**DOCUMENT 3**

**DECLARATIONS AND INFORMATION TO BE PROVIDED BY THE APPLICANT**

**1 Grounds for mandatory exclusion**

You will be excluded from the application 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 1.2 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 Department for advice before completing this form.

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| **1.1 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;
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| 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;
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| 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;
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| 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:
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| (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:
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| 1. in section 41 of the Counter Terrorism Act 2008; or
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| (ii) in Schedule 2 to that Act where the court has determined that there is a terrorist connection;DRAFT- WITHOUT PREJUDICE |  |  |
| 1. any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);
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| 1. money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002;
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| 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;
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| 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
 |  |  |
| **Non-payment of taxes****1.2 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? |  |  |

**2 Grounds for discretionary exclusion part 1**

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

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| **2.1 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** |
| 1. your organisation has violated any of the following applicable obligations:

— 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. |  |  |
| 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;
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| 1. your organisation has entered into agreements with other economic operators aimed at distorting competition;
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| 1. your organisation has a conflict of interest 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 application procedure that cannot be effectively remedied by other, less intrusive, measures;
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| 1. the prior involvement of your organisation in the preparation of the procurement procedure has resulted in a distortion of competition that cannot be remedied by other, less intrusive, measures;
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| 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;
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| 1. your organisation 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
 |  |  |
| (i) 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 |  |  |
| (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 2.1 (e), the Department 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 Department, 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 Department should not represent a conflict of interest for the Supplier.

**Taking Account of Applicants Past Performance**

In accordance with question (g), the Department may assess the past performance of a Supplier (through a Certificate of Performance provided by a Customer or other means of evidence). The Department may also assess whether specified minimum standards for reliability for such contracts are met.

In addition, the Department may re-assess reliability based on past performance at key stages in the application process (i.e. accreditation assessment, annual review 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 1.1, 1.2 and 2.1 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 Department in each case.

If such evidence is considered by the Department (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the application 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 Department to be insufficient, the Supplier shall be given a statement of the reasons for that decision.

**3 Grounds for discretionary exclusion part 2**

The Department 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 this section relating to tax compliance only applies where the Department has indicated that the contract is over £5million in value.

“Occasion of Tax Non-Compliance” means:

1. 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:
	* + 1. 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;
			2. 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
2. 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

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| 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). |
| 3.1 | Given rise to a criminal conviction for tax related offences which is unspent, or to a civil penalty for fraud or evasion; | ▢ Yes▢ No  |
| 3.2 | 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 3.1 or 3.2 above, the Supplier may provide details of any mitigating factors that it considers relevant and that it wishes the Department 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 Department 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.

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**Defining Different Types of Organisations**

The Department for Education is keen to collect information about Small and Medium Enterprises (SMEs). We are particularly interested in discovering how many SMEs apply for our contracts through the tendering process. Completion of the table below is for departmental information purposes only and will have no effect on the evaluation process outcomes. Government is committed to changing how it does business to make sure that small companies, charities and voluntary sector organisations are included and encouraged to compete for our contracts.

A voluntary sector organisation may also be a SME if it has the same attributes.

Definition; A SME must be autonomous, an EU Company not owned or controlled by a non EU parent, and employ less than 250 staff and have sales below €50million

*Source -*http://ec.europa.eu/enterprise/policies/sme/files/sme\_definition/sme\_report\_2009\_en.pdf

Please complete the table below.

|  |
| --- |
| **Describe your Organisation** |
| **What type of supply arrangement best describe you in relation to this bid?**  | **Delete as appropriate**  |
| 1. | We are a SME by definition  | Yes/No  |
| 2. | We are a Charity or Voluntary Sector Organisation (VSO) | Yes /No |
| 3. | We are a mutual organisation | Yes/No |
| 4. | We anticipate using a supply chain to deliver against this service.  | Yes/No |
| 5. | We estimate that that our service delivery will be i.e. 40% delivered by VSO’s/SMEs  | …….% |
| 6. | If none of the above applies, please describe the type of organisation you are:  |
| 7.  | Please provide us with your Dun and Bradstreet Number, or a consortium, the lead bidder’s number. <http://www.dnb.co.uk/dandb-duns-number> |  |

The Department uses Dun and Bradstreet Numbers to manage its data around suppliers; we strongly encourage all suppliers to apply for a free Dunn’s numbers. The link to apply is:-<http://www.dnb.co.uk/myduns> - add ‘GOVERNMENT SUPPLIER’ as a reason for requesting your D&B DUNS number.

Do not delay returning your application if you do not already have a Dun and Bradstreet number, returning your tender within the deadline is more important.

Declarations

1 ...............................................……………………………. (Name of applicant) declares that we accept the Accreditation Agreement Terms included at Document 3 as the basis of the agreement; and

2 agree that the Department may disclose the Applicant's information/documentation (submitted to the Department during this application process) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes”.

3 declare that we are not entitled to claim from the Department any costs or expenses incurred in preparing the application or subsequent negotiations whether or not the application is successful.

signed on behalf of the applicant ..................................................................................