

**SCHEDULE 17: RESPONSIBLE PROCUREMENT****PART A: EQUALITY AND SUPPLIER DIVERSITY**

A list of equality and supplier diversity definitions can be found in Appendix 1 of this Schedule 17 Part A.

**1. EQUALITY & DIVERSITY**

**1.1 Strategic Equality & Diversity Plan**

1.1.1 For the purposes of the Agreement the expression "**Agreed Strategic Equality & Diversity Plan**" means the Strategic Equality & Diversity Plan as negotiated and agreed and attached to this Schedule 17 Part A at Appendix 2.

1.1.2 For the duration of the Agreement, the Manufacturer shall comply with the Agreed Strategic Equality & Diversity Plan and shall procure that each of its Subcontractors:

(A) adopts and implements; and

(B) in respect of indirect Subcontractors uses reasonable endeavours to procure that those indirect Subcontractors adopt and implement,

a strategic equality and diversity plan in respect of their respective employees engaged in the performance of the Agreement which is at least as extensive in scope as that agreed with the Purchaser and set out in the Agreed Strategic Equality & Diversity Plan.

1.1.3 Where any Subcontractor has, pursuant to paragraph 1.1.1 of this Schedule 17 Part A or otherwise, adopted a Strategic Equality & Diversity Plan, the Manufacturer shall procure that each Subcontractor:

(A) provides; and

(B) in respect of indirect Subcontractors, use reasonable endeavours to procure that those indirect Subcontractors provide,

a copy of its Strategic Equality & Diversity Plan (and any amendments thereto) to the Purchaser or its nominee as soon as reasonably practicable.

**1.2 Diversity Training**

1.2.1 For the duration of the Agreement, the Manufacturer shall comply with the Agreed Diversity Training Plan in relation to all of its employees engaged in the performance of the Agreement. For the purposes of the Agreement the expression "**Agreed Diversity Training Plan**" means the diversity training plan set out as agreed and attached to this Schedule 17 at Appendix 3. The Manufacturer shall procure that each of its Subcontractors:

(A) adopts and implements; and

(B) in respect of indirect Subcontractors uses reasonable endeavours to procure that those indirect Subcontractors adopt and implement,

a diversity training plan in respect of their respective employees engaged in the performance of the Agreement which is at least as extensive in scope as the requirement of paragraph 1.2.3 of this Schedule 17 Part A.

1.2.2 Where a Subcontractor has, pursuant to paragraph 1.2.1 of this Schedule 17 Part A or otherwise, adopted a diversity training plan, the Manufacturer shall procure that each of its Subcontractors:

(A) provides; and

(B) in respect of indirect Subcontractors, use reasonable endeavours to procure that those indirect Subcontractors provide,  
a copy of its diversity training plan (and any amendments thereto) to the Purchaser or its nominee as soon as reasonably practicable.

1.2.3 The Manufacturer ensures that all of its employees engaged in the performance of the Agreement receive equality and diversity training annually and that new employees receive an equality and diversity induction within three (3) months of starting. Equality and diversity training will consist of an awareness workshop, toolbox talk or refresher course delivered with an emphasis on equality and diversity.

### 1.3 **Supplier Diversity**

1.3.1 For the duration of the Agreement the Manufacturer shall at all times comply with the Agreed Supplier Diversity Plan. For the purposes of the Agreement the expression "**Agreed Supplier Diversity Plan**" means the supplier diversity plan set out as agreed and attached to this Schedule 17 Part A at Appendix 4. The Manufacturer shall procure that each of its Subcontractors:

(A) adopts and implements; and

(B) in respect of indirect Subcontractors uses reasonable endeavours to procure that those indirect Subcontractors adopt and implement,

a supplier diversity plan in relation to the performance of the Agreement which is at least as extensive as the Agreed Supplier Diversity Plan.

1.3.2 Where a Subcontractor has, pursuant to paragraph 1.3.1 of this Schedule 17 Part A or otherwise, adopted a supplier diversity plan, the Manufacturer shall procure that each of its Subcontractors:

(A) provides; and

(B) in respect of Indirect Subcontractors, use reasonable endeavours to procure that those indirect Subcontractors provide,

a copy of its supplier diversity plan (and any amendments thereto) to the Purchaser or its nominee as soon as reasonably practicable.

