



**Area 4 Interim**

**Design Services Contract (DSC)**

**Asset Delivery (AD)**

**Instructions for Tenderers**

**Annex 1: Selection Questionnaire**

**INSTRUCTIONS FOR TENDERERS FOR**  
**AREA 4 DESIGN SERVICES CONSULTANCY CONTRACT**  
**ANNEX 1: SELECTION QUESTIONNAIRE**  
**CONTENTS AMENDMENT SHEET**

<b>Amend. No.</b>	<b>Revision No.</b>	<b>Amendments</b>	<b>Initials</b>	<b>Date</b>
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## **1 GUIDANCE ON COMPLETION OF SELECTION QUESTIONNAIRE**

### **1.1 General**

- 1.1.1 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.
- 1.1.2 “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.
- 1.1.3 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.
- 1.1.4 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.
- 1.1.5 For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
- 1.1.6 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 the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.
- 1.1.7 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.

**1.2 Constructionline**

- 1.2.1 Constructionline is a UK based pre-qualification certification service for construction-related contractors and consultants. If you are already registered with Constructionline, you will need to provide your account number in the table below. Constructionline members are requested to ensure their account is valid, up to date and is showing a “Verified” status.

Constructionline Information		
Are you registered with Constructionline?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please provide your Constructionline account number.		
Is your Constructionline account up to date and showing a “Verified” status?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

- 1.2.2 For Unincorporated Joint Ventures or Consortiums, each member of the group must ensure their accounts are up to date as described above. If you supply Highways England with a Constructionline account which is not up to date at the time of tender as mentioned above, then you may be excluded from this competition.
- 1.2.3 Provided that all relevant information in Constructionline is complete and as described in paragraph 1.2.1, Constructionline members will be exempt from completing the following questions in the Selection Questionnaire:
- (a) Section 1 - Potential Supplier Information:
    - Questions 1.1 (a) to (k)
    - Questions 1.1 (o) and (p)
  - (b) Section 2 – Grounds for Mandatory Exclusion
  - (c) Section 2 – Grounds for Discretionary Exclusion
- 1.2.4 The Selection Questionnaire Assessment Panel will assess the tenderers Constructionline information entered in the Bravo Qualification Envelope (if applicable). If you have entered Constructionline details that are found to be invalid, then the tender may be rejected.
- 1.2.5 Tenderers should note that registration with Constructionline is not mandatory. Tenderers not registered with Constructionline will need to demonstrate that they meet our requirements by completing the Selection Questionnaire within this Annex. Both members and non-members of Constructionline will be evaluated against the same criteria and using the same methodology for the purpose of this competition.

**1.3 Potential Supplier Information and Exclusion Grounds: Parts 1 and 2**

- 1.3.1 The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion. If there are grounds for exclusion, there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning).
- 1.3.2 A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently, we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example, these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

**1.4 Supplier Selection Questions: Part 3**

- 1.4.1 This document provides 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 the selection questions on behalf of the consortium and/or any sub-contractors.
- 1.4.2 If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay, we reserve the right to amend the contract award decision and award to the next compliant bidder.

**1.5 Consequences of misrepresentation**

- 1.5.1 If you seriously misrepresent any 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 of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

**PART 1: POTENTIAL SUPPLIER INFORMATION**

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 1 - Potential Supplier Information		
Question number	Question	Response
1.1(a)	Full name of the potential supplier submitting the information	
1.1(b) – (i)	Registered office address (if applicable)	
1.1(b) – (ii)	Registered website address (if applicable)	
1.1(c)	Trading status a) public limited company b) 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 in country of origin	
1.1(e)	Company registration number (if applicable)	
1.1(f)	Charity registration number (if applicable)	
1.1(g)	Head office DUNS number (if applicable)	
1.1(h)	Registered VAT number	
1.1(i) - (i)	If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
1.1(i) - (ii)	If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s).	
1.1(j) - (i)	Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
1.1(j) - (ii)	If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this.	
1.1(k)	Trading name(s) that will be used if successful in this procurement	

Section 1 - Potential Supplier Information		
Question number	Question	Response
1.1(l)	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(m)	Are you a Small, Medium or Micro Enterprise (SME) <sup>1</sup> ?	Yes <input type="checkbox"/> No <input type="checkbox"/>
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: <sup>2</sup> - 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 (for existing companies the 6 April 2016 should be used); - Which conditions for being a PSC are met; - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more. <sup>3</sup>  (Please enter N/A if not applicable)	
1.1(o)	Details of immediate parent company: - Full name of the immediate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable)  (Please enter N/A if not applicable)	

<sup>1</sup> See EU definition of SME [https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition\\_en](https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en)

<sup>2</sup> UK companies, Societates European (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. [See PSC guidance.](#)

<sup>3</sup> Central Government contracting authorities should use this information to have the PSC information for the preferred supplier checked before award.



