

London Borough of Lewisham – Dynamic Purchasing System

Application Guide

1.0 Introduction

London Borough of Lewisham (“the Council”) has worked with *adam* to introduce a web-based system, SProc.Net, to manage the Council’s Dynamic Purchasing System (DPS). The Council will use this system for the procurement of Passenger Transport services.

Passenger Transport Services refers to:

- Community Services
- Children Services

This DPS Application Guide, along with the DPS Operational Guide will give you an overview of what a DPS is. It will outline the Entry Criteria you must meet to join the DPS and the evaluation methodology the Council will use to assess your capability to deliver Passenger Transport Services to the Council. It will also explain how the Council will manage their procurement and invoicing processes using SProc.Net.

2.0 What is a DPS?

A DPS is a completely electronic system established by the Council to purchase commonly used goods, works or services. A DPS is governed by Regulation 34 of the Public Contract Regulations.

A DPS operates differently to a traditional contract/framework in that it is an ‘open market’ product allowing suppliers to apply to join at any time and designed to provide the Council access to a pool of suppliers or supply base which can be constantly refreshed. Interested suppliers will have to apply to be admitted to the DPS.

When the Council needs to procure specific Passenger Transport Services, it will publish the Requirement via the DPS and invite bids from suppliers admitted to the DPS in order to award a contract (called a Service Agreement) to provide the services.

2.1 How the DPS works

A supplier that wishes to provide Passenger Transport Services to the Council will have to join the DPS by Registering and submitting Accreditation and Enrolment information (an Entry Submission) online via www.SProc.net.

As part of the Accreditation and Enrolment process, the Supplier will be required to indicate for which of the Service Categories shown in section 4 below it is able to provide services. You will be able to opt in and out of these Service Categories at any point if required.

The Supplier's Entry Submission will then be evaluated to establish the supplier's capability to deliver the services against a number of pre-set selection criteria, the Entry Criteria.

The Accreditation and Enrolment process will incorporate the evaluation of suppliers' capability to provide the services described in the Council's Specification which can be viewed at <http://demand.sproc.net>. The Entry Criteria which will be evaluated on a pass / fail basis or such other basis as is explained further below.

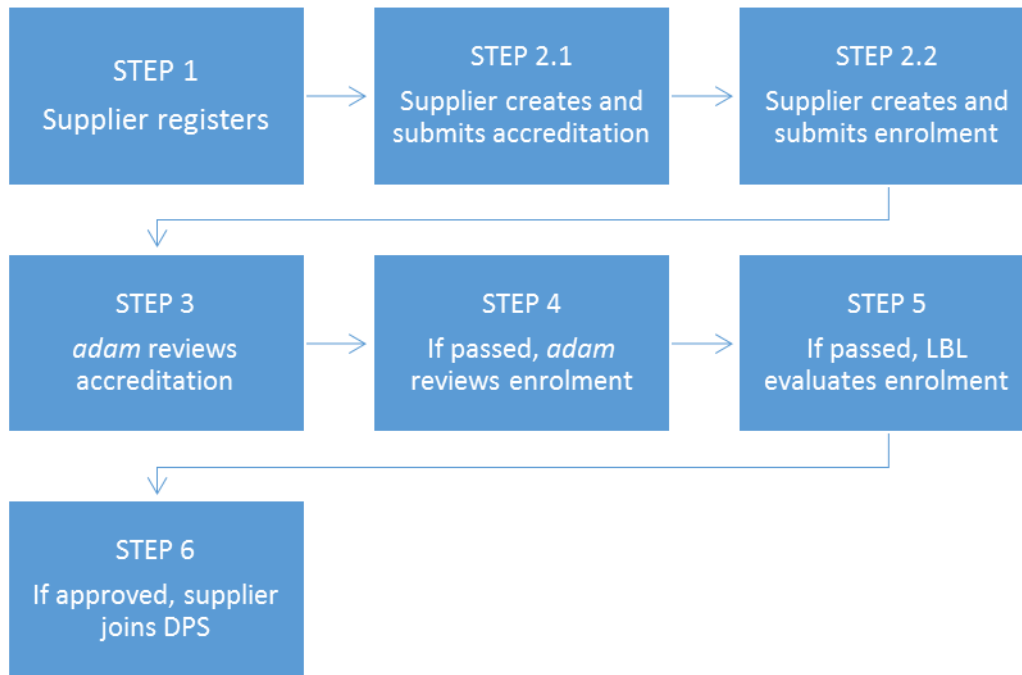
All successful and unsuccessful suppliers will be notified of the outcome of the evaluation on their Entry Submissions. A supplier will either be accepted onto the DPS or rejected and provided with feedback in order to enable the supplier to improve where necessary and to re-apply at a later date should they wish to do so. The process of applying to join the DPS is explained further in a step by step manner below.