### 1.4 **Local Community Communications Plan**

1.4.1 For the duration of the Agreement and in all dealings with the local community, the Manufacturer shall comply with the Agreed Local Community Communications Plan. For the purposes of the Agreement the expression "**Agreed Local Community Communications Plan**" means the communications plan agreed and attached to this Schedule 17 Part A at Appendix 5 and the expression "**Local Community**" means those areas of London affected by the works or services from time to time.

### 1.5 **Monitoring and Reporting**

1.5.1 Subject to paragraph 1.5.2 of this Schedule 17 Part A, the Manufacturer shall use reasonable endeavours to provide the Purchaser on the date of this Agreement and subsequently every 12 months from the date or such other frequency as the Purchaser may reasonably request of this Agreement with the following information:

(A) an annual report on performance and compliance with the equality and diversity provisions as set out in paragraphs 1.1 to 1.4 of this Schedule 17 Part A. The annual report should set out:

(i) the performance of the Manufacturer over the past twelve (12) months in relation to the Agreed Strategic Equality and

Diversity Plan, the Agreed Training Plan, the Agreed Supplier Diversity Plan and the Agreed Local Community Communications Plan and/or the action plan submitted for the previous 12 months in accordance with paragraph (iv) below;

(ii) the proportion of its employees engaged in the performance of the Agreement and, to the extent reasonably possible, the employees of its Subcontractors or Indirect Subcontractors engaged pursuant to the terms of the relevant Subcontracts in the performance of the Agreement who are:

- (A) female;
- (B) of non-white British origin or who classify themselves as being non-white British;
- (C) from the Local Community;
- (D) disabled;

(iii) a statement broken down by activity and material type of how they have used and how much has been spent with:

- (A) Small and Medium Enterprises;
- (B) Black, Asian and Minority Ethnic businesses;
- (C) Suppliers from other under-represented or protected groups;
- (D) Suppliers demonstrating a diverse workforce composition;
- (E) under each Call-Off Agreement;

(iv) The Manufacturer's Annual Equality and Diversity Action Plan containing actions which:

- (A) support the equality and diversity requirement within this equality and diversity compliance schedule;
- (B) have realistic target dates assigned and be challenging but achievable;
- (C) have been presented to and agreed by the Purchaser before the Agreement Service Commencement Date or during the month preceding the next Anniversary; and

(B) progress and approval (where due) of actions will be monitored via the Project Progress Meetings. The Manufacturer shall provide a written update prior to the Project Progress Meetings and should request additional meetings (if necessary) with the Purchaser to discuss progress or seek sign-off for completed actions.

1.5.2 The Manufacturer shall ensure at all times that it complies with the requirements of the Data Protection Act 1998 (as may be amended) in the collection and reporting of the information to the Purchaser pursuant to paragraph 1.5.1 of this Schedule 17 Part A.

1.5.3 The Manufacturer's equality and diversity manager shall attend the equality and diversity managers meeting with the Purchaser and, if appropriate, others, on a quarterly basis to discuss:

- (A) equality and diversity legislation, Mayor of London strategies and Purchaser policies;

- (B) Performance & benchmarking;
- (C) Innovations & efficiencies; and
- (D) Training.

Meetings will be hosted at venues agreed by the attendees. The meetings will be chaired by the Purchaser.

