business plan grades for bid assessment frameworks. See 'Summary of test area assessment' on the [initial assessment of plans webpage](#).

In [appendix 8 to our final methodology](#), we said we expect companies to publish their bid assessment framework alongside their water resources market information on their website. We said that to ensure they are both easily accessible to third parties, we would also provide links to these publications on our [website](#). However, we also said if a company's bid assessment framework falls short of our minimum expectations then the company may have to resubmit.

We want companies to take ownership of their bid assessment frameworks, and we also want to ensure that feedback from the initial assessment of business plans is addressed. We have set out the next steps regarding resubmission and publication of bid assessment frameworks in table one below.

For companies assessed as a B and with no specific actions for question six (bid assessment frameworks) within targeted controls, markets and innovation (CMI) test area, we expect them to

publish their bid assessment frameworks as soon as practicably possible. We expect other companies to make the appropriate changes to their bid assessment frameworks and publish their revised bid assessment frameworks by 15 July 2019. We have set this deadline to enable to us to take any appropriate action, if required, before 31 March 2020.

Table 1 – Process to resubmit and publish bid assessment frameworks

Companies	Company action	Ofwat action
Companies with an assessment grade B and no specific action ¹	<p>Review areas of good practice and suggestions and consider any potential enhancements to your current bid assessment framework.</p> <p>As soon as practicable, and we ask for no later than 15 July 2019:</p> <ul style="list-style-type: none"> • publish your bid assessment framework on your website, alongside your market information; and • provide a link to your published bid assessment framework to PR19@ofwat.gsi.gov.uk 	We will provide a link to your publication on our website .
Companies with specific actions from the IAP	<p>Review your specific actions alongside good practice and suggestions within this document.</p> <p>By 15 July 2019:</p> <ul style="list-style-type: none"> • publish your revised bid assessment framework on your website, alongside your market information; • provide a link to your published bid assessment framework to PR19@ofwat.gsi.gov.uk; and • explain to us how you have addressed any specific actions. 	We will correspond as appropriate and provide a link to your publication on our website .

Application of bid assessment frameworks in 2020-25

Throughout 2020-25 we expect companies to undertake the following activities:

- review their bid assessment framework process and the level of third party bidding activity;
- ensure an audit compliance report is prepared after each third party bidding process and can be provided to Ofwat if requested; and

¹ For the avoidance of doubt the four companies are: Thames Water, South West Water, United Utilities, and Affinity Water.

Note: Yorkshire Water have a grade B but have a specific company action.

- undertake lessons learned on completed third party bidding processes and identify any improvements.

Table two outlines the information required during 2020-25 to enable monitoring of market activity and the full benefits from the bid assessment frameworks.

Table 2 – Market monitoring information during 2020-25

2020-25	Company action
Companies having completed a process using the bid assessment framework	<p>Keep available an audit of their compliance, this report should be retained in case we require it. We encourage companies to publish this report.</p> <p>At a minimum we expect the audit report to include the equivalent of the following information: type of bid (e.g. water supply, leakage), the number of third party bids (at each stage of the process), the name of the bidder and whether the third party is a new or repeat bidder, overall timescale of the process, high level reason for rejection of bids, any new appeals/complaints received and financial size of contract.</p> <p>However, we encourage companies to include a wide range of information allowing for a robust industry evaluation.</p>
All companies	<p>We suggest companies regularly publish or submit learnings from their experience of applying the bid assessment framework. This information can include quantitative and/or qualitative data.</p> <p>This information can be submitted separately during 2020-25 or alongside a submission of a compliance report.</p>
By the end of 2020-25	Provide any further information or feedback to enable a potential industry evaluation of bid assessment frameworks.

After reviewing third party market activity during 2020-25 and undertaking lessons learned activity, we acknowledge companies may wish to implement changes to their bid assessment framework. The process to do this is outlined in table three.

Table 3 – Process to update bid assessment frameworks during 2020-25

2020-25	Company action	Ofwat action
A company wishing to implement a change to its bid assessment framework during 2020-25 following a lessons learned review.	<p>Submit your revised bid assessment framework to PR19@ofwat.gsi.gov.uk along with an accompanying email or short report detailing your rationale for the proposed changes.</p> <p>Confirm your bid assessment framework still complies with the key principles of transparency, non-discrimination and proportionality.</p>	We will provide a link to your updated publication from our website .

PR19 Initial assessment of draft bid assessment frameworks

All companies refer to the key principles of transparency, non-discrimination and proportionality in their draft bid assessment frameworks. However, there is variation in the extent to which the companies' bid assessment frameworks satisfy these key principles. We include a summary section for each principle, but we first list the general good practice examples where companies demonstrate a commitment beyond the minimum compliance level for the bid assessment framework:

- **Developing an online market portal** with relevant bidding information and frequently asked questions for potential bidders.
- **Engaging with potential bidders** to warm up the market before advertising bids, for example supplier days or other communication formats.
- **Publishing a market review** of third party activity regularly through 2020-25.
- **Publishing a high level view of all bids received**, along with reasons for why solutions were not assessed to be viable (not compromising confidentiality).
- **Undertaking an independent annual review** of your bid assessment activity and process. This review can include identifying any malpractice or misuse of information to favour internal bids.
- **Allowing for bids throughout 2020-25**. Ensuring timescales are aligned with, but not limited to, water resource management planning (WRMP).
- Allowing for *ad hoc* bespoke bids within the process, **encouraging an innovation focus** to deliver outcomes.
- Encouraging third party bids by **offering an appropriate level of support** to bidders for completing applications where there are data gaps.
- Providing explicit assurance that third party **commercially sensitive data will remain confidential** by outlining the process to achieve this.
- **Providing written clarity** within the bid assessment framework that the framework will be applied even when contracts are below the financial threshold of procurement legislation.

