



Llywodraeth Cymru
Welsh Government

Mutual Investment Model (MIM)

Standard Form Prequalification Questionnaire (PQQ)

September 2017 (Version 1)

[Drafting Note to Contracting Authorities: insert appropriate logo]

[**] [Drafting Note to Contracting Authorities: insert name of Contracting Authority]**

Pre-Qualification Questionnaire (“PQQ”) in respect of [**] [Drafting Note to Contracting Authorities: insert name of Project]**

[**] [Drafting Note to Contracting Authorities: insert reference number and date of the contract notice published by the Contracting Authority in the Official Journal of the European Union in relation to the Procurement Process.]**

[**] [Drafting Note to Contracting Authorities: insert the Sell2Wales portal reference number and date]**

GLOSSARY

[Drafting Note to Contracting Authorities: to be updated as required. For example, updates to the Glossary may be required when Contracting Authorities develop text which is contained in drafting notes and/or use optional text contained in square brackets.]

Contract Notice	means the notice published by the Contracting Authority in the Official Journal of the European Union in relation to Procurement Process dated [****] and with reference number [****]. [Drafting Note to Contracting Authorities: insert date of notice and reference number.]
Contracting Authority	means [****]. [Drafting Note to Contracting Authorities: insert full designation of Contracting Authority.]
Contractor	has the meaning given in the Project Agreement.
Descriptive Document	means the descriptive document in respect of the Project.
Developer	has the meaning given in the Project Agreement.
Economic Operator(s)	means any person or public entity or group of such persons and entities, including any temporary association of undertakings, which offers the execution of works or a work, the supply of products or the provision of services on the market. Where the Economic Operator is a consortium, "Economic Operator" means each member of the consortium.
MIM	means Mutual Investment Model.
Parent Company	means the parent company of a Relevant Organisation or the parent company of an Economic Operator.
PQQ	means this prequalification questionnaire.
PQQ Response	means the information that each Economic Operator (including any Relevant Organisation, Parent Company and Subcontractor which submits a response to the PQQ together with the Economic Operator) provides in response to the PQQ.
Procurement Process	means the procedure adopted by the Contracting Authority for the procurement of the Project, including prequalification and shortlisting, competitive dialogue, including participation in dialogue period meetings, submissions of proposals in respect of dialogue period meetings, Initial Solutions and Final Tenders and clarification and finalisation of the Project

Agreement and any other documents to be entered into under or in relation to the Project Agreement.

Project	means [****]. [Drafting Note to Contracting Authorities: Contracting Authority to describe its MIM project.]
Service Provider	has the meaning given in the Project Agreement.
Shareholders' Agreement	has the meaning given in the Project Agreement.
Regulations	means the Public Contracts Regulations 2015 (SI 2015/102) and reference to "Regulation" is to a specific regulation thereof.
Relevant Organisation	means each of the following relevant organisations where relevant to the Economic Operator's contractual structure: the Developer; Contractor; and/or Service Provider, [Drafting Note to Contracting Authorities: Contracting Authority to delete as appropriate.]
Subcontractors	means [***]. [Drafting Note to Contracting Authorities: "Subcontractors" will be required to submit responses to Part 1.1, 1.2, 2 and 4 of the PQQ and such responses will be evaluated in accordance with Section 8.5 of the Descriptive Document. It is recommended that the definition of Subcontractors is limited to "key" subcontractors who are categorised according to scope of works and/or value of subcontract.]

INTERPRETATION

Please note that, "you" / "your" refers to the Economic Operator, the Relevant Organisations, the Parent Company or the Subcontractors, as the context may require.

PQQ Response Requirements

[Drafting Note to Contracting Authorities: where indicated, this Standard Form PQQ should be customised to ensure that the questions are appropriate to the Project. General principles in respect of prequalification are set out in the Regulations (see especially Regulations 57 to 61). In terms of Regulation 58 of the Regulations, Contracting Authorities must limit any requirements in the PQQ to those that are appropriate to ensure that an Economic Operator has the legal and financial capacities and the technical and professional abilities to perform the contract to be awarded. All requirements in the PQQ must be related and proportionate to the subject-matter of the contract (Regulation 58(4)). Contracting Authorities may require, in particular, that Economic Operators have a sufficient level of experience demonstrated by suitable references from contracts performed in the past (Regulation 58(7)). Contracting Authorities must indicate the requirements for participation, which may be expressed as minimum levels of ability, together with the appropriate means of proof, in the contract notice (Regulation 58(19)). It is recommended that Contracting Authorities seek specialist financial, technical and legal advice, where appropriate. Contracting Authorities should present their draft PQQ to the Welsh Government as part of the CAP1 process, and the PQQ should not be published by the Contracting Authority without approval from the Welsh Government.]

This PQQ sets out the information which is required by the Contracting Authority in order to assess the suitability of Economic Operators to be shortlisted to participate in the competitive dialogue in respect of the Project.

This PQQ comprises the following sections:

Part 1 - Background Information
Part 2 - Exclusion Grounds
Part 3 - Additional Selection Questions
Part 4 - Declaration

All Economic Operators shall complete this PQQ in accordance with the instructions identified in the Descriptive Document and in this PQQ. Any completed PQQ will then be termed a "PQQ Response".

Please refer to the Descriptive Document for information regarding the Project. The Project is a complex, high value scheme and care should be taken by all Economic Operators to read the Descriptive Document in full and raise any clarifications early on in the prequalification process. Information regarding the evaluation of a PQQ Response for the Project is included in Section 8 of the Descriptive Document.

The PQQ Response shall be in Welsh or English. Any material which has been translated into Welsh or English shall be certified by the translator as a **true and fair** translation.

Economic Operators should provide the information required in the PQQ in a clear and concise manner and only material specifically required by the PQQ shall be included. General promotional or publicity material shall not be submitted as part of the PQQ Response.

All financial information or data forming part of the PQQ Response shall be submitted in, or converted to, pounds sterling GBP. Where any documents include financial data in a foreign currency, Economic Operators must convert that data into a GBP equivalent using the relevant currency exchange rate published in the Financial Times on [insert date]. The conversion should be transparent and Economic Operators should provide the underlying data in both the foreign currency and the converted equivalent. **[Drafting Note to Contracting Authorities: a list of the relevant currency exchange rates as at the date above is to be inserted.]**

The PQQ should be completed under the headings given and should follow the order and numbering contained in the PQQ. 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'. You should comply with the requirements identified in the PQQ in respect of the permitted number of words. Should the permitted number of words be exceeded, once the permitted number of words is used, the remainder of the text will not be considered for evaluation purposes. The permitted number of words excludes headers, footers and illustrative diagrams. The font of the text to be used in the PQQ Response shall be Arial 12 pt.