## 1.6 **Equality and Diversity Infractions**

1.6.1 If the Manufacturer or any of its Subcontractors commits an Equality & Diversity Infraction, the Purchaser shall be entitled (but not obliged) to act as follows:

- (A) if an Equality & Diversity Infraction is committed by the Manufacturer then the Purchaser may serve written notice upon the Manufacturer identifying in reasonable detail the nature of the Equality & Diversity Infraction, and the Manufacturer shall cease committing and remedy, at its own cost, the Equality & Diversity Infraction, within 30 days of receipt of such notice (or such longer period as may be specified in the notice); or
- (B) if the Equality & Diversity Infraction is committed by a Subcontractor of the Manufacturer, the Purchaser may serve written notice upon the Manufacturer identifying in reasonable detail the nature of the Equality & Diversity Infraction, and the Manufacturer shall procure that the Subcontractor ceases committing and remedies, at its own cost, the Equality & Diversity Infraction within 30 days of receipt by the Manufacturer of such notice (or such longer period as may be specified in the notice). If the Manufacturer fails to procure the remedy of the Diversity Infraction, the Purchaser may serve a further written notice upon the Manufacturer and within 30 days of receipt of such further notice (or such longer period as may be specified in the notice), the Manufacturer shall terminate, at its own cost, the relevant Subcontract with its Subcontractor and procure performance of the affected works or services by another person which also complies with the obligations specified in paragraphs 1.1 to 1.5 of this Schedule 17 Part A.

1.6.2 It shall be a fundamental term and condition of the Agreement that the Manufacturer complies with its obligations under paragraphs 1.6.1(A) and (B) of this Schedule 17 Part A. Where, following receipt of a notice given pursuant to paragraph 1.6.1(A) or (B), the Manufacturer fails to remedy an Equality & Diversity Infraction to the satisfaction of the Purchaser or in the case of paragraph 1.6.1(B) fails to terminate the Subcontract with a defaulting Subcontractor and procure performance by another person on the terms specified in paragraph 1.6.1(B), the Manufacturer will be in breach of the Agreement and the Purchaser shall be entitled (but not obliged) to terminate the Agreement in accordance with Clause 25 of the Agreement.

1.6.3 For the purposes of this Agreement "**Equality & Diversity Infraction**" means any breach by the Manufacturer of its obligations specified in paragraphs 1.1 to 1.5 of this Schedule 17 Part A or any failure by a Subcontractor to adopt and implement a strategic equality and diversity plan, a diversity training plan and/or a supplier diversity plan as described in paragraphs 1.1 to 1.3 of this Schedule 17 Part A.

## 1.7 **Equality and Diversity Audit**

1.7.1 The Purchaser or its nominee may from time to time undertake any audit or check of any and all information regarding the Manufacturer's compliance with paragraphs 1.1 to 1.5 of this Schedule 17 Part A. The Purchaser's rights pursuant to this paragraph 1.7.1 shall include any and all documents and records

of the Manufacturer and its Subcontractors and, where applicable, subject to the provisions of paragraphs 1.1 to 1.3 of this Schedule 17 Part A, indirect Subcontractors and shall include the Minimum Records.

