

Covering Letter for the Statement Relating to Good Standing

Contract Number: **CB/BFG/0120**

Date of Issue: 26 September 2016

Dear Sir,

1. Thank you for your Expression of Interest dated 21 September 2016 for the supply of Industrial Gases to British Forces Germany (BFG).
2. You will be aware that the MOD expects its suppliers to maintain high standards of integrity and professionalism in their business dealings and adhere to the laws of the countries where they operate.
3. The MOD reserves the right to exclude a supplier from the procurement who has been convicted of any of the offences or misconduct listed in the Statement Relating to Good Standing.
4. The MOD therefore requires all potential suppliers to complete the Statement Relating to Good Standing. This requires a signature on behalf of the company to confirm that none of the matters referred to in the Statement (being different grounds for discretionary exclusion) apply to the supplier.
5. If any of the matters referred to in the Statement applies to a potential supplier, they must provide additional information on the circumstances, including any remedial action to prevent its recurrence. This additional information, excluding any supporting documentation, shall not exceed 5 A4 pages in total.
6. You are required to report any final convictions or settlements for bid rigging, fraud, bribery, corruption or other dishonest irregularity in connection with procurement and if so, any measures that you have taken to prevent such behaviour happening again. Any evidence of such anti-competitive behaviour in relation to this procurement procedure could result in you being disqualified from the procedure.
7. The Statement Relating to Good Standing should be signed on behalf of the legal entity seeking to contract for this requirement at Director Level or equivalent. Please return the signed Statement Relating to Good Standing and any additional information to the Authority no later than 14 days from the date of this letter.
8. May I once again thank you for the interest you have shown in this requirement.

Yours faithfully



The Statement Relating To Good Standing

Contract Title: Supply of Industrial Gases to British Forces Germany (BFG)

Contract Number: CB/BFG/0120

1. We confirm, to the best of our knowledge and belief, that **Westfalen AG** including its directors or any other person who has powers of representation, decision or control or is a member (administrative, management or supervisory body) of **Westfalen AG** has not been convicted of any of the following offences:

- 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;
- 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. common law offence of bribery;
- d. bribery within the meaning of section 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:
 - (1) the offence of cheating the Revenue;
 - (2) the offence of conspiracy to defraud;
 - (3) 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;
 - (4) fraudulent trading within the meaning of section 458 of the Companies Act 1985, Article 451 of the Companies (Northern Ireland) Order 1986 or section 933 of the Companies Act 2006;
 - (5) 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;
 - (6) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993; or
 - (7) destroying, defacing or concealing of documents or procuring the extension 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;
 - (8) fraud within the meaning of section 2,3 or 4 of the Fraud Act 2006; or
 - (9) the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of the Act;
- f. any offence listed:
 - (1) in section 41 of the Counter Terrorism Act 2008; or
 - (2) 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 (f) above;
- h. money laundering within the meaning of section 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 in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994 or under section 71 of the Coroners and Justice Act 2009; or

m. any other offence within the meaning of Article 57(1) of Public Contracts Directive

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(1) as defined by the law of any jurisdiction outside England and Wales and Northern Ireland: or

(2) created in the law of England and Wales or Northern Ireland after the day on which these Regulations were made.

2. **Westfalen AG** further confirms to the best of our knowledge and belief that it:

(a) being an individual, is a person in respect of whom a debt relief order has not been made, is not bankrupt or is the subject of insolvency or winding-up proceedings, where our assets are being administered by a liquidator or by the court, where we are in an agreement with creditors, where our business activities are suspended or in any analogous situation arising from a similar procedure under the laws and regulations of any State;

(b) being a partnership constituted under Scots law has not granted a trust deed or become otherwise apparently insolvent, or is not the subject of a petition presented for sequestration of its estate;

(c) has not been convicted of a criminal offence relating to the conduct of its business or profession;

(d) has not entered into agreements with other suppliers aimed to at distorting competition;

(e) has not committed an act of grave misconduct in the course of its business or profession;

(f) Has had our contract terminated, damages or other comparable sanctions taken as a result of significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract;

(g) has fulfilled obligations relating to the payment of social security contributions under the law of any part of the United Kingdom or of the relevant State in which the economic operator is established;

(h) has fulfilled obligations relating to the payment of taxes under the law of any part of the United Kingdom or of the relevant State in which the economic operator is established;

(i) is not guilty of serious misrepresentation in providing any information required by this Statement;

(j) in relation to procedures for the award of a public services contract, is licensed in the relevant State in which he is established or is a member of an organisation in that relevant State when the law of that relevant State prohibits the provision of the services to be provided under the contract by a person who is not so licensed or who is not such a member;

(k) has fulfilled its 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 the Public Contracts Directive as amended from time to time.

Organisation's name	
Signed by (Director of the Organisation or equivalent)	
Position	
Date	