Transparency

The principle of transparency is intended to ensure the overall process for submitting bids is clearly explained and the assessment criteria are specified. This includes a sufficient level of detail in the specification and whether there is an opportunity for third parties to receive feedback following a bid. An appropriate appeals process should also be available for those who consider their bid has not been evaluated in line with the bid assessment framework.

We expect companies to publish evaluation criteria alongside an invitation to submit bids. This is a key element of transparency and will enable all potential bidders to understand what they will be assessed against. We also expect companies to outline sufficient details of the overall process, including timescales.

We acknowledge the extent of the overall process and the number of criteria will vary depending on the scale and complexity of the specification. We recognise companies are not able to provide definitive evaluation criteria for all bids at this stage. However, we still expect companies to use the bid assessment framework to provide a reasonable indication of the type of information third parties will need for submitting for a bid.

For illustrative purposes, using a supply of raw water example, an initial screening stage of the bidding process criteria may include high level questions to determine capacity for delivery, financial status, and health and safety supplier standards. At an assessment stage the criteria may require information about licence conditions, water quality checks, environmental risk assessment and availability timescales.

A bid assessment framework provides clarity to a third party by including specific details for where bid opportunities and tender details will be advertised. If a third party wishes to submit a speculative bid the bid assessment framework will either specify how to do this, or provide details on where the information can be found.

Feedback is a key element of transparency, so we recommend water companies provide feedback to third parties as to why their bid was rejected, aligned with the published criteria. There should be sufficient detail to enable the third party to review its option and consider resubmission, if timescales allow.

It is crucial bid assessment frameworks include a suitable appeals and complaints process for third parties. A comprehensive complaints process includes the opportunity for a third party to appeal at each stage of the bidding process. After the bid award is communicated there should be a specified timeframe for submitting a complaint, along with a complaints form and instructions for how to submit. The bid assessment framework should also outline who will assess the escalated complaint, along with timescales for resolving and communicating a decision.

Non-discrimination

The bid assessment framework should provide clarity and confidence to third party bidders that their bid will be assessed fairly. If there is an in-house proposed solution from the incumbent water supplier then the bid assessment framework should explicitly state the same published evaluation criteria will be applied to both bids. This should also include the confidentiality and protection of any

commercially sensitive data provided from a third party bidder. This avoids any unfair advantage, perceived or actual, to the incumbent supplier.

An application of non-discrimination within a bid assessment framework process is when an in-house solution team is treated comparably to the market, receiving equivalent information at the same time and receiving no preferential treatment.

Non-discrimination within a bid assessment framework process can be strengthened by having separate teams with defined roles within the process. For example,

- one team with a procurement focus has oversight throughout the award and ensures the process is administered in a fair and transparent way;
- if there is an in-house solution this is developed by a distinct team involving input from technical experts who are not involved in the initial design or precise specifications of the project; and
- the specification of the need definition is developed by a different team of technical experts who also evaluate all the bids and provide a continuity of technical knowledge and understanding of the overall associated need throughout the process.

A key purpose of non-discrimination within a bid assessment framework is for clarity and reassurance to third party bidders that any commercially sensitive information is protected and cannot be used as an advantage to the in-house solution development team now or in the future. It is critical to the integrity of the bid assessment framework that any commercially sensitive information is subject to a confidentiality ring with restricted access. This will prevent conflicts of interest, avoid distortion of competition, and safeguard against misuse and the perception of misuse by the in-house team to gain an unfair advantage.

Good examples of how to apply this in a bid assessment framework involve:

- explicitly stating an in-house solution team will not have access to sensitive information from third parties; and
- relevant confidentiality and non-disclosure agreements are in place if required.

We acknowledge relevant third party documentation within a bid assessment framework process needs to have different access controls compared with standard documentation for an in-house solution.

Proportionality

The principle of proportionality is intended to ensure the bid specification detail is appropriate for attaining the objective pursued and ultimately provides value for money for customers. This is strengthened when there is an explicit statement in the bid assessment framework about the overall

aim of the process being to identify more efficient providers of services, resulting in reduced costs and better value to customers.

In order to maximise the number of bids received, companies should not over specify the requirements when designing a specification. This may increase bidding costs and therefore potential bidders could withdraw.

An option for companies to demonstrate proportionality is to define two different processes, depending on whether the contract is smaller and straightforward or more complex. There could be distinct submission forms for each process and a clear intention that any further requested information will be proportionate to the level of contract available. Within the practical application of the bid assessment frameworks we acknowledge some potential contracts could be so small that any potential efficiencies would be negligible to customers. The principle of proportionality needs to be applied.

An example of a proportionate approach for larger contracts includes a pre-qualification stage of the evaluation process. This ensures a third party does not commit excessive resources to a detailed specification only to be rejected for a fundamental reason. The pre-qualification requirements will include timescales for a decision, the criteria for assessments, and an understanding of the level of work required for the whole process. This information will allow bidders to make an informed decision whether to commit resources.

Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

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