

## Part 4 Selection Questionnaire

**Contract Reference**

**TPL1824**

**Contract Title**

**Re-Tender of Resurfacing and Ancillary Works to Edginswell Railway Bridge, Torquay**

**Procurement Procedure**

**Open**

**Maximum Period of Contract**

**6 months**

**Return Date**

**Monday 5 August 2024**

**Return Time**

**12:00 Noon**

**Return To**

**[www.supplyingthesouthwest.org.uk](http://www.supplyingthesouthwest.org.uk)**

**Applicant Name**

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# Stage One – Standardised Selection Questionnaire

## A. Information for Potential Suppliers

### General Information and Exclusion Grounds: Part 1 & Part 2

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that none of the grounds for exclusion apply<sup>1</sup>. If any of the grounds for exclusion do apply, there is an opportunity to explain any measures you have taken to demonstrate your reliability notwithstanding the existence of a ground for exclusion (we call this self-cleaning).

We require all the organisations that form part of your bidding group/consortium and each subcontractor that you are relying on to meet the selection criteria to provide a completed part 1 and part 2. This means that where you are joining a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Subcontractors that you rely on to meet the selection criteria, must also complete a self-declaration (although subcontractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

### Supplier Selection Questions: Part 3

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 exclude you from the procurement process, including where an award decision has already been notified, and award to another supplier.

### Consequences of Misrepresentation

If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority 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

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<sup>1</sup>For the list of exclusions please see

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/551130/List\\_of\\_Mandatory\\_and\\_Discretionary\\_Exclusions.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf)

of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

## B. Notes for Completion

1. The “authority” 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.
2. “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire 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.
3. 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.
4. The authority recognises that arrangements set out in section 1.2 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 authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection criteria must complete and submit the self-declaration.
6. For the mandatory exclusion grounds only (Q2.1(a)), you must complete the declaration for all relevant persons and entities. There are two categories of persons and entities:
  - members of your administrative, management or supervisory board; secondly, entities and persons who have powers of representation, decision or control. You must decide, depending on the nature and structure of the entity or person who is bidding, which entities and persons this applies to in your particular circumstances. Clearly, members of your administrative, management or supervisory board should be easily identifiable and will cover company directors (or equivalent for other types of corporate entities) and members of an executive board.
  - the second category of those with powers of representation, decision or control, is likely to be more complicated. As an illustration, entities or persons with 25% or more shareholding (or equivalent for other types of corporate entities) are likely to have powers or representation, decision or control, although those with a lower

shareholding may still have the relevant powers depending on their particular rights. Similarly, your ultimate parent company (or equivalent for other types of corporate entities) is likely to have powers of representation, decision or control. Depending on your particular structure, intermediate parent companies who do not have a direct shareholding, directors or members of an executive board of your immediate parent company (for example in the case of an SPV set up specifically to bid for a particular contract), and holders of mortgages or liens may be covered. It isn't necessary to identify which entities and persons you think are covered but you must be satisfied that your declaration is made in respect of all of those that are covered.

7. All sub-contractors are required to complete Part 1 and Part 2<sup>2</sup>.
8. 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.

The authority 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 authority is under a legal or regulatory obligation to make such a disclosure.

9. The Public Procurement Review Service allows government suppliers and potential government suppliers to raise concerns anonymously about unfair public sector procurement practice. The government can then investigate and resolve these concerns for contracting authorities as listed in [Schedule 1](#) of the Public Contracts Regulations 2015. To use the Public Procurement Review Service, [read the terms](#) and email [publicprocurementreview@cabinetoffice.gov.uk](mailto:publicprocurementreview@cabinetoffice.gov.uk) or phone 0345 010 3503.

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<sup>2</sup> See PCR 2015 regulations 71 (8)-(9)

## C. Questionnaire

You must answer all questions in parts 1 and 2. Bidders must ensure that every organisation on which they will rely to meet the selection criteria completes and submits their own answers and declaration for part 1 and 2.

