

Border inspection and used light entry inspecting organisation applications

Questions and answers

19 DECEMBER 2019

1. What is the email address that I should send my application to?

Please send completed applications to borderandentry@nzta.govt.nz

2. Question 2 has been replaced with Question 52 below.

3. For my application to be valid, do I need to respond to all the information requirements set out in the application information documents or is it sufficient to complete the application form only?

An application must respond to all the information requirements and is not complete until this is done. Please note that the application form includes a declaration that the application responds to each of the information requirements, so it should not be completed until the full application has been prepared. If you are unable to meet any information requirements, please let the Transport Agency know and provide reasons.

4. Does my application, including all of the accompanying information, need to be provided by 20 December 2019?

Yes. Completed applications are required by 20 December 2019 and this includes meeting all the information requirements. If this deadline presents a problem, please raise this with the Transport Agency.

5. Do I need to provide a fit and proper declaration for inspection sites if they were recently approved as an application site?

Yes. The information requirements require applicants to provide information about all new and existing sites. All of those sites will be evaluated as part of this application process, including the fit and proper declarations.

If sites were approved recently, the Transport Agency may take that into account in its evaluation, such as when considering whether a site inspection is required. For that purpose, please identify sites that were approved within the last six months with your application.

6. Question 6 has been replaced with Question 51 below.

7. Does an applicant need to provide information about personnel if that information has previously been provided to the Agency? For example, do applicants need to provide fit and proper declarations for staff who have already signed the current Code of Conduct?

Yes, information about all personnel must be provided. This information will be evaluated as part of this application process. In relation to fit and proper declarations, these are made as at the time they are signed, so fresh declarations are required as part of this application process.

If this deadline presents a problem, please raise this with the Transport Agency.

8. The application information refers to "serious performance issues in a historical or current contract" as a reason for excluding applicants at paragraph 47(e) of the Application Information. Does this refer only to NZTA performance notices?

This relates to any serious performance issue relating to the provision of any regulatory functions under any contract or appointment, including for NZTA.

- 9. When considering applications, the Vehicle Compliance Rule requires the Transport Agency to consider any complaints made in relation to any transport service provided or operated by the Applicant or in which the Applicant is involved (referred to at paragraph 54(c) of the Application Information document). Should an applicant provide information about complaints that the Transport Agency is already aware of?**

Yes. The applicant is responsible for submitting all information required.

- 10. When considering applications, the Vehicle Compliance Rule requires the Transport Agency to consider the number of vehicle inspectors and inspecting organisations already appointed and available in the relevant geographical area (referred to at paragraph 54(c) of the Application Information). How can the Transport Agency do that as part of this process given the appointment of existing inspecting organisations each expire on 1 July 2020?**

This process is about appointing inspecting organisations, rather than vehicle inspectors. The Transport Agency will take into account the overall proposed geographical coverage of appointed organisations as part of its decisions, although its primary focus is on the competence of an organisation to deliver inspections.

- 11. An application must include an organisational chart and (if applicable) a group chart (at A2 and A3 of the information requirements). What is the difference between an organisational chart and a group chart?**

An organisational chart depicts the applicant's internal organisational structure. A group chart depicts the organisation's relationship to other related organisations or entities within a group of entities.

- 12. Should an application include projected changes in the organisational chart?**

Yes, please include projected changes. As noted in the Application Requirements, please ensure that all information provided will be accurate and complete for the Applicant if appointed as an inspecting organisation from July 2020 onwards. If the Applicant's projected July 2020 position is materially different from the Applicant's current position, please indicate this clearly and provide an explanation.

- 13. The information requirements refer to "related" and "closely" associated entities. What do these terms mean?**

These terms are defined in the guidance at A3 of the Information Requirements under "Group chart" (the guidance is the words in italics).

- 14. An application must describe "significant" commercial relationships (A4 of the information requirements). Does this refer to all large inspection customers or all customers?**

This applies only to companies or organisations with whom the applicant has, or intends to have, a significant commercial relationship. As a rule of thumb, a significant relationship is likely to represent 10% or more of an organisation's business. The Transport Agency expects applicants to be forthcoming and err on the side of disclosures.