When the Council requires specific Passenger Transport Services, it will notify suppliers accepted onto the DPS of the opportunity and will run a tender through SProc.Net, during which interested suppliers will be able to submit Offers to provide the Services required. At the end of the Open for Offers period, the Council will normally award a Service Agreement for provision of the Services. The award will be to the supplier that best meets the Council's requirements based on an evaluation of the Offers submitted (Price/Quality). This process is more fully explained in the DPS Operational Guide.

2.2 How to join the DPS

Suppliers who wish to join the Council's DPS for supply of Passenger Transport Services will need to show that they meet the Council's Entry Criteria by applying online at www.SProc.net. It is a simple two step application process consisting firstly of Registration and secondly of Accreditation and Enrolment.

Step by Step process to be completed online:



Step 1: Registration

You must register your business on the system (www.SProc.net). An email will then be sent to you with a username and password to access the system and complete the Accreditation and Enrolment steps. To complete your registration, you will need to provide, at an absolute minimum, the following information:

- Full Business Name
- Trading Name (if different from above)
- Business Tax/VAT Number
- Charity Registration Number (Charities only)
- Company Registration Number (Companies only)
- Unique Taxpayer Reference (UTR) Number (if a sole tenderer)
- SME status
- Registered Business Address: line 1, City, County, Post Code
- Telephone Number
- Email address

The business name you register will be the name shown on the system. You must then create your first administrative user by providing:

- First Name
- Last Name
- Job Title
- Email address

This user will be a supplier administrator on the system and have the ability to create other users for your business at all additional locations you may have. For further details on how to complete this registration process, please see the Registration, Accreditation and Enrolment User Guide available at <http://demand.sproc.net> on the London Borough of Lewisham page under 'Our Clients'.

The administrator will then receive a username and temporary password. Upon logging into SProc.Net, the administrator will be prompted to change the password.

Step 2: Accreditation and Enrolment

At the Accreditation (step 2.1) and Enrolment (step 2.2) stages, your business must show that you meet the Councils' Entry Criteria to be admitted onto the DPS and become one of the Council's approved suppliers. You must do so by completing an Entry Submission (your application) and providing responses on SProc.Net to a series of questions and uploading documents to provide information about your organisation. The tables in sections 3.1 to 4.12 below set out the questions that a supplier will have to respond to when completing an Entry Submission on www.SProc.Net and they also indicate what documents you will need to upload. Some questions will only have to be answered depending on the response to another question. The Entry Criteria you have to meet and how they are evaluated are also explained below in sections 3 and 4.

2.3 Entry Submission – notes for completion

2.3.1 In these notes for completing the Entry Submission, the "Council" means the public sector contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable Suppliers to join this DPS.

2.3.2 In these notes for completing the Entry Submission, "You"/ "Your" or "Supplier" means the body completing the Entry Submission i.e. the legal entity seeking to join the DPS and be invited to submit Offers to provide Services required and which is responsible for the information provided. The 'Supplier' is intended to cover any economic operator as defined by the Public Contracts Regulations and could be a registered company; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of legal entity.

2.3.3 The Entry Submission to be completed has been designed to assess the suitability of a Supplier to deliver the Council's contract requirement(s). If you are successful at this Accreditation and Enrolment stage of the DPS process, you will be selected for the subsequent Requirements stage of the process.

2.3.4 Please ensure that all questions are completed in full on SProc.Net by creating and submitting an Accreditation and Enrolment via the tabs on the system and in the format requested. Failure to do so may result in your Entry Submission being disqualified. If a question does not apply to you, please state clearly 'N/A'.

2.3.5 Where you are required to upload documents, this should be done to the location and / or in the manner indicated further on in this document.

Verification of Information Provided

2.3.6 Whilst reserving the right to request information at any time throughout the DPS process, the Council will enable the Supplier to self-certify that there are no mandatory/ discretionary grounds for excluding their organisation

Sub-contracting arrangements

2.3.7 Where the Supplier proposes to use one or more sub-contractors to deliver some or all of the contract requirements, the supplier will be required to provide, in the relevant space for this on SProc.Net, details of the proposed bidding model that include members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.

2.3.8 The Council recognises that arrangements in relation to sub-contracting may be subject to future change, and may not be finalised until a later date. However, Suppliers should be aware that where information provided to the Council indicates that sub-contractors are to play a significant role in delivering key contract requirements, any changes to those sub-contracting arrangements may affect the ability of the Supplier to proceed with the DPS procurement process or to provide the supplies and/or services required. Suppliers should therefore notify the Council immediately of any change in the proposed sub-contractor arrangements. The Council reserves the right to withdraw its acceptance of the Supplier onto the DPS prior to any award of a Service Agreement, based on an assessment of the updated information.

Consortia arrangements

2.3.9 If the Supplier completing the Entry Submission is doing so as part of a proposed consortium, the following information must be provided:

- names of all consortium members;
- the lead member of the consortium who will be contractually responsible for delivery of the contract (if a separate legal entity is not being created); and

- if the consortium is not proposing to form a legal entity, full details of proposed arrangements must be detailed in response to the question in SProc.Net.