Section 1 - Potential Supplier Information		
Question number	Question	Response
1.1(p)	<p>Details of ultimate parent company:</p> <ul style="list-style-type: none"> <li>- Full name of the ultimate parent company</li> <li>- Registered office address (if applicable)</li> <li>- Registration number (if applicable)</li> <li>- Head office DUNS number (if applicable)</li> <li>- Head office VAT number (if applicable)</li> </ul> <p>(Please enter N/A if not applicable)</p>	

Please provide the following information about your approach to this procurement:

Section 1 - Bidding Model		
Question number	Question	Response
1.2(a) - (i)	Are you bidding as the lead contact for a group of economic operators?	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3.</p> <p>If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3.</p>
1.2(a) - (ii)	Name of group of economic operators (if applicable)	
1.2(a) - (iii)	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.	
1.2(b) - (i)	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>

Section 1 - Bidding Model						
Question number	Question	Response				
1.2(b) - (ii)	If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.					
	Name					
	Registered address					
	Trading status					
	Company registration number					
	Head Office DUNS number (if applicable)					
	Registered VAT number					
	Type of organisation					
	SME (Yes/No)					
	The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables					
	The approximate % of contractual obligations assigned to each sub-contractor					

**Contact details and declaration**

I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

I understand that the information will be used in the selection process to assess my organisation's suitability to be invited 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.

Section 1 - Contact Details and Declaration		
Question number	Question	Response
1.3(a)	Contact name	
1.3(b)	Name of organisation	
1.3(c)	Role in organisation	
1.3(d)	Phone number	
1.3(e)	E-mail address	
1.3(f)	Postal address	
1.3(g)	Signature (electronic is acceptable)	
1.3(h)	Date	

**PART 2: EXCLUSION GROUNDS**

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 2 - Grounds for Mandatory Exclusion		
Question number	Question	Response
2.1(a)	<p><b>Regulations 57(1) and (2)</b></p> <p>The detailed grounds for mandatory exclusion of an organisation are set out in s <a href="#">Appendix A</a>, which should be referred to before completing these questions.</p> <p>Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed in <a href="#">Appendix A</a>.</p>	
	Participation in a criminal organisation.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Corruption.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Fraud.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Terrorist offences or offences linked to terrorist activities	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Money laundering or terrorist financing	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Child labour and other forms of trafficking in human beings	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
2.1(b)	If you have answered yes to question 2.1(a), please provide further details. Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction, Identity of who has been convicted	

Section 2 - Grounds for Mandatory Exclusion		
Question number	Question	Response
	If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	
2.2	If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self-Cleaning)	Yes <input type="checkbox"/> No <input type="checkbox"/>
2.3(a)	<b>Regulation 57(3)</b> Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?	Yes <input type="checkbox"/> No <input type="checkbox"/>
2.3(b)	If you have answered yes to question 2.3(a), please provide further details. Please also confirm 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.	

Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

Please Note: The 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.

Section 3 - Grounds for Discretionary Exclusion		
Question number	Question	Response
3.1	<p><b>Regulation 57 (8)</b></p> <p>The detailed grounds for discretionary exclusion of an organisation are set out in <a href="#">Appendix B</a>, which should be referred to before completing these questions.</p> <p>Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation.</p>	
3.1(a)	Breach of environmental obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1 (b)	Breach of social obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1 (c)	Breach of labour law obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(d)	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?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(e)	Guilty of grave professional misconduct?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(f)	Entered into agreements with other economic operators aimed at distorting competition?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(g)	Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(h)	Been involved in the preparation of the procurement procedure?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2

3.1(i)	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?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(j)	Please answer the following statements	
3.1(j) - (i)	The organisation is 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.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 3.2
3.1(j) - (ii)	The organisation has withheld such information.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 3.2
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 3.2
3.1(j)-(iv)	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.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 3.2
3.2	If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)	

**PART 3: SELECTION QUESTIONS<sup>4</sup>**

Section 4 - Economic and Financial Standing		
Question number	Question	Response
4.1	Are you able to provide a copy of your audited accounts for the last two years, if requested? If no, can you provide <b>one</b> of the following: answer with Y/N in the relevant box.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(c) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).	Yes <input type="checkbox"/> No <input type="checkbox"/>
4.2	Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering 'Yes' or 'No' that you meet the requirements set out.	Yes <input type="checkbox"/> No <input type="checkbox"/>