Any Economic Operator whose PQQ Response is not in accordance with the prescribed format may be rejected by the Contracting Authority.

[PQQ Responses should arrive not later than [insert time and date]. It is the responsibility of all Economic Operators to ensure that their PQQ Response is delivered not later than the appointed time. All PQQ Responses must be submitted through the [sell2wales website]. The system will not accept PQQ Responses submitted after this time. The Contracting Authority may not consider PQQ Responses received after the closing date and time.]

[Drafting Note to Contracting Authorities: Describe details of required electronic format. Section to be aligned and customised with any stated requirements/rules in respect of the sell2wales website, Bravo/any approved alternative.]

In relation to Part 1 (questions 1.1 and 1.2) and Part 2 please note that every organisation that is being relied on to meet the requirements of the PQQ must complete and submit these Parts and Part 4.

All Subcontractors (who are not Relevant Organisations or are being relied on to meet the requirements of the PQQ) are required to complete Part 1 (questions 1.1 and 1.2), Part 2 and Part 4.

For answers to Parts 3.1 and 3.3 to 3.8 of Part 3, if you are bidding on behalf of a group, for example, a consortium, or you intend to use Subcontractors, unless otherwise indicated, you should complete all of the questions on behalf of the consortium and/ or any Subcontractors, providing one composite response and declaration. Answers to Part 3.2 require to be submitted by Relevant Organisations and any Parent Companies who are being relied upon.

These requirements are summarised in the following table and Economic Operators shall ensure that the PQQ is completed as indicated in the following table:

Part of the PQQ		Economic Operator (including, where the Economic Operator is a consortium, each member of that consortium)	Relevant Organisations (including any members thereof where the Relevant Organisation is a group or consortium) and other parties on whom the Economic Operator relies for the purposes of the PQQ Response	Parent Company (where the economic and financial standing of that Parent Company is being relied on for the purposes of the PQQ Response)	Subcontractors on whose capacity the Economic Operator does not rely
Part 1 Background Information	1.1 - Information about the entity	✓	✓	✓	✓
	1.2 - Information about representatives	✓	✓	✓	✓
	1.3 - Information about reliance on the capacities of other entities	✓	-	-	-
	1.4 - Information concerning Subcontractors on whose capacity the Economic Operator does not rely	✓	-	-	-
Part 2 Exclusion Grounds	2.1 - Grounds relating to criminal convictions	✓	✓	✓	✓
	2.2 - Grounds relating to the payment of taxes or social security	✓	✓	✓	✓

Part of the PQQ	Economic Operator (including, where the Economic Operator is a consortium, each member of that consortium)	Relevant Organisations (including any members thereof where the Relevant Organisation is a group or consortium) and other parties on whom the Economic Operator relies for the purposes of the PQQ Response	Parent Company (where the economic and financial standing of that Parent Company is being relied on for the purposes of the PQQ Response)	Subcontractors on whose capacity the Economic Operator does not rely
	contributions			
	2.3 - Grounds relating to insolvency, conflicts of interests or professional misconduct	✓	✓	✓
Part 3 Additional Selection Questions	3.1 - Resourcing the Project	✓	-	-
	3.2 - Economic and Financial Standing	-	✓	✓
	3.3 - Minimum standards of technical and professional ability	✓	-	-
	3.4 - Technical requirements	✓	-	-
	3.5 - Management	✓	-	-

Part of the PQQ		Economic Operator (including, where the Economic Operator is a consortium, each member of that consortium)	Relevant Organisations (including any members thereof where the Relevant Organisation is a group or consortium) and other parties on whom the Economic Operator relies for the purposes of the PQQ Response	Parent Company (where the economic and financial standing of that Parent Company is being relied on for the purposes of the PQQ Response)	Subcontractors on whose capacity the Economic Operator does not rely
	3.6 - Sustainability	✓	-	-	-
	3.7 - Health and Safety	✓	-	-	-
	3.8 - Relevant experience	✓	-	-	-
Part 4 Declaration	Declaration	✓	✓	✓	✓

The Contracting Authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to contracting authorities defined by the Regulations (in the case of a joint procurement and/or in the case of the appropriate governance of this procurement), or pursuant to an order of the court or demand made by any competent authority or body where the Contracting Authority is under a legal or regulatory obligation to make such a disclosure.

[Drafting Note to Contracting Authorities: describe details of required electronic format. Section to be aligned and customised with any stated requirements in respect of Bravo/any approved alternative.]

ESPD

The European Union has introduced a European Single Procurement Document (“**ESPD**”) with the intention of harmonising certain elements of prequalification across the EU. To facilitate easy access to this Procurement Process by Economic Operators across the EU, the PQQ incorporates Part 1 (Background Information) and Part 2 (Exclusion Grounds) of the ESPD.

If an Economic Operator submits a completed ESPD at the prequalification stage of the Procurement Process, the Contracting Authority will accept that completed ESPD in place of completion of Parts 1 and 2 of the PQQ. However, in order to submit a compliant PQQ Response, Economic Operators must also complete Part 3 and Part 4 of the PQQ.

Please note that if an Economic Operator submits an ESPD in respect of this Procurement Process, it is the Economic Operator's responsibility to compare its ESPD with the requirements of the PQQ, and to supply any additional information, required by the Contracting Authority, but not contained in the ESPD. Failure to do this could lead to the Economic Operator being disqualified.

Please also note that submission of an ESPD is not a requirement of this Procurement Process. Economic Operators may simply complete the PQQ as this covers all the information which is required by the Contracting Authority at the prequalification stage.

Part 1: BACKGROUND INFORMATION

1.1 INFORMATION ABOUT THE ENTITY

This Part 1.1 shall be completed by Economic Operators, Relevant Organisations, Parent Companies, Subcontractors and any parties on whom the Economic Operator relies for the purposes of the PQQ Response.

Identification:	Answer:
Name:	[]
VAT-number, if applicable:	[]
If no VAT-number is applicable, please indicate another national identification number, if required and applicable:	[]
Postal address:	[]
Contact person or persons ¹ :	[]
Telephone:	[]
E-mail:	[]
Internet address (web address) (if applicable):	[]
Form of participation:	Answer:
Is the economic operator participating in the procurement procedure together with others ² ?	[] Yes [] No
If yes , please ensure that the others concerned provide a separate response to Parts 1.1, 1.2, 2, 3.2 and 4 of this PQQ.	
If yes:	
(a) Please indicate the role of the economic operator in the group (leader, responsible for special tasks ...):	(a) []
(b) Please identify the other economic operators participating in the procurement procedure together:	(b) []

¹ Please repeat the information concerning contact persons as many times as needed.

