



The National Council for Special Education

REQUEST FOR TENDERS TO CONDUCT AN EVALUATION OF:

In-school and Pre-school Therapy Support Demonstration Project

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Issued by:
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SECTION 1: Background Information and Invitation to Tender

1.1 The National Council for Special Education

The National Council for Special Education (NCSE) supports an inclusive education system that enables children and adults with special educational needs to achieve their potential.

The NCSE was formally established under the Education for Persons with Special Educational Needs (EPSEN) Act 2004. The Act sets out the functions of the NCSE and further details on our roles may be viewed on our website www.ncse.ie.

Undertaking research is a key function for the NCSE. This research provides an evidence base to inform policy advice given to the Minister for Education and Skills and underpins good practice guidelines and information developed for schools and parents on special education matters.

1.2 Project Background, Governance and Information

Background

The Programme for a Partnership Government 2016 committed that a new in-school speech and language therapy (SLT) service be established to support young children as part of a more integrated support system. Budget 2018 provided funding to the Department of Education and Skills (DES) to commence a demonstration project on the provision of an in-school SLT service over the course of the 2018/19 school year. The project subsequently expanded to include the provision of occupational therapy (OT) service. With additional funding provided the Department of Children and Youth Affairs (DCYA), the project was also expanded to include pre-school settings to enable a focus on early intervention.

Project Governance

The National Council for Special Education (NCSE) is responsible for the overall management of the project, with support from the HSE which will recruit and provide clinical support to the therapists, and assist in the overall implementation of the model of delivery in schools, amongst other things. DCYA will also support NCSE through assisting in the developing and implementing of the model of service delivery, and in developing linkages between pre-schools and primary schools, amongst other things.

A Working Group, chaired by the DES, provides oversight to the project. In addition to DES, its membership comprises representatives from: NCSE; DCYA; Department of Health (DH); HSE; and the National Educational Psychological Service (NEPS).

Project Information

The project will develop and test a model for the delivery of in-school and pre-school therapy support in the HSE Community Healthcare Organisation (CHO) region 7 (Dublin West, Dublin South West, Dublin South City and Kildare/West Wicklow), across a range of schools and pre-school settings, in conjunction with the Health Service Executive (HSE). The support provided by the project will supplement and not replace existing and/or planned additional or new HSE therapy services. Any existing HSE provision will remain in the pilot sites and will not be withdrawn during the project.

The project will focus on developing greater linkages between educational and therapy supports. It will provide for in-school and pre-school therapy services within a model, and also professional support, training and guidance for school/pre-school staff and parents. It will seek to assist schools/pre-schools to develop their capacity to support children with speech and language and

occupational therapy needs in schools, while also focusing on early identification and intervention. In this context the pilot will seek to establish greater linkages between pre-school and primary school therapy support interventions in the associated schools and preschools who are participating in the pilot.

The agreed model of service delivery is based on a multi-tiered interdisciplinary model of support to schools along a continuum of provision dependent on need. See Appendix 1 for more details on the model of service delivery.

Planning for the project has been underway since the last quarter of 2017 and the project will commence in schools/pre-schools in September 2018 for a full academic year. The evaluation will continue over the summer of 2019 to complete the final analyses and report writing

Up to 75 primary, post-primary and special schools and 75 pre-schools across Community Healthcare Organisation (CHO) region 7 (Dublin West, Dublin South West, Dublin South City and Kildare/West Wicklow) will be included in the project, subject to the capacity to recruit the required number of posts to support the schools. The total number of schools and pre-schools which will be included in the project will be finalised and agreed following the conclusion of the recruitment process for therapist posts.

It is aimed to recruit up to 31 therapy posts and the project is also supported by three other management and administration posts within the NCSE and two HSE Clinical Manager posts to provide clinical governance to the SLT and OT personnel who will be participating in the project.

1.3 Research Aims

A comprehensive evaluation of the project is required to test its effectiveness. While this will involve determining the outcomes for the children involved in the project and measures relating to school and pre-school staff development and capacity, it will also involve a process element and assess how the project operated, the linkages and relationships between all the partners involved across health and education and the pathways of care across services and the relationships with parents.

1.4 Research Tasks

This should include, but is not limited to, the following tasks:

1. Develop and agree a clear methodology and project plan to undertake the research tasks.
2. Summarise the research evidence relating to tiered approaches to interventions in educational settings (see Appendix 1).
3. Document and describe the development, organisation and implementation of the project.
4. Collect and analyse relevant documentary material and data from a sample of the participating schools/pre-schools. This should include some of the following (this list is not exhaustive):
 - Collect children/student profile data and detail of support provided, e.g. assessed needs, interventions provided, support plans and/or IEPs etc.
 - Collect school/pre-school profile data, e.g. type, size, overall number of students and children/students and children with SEN, staffing and other supports etc.
 - Analyse clinical and outcome data collected by the project therapists.
 - Collect and analyse process and outcome data relating to the training and information provided to staff and parents.
5. Interview a sample of children/students involved in the project and their parents/guardians to ascertain their experience of the project.
6. Interview a sample of school/pre-school staff in relation to their experience of the project.
7. Interview senior officials of the NCSE and DES involved in the project.
8. Interview a sample of HSE therapy staff to ascertain their experience of the project.