<sup>4</sup> [See Action Note 8/16 Updated Standard Selection Questionnaire](#)



Section 5 - Modern Slavery Act 2015		
Requirements under Modern Slavery Act 2015		
7.1	<p>Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?</p> <p>Note: A relevant commercial organisation is one that carries on a business in the UK with a total annual turnover of £36m or more.</p>	<p>Yes <input type="checkbox"/></p> <p>N/A <input type="checkbox"/></p>
7.2	<p>If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?</p> <p>Note: The relevant organisation must prepare a slavery and human trafficking statement for each financial year. The statement sets out the steps the organisation has taken in the financial year to ensure that slavery and human trafficking is not taking place:</p> <ul style="list-style-type: none"> <li>○ in any of its supply chains, and</li> <li>○ in any part of its own business.</li> </ul>	<p>Yes <input type="checkbox"/></p> <p>Please provide the relevant url ...</p> <p>No <input type="checkbox"/></p> <p>Please provide an explanation</p>
<p>Section 54 of the Act is available at <a href="http://www.legislation.gov.uk/ukpga/2015/30/section/54/enacted#section-54-2">http://www.legislation.gov.uk/ukpga/2015/30/section/54/enacted#section-54-2</a></p> <p>Further guidance is available at <a href="https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide">https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide</a></p>		

**6. Additional Questions**

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

Section 6 - Additional Questions		
6.1 – Insurance		
a.	Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover detailed in the Scope Annex 4	
6.2 - Skills and Apprentices <sup>5</sup>		(please refer to supplier selection guidance)
a.	Public procurement of contracts with a full life value of £10 million and above and duration of 12 months and above	

<sup>5</sup> [Procurement Policy Note 14/15– Supporting Apprenticeships and Skills Through Public Procurement](#)

	<p>should be used to support skills development and delivery of the apprenticeship commitment. This policy is set out in detail in Procurement Policy Note 14/15.</p> <p>Please confirm if you will be supporting apprenticeships and skills development through this contract.</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>
b.	<p>If yes, can you provide at a later stage documentary evidence to support your commitment to developing and investing in skills, development and apprenticeships to build a more skilled and productive workforce and reducing the risks of supply constraints and increasing labour cost inflation?</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>
c.	<p>Do you have a process in place to ensure that your supply chain supports skills, development and apprenticeships in line with PPN 14/15 (see guidance) and can provide evidence?</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>

**8.3 - Compliance with Equality Legislation**

For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.

a.	In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?	Yes <input type="checkbox"/> No <input type="checkbox"/>
b.	<p>In the last three years, has your organisation 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 or alleged unlawful discrimination?</p> <p>If you have answered “yes” to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.</p> <p>You may be excluded if you are unable to demonstrate to Highways England’s satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>
c.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	Yes <input type="checkbox"/> No <input type="checkbox"/>

**8.4 - Environmental Management**

a.	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?</p> <p>If your answer to this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>
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8.4 - Environmental Management		
	Highways England will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless Highways England is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.	
b.	If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?	Yes <input type="checkbox"/> No <input type="checkbox"/>

8.5 - Health and Safety Policy and Capability Part 1							
You must provide all the information/evidence required in this section. Please provide details in separate Appendices. Scoring: PASS/FAIL							
<b>Exemptions:</b> If you meet the criteria below and you can provide supporting evidence, you do not need to complete the following health and safety questions n° c. to l. However, you must still complete Section 8.8 (Part 2).							
<ul style="list-style-type: none"> <li>You hold a UKAS or equivalent, accredited independent third party certificate of compliance with BS OHSAS 18001.</li> </ul>							
a.	Are you claiming exemption?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	What is the name of the scheme/certificate?			
b.	Are you providing a copy of the certificate?	<input type="checkbox"/> Yes	<input type="checkbox"/> No				
Question				Response			
c.	Are you able to demonstrate that you have a policy and organisation for health and safety (H&S) management? You are expected to have and implement an appropriate policy, regularly reviewed and signed off by the Managing Director or equivalent. The policy must be relevant to the nature and scale of your work and set out the responsibilities for health and safety management at all levels within the organisation.			<table border="1"> <tr> <td>Evidence provided?</td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> </tr> </table>	Evidence provided?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Evidence provided?	<input type="checkbox"/> Yes	<input type="checkbox"/> No					

