

**APPENDIX B - Grounds for Exclusion**

**Request for Quotation for**

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**Notes for completion**

1. “Authority” means the public sector contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable suppliers to participate in this procurement process.

2. “You”/“Your” or “Supplier” means the body completing these questions **i.e. the legal entity seeking to be invited to the next stage of the procurement process and responsible for the information provided.** The ‘Supplier’ is intended to cover any economic and could be a registered company; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.

3. This Grounds for Exclusion form 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.

6. Please upload your completed submission via the electronic tendering system “The Chest” from which you downloaded this document.

**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.

**Confidentiality**

8. 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 Contract Regulations.

**1 - Supplier information**

This section is for information and will not be scored however the Council reserves the right to exclude a supplier on the grounds of providing insufficient or false information.

|  |  |
| --- | --- |
| **1.1 Supplier details** | **Answer** |
| Full name of the Supplier completing the Grounds for Exclusion  |  |
| 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]](#footnote-1) | ▢ Yes |
| iii) Sheltered workshop | ▢ Yes |
| iv) Public service mutual | ▢ Yes |

**2 – Part 1 - 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 clearly marked 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** |
| 1. 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;
 |  |  |
| 1. 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;
 |  |  |
| 1. the common law offence of bribery;
 |  |  |
| 1. 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;
 |  |  |
| 1. 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; |  |  |
| 1. 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; |  |  |
| 1. any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);
 |  |  |
| 1. money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002;
 |  |  |
| 1. 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;
 |  |  |
| 1. an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;
 |  |  |
| 1. an offence under section 59A of the Sexual Offences Act 2003;
 |  |  |
| 1. an offence under section 71 of the Coroners and Justice Act 2009
 |  |  |
| 1. 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
 |  |  |
| 1. 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. |  |  |
| **Non-payment of taxes****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? |  |  |

Part 2 - The following grounds are project specific mandatory exclusions.

Suppliers will be excluded from the procurement process if they are unable to confirm compliance with the following requirements of the contract:

|  |  |
| --- | --- |
| It is a requirement of this contract that the successful bidder is able to demonstrate the criteria below: | Please indicate your answer by marking ‘X’ in the relevant box. |
| Yes | No |
| 2.3 Must have experience of design and build of listings websites powered by databases with over 500 listings.Please indicate your answer and provide registration details. |  |  |
| 2.4 Must have experience of designing mobile websites. |  |  |
| 2.5 Must be able to demonstrate a balance of creativity and UX, functionality, technical excellence and customer service. |  |  |

## 3. Grounds for discretionary exclusion

The Authority may exclude any Supplier who answers ‘Yes’ in any of the following situations set out in paragraphs (a) to (h);

|  |  |
| --- | --- |
| **3.1 Within the past three years, please indicate if any of the following situations have applied, or currently apply, to your organisation (or any member of your proposed consortium, if applicable).** | **Please indicate your answer by marking ‘X’ in the relevant box.** |
| **Yes** | **No** |
| 1. your 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 Public Contracts Directive as amended from time to time;
 |  |  |
| 1. 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;
 |  |  |
| 1. your organisation is guilty of grave professional misconduct, which renders its integrity questionable;
 |  |  |
| 1. your organisation has entered into agreements with other economic operators aimed at distorting competition;
 |  |  |
| 1. your organisation has a conflict of interest (i.e. financial, economic or other personal interest which may compromise impartiality and independence) that cannot be effectively remedied by other, less intrusive, measures;
 |  |  |
| 1. 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;
 |  |  |
| (g) your organisation has undertaken to |  |  |
| (aa) unduly influence the decision-making process of the contracting authority, or |  |  |
| (bb) obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure; or |  |  |
|  (h) 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**

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 document. 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).

**4. ‘Self Cleaning’ (Covering both mandatory and discretionary exclusion)**

Any Supplier that answers ‘Yes’ to questions 2.1 (a), 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 Supplier 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.

**5. Due Diligence**

As part of the due diligence process, the Authority may obtain a credit rating report for the preferred bidder.  The Authority reserves the right not to enter into a contract with the preferred bidder, should any of the financial assessments demonstrate an unsatisfactory financial standing.

**6. Technical and Professional Ability**

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.

Please note that responses will be evaluated on a pass/fail basis

## Insurance

|  |  |  |
| --- | --- | --- |
| 1. | Please self-certify whether you (and all members of your proposed consortium, if applicable) 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 = £5million Public Liability Insurance = £5millionProfessional Indemnity Insurance = £3million\* 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  |

## Compliance with equality legislation

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| --- |
| 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 or 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.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.  | ▢ Yes▢ No |
| 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  |
| Health and Safety

|  |  |  |
| --- | --- | --- |
| 1. | Please self-certify that your organisation (and all members of your proposed consortium, if applicable) 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. 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.  | ▢ Yes▢ No  |
| 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  |

7 - Declaration

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| --- |
| 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. |
| **Grounds for Exclusion completed by:** |
| **Name** |  |  |
| **Role in Organisation** |  |  |
| **Date** |  |  |
| **Signature** |  |  |

 |  |

1. See EU definition of SME: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/ [↑](#footnote-ref-1)