

**Cheshire East Borough Council and
Cheshire West and Chester Council**

**SELECTION QUESTIONNAIRE (SQ)
GUIDANCE DOCUMENT**

**The Provision of an Enterprise Resource Planning (ERP)
Software Solution**

CHEST REF: DN175327

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Definitions

For the purposes of the SQ words and phrases with an initial capital letter shall have the meaning given below:

Applicant	An entity which has submitted a response to the SQ
Authorities	Cheshire East Borough Council and Cheshire West and Chester Council
Call-Off Contract(s)	The call-off contract(s) to be awarded for the provision of an enterprise resource planning software solution and entered into by the Authorities and the Preferred Tenderer, draft copies of which are provided with this SQ as Document 5
The Chest	The Authorities' procurement portal, www.the-chest.org.uk
Descriptive Document	Description of the development opportunity. Refer to Document 4
Dialogue	The process of discussing proposed solutions with Tenderers
Final Tender	A Tender to be submitted following the close of Dialogue, and on the basis of which a Preferred Tenderer may be selected by the Authorities
Framework Agreement	The framework agreement to be awarded for the provision of an enterprise resource planning software solution and entered into by the Authorities and the Preferred Tenderer, a draft copy of which is provided with this SQ as Document 5
Invitation to Participate in Dialogue (ITPD)	An invitation to participate in the Dialogue process following evaluation of the SQs, a draft of which is provided with this SQ as Document 3-6
Invitation to Submit Final Tenders (CFT)	An invitation for Tenderers to submit Final Tenders, and which will indicate the end of Dialogue
Invitation to Submit Outline Solutions (ISOS)	The invitation to submit an Outline Solution, which includes both the ISOS document and the ITPD
Other Service Users	Schools and academies within the Authorities' and the Related Councils' administrative areas and subsidiary companies, associated companies and alternative service delivery vehicles (collectively called "ASDVs") established by the Authorities and the Related Councils to provide public services within their respective administrative areas. See section 1.2 below
Outline Solution	Following the evaluation of the SQs and shortlisting, Bidders will be required to submit an outline solution
Preferred Tenderer or Preferred Bidder	The Tenderer or Bidder selected by the Authorities to enter into the Contract
Regulations	The Public Contracts Regulations 2015
Related Councils	Trafford Metropolitan Borough Council, Stockport Metropolitan Borough Council, Warrington Borough Council and Wirral

	Metropolitan Borough Council
Selection Questionnaire (SQ)	This SQ Guidance Document and the SQ Response Document
Selection Questionnaire (SQ) Guidance Document	This Selection Questionnaire guidance document
Selection Questionnaire (SQ) Response Document	A response to the Selection Questionnaire (SQ)
Significant Subcontractor	Where there is a subcontracting arrangement, each proposed subcontractor where that proposed subcontractor will be contributing significantly, either in terms of value (25% or more) or importance to the Contract, including but not limited to, where the subcontractor is responsible for security and/or personal data
Tender	An Outline Solution or a Final Tender, as the context requires
Tenderer or Bidder	An Applicant which has been short-listed by the Authorities to be invited to ISOS stage

1. Information Memorandum

1.1 Introduction

The standard Selection Questionnaire (“SQ”) has been issued by Cheshire East Borough Council and Cheshire West and Chester Council (the “Authorities”) in connection with a competitive procurement conducted in accordance with the competitive dialogue procedure under Regulation 30 of the Regulations. The Authorities are seeking expressions of interest from suitably qualified and experienced organisations to provide an enterprise resource planning (ERP) software solution.

The SQ sets out the information which is required by the Authorities in order to assess the suitability of Applicants in terms of their technical knowledge and experience, capability /capacity, organisational and financial standing to meet the requirements of the Contract. Its aim is to enable the Authorities to identify a short-list of Applicants that will in due course be invited to ISOS stage for the provision of an ERP solution.

Following evaluation on the basis of SQ Response Document submissions, the Authorities intend to invite the Applicants of the top four (4) ranked SQ Response Document submissions to the ISOS stage. The Authorities reserve the right to invite five (5) Applicants if the scores of the fourth and fifth placed Applicants are 2% or less apart (provided that such Applicants meet all minimum thresholds and requirements as set out in the SQ) – these Applicants will then be invited to submit Outline Solutions.

In the event that two (2) or more SQ Response Document submissions achieve the same total pass score (i.e. tied in 4th place), the evaluation will refer to the highest scores achieved in specific questions on additional technical experience.

In the event that one or more of the short-listed Applicants drops out of or is otherwise removed from the procurement process soon after SQ stage the Authorities reserve the right to continue with the remaining short-listed Applicants or to go to the next placed Applicant at SQ stage (or Applicants as appropriate) to ensure sufficient competition at ISOS stage is retained (provided always that such Applicants meet all minimum thresholds and requirements as set out in the SQ).

1.2 The Framework Agreement and Call-Off Contract(s)

The Authorities are working together on this joint procurement process to procure a Framework Agreement with a single supplier on behalf of themselves and Trafford Metropolitan Borough Council, Stockport Metropolitan Borough Council, Warrington Borough Council and Wirral Metropolitan Borough Council (the “Related Councils”) to design, build and implement an integrated Enterprise Resource Planning (ERP) Solution and thereafter to provide on-going support and maintenance. The core business services impacted are Finance, Procurement, Human Resources and Payroll. The scope of the service may include the provision and implementation of new modules offering improved functionality and/or system refreshes as necessary during the contract term.

The Services may be provided under the individual Call-Off Contracts of the Authorities and the Related Councils to schools (who in legal terms form part of the local authority), academies (who are independent from the Authorities) and subsidiary companies, associated companies and alternative service delivery vehicles (collectively called “ASDVs”) established by the Authorities and the Related

Councils to provide public services. Schools include all academies, faith, voluntary aided or controlled, maintained and 'free' schools, including those schools which may convert to academy status either during the procurement process or during the term of the Call-Off Contracts including those that currently exist and their successors ("Other Service Users").