² Notably as part of a group, consortium, joint venture or similar.

(c) Where applicable, name of the participating group:	(c) []
--	---------

1.2 INFORMATION ABOUT REPRESENTATIVES

This Part 1.2 shall be completed by Economic Operators, Relevant Organisations, Parent Companies, Subcontractors and any parties on whom the Economic Operator relies for the purposes of the PQQ Response.

Where applicable, please indicate the name(s) and address(es) of the person(s) empowered to represent the economic operator for the purposes of this procurement procedure:

Representation, if any:	Answer:
Full name:	[];
Date and place of birth:	[]
Position/Acting in the capacity of:	[]
Postal address:	[]
Telephone:	[]
E-mail:	[]
If needed, please provide detailed information on the representation (its form, extent, purpose):	[]

1.3 INFORMATION ABOUT RELIANCE ON THE CAPACITIES OF OTHER ENTITIES

This Part 1.3 shall be completed by the lead Economic Operator only (i.e. where the Economic Operator is a consortium, each member of the Consortium does not need to complete this Part 1.3).

Reliance:	Answer:
Does the Economic Operator rely on the capacities of other entities in order to meet the selection criteria set out in in this PQQ?	[] Yes [] No

If **yes**, please ensure that the other entities provide a separate response to Parts 1.1, 1.2, 2, 3.2 (where there is reliance on economic and financial standing) and 4 of this PQQ.

1.4 INFORMATION CONCERNING SUBCONTRACTORS ON WHOSE CAPACITY THE ECONOMIC OPERATOR DOES NOT RELY

This Part 1.4 shall be completed by the lead Economic Operator only (i.e. where the Economic Operator is a consortium, each member of the Consortium does not need to complete this Part 1.4).

Subcontracting:	Answer:
Does the Economic Operator intend to subcontract any share of the Project to third parties?	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No If yes and in so far as known , please list the proposed subcontractors: [<input type="text"/>]

Part 2: EXCLUSION GROUNDS

2.1 GROUNDS RELATING TO CRIMINAL CONVICTIONS

This Part 2.1 shall be completed by Economic Operators, Relevant Organisations, Parent Companies, Subcontractors and any parties on whom the Economic Operator relies for the purposes of the PQQ Response.

The national legislation which applies to this Part 2.1 is set out in Appendix 1 of this PQQ.

Article 57(1) of Directive 2014/24/EU sets out the following reasons for exclusion:

1. Participation in a criminal organisation³;
2. Corruption⁴;
3. Fraud⁵;
4. Terrorist offences or offences linked to terrorist activities⁶;
5. Money laundering or terrorist financing⁷; and
6. Child labour and other forms of trafficking in human beings.⁸

Grounds relating to criminal convictions under national provisions implementing the grounds set out in Article 57(1) of the Directive:	Answer:
Have you yourself or any person who is a	[] Yes [] No

³ As defined in Article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

⁴ As defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, OJ C 195, 25.6.1997, p. 1, and in Article 2(1) of Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54). This exclusion ground also includes corruption as defined in the national law of the Contracting authority or the economic operator.

⁵ Within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995, p. 48).

⁶ As defined in Articles 1 and 3 of Council Framework Decision of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3). This exclusion ground also includes inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision.

⁷ As defined in Article 1 of Directive 2005/36/EU of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).

⁸ As defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

<p>member of your administrative, management or supervisory body or has powers of representation, decision or control therein been the subject of a conviction by final judgment for one of the reasons listed above, by a conviction rendered at the most five (5) years ago or in which an exclusion period set out directly in the conviction continues to be applicable?</p>	<p>If the relevant documentation is available electronically, please indicate: (web address, issuing authority or body, precise reference of the documentation):</p> <p>[] [] []⁹</p>
<p>If yes, please indicate¹⁰:</p> <p>(a) Date of conviction, specify which of points 1 to 6 is concerned and the reason(s) for the conviction;</p> <p>(b) identify who has been convicted []; and</p> <p>(c) Insofar as established directly in the conviction:</p>	<p>(a) Date: [], point(s): [], reason(s): []</p> <p>(b) []</p> <p>(c) Length of the period of exclusion [] and the point(s) concerned []</p> <p>If the relevant documentation is available electronically, please indicate: (web address, issuing authority or body, precise reference of the documentation):</p> <p>[] [] []¹¹</p>
<p>In case of convictions, have you taken measures to demonstrate your reliability despite the existence of a relevant ground for exclusion ('Self-Cleaning')?</p>	<p>[] Yes [] No</p>
<p>If yes, please describe the measures taken¹²:</p>	<p>[]</p>

⁹ Please repeat as many times as needed.

¹⁰ Please repeat as many times as needed.

¹¹ Please repeat as many times as needed.

¹² Taking into account the character of the crimes committed (punctual, repeated, systematic ...), the explanation should show the adequacy of the measures to taken.

2.2 GROUNDS RELATING TO THE PAYMENT OF TAXES OR SOCIAL SECURITY CONTRIBUTIONS

This Part 2.2 shall be completed by Economic Operators, Relevant Organisations, Parent Companies, Subcontractors and any parties on whom the Economic Operator relies for the purposes of the PQQ Response.

Payment of taxes or social security contributions:	Answer:	
Have you met all your obligations relating to the payment of taxes or social security contributions , both in the country in which you are established and in the Member State of the Contracting Authority if other than the country of establishment?	[] Yes [] No	
	Taxes	Social contributions
If not , please indicate:		
(a) Country or Member State concerned	(a) [] []	(a) [] []
(b) What is the amount concerned?	(b) [] []	(b) [] []
(c) How has this breach of obligations been established:		
(1) Through a judicial or administrative decision :	(c1) [] Yes [] No	(c1) [] Yes [] No
- Is this decision final and binding?	- [] Yes [] No	- [] Yes [] No
- Please indicate the date of conviction or decision.	- [] []	- [] []
- In case of a conviction, insofar as established directly therein , the length of the period of exclusion:	- [] []	- [] []
(2) By other means ? Please specify:	(c2) [] []	(c2) [] []
(d) Have you fulfilled your obligations by paying or entering into a binding arrangement with a view to paying the taxes or social security contributions due, including, where applicable, any interest accrued or fines?	(d) [] Yes [] No	(d) [] Yes [] No
	If yes , please provide details:	If yes , please provide details:
	[] []	[] []

If the relevant documentation concerning payment of taxes or social contributions is available electronically, please indicate:	(web address, issuing authority or body, precise reference of the documentation) ¹³ : [] [] [] []
---	--

2.3 GROUNDS RELATING TO INSOLVENCY, CONFLICTS OF INTERESTS OR PROFESSIONAL MISCONDUCT¹⁴

This Part 2.3 shall be completed by Economic Operators, Relevant Organisations, Parent Companies, Subcontractors and any parties on whom the Economic Operator relies for the purposes of the PQQ Response.