8.5 - Health and Safety Policy and Capability Part 1			
d.	<p>Are you able to demonstrate arrangements/ procedures for ensuring that your H&amp;S measures are effective in reducing/preventing incidents, occupational ill-health and accidents?</p> <p>These should set out the arrangements for health and safety management within the organisation and should be relevant to the nature and scale of your work.</p> <p>They should set out how the company will discharge their duties under CDM2015.</p> <p>There should be a clear indication of how these arrangements are communicated to the workforce.</p>		
		Evidence provided?	<input type="checkbox"/> Yes <input type="checkbox"/> No
e.	<p>Do you have access to competent H&amp;S advice/assistance – both general and construction sector related?</p> <p>The HSE define competence as “the combination of training, skills, experience and knowledge that a person has and their ability to apply them to perform a task safely”</p> <p><a href="http://www.hse.gov.uk/competence/what-is-competence.htm">http://www.hse.gov.uk/competence/what-is-competence.htm</a></p> <p>Your organisation, and your employees, must have ready access to competent health and safety advice, preferably from within your own organisation.</p> <p>The advisor must be able to provide general health and safety advice, and also (from the same source or elsewhere) advice relating to construction health and safety issues.</p>		
		Evidence provided?	<input type="checkbox"/> Yes <input type="checkbox"/> No

8.5 - Health and Safety Policy and Capability Part 1			
f.	<p>Do you have a policy and process for providing your workforce with training and information appropriate to the type of work for which your organization is likely to bid?</p> <p>You should have in place, and implement, training arrangements to ensure your employees have the skills and understanding necessary to discharge their duties as contractors, designers or principal designers.</p> <p>You should have in place a programme for refresher training, for example a Continuing Professional Development (CPD) programme or life-long learning which will keep your employees updated on new developments and changes to legislation or good health and safety practice. This applies throughout the organisation - from Board or equivalent, to trainees.</p>	<div></div> <div> Evidence provided? <input type="checkbox"/> Yes <input type="checkbox"/> No </div>	
g.	<p>Does your workforce have H&amp;S or other relevant qualifications and experience sufficient to implement your H&amp;S policy to a standard appropriate to the work for which your organization is likely to bid?</p> <p>Employees are expected to have the appropriate qualifications and experience for the assigned tasks, unless they are under controlled and competent supervision.</p>	<div></div> <div> Evidence provided? <input type="checkbox"/> Yes <input type="checkbox"/> No </div>	
h.	<p>Do you check, review and where necessary improve your H&amp;S performance?</p> <p>You should have a system for monitoring your procedures, for auditing them at periodic intervals, and for reviewing them on an ongoing basis.</p>	<div></div> <div> Evidence provided? <input type="checkbox"/> Yes <input type="checkbox"/> No </div>	
i.	<p>Do you have procedures in place to involve your workforce in the planning and implementation of H&amp;S measures?</p> <p>You should have, and implement, an established means of consulting with your workforce on health and safety matters.</p>	<div></div> <div> Evidence provided? <input type="checkbox"/> Yes <input type="checkbox"/> No </div>	

8.5 - Health and Safety Policy and Capability Part 1			
j.	Do you operate a process of risk assessment capable of supporting safe methods of working and reliable project delivery where necessary?		
	You should have a formal means of recording and communicating safe systems of work. Identification and control of any significant occupation health (not just safety) issues should be prominent	Evidence provided?	<input type="checkbox"/> Yes <input type="checkbox"/> No
k.	Do you have arrangements for co-operating and co-ordinating your work with others (including other suppliers notably contractors)?		
	You should have arrangements in place to ensure co-operation and co-ordination between you and others you are working with.	Evidence provided?	<input type="checkbox"/> Yes <input type="checkbox"/> No
l.	Do you have arrangements for ensuring that on-site welfare provisions meet legal requirements and the needs/expectations of your employees		
	You should be able to demonstrate how you ensure suitable welfare facilities will be in place before starting work on site.	Evidence provided?	<input type="checkbox"/> Yes <input type="checkbox"/> No

8.8 - Health and Safety Policy and Capability Part 2		
<p>You must provide all the information/evidence required in this section. Please provide details in separate Appendices.</p> <p>Scoring: PASS/FAIL</p>		
<p>Assessment of suitability to be registered for the intended works will be made by Highways England based on the supplier being able to demonstrate an acceptable level of safety performance with the ability to learn from experience and apply appropriate improvement measures. Highways England's target Accident Frequency Rate (AFR) is 0.06 however the assessment of suitability seeks to be based on sound judgement, rather than just the application of an AFR test.</p>		
<p>The following information must be provided for the last three years (from 1st January 2015 to present day):</p>		
	Question	Response
a.	Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders	