ASDVs within the Authorities' administrative areas known at the time of publishing include, but are not limited to:

- For Cheshire East Borough Council: Tatton Park Enterprises Ltd; Engine of the North Ltd; Ansa Environmental Services Ltd; Orbitas Bereavement Services Ltd; Civicance Ltd, Skills and Growth Company Ltd and Everybody Sports & Recreational Trust Ltd (trading as Everybody Ltd, a charitable trust), Transport Service Solutions Ltd. Further details can also be found at:
http://www.cheshireeast.gov.uk/council_and_democracy/your_council/best_fit_services/best_fit_services.aspx
- For Cheshire West & Chester Council: Cheshire West and Chester Leisure CIC (trading as Brio), Vivo Care Choices Limited, Edsential Community Interest Company, Cheshire Pension Fund, CoWest Services Limited (Trading as Qwest)

The schools within the Authorities' administrative areas as at the time of issuing this SQ can be found at:

<http://www.education.gov.uk/edubase/home.xhtml>

These Related Councils, ASDVs and Other Service Users are listed here for information purposes only and no Related Council, ASDV or Other Service User (including for avoidance of doubt the Authorities themselves) is obliged to order the Services from the Successful Tenderer under the Framework Agreement or at all.

Owing to the size and nature of the Services and to help ensure the best service continuity, the Authorities have decided not to subdivide the Framework Agreement into lots.

The value of the Framework Agreement is estimated to be between £16m million to £20 million for the Authorities and an additional £25 million to £29 million for the Related Councils calling-off the Services under the Framework Agreement. The Framework Agreement, therefore, could potentially reach a value of £49 million but this figure will depend on the Related Councils' decision whether to use the Framework Agreement.

The term of the Framework Agreement is expected to be four (4) years. Each Call-Off Contract (if any are ordered) is expected to have a maximum duration of 12 years with the Authorities' preference being for an initial term of seven (7) years, with the ability to extend by one or more periods up to a further five (5) years and provided the Authorities are satisfied with the performance of the supplier. Any extension of a Call-Off Contract shall be in accordance with the terms and conditions which apply during the initial period of services provision.

The Authorities intend to sign Call-Off Contracts on the same day that the Framework Agreement is signed.

The Preferred Tenderer will be required to enter into the Framework Agreement and Call-Off Contract(s) with the Authorities.

1.3 **The competitive dialogue process will be identified in more detail in the Invitation to Submit Outline Solutions (ISOS).**

Competitive dialogue is being used due to the complex nature of this project. The Authorities shall open Dialogue with Tenderers, the aim of which shall be to identify the means best suited to satisfying the Authorities' needs and may discuss all aspects of the procurement.

Dialogue is conducted in several stages over the tender period. As the Authorities intend to conduct a focussed and tailored dialogue process the programme for this tender process is approximately ten (10) months. The Authorities may adjust the dialogue timetable in order to ensure that they are able to identify solutions that meets their needs and to preserve fair and equal competition. The timetable (see paragraph 1.5) is indicative and remains subject to change at any time on notification from the Authorities.

Dialogue shall be conducted in the English language.

The Authorities reserve the right to introduce additional stages into the process, whilst complying with the Regulations, if they consider it appropriate or if required to ensure adequate competition.

1.4 **Background Information**

Background information is contained in the Descriptive Document (Please see Document 3).

The Authorities reserve the right to provide an online data room that will be made available exclusively to Applicants. Details of how to access the data room will be provided to Applicants if this option is utilised.

1.5 **Indicative Timetable**

The timetable below is indicative only. The Authorities reserve the right to change it as they consider appropriate and in compliance with the Regulations and will inform Applicants/Tenderers of any changes.

Task name	Start	Finish
SQ Stage		
Publish OJEU notice and SQ and Draft ISOS documentation	10 October 2016	
Bidders' Day	13 October 2016	13 October 2016
Pre-SQ Clarification deadline	28 October 2016	28 October 2016
SQ Closing Date	11 November 2016 12 NOON	
Evaluation of SQs and Shortlist of Bidders	14 November 2016	2 December 2016
Stage 1: Competitive Dialogue Outline Solutions Stage		
ITPD/ISOS issued to all shortlisted Bidders - dialogue period starts	5 December 2016	
First Dialogue Period	6 December 2016	24 January 2017
Return date for Outline Solution Responses		27 January 2017 12 NOON
Councils' evaluation of Outline Solution Responses and shortlisting	30 January 2017	24 February 2017
Stage 2: Competitive Dialogue Detailed Dialogue/Final Tenders		
Debrief Process (successful/unsuccessful)	27 February 2017	1 March 2017
Second Dialogue Period - (leading to call for Final Tenders (CFT))	2 March 2017	28 April 2017
Call for Final Tender	1 May 2017	
Deadline for any clarification questions relating to Final Tenders		5 May 2017
Deadline for submission of Final Tenders		12 May 2017 12 NOON
Clarification and evaluation of Final Tenders	15 May 2017	9 June 2017

Internal Approval of Decision	June 2017	June 2017
Standstill letters issued and Preferred Bidder announced	12 June 2017	
Standstill period (10 days)	12 June 2017	23 June 2017
Contract Award and Mobilisation		
Final Award Notice Issued	23 June 2017	
Contract start date	31 July 2017	
Services Commence	1 August 2017	

1.6 Right to cancel, clarify or vary the process

The Authorities reserve the right to:

- 1.6.1 cancel or withdraw from the SQ process at any stage; and/or
- 1.6.2 vary the procurement process and/or introduce additional steps or stages into the process and/or change the dates and times applicable to this procurement. The Authorities shall notify the Applicant's named principal contact of any such changes; and/or
- 1.6.3 require an Applicant to clarify any part of its SQ Response Document in writing and/or provide additional information (failure to respond fully may result in the Applicant not being selected); and/or
- 1.6.4 cancel, postpone, suspend or abort the procurement at any stage.