2.3.10 Please note that the Council may require the consortium to assume a specific legal form if awarded a Service Agreement, to the extent that a specific legal form is deemed by the Council as being necessary for the satisfactory performance of the Service Agreement.

2.3.11 All members of the consortium must provide the information required in all sections of the Entry Submission as part of a single composite response to the Council i.e. each member of the consortium is required to complete the Entry Submission.

2.3.12 Where you are proposing to create a separate legal entity, such as a Special Purpose Vehicle (SPV), suppliers will be required to provide details of the actual or proposed percentage shareholding of the constituent members within the new legal entity in the relevant space for this on SProc.Net.

2.3.13 The Council recognises that arrangements in relation to a consortium bid may be subject to future change. Suppliers should therefore respond on the basis of the arrangements as currently envisaged. Suppliers are reminded that the Council must be immediately notified of any changes, or proposed changes, in relation to the bidding model so that a further assessment can be carried out by applying the Entry Criteria to the new information provided. The Council reserves the right to withdraw its acceptance of the Supplier onto the DPS prior to the award of a Service Agreement, based on an assessment of the updated information.

Confidentiality

2.3.14 When providing details of contracts in answering question 71 in the Enrolment section of the Entry Submission (Technical and Professional Ability), the Supplier agrees to waive any contractual or other confidentiality rights and obligations associated with those contracts.

2.3.15 The Council reserves the right to contact the named customer in section 4.4. The named customer contact does not owe the Council any duty of care or have any legal liability, except for any deceitful or maliciously false statements of fact.

2.3.16 The Council confirms that it will be kept confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Crown Commercial Service and/or contracting authorities defined by the Public Contracts Regulations.

3.0 Accreditation (Step 2.1)

At Accreditation, the questions you will be required to provide responses to and documents you need to upload are grouped into the following sections: Company Information; Licensing; Insurances; Technical and Professional Ability; Declaration and Document Upload - Accreditation.

You will also be required to download and confirm your business's acceptance of the Supplier Agreement that can be found both on the Accreditation and at <http://demand.sproc.net>.

The Supplier Agreement signs you up to the terms and conditions of transacting business with LBL through the DPS and to delivering any Services required in accordance with the Council's Specification in the event that you are successful in being awarded work through the DPS.

The Self-Bill Agreement contained in the Supplier Agreement states that you will submit weekly invoices (Service Receipts) via SProc.Net in relation to each Service Agreement you are awarded and downloading self-bills from SProc.Net.

You will need to confirm your acceptance of the Supplier Agreement by uploading a signed Deed Signature document on the Accreditation. The Deed Signature Document can be found on the Accreditation or at <http://demand.sproc.net>.

Signing the signature document shall not be taken by either party to mean that the Supplier Agreement is fully executed and entered into until the Service Provider's enrolment has been approved and the Council has signed and sealed the signature document.

3.1 Supplier Information

These questions are for the Council's information only. Your responses to these questions will not be scored and therefore do not impact on your ability as an organisation to become an approved supplier to the Council:

	Accreditation Question	Question Trigger
1	What is the full name of your organisation?	
2	What is the address of your registered office? Please enter N/A if not applicable	
3	What is your registered website address? Please enter N/A if not applicable	
4	What is your trading status?	
5	Please specify your trading status.	Dependent of your answer to Q4
6	What is your organisation's date of registration in its country of origin?	
7	What is your company registration number? Please enter N/A if not applicable	
8	What is your charity registration number? Please enter N/A if not applicable	
9	What is your head office DUNS number? Please enter N/A if not applicable	
10	What is your registered VAT number? Please enter N/A if not applicable	
11	Is your organisation registered in the United Kingdom?	
12	If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established?	Dependent on your answer to Q11
13	Please provide the relevant details, including the registration number(s).	Dependent on your answer to Q12
14	Is it a legal requirement in the state where you are established for you	Dependent on your

	to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement?	answer to Q11
15	Please provide additional details of what is required and confirmation that you have complied with this.	Dependent on your answer to Q14
16	Please provide the trading name(s) that will be used if successful in this procurement.	
17	Relevant classifications - Is your organisation a Voluntary, Community and Social Enterprise (VCSE)?	
18	Relevant classifications - Is your organisation a Sheltered Workshop?	
19	Relevant classifications - Is your organisation a Public Service Mutual?	
20	Are you a Small, Medium or Micro Enterprise (SME)?	
21	Do you have Persons of Significant Control (PSC)?	
22	Please provide the Name of Persons of Significant Control (PSC).	Dependent on your answer to Q21
23	Please provide the Date of birth of Persons of Significant Control (PSC).	Dependent on your answer to Q21
24	Please provide the Nationality of Persons of Significant Control (PSC).	Dependent on your answer to Q21
25	Please provide the Country, state or part of the UK where the Persons of Significant Control (PSC) usually lives.	Dependent on your answer to Q21
26	Please provide the Service address of the Persons of Significant Control (PSC).	Dependent on your answer to Q21
27	Please provide the date he or she became a Person of Significant Control (PSC) (for existing companies the 6 April 2016 should be used).	Dependent on your answer to Q21
28	Please provide which conditions for the Persons of Significant Control (PSC) are met; - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more.	Dependent on your answer to Q21
29	Do you have an immediate parent company?	
30	Please provide the following details of your immediate parent company: - Full name of the immediate parent company	Dependent on your answer to Q29
31	Please provide the following details of your immediate parent company: - Registered office address (if applicable)	Dependent on your answer to Q29
32	Please provide the following details of your immediate parent company: - Registration number (if applicable)	Dependent on your answer to Q29
33	Please provide the following details of your immediate parent company: - Head office DUNS number (if applicable)	Dependent on your answer to Q29