- 15. Applications must include information about inspection sites, including a scale plan (at C2 of the Information Requirements). Do I need to provide this information about sites that have already been approved recently by the Transport Agency?**

Yes. The information requirements require applicants to provide information about all new and existing sites at which the Applicant proposes to operate from July 2020. All of those sites will be evaluated as part of this application process, including the fit and proper declarations.

If sites were approved recently, the Transport Agency may take that into account in its evaluation, such as when considering whether a site inspection is required. For that purpose, please identify sites that were approved within the last six months with your application.

16. Is Appendix B a double up of the entry code of conduct for the applicant?

No. Appendix B contains the fit and proper declarations, which is separate from the code of conduct. Vehicle inspectors need to complete both.

17. Applications must include declarations from current staff. How will personnel who are hired or engaged between now and the appointment be dealt with?

Once an appointment is in place, organisations will be subject to an ongoing condition of appointment to inform the Agency of changes in key personnel, and to provide the appropriate fit and proper declaration. This will apply to personnel hired between the application and any appointment. Inspecting organisations will also be required to maintain the standard of competence in inspection, which includes having appropriately skilled personnel.

18. If the Applicant intends to have arrangements with any other entity (including a related entity) that charges for fixed-price compliance (even if, for example, that entity must pay the Applicant per inspection), then it is required to explain those arrangements under C1.6 of the Information Requirements. Does this mean that an applicant may be required to provide information about what a third party compliance site charges in some circumstances?

Yes, if the applicant is aware of the arrangements. As part of this application process, the Transport Agency requires more information relating to third party compliance sites and this is one aspect of that.

19. The application information document does not mention the "stripping" component of entry certification process at C1.7 regarding delegations. Is this because there is an intention to remove that component?

No. If you intend to delegate the stripping component of the entry certification task, please explain that in response to C1.7.

20. Applications are required to note if a compliance site is in the immediate proximity of other activities involving vehicles (at C2.1 of the Information Requirements). What is meant by "immediate proximity", for example would this mean a car yard or repair shop next door?

Immediate proximity should be given its natural meaning. Yes, a car yard or repair shop next door to an inspection site are in the immediate proximity of each other.

21. Applications are required to provide expected annual volume of inspections at an inspection site (at C2.1 of the Information Requirements). Is this an estimate or should it be based on historical data?

Please provide an estimate of future volumes based on historic information if available. The Transport Agency understands this is an estimate.

22. An application must describe how an organisation will meet the Transport Agency's information management requirements (at C3). What if an applicant's current systems do not meet these standards?

The Transport Agency is raising the standard of information management required of inspecting organisations. Accordingly if you cannot meet these standards currently and wish to be appointed, please explain how you intend to meet those standards in the future if appointed.

23. Why is the insurance set at \$5 million minimum cover with an excess set at no more than \$20,000 in D1 of the Information Requirements?

This is the minimum cover considered appropriate and is consistent with other bodies performing public and regulatory functions. Please inform the Agency if these requirements present any issues.

24. Will entry certifiers be required to record the importer of a vehicle if this generates the risk of a conflict of interest?

Yes. Going forward, the Transport Agency expects border and entry inspecting organisations to comply with their existing Rule obligation to record the importer of a vehicle. The Transport Agency requires this information for monitoring purposes. Potential conflicts of interest need to be managed in other ways.

25. The draft notice of appointment indicates that inspecting organisations will be expected to provide quarterly reports on inspections, which includes reporting on inspection error rates. What are the error rates to be based on?

An error rate is the rate at which errors are identified in inspection decisions or processes following an audit, quality assurance or checking system.

26. The information requirements refers to "Remote access to systems" at F2.2. What is this?

"Remote access to systems" refers to accessing the Applicant organisation's IT systems off-site. This is mostly relevant to border inspectors who may need to undertake inspections outside of port facilities.

27. Why does the Transport Agency expect that entry certification and border inspection will be available near ports?

The Transport Agency expects these activities to occur near ports at a minimum because that is where vehicles arrive into New Zealand or leave the country of origin.

28. Please explain what type and frequency of auditing is required for inspecting organisations.

The Transport Agency will finalise the requirements relating to auditing (including when it expects internal, external or Agency auditing of various functions) in the conditions of appointment, and these may respond to areas of risk that the Transport Agency has identified in assessing a specific application. Please note that the Agency's quality management system, the PRS, stipulates timeframes for external auditing by the Agency and requires annual internal auditing of all approved sites and vehicle inspectors, and that these requirements are sufficient in terms of the quality management (ie responding to H1 of the Information Requirements).