2. Instructions to Applicants

2.1 Instructions

2.1.1 The standard Selection Questionnaire (“SQ”) and associated documents are provided to organisations that are considering expressing an interest in the ERP software solution procurement. Applicants shall not use any of the information provided for any purpose other than for the purpose of submitting (or deciding to submit) a SQ Response Document.

2.1.2 The contents of the SQ, and that of any other documentation sent to you in respect of this tender process are provided on the basis that they remain the property of the Authorities and must be treated as confidential, save insofar as any of the contents are already in the public domain or the next paragraph applies. If you are unable or unwilling to comply with this requirement you are required to destroy the SQ and all associated documents immediately and not to retain any electronic or paper copies.

Applicants may disclose, distribute or pass any of the information to the Applicant’s advisers, sub-contractors or to another person provided that either:

- this is done for the sole purpose of enabling a SQ Response Document and/or a Tender to be submitted and the person submitting the information undertakes in writing to keep the information confidential on the same terms as if that person were the Applicant; or
- the Applicant obtains the prior written consent of the Authorities in relation to such disclosure, distribution or passing of information; or
- the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any contract arising from it; or
- the Applicant is legally required to make such a disclosure.

2.1.3 The SQ and all associated documents are made available in good faith. No warranty or guarantee is given as to the accuracy or completeness of the information contained in them and any liability for any inaccuracy or incompleteness is therefore expressly disclaimed by the Authorities and their advisers. Applicants should not rely on the information supplied and should carry out their own due diligence and verify the accuracy of the documents.

Applicants must ensure that they read all parts of the SQ and the associated documents since they contain important information and instructions to ensure that any expression of interest is compliant.

Applicants must use the SQ Response Document, completing all questions. Failure to include information requested in the SQ Response Document may lead to your SQ Response Document being rejected. Applicants should answer all questions in English.

Acting at their own discretion, the Authorities reserve the right to terminate the procurement process and / or re-advertise the opportunity where satisfied that it would be appropriate to do so in the circumstances.

2.2 Pre-SQ Response Submission Clarifications

2.2.1 All requests for clarification or further information in respect of the SQ must be made in writing via The Chest (www.thechest.org.uk) by 28 October 2016. No approach of

any kind in connection with this SQ should be made to any person within or associated with the Authorities. The SQ is being provided on the same basis to all Applicants. The Authorities will not enter into detailed discussion of the requirements for the project at this stage.

- 2.2.2 The Authorities shall endeavour to respond to queries/clarifications within two (2) working days. If the Authorities consider any question or request for clarification to be of material significance, both the query and the response will be circulated in a suitable anonymous form to all Applicants who have responded or expressed an interest in submitting a SQ Response Document.
- 2.2.3 Should an Applicant wish to avoid disclosure of its question or the Authorities' response to it (for example on the basis that the request or response contains commercially confidential information or may give an Applicant a commercial advantage), the request must set out the reason(s) for the request for non-disclosure on its merits and in particular whether any regulations or considerations of probity require it to be denied. Where the Authorities decide that the question or request and its response cannot be withheld from circulation, the Applicant will have the opportunity to withdraw the question or request to represent it in a different format.
- 2.2.4 The Authorities reserve the right to retain all and any of the information supplied to it by Applicants.
- 2.2.5 During the SQ period the Authorities may issue clarification responses via The Chest. It is the Applicant's responsibility to ensure it takes these into account in its SQ Response Document.

2.3 **Completing The Selection Questionnaire Response Document**

Consortiums – The Authorities are keen to ensure that the procurement is open to a wide market and that there is genuine competition. The resources and range and depth of skills needed to provide the services are such that the Authorities understand that they may receive applications from:

- a single organisation offering the full service;
- organisations that may wish to collaborate to form a consortium with a separate legal entity to contract with the Authorities with or without a variety of subcontractors; and
- a consortium which consists of a prime contractor with a variety of subcontractors.

Where organisations intend to act jointly in seeking to be awarded the Framework Agreement and Call-Off Contract(s), the participating organisations must identify one primary contact. Such primary contact will be responsible for the overall preparation and submission of the Selection Questionnaire Response Document on behalf of all members of the consortium, and for addressing any questions from the Authorities about the organisation of the joint application.

A consortium could take a number of different forms. In view of this, where a submission is made by a consortium, the submission must be clear on how the consortium will be structured (see question 1.2(a)-(iii) in the Selection Questionnaire Response Document). Applicants should also be aware that if they are evaluated as a consortium the Authorities may not permit the consortium members, including a Significant Subcontractor, to change at a later stage without revisiting the Selection Questionnaire assessment process.

If a submission is to be evaluated as a consortium, the Authorities require each relevant organisation to complete Part1 and Part 2 of the Selection Questionnaire

Response Document as part of the consortium's response. All members of the proposed consortium are required to provide the information required in Part 3 of the Selection Questionnaire Response Document as part of a single composite response.

The Authorities require information about each Significant Subcontractor if the consortium takes the form of a prime contractor with one or more Significant Subcontractors. Each Significant Subcontractor must therefore complete the relevant questions in the Selection Questionnaire Response Document, including Part 1 and Part 2, as part of a consortium's response. When completing a consortium's response to the Selection Questionnaire Response Document, please specify in the response which content/experience relates to which consortium member.

