

**Appendix A**

**Suitability Assessment Questions**

St Paul’s Sports Ground Management Provider Tender

London Borough of Southwark

**Suitability assessment questions**

**Notes for completion**

1. These suitability assessment questions have been designed to assess the suitability of a Provider to deliver the Council’s contract requirement(s). The Council reserves the right to reject any Tender without further consideration in the event that the Tenderer fails at this stage of the evaluation process. If you are successful at this stage of the evaluation process, the Council shall proceed to the subsequent stages of the process.
2. The Tenderer must 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’.
3. Should you need to provide additional Appendices in response to the questions, these should be numbered clearly and listed as part of your declaration. A template for providing additional information is provided at the end of this document.

**Grounds for mandatory exclusion**

1. 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).
2. 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 Council for advice before completing this form.

**Grounds for discretionary exclusion**

Conflicts of interest

1. In accordance with question 2.1 (e), the Council may exclude the Provider 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.
2. Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the Provider to inform the Council, 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 Council should not represent a conflict of interest for the Provider.

‘Self-cleaning’

1. Any Provider 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 Provider has to demonstrate it has taken such remedial action, to the satisfaction of the Council in each case.
2. If such evidence is considered by the Council (whose decision will be final) as sufficient, the Provider concerned shall be allowed to continue in the procurement process.
3. In order for the evidence referred to above to be sufficient, the Provider 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.
1. The measures taken by the Provider shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by the Council to be insufficient, the Provider shall be given a statement of the reasons for that decision.

**1 - Grounds for mandatory exclusion**

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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;
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| 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:
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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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| (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);
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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;
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| 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;
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| 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
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| 1. an offence under section 2 or 4 of the Modern Slavery Act 2015
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| 1. any other offence within the meaning of Article 57(1) of the Public Contracts Directive-
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| 1. any of the requirements under Regulation 3(1) of the Employment Relations Act 1999 (Blacklisting) Regulations 2010;
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| 1. as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or
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| 1. created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland.
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| **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**

The Council may exclude any Provider who answers ‘Yes’ in any of the following situations set out in paragraphs (a) to (i);

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| **2. 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 applicable obligations referred to in regulation 56 (2) of the Public Contract Regulations 2015 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;
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| 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 within the meaning of regulation 24 of the Public Contract Regulations 2015 that cannot be effectively remedied by other, less intrusive, measures;
 |  |  |
| 1. the prior involvement of your organisation in the preparation of the procurement procedure has resulted in a distortion of competition, as referred to in regulation 41, that cannot be 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;
 |  |  |
| 1. your organisation—

(i) 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(ii) has withheld such information or is not able to submit supporting documents required under regulation 59 of the Public Contract Regulations 2015; or |  |  |
| (i) your organisation has undertaken to |  |  |
| (aa) unduly influence the decision-making process of the Council, 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. |  |  |

**3 - Economic and Financial Standing**

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|  | FINANCIAL INFORMATION  |
| 3.1 | Please provide one of the following to demonstrate your economic/financial standing; Please indicate your answer with an ‘X’ in the relevant box. |
| 1. A bank letter confirming the ability able to meet annual rent payments
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| 1. A copy of the audited accounts for the most recent two years
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| 1. A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position
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| 1. Alternative means of demonstrating financial status if any of the above is not available (e.g. Forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).
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**4- Insurance**

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| Please self-certify whether you 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 = £10 million per event
* Public Liability Insurance = £10 million per event

\* 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  |

**5- Equality**

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| For organisations working outside of the UK please refer to equivalent legislation in the country that you are located |
| 5.1 | 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  |
| 5.2 | 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 of 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 Council’s satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.  | ▢ Yes▢ No |
| 5.3 | 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  |

**6- Health and Safety**

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| 6.1 | Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements. | ▢ Yes▢ No  |
| 6.2 | 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 Council will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Council’s satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.  | ▢ Yes▢ No  |
| 6.3 | If you use Sub-Service providers, 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 Provider**). I understand that the Council 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 Council’s requirement.

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| **Section of suitability assessment questions** | **Appendix number** |
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The following appendices form part of our submission; |
| 7.1 | Name |  |
| 7.2 | Role in organisation |  |
| 7.3 | Date |  |
| 7.4 | Signature |  |

**Template for Appendices**

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| **Appendix Number -** |
| **Suitability assessment section -** |
| **Question number -** |
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