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**PART A4**

**SELECTION QUESTIONNAIRE**

**GUIDANCE FOR:**

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| ***Name of contract*** | **West London Waste Plan** |
| ***Contract Reference Number*** | **Ealing Contract Ref: CEX23025**  **Atamis Ref: C0168** |
| ***Procurement Procedure*** | **Open** |

All selection questionnaire documents and submissions will be treated as strictly private and confidential

**SELECTION QUESTIONNAIRE GUIDANCE**

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| In accordance with the provisions of Regulation 53 of the Public Contracts Regulations 2015 (as Amended), the London Borough of Ealing has made available the full suite of procurement documents from the publication date of the FTS notice  For a **one-stage** process(i.e. **Open Tender**), all documents should be completed and submitted accordingly. |

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|  | **Notes for completion** |
| 1. | **This document** provides specific advice on key aspects of the Selection Questionnaire (SQ) and what it asks. |
| 2. | Full advice and guidance on the completion of and the submission of the completed Selection Questionnaire will be found in:   * Document Part A1/O for Open Procedure tenders. |
| 3. | In the SQ, the “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to Participate in this procurement process. |
| 4. | “You” / “Your” / “bidder” refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity |
| 5. | Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified attachment and list it at the end of the document in the table provided. |
| 6. | The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of subcontractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information. |
| 7. | For Part 1 and Part 2 every member of your bidding group/consortium, and any subcontractor that is being relied on to meet the selection criteria, must complete and submit the self-declaration. |
| 8. | For the mandatory exclusion grounds only (Q2.1(a)), you must complete the declaration for all relevant persons and entities. There are two categories of persons and entities:   * Members of your administrative, management or supervisory board; secondly, entities and persons who have powers of representation, decision or control. You must decide, depending on the nature and structure of the entity or person who is bidding, which entities and persons this applies to in your Particular circumstances. Clearly, members of your administrative, management or supervisory board should be easily identifiable and will cover company directors (or equivalent for other types of corporate entities) and members of an executive board. * The second category of those with powers of representation, decision or control, is likely to be more complicated. As an illustration, entities or persons with 25% or more shareholding (or equivalent for other types of corporate entities) are likely to have powers or representation, decision or control, although those with a lower shareholding may still have the relevant powers depending on their Particular rights. Similarly, your ultimate parent company (or equivalent for other types of corporate entities) is likely to have powers of representation, decision or control. Depending on your Particular structure, intermediate parent companies who do not have a direct shareholding, directors or members of an executive board of your immediate parent company (for example in the case of an SPV set up specifically to bid for a Particular contract), and holders of mortgages or liens may be covered. It isn’t necessary to identify which entities and persons you think are covered but you must be satisfied that your declaration is made in respect of all of those that are covered. |
| 9. | Bidders must answer all questions in Parts 1 and 2. If you are the supplier, you must answer all questions in Part 3 as well. |
| 10. | Bidders must ensure that every organisation on which they will rely to meet the selection criteria completes and submits their own answers and declaration for Part 1 and 2. This includes any subcontractors that the potential supplier relies on to meet the selection criteria. |
| 11. | Unless it is needed to ensure proper conduct of the procedure, bidders are not required to produce supporting documentary evidence or certificates until specifically requested by the Authority. The Authority will request this evidence from the successful supplier before awarding the contract, as part of their due diligence process. If the successful supplier is unable to provide this evidence, it will not be awarded the contract.  Circumstances when such information may be required include:   * For economic and financial standing where a full assessment can only be undertaken where evidence is provided. * In the open procedure, where timescales are necessarily short and it is appropriate to review evidence concerning exclusion and selection in parallel with tender evaluation. |
| 12. | This selection questionnaire is structured in 3 separate Parts:   * **Part 1** - covers **basic information about the potential supplier**, such as the contact details, professional body memberships, details of parent companies, group bidding and so on. * **Part 2** - **constitutes** self-declarations of whether (or not) any of the **exclusion grounds** apply. * **Part 3 -** asks forevidence and self-declarations of **economic and financial standing** and for self-declarations relating to **technical and professional ability**. |
|  | Question- specific guidance follows. |
|  | **Question-Specific Guidance** |
| 1.1 (j) | Bidders can reference a definition of an SME at: <https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en> |
| 1.1 (k) | ‘Person with Significant Control’ (PSC):  UK companies, Societates European (SEs) and limited liability Partnerships (LLPs) are required to identify and record the people who own or control their company. Companies, SEs and LLPs are required to keep a PSC register and must file the PSC information with the central public register at Companies House Overseas bidders are required to provide equivalent information.  Note that only information that relates to the persons with powers of representation, decision or control within the meaning of regulation 57(2) can be considered in relation to the mandatory exclusion grounds and other details are requested for information only.  For information, there are two categories of persons and entities that are relevant:  a) Members of the potential supplier’s administrative, management or supervisory board. This category will typically cover company directors and members of an executive board.  b) Entities and persons who have powers of representation, decision or control in the supplier. This could be:   * + 1. entities or persons with a 25% or more shareholding;     2. entities or persons with less than 25% shareholding who have the relevant powers depending on their particular rights;     3. a potential supplier’s ultimate parent company;     4. intermediate parent companies of the potential supplier that do not have a direct shareholding;     5. directors or members of an executive board of their immediate parent company (for example, in the case of a Special Purpose Vehicle set up specifically to bid for a particular contract);     6. holders of mortgages or liens.   Official guidance on PSC can be found at [this gov.uk website](https://www.gov.uk/government/publications/guidance-to-the-people-with-significant-control-requirements-for-companies-and-limited-liability-partnerships). |
