

Contract for Extension to Fishermen's Slipway and Repairs to Sheds

Tender Questionnaire

Notes for completion

1. The "authority" means Swanage Town Council, or anyone acting on its behalf, in this procurement process.
2. "You"/ "Your" or "Supplier" means the body completing these questions **i.e. the legal entity tendering for the above contract**. The 'Supplier' is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 and could be a registered company; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. This Questionnaire has been designed to assess the suitability of a Supplier to deliver the authority's contract requirement(s).
4. Please ensure that all questions are completed in full, and in the format requested. Failure to do so may result in your submission being disqualified. If the question does not apply to you, please state clearly 'N/A'.
5. Should you need to provide additional Appendices in response to the questions, these should be numbered clearly and listed as part of your declaration. A template for providing additional information is provided at the end of this document.
6. Please return a completed version of this document to:

Named procurement officer	Martin Ayres, Town Clerk
Name of contracting authority	Swanage Town Council
Contact e-mail address	m.ayres@swanage.gov.uk
Postal address	Town Hall, High Street, Swanage, Dorset BH19 2NZ
Deadline for receipt of Tender (UK date and time)	Noon Thursday 8 th March 2018

Verification of Information Provided

7. Whilst reserving the right to request information at any time throughout the procurement process, the authority may enable the Supplier to self-certify that there are no mandatory/ discretionary grounds for excluding their organisation. When requesting evidence that the Supplier can meet the specified requirements the authority may only obtain such evidence after the final tender evaluation decision i.e. from the winning Supplier only.

Sub-contracting arrangements

8. Where the Supplier proposes to use one or more sub-contractors to deliver some or all of the contract requirements, a separate Appendix should be used to provide details of the proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.
9. The authority recognises that arrangements in relation to sub-contracting may be subject to future change, and may not be finalised until a later date. However, Suppliers should be aware that where information provided to the authority indicates that sub-contractors are to play a significant role in delivering key contract requirements, any changes to those sub-contracting arrangements may affect the ability of the Supplier to proceed with the procurement process or to provide the supplies and/or services required. Suppliers should therefore notify the authority immediately of any change in the proposed sub-contractor arrangements. The authority reserves the right to deselect the Supplier prior to any award of contract, based on an assessment of the updated information.

Confidentiality

10. When providing details of contracts in answering section 6 of this Questionnaire (Technical and Professional Ability), the Supplier agrees to waive any contractual or other confidentiality rights and obligations associated with these contracts.
11. The authority reserves the right to contact the named customer contact in section 6 regarding the contracts included in section 6. The named customer contact does not owe the authority any duty of care or have any legal liability, except for any deceitful or maliciously false statements of fact.
12. 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 Public Contracts Regulations.

1 - Supplier information

1.1 Supplier details	Answer	
Full name of the Supplier		
Registered company address		
Registered company number		
Registered charity number		
Registered VAT number		
Name of immediate parent company		
Name of ultimate parent company		
Please mark 'X' in the relevant box to indicate your trading status	i) a public limited company	☐ Yes
	ii) a limited company	☐ Yes
	iii) a limited liability partnership	☐ Yes
	iv) other partnership	☐ Yes
	v) sole trader	☐ Yes
	vi) other (please specify)	☐ Yes
Please mark 'X' in the relevant boxes to indicate whether any of the following classifications apply to you	i) Voluntary, Community and Social Enterprise (VCSE)	☐ Yes
	ii) Small or Medium Enterprise (SME) ¹	☐ Yes
	iii) Sheltered workshop	☐ Yes
	iv) Public service mutual	☐ Yes

¹ See EU definition of SME: <http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/>

1.2 Bidding model	
Please mark 'X' in the relevant box to indicate whether you are;	
a) Bidding as a Prime Contractor and will deliver 100% of the key contract deliverables yourself	☐ Yes
b) Bidding as a Prime Contractor and will use third parties to deliver <u>some</u> of the services If yes, please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.	☐ Yes
c) Bidding as Prime Contractor but will operate as a Managing Agent and will use third parties to deliver <u>all</u> of the services If yes, please provide details of your proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.	☐ Yes

1.3 Contact details	
Supplier contact details for enquiries about this Questionnaire	
Name	
Postal address	
Country	
Phone	
Mobile	
E-mail	

1.4 Licensing and registration (please mark 'X' in the relevant box)		
1.4.1	Registration with a professional body If applicable, is your business registered with the appropriate trade or professional register(s) in the EU member state where it is established (as set out in Annex XI of directive 2014/24/EU) under the conditions laid down by that member state).	☐ Yes ☐ No If Yes, please provide the registration number in this box.
1.4.2	Is it a legal requirement in the state where you are established for you to be licensed or a member of a relevant organisation in order to provide the requirement in this procurement?	☐ Yes ☐ No If Yes, please provide additional details within this box of what is required and confirmation that you have complied with this.

2 - Grounds for mandatory exclusion

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).

If you have answered “yes” to question 2.2 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. If your organisation is in that position please provide details using a separate Appendix. You may contact the authority for advice before completing this form.