The national legislation which applies to this Part 2.3 is set out in Appendix 1 of this PQQ.

Information concerning possible insolvency, conflict of interest or professional misconduct:	Answer:
2.3.1 Have you to your knowledge , breached its obligations in the fields of environmental, social and labour law ?	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
	<p>If yes, have you taken measures to demonstrate your reliability despite the existence of this ground for exclusion ('Self-Cleaning')?</p> <p>[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No</p> <p>If you have, please describe the measures taken:</p>
	[]
2.3.2 Are you in any of the following situations: (a) Bankrupt, or (b) The subject of insolvency or winding-up proceedings, or	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No

¹³ Please repeat as many times as needed.

¹⁴ See Regulation 57(4) of the Regulations.

selection criteria,	
<p>(b) You have not withheld such information,</p> <p>(c) You have been able, without delay, to submit the supporting documents required by a contracting authority or contracting entity, and</p> <p>(d) You have not undertaken to unduly influence the decision making process of the contracting authority or contracting entity, to obtain confidential information that may confer upon you undue advantages in the procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award?</p>	

Part 3: ADDITIONAL SELECTION QUESTIONS

3.1 Resourcing the Project

Indicate who will undertake the following roles on the Project.

This Part 3.1 shall be completed by the lead Economic Operator only (i.e. where the Economic Operator is a consortium, each member of the consortium does not need to complete this Part 3.1).

[Drafting Note to Contracting Authorities: delete and/or add further key roles as appropriate to the Project. This question 3.1 is for information only and is not scored.]

Role within the Project	Full Name and Address	Percentage of Risk Capital to be provided (if any) and/or in the case of the Contractor and Service Provider, if there is more than one, the anticipated percentage of the total construction capex and maintenance opex which each will be responsible for
Developer(s)		If different between share of equity and share of subordinate debt, please state both percentages.
Contractor(s)		
Service Provider(s)		
[Lead Architect/Designer]		-
[Lead Mechanical and Electrical engineer]		-
[Lead civil and structural engineer]		-
Financial Adviser (where appointed)		-
Legal Adviser (where appointed)		-
[...]		

3.2 Economic and Financial Standing

[Drafting Note to Contracting Authorities: in terms of Regulation 58 of the Regulations, Contracting Authorities must limit any requirements in Part 3.2 to those that are appropriate to ensure that an Economic Operator has the economic and financial standing to perform the contract to be awarded. All requirements in Part 3.2 must be related and proportionate to the subject-matter of the contract (Regulation 58(4)). It is recommended that Contracting Authorities seek specialist financial advice in respect of the development and finalisation of this Part 3.2.]

This Part 3.2 shall be completed by each Relevant Organisation and Parent Company (where such Relevant Organisation is relying the economic and financial standing of its parent organisation).

3.2.1 Financial Information

3.2.1.1 Provide the following financial information, or an explanation as to why this information cannot be provided.

- (a) A copy of the most recent Annual Report including full, signed audited accounts for your organisation that cover the last three (3) years of trading, or for the period which is available if trading for less than three (3) years.
- (b) **Where the information at (a) is not available.** Please provide an explanation as to why and provide a statement of your organisation's turnover, profit and loss and cash flow position for the most recent full year of trading (or part year, if full year is not applicable), an end period balance sheet and the most recent management accounts. The date when the next Annual Report and Accounts will be available should also be provided.
- (c) **Where the information at (a) or (b) is not available.** Please provide an explanation as to why and provide a statement of your organisation's cash flow forecast for the current year and a bank letter outlining the current cash and credit facility position.
- (d) Any published interim accounts (for PLCs) relating to periods after the latest audited accounts.

Financial information uploaded with the PQQ Response:	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

3.2.1.2 If the Relevant Organisation is a subsidiary of another company and is relying on the economic and financial capacity of another entity [(in addition to the other members of a consortium, for example, a parent company)] to answer Part **[**]** of this PQQ, the information at Question **[***]** above is required for the other entity only.

Financial information uploaded with the PQQ	<input type="checkbox"/> Yes <input type="checkbox"/> No/ <input type="checkbox"/> Not applicable
--	---

Response:	
------------------	--

3.2.1.3 If the Relevant Organisation will be financially supported by any other entity, the information provided in response to Question [***] is only required from that entity.

Financial information uploaded with the PQQ Response	<input type="checkbox"/> Yes <input type="checkbox"/> No/ <input type="checkbox"/> Not applicable
---	---

3.2.2 Name and address of principal bank (or other financial institution)

Bank Name:	
Address:	
Postcode:	
Country:	
Length of time relationship has existed:	
Name of contact at the Bank:	
Email address:	
Telephone number:	
Confirm that the nominated contact has been notified that he may be contacted by or on behalf of the Welsh Ministers, and that he has been authorised to provide information on the Economic Operator's economic and financial standing:	

3.2.3 **Financial update**

3.2.3.1 Provide details of any announcements that the Relevant Organisation or any entity identified in response to Part [] has made to the authorities of the relevant stock exchange, market or bourse on which their stocks or shares are traded during the period between the last audited accounts and [].

Details of any announcements:	
--------------------------------------	--

3.2.3.2 Provide details of any events, which could be favourable or unfavourable, that have occurred after the latest reporting period that would need to be adjusted for or disclosed in accordance with International Accounting Standard (IAS) 10 (Events after the Balance Sheet Date).

Details of adjusting events under IAS 10 What is the adjustment to accounts? Include events that indicate that the going concern assumption is not appropriate.	
Details of non-adjusting events under IAS 10 What is the disclosure? Provide details of the nature of the event and an estimate of its financial effect.	

3.2.4 Key Financial Information

Please complete the attached table based on the information provided above.			
Provide data for the last three years full financial years and ensure that you identify which year's data you are providing.			
Please provide a reconciliation or explanation as to how each figure ties into the financial statements provided.			
Year:			
(a) EBITDA (£m) (Earnings Before Interest, Taxes, Depreciation and Amortisation):			
(b) Shareholder's Funds (£m):			
(c) Goodwill (£m):			

(d) Debt (£m):			
(e) Interest Costs on Debt:			

3.2.5 Other Information

The following additional information is required to be provided:

- Please provide copies of current reports (if any) in respect of the Relevant Organisation provided by any external credit reference and/or credit rating agency.
- Please identify any existing financial commitments or liabilities which could impact adversely upon the Relevant Organisation's ability to meet the requirements of the Project.
- Relevant Organisations should note that they are responsible for checking the information on the Factiva database and highlighting in their PQQ Response any material misreporting or other additional explanation which may be required. Where appropriate, additional clarification questions will be raised with Relevant Organisations.