8.8 - Health and Safety Policy and Capability Part 2		
	<p>in relation to the Health and Safety Executive (or equivalent body)?</p> <p>If your answer to this question was "Yes", please provide details in a separate Appendix of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p> <p>Highways England will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to Highways England's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>	
b.	<p>Has your organisation or any of its Directors or Executive Officers been prosecuted by Health and Safety Executive (or equivalent body) for a health or safety matter?</p> <p>If your answer to this question was "Yes", please provide details in a separate Appendix.</p> <p>Highways England will exclude bidder(s) that have been prosecuted for a health or safety matter unless the bidder(s) can demonstrate to Highways England's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>	
c.	<p>If you use sub-contractors, give a short summary of the processes in place to check whether any of the above circumstances apply to these other organisations.</p>	
e.	<p>Confirm the total number of work-related fatalities and (if any) provide brief details to explain what happened.</p>	
f.	<p>Provide the total number of all lost time incidents in the period (where lost time</p>	



8.8 - Health and Safety Policy and Capability Part 2		
	is equal to or greater than one working shift) and give brief details of each one.	
g.	Provide (in a separate annex) your 12 month rolling accident frequency rate for all lost time incidents (where lost time is equal to or greater than one working shift) for the period. (month by month detail is required)	
h.	Provide your 12-month rolling RIDDOR accident frequency rate for the period. (month by month detail is required)	
i.	Provide details of actions taken to improve safety performance over the last three years. (250 words max)	

## **2 SELECTION QUESTIONNAIRE EVALUATION PROCESS**

### **2.1 General**

2.1.1 The economic and financial standing of the Tenderer will be assessed by the Selection Questionnaire Assessment Panel using the information supplied in the Selection Questionnaire and information supplied by Dun and Bradstreet. The assessment will be completed on a pass/fail basis against the financial tests outlined in the Selection Questionnaire. If the Tenderer fails a test and cannot provide a guarantee in line with these instructions, then the tender will be rejected.

2.1.2 The Selection Questionnaire Assessment Panel will assess the responses to the mandatory and discretionary rejection criteria entered in the Bravo Qualification Envelope. Assessments will be made in the event of a 'yes' response being given against one or more of the discretionary rejection criteria questions, with details of the relevant incident and remedial actions taken subsequently forming the information to be assessed. Following this further assessment, if Highways England is not satisfied then the tender will be rejected.

#### Important Notice

2.1.3 Highways England will exclude a Tenderer who is guilty of serious misrepresentation in providing any information referred to within the Public Contracts Regulations 2015 or who fails to provide any such information requested by Highways England.

### **PART 1 – POTENTIAL SUPPLIER INFORMATION**

#### **2.2 Section 1 – Potential Supplier Information**

2.2.1 For information only, but if not fully completed or relevant additional information is not provided, the Supplier may be excluded. This includes information taken from a Tenderers Construction line account.

#### **2.3 Section 1 – Bidding Model**

2.3.1 For information only, but if not fully completed or relevant additional information is not provided, the Supplier may be excluded.

#### **2.4 Section 1 – Contact Details and Declaration**

2.4.1 If not fully completed and signed, the Supplier may be excluded.

### **PART 2 – EXCLUSION GROUNDS**

#### **2.5 Section 2 – Grounds for Mandatory Exclusion**

- 2.5.1 This is a pass/fail test. This includes assessing the relevant information taken from a Tenderers Constructionline account. A Supplier who does not pass the test will be excluded from further consideration and their tender will be rejected.
- 2.5.2 You will be excluded from the procurement process if there is evidence of convictions relating to specific criminal offences including, but not limited to, bribery, corruption, conspiracy, terrorism, fraud and money laundering, or if you have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security obligations (except where this is disproportionate e.g. only minor amounts involved).
- 2.5.3 If you have answered “yes” to question 2.3(a) on the non-payment of taxes or social security contributions, and have not paid or entered into a binding arrangement to pay the full amount, you may still avoid exclusion if only minor tax or social security contributions are unpaid or if you have not yet had time to fulfil your obligations since learning of the exact amount due.

‘Self-cleaning’

- 2.5.4 Any Supplier that answers ‘Yes’ to any questions in Section 2 must provide sufficient evidence, via conditional questions that follow, which provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively “self-cleans” the situation referred to in that question. The supplier must demonstrate it has taken such remedial action, to the satisfaction of Highways England in each case.
- 2.5.5 If such evidence is considered by Highways England (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.
- 2.5.6 In order for the evidence referred to above to be sufficient, the Supplier shall, as a minimum, prove that it has;
- paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
  - clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
  - taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.
- 2.5.7 The measures taken by the Supplier shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by Highways England to be insufficient, the Supplier shall be given a statement of the reasons for that decision.

- 2.5.8 A Supplier who does not pass the test will be excluded from further consideration if it cannot demonstrate to Highways England's satisfaction that appropriate remedial action has been taken to prevent further non-compliances.

