

STANDARD QUESTIONNAIRE (SQ) GUIDANCE NOTES

(IMPORTANT INFORMATION FOR COMPLETION
OF EVALUATION STAGE 1 – SELECTION (SQ))

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Notes for Completion of the Selection Questionnaire (SQ)

- The “Council” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
- “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire (SQ) i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
- Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
- The Council recognises that arrangements set out in Section 1B, Q 1.20 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the Council immediately of any change in the proposed arrangements and ensure a completed Part 1, Part 2 and Part 3 submitted for any new organisation relied on to meet the selection criteria. The Council will make a revised assessment of the submission based on the updated information.
- For Part 1 and Part 2, every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
- Sub-contractors may be required to complete Parts 1, Part 2 and Part 3.
- For answers to Part 3 - If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.
- A completed self-declaration (Section 11) provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently, we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1, Part 2 and Part 3. For example, these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to

meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

- When completed, this form is to be sent back via Yortender (unless stated otherwise)

The Council confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the Council is under a legal or regulatory obligation to make such a disclosure

Part 1 – Potential Supplier Information

Section 1A – Bidder Information & Section 1B – Bidding Model

Every organisation that is being relied on to meet the selection criteria must complete the Self Declaration & Contact Details (Section 11). Please note: A criminal record check for relevant convictions may be undertaken for successful bidders and their persons with significant control

Part 2 – Exclusion Grounds

Section 2 – Grounds for Mandatory Exclusion

Public Contract Regulations 2015 R57(1), (2) and (3)

1. Participation in a Criminal Organisation

Participation Offence as defined by section 45 of the Serious Crime Act 2015.

Conspiracy within the meaning of:

- section 1 or 1A of the Criminal Law Act 1977 or
- article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983

where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime

2. Corruption

- Corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;
- The common law offence of bribery;

- Bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010, or section 113 of the Representation of the People Act 1983.

3. Fraud

Any of the following offences:

- the common law offence of cheating the Revenue;
- the common law offence of conspiracy to defraud;
- fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;
- fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;
- fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;
- an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;
- destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;
- fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006;
- the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;

4. Terrorist Offences or Offences linked to Terrorism Activities

Any offence:

- listed in section 41 of the Counter Terrorism Act 2008;
- listed in schedule 2 to that Act where the court has determined that there is a terrorist connection;
- under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by the previous two points;

5. Money Laundering or Terrorist Financing

- Money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002
- An offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996

6. Child Labour and other Forms of Trafficking Human Beings

- An offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;
- An offence under section 59A of the Sexual Offences Act 2003
- An offence under section 71 of the Coroners and Justice Act 2009;
- An offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994

- An offence under section 2 or section 4 of the Modern Slavery Act 2015

7. Non Payment of Tax and Social Security Contributions

- Breach of obligations relating to the payment of taxes or social security contributions that has been established by a judicial or administrative decision.
- Where any tax returns submitted on or after 1 October 2012 have been found to be incorrect as a result of:
- HMRC successfully challenging the potential supplier under the General Anti – Abuse Rule (GAAR) or the “Halifax” abuse principle; or
- a tax authority in a jurisdiction in which the potential supplier is established successfully challenging it under any tax rules or legislation that have an effect equivalent or similar to the GAAR or “Halifax” abuse principle;
- a failure to notify, or failure of an avoidance scheme which the supplier is or was involved in, under the Disclosure of Tax Avoidance Scheme rules (DOTAS) or any equivalent or similar regime in a jurisdiction in which the supplier is established

8. Other Offences

- Any other offence within the meaning of Regulation 57 of the Public Contract Regulations as defined by the law of any jurisdiction outside England, Wales and Northern Ireland
- Any other offence within the meaning of Regulation 57 of the Public Contract Regulations created after 26th February 2015 in England, Wales or Northern Ireland

Section 3 – Grounds for Discretionary Exclusions

1. Obligations in the Field Environment, Social & Labour Law

Where an organisation has violated applicable obligations in the fields of environmental, social and labour law established by national law, collective agreements or by any international environmental, social and labour law provisions as amended from time to time; including the following;

- Where the organisation or any of its Directors or Executive Officers has been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years.
- In the last three years, where the organisation has had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body), on grounds of alleged unlawful discrimination.
- In the last three years, where any finding of unlawful discrimination has been made against the organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other UK court (or incomparable proceedings in any jurisdiction other than the UK).

- Where the organisation has been in breach of section 15 of the Immigration, Asylum, and Nationality Act 2006;
- Where the organisation has a conviction under section 21 of the Immigration, Asylum, and Nationality Act 2006;
- Where the organisation has been in breach of the National Minimum Wage Act 1998

2. Bankruptcy & Insolvency

Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State

3. Grave Professional Misconduct

Guilty of grave professional misconduct

4. Distortion of Competition

Entered into agreements with other economic operators aimed at distorting competition

5. Conflict of Interest

Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure

6. Been Involved in the Preparation of the Procurement Procedure

7. Prior Performance Issues

Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions

8. Misrepresentation and Undue Influence

The organisation has influenced the decision-making process of the Council to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award

9. Additional Exclusion grounds

Breach of obligations relating to the payment of taxes or social security contributions.

10. Consequences and Misinterpretation

A serious misrepresentation which induces the Council to enter into a contract may have the following consequences for the signatory that made the misrepresentation:-

- The potential supplier may be excluded from bidding for contracts for three years, under regulation 57(8)(h)(i) of the PCR 2015;

- The Council may sue the supplier for damages and may rescind the contract under the Misrepresentation Act 1967.
- If fraud, or fraudulent intent, can be proved, the potential supplier or the responsible officers of the potential supplier may be prosecuted and convicted of the offence of fraud by false representation under s.2 of the Fraud Act 2006, which can carry a sentence of up to 10 years or a fine (or both).
- If there is a conviction, then the company must be excluded from procurement for five years under reg. 57(1) of the PCR (subject to self-cleaning).

Part 3 – Selection Questions

- The procurement document will provide instructions on the selection questions you need to respond to and how to submit those responses. If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.
- If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay, we reserve the right to amend the contract award decision and award to the next compliant Bidder
- The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion – please see above. If there are grounds for exclusion, there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning).

Consequences of Misrepresentation

- If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce the Council to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.