Details of any other information:	
--	--

3.2.6 Reliance

- (a) Identify in the following table the name of any entity whose economic and financial capacity you are relying on, its relationship to the Economic Operator and the nature and size of the guarantee / financial support which this entity will provide. If a letter of support, credit or a performance bond is to be used, details should also be provided.

Name of Entity	Relationship to the Economic Operator	Financial support to be relied on and provided

3.3 MINIMUM STANDARDS OF TECHNICAL AND PROFESSIONAL ABILITY

[Drafting Note to Contracting Authorities: in terms of Regulation 58 of the Regulations, Contracting Authorities must limit any requirements in Part 3.3 to those that are appropriate to ensure that an Economic Operator has the technical and professional abilities to perform the contract to be awarded. All requirements in Part 3.3 must be related and proportionate to the subject-matter of the contract (Regulation 58(4)). Contracting Authorities may require, in particular, that Economic Operators have a sufficient level of experience demonstrated by suitable references from contracts performed in the past (Regulation 58(7)). Example questions have been set out below. Contracting Authorities should review, amend and/or supplement these questions to reflect the requirements of the Project. It is recommended that questions which relate to minimum requirements should apply to all key elements of the Project - construction, maintenance, design etc. The questions which are developed should use the following templates, and should have a strict word limit. Responses to these questions will be evaluated on a pass/fail basis. All minimum requirements should be stated in the Contract Notice (Regulation 58(19)). It is recommended that Contracting Authorities seek specialist financial, technical and legal advice in respect of the development of minimum requirements.]

This Part 3.3 shall be completed by the lead Economic Operator only (i.e. where the Economic Operator is a consortium, each member of the consortium does not need to complete this Part 3.3).

3.3.1 [CONSTRUCTION PPP]

<p>Within the last [***] years, have you completed at least [one] [***] project with a construction cost of at least £[***] million GBP or equivalent in [****] prices exclusive of VAT under a PPP model or equivalent?</p>	<p>[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No</p>
<p>Name of project:</p>	
<p>Project description:</p>	
<p>Name, address and contact details of client and client project director responsible:</p>	
<p>Identify the parties involved and the exact role of the Economic Operator/other entity (including the scope of</p>	

the works and services carried out):		
Dates (planned completion at Contract award and actual completion):	From:	
	To (planned):	To (actual):
Value of contract (including both tendered and outturn price where different):	Tendered price:	
	Outturn price:	

3.3.2 Maintenance

<p>Within the last [***] years, have you delivered maintenance services in respect of [***] with a contract value in excess of £[***] million GBP or equivalent in [***] prices exclusive of VAT?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>Name of project:</p>	
<p>Project description:</p>	
<p>Name, address and contact details of client and client project director responsible:</p>	
<p>Identify the parties involved and the exact role of the Economic Operator/other entity (including the scope of the works and services carried out):</p>	
<p>Dates (delivery of services):</p>	<p>From:</p>
	<p>To:</p>
<p>Value of contract:</p>	

3.3.3 [DESIGN]

<p>Within the last [***] years, have you completed at least [one] [***] project with a [construction] cost of at least £[***] million GBP or equivalent in [****] prices exclusive of VAT?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>Name of project:</p>		
<p>Project description:</p>		
<p>Name, address and contact details of client and client project director responsible:</p>		
<p>Identify the parties involved and the exact role of the Economic Operator/other entity (including the scope of the works and services carried out):</p>		
<p>Dates (planned completion at Contract award and actual completion):</p>	<p>From:</p>	
	<p>To (planned):</p>	<p>To (actual):</p>
<p>Value of contract (including both tendered and outturn price where different):</p>	<p>Tendered price:</p> <p>Outturn price:</p>	

3.3.4 [OTHER - e.g. design checker (roads), equipment interface (health), IT (schools) etc.]

<p>Within the last [***] years, have you completed at least one [***] project with a [construction] cost of at least £[***] million GBP or equivalent in [****] prices exclusive of VAT?</p>	<p>[] Yes [] No</p>	
<p>Name of project:</p>		
<p>Project description:</p>		
<p>Name, address and contact details of client and client project director responsible:</p>		
<p>Identify the parties involved and the exact role of the Economic Operator/other entity (including the scope of the works and services carried out):</p>		
<p>Dates (planned completion at Contract award and actual completion):</p>	<p>From:</p>	
	<p>To (planned):</p>	<p>To (actual):</p>
<p>Value of contract (including both tendered and outturn price where different):</p>	<p>Tendered price:</p> <p>Outturn price:</p>	

3.4 TECHNICAL REQUIREMENTS

[Drafting Note to Contracting Authorities: in terms of Regulation 58 of the Regulations, Contracting Authorities must limit any requirements in Part 3.4 to those that are appropriate to ensure that an Economic Operator has the technical and professional abilities to perform the contract to be awarded. All requirements in Part 3.4 must be related and proportionate to the subject-matter of the contract (Regulation 58(4)). Example questions have been set out below. Contracting Authorities should review, amend and/or supplement these questions to reflect the requirements of the Project. The responses to the questions in Part 3.4 will be evaluated on a pass/fail basis. It is recommended that Contracting Authorities seek specialist technical and legal advice in respect of the development of the questions in this Part 3.4.]

This Part 3.4 shall be completed by the lead Economic Operator only (i.e. where the Economic Operator is a consortium, each member of the consortium does not need to complete this Part 3.4).

Question	Question text	Answer
3.4.1	Are you registered with the Considerate Constructors Scheme (or equivalent) and do you comply with the scheme's Code of Considerate Practice?	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
3.4.2	Are all relevant personnel (e.g. excluding trainees and apprentices) of your organisation and any of your subcontractors/consortium members/supply chain who will be workers on or regular visitors to a construction site registered on the Construction Skills Certification Scheme (CSCS) or equivalent?	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
3.4.3	Please confirm that you currently meet, or will meet if you are successful, the requirements of the Welsh language measure ¹⁶ .	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
3.4.4	Please confirm that you currently meet, or will meet if you are successful, the requirements of the Cyber Essentials Certification Scheme or equivalent. If you are successful you must be in a position to provide evidence if required, prior to contract award, and without delay.	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No

¹⁶ If you are successful the buyer may require you to provide evidence to support your answer.