### Part 1 Questions General Information

Question		Response
1.1(a)	Name (if registered, please give the registered name)	
1.1 (b) (i)	Registered address (if applicable) or head office address	
1.1(b) (ii)	Registered website address (if applicable)	
1.1(c)	Trading status:	
	a) public limited company	
	b) private limited company	
	c) limited liability partnership	
	d) other partnership	
	e) sole trader	
	f) third sector	
	g) other (please specify your trading status)	
1.1(d)	Date of registration (if applicable) or date of formation.	
1.1(e)	Registration number (company, partnership, charity, etc if applicable).	
1.1(f)	Registered VAT number	
1.1(g)	Are you registered with the appropriate professional or trade register(s) specified for this procurement and as set out in the procurement documents in the country where your organisation is established?	Choose an item.

Question		Response
	If YES please provide the relevant details, including the name of the register and registration number(s) and, if evidence of registration is available electronically, please give the website address, issuing body and reference number.	
1.1(h)	<p>For procurements for <b>services only</b>, is it a legal requirement in the country where you are established for you to:</p> <p>a) possess a particular authorisation, or</p> <p>b) be a member of a particular organisation,</p> <p>to provide the requirements specified in this procurement?</p> <p>If YES please provide additional details of what is required and confirmation that you have complied with this and, if evidence of compliance is available electronically, please give the website address, issuing body and reference number.</p>	Choose an item.
1.1(i)	Relevant classifications (state whether you fall within one of these, and if so which one):	
	a) voluntary community social enterprise (VCSE)	
	b) sheltered workshop	
	c) public service mutual	
1.1(j)	Are you a Small, Medium or Micro Enterprise (SME) <sup>3</sup> ?	Choose an item.

<sup>3</sup> See definition of SME: [SME definition - European Commission \(europa.eu\)/](https://european-commission.europa.eu/)

Question	Response																						
1.1(k)	<p>Details of Persons of Significant Control (PSC)<sup>4 5</sup>, where appropriate<sup>6</sup>:</p> <table border="1"> <tr> <td data-bbox="284 264 895 331">Name:</td> <td data-bbox="895 264 1495 331"></td> </tr> <tr> <td data-bbox="284 331 895 398">Date of birth:</td> <td data-bbox="895 331 1495 398"></td> </tr> <tr> <td data-bbox="284 398 895 465">Nationality:</td> <td data-bbox="895 398 1495 465"></td> </tr> <tr> <td data-bbox="284 465 895 577">Country, state or part of the UK where the PSC usually lives:</td> <td data-bbox="895 465 1495 577"></td> </tr> <tr> <td data-bbox="284 577 895 645">Service address:</td> <td data-bbox="895 577 1495 645"></td> </tr> <tr> <td data-bbox="284 645 895 757">The date he or she became a PSC in relation to the company</td> <td data-bbox="895 645 1495 757"></td> </tr> <tr> <td data-bbox="284 757 895 869">Which conditions for being a PSC are met (Please enter N/A if not applicable):</td> <td data-bbox="895 757 1495 869"></td> </tr> <tr> <td data-bbox="284 869 895 981">Over 25% up to (and including) 50%</td> <td data-bbox="895 869 1495 981"></td> </tr> <tr> <td data-bbox="284 981 895 1048">More than 50% and less than 75%</td> <td data-bbox="895 981 1495 1048"></td> </tr> <tr> <td data-bbox="284 1048 895 1115">75% or more</td> <td data-bbox="895 1048 1495 1115"></td> </tr> <tr> <td data-bbox="284 1115 895 1193">(Please enter N/A if not applicable)</td> <td data-bbox="895 1115 1495 1193"></td> </tr> </table>	Name:		Date of birth:		Nationality:		Country, state or part of the UK where the PSC usually lives:		Service address:		The date he or she became a PSC in relation to the company		Which conditions for being a PSC are met (Please enter N/A if not applicable):		Over 25% up to (and including) 50%		More than 50% and less than 75%		75% or more		(Please enter N/A if not applicable)	
Name:																							
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Nationality:																							
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The date he or she became a PSC in relation to the company																							
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More than 50% and less than 75%																							
75% or more																							
(Please enter N/A if not applicable)																							
1.1(l)	<p>Details of immediate parent company</p> <table border="1"> <tr> <td data-bbox="284 1265 895 1377">Full name of the immediate parent company</td> <td data-bbox="895 1265 1495 1377"></td> </tr> <tr> <td data-bbox="284 1377 895 1489">Registered office address (if applicable)</td> <td data-bbox="895 1377 1495 1489"></td> </tr> <tr> <td data-bbox="284 1489 895 1556">Registration number (if applicable)</td> <td data-bbox="895 1489 1495 1556"></td> </tr> <tr> <td data-bbox="284 1556 895 1624">VAT number (if applicable)</td> <td data-bbox="895 1556 1495 1624"></td> </tr> <tr> <td data-bbox="284 1624 895 1691">(Please enter N/A if not applicable):</td> <td data-bbox="895 1624 1495 1691"></td> </tr> </table>	Full name of the immediate parent company		Registered office address (if applicable)		Registration number (if applicable)		VAT number (if applicable)		(Please enter N/A if not applicable):													
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(Please enter N/A if not applicable):																							