- 1.7.2 The Manufacturer shall, maintain and retain the Minimum Records for a minimum of six (6) years from the termination or expiry of the Agreement (whichever is the later) with respect to all matters in respect of the performance of and compliance with paragraphs 1.1 to 1.5 of this Schedule 17 Part A. The Manufacturer shall procure that each of its Subcontractors and, where applicable subject to the provisions of paragraphs 1.1 to 1.3 of this Schedule 17 Part A, indirect Subcontractors shall, maintain and retain the Minimum Records for a minimum of six (6) years from the termination or expiry of the Agreement (whichever is the later) with respect to all matters in respect of the performance of and compliance with paragraphs 1.1 to 1.5 of this Schedule 17 Part A. The Manufacturer shall procure that each Subcontract between it and its Subcontractors and, where applicable, subject to the provisions of paragraphs 1.1 to 1.3 of this Schedule 17 Part A, each Subcontract between its Subcontractors and any Indirect Subcontractors of the Manufacturer shall contain rights of audit in favour of and enforceable by the Purchaser substantially equivalent to those granted by the Manufacturer pursuant to paragraph 1.7.1 of this Schedule 17 Part A.
- 1.7.3 The Purchaser shall use reasonable endeavours to co-ordinate its audits and to manage the number, scope, timing and method of undertaking audits so as to ensure that the Manufacturer and each Subcontractor is not, without due cause, disrupted or delayed in the performance of its obligations under the Agreement and/or relevant Subcontract (as the case may be).
- 1.7.4 The Manufacturer shall promptly provide, and procure that its Subcontractors and, where applicable subject to the provisions of paragraphs 1.1 to 1.3 of this Schedule 17 Part A, indirect Subcontractors promptly provide all reasonable co-operation in relation to any audit or check including, to the extent reasonably possible in each particular circumstance:
- (A) granting or procuring the grant of access to any premises used in the Manufacturer's performance of the Agreement or in the relevant Subcontractor or indirect Subcontractor's performance of its Subcontract, whether the Manufacturer's own premises or otherwise;
  - (B) granting or procuring the grant of access to any equipment (including all computer hardware and software and databases) used (whether exclusively or non-exclusively) in the performance of the Manufacturer's or the relevant Subcontractor or indirect Subcontractor's obligations specified in paragraphs 1.1 to 1.5 of this Schedule 17 Part A, wherever situated and whether the Manufacturer's own equipment or otherwise; and
  - (C) complying with the Purchaser's reasonable requests for access to senior personnel engaged in the Manufacturer's performance of the Agreement or the relevant Subcontractor or indirect Subcontractor's performance of its Subcontract.
- 1.7.5 For the purposes of this paragraph 1.7 the expression "**Minimum Records**" means all information relating to the Manufacturer's performance of and compliance with paragraphs 1.1 to 1.5 of this Schedule 17 Part A and the adoption and implementation of a Strategic Equality and Diversity Plan, an Agreed Training Plan and an Agreed Supplier Diversity Plan by each Subcontractor and, where applicable, subject to the provisions of paragraphs 1.1 to 1.3 of this Schedule 17 Part A, indirect Subcontractor of the Manufacturer.

## Appendix 1

### Equality and Supplier Diversity Definitions

#### General Equality and Supplier Diversity Definitions

##### (1) Access

The methods by which people with a range of needs find out about and apply for employment opportunities and find out about and use services and information.

##### (2) Black Asian and Minority Ethnic Groups

This is an inclusive term that refers to all ethnic groups who have a common experience of discrimination on the basis of their skin colour or ethnic origin. Children and young people can be further subdivided into:

- Young children – those that use the transport network escorted by parents or carers.
- School children – those, usually at secondary school, that use the transport network independently or with members of their peer group.

(3) Young adults – generally defined as ages 16 – 24, whether in education or employment.

##### (4) Consultation

Any suitable means by which advice is given or views are exchanged. Consultation involves consultees in meaningful, genuine dialogue when proposals are still in the formative stage.

##### (5) Disability

The Disability Discrimination Act 1995 defines disability as ‘a physical or mental impairment, which has a substantial and long-term adverse effect on a person’s ability to carry out normal day to day activities’.

##### (6) Discrimination

The law recognises two main types of discrimination, direct and indirect:

- Direct discrimination

Occurs when someone is treated less favourably than others on the basis of their race, colour, age, religion, nationality (including citizenship), marital status, sex, sexual orientation, disability, ethnic or national origin, religion or belief.

- Indirect discrimination

Occurs when a provision, criterion or practice is applied which applies equally to everyone, but can be shown to put people at a much greater disadvantage than others by reason of their race, sex, disability etc. where such treatment cannot be objectively justified.

##### (7) Diversity

The differences in the values, attitudes, cultural perspective, beliefs, ethnic background, sexuality, skills, knowledge and life experiences of each individual in any group of people. Diversity is essentially the acknowledgement and respect of differences within and between groups of people and or organisations. The primary differences that are recognised legislatively are age, disability,

ethnicity, faith, gender and sexual orientation. However, TfL accepts that our society is diverse in numerous other ways including employment and general social condition.

#### (8) Equalities

A term used to refer to all work addressing issues of discrimination and disadvantage, particularly as it relates to age, disability, faith, gender, race or sexual orientation.