Question	Question text	Answer
	If you wish, you may include your Cyber Essentials Certificate or equivalent here.	<i>Document</i>

3.5 MANAGEMENT

[Drafting Note to Contracting Authorities: In terms of Regulation 58 of the Regulations, Contracting Authorities must limit any requirements in Part 3.5 to those that are appropriate to ensure that an Economic Operator has the technical and professional abilities to perform the contract to be awarded. All requirements in Part 3.5 must be related and proportionate to the subject-matter of the contract (Regulation 58(4)). An example question has been set out below. Contracting Authorities should review, amend and/or supplement this question to reflect the requirements of the Project. The response to the question in Part 3.5 will be evaluated on a pass/fail basis. It is recommended that Contracting Authorities seek specialist technical and legal advice in respect of the development of the question in this Part 3.5.]

Except where indicated, this Part 3.5 shall be completed by the lead Economic Operator only (i.e. where the Economic Operator is a consortium, each member of the consortium does not need to complete this Part 3.5).

Question	Question text	Answer
3.5.1	Do you operate in accordance with a Quality Management System that is certified by a UKAS-accredited (or national equivalent) third party against ISO 9001 or an equivalent standard? If you are successful you must be in a position to provide evidence if required, prior to contract award, and without delay. ¹⁷	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
	<p>If you answered “yes” you may wish to provide the following details now:</p> <ul style="list-style-type: none"> • Standard certified against; • Certification body, date and validity of certificate; and/or • Scope of certification <p>If you are bidding as a consortium, please explain which of the members has the certification in place, and how this covers the work of the consortium.</p>	[<input type="text"/>]

¹⁷ The Contracting Authority will use your answer to determine if you have an appropriate system for making sure that the quality of the product or service you deliver is consistent. If you are bidding as a consortium it may be adequate for one consortium member to hold certification on behalf of the consortium, provided that this covers all the goods, services or works to be delivered by the consortium. See www.ukas.com for more information.

3.6 SUSTAINABILITY

[Drafting Note to Contracting Authorities: In terms of Regulation 58 of the Regulations, Contracting Authorities must limit any requirements in Part 3.6 to those that are appropriate to ensure that an Economic Operator has the technical and professional abilities to perform the contract to be awarded. All requirements in Part 3.6 must be related and proportionate to the subject-matter of the contract (Regulation 58(4)). Example questions have been set out below. Contracting Authorities should review, amend and/or supplement these questions to reflect the requirements of the Project. The responses to the questions in Part 3.6 will be evaluated on a pass/fail basis. It is recommended that Contracting Authorities seek specialist technical and legal advice in respect of the development of the questions in this Part 3.6.]

Except where indicated, this Part 3.6 shall be completed by the lead Economic Operator only (i.e. where the Economic Operator is a consortium, each member of the consortium does not need to complete this Part 3.6).

Question	Question text	Answer
3.6.1	Do you operate in accordance with an Environmental Management System that is certified by a UKAS-accredited (or national equivalent) organisation? If you are successful you must be in a position to provide evidence if required, prior to contract award, and without delay. If you are bidding as a consortium, you will be required to explain which of the members has the certification in place, and how this covers the work of the consortium. ¹⁸	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
	If you answered “yes” you may attach a copy of your certificate here, if you wish.	<i>Document</i>
3.6.2	Do you have experience of delivering projects that have attained [BREEAM/CEEQUAL] ‘Excellent’ rating, or equivalent?	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No

¹⁸ The Contracting Authority will only select you to tender if you have an accredited environmental management system in place. (e.g. EMAS, ISO 14001, Green Dragon or BS8555) See www.ukas.com for more information. If you are bidding as a consortium it may be adequate for one consortium member to hold certification on behalf of the consortium, provided that it covers all goods, works or services to be delivered by the consortium if it were successful.

3.7 HEALTH AND SAFETY

[Drafting Note to Contracting Authorities: In terms of Regulation 58 of the Regulations, Contracting Authorities must limit any requirements in Part 3.7 to those that are appropriate to ensure that an Economic Operator has the technical and professional abilities to perform the contract to be awarded. All requirements in Part 3.7 must be related and proportionate to the subject-matter of the contract (Regulation 58(4)). Example questions have been set out below. Contracting Authorities should review, amend and/or supplement these questions to reflect the requirements of the Project. The responses to the questions in Part 3.7 will be evaluated on a pass/fail basis. It is recommended that Contracting Authorities seek specialist technical and legal advice in respect of the development of the questions in this Part 3.7.]

Except where indicated, this Part 3.7 shall be completed by the lead Economic Operator only (i.e. where the Economic Operator is a consortium, each member of the consortium does not need to complete this Part 3.7).

Question	Question text	Answer
3.7.1	Are you, or is your company, registered with an industrial or occupational safety group, for example a member of the Safety Schemes in Procurement (www.SSIP.org.uk) or equivalent and/or OSHAS18001 accredited? If you are bidding as, or on behalf of a consortium please indicate which of your consortium members are registered.	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
	If you answered “yes” please state the organisation concerned, provide your membership number, your membership level, and other details of what your registration covers.	[<input type="text"/>]
3.7.2	Please confirm that your company has a Health and Safety Policy? ¹⁹ If you are successful you must be in a position to provide evidence if required, prior to contract award, and without delay.	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No

¹⁹ If you are bidding on behalf of a consortium please include data from all consortium members. Only select “Yes” if this applies to all consortium members.

Question	Question text	Answer
	Please confirm that your Health and Safety Policy includes the following: <ul style="list-style-type: none"> • a Policy Statement - signed and dated. • The Organisation and Responsibilities - how Health and Safety requirements are implemented. • The Arrangements – standards and procedures adopted in practice. 	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
	Please confirm that your Health and Safety Policy has been reviewed within the past two years.	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
	If you wish you may attach a copy of your Health and Safety Policy.	Document
3.7.3	Do your staff receive induction and / or safety training before undertaking work?	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
	Do you use subcontractors to carry out work on your behalf?	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No
	If you answered yes, do you ensure that all staff of any subcontractors receive induction and / or safety training before undertaking work? ²⁰	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] Not applicable
3.7.4	Do you have a nominated competent person responsible for Health & Safety advice? ²¹	[<input type="checkbox"/>] Yes [<input type="checkbox"/>] No

²⁰ The Contracting Authority may also ask to see training records as evidence of compliance. If you are successful you must be in a position to provide evidence, if required, prior to contract award, and without delay. If you are bidding on behalf of a consortium please include data from all consortium members.