34	Please provide the following details of your immediate parent company: - Head office VAT number (if applicable)	Dependent on your answer to Q29
35	Do you have an ultimate parent company (that is not the same as the immediate parent company)?	
36	Please provide the following details of your ultimate parent company: - Full name of the ultimate parent company	Dependent on your answer to Q35
37	Please provide the following details of your ultimate parent company: - Registered office address (if applicable)	Dependent on your answer to Q35
38	Please provide the following details of your ultimate parent company: - Registration number (if applicable)	Dependent on your answer to Q35
39	Please provide the following details of your ultimate parent company: - Head office DUNS number (if applicable)	Dependent on your answer to Q35
40	Please provide the following details of your ultimate parent company: - Head office VAT number (if applicable)	Dependent on your answer to Q35
41	Are you bidding as the lead contact for a group of economic operators?	
42	What is the name of group of economic operators (if you are the lead or a supporting bidder). Please enter N/A if not applicable	
43	What is the proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.	Dependent on your answer to Q41
44	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	Dependent on your answer to Q41
45	Please confirm you have uploaded additional details for each sub-contractor in the downloadable template, which can be found on the accreditation page at www.SProc.Net .	Dependent on your answer to Q44

Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

3.2 Licensing

	Accreditation Question	Question Trigger
46	Do you have a Public Carriage Operator's License? The Service Provider must provide vehicles and drivers who are licensed within the meaning of the Private Hire Vehicle (London) Act 1998.	

3.3 Insurances

In order to supply services to the Council, the Council requires you to have particular insurance cover. The questions below are arranged in such a way that you do not need to have the required level of insurance at the time of your submission of the Accreditation, but if you do not you must commit to having the correct levels once you begin delivering services to the Council. If you have the required cover, you must upload the insurance schedule as part of your application. If you do not have the

required levels of cover, you must upload a document committing to obtain the right level before being awarded a Service Agreement.

	Accreditation Question	Question Trigger
47	Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, Employer's Liability Insurance to the level of £5m?	
48	Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, Public Liability Insurance to the level of £10m?	

3.4 Technical and Professional Ability

	Accreditation Question	Question Trigger
49	Please confirm that your organisation is willing and capable of doing business entirely electronically.	
50	Please provide details of your appointed Contract Manager for any enquiries about this Accreditation & Enrolment Application and also for on-going Contract Liaison	

3.5 Document Upload – Accreditation (Step 2.1 continued)

The below documents must be uploaded onto SProc.Net as part of your Accreditation submission:

	Document	What is required to pass review?
1	Employers Liability Insurance	Your company name, level of cover and the insurance expiry date must be visible within the uploaded document.
2	Public Liability Insurance	Your company name, level of cover and the insurance expiry date must be visible within the uploaded document.
3	Licensing Information	A copy of your Transport for London Operators License
4	Deed Signature Document	Please upload a signed copy of the Deed Signature Document.
5	Sub-Contractor Information	If you use sub-contractors, please fill in the downloadable sub-contractor information document and upload here (otherwise n/a).

3.6 Evaluation Methodology - Accreditation

Your Accreditation submission on the questions in Section 3.2 (Licensing), Section 3.3 (Insurances), Section 3.4 (Technical and Professional Ability) and the document upload requirement in Section 3.5 (Document Upload – Accreditation) will be assessed on a Pass / Fail basis. Once you have done your Accreditation submission, you should move straight onto completing the Enrolment – Step 2.2 of your

application. However, moving onto the Enrolment part does not mean that you have passed the Accreditation stage.

In due course, all suppliers will receive an email notification confirming whether or not your application has been approved. If your application has been failed at the Accreditation stage, you will be notified by *adam* who will provide feedback to allow you to rectify any issues and reapply if appropriate.

Self-Certification – All organisations who have self-certified will be required to upload any supporting documentation upon request by the Council which will be reviewed prior to any Service Agreement/s being awarded for any Services through the DPS.

4.0 Enrolment – Step 2.2

At the Enrolment stage, you will need to provide responses to a series of questions and upload documents in SProc.Net relating to the supplier's capabilities. The Council will use the responses and documents provided to assess the capability of your organisation to provide Passenger Transport Services to the Council.