29. The Application Information indicates that the maximum term of appointment is five years. Could this be longer, as I consider it to be inadequate?

The term of appointment has not been set and will be decided for each inspecting organisation. This feedback will be noted and considered by the Transport Agency when deciding on the appointments, but it will not be making any changes to the published information prior to receiving the applications. If there are specific investments that you propose that depend on the term of appointment, please specify.

30. The draft Notice of Appointment indicates that documents about inspection decisions should be retained for 10 years. I consider this is too long and that three years is appropriate.

This feedback is noted and will be considered by the Transport Agency when deciding on the appointments, but it will not be making any changes prior to the published information prior to receiving the applications.

31. Some of the information set out at Appendix D is not currently available and to require that information will cause issues with service delivery.

This concern is noted but inspecting organisations will need to collect the information set out at Appendix D in future. If an Applicant considers that it cannot comply with this, it should explain this in the application.

32. Can you please clarify the condition at paragraph 5.3 of the draft Notice of Appointment which requires applicants to grant access to any vehicle in its possession?

The Transport Agency must be able to physically inspect vehicles as part of its monitoring and review of inspection organisations. As a condition of agreeing to inspect a vehicle, inspecting organisations should include a clause in their contract that says the vehicle may be re-inspected by the Agency.

33. Can you please confirm whether entry certification vehicle inspectors must be employees of an applicant organisation, or that they only need to carry out inspections on behalf of the applicant organisation?

The Agency will consider feedback on this point but has not adopted a rigid approach at this stage. It expects that most New Zealand-based vehicle inspectors will be employees under the direction and control of an inspecting organisation.

34. Does the requirement for functional separation extend to in-service inspections (eg WoF/CoF)?

Some level of task separation is required. But these functions can be undertaken at the same site.

35. Can you please confirm whether the term "inspection decision" is meant to refer to a decision at a pass/fail decision level?

An "inspection decision" is a decision made about whether a vehicle passes or fails the specified requirements at any point in time. This includes the decision to pass or fail components within the inspection or the decision to pass or fail the vehicle inspection.

36. When will the next round of applications be available?

There will be a round of appointments that coincides with the expiry of the appointments that start on July 2020, which have been provisionally indicated as for 3-5 year periods. There may be an earlier round of appointments if the Agency considers this necessary.

37. Can the documents that need to be signed as part of this application be signed electronically, or are handwritten signatures required?

The Transport Agency will accept scanned copies of original documents that are signed by hand or the originals themselves. Electronic signatures will not be accepted.

38. Clause 3.2 of the sample Notice of Appointment contains an obligation to advise the Transport Agency of any legal claim relating to the performance of the services. Does this include small claims or disputes, and will this information be kept confidential?

Yes. The requirement relates to all legal claims relating to the performance of the services. This information will be kept confidential subject to the obligations of the Official Information Act

39. Paragraph 21 of the information requirements document records that inspecting organisations are entitled to hire or contract with personnel to assign and affix VINs to vehicles. Does this include approval of registration, populating LANDATA screens and entering results on LANDATA?

Yes. However the Agency expects inspecting organisations to ensure that access to LANDATA is tightly controlled and that inspection decisions are made only by vehicle inspectors.

40. What information do I need to provide regarding significant commercial relationships (including fee arrangements) with customers and third party compliance sites (see A4 and C1.4 of the Information Requirements)? How will the information provided be protected?

The Transport Agency expects disclosure of the applicant's significant commercial arrangements, as requested by the Information Requirements. This may include copies of agreements or other record of arrangements between the applicant and entities with whom it

has a significant commercial relationship. The information provided will be kept confidential, if it is labelled as such, as set out in the Application Information document.