The Authorities recognise that consortia and subcontracting arrangements may be subject to future change (for example, agreement with a provider may not be finalised at Selection Questionnaire stage). Consortia should therefore respond in the light of such arrangements as are currently envisaged. In the event that a consortium proposes a change in the membership of its consortium/Significant Subcontractors following the submission of its Selection Questionnaire Response Document, the primary contact must inform the Authorities of such change (both additional members and departing members) as soon as is practicable. This will allow the Authorities to reassess the consortium's changed response to the Selection Questionnaire Response Document. By responding to the Selection Questionnaire Response Document all other Applicants shall be deemed to have consented to such future changes in the other Applicant's consortia or Significant Subcontractors. The Authorities reserve the right to refuse to consider or consent to changes in consortia or Significant Subcontractors and/or to deselect any Applicant whose proposed change means that they no longer meet the Authorities' minimum standards identified in the Selection Questionnaire and/or if any proposed change would have an effect on the ranking of Applicants selected to be invited to participate in the competitive dialogue.

In summary:

- Each consortium must nominate a primary contact for the purpose of communication with the Authorities;
- Any consortium must make clear its proposed constitution and structure and the relationships between members;
- If Applicants intend to form a consortium, Part 1 and Part 2 of the Selection Questionnaire Response Document information must be submitted for EACH member of the proposed consortium to the extent applicable;
- If Applicants intend to form a consortium, all members of the group are required to provide the information required in Part 3 of the Selection Questionnaire Response Document, as part of a single composite response;
- If a prime contractor approach is being taken, the Selection Questionnaire Response Document information must be submitted for the prime contractor and for EACH Significant Subcontractor to the extent applicable; and
- The Authorities reserve the right to seek clarification regarding the information submitted and the relationships between members of a group as part of its assessment and selection process.

In circumstances where two or more organisations form a consortium or a joint venture, the Authorities' approach will be to either:

- enter into the Framework Agreement and Call-Off Contract(s) with one of the organisations (who acts as a lead partner) (with the Authorities reserving the right to require the prime consortium leader to procure collateral warranties from the other organisations that form part of the consortium or joint venture); or
- enter into Framework Agreement and Call-Off Contract(s) with all of the organisations on condition that each organisation is jointly and severally liable for the performance of the Framework Agreement and Call-Off Contract(s); or
- if the organisations have formed a legal entity such as a limited company, enter into the Framework Agreement and Call-Off Contract(s) with that legal entity.

European Single Procurement Document - The European Union is introducing a European Single Procurement Document (“ESPD”) with the intention of harmonising certain elements of the qualification process to take part in public procurement procedures across the EU.

If an Applicant wishes to submit a completed ESPD at this stage of the procedure, the Authorities will accept this document - as we are generally required to do under Regulation 59 of the Regulations. However, the ESPD is not a requirement of the Authorities’ procurement process – Applicants may simply complete the Council’s SQ Response Document as the Authorities’ SQ Response Document covers all the required information.

If your organisation does decide to submit an ESPD, the Authorities will use the information in that document as follows:

- Where the ESPD fully addresses, with sufficient information, any of the sections or individual questions in the SQ Response Document, the Authorities will use the information in the Applicant’s ESPD to determine whether or not the Applicant satisfies the requirement(s) for selection covered in that document. No further information will be required to satisfy the relevant section, as long as the information in the ESPD is relevant and sufficient.
- Where the ESPD **does not** address any of the sections or individual questions in the SQ Response Document, the Applicant submitting an ESPD must also provide additional information to satisfy any section which is not covered.

If an Applicant intends to submit an ESPD in respect of this procurement, it is the Applicant’s responsibility to compare its ESPD with the requirements of this SQ, and to supply any additional information, required by the Authorities, but not contained in the ESPD. Failure to do this could lead to the Applicant being disqualified.

For example: The format of the ESPD does not include information about Employers’ Liability Insurance. As the SQ Response Document contains a question (see Question 8.1) to check whether the Applicant has (or can obtain) a sufficient level of Employers’ Liability Insurance, and if an Applicant only submits an ESPD without any supplemental information about the level of Employers’ Liability Insurance held, this could cause the Applicant to FAIL this question and not progress to the next stage of the process, due to failing to meet the requirements for selection.

2.4 Submission of SQ Response Document

- 2.4.1 The closing date and time for receipt of a completed SQ Response Document is **12 Noon on 11 November 2016** (Deadline).
- 2.4.2 The Authorities operate an e-Tendering portal known as The Chest. A completed SQ Response Document must be submitted by the Deadline via The Chest at www.the-