<sup>4</sup> It is possible to decline to consider bids from Russian or Belarusian suppliers in certain circumstances. For suppliers who are constituted or organised under the law of Russia or Belarus or their 'Persons of Significant Control' information states Russia or Belarus as the place of residency, the supplier's bid can be discounted. See PPN 01/22 for further guidance

<sup>5</sup> UK companies, Societates European (SEs) and limited liability partnerships (LLPs) are required to identify and record the people who own or control their company. Companies, SEs and LLPs are required to keep a PSC register and must file the PSC information with the central public register at Companies House. See [PSC guidance](#). Overseas bidders are required to provide equivalent information.

<sup>6</sup> Only information that relates to the persons with powers of representation, decision or control within the meaning of regulation 57(2) can be considered in relation to the mandatory exclusion grounds and other details are requested for information only.



	Question	Response
1.1(m)	<p>Details of ultimate parent company</p> <p>Full name of the ultimate parent company</p> <p>Registered office address (if applicable)</p> <p>Registration number (if applicable)</p> <p>Head office VAT number (if applicable)</p> <p>(Please enter N/A if not applicable):</p>	
1.1(n)	<p>Are you bidding as a single supplier or as part of a group or consortium?</p> <p>If you are bidding as part of a group or consortium (including where you intend to establish a legal entity to deliver the contract), please tell us:</p> <p>a) The name of the group/consortium</p> <p>b) The proposed structure of the group/consortium, including the legal structure where applicable</p> <p>c) The name of the lead member of the group/consortium</p> <p>d) Your role in the group/consortium (e.g. lead member, consortium member, sub-contractor)</p> <p>e) If you are the lead member of the group/consortium whether you are relying on other consortium members to the meet the selection criteria (i.e. are you relying on other consortium members for economic and technical standing, and/or technical and professional ability?) and, if so, which criteria are you relying on them for?</p>	<p>Choose an item.</p> <p>Choose an item.</p>

Question	Response
1.1(o)	If you are proposing to use sub-contractors / a supply chain, using the table on the following page, please provide the following details for each sub-contractor / supply chain member. <sup>7</sup>
	<p>Name</p> <p>Registration number</p> <p>Registered or head office address</p> <p>Trading status:</p> <ul style="list-style-type: none"> <li>a) Public limited company</li> <li>b) Private limited company</li> <li>c) Limited liability partnership</li> <li>d) Other partnership</li> <li>e) Sole trader</li> <li>f) Third sector</li> <li>g) Other (please specify your trading status)</li> </ul> <p>Registered VAT number</p> <p>SME?</p> <p>The role each sub-contractor will take on providing the works and / or supplies e.g. key deliverables</p> <p>The approximate % of the contractual obligations assigned to each sub-contractor</p> <p>Is the sub-contractor being relied upon to meet the selection criteria (i.e. are you relying on the sub-contractor for economic and technical standing and/or technical and professional ability?) and if so which criteria are you relying on them for?</p>
1.1(p)	Please tell us which lot(s) you wish to bid for (where applicable)

<sup>7</sup> This applies to all supply chain members and/or subcontractors, where their identity is known at this stage, irrespective of whether you are relying on them to meet the selection criteria. Where a supply chain member and/or subcontractor has been identified in response to this question, any resulting subcontract entered into for that part of the works, services or supplies identified in response to that question will not be subject to the requirement for contracts to advertise the subcontracting opportunity, as set out in PPN 01/18.