#### (9) Equality

The vision or aim of creating a society (or aspects of society) where power and quality of life is shared equally and both individuals and groups are able to live their lives free from discrimination and oppression. The definition of equality that has been adopted by the Greater London Authority/TfL is that "an equal society protects and promotes equal, real freedom and the opportunity to live in the way people value and would choose, so that everyone can flourish. An equal society recognises people's different needs, situations and goals, and removes the barriers that limit what people can do and be." This is further explained as: "It is about what we can do to create a fairer society and recognises that equality is an issue for us all. We don't all start from the same place and to create a fairer society we need to recognise different needs. This focuses on promoting equality for those groups who enjoy legal protection against discrimination, but also for other groups who may face discrimination and disadvantage – for example, due to class or income - whose needs have often been ignored." This is the definition adopted by the Greater London Authority/TfL in 'Equal Life Chances for All' and is designed to ensure that all Londoners are able to access opportunities in all spheres without impediments.

#### (10) Equality and Supplier Diversity

Equality and Supplier Diversity is the terminology that will be used in TfL to relate to what has previously been defined as the 'supplier diversity' agenda. It is all embracing and reflects TfL's approach to this aspect of responsible procurement and the delivery of the Mayor's equal life chances for all agenda. This term will be used to replace "supplier diversity" in all aspects of procurement other than when it is being used to refer to specific supply chain areas activities and the supplier diversity plan. For TfL the principles of equality and diversity underpin all that we do and all that our manufacturers do on our behalf. It is about recognising differences but at the same time recognising that equality and diversity are issues for us all.

#### (11) Equality Impact Assessments ("EqIA")

An EqIA is a means to ensure that what TfL does as a service provider and a Purchaser meets the needs of all customers and staff. It is an exercise to test thinking and assumptions and to build in best practice at the design stage of a project. EqIAs are a statutory requirement for public sector organisations. EqIAs are used to ensure that the organisation does not discriminate and that equality is promoted whenever possible. This requires project managers to assess projects at the earliest possible stage of development to determine what if any impact the project is likely to have on the different equality and diversity target groups in London. For any project where the impact is likely to be either positive or negative it is likely that equality and diversity will be a core requirement.

#### (12) Ethnicity

An individual's identification with a group sharing any or all of the following: nationality, lifestyles, religion, customs and language.

#### (13) Equal Opportunities

The development of practices that promote the possibility of fair and equal chances for all to develop their full potential in all aspects of life and the removal of barriers of discrimination and oppression experienced by certain groups.

(14) Exemplary Employer

An employer that is at the leading edge of good practice, that people want to work for, and that offers favourable terms and conditions to its employees.

(15) Gender

The social differences between women and men that have been learned are changeable over time and have wide variations both within and between cultures. The term is often used to differentiate from 'sex' a term referring to biological differences.

(16) Gay

This term is preferable when referring to gay men or women. The word 'homosexual' (implying a condition or illness) is usually viewed as an offensive term by gay people. The word 'gay' is normally attributed to men. However at times it can be used as an all-encompassing term for gay men, lesbians and bisexual people.

(17) Inclusion

A belief in every person's inherent right to participate fully in society. The goal of inclusion is for all people to lead productive lives as full, participating members of their communities.

(18) Mainstreaming

The integration of equalities into policy, development, implementation evaluation and review. Each part of the organisation accepts its own responsibility for promoting equality of opportunity and challenging discrimination.

(19) Medical Model of Disability

The medical model looks at disability as being caused by medical symptoms. It is the impairments that prevent the person from fully participating in society, and the disabled person should adapt to fit into a non-disabled world. If this is not possible, then the needs should be met outside of mainstream society. It focuses on the disability rather than the needs of the person.

(20) Sexual Orientation

A person's emotional, physical and/or sexual attraction and the expression of that attraction. It is believed that (or) frequent studies have found sexual orientation is possibly something you are born with, and refers to both gay and heterosexual (or 'straight') people.

(21) Social Inclusion

The position from where someone can access and benefit from the full range of opportunities available to members of society. It aims to remove barriers for people or for groups that experience a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime environments, poor health and family breakdown.

(22) Social Model of Disability

Disability is a social phenomenon. While many individuals have physical or sensory impairments, learning difficulties or are living with mental health, it is the way that society responds to these

which creates disability and the impairment. The social model believes the 'cure' to the problem of disability lies in the restructuring of society, an achievable goal that benefits everyone.