- 41. The Information Requirements require an Applicant to disclose if any related entities have a commercial interest in vehicles, and to explain how the Applicant will assess and manage potential conflicts of interest arising from those interests (E1 - E5 of the Information Requirements). Will I need to obtain the Transport Agency's specific consent for each instance where a related company has an interest in vehicles being inspected? What audit requirements may be imposed?**

The Transport Agency requires full disclosure by an Applicant of each related entity's interests in vehicles, and will need to be satisfied that the arrangements in place to manage any potential conflicts of interest arising from those interests are appropriate in each case. This will form part of the consideration of an application and there will not be a separate approval process. In addition, organisations that are appointed will be subject to ongoing obligations to disclose to the Transport Agency if the circumstances change materially, which would then need to be approved. Specific auditing requirements may be put in place depending on the level of risk the Transport Agency perceives or to confirm that conflict of interest management systems are in place and effective.

- 42. Appendix D to the Application Information contains a list of information that must be obtained and reported to the Transport Agency at regular intervals. Who is required to obtain this information, how does the Transport Agency expect the information to be provided to it and will it be treated as commercially sensitive?**

Inspecting organisations are responsible for gathering this information and reporting it to the Transport Agency . A secure transfer protocol will be developed for receiving this information. The information will be treated as confidential and commercially sensitive.

- 43. When will the Transport Agency decide the specific conditions to be included in the notice of appointment?**

Specific conditions will be developed following review of applications.

- 44. The term of appointment of an inspection organisation is expected to be between 3 to 5 years. What measurement tools will the Transport Agency use to distinguish between appointments of 3 years and 5 years?**

The term of an inspecting organisation's appointment will depend upon the Transport Agency's degree of confidence that the Inspecting Organisation satisfies the application requirements. This will include considering the applicant's history.

- 45. The application form at Appendix A requires the details of a referee for whom the applicant carries out any similar inspection services. Is the referee intended to refer to a customer?**

The referee may be a customer or another person.

- 46. The fit and proper declarations at Appendix B requires a witness to sign the declaration. It also requires the witness to set out their title. What is the "title" intended to refer to?**

The "title" refers to the witness's employment position or role.

- 47. Appendices J and K are site requirement checklists. These documents do not have a field to record the physical address or unique identifier for individual sites. Where should I record that information?**

The Transport Agency will update these forms to include a place to add site details. If you are using the old form, please handwrite the physical address and unique ID of each site on that site's form.

48. Should I use business or home addresses for the personal information section in the fit and proper declarations for key personnel and third-party site operators?

Key personnel and third-party site operators may use either their residential or business address for their fit and proper declarations.

49. Is the application fee to be paid by credit card?

The application fee is to be paid by credit card (the Transport Agency accepts Visa, MasterCard and Debit Visa/MasterCard). Any follow-on charges for hourly rate activities such as site assessments will be invoiced to the relevant applicant, and payment for these will be either by credit card or via internet banking. Alternately we can set up a direct debit arrangement.

50. Does the authorised representative of the applicant organisation, who signs the application and fit and proper declaration on behalf of the applicant, need to be the CEO, or can a senior employee be the authorised representative?

The authorised representative must be a New Zealand based natural person authorised to make the declaration on behalf of the applicant organisation. If they are not a director of the organisation, please provide evidence of the appropriate authorisation.

51. Is there another way I can securely send my application other than by email?

The Transport Agency has available an option for submitting applications electronically. The details are in the [Update to applicants](#) document found on the website at <https://vehicleinspection.nzta.govt.nz/applications/border-and-used-entry-io>.

52. Is the application fee of \$1,437.50 to apply for both a first time appointment and for an existing site renewal?

The fee of \$1,437.50 (GST incl.) is the fee for an application for appointment as an inspecting organisation. This covers one inspection site. An additional \$160 per hour fee will be required by the Transport Agency for assessment of additional sites (ie any sites other than the first site) and activities.

53. Applications are required to note if a compliance site is in the immediate proximity of other activities involving vehicles (at C2.1 of the Information Requirements). Can you provide further information regarding the meaning of "immediate proximity" than is set out in the answer to Question 20 above?

Immediate proximity should be given its natural meaning, as noted above at Question 20. Applicants are to exercise their judgement regarding whether a compliance site is in the immediate proximity of other activities involving vehicles. A site next door to the inspection site is within its immediate proximity.

54. Which categories of information in the template reporting spreadsheet at Appendix D do border inspectors need to provide and what categories of information do entry certifiers need to provide? For example, do entry certifiers need to identify the Japanese auction house grading and exporter? What should be done if the inspecting organisation is concerned that recording the exporter /importer could lead to a conflict of interest?