- chest.org.uk. No other method (i.e. by hand, fax, email or post) of submitting a SQ Response Document is acceptable.
- 2.4.3 If you have any technical problems with 'The Chest' please contact the helpdesk on: Email: ProcontractSuppliers@proactis.com or Telephone: +44 330 005 0352.
- 2.4.4 Applicants must be explicit and comprehensive in their responses in the SQ Response Document as this will be the single source of information on which responses will be scored and ranked. Applicants are advised not to make any assumptions about their past or current supplier relationships with the Authorities. Such prior business relationships will not be taken into account in the selection procedure.
- 2.4.5 When submitting a SQ Response Document, Applicants must ensure that they:
- submit in a manner that makes it easy for the Authorities to evaluate
 - submit in the same order as laid out in the SQ Response Document
 - pay attention to the background information section
 - read the SQ Response Document questions carefully
 - answer the questions asked – not ones from other pre-qualification questionnaires the Applicant may have submitted to other councils
 - remember to answer all of the questions fully including the pass/fail questions and questions which are for 'information only'
 - note the Authorities' stipulations regarding the size and number for the submission of attachments which can be submitted via The Chest.
- 2.4.6 Applicants must ensure that they leave sufficient time to upload their completed SQ Response Document prior to the closing date/time. The Authorities cannot be held responsible for technical/ICT issues in leaving the uploading of a SQ Response Document too late.
- 2.4.7 No SQ Response Document received after the Deadline will be considered by the Authorities other than where there are exceptional circumstances which may be considered by the Borough Solicitor in his or her sole discretion.
- 2.4.8 Please note that SQ Response Documents that are partly through being uploaded at the closing time will be considered to have not been received by the Authorities.
- 2.4.9 Please do not include generic marketing material within your SQ Response Document. For the avoidance of doubt these will neither be considered nor scored. Only include literature/brochures that are relevant to the questions and have been requested. Should you upload brochures, company literature, etc, the relevant sections must be clearly marked and identified in relation to your response to a question in order for your submission to be evaluated.
- 2.4.10 The SQ Response Document must contain all of the information requested in the specified format and be completed in full and signed where indicated, only where indicated are appendices and/or additional supporting documents to be enclosed with your SQ Response Document.
- 2.4.11 All response documents / appendices must be clearly labelled with the question in which they refer to. Failure to label clearly may result in important information being missed by the evaluation panel, affecting your score.
- 2.4.12 Failure to complete all relevant sections or sign the document where required will render your SQ Response Document incomplete or non-compliant and may invalidate your submission.

- 2.4.13 The returned SQ Response Document and any permissible accompanying information must be in Word compatible formats. Applicants are also welcome to submit PDF versions. Failure to provide these formats may result in the disqualification of your SQ Response Document.
- 2.4.14 The SQ Response Document must be completed in clear English and any financial data must be submitted in or converted into pounds sterling. Where official documents include financial data in a foreign currency a sterling equivalent must be provided.
- 2.4.15 The Authorities reserve the right to reject any SQ Response Document which is not submitted in accordance with the instructions given in this SQ Guidance Document.
- 2.4.16 The Authorities do not accept responsibility for the premature opening or mishandling of a SQ Response Document that is not submitted in accordance with the instructions in this SQ Guidance Document.
- 2.4.17 All Applicants are solely responsible for their costs and expenses incurred in connection with the preparation and submission of the SQ Response Document. In addition, the Applicant will be solely responsible for their costs and expenses incurred in connection with all future stages of the procurement process. Under no circumstances will the Authorities or any of their advisers be liable for any costs or expenses borne by an Applicant, its sub-contractors or advisers arising directly or indirectly from this procurement or whether the Applicant is successful or otherwise or whether the Authorities exercise their right to alter or terminate this procurement. The Authorities shall not consider applications for reimbursements from Applicants. Any Applicant that submits a request for reimbursement shall be declined.
- 2.4.18 Applicants are deemed to understand fully the processes that the Authorities are required to follow under relevant European and UK legislation, particularly in relation to the Regulations.

3. Evaluation of responses in SQ Response Document

3.1 Consideration of SQ Response Document

- 3.1.1 When evaluating a response in a SQ Response Document, the Authorities will take into account whether all of the requirements of the SQ documentation have been met; such as whether all of the additional documentation requested has been included with the response. Applicants may be asked to clarify their answers. Supplementary information provided shall be considered carefully before inclusion in the evaluation process to ensure compliance with the Regulations.
- 3.1.2 The Authorities reserve the right to contact the named customer contact in section 6 of the SQ Response Document regarding the contracts included in section 6. The named customer contact does not owe the Authorities any duty of care or have any legal liability, except for any deceitful or maliciously false statements of fact.

3.2 Disqualification / Rejection

- 3.2.1 The Authorities shall disqualify any Applicant who must be disqualified by virtue of Regulation 57 of the Regulations and fails to provide sufficient information regarding the remedy of these requirements or the Authorities are satisfied there are overriding requirements in the general interest which justify disregarding such disqualification.
- <http://www.legislation.gov.uk/ukxi/2015/102/regulation/57/made>
- 3.2.2 The Authorities may disqualify any Applicant who submits a completed SQ Response Document (or any part of) after the Deadline.

3.3 Evaluation methodology

- 3.3.1 The Applicants who are not disqualified / rejected in accordance with paragraph 3.2 shall be subject to a compliance review to determine whether the Applicant has completed all necessary sections of the SQ Response Document and submitted relevant requested supporting documents (“Compliance Review”).
- 3.3.2 Applicants who pass the Compliance Review shall then be evaluated on the selection and short-listing criteria listed in the SQ. These criteria take into account the economic and financial standing and the technical and professional ability of the Applicants and will be in accordance with Regulation 58 of the Regulations.
- 3.3.3 The Authorities reserve the right to disregard any SQ Response Document that is materially non-compliant and thereby eliminate the Applicant from any further participation in the procurement process.
- 3.3.4 Applicants must continue to comply with the undertakings given in their SQ Response Document, and with the requirements of the SQ, including the eligibility requirements referred to in paragraph 3.2 (Disqualification/Rejection) for the duration of the tender process.