2.1 Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?		Please indicate your answer by marking 'X' in the relevant box.	
		Yes	No
(a)	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;		
(b)	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;		
(c)	the common law offence of bribery;		
(d)	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;		
(e)	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:		
(i)	the offence of cheating the Revenue;		
(ii)	the offence of conspiracy to defraud;		
(iii)	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;		
(iv)	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;		
(v)	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;		
(vi)	an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;		

(vii)	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;		
(viii)	fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or		
(ix)	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;		
(f)	any offence listed—		
(i)	in section 41 of the Counter Terrorism Act 2008; or		
(ii)	in Schedule 2 to that Act where the court has determined that there is a terrorist connection;		
(g)	any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);		
(h)	money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002;		
(i)	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;		
(j)	an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;		
(k)	an offence under section 59A of the Sexual Offences Act 2003;		
(l)	an offence under section 71 of the Coroners and Justice Act 2009;		

(m)	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; or		
(n)	any other offence within the meaning of Article 57(1) of the Public Contracts Directive—		
(i)	as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or		
(ii)	created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland.		
<u>Non-payment of taxes</u> 2.2 Has it been established 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 your organisation is established (if outside the UK), that your organisation is in breach of obligations related to the payment of tax or social security contributions? If you have answered Yes to this question, please use a separate Appendix to provide further details. Please also use this Appendix to confirm whether you have paid, or have entered into a binding arrangement with a view to paying, including, where applicable, any accrued interest and/or fines?			

3. Grounds for discretionary exclusion – Part 1

The authority may exclude any Supplier who answers 'Yes' in any of the following situations set out in paragraphs (a) to (i);

3.1 Within the past three years, please indicate if any of the following situations have applied, or currently apply, to your organisation.	Please indicate your answer by marking 'X' in the relevant box.	
	Yes	No
(a) your organisation has violated applicable obligations referred to in regulation 56 (2) of the Public Contracts Regulations 2015 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 Public Contracts Directive as amended from time to time;		
(b)	your organisation is bankrupt or is the subject of insolvency or winding-up proceedings, where your 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;		
(c)	your organisation is guilty of grave professional misconduct, which renders its integrity questionable;		
(d)	your organisation has entered into agreements with other economic operators aimed at distorting competition;		
(e)	your organisation has a conflict of interest within the meaning of regulation 24 of the Public Contracts Regulations 2015 that cannot be effectively remedied by other, less intrusive, measures;		
(f)	the prior involvement of your organisation in the preparation of the procurement procedure has resulted in a distortion of competition, as referred to in regulation 41, that cannot be remedied by other, less intrusive, measures;		
(g)	your organisation has 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;		
(h)	your organisation— (i) has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or		

(ii)	has withheld such information or is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015; or		
(i)	your organisation has undertaken to		
(i)	unduly influence the decision-making process of the contracting authority, or		
(ii)	obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure; or		
(j)	your organisation has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.		

Conflicts of interest

In accordance with question 3.1 (e), the authority 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.

Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the Supplier to inform the authority, detailing the conflict in a separate Appendix. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by the authority should not represent a conflict of interest for the Supplier.

Taking Account of Bidders' Past Performance

In accordance with question (g), the authority may assess the past performance of a Supplier (through a Certificate of Performance provided by a Customer or other means of evidence). The authority may take into account any failure to discharge obligations under the previous principal relevant contracts of the Supplier completing this Questionnaire. The authority may also assess whether specified minimum standards for reliability for such contracts are met.

In addition, the authority may re-assess reliability based on past performance at key stages in the procurement process (i.e. Supplier selection, tender evaluation, contract award stage etc.). Suppliers may also be asked to update the evidence they provide in this section to reflect more recent performance on new or existing contracts (or to confirm that nothing has changed).

‘Self-cleaning’

Any Supplier that answers ‘Yes’ to questions 2.1, 2.2 and 3.1 should provide sufficient evidence, in a separate Appendix, that 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 the authority in each case.

If such evidence is considered by the authority (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.

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.

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 the authority to be insufficient, the Supplier shall be given a statement of the reasons for that decision.

4. Grounds for discretionary exclusion – Part 2

The authority reserves the right to use its discretion to exclude a Supplier where it can demonstrate the Supplier’s non-payment of taxes/social security contributions where no binding legal decision has been taken.

Please note that Section 4 relating to tax compliance only applies where the authority has indicated that the contract is over £5million in value, and the authority is a Central Government Department (including their Executive Agencies and Non-Departmental Public Bodies).