## **2.6 Section 3 – Grounds for Discretionary Exclusion**

- 2.6.1 This is a pass/fail test. This includes assessing the relevant information taken from a Tenderers Constructionline account.
- 2.6.2 Highways England may exclude any Supplier who answers 'Yes' in any questions;
- 2.6.3 Highways England considers a Quality Warning Notice issued under a Highways England contract, or similar sanction under other contracts, to be an "other comparable sanction" in accordance with Question 3.1(i).

### **'Self-cleaning'**

- 2.6.4 Any Supplier that answers 'Yes' to any questions in Section D must provide sufficient evidence, via the conditional questions that follow, which provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self-cleans" the situation referred to in that question. The supplier has to demonstrate it has taken such remedial action, to the satisfaction of Highways England in each case.
- 2.6.5 If such evidence is considered by Highways England (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.
- 2.6.6 In order for the evidence referred to above to be sufficient, the Supplier shall, as a minimum, prove that it has;
- paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
  - clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
  - taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.
- 2.6.7 The measures taken by the Supplier shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by Highways England to be insufficient, the Supplier shall be given a statement of the reasons for that decision.
- 2.6.8 A Supplier who does not pass the test will be excluded from further consideration if it cannot demonstrate to Highways England's satisfaction that

appropriate remedial action has been taken to prevent further non-compliances.

Conflicts of interest

- 2.6.9 Highways England may exclude the Supplier if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.
- 2.6.10 Where there is any indication that a conflict of interest exists, or may arise then it is the responsibility of the Supplier to inform Highways England, detailing the conflict via the details that follow 3.1(g). Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by Highways England should not represent a conflict of interest for the Supplier.
- 2.6.11 Suppliers are required to notify of any potential conflicts of interest. Where a 'no' response is provided for questions in Section 3 the Supplier will receive a pass. Where a 'no' response cannot be given,
- (a) Highways England is entitled to exclude a Supplier from further consideration;
  - (b) Suppliers may set out in a separate document the relevant details and may offer a written demonstration that the factors that might give rise to a conflict of interest are not capable of distorting competition or contract delivery and management or that appropriate measures can be put in place to minimise the risk. Highways England will consider such written demonstration and may fail the Supplier from any further consideration in this procurement process if the written demonstration does not satisfy Highways England that the conflict of interest or its risk will be fully mitigated.

**PART 3 - ECONOMIC AND FINANCIAL STANDING****2.7 Section 4 – Economic and Financial Standing****2.7.1 General**

- (a) Where Suppliers have provided Constructionline account details, Highways England will cross check economic and financial standing. Where Constructionline is not available then audited accounts or other elements will need to be supplied. See Financial Source Data below (2.7.2).
- (b) Suppliers' responses will be used to undertake an assessment of their organisation's economic and financial standing. A Supplier will be contacted by Highways England if this assessment indicates that a parent or other type of guarantee is required.
- (c) The assessment of risk seeks to be based on sound business judgement, rather than just the application of formulae, and Highways England will avoid imposing overly restrictive turnover requirements unless there are good reasons for doing so. A Supplier whose financial standing is considered insufficient for the proposed Contract, will go on to the next Stage in the bidding process if it is able to provide either a Parent Company Guarantee or other suitable form of guarantee acceptable to Highways England.

**2.7.2 Financial Source Data**

- (a) Highways England will use different sources of information as part of the evaluation process.
  - Suppliers will be asked to provide the financial information described in one of 1.13.3, 1.16.3 or 1.19.3 of Section B in the Bravo Qualification Envelope if they do not have a valid Constructionline account.
  - In addition, if they do not have a valid Constructionline account where the Suppliers organisation is a subsidiary in a group, one of the responses described in a) through d) are required for the subsidiary (unless Highways England subsequently requests such information about the organisation with overall responsibility for the group).
  - Where a consortium or association is proposed, if they do not have a valid Constructionline account, one of the responses described at a) through d) below are required for each member of the consortium.

- a copy of their audited accounts for the most recent two years.
- a statement of the organisations turnover; profit and cash flow for the most recent full year of trading or,
- where a full year of trading has not been completed the same information for the period applicable.

*NOTE If this information is not available in an audited format please provide an end of period balance sheet or make the response specified at (iii).*

- a statement of the organisation's cash flow forecast for the current year and a letter from the organisation's bank outlining the current cash and credit position.
- alternative means of demonstrating financial status if trading for less than a year.

