

## Exclusion Criteria

These criteria follow the rules for EC contracts (PRAG)

### I-Exclusion criteria applicable for participation in procurement and grant procedures

Candidates, tenderers or applicants will be excluded from participation in procurement and grant procedures if:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they, or persons having powers of representation, decision making or control over them, have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of res judicata; (i.e. against which no appeal is possible);
- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify, including by decisions of the European Investment Bank and international organisations;
- d) they are not in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) they, or persons having powers of representation, decision making or control over them, have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such an illegal activity is detrimental to the EU's financial interests;
- f) they are currently subject to an administrative penalty referred to in Article 109(1) of the EU Financial Regulation (for programmes funded by the EU budget and the 11th EDF) and in Article 99 of the 10th EDF Financial Regulation (for programmes funded by the 10th EDF).

Points (a) to (d) do not apply to the purchase of supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities or from the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law.

Points (b) and (e) do not apply when the candidates, tenderers or applicants can demonstrate that adequate measures have been adopted against the persons having powers of representation, decision making or control over them who are subject to the judgement referred to in points (b) or (e).

Points (a), (c) and (d) do not apply if duly justified by the contracting authority in negotiated procedures where it is indispensable to award the contract to a particular entity for technical or artistic reasons or for reasons connected with the protection of exclusive rights.

The cases referred to in point (e) are the following:

- 1) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests drawn up by the Council Act of 26 July 1995;<sup>12</sup>

- 2) cases of corruption as referred to 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, drawn up by the Council Act of 26 May 1997;<sup>13</sup>
- 3) cases of involvement in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA<sup>14</sup>
- 4) cases of money laundering as defined in Article 1 of Directive 2005/60/EC of the European Parliament and the Council<sup>15</sup>;
- 5) cases of terrorist offences, offences linked to terrorist activities, and inciting, aiding, abetting or attempting to commit such offences, as defined in Articles 1, 3 and 4 of Council Framework Decision 2002/475/JHA<sup>16</sup>

## **II- Exclusion criteria applicable during the procurement and grant procedures**

Contracts may not be awarded to candidates, applicants or tenderers who, during the procurement or grant award procedures:

- are subject to a conflict of interest;
- are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information;
- find themselves in one of the exclusion situations for this procurement or grant award procedure.

Candidates, tenderers or applicants other than those in a restricted procedure, negotiated procedure or competitive dialogue, must sign a declaration together with their applications, certifying that the entity does not fall into any of the exclusion situations cited under points I and II.