3.4 Scoring and weightings

- 3.4.1 Section 6 and Section 9 of Schedule 1 in the SQ Response Document, will be scored out of a possible 100%.
- 3.4.2 In the event that two (2) or more submissions achieve the same total pass score i.e. tied in 4th place, the submission which scores the highest in Question 6.1 of Schedule 1 Section 6 – Technical and Professional Ability will be ranked highest. If this is not a determining factor, then the submission which scores the highest in Question 9.2 of Schedule 1 Section 9 – Additional Technical and Professional Ability will be ranked highest.
- 3.4.3 In order for an Applicant to progress through to the next stage of the process, the Applicant must achieve the following:
- Pass of the Compliance Review; and
 - Provide a fully completed response; and
 - Pass all other ‘pass/fail’ questions; and
 - Meet the **minimum pass score of 51%**
- 3.4.4 Questions in Part 1 of Schedule 1 in the SQ Response Document will not be assessed however they must still be answered in full. Applicants are therefore strongly advised to ensure they answer all questions within each section.
- 3.4.5 Failure to answer a question which is **scored** will result in a score of ‘zero’ for that question.
- 3.4.6 Failure to provide an **acceptable explanation** with any **Fail Questions** answered will fail on Schedule 1 as a result.
- 3.4.7 Please ensure your responses are in line with the question word/page limits. Anything beyond the page limit will not be taken into consideration by the Authorities. Cross referencing response information is not deemed a valid form of response by the Authorities.
- 3.4.8 **Scoring Principles** – Where questions / sections are to be scored in accordance with the scoring methodology set out below the Authorities will score the response

using the information provided in response to the relevant question within the SQ Response Document. The Authorities reserve the right to reject any submission which scores zero or one against any individual question, even if it meets or exceeds the minimum 51% threshold overall (see paragraph 3.4.3).

- 3.4.9 **Weightings** – Questions that are scored shall have a weighting applied to them as follows:

Scored Question	Weighting
Section 6	55%
Question 9.1	5%
Question 9.2	14%
Question 9.3	8%
Question 9.4	8%
Question 9.6	5%
Question 9.7	5%

For each scored question the actual score given is divided by the maximum score possible then multiplied by the weighting, example as follows:

*E.g. if a question carries a weighting of 20% and the maximum score allowed = 5.
Assuming the actual score given = 4, the weighted score would be $20 \times 4 / 5 = 16\%$*

The weighted scores for each scored question are totalled to rank Applicants.

3.5 Responses to Section 4 and Section 5

- 3.5.1 Please note that these accounts must be for the actual organisation applying for the contract and not for the group or holding company of which your organisation may be part of; unless the group or holding company for which the accounts have previously been tabled, are to act as a guarantor or part of a consortium.

3.5.2 Methodology to determine Pass/Fail in Section 4 and 5

3.5.2.1 In reaching their conclusion on an Applicant's financial standing and suitability to deliver the identified opportunity, the financial information presented will be assessed by the Authorities' in-house, professionally qualified financial due diligence team.

3.5.2.2 If information is not provided within your submission this will result in a 'FAIL' and the Applicant will not proceed to the next stage of the process.

3.5.2.3 Where Applicants are able to offer a guarantee or similar support as noted in section 5 from a group/holding/parent company the accounts of such organisation will be reviewed alongside those submitted in question 4.1 to help evaluate the financial standing of the Applicant.

3.5.2.4 The information provided will be reviewed by the Authorities and the Applicant's submission will 'FAIL' and the Applicant will not proceed to the next stage of the process if any one or more of the following apply:

1. major risks have been identified by the Applicant's auditors or by the Authorities (such risks may take account of financial probity as well as financial strength and capacity);
2. 90% or more of the Applicant's assets are classified as "work in progress";
3. the Applicant has a yearly turnover of less than three million pounds (£3,000,000), being twice the estimated annual contract value for the Authorities;
4. the Applicant has not made a profit for the last two financial years (or in the event of a loss satisfactory evidence that this is not indicative of recurring losses) and/or
5. Current liabilities are greater than 2 times the current assets of the Applicant.

3.5.2.5 Where an Applicant fails any one of the requirements in 1 to 5 above the Authorities reserve the right to consider the financial information submitted to identify any reasonable reason which may justify the Applicant still being considered to have sufficient financial standing to carry out this project and thus be awarded a 'PASS'. Any exercise of the Authorities' discretion will be proportionate and so as not to (i) have the effect of distorting competition; and (ii) violate the principles of non-discrimination and transparency.

3.6 Responses to Section 6

3.6.1 The relevant experience and contract examples provided will be evaluated by the Authorities to determine the technical and professional ability of each Applicant in delivering projects that are relevant to the Authorities' key requirements. The score awarded to Question 6.1 (and/or 6.2 or Question 6.3 if applicable) will represent 55% of the total available score for the SQ. For the avoidance of doubt, the score will be awarded and weighting applied by evaluating all examples provided together (as opposed to 18.3% per example).

3.6.2 A mark between zero and five will be awarded by the evaluation panel, using the following scoring guide:

Score	Rating	Criteria for Awarding Score
0	No response provided	Insufficient information provided, or irrelevant response that shows no previous experience of delivering projects similar in scope to the Authorities' key requirements.
1	Unsatisfactory	Response with omissions and/or issues that only partially evidences previous experience of delivering projects similar in scope to the Authorities' key requirements. This includes responses that refer to a limited number of examples that evidence few of the key requirements.
2	Weak	Response with, omissions and/ or issues that demonstrates limited experience of delivering projects similar in scope to the Authorities' key requirements. This includes responses that refer to a project, or collection of projects that do not fully evidence the key

Score	Rating	Criteria for Awarding Score
		requirements.
3	Acceptable	Response provides satisfactory evidence of delivering projects similar in scope and broadly covering the majority of the Authorities' key requirements. This includes responses that refer to a number of projects that collectively evidence the majority of the key requirements, or a single project that provides such evidence.
4	Good	Response provides good evidence of delivering projects which clearly meet most of the key requirements. The response evidences a depth and range of experience in delivering projects similar in scope to the Authorities' key requirements.
5	Very Good	Response provides very good evidence of delivering projects, with directly relevant experience of delivering all the Authorities' key requirements being clearly evidenced in the examples provided. The response evidences a comprehensive range and depth of experience in delivering projects similar in scope to the Authorities' key requirements.

3.7 Responses to Section 9

3.7.1 Each response to Questions 9.1, 9.2, 9.3, 9.4, 9.6 and 9.7 will be scored in accordance with the following scoring guide. The score for the response to each question will be weighted by the % shown in each response box. The individual weighted scores will then be aggregated to give an overall score for Section 9.