#### 2.7.3 Evaluation of the financial information provided in the Questionnaire

- (a) The following financial indicators are used to assess the candidate's suitability and stability to determine if they pass Financial Assessment and proceed to tender assessment

#### 2.7.4 Information taken from accounts:

The information taken from the accounts (A to D below) are depicted in the Financial Assessment Flow Chart.

- A. The Current Ratio (Current Assets/Current Liabilities). This indicates whether or not a business has sufficient liquid assets e.g. cash, short term debtors and stock to meet its outstanding current liabilities e.g. trade creditors, bank overdraft, lease payments, interest due.
- A current ratio of less than 0.8 is a FAIL, unless there are mitigating factors<sup>6</sup>
- B. Total Liabilities/Shareholder Funds ratio is a basic test of a company's solvency.

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<sup>2</sup>The financial evaluation process is designed to take an informed view of a company's financial status in the context of the country, market and category the Supplier sits within, rather than simply applying arbitrary rules or ratios.

For this reason there may be a number of mitigating factors that would result in a FAIL marking being changed to a PASS.

It is not possible to list here every mitigating factor that may be considered on a discrete basis; However, examples of mitigating factors could include a Loss before Tax failure, where the candidate has engaged in extensive or long term research and development, capital investment or expansion through acquisition, where all other aspects of the Supplier and/or its parent's performance indicate that the Supplier is in a sound financial position

- A total liabilities/shareholder funds ratio more than 4 is a FAIL.
  - If both of the above ratios have a FAIL score, then the overall financial assessment score is a FAIL.
- C. Profit/Loss before
- i. Pre-tax loss of more than 50% of net assets is a FAIL
  - ii. Pre-tax loss of more than 5% turnover and pre-tax loss for 3 years is a FAIL.
- D. The Contract Value to Turnover ("CVT") Calculation below indicates whether a business runs the risk of overtrading and short term insolvency. This is an analysis of the size of the proposed annual contract relative to the annual Supplier turnover.

#### 2.7.5 CVT Calculation - Tenderer bidding for a single Contract

- (a) Not used
- (b) The maximum annualised contract value exceeds 25% of the Tenderer's annual turnover

This is a fail.

If however the Supplier has failed the financial evaluation solely because of 2.7.5 (a) or 2.7.5 (b) and if the Supplier is a subsidiary, a parent company guarantee ("PCG") will be requested.

- In the case of independent traders or companies without a parent company, where the Supplier has failed the financial evaluation solely because of the Contract Value to Turnover (CVT) calculation, some appropriate form of guarantee other than a PCG will be requested where considered necessary for a particular contract.

The annual contract value of £10,200,000 (ten million and two hundred thousand pounds) is to be used for comparison purposes.