²¹ If you are bidding on behalf of a consortium please include data from all consortium members.

3.8 RELEVANT EXPERIENCE

[Drafting Note to Contracting Authorities: in terms of Regulation 58 of the Regulations, Contracting Authorities must limit any requirements in Part 3.8 to those that are appropriate to ensure that an Economic Operator has the technical and professional abilities to perform the contract to be awarded. All requirements in Part 3.8 must be related and proportionate to the subject-matter of the contract (Regulation 58(4)). Contracting Authorities may require, in particular, that Economic Operators have a sufficient level of experience demonstrated by suitable references from contracts performed in the past (Regulation 58(7)). Example questions have been set out below. Contracting Authorities should review, amend and/or supplement these questions to reflect the requirements of the Project. For example, Contracting Authorities may wish to include questions relating to previous experience of collaborative working, supply chain management and use of SMEs. The questions which are developed should use the following templates, and should have a strict word limit. It is recommended that Contracting Authorities should ask between 8 and 12 questions. Responses to these questions will be evaluated on a scored basis (with a minimum pass/fail threshold). It is recommended that Contracting Authorities seek specialist financial, technical and legal advice in respect of the development of the questions in 3.8.]

This Part 3.8 shall be completed by the lead Economic Operator only (i.e. where the Economic Operator is a consortium, each member of the consortium does not need to complete this Part 3.8).

Economic Operators are required to provide information in respect of [up to *] reference projects in support of answers to questions [***] to [***].**

These reference projects shall reflect similar works and services in terms of scope, size, complexity and risk profile as the Project and shall have been carried out in the last [*] years.**

The following table shall be completed for each reference project and the table for each reference project shall contain an answer of no more than [**] words in total for each reference project.**

Reference Project (1)	
Name of project:	
Project description:	
Name, address and contact details of client and client project director responsible:	
Identify the contractor parties involved and the exact role of the Economic Operator/other entity	

(including the scope of the works and services carried out):	
Date of Financial Close:	
Dates (original contract programme):	From:
	To:
Dates (actual completion):	From:
	To:
Value of contract (including both tendered and outturn price):	Tendered price:
	Outturn price:
Amount and Type of Funding Raised:	
Identity of Funder(s):	
Any other relevant information:	

A statement shall be provided in answer to each question. Each statement shall state why the Economic Operator considers itself to be particularly suited to undertake the Project by reference to one or more of the appropriate reference projects which have been identified.

3.8.1 Health and Safety Management

Provide details from the reference projects of the approach to managing health and safety during construction and during maintenance.

Statement (maximum * words)**

The statement shall provide:

- details of the approach to the role of Client in accordance with the CDM Regulations;
- details of the management and control of design and construction activities used to ensure a health and safety culture that benefitted employees;
- details of the management and control of maintenance activities used to ensure a health and safety culture that benefitted employees;
- details of the nature of potential difficulties faced during design and construction and how they were addressed;
- details of the nature of potential difficulties faced during maintenance and how they were addressed; and
- details of the systems and processes used to deliver continual improvement in health and safety over the project lifecycle.

3.8.2 Design and Construction

Provide details from the reference projects of design and construction experience of [****] projects and/or other relevant projects.

Statement (maximum *** words)

The statement shall provide:

- details of the management and control of design and on site activities used in respect of the reference projects to ensure successful completion of design and construction of the works;
- technical details of design, construction and completion aspects of elements of the reference projects similar in nature and scale to the Project, including: [***];
- evidence of innovation and added value, including details of demonstrated innovative and creative approaches and the benefits that these approaches provided; and
- evidence of the methods used to avoid or resolve major claims or disputes.

3.8.3 Maintenance

Provide details of experience on the reference projects of the maintenance of [***].

Statement (maximum * words)**

The statement shall provide:

- details of the management and control of on-site activities used in respect of [****];
- technical details of maintenance aspects of the reference projects similar in nature and scale to the Project, including; [***];
- evidence of innovation and added value, including details of demonstrated innovative and creative approaches and the benefits that these approaches provided; and
- evidence of the methods used to avoid or resolve major claims or disputes.

3.8.4 Environment, including Carbon management

Provide details of approach on the reference projects to the environment, including carbon management. Provide details of any energy management policies or equivalent used in respect of these reference projects.

Statement (maximum [***] words)

The statement shall provide:

- details of the management and control of design, construction and maintenance to ensure successful compliance with environmental requirements;
- details of the approach to minimising impacts to the environment arising from design, maintenance of elements of the reference projects similar in nature and scale to the Project;
- details of the approach to minimising disturbance during construction to adjacent third parties, with particular reference to compliance with specified permitted construction noise levels; and
- details of specific carbon reduction improvements categorised into construction savings and project whole life performance improvements, including contributions from the Economic Operator's design and construction processes together with details of any energy management policies.

3.8.5 Working with stakeholders

Provide details of approach on the reference projects to working and interfacing with stakeholders during the design, construction, and maintenance of the works to ensure that the rights, interests and requirements of all parties are protected and delivered.

Statement (maximum [***] words)

The statement shall provide:

- details of engagement with all stakeholders, including: statutory environmental bodies; utility companies; major commercial third parties; affected landowners; adjacent communities; and [****]; and
- details of the approaches to consultation used and evidence of the benefits of that approach.

3.8.6 Community Benefits in Procurement

Provide details of approach on the reference projects to providing a range of community benefits including supporting training and employment opportunities for long-term unemployed people and training.

Statement (maximum [***] words)

The statement shall provide;

- details of community engagement, including participation in [community education and information programmes];
- evidence of involvement in supporting training and employment of long term unemployed people; and
- evidence of support for training opportunities at all levels within the Economic Operator's organisation, including the development of trade skills within the workforce.

[Drafting Note to Contracting Authorities: question to be customised to meet the requirements of the Project - for example, the size of funding, whether or not there is multilateral involvement and market conditions at the time of the procurement.]

3.8.7 Raising Finance

Provide details using the reference projects of how you have previously raised both debt and risk capital funding for PPP projects with similar risk profiles as the Project.

Statement (maximum [*] words)**

The response should cover as a minimum:

- Relevance of the role played and contribution made by the [relevant entity];
- Depth and breadth of experience of raising finance for projects of a similar scale and risk profile, including evidence of managing issues, achieving competitive on-market pricing and achieving financial close within target timescales;
- Details of experience of raising finance for PPP projects, particularly under competitive dialogue;
- Evidence of managing and completing funder due diligence prior to Successful Participant announcement;
- Evidence of having satisfied the requirements of funders, including, where applicable, Rating Agencies, in respect of contractor security packages, both construction and maintenance;
- Evidence of the approach to and experience of managing funding competitions which minimised the overall cost of finance through e.g the maintenance of competitive tension;
- Evidence of procuring funding terms and conditions which minimise overall costs and offer value for money through innovation;
- Experience of and approach to the selection, appointment and management of funders; and
- Evidence of long-term high-quality working relationships with funders including banks, capital markets institutions, debt funds and multi-laterals.