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	<b>Sub-contractor 1</b>	<b>Sub-contractor 2</b>	<b>Sub-contractor 3</b>	<b>Sub-contractor 4</b>
<b>Name</b>				
<b>Registration number</b>				
<b>Registered or head office address</b>				
<b>Trading status</b>	Choose an item.	Choose an item.	Choose an item.	Choose an item.
<b>Registered VAT number</b>				
<b>SME?</b>	Choose an item.	Choose an item.	Choose an item.	Choose an item.
<b>The role the sub-contractor will take in providing the works and/or supplies e.g. key deliverables</b>				
<b>The approximate % of contractual obligations assigned to the sub-contractor</b>				
<b>Is the sub-contractor being relied up to meet the selection criteria (i.e. are you relying on the sub-contractor for economic and technical standing and/or</b>	Choose an item.	Choose an item.	Choose an item.	Choose an item.

For Submission

<b>technical and professional ability)?</b> <b>If YES which criteria are you relying on them for?</b>				
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## Part 2 Questions Exclusion Grounds Questions

Please answer the following questions in full. Note that every organisation that forms part of your bidding group/consortium, as well as every organisation that is being relied on (including subcontractors being relied on) to meet the selection criteria must complete and submit responses to part 1 and the declarations in part 2.

### Grounds for Mandatory Exclusion

Question	Response
2.1(a) Within the past five years, anywhere in the world, have you or any person who: <ul style="list-style-type: none"> <li>▪ is a member of the supplier's administrative, management or supervisory body; or</li> <li>▪ has powers of representation, decision or control in the supplier<sup>8</sup></li> </ul> been convicted of any of the offences within the summary below and listed in full in Annex D.	
Participation in a criminal organisation:	Choose an item.
Corruption:	Choose an item.
Terrorist offences, or offences linked to terrorist activities:	Choose an item.
Money laundering or terrorist financing:	Choose an item.
Child labour and other forms of trafficking in human beings:	Choose an item.
Any other offence within the meaning of Article 57(1) of the Directive as defined by	Choose an item.

<sup>8</sup> For the mandatory exclusion grounds only, you must complete the declaration for all relevant persons and entities. There are two categories of persons and entities: The first category is members of your administrative, management or supervisory board; secondly, entities and persons who have powers of representation, decision or control. You must decide, depending on the nature and structure of the entity or person who is bidding, which entities and persons this applies to in your particular circumstances. Clearly, members of your administrative, management or supervisory board should be easily identifiable and will cover company directors (or equivalent for other types of corporate entities) and members of an executive board. The second category of those with powers of representation, decision or control, is likely to be more complicated. As an illustration, entities or persons with 25% or more shareholding (or equivalent for other types of corporate entities) are likely to have powers or representation, decision or control, although those with a lower shareholding may still have the relevant powers depending on their particular rights. Similarly, your ultimate parent company (or equivalent for other types of corporate entities) is likely to have powers of representation, decision or control. Depending on your particular structure, intermediate parent companies who do not have a direct shareholding, directors or members of an executive board of your immediate parent company (for example in the case of an SPV set up specifically to bid for a particular contract), and holders of mortgages or liens may be covered. It isn't necessary to identify which entities and persons you think are covered but you must be satisfied that your declaration is made in respect of all of those that are covered.