#### 2.7.6 Not used

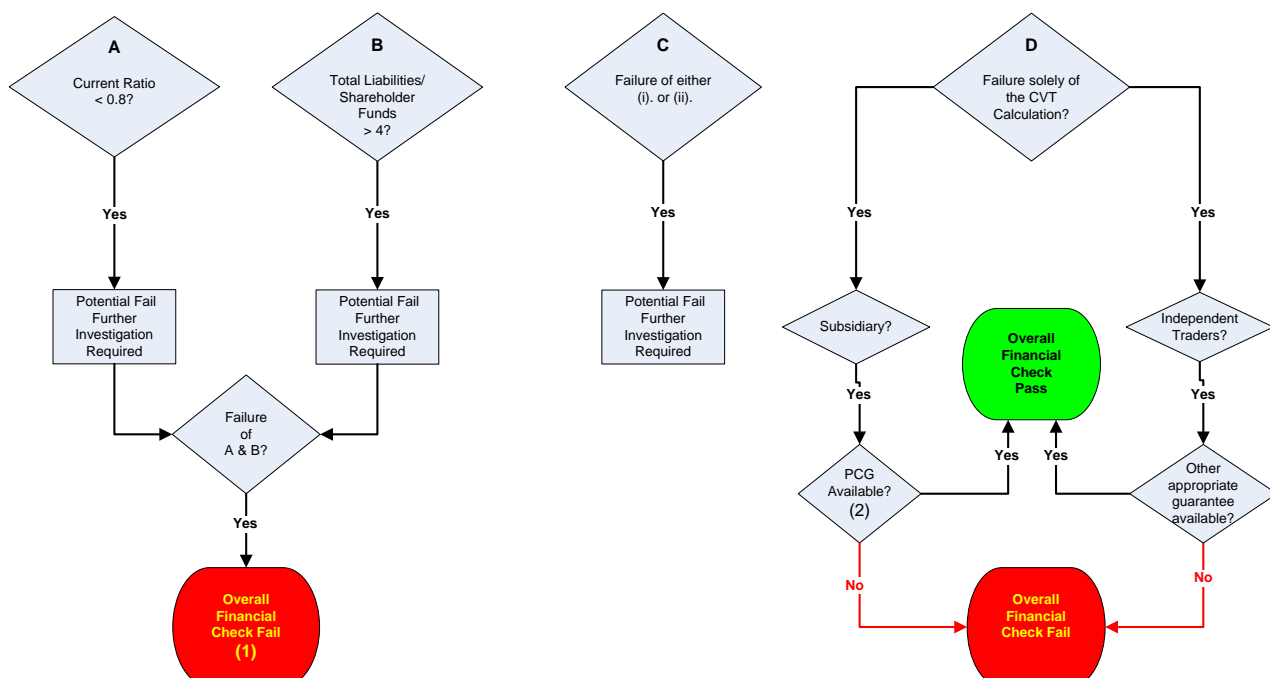
#### 2.7.7 Parent Company Guarantee

- (a) Parent Company Guarantee – Escalation Process: The D&B Comprehensive Report gives details of the Group structure from parent through to ultimate parent. Using this information, it is possible to assess each company in the parent hierarchy using the financial



data contained in their D&B Comprehensive Reports. The resulting primary indicators will determine which company in the parent hierarchy is the most suitable to provide a parent company guarantee. This may be any company in the hierarchy from the applicant's immediate parent to the ultimate global parent. Please be aware this process may result in financial assessment of the Ultimate Parent Company ("UPC"). In such cases a form of guarantee will be required confirming the parent company is willing to act as a Parent Company Guarantor. If after assessment the highest level of parent in the company hierarchy is unable or unwilling to provide financial assurance or if the Ultimate Parent financial assessment is failed, the Tenderers application will be rejected.

### Financial Assessment Flow Chart



- (b) If a parent company exists and passes the economic and financial standing tests stated above, and confirms that it will provide a parent company guarantee in the form set out in this contract, then the tender will be considered.
- (c) If Tenderer has agreed with the Procurement Officer during the tender period that an alternative form or guarantee will be acceptable, then the tender will be considered.

### 2.7.8 D&B information

- (a) D&B Comprehensive report: D&B Scores and Ratings are produced using a combination of mathematical modelling, expert rules, skilled business analysis and many years of experience of insolvency trends. D&B carefully analyse all business failures, and compare them with

the normal population of actively trading companies, to identify those events which are most significant and predictive in nature, and which could affect the status of a business.

- (b) D&B Risk Indicator: The indicator is based on daily monitoring of both the company's financial and other key strategic activities, and is therefore reflective of the company's current financial status. The D&B Risk indicator is the Failure Score (see below), combined with expert rules to generate a Risk Indicator from 1 to 4, where 1 is minimum risk and 4 is High Risk. A D&B risk indicator of 4 is a FAIL.
- (c) D&B Failure Score: The D&B Failure Score is a relative measure of risk from 1 to 100, where '1' represents organisations that have the highest probability of failure in the next 12 months and '100' the lowest probability of failure.
- (d) D&B Delinquency Indicator: Score: Predicts the likelihood that an organisation will pay its bills in a severely delinquent manner over the next 12 months. "Delinquency" is defined as an organisation that, according to Trade Experiences collected by D&B, has paid less than 75% of Trade Experiences within terms and more than 10% paid 90+ days late.

**2.8 Section 5 – Modern Slavery Act 2015**

- 2.8.1 Assessed as pass/fail based on satisfying Highways England that there is compliance with the Modern Slavery Act 2015.

**2.9 Section 6 – Additional Questions****2.9.1 8.1 - Insurance**

- (a) Assessed as pass/fail that the required insurances are in place or the tenderer can commit to obtaining them.

**2.9.2 8.2 - Skills and Apprentices**

- (a) Assessed as pass/fail based on satisfying Highways England that skills development and apprenticeships will be supported.

**2.9.3 8.3 - Compliance with Equality Legislation**

- (a) Assessed as pass/fail based on satisfying Highways England that equality legislation will be complied with.

**2.9.4 8.4 - Environmental Management**

- (a) Assessed as pass/fail based on satisfying Highways England that environmental legislation will be complied with.

**2.9.5 8.5 - Health and Safety Policy and Capability Part 1**

- (a) Assessed as pass/fail based on meeting Highways England's health and safety requirements.

**2.9.6 8.68 - Health and Safety Policy and Capability Part 2**

- (a) Assessed as pass/fail based on meeting Highways England's health and safety requirements.

**APPENDIX 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 26<sup>th</sup> February 2015 in England, Wales or Northern Ireland

**APPENDIX B - 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).