Part 4: DECLARATION

This Part 4 shall be completed by Economic Operators, Relevant Organisations, Parent Companies and Subcontractors.

We hereby certify that the information provided in our PQQ Response is accurate to the best of our knowledge and that we accept without reservation the conditions and undertakings requested in the Descriptive Document.

We understand that the provision by us of false and/or misleading information could result in our exclusion/removal from the Procurement Process and could invalidate any final tender which we submit or result in additional conditions being imposed upon our further participation in the Procurement Process.

We hereby undertake to notify the Contracting Authority immediately of any changes in the information or circumstances referred to in our PQQ Response which occur at any time after the date of this PQQ Response. [This shall include (but not be restricted to) any announcement made to the authorities of the relevant stock exchange, market or bourse on which our stocks or shares are traded and any events (favourable or unfavourable) which need to be disclosed in accordance with International Accounting Standard (IAS) 10.]

The signatory to this declaration has full corporate and legal authority, as a director or officer of the/each company to sign on behalf of [entity].

Signed:

Name:

Capacity:

On behalf of:

Date:

Witness
(Signature)

Witness
(Name)

APPENDIX 1

EXPLANATION OF EXCLUSION GROUNDS

[Drafting Note to Contracting Authorities: Appendix 1 should be reviewed to ensure that it refers to all appropriate legislation.]

MANDATORY EXCLUSION GROUNDS

Regulations 57(1), (2) and (3) of the Regulations

Public Contract Directives 2014/24/EU Article 57(1)

Participation in a criminal organisation

Participation offence as defined by section 45 of the Serious Crime Act 2015 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;

Corruption

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;

The common law offence of bribery; or

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;

Fraud

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:

- the common law offence of cheating the Revenue;
- the common law offence of conspiracy to defraud;
- 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;
- 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;

- 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;
- an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;
- 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;
- fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or
- 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;

Terrorist offences or offences linked to terrorist activities

Any offence:

- listed in section 41 of the Counter Terrorism Act 2008;
- listed in schedule 2 to that Act where the court has determined that there is a terrorist connection; or
- under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by the previous two points;

Money laundering or terrorist financing

Money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002; or

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;

Child labour and other forms of trafficking human beings

An offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;

An offence under section 59A of the Sexual Offences Act 2003;

An offence under section 71 of the Coroners and Justice Act 2009;

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

An offence under section 2 or section 4 of the Modern Slavery Act 2015;

Non-payment of tax and social security contributions

Breach of obligations relating to the payment of taxes or social security contributions that has been established by a judicial or administrative decision;

Where any tax returns submitted on or after 1 October 2012 have been found to be incorrect as a result of:

- HMRC successfully challenging the potential supplier under the General Anti – Abuse Rule (GAAR) or the “Halifax” abuse principle;
- a tax authority in a jurisdiction in which the potential supplier is established successfully challenging it under any tax rules or legislation that have an effect equivalent or similar to the GAAR or “Halifax” abuse principle; or
- a failure to notify, or failure of an avoidance scheme which the supplier is or was involved in, under the Disclosure of Tax Avoidance Scheme rules (DOTAS) or any equivalent or similar regime in a jurisdiction in which the supplier is established;

Other offences

Any other offence within the meaning of Article 57(1) of the Directive as defined by the law of any jurisdiction outside England, Wales and Northern Ireland;

Any other offence within the meaning of Article 57(1) of the Directive created after 26th February 2015 in England, Wales or Northern Ireland;

Discretionary exclusions

Obligations in the field of environment, social and labour law.

Where an organisation has violated applicable 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 Annex X to the Directive (see copy below) as amended from time to time; including the following:

- Where the organisation or any of its Directors or Executive Officers has been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years;
- In the last three years, where the organisation has 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;
- In the last three years, where any finding of unlawful discrimination has been made against the organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or incomparable proceedings in any jurisdiction other than the UK.) This would include any finding where the organisation has been found to be in breach of The Employment Relations Act 1999 (Blacklists) Regulations 2010 by using, selling or supplying or running a prohibited list;
- Where the organisation has been in breach of section 15 of the Immigration, Asylum, and Nationality Act 2006;
- Where the organisation has a conviction under section 21 of the Immigration, Asylum, and Nationality Act 2006;
- Where the organisation has been in breach of the National Minimum Wage Act 1998;

ANNEX X Extract from Public Procurement Directive 2014/24/EU

LIST OF INTERNATIONAL SOCIAL AND ENVIRONMENTAL CONVENTIONS REFERRED TO IN ARTICLE 18(2) —

- 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); and

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.

Bankruptcy, insolvency

Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's 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;

Grave professional misconduct

Guilty of grave professional misconduct;

Distortion of competition

Entered into agreements with other economic operators aimed at distorting competition;

Conflict of interest

Aware of any conflict of interest within the meaning of Regulation 24 due to the participation in the procurement procedure;

Been involved in the preparation of the procurement procedure.

Prior performance issues

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;

Misrepresentation and undue influence

The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award;

Consequences of misrepresentation

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 Regulations;
- The contracting authority may sue the supplier for damages and may rescind the contract under the Misrepresentation Act 1967;
- 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); and
- If there is a conviction, then the company must be excluded from procurement for five years under Regulation 57(1) of the Regulations (subject to self-cleaning).

What is Self-Cleaning?

In terms of Regulation 57(13) (self-cleaning) of the Regulations, any Economic Operator that is in one of the situations referred to in paragraph (1) or (8) of Regulation 57 (i.e. has triggered a mandatory or discretionary ground for exclusions in Part 2.1 or 2.2 of this PQQ) may provide evidence to the effect that measures taken by the Economic Operator are sufficient to demonstrate its reliability despite the existence of a relevant ground for exclusion.

If the Contracting Authority considers such evidence to be sufficient, the Economic Operator concerned shall not be excluded from the procurement procedure. For that purpose, the Economic Operator shall prove that it has:

- (a) paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
- (b) clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
- (c) taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The measures taken by the Economic Operator shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct.

Where the Contracting Authority considers such measures to be insufficient, the Contracting Authority shall give the Economic Operator a statement of the reasons for that decision.