The outcome of the assessment will be communicated within 10 days from the date of your submission.

During the Enrolment section you will be required to select which of the following service categories you can provide services for and you will want to receive requirements for:

Passenger Transport Services

- Community Services
- Children Services

4.1 Grounds for Mandatory Exclusion –see Annex A

A supplier will be excluded from becoming or continuing to be an approved supplier 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 under the laws of your organisation's country of establishment or of any UK jurisdiction which found a breach of legal obligations to pay tax or social security obligations (except either, on an exceptional basis, for overriding reasons relating to the public interest such as public health or protection of the environment or where an exclusion is disproportionate e.g. only minor amounts involved).

If your organisation has committed any of the above offences, you are asked to provide an explanation of the circumstances so the Council can evaluate the risk to both parties and potential service users.

One of the terms your organization may not be familiar with is "The European Single Procurement Document" (ESPD), for clarity, this is a self-declaration of the businesses' financial status, abilities and suitability for a public procurement procedure. If your company has already completed an ESPD and all the information is current you will only need to answer yes to question 1, and then questions 60 onwards, of the enrolment questionnaire and provide your ESPD reference number when prompted.

	Enrolment Question	Question Trigger
1	Have your organisation completed the European Single Procurement Document?	
2	Regulations 57(1) and (2) Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf . - Participation in a criminal organisation	Dependent on your answer to Q1
3	Please provide the date of conviction and the reasons for conviction.	Dependent on your answer to Q2
4	Please provide the identity of who has been convicted.	Dependent on your answer to Q2
5	If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	Dependent on your answer to Q2
6	Have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q2
7	Regulations 57(1) and (2) Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf . - Corruption	Dependent on your answer to Q1
8	Please provide the date of conviction and the reasons for conviction.	Dependent on your answer to Q7
9	Please provide the identity of who has been convicted.	Dependent on your answer to Q7
10	If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	Dependent on your answer to Q7
11	Have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q7
12	Regulations 57(1) and (2) Please indicate if, within the past five years you, your organisation or any	Dependent on your answer to

	other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf . - Terrorist offences or offences linked to terrorist activities	Q1
13	Please provide the date of conviction and the reasons for conviction.	Dependent on your answer to Q12
14	Please provide the identity of who has been convicted.	Dependent on your answer to Q12
15	If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	Dependent on your answer to Q12
16	Have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q12
17	Regulations 57(1) and (2) Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf . - Money laundering or terrorist financing	Dependent on your answer to Q1
18	Please provide the date of conviction and the reasons for conviction.	Dependent on your answer to Q17
19	Please provide the identity of who has been convicted.	Dependent on your answer to Q17
20	If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	Dependent on your answer to Q17
21	Have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q17
22	Regulations 57(1) and (2) Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf . - Fraud	
23	Please provide the date of conviction and the reasons for conviction.	Dependent on

		your answer to Q22
24	Please provide the identity of who has been convicted.	Dependent on your answer to Q22
25	If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	Dependent on your answer to Q22
26	Have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q22
27	Regulations 57(1) and (2) Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf . - Child labour and other forms of trafficking in human beings	
28	Please provide the date of conviction and the reasons for conviction.	Dependent on your answer to Q27
29	Please provide the identity of who has been convicted.	Dependent on your answer to Q27
30	If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	Dependent on your answer to Q27
31	Have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q27
32	Regulation 57(3) Has it been established, for your organisation 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 the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?	Dependent on your answer to Q1
33	Please provide further details and confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.	Dependent on your answer to Q32

4.2 Grounds for Discretionary Exclusion – see Annex B

The Council may exclude any supplier who answers ‘Yes’ to the questions below. Any supplier that answers ‘Yes’ should provide in the relevant space, sufficient evidence that provides a summary of the

circumstances and of any “self-cleaning” measures that it has taken which are sufficient to demonstrate its reliability as a supplier despite the situation in question.

The supplier has to demonstrate it has taken such remedial action to the Council’s satisfaction in each case. If such evidence is **considered sufficient** by the Council (whose decision will be final) the supplier concerned shall be allowed to continue in the DPS process. In order for the evidence referred to above to be sufficient, the supplier shall, as a minimum, prove that it has: - paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct; - clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and - taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct. The measures taken by the supplier shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by the Council to be **insufficient**, the supplier shall be given a statement of the reasons for that decision.