| 1.3 | Subcontractor details:  This applies to all supply chain members and/or subcontractors, where their identity is known at this stage, irrespective of whether you are relying on them to meet the selection criteria.  Where a supply chain member and/or subcontractor has been identified in response to this question, any resulting subcontract entered into with that subcontractor for that Part of the works, services or supplies identified in response to this question will not be subject to the requirement for contractors to advertise the subcontracting opportunity. |
| 2 | A full list of Mandatory grounds for exclusion can be found [here](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956764/Annex_C_Exclusion_Grounds.pdf). |
| 3 | A full list of Mandatory grounds for exclusion for non-payment of taxes and social security contributions can be found [here](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956764/Annex_C_Exclusion_Grounds.pdf). |
| 4 | A full list of Discretionary grounds for exclusion can be found [here](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956764/Annex_C_Exclusion_Grounds.pdf).  Suppliers who feel they may be eligible for discretionary exclusion should contact the contracting authority immediately via the e-tendering portal messaging facility, explaining the circumstances and seeking confirmation on the Council’s position on the matter. |
|  | If any of the exclusion grounds apply (other than in respect of non-payment of taxes), an explanation from the potential supplier on how the measures they have taken demonstrate their reliability is requested. These measures can include paying compensation, actively collaborating with investigating authorities and taking measures to prevent further occurrences (this is called ‘self-cleaning’). |
| 4.2 | [**Modern Slavery Act 2015**](http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted)  Commercial organisations in any sector that supply goods or services, carry on a business or part of a business in the UK, and have an annual turnover of at least £36 million ("relevant commercial organisations") are required to prepare a slavery and human trafficking statement by [Section 54 of the Modern Slavery Act 2015](http://www.legislation.gov.uk/ukpga/2015/30/section/54/enacted). Section 54 sets out various requirements relating to the content, format and publication of the statement.  The standard selection questions and SQ template ask potential suppliers who are subject to this requirement to confirm that they have published a statement and to confirm that it meets the requirements of Section 54 and any guidance issued under Section 54.  Potential suppliers who are not legally subject to this requirement are nevertheless required to demonstrate compliances with the spirit and word of the [Modern Slavery Act 2015](http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted) in the conduct of their business in order to be eligible to provide services to the LB Ealing. |
| 5 | The Invitation to Submit an EOI provides details of the financial criteria that will be used to assess bidders prior to award of any contract. Document Part H allows suppliers to undertake a self-assessment of their standing against these criteria to ensure they do not commit resources to submitting a bid that will not be eligible for award. |
| 7.2 | This question seeks assurance that the supplier has data protection processes and practices in place that, as a minimum, fall within the requirements of the GDPR. Full details of the requirements of the GDPR can be found  [here.](https://www.gov.uk/government/news/gdpr-is-here) |
| 7.3 | **Health & Safety**  The type and level of relevant experience and capability for managing health and safety risks may vary, depending on the risks, size and complexity of the requirement. Guidance from the Health and Safety Executive describes what is appropriate and proportionate in particular circumstances. Follow this link for guidance on the [Health and Safety Executive’s website](http://www.hse.gov.uk/guidance/index.htm).  A health and safety policy and examples of an assessment of how risks are controlled can help demonstrate capability. |
| 7.5 (a) | The invoices listed should include *all* situations where payments are due because not all payments involve an invoice. |
| For definition of a reporting period in this context please refer to the BEIS Guidance to be found [here.](https://www.gov.uk/government/publications/business-payment-practices-and-performance-reporting-requirements) |
|  | **Misrepresentation** |
|  | Bidders are advised that a serious misrepresentation which induces a contracting authority to enter into a contract may have the following consequences for the signatory that made the misrepresentation:-   * The potential supplier may be excluded from bidding for contracts for three years, under regulation 57(8)(h)(i) of the PCR 2015 (as Amended) and * The contracting authority may sue the supplier for damages and may rescind the contract under the Misrepresentation Act 1967 and * If fraud, or fraudulent intent, can be proved, the potential supplier or the responsible officers of the potential supplier may be prosecuted and convicted of the offence of fraud by false representation under s.2 of the Fraud Act 2006, which can carry a sentence of up to 10 years or a fine (or both).  1. If there is a conviction, then the company must be excluded from procurement for five years under reg. 57(1) of the PCR (subject to self-cleaning). |
|  | **General Advice for Bidders** |
|  | Bidders are advised that The Public Procurement Review Service allows suppliers and potential suppliers to raise concerns anonymously about unfair public sector procurement practice. The government can then investigate and resolve these concerns for contracting authorities as listed in [Schedule 1](http://www.legislation.gov.uk/uksi/2015/102/schedule/1/made) of the Public Contracts Regulations 2015. To use the Public Procurement Review Service, [read the terms](https://www.gov.uk/government/publications/mystery-shopper-scope-and-remit) and email:  [publicprocurementreview@cabinetoffice.gov.uk](mailto:publicprocurementreview@cabinetoffice.gov.uk)  or phone 0345 010 3503 |

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