All inspecting organisations will be required to collect and provide the reporting information set out in the template Appendix D, in an electronic form, in the future. The **exceptions** to this as evident from Appendix D are that inspecting organisations:

- (i) will not be required to record the inspection outcomes from **other** inspecting organisations (eg entry certifiers will not be required to record border inspection outcomes and vice versa);
- (ii) will be required to record Japanese auction house gradings **only if known**, and
- (iii) border inspection organisations will not be required to record the VIN of a vehicle assuming no VIN has been assigned at the time of border inspection. If an Applicant expects that the identity of the exporters or importers of its inspected vehicles will

create conflicts of interest, the Applicant should set out how it will manage those conflicts of interest robustly and transparently. In general not knowing the identity of the exporter or importer of an inspected vehicle would not normally be a method of managing any conflict of interest arising from those identities.

55. Paragraph 44 of the Information Requirements provides that applicants are to mark the specific parts of their application that contain information that is commercially sensitive or confidential. Can I mark entire sections of my application as being commercially sensitive and/or confidential, or do I need to identify commercially sensitive and/or confidential information line by line?

You may identify an entire section of your application as commercially sensitive or confidential if that section is commercially sensitive or confidential as a whole. Alternatively, you may only identify the particular information that is commercially sensitive or confidential within a section of your application. To make this easier, the Transport Agency recommends that applicants segregate commercially sensitive or confidential information to the extent that is possible.

56. A7 of the Information Requirements asks applicants to provide independently and professionally verified evidence of the applicant's financial viability. Are applicants only required to provide evidence of their own financial viability, or do they need to provide evidence of the financial viability of, for example, overseas parent companies as well?

Applicants are only required to provide independently and professionally verified evidence of their own financial viability.

57. Are there geographical restrictions within New Zealand for applicants and where they will be conducting the activities?

No, applicants are not restricted to operate only in certain areas. However, as noted above at Question 27, the Transport Agency expects entry certification and border inspection will be available near ports **at a minimum** because that is where vehicles arrive into New Zealand or leave the country of origin.

58. C1.2 of the Information Requirements requires applicants to provide evidence of the qualifications and training Key Personnel have. The guidance at C1.2 provides that attendance at a course is not sufficient evidence of a skill unless it includes an evaluation – rather, practical and theory test results are sought. What information will be sufficient evidence of staff having attained a skill? For example, do applicants need to provide evidence of staff scores from sitting a test when the staff received a qualification from sitting the test?

The Transport Agency expects applicants to exercise judgment about what information is sufficient to demonstrate a required skill or experience level. If an individual holds a qualification or accreditation that required them to pass a test, then evidence of that qualification or accreditation will usually be evidence that they have attained a certain standard without the need to provide the actual raw test scores. The purpose of the guidance at C1.2 is to clarify that, if an individual had merely attended a course or seminar which had no test component, then that attendance may be helpful to note but is unlikely to be sufficient evidence of their skill.

59. What will happen to vehicle inspectors who are already approved as vehicle inspectors if I cannot provide adequate evidence of their skills?

The Transport Agency is not revoking or approving the appointment of individual vehicle inspectors as part of this process. The Transport Agency is seeking information about an applicant's staff in order to inform its judgment about whether that organisation has the competence to undertake inspection and certification activities to the standard expected.

60. May we have an extension until 20 January 2020 to submit further information in support of our application, in particular information about our key personnel and their declarations.

The Transport Agency has approved an extension request made by an applicant, so that they may provide further supporting information by 20 January 2020 responding to C1.2 Key Personnel Qualification and Experience, as well as staff Codes of Conduct and declaration documents, on the condition that the applicant:

- a) provides the Transport Agency with the information it does have available by 20 December 2019; and
- b) highlights the missing information (to be provided by 20 January) in a spreadsheet.

Extension requests will be considered on a case-by-case basis and are expected to be made promptly.

61. My company has offices in New Zealand but its headquarters are overseas. Should I use the New Zealand office as the applicant, or can I use the overseas-based office as the applicant and the authorised representative as the New Zealand office?