	Enrolment Question	Question Trigger
34	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - Breach of environmental obligations?	Dependent on your answer to Q1
35	Please specify which situation has applied and explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q34
36	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - Breach of social obligations?	Dependent on your answer to Q1
37	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q36
38	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - Breach of labour law obligations?	Dependent on your answer to Q1
39	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q38
40	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - Bankrupt or is the subject of insolvency or winding-up proceedings,	Dependent on your answer to Q1

	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?	
41	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q40
42	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - Guilty of grave professional misconduct?	Dependent on your answer to Q1
43	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q42
44	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - Entered into agreements with other economic operators aimed at distorting competition?	Dependent on your answer to Q1
45	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q44
46	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure?	Dependent on your answer to Q1
47	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q46
48	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - Been involved in the preparation of the procurement procedure?	Dependent on your answer to Q1
49	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q48
50	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - Shown significant or persistent deficiencies in the performance of a	Dependent on your answer to Q1

	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?	
51	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q50
52	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - The organisation is 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.	Dependent on your answer to Q1
53	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q52
54	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - The organisation has withheld such information.	Dependent on your answer to Q1
55	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer Q54
56	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - The organisation is not able to submit supporting documents required under regulation 9 of the Public Contracts Regulations 2015.	Dependent on your answer to Q1
57	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q56
58	Please indicate if, within the past three years, anywhere in the world the following situation has applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. - 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.	Dependent on your answer to Q1
59	Please explain what measures have been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?	Dependent on your answer to Q58

4.3 Economic and Financial Standing

The information you provide in this section will be evaluated by the Council.

	Enrolment Question	Question Trigger
60	Are you able to provide a copy of your audited accounts for the last two years, if requested?	
61	Are you able to provide a statement of turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation?	Dependent on your answer to Q60
62	Are you able to provide a statement of cash flow forecast for the current year and a bank letter outlining the current cash and credit position?	Dependent on your answer to Q61
63	Are you able to provide alternative means of demonstrating financial status (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)?	Dependent on your answer to Q61
64	Where we have specified a minimum level of economic and financial standing and/or a minimum financial threshold within the evaluation criteria for this procurement (which can be found in the application guide at http://demand.sproc.net), please self-certify by answering 'Yes' or 'No' that you meet the requirements set out.	
65	Please self-certify that your organisation is part of a wider group (e.g. a subsidiary of a holding/parent company)?	
66	What is the name of the organisation?	Dependent on your answer to Q65
67	What is the relationship of the organisation to your organisation?	Dependent on your answer Q65
68	Are you able to provide parent company accounts if requested to at a later stage?	Dependent on your answer to Q65
69	Please confirm that if necessary, your organisation's parent company would be willing to provide a guarantee.	Dependent on your answer to Q65
70	Would your organisation be able to obtain a guarantee elsewhere (e.g. from a bank)?	Dependent on your answer to Q69

4.4 Professional and Technical Ability

The Council wants to ensure the capability of all suppliers admitted onto the DPS. Your response to these questions will be used to determine whether your organisation will be selected to join the DPS. You will be required to provide relevant experience and contract examples.

	Enrolment Question	Question Trigger
71	Please confirm that you will provide, on the downloadable form,	

	<p>details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work.</p> <p>Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years. The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).</p> <p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or subcontractor(s) who will deliver the contract.</p>	
72	<p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s).</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries).</p> <p>Please enter N/A if you do not intend to use sub-contractors.</p>	
73	<p>If you cannot provide at least one example, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract.</p>	

4.5 Modern Slavery Act 2015

	Enrolment Question	Question Trigger
74	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	
75	Are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	Dependent on your answer to Q74
76	Please provide the relevant URL to view the statement.	Dependent on your answer to Q75

77	Please provide an explanation.	Dependent on your answer to Q75
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4.6 Licensing

	Enrolment Question	Question Trigger
78	Has your Company ever had its Private Hire Licence suspended, revoked or refused?	
79	Please provide details of the circumstances and what actions were taken to enable the Licence to be renewed.	Dependent on your answer to Q74

4.7 Health and Safety

	Enrolment Question	Question Trigger
80	Please confirm you have uploaded a copy of your organisation's Health and Safety Policy that complies with current legislative requirements. Please note, it is a legislative requirement for Organisations with 5 or more permanent employees to have a Health & Safety Policy. If you have less than 5 permanent employees, please upload a document stating this.	

4.8 Safeguarding

If your organisation does not have a Safeguarding Policy, you will be required to adopt and adhere to the Safeguarding Policy provided by the Council on SProc.net in order to proceed with your application.

	Enrolment Question	Question Trigger
81	Does your organisation adopt and implement a Safeguarding Policy that meets the pan London protocol as updated from time to time ? If yes, please upload (Before uploading, you may wish to check it for completeness against the example policy below)	
82	If, <u>no</u> Please confirm your organisation is willing to adopt and implement the Safeguarding Policy provided below? If yes, please insert the required details, sign the policy and upload.	Dependent on your answer to Q81
83	Who is the nominated person (and their job title) in your Company who is responsible for Safeguarding?	
84	Where has the person responsible for Safeguarding obtained their training and awareness? (Please submit any certificates/evidence if available)	
85	Please confirm you have uploaded your response to the following method statement; a) Do you have a safeguarding training programme in place that ensures each person that may come into contact with children or vulnerable adults undertakes relevant Child	

	<p>Protection / Safeguarding training at least every 2 years.</p> <p>b) Do you carry out recruitment checks and request references in accordance with Safer Recruitment guidelines?</p> <p>c) What procedures do you have in place to enforce safeguarding?</p> <p>d) Do you monitor / record Safeguarding standards (e.g logging incidents)?</p> <p>e) What other Safeguarding measures do you take?</p> <p>Word Limit: 1000 Words</p>	
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4.9 Data Protection

	Enrolment Question	Question Trigger
86	The Data Protection Act 1998 requires every data controller (e.g. organisation, sole trader) who is processing personal information to register with the ICO, unless they are exempt, see www.ico.org.uk . Please confirm that you have uploaded evidence that you are registered with the Information Commissioner as a data controller? If you are exempt, please upload evidence as to why you are exempt.	