Scoring methodology for Questions 9.1, 9.2, 9.3, 9.4, 9.6 and 9.7

Score	Rating	Criteria for Awarding Score
0	No response provided	Insufficient information provided or irrelevant response.
1	Unsatisfactory	Response with omissions and/or issues that give rise to serious concerns on the Applicant's experience in relation to the question asked.
2	Weak	Response with omissions and/or issues that give rise to minor concerns on the Applicant's experience in relation to the question asked.
3	Acceptable	Response that evidences an acceptable degree of Applicant experience in relation to the question asked.
4	Good	Response that clearly demonstrates a good depth of Applicant experience in relation to the question asked with evidence of some relevant issues/consideration and previous experience.

Score	Rating	Criteria for Awarding Score
5	Very Good	Response that clearly demonstrates very good Applicant experience in relation to the question asked with evidence of multiple relevant issues/consideration and previous experience.

3.8 Next stage

3.8.1 In order for an Applicant to progress through to the ISOS stage of the process, its SQ Response Document must achieve the following:

- Pass the Compliance Review;
- Pass all pass/fail questions;
- Meet or exceed the minimum total weighted score pass mark of 51% on scored questions;
- Be in the top four (4) ranked Applicants after evaluation of SQ Response Document submissions - the Authorities reserve the right to invite five (5) Applicants if the scores of the fourth and fifth placed Applicants are 2% or less apart. In the event that two (2) or more SQ Response Document submissions achieve the same total pass score (i.e. tied in 4th place), the evaluation will refer to the highest scores achieved in specific questions on additional technical experience.

3.9 Evaluation of SQ Response Documents following Compliance Review

Schedule/Section	Assessment	“Fail” on
Schedule 1/Part 1/Section 1 Potential Supplier Information	This section is required for information purposes only , to ensure the Authorities have the correct details of all Applicants. NB: This section must be completed by all members of a consortium (including Significant Subcontractors).	Incomplete information (compliance issue)
Schedule 1/Part2/Section 2 Grounds for Mandatory Exclusion	This section will be evaluated on a pass / fail basis . NB: This section must be completed by all members of a consortium (including Significant Subcontractors).	Unlawful Actions: If an Applicant or any member of a consortium has answered ‘yes’ to any of the statements, the Authorities reserve the right to disqualify the Applicant from the process at this point in the evaluation. Please see Annex A for further information on Mandatory Exclusion.
Schedule 1/Part 2/Section 3 Grounds for Discretionary Exclusion	This section will be evaluated on a pass / fail basis . NB: This section must be completed by all members of a consortium (including Significant Subcontractors).	Unlawful Actions: If an Applicant or any member of a consortium has answered ‘yes’ to any of the statements, the Authorities reserve the right to disqualify the Applicant from the process at this point in the evaluation. Please see Annex A for further information on Discretionary Exclusion.
Schedule 1/Part 3/Section 4 & 5 Economic and Financial Standing	This section will be evaluated on a pass / fail basis . Section 4 will, where the Applicant confirms that each consortium member will remain fully responsible for delivery of the contractual obligations to the Authorities, be assessed across the consortium as a whole. Where this is not the case, only the information supplied in respect of those consortium members which will be so responsible will be taken into account.	Incomplete responses; and/or ; a ‘fail’ if given for a pass / fail question. A fail will be given should any one or more of a consortium’s members fail one or more of these questions.

Schedule/Section	Assessment	“Fail” on
<p>Schedule 1/Part 3/Section 6. Technical & Professional Ability</p>	<p>The questions in section 6 will be evaluated on a scored basis as set out in paragraph 3.6 above. The relevant % weighting is stated individually for each question within the SQ Response Document. The total weighting for the scored questions in section 6 is 55%.</p> <p>All members of the proposed consortium are required to provide the information required in Part 3 of the Selection Questionnaire Response Document as part of a single composite response. A consortium should clearly attribute the technical abilities to the relevant member of the consortium.</p> <p>Section 6 will be assessed on the basis of the information supplied in respect of the consortium as a whole. This is provided that the Authorities are satisfied, on the basis of the information supplied by the Applicant, that the consortium member(s) with the relevant experience will be responsible for the delivery of the Contract.</p>	<p>Incomplete responses; and/or;</p> <p>the Authorities reserve the right to reject any submission which scores zero or one against any individual scored question, even if it meets or exceeds the minimum 51% threshold overall.</p>
<p>Schedule 1/Part 3/Section 7. Modern Slavery Act 2015</p>	<p>This section will be evaluated on a pass/fail basis.</p>	<p>Unlawful Actions: If an Applicant or any member of a consortium has answered ‘no’ to question 7.2, the Authorities reserve the right to disqualify the Applicant from the process at this point in the evaluation.</p>

Schedule/Section	Assessment	“Fail” on
<p>Schedule 1/Part 3/Section 8. Additional Questions 8.1 - Insurance</p>	<p>This section will be evaluated on a pass/fail basis.</p> <p>Information to be provided by each member of a consortium as set out in the SQ.</p> <p>Section 8 will be assessed on the basis of the information supplied in respect of the consortium as a whole. This is provided that the Council is satisfied, on the basis of the information supplied by the Applicant, that the consortium member(s) with the relevant experience will be responsible for the delivery of the Contract.</p>	<p>Incomplete responses; and/or;</p> <p>a ‘fail’ if given for a pass / fail question. A fail will be given should any one or more of a consortium’s members fail one or more of these questions.</p>
<p>Schedule 1/Part 3/Section 9. Additional Technical and Professional Questions</p>	<p>The questions in section 9 will be evaluated in a number of ways, scored and pass / fail basis as indicated in the SQ Response Document. Where responses to questions are to be scored in accordance with the scoring methodology set out in paragraph 3.7 above, the relevant % weighting is stated individually for each question within the SQ Response Document. The total weighting for the scored questions in section 9 is 45%.</p> <p>Information to be provided by each member of a consortium as set out in the SQ.</p> <p>A consortium should clearly attribute the technical abilities to the relevant member of the consortium.</p>	<p>Incomplete responses; and/or;</p> <p>a ‘fail’ if given for a pass / fail question. A fail will be given should any one or more of a consortium’s members fail one or more of these questions.</p> <p>The Authorities reserve the right to reject any submission which scores zero or one against any individual scored question, even if it meets or exceeds the minimum 51% threshold overall.</p>