“Occasion of Tax Non-Compliance” means:

- (a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:
 - (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under

any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;

- (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- (b) the Supplier's tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a penalty for civil fraud or evasion

From 1 April 2013 onwards, have any of your company's tax returns submitted on or after 1 October 2012; (Please indicate your answer by marking 'X' in the relevant box).		
4.1	Given rise to a criminal conviction for tax related offences which is unspent, or to a civil penalty for fraud or evasion;	☐ Yes ☐ No
4.2	Been found to be incorrect as a result of: ▪ HMRC successfully challenging it under the General Anti-Abuse Rule (GAAR) or the "Halifax" abuse principle; or ▪ A Tax Authority in a jurisdiction in which the legal entity is established successfully challenging it under any tax rules or legislation that have an effect equivalent or similar to the GAAR or the "Halifax" abuse principle; or ▪ the failure of an avoidance scheme which the Supplier was involved in and which was, or should have been, notified under the Disclosure of Tax Avoidance Scheme (DOTAS) or any equivalent or similar regime in a jurisdiction in which the Supplier is established.	☐ Yes ☐ No
If answering "Yes" to either 4.1 or 4.2 above, the Supplier may provide details of any mitigating factors that it considers relevant and that it wishes the authority to take into consideration. This could include, for example: • Corrective action undertaken by the Supplier to date; • Planned corrective action to be taken; • Changes in personnel or ownership since the Occasion of Non-Compliance (OONC); or		

- Changes in financial, accounting, audit or management procedures since the OONC.

In order that the authority can consider any factors raised by the Supplier, the following information should be provided:

- A brief description of the occasion, the tax to which it applied, and the type of “non-compliance” e.g. whether HMRC or the foreign Tax Authority has challenged pursuant to the GAAR, the “Halifax” abuse principle etc.
- Where the OONC relates to a DOTAS, the number of the relevant scheme
- The date of the original “non-compliance” and the date of any judgement against the Supplier, or date when the return was amended.
- The level of any penalty or criminal conviction applied.

5 - Economic and Financial Standing

	Financial information	
5.1	Please provide one of the following to demonstrate your economic/financial standing; Please indicate your answer with an ‘X’ in the relevant box.	
	(a) A copy of the audited accounts for the most recent two years	
	(b) A statement of the turnover, profit & loss account, current liabilities and assets, and cash flow for the most recent year of trading for this organisation	
	(c) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position	
	(d) 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).	
5.2	Are you are part of a wider group (e.g. a subsidiary of a holding/parent company)? If yes, please provide the name below:	☐ Yes ☐ No

Name of the organisation		
Relationship to the Supplier completing the Questionnaire		
If yes, please provide Ultimate / parent company accounts if available. If yes, would the Ultimate / parent company be willing to provide a guarantee if necessary? If no, would you be able to obtain a guarantee elsewhere (e.g from a bank?)		☐ Yes ☐ No ☐ Yes ☐ No

6 – Technical and Professional Ability

	Relevant experience and contract examples
	Please provide details of up to <u>three</u> contracts, in any combination from either the public or private sector, that are relevant to the authority's requirement. Contracts for supplies or services should have been performed during the past <u>three</u> years. Works contracts may be from the past <u>five</u> years, and VCSEs may include samples of grant funded work. The named customer contact provided should be prepared to provide written evidence to the authority to confirm the accuracy of the information provided below. Consortia bids should provide relevant examples of where the consortium has delivered similar requirements; if this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle will be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member). Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the principal intended provider(s) or sub-contractor(s) who will deliver the supplies and services.

		Contract 1	Contract 2	Contract 3
6.1	Name of customer organisation			
6.2	Point of contact in customer organisation Position in the organisation E-mail address			
6.3	Contract start date Contract completion date Estimated Contract Value			
6.4	In no more than 500 words, please provide a brief description of the contract delivered including evidence as to your technical capability in this market.			
6.5	If you cannot provide at least one example for questions 6.1 to 6.4, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up.			

7. Additional modules

Suppliers who self-certify that they meet the requirements for these additional modules will be required to provide evidence of this if they are successful at contract award stage. Please indicate your answer by marking 'X' in the relevant boxes.

A – Project specific questions to assess Technical and Professional Ability

There are no further project specific questions.

B - Insurance

1.	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: Employer's (Compulsory) Liability Insurance = £5 million Public Liability Insurance = £10 million Professional Indemnity Insurance = £2 million Contractor's Insurance = £10 million * 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.	☐ Yes ☐ No
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C – Compliance with equality legislation

For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.		
1.	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 ☐ No
2.	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 of alleged unlawful discrimination? 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.	☐ Yes ☐ No

	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. You may be excluded if you are unable to demonstrate to the authority's satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.	
3.	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 ☐ No

D - Environmental Management

1.	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)? 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. The authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.	☐ Yes ☐ No
2.	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 ☐ No

E - Health and Safety

1.	Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.	☐ Yes ☐ No
2.	Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years? 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.	☐ Yes ☐ No

	The authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the authority's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.	
3.	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 ☐ No

8 - Declaration

	I declare that to the best of my knowledge the answers submitted to these questions are correct. 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, and I am signing on behalf of..... (Insert name of Supplier). I understand that the authority may reject my submission if there is a failure to answer all relevant questions fully or if I provide false/misleading information. I have provided a full list of any Appendices used to provide additional information in response to questions. I also declare that there is no conflict of interest in relation to the authority's requirement. The following appendices form part of our submission;	
	Section of Questionnaire	Appendix number
	QUESTIONNAIRE COMPLETED BY	
8.1	Name	
8.2	Role in organisation	
8.3	Date	
8.4	Signature	

Template for Appendices

Appendix Number -
Questionnaire section -
Question number -