Question		Response
	the law of any jurisdiction outside England, Wales or Northern Ireland.	
	Any other offence within the meaning of Article 57(1) of the Directive created after 26th February 2015 in England, Wales or Northern Ireland.	Choose an item.
2.1(b)	If you have answered YES to any of the questions on mandatory exclusion grounds please provide further details, including:	
	<ul style="list-style-type: none"> <li>▪ date of conviction and the jurisdiction</li> </ul>	
	<ul style="list-style-type: none"> <li>▪ which of the grounds listed the conviction was for</li> </ul>	
	<ul style="list-style-type: none"> <li>▪ the reasons for the conviction</li> </ul>	
	<ul style="list-style-type: none"> <li>▪ the identity of who has been convicted</li> </ul>	
	If the relevant documentation is available electronically, please provide:	
	<ul style="list-style-type: none"> <li>▪ the web address</li> </ul>	
	<ul style="list-style-type: none"> <li>▪ issuing authority</li> </ul>	
	<ul style="list-style-type: none"> <li>▪ precise reference of the documents</li> </ul>	
	If you have answered YES to any part of the questions on mandatory exclusion grounds, please explain what measures have been taken to demonstrate your reliability despite the existence of relevant grounds for exclusion (Self-cleaning)	
	Answer	

### **Mandatory and discretionary grounds relating to the payment of taxes and social security contributions**

The detailed grounds for mandatory and discretionary exclusion of a supplier for non-payment of taxes and social security contributions, are set out in Annex D and should be referred to before completing these questions.

Question		Response
3.1(a)	Please confirm that you have met all your obligations relating to the payment of taxes and social security contributions, both in the country in which you are established and in the UK.	Choose an item.
	If documentation is available electronically, please provide:	
	▪ the web address	
	▪ issuing authority	
	▪ precise reference of the documents	
3.1(b)	If you have answered NO to this question please provide further details including the following:	
	▪ Country concerned	
	▪ The amount concerned	
	▪ How the breach was established, i.e. through a judicial or administrative decision or by other means	
	▪ If the breach has been established through a judicial or administrative decision please provide the date of the decision	
▪ If the breach has been established by other means please specify the means		
3.2	Please also confirm whether you have paid or have entered into a binding arrangement with a view to paying, the outstanding sum including, where applicable, any accrued interest and/or fines.	Choose an item.
Please Note: We reserve our right to use our discretion to exclude your bid where we can demonstrate by any appropriate means that you are in breach of your obligations relating to the payment of taxes or social security contributions		

## Grounds for Discretionary Exclusion

The detailed grounds for discretionary exclusion of an organisation are set out in Annex D and should be referred to before completing these questions.

Question		Response
4.1	Within the past three years, anywhere in the world, have any of the situations summarised below and listed in full in Annex D applied to you?	
	Breach of environmental obligations? To note that environmental law obligations include Health and Safety obligations. See Annex D.	Choose an item.
	Breach of social law obligations?	Choose an item.
	Breach of labour law obligations?	Choose an item.
	Bankruptcy or subject of insolvency?	Choose an item.
	Guilty of grave professional misconduct?	Choose an item.
	Distortion of competition?	Choose an item.
	Conflict of interest?	Choose an item.
	Been involved in the preparation of the procurement procedure?	Choose an item.
	Prior performance issues?	Choose an item.
	Do any of the following statements apply to you?	
	You have been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.	Choose an item.
	You have withheld such information.	Choose an item.
	You are not able, without delay, to submit documents if/when required	Choose an item.
	You have undertaken to unduly influence the decision-making process of the contracting authority to obtain confidential information that may confer upon you undue advantages in the procurement procedure, or to negligently provide misleading information that may have a material influence on decisions concerning exclusion,	Choose an item.