Schedule/Section	Assessment	“Fail” on
	Section 9 will be assessed on the basis of the information supplied in respect of the consortium as a whole. This is provided that the Authorities are satisfied, on the basis of the information supplied by the Applicant, that the consortium member(s) with the relevant experience will be responsible for the delivery of the Contract.	
Schedule 1/Section 10 Undertaking Declaration	This section will be evaluated on a pass/fail basis . NB: Separate undertakings, one in respect of each consortium member should be submitted by the lead Applicant.	Incomplete or no signature by the Applicant or any member of a consortium.
Schedule 2 Certificate of Non-Collusion and Non-Canvassing	This schedule will be evaluated on a pass / fail basis . NB: This schedule must be completed by all members of a consortium (including Significant Subcontractors).	Incomplete or no signature by the Applicant or any member of a consortium.
Schedule 3 Commitment To Comply With The Employment Relations Act 1999 (Blacklist) Regulations 2010	This schedule will be evaluated on a pass / fail basis . NB: This schedule must be completed by all members of a consortium (including Significant Subcontractors).	Unlawful Actions: If an Applicant or any member of a consortium cannot confirm any of the statements, the Authorities reserve the right to disqualify the Applicant from the process at this point in the evaluation.

3.10 Post SQ Response Document Submission Clarifications

The Authorities reserve the right, after SQ Response Documents have been opened, to clarify with any Applicant via The Chest, any aspect of their SQ Response Document (but shall not be obliged to do so) and to retain all and any of the information supplied. It is imperative that all Applicants ensure that their primary contact is available during the SQ Response Document evaluation period in order to respond to any clarifications that are asked.

4. National Fraud Initiative

- 4.1 The Applicants should be aware that the Authorities may take part in bi-annual National Fraud Initiative (NFI) exercises undertaken by the Cabinet Office or equivalent body. This requires that the Authorities provide details of the transactional activity for a period of time, namely invoice details, plus supplier master-file data e.g. company name, vat / company registration details, bank account details. Data matching exercises are then undertaken by the Cabinet Office, or equivalent body, to assist in the prevention and detection of fraud.

5. Whistleblowing Policy

- 5.1 The Applicant shall comply with the Authorities' whistle blowing policies which shall ensure that employees of the Applicant are able to bring to the attention of the Authorities malpractice, fraud and breach of laws on the part of the Applicant or any sub-contractor without fear of disciplinary and other retribution or discriminatory action.
- 5.2 Applicants and their employees may wish to acquaint themselves with the implications of the Authorities' whistle blowing policies for them. Applicants' employees may wish, for example, to report any breaches in the way in which the Contract is being performed or any unacceptable behaviour by either a fellow employee or a Council employee.
- 5.3 For further information and guidance along with details as to how to make such a disclosure, please email whistleblowing@cheshireeast.gov.uk.

6. Freedom of Information Act and Environmental Information Statement

- 6.1 The Authorities are subject to The Freedom of Information Act 2000 ("Act") and The Environmental Information Regulations 2004 ("EIR")
- <http://www.legislation.gov.uk/ukxi/2004/3391/part/1/made>
- 6.2 As part of the Authorities' obligations under the Act or EIR, they may be required to disclose information concerning the procurement process or the Contract to anyone who makes a reasonable request.
- 6.3 If Applicants consider that any of the information provided in their SQ Responses is commercially sensitive (meaning it could reasonably cause prejudice to the organisation if disclosed to a third party) then it should be clearly marked as "Not for disclosure to third parties" together with valid reasons in support of the information being exempt from disclosure under the Act and the EIR.

- 6.4 The Authorities will endeavour to consult with Applicants and have regard to comments and any objections before it releases any information to a third party under the Act or the EIR. However the Authorities shall be entitled to determine in their absolute discretion whether any information is exempt from the Act and/or the EIR, or is to be disclosed in response to a request of information. The Authorities must make their decision on disclosure in accordance with the provisions of the Act or the EIR and can only withhold information if it is covered by an exemption from disclosure under the Act or the EIR.
- 6.5 The Authorities will not be held liable for any loss or prejudice caused by the disclosure of information:
- 6.5.1 that has not been clearly marked as "Not for disclosure to third parties" with supporting reasons (referring to the relevant category of exemption under the Act or EIR where possible); or
 - 6.5.2 that does not fall into a category of information that is exempt from disclosure under the Act or EIR (for example, a trade secret or would be likely to prejudice the commercial interests of any person); or
 - 6.5.3 in cases where there is no absolute statutory duty to withhold information, then notwithstanding the previous clauses, in circumstances where it is in the public interest to disclose any such information.

Annex A

Mandatory Exclusion Grounds

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

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;

Fraud

Any of the following offences, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the convention on the protection of the financial interests of the European Communities:

- 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;

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;

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

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

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 26th February 2015 in England, Wales or Northern Ireland

Discretionary exclusions

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 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 in any jurisdiction other than the UK), 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 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.

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 to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

Additional exclusion grounds

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

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).