4.10 Disclosure Barring Service

	Enrolment Question	Question Trigger
87	Please confirm that each person that may come into contact with children or vulnerable adults has undergone an Enhanced Disclosure & Barring Service (DBS) check and that a record to that effect is available for inspection if required.	
88	Please confirm that any person that does not have a clean DBS check will not be employed to deliver services to the Council, without first highlighting any short-comings to the Council, in the knowledge that the Council will consider each case on merit and confirm in writing if it is willing to accept a person to deliver services that does not have a clean DBS check.	

4.11 Company Information

	Enrolment Question	Question Trigger
89	Is your organisation able to perform contracts which include the provision of Passenger Assistants/escorts?	
90	Please confirm that you agree to only provide staff who have	Dependent on your

	completed the relevant induction and training in order to perform their role to the <u>agreed</u> standard?	answer to Q89
91	Are you able to provide specialist health passenger assistants?	
92	<p>Please confirm that you either already have, or will have in place prior to requirement start date;</p> <p>(a) the appropriate insurance in place to meet the Specialist Health requirement,</p> <p>(b) you have staff trained to provide this support and your price covers all costs associated with Specialist Health provision.</p> <p>The Authority may require a copy of the insurance documentation to be provided at any time prior to, or during the provision of services.</p>	Dependent on your answer to Q91
93	Are you able to provide Escorts only?	

4.12 Document Upload – Enrolment – Step 2.2 continued

	Document	What is required to pass review?
1	Safeguarding Policy	If you have answered 'Yes' to Q81, please upload your policy. If you have answered 'No' to Q81, please insert the required details, sign, and upload the provided policy to confirm you agree to adopt and implement this.
2	Health and Safety Policy	Your organisation's health and safety policy. If you have less than 5 permanent employees, please upload a statement outlining this.
3	Financial Information	Please upload your financial information as outlined in Q60 – Q63
4	Information Commissioner's Office Evidence	Evidence of your Information Commissioner's Office registration. If you are exempt, please upload evidence as to why you are exempt.
5	Contract Details	Please upload details of up to three contracts, in any combination from either the public or private sector that is relevant to the Council's requirement. Contracts for supplies or services should have been performed during the past three years.
6	Safeguarding Method Statement	Please upload your response to Q71. The Safeguarding Method Statement is a crucial document, therefore take time to fully answer each question ensuring a true reflection of your Safeguarding standards and that these are fully embedded.

7	Declaration Statement	A completed Declaration Statement, which has been downloaded from SProc.Net.
8	European Single Procurement Document	Evidence of a completed ESPD document if answered 'Yes' to Q1. The Council is required under EU procurement rules to accept an ESPD from a supplier in relation to the procurement of any contract that is over the threshold for EU tendering, currently £164,176 for service contracts.
9	Parent Company Financial Information	To be provided, if available.
10	Safeguarding Certification	To be provided, if available.

4.13 Evaluation Methodology – Enrolment – Step 5

4.13.1 Grounds for Mandatory Exclusion

This area is assessed on a Pass / Fail basis in accordance with the evaluation approach set out in sections 4.1. Essentially Suppliers will be excluded where they answer yes to the questions under the section setting out the grounds for mandatory exclusion.

4.13.2 Grounds for Discretionary Exclusion

This area is assessed on a Pass / Fail basis in accordance with the evaluation approach set out in sections 4.2. Essentially Suppliers may be excluded where they answer yes to the questions under the section setting out the grounds for discretionary exclusion unless they give explanations that satisfy the Council that they have taken adequate remedial action.

4.13.3 Economic and Financial Standing

This area is assessed on a Pass / Fail basis to assess a Suppliers financial standing.

4.13.4 Professional and Technical Ability

Contact names supplied may be contacted by the Council to verify the dates of which the contract was held and the Suppliers performance. If, however, a supplier is unable to provide at least one contact, an explanation of the reasons why i.e. new company, should be entered into the space provided.

4.13.5 Compliance with Legislation

This area is assessed on a Pass / Fail basis.

Licensing

If you answer 'Yes' to Q78 you may be excluded if you are unable to demonstrate to the Council's satisfaction that appropriate remedial action has been taken to prevent future occurrences/breaches.

