



Exeter
City Council

Appendix 1
Selection Questionnaire

Exeter Air Quality Monitoring Continuous
Analysers 2017

Contents

| | |
|--|----|
| Part 1: Potential supplier Information..... | 3 |
| Part 2: Exclusion Grounds | 7 |
| Part 3: Selection Questions | 11 |
| Additional Questions | 14 |
| Mandatory Exclusion Grounds | 16 |
| Participation in a criminal organisation | 16 |
| Corruption | 16 |
| Fraud | 16 |
| Terrorist offences or offences linked to terrorist activities | 17 |
| Money laundering or terrorist financing | 17 |
| Child labour and other forms of trafficking human beings..... | 17 |
| Non-payment of tax and social security contributions | 18 |
| Other offences | 18 |
| Discretionary exclusions..... | 19 |
| Obligations in the field of environment, social and labour law | 19 |
| Bankruptcy, insolvency..... | 19 |
| Grave professional misconduct..... | 19 |
| Distortion of competition..... | 20 |
| Conflict of interest | 20 |
| Been involved in the preparation of the procurement procedure..... | 20 |
| Additional exclusion grounds | 20 |
| Consequences of misrepresentation..... | 21 |

Part 1: Potential supplier Information

| 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 | |
| 1.1(l) | Relevant classifications (state whether you fall within one of these, and if so which one) | |

| | | |
|--------|---|---|
| | <p>a) Voluntary Community Social Enterprise (VCSE)</p> <p>b) Sheltered Workshop</p> <p>c) Public service mutual</p> | |
| 1.1(m) | Are you a Small, Medium or Micro Enterprise (SME) ¹ ? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 1.1(n) | <p>Details of Persons of Significant Control (PSC), where appropriate: ²</p> <ul style="list-style-type: none"> - 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; <ul style="list-style-type: none"> - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more. ³ <p>(Please enter N/A if not applicable)</p> | |
| 1.1(o) | <p>Details of immediate parent company:</p> <ul style="list-style-type: none"> - 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) <p>(Please enter N/A if not applicable)</p> | |
| 1.1(p) | <p>Details of ultimate parent company:</p> <ul style="list-style-type: none"> - Full name of the ultimate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) <p>(Please enter N/A if not applicable)</p> | |

¹ See EU definition of SME https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en

² 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](#).

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

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? | Yes <input type="checkbox"/> No <input type="checkbox"/> 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. 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. | | | | |
| 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? | Yes <input type="checkbox"/> No <input type="checkbox"/> | | | | |
| 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>Regulations 57(1) and (2) The detailed grounds for mandatory exclusion of an organisation are set below, 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 on the below.</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 If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents. | n/a |
| 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? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 2.3(a) | <p>Regulation 57(3) 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</p> | Yes <input type="checkbox"/> No <input type="checkbox"/> |

| | | |
|--------|---|-----|
| | 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? | |
| 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. | n/a |

| Section 3 | | Grounds for discretionary exclusion |
|--------------|--|---|
| | Question | Response |
| 3.1 | <p>Regulation 57 (8)</p> <p>The detailed grounds for discretionary exclusion of an organisation are set out below, 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 |

| | | |
|--|---|--|
| <p>3.1(j) - (ii)</p> <p>3.1(j) –(iii)</p> <p>3.1(j)-(iv)</p> | <p>The organisation has withheld such information.</p> <p>The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.</p> <p>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 provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.</p> | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If Yes please provide details at 3.2</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If Yes please provide details at 3.2</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If Yes please provide details at 3.2</p> |
| <p>3.2</p> | <p>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?</p> | <p>n/a</p> |

Part 3: Selection Questions⁴

| Section 4 | Economic and Financial Standing | |
|-----------|--|---|
| | 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 one 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"/> |

| Section 5 | If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below: | |
|---|---|--|
| Name of organisation | | |
| Relationship to the Supplier completing these questions | | |

| | | |
|-----|---|---|
| 5.1 | Are you able to provide parent company accounts if requested to at a later stage? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 5.2 | If yes, would the parent company be willing to provide a guarantee if necessary? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| 5.3 | If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)? | Yes <input type="checkbox"/> No <input type="checkbox"/> |

⁴ See Action Note 8/16 Updated Standard Selection Questionnaire

| | |
|------------------|--|
| Section 6 | Technical and Professional Ability |
| 6.1 | <p>Relevant experience and contract examples</p> <p>Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.</p> <p>If you cannot provide examples see question 6.3</p> |

| | Contract 1 | Contract 2 | Contract 3 |
|---|-------------------|-------------------|-------------------|
| Name of customer organisation | | | |
| Point of contact in the organisation | | | |
| Position in the organisation | | | |
| E-mail address | | | |
| Description of contract | | | |
| Contract Start date | | | |
| Contract completion date | | | |
| Estimated contract value | | | |

| | |
|------------|---|
| 6.2 | <p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries)</p> |
| | n/a |

| | |
|------------|--|
| 6.3 | <p>If you cannot provide at least one example for questions 6.1, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract.</p> |
| | n/a |

| | |
|------------------|--|
| Section 7 | Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015 |
|------------------|--|

| | | |
|------------|--|---|
| 7.1 | Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")? | Yes <input type="checkbox"/> N/A |
| 7.2 | 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? | Yes <input type="checkbox"/> Please provide the relevant url ... No <input type="checkbox"/> Please provide an explanation |

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 8 | Additional Questions |
|-----------|---|
| 8.1 | Insurance |
| a. | <p>Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below: Y</p> <p>Employer's (Compulsory) Liability Insurance = £10,000,000</p> <p>Public Liability Insurance = £5,000,000 Professional Indemnity Insurance = £ available if required</p> <p>Product Liability Insurance = £see attached</p> <p>*It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.</p> |

| 8.2 | Skills and Apprentices ⁵ – (please refer to supplier selection guidance) | |
|-----|---|--|
| a. | <p>Public procurement of contracts with a full life value of £10 million and above and duration of 12 months and above 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> | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| 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> | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |
| 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 if requested?</p> | <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> |

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

| | |
|------------|-----------------|
| 8.3 | Not Used |
| | |
| | |
| | |

| | | |
|------------|--|---|
| 8.4 | Suppliers' Past Performance⁶ - (please refer to supplier selection guidance - this question should only be included by central government contracting authorities) | |
| a. | Can you supply a list of your relevant principal contracts for goods and/or services provided in the last three years? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| b. | On request can you provide a certificate from those customers on the list? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| c. | If you cannot obtain a certificate from a customer can you explain the reasons why? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| d. | If the certificate states that goods and/or services supplied were not satisfactory are you able to supply information which shows why this will not recur in this contract if you are awarded it? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| e. | Can you supply the information in questions a. to d. above for any sub-contractors [or consortium members] who you are relying upon to perform this contract? | Yes <input type="checkbox"/> No <input type="checkbox"/> |

⁶ [Procurement Policy Note 04/15 Taking Account of Suppliers' Past Performance](#)

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 provide 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