### (23) Transgendered

An acceptable term for referring to a person with a recognised medical condition known as gender dysphoria, where an individual has the desire to live and be accepted as a member of the opposite sex. Another commonly used term is 'transsexual'. The terms 'trans man' (female to male) and 'trans women' (male to female) are also acceptable.

### (24) Diverse Suppliers Definitions

For the purposes of TfL's procurement equality and supplier diversity programme, "**Diverse Suppliers**" comprise the following four subsets:

- Small and Medium Enterprises (SMEs);
- Black, Asian and Minority Ethnic (BAME) business;
- Suppliers from other under-represented or protected groups;
- Suppliers demonstrating a diverse workforce composition.

The more detailed explanations of the four above subsets are given in the sections below.

#### *Small And Medium Enterprises (SMES)*

A Small Enterprise is a business which has both the following:

- 0-49 Full Time Equivalent employees;

AND EITHER

- Turnover per annum of no more than £5.6 million net (or £6.72 million gross) in the last financial year;

OR

- Balance sheet total of no more than £2.8 million net (£3.36 million gross).

#### *Medium Enterprise*

A Medium Enterprise is a business which has both the following:

- 50-249 Full Time Equivalent employees;

AND EITHER

- Turnover per annum of no more than £22.8 million net (or £27.36 million gross) in the last financial year;

OR

- Balance sheet total of no more than £11.4 million net (or £13.68 million gross).

#### *Large Enterprise*

A Large Enterprise is a business which has both the following:

- 250 and over Full Time Equivalent employees;

## AND EITHER

- Turnover per annum over £22.8 million net (or £27.36 million gross) in the last financial year;

## OR

- Balance sheet total of over £11.4 million net (or £13.68 gross).

*Black, Asian And Minority Ethnic (BAME) Owned Businesses*

A Black Asian and Minority Ethnic business (BAME) is a business which is 51% or more owned by members of one or more minority ethnic groups.

Minority ethnic groups are all people including those who have classified themselves as members of ethnic groups other than 'white British'. The monitoring ethnic classification groups used by the Purchaser for monitoring purposes are:

- White British
- Irish
- Any other White background
- Mixed White and Black Caribbean
- White and Black African
- White and Asian
- Any other Mixed background
- Asian or Asian British Indian
- Pakistani
- Bangladeshi
- Any other Asian background
- Black or Black British Caribbean
- African
- Any other Black background
- Chinese or other Ethnic Group Chinese
- Any other Ethnic Group

In respect of Bidders who are based in countries other than the UK, local definitions of ethnic classification groups will be acceptable in respect of the BAME definition.

*Suppliers From Other Under-Represented Groups Or Protected Groups*

A supplier from an under-represented group is one which is 51% or more owned by members of one or more of the following groups (where not covered by previous definitions):

- Women (gender)

- Disabled people with physical and sensory impairments, learning difficulties and mental health requirements;
- Lesbians, Gay men, Bisexual and Transgender people (sexual orientation); and
- Older people (aged 60 or over), young people (aged 24 or under) (age)

A supplier from a protected group is one which is 51% or more owned by members of a group for which protection is provided by anti-discriminatory legislation and which is not already covered by the above (such as religious, faith or belief groups, or alternatively, ownership by a social enterprise or a voluntary/community organisation).

*Suppliers Demonstrating A Diverse Workforce Composition*

This relates to Full Time Equivalent employees in the supplier's workforce who may be from one or more minority ethnic groups, and/or under-represented groups and/or protected groups as listed in paragraphs 1.3 and 1.4 of Schedule 17 Part A.

**Appendix 2**

**Agreed Strategic Equality & Diversity Plan**

Plan

**2854 Sales**

## **Responsible and Sustainable Procuring Policy**

Doc.id: 2854.0.F.0.22657

Working copy of version: 2.0

Date: 2016-11-29

Author: XXXXXXXXXX

## Document History

Version	Date	Reason
1.0	2016-09-14	Existing Policies transferred to new template
2.0	2016-09-15	Chapters rearranged

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