Health and Safety

This area is assessed on a Pass / Fail basis in accordance with whether your organisation has a Health and Safety policy that adheres to current legislation.

Safeguarding

This area is assessed on a Pass / Fail basis in accordance with whether your organization has a Safeguarding Policy that adheres to PAN London Safeguarding Policies for Children and Adults.

Data Protection

Question 86 is assessed on a Pass / Fail basis.

Disclosure Barring Service

These questions are assessed on a Pass / Fail basis.

Company Information

These questions are for information only purposes. Your answers will not be assessed.

5.0 Next Steps

For fuller details on how to create and submit your Enrolment information, please see the Registration, Accreditation and Enrolment User Guide available at [www.SProc.net](http://demand.sproc.net) under the Help section on the London Borough of Lewisham demand page at <http://demand.sproc.net>.

Once your Enrolment submission has been reviewed by the Council against the Enrolment evaluation criteria set out in the Evaluation Methodology above, you will receive an email notification confirming whether or not your application has been approved within 10 days of the date of submission.

Enrolment Resubmission Policy

After submitting your enrolment for evaluation by Lewisham, as per the evaluation criteria set out in the entry criteria document found at <http://demand.sproc.net>, and Lewisham deem your submission to be unsuccessful, you will be given two further opportunities to edit your enrolment and resubmit for evaluation. If you're the two further submissions still does not meet the minimum criteria, any subsequent edit and resubmission will not be evaluated until six months have lapsed from the date of submission. Your submission will remain with a status of 'Pending Approval' until those six months have passed.

This is to ensure that your business has enough time to implement and embed the requirements set out in the feedback for rejection.

Glossary

Accreditation – this is the first part of the second step (selection) of the process that a Supplier is required to complete in order to join the DPS. It involves responding to a series of questions and uploading documents.

adam – adam HTT Ltd trading as adam, the provider of SProc.Net.

DPS – Dynamic Purchasing System used for the procurement of Services.

Enrolment – this is the second part of the selection process which a Supplier needs to complete in order to join the DPS. It involves submitting further information based on which the Council evaluates the capability of your organisation to deliver Services to the Council.

Entry Criteria – the selection criteria that a supplier must meet and maintain throughout the duration of the DPS.

Entry Submission - the Accreditation and Enrolment information and documents which the Council requires a supplier to submit via SProc.Net as part of the Accreditation and Enrolment process.

Evaluation Methodology - the methodology the Council will use to evaluate Entry Submissions against the Council's Entry Criteria as set out in this DPS Application Guide and to evaluate Offers to rank suppliers in the process of awarding a Service Agreement as set out the DPS Operational Guide

Intermission – a “hold” on the delivery of Services under a Service Agreement while the Service Agreement remains in force.

Offer – your tender against a Requirement confirming that you are able to deliver the Services required and your Price for doing so.

Open for Offers Period – the period during which you are able to submit Offers against a Requirement distributed by the Council on the DPS.

Price - the Supplier's proposed costs for carrying out a Requirement as contained in an Offer

Public Contract Regulations – The Public Contract Regulations 2015, as amended from time to time, that govern how public sector procurements must be carried out.

Registration – this is the first step of the process that a Supplier is required to complete when joining the supply base, it involves uploading onto the DPS certain basic information about the supplier's organisation.

Requirement – A request issued by the Council from time to time on the DPS describing the specific Services for which the Council is seeking to award a Service Agreement and which may include terms and conditions applicable to the provision of those Services which supplement the terms and conditions set out in the Supplier Agreement.

Self-Billing Procedure – Arrangements you sign up to as part of the Supplier Agreement in order for you to generate invoices to bill the Council on your behalf.

Service Agreement – this is the contract to deliver a Requirement issued by the Council accepting your Offer and confirming agreement on what Services are going to be delivered and at what price.

Service Category – a category of service, listed in section 4 of DPS Application Guide and / or the Specification, in relation to which a supplier may be admitted to the DPS to provide Services.

Service Receipt – this is a weekly electronic record you must submit via the DPS to confirm the services you have delivered in the specified week. This is instead of you sending invoices to the Council.

Services – These are the passenger transport services that the Service Provider will provide where required by the Council from time to time in accordance with the Supplier Agreement as more fully described in the Specification and further detailed by a Requirement.

Specification – The outline description of the Services the Council may require from time to time via the DPS.

SProc.Net – this is an internet based technology platform through which the Council will be operating the DPS to procure Services (web link is www.sproc.net).

Supplier Agreement – This is the overarching agreement between the Council and a supplier setting out how the Council will award Service Agreements via the DPS and the terms and conditions applicable to such Service Agreements.

Annex A

Mandatory Exclusion Grounds

Public Contract Regulations 2015 R57(1), (2) and (3)

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;

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;
- 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;

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

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

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; or
- 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;

- 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

Annex B

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).
- 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.

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.

Additional exclusion grounds

Breach of obligations relating to the payment of taxes or social security contributions.

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)
- 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.

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 PCR 2015;
- 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).

- 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).