The applicant must be a company registered in New Zealand, with a New Zealand address for service and a New Zealand bank account. Therefore if a company has its headquarters overseas, the applicant should be its New Zealand office and, if appointed, the New Zealand-based company will be responsible for fulfilling the conditions of appointment.

The authorised representative must be a New Zealand-based natural person authorised to make the declaration on behalf of the applicant organisation. If they are not a director of the organisation, please provide evidence of the appropriate authorisation.

62. Section D1 of the Information Requirements requires applicants to provide evidence of public liability and professional indemnity insurance in the applicant's name. Can the Transport Agency provide a guideline of what the liabilities are, according to Transport Agency processes?

The requirement to provide evidence of public liability and professional indemnity insurance is for liability that may arise in relation to the provision and performance of inspection activities.

63. Is an audited financial viability report for an applicant sufficient evidence of its financial capabilities to cover public liabilities (ie instead of insurance)?

No. The Transport Agency requires evidence of public liability and professional indemnity insurance, as set out at section D of the Information Requirements. If this condition presents an issue or is not able to be complied with, please let the Transport Agency know and provide reasons.

64. As this is an application for appointment, can the applicant provide an undertaking that once appointed, the applicant will provide evidence of insurance coverage – ie submit the insurance policy after appointment.

No. However, if an applicant organisation does not have existing sufficient insurance cover and is not able to arrange insurance by the deadline for applications, please advise the Transport Agency of this and provide reasons. It is possible for the applicant to receive an extension to provide this information. However it will not be possible to have an appointment made solely on the basis of an undertaking to later secure insurance.

65. Can more than one border inspecting organisation be appointed in relation to a single offshore inspection site?

Possibly, but unlikely. There is no hard and fast rule about the number of border inspecting organisations that may be appointed for a particular offshore site. However applicants seeking to carry out inspecting activities at the same site would need to clearly explain how the site would be managed to achieve a clear functional and organisational split, and avoid any confusion.

66. Can an inspecting organisation without an inspection site be appointed in principle, with approval of a site to follow?

No. To be appointed, an inspecting organisation must have at least one inspecting site at which they intend to carry out the activities.

67. Is there another round of appointments in July 2020?

No. The successful applicants from the current appointment round will be appointed as from July 2020. There is no further round of appointments contemplated in July 2020.

68. Appendix D requires the year of manufacture of a vehicle to be provided. For imported used vehicles, will there be an option to enter the first year of registration when year of manufacture is not available, per current practice.

Currently, there is no requirement for border inspecting organisations to record either the year of manufacture or year of first registration. If this information can be reliably attained (eg. Japanese de-registration documentation) then please add this, otherwise put N/A in the year of manufacture column when submitting this to the Transport Agency.

69. How will the information provided under Appendix D be kept confidential?

Information that applicants identify as confidential or commercially sensitive in their application will be treated as confidential by the Transport Agency, subject to the Official Information Act 1982. This means the Transport Agency will not release the information voluntarily, and that the information likely can be withheld under sections 9(2)(b)(i) and 9(2)(b)(ii) of the Official Information Act 1982. However, applicants should be aware that any decision of the Transport Agency to withhold information under the Official Information Act 1982 is subject to correction by the Ombudsman, who can require that the Agency release the full information.

70. A7 of the Information Requirements provides that applicants must provide independently and professionally verified evidence of the applicant's financial viability. Would confirmation from a certified practising accountant or chartered accountant regarding an applicant's solvency and financial viability be adequate to meet the requirement at A7?

Yes.

71. Can you please confirm whether the insurance coverage set out at D1 of the Information Requirements is required as at the time the application is submitted, or if it may be put in place later, so long as it is before 1 July 2020? Question 64 above seems to suggest the insurance requirements must be in place by the time the application is submitted.

Applicants must provide, as part of their applications, evidence of the public liability and professional indemnity insurance they have at the time of their applications (the insurance should be in the applicant's name and for liability that may arise in relation to the provision and performance of the inspection activities). If the applicant's current insurance does not meet the level required by D1 of the Information Requirements (which is a minimum level of cover of \$5 million public liability and \$5 million for professional indemnity, with an excess no greater than \$20,000 per incident), applicants must also include in their application a full explanation of how they intend to obtain the required insurance cover by 1 July 2020, if appointed. This is a preferable approach to seeking an extension to provide this explanation.