Question		Response
	selection or award	
4.2	<p>You are a relevant commercial organisation subject to Section 54 of the Modern Slavery Act 2015 if you carry on your business, or part of your business in the UK, supplying goods or services and you have an annual turnover of at least £36 million.</p> <p>If you are a relevant commercial organisation please confirm:</p>	
	<ul style="list-style-type: none"> <li>▪ you have published a statement as required by Section 54 of the Modern Slavery Act.</li> </ul>	Choose an item.
	<ul style="list-style-type: none"> <li>▪ the statement complies with the requirements of Section 54</li> </ul>	Choose an item.
4.3	<p>If you have answered <b>YES</b> to any of the questions relating to grounds for discretionary exclusion (or <b>NO</b> to any of the Modern Slavery Act questions), please explain what measures have been taken to demonstrate your reliability despite the existence of a relevant ground for exclusion. (Self-cleaning)</p>	
	<p><b>Answer</b></p>	

### Contact Details and Declaration

I declare that to the best of my knowledge the answers submitted and information contained in this complete document are correct and accurate, including parts 1, 2 and part 3.

I declare that, upon request and without delay I will provide the certificates and/or documentary evidence referred to in this document except where this documentation can be accessed by the contracting authority via a national database free of charge or the contracting authority already possesses the documentation.

I understand that the information will be used in the selection process to assess my suitability to participate further in this procurement.

I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

**Signature (electronic is acceptable)**

**Date**

### Contact details of those making the declaration

	Response
Contact Name:	
Name of Organisation:	
Role in Organisation:	
Phone number:	
E-mail Address:	
Postal Address:	

## **Annexe D – Exclusion Grounds: Public Procurement**

### **Mandatory Exclusion Grounds**

Listed in Public Contract Regulations 2015 (as amended) R57(1), (2) and (3) and the Public Contract Directives 2014/24/EU Article 57(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.

### **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.

### **Terrorist offences or offences linked to terrorist 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.

### **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.

### **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;

For Submission

- ❖ 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 1, 2 or section 4 of the Modern Slavery Act 2015.

### **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; or
  - 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.

### **Other offences**

- ❖ Any other offence within the meaning of Article 57(1) of the Directive as defined by the law of any jurisdiction outside England, Wales and Northern Ireland.
- ❖ Any other offence within the meaning of Article 57(1) of the Directive created after 26 th February 2015 in England, Wales or Northern Ireland.

### **Discretionary Exclusions Grounds**

Listed in Public Contract Regulations 2015 (as amended) R57(8) and the Public Contract Directives 2014/24/EU Article 57(4).

### **Obligations in the field of environment, social and labour law.**

- Where an organisation has violated applicable obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Directive (see copy below) as amended from time to time; including, but not limited to, the following:-
  - In the last 3 years, 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 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 in any jurisdiction other than the UK), on grounds of alleged unlawful discrimination.
  - In the last three years, where the organisation has been convicted of a breach of the Health and Safety legislation.
  - In the last three years, where any finding of unlawful discrimination has been made against the organisation by an Employment Tribunal, an Employment Appeal

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Tribunal or any other 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.

### **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. Grave professional misconduct
- Guilty of grave professional misconduct

### **Distortion of competition**

- Entered into agreements with other economic operators aimed at distorting competition.

### **Conflict of interest**

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

### **Been involved in the preparation of the procurement procedure.**

- Advised the contracting authority or contracting entity or otherwise been involved in the preparation of the procurement procedure.

### **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.

### **Misrepresentation and undue influence**

- The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award, or withheld such information or is not able to submit supporting documents required under regulation 59.

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

- The contracting authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

## **Additional grounds**

ANNEX X Extract from Public Procurement Directive 2014/24/EU

### LIST OF INTERNATIONAL SOCIAL AND ENVIRONMENTAL CONVENTIONS REFERRED TO IN ARTICLE 18(2) —

- ILO Convention 87 on Freedom of Association and the Protection of the Right to Organise; ● ILO Convention 98 on the Right to Organise and Collective Bargaining; ● ILO Convention 29 on Forced Labour; ● ILO Convention 105 on the Abolition of Forced Labour;
- ILO Convention 138 on Minimum Age;
- ILO Convention 111 on Discrimination (Employment and Occupation);
- ILO Convention 100 on Equal Remuneration;
- ILO Convention 182 on Worst Forms of Child Labour;
- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention) ● Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10 September 1998, and its 3 regional Protocols.

### **Consequences of misrepresentation**

A serious misrepresentation which induces a contracting authority 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 contracting authority 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)