9. Interview a sample of HSE management staff and other relevant health (e.g. HSE community services) or other stakeholders linked to the school/pre-school sites to ascertain their experience of the project.
10. Interview a sample of relevant personnel involved in the project such as members of the Working Group.
11. Determine the impact of the project in a number of ways: children/student outcomes, e.g. education, communication, behaviour, participation, inclusion; school/pre-school staff training and development outcomes; capacity building at the whole school and class level; inter-professional and inter-agency working relationships and pathways of care between services etc; family life; and fidelity to the model of service delivery. Children/student outcome data should be contextualised by information of similar peers not in receipt of similar in-school/pre-school interventions.
12. Identify the key issues arising from the project- what worked well, what could be done differently, how best the model could be rolled out nationally.
13. Provide a full report on the findings and issues. The report should be succinct and written in accessible plain English. A separate brief standalone user-friendly summary is also required.

Progress / interim reports will be expected and these will be scheduled on the basis of a formal work plan to be agreed with the successful tenderer. Please note that, in addition to reporting arrangements agreed, a detailed interim report will be expected in January 2019 providing information on issues including, but not exclusive to: research evidence base, early implementation of the project, preliminary findings, issues arising.

Successful tenderers must comply with the NCSE Report Structure Guidelines and Style Guide. These will be provided upon awarding of the contract.

1.5 Expected Timelines and Budget

The estimated budget for this study is approximately €110,000 (excluding VAT). It is envisaged that the evaluation will commence upon contract signing with an overall draft report to be submitted in September 2019. The NCSE conducts formal reviews of draft reports, which includes an academic peer review. In addition, the Working Group overseeing the project will review the report and time should be factored in for such reviews.

SECTION 2: Format and Submission of Tenders

2.1 Format of Tender Proposal

To make the selection, the capability and suitability of tenderers will be assessed. Tenderers should include sufficient information to permit the awarding authority to evaluate the competency of the service provider. This information should be provided as required, and within the word counts indicated, in the tender application form.

The awarding authority reserves the right to seek additional information and / or interview tenderers in connection with its assessment of their tenders, but will not be held liable for any costs incurred in this regard by tenderers.

2.2 Submission of Tender Proposals

All those wishing to tender are required to submit:

- Four (4) hard copies of the required tender proposal (on the NCSE application form) together with
- Four (4) hard copy CVs each for the principal investigator and individual research team members (please note that individual CVs should not exceed 3 A4 pages in length).

Tenders should be submitted in a sealed envelope clearly marked: *“Tender Proposal: Evaluation of In-school and Pre-school Therapy Support Demonstration Project”*. The name and address of the tenderer should also be clearly marked in the top left corner of the envelope. Tender proposals should be sent to: Dr Liam Coen, Assistant Principal Officer, Research and Communications, National Council for Special Education, 1 – 2 Mill Street, Trim, Co. Meath. Ireland.

Tenders may also be submitted electronically via the eTenders website.

Tenders should arrive not later than 1600 hours Irish Standard Time (i.e. GMT+1) on Tuesday 14th August 2018.

Tenders which are received late will not be considered. Please note that once tenders have been submitted, no individual negotiations will take place and the awarding authority’s decision will be final.

SECTION 3: Further Information and Queries

Every effort has been made to ensure that this documentation contains all the necessary information for completion of tenders. However, in the interests of equity, requests for additional information, clarification on the content of this document and all other queries of substance (other than in relation to purely factual or procedural matters) must be made in writing or by email. Any additional information elicited will be made available to all potential tenderers who have obtained a copy of this document from the NCSE.

Any queries should be submitted by **email or in writing only**, to be received **no later than Monday 30th July at 1600 hours Irish Standard Time (i.e. GMT+1)** and addressed to: Dr Liam Coen, Assistant Principal Officer, Research and Communications, National Council for Special Education, 1 – 2 Mill Street, Trim, Co. Meath, Ireland. Email: liam.coen@ncse.ie. Queries can also be submitted via www.eTenders.ie.

SECTION 4: Evaluation of Tenders and Award of Contract

4.1 Qualification Criteria

Tenders will be examined initially with reference to the following:

- (a) Completeness of proposals and tender documentation as specified in this tender invitation.
- (b) Stated ability of the tenderer to meet all the requirements specified in this tender invitation.
- (c) A statement that none of the circumstances listed in paragraphs 1 and 2 of Article 45 of EU Directive 2004/18/EC apply to the tenderer (*Appendix 2*).
- (d) Evidence of technical capacity and financial standing to be provided with the tender application.

Only those tenders which satisfy conditions in relation to the above will be eligible for inclusion in the award process.

4.2 Criteria for Award of Contract

The contract will be awarded to the **most economically advantageous tender** of those meeting the specifications set out in this tender invitation, and not otherwise validly excluded, on the basis of the following award criteria [*scored from 100 marks weighted as indicated*]:

- Quality of proposals for providing the services outlined in this tender invitation (*40 marks*).
Quality will be assessed on the basis of:
 - clarity and understanding of the research aims
 - knowledge of the subject area
 - outline and rationale for the proposed methodology
 - appropriate ethical standards.
- Expertise, skills and experience of assigned personnel in providing the type of services described in the tender document (*35 marks*) including:
 - demonstrated and extensive research, data analysis and report writing skills
 - demonstrated experience of managing projects of this scale within expected timeframes and budgets
 - knowledge and understanding of special education issues.
- Proposed cost/value for money (*15 marks*)
- Timescale and evidence of a planned approach to the management of the phases and tasks involved and the efficient completion of the project (*10 marks*)

During the evaluation period, clarification may be sought in writing from tenderers. Responses to requests for clarification may not materially change any of the elements of the tenders submitted. No unsolicited communications from tenderers will be entertained during the evaluation period. A number of the most competitive tenderers may be invited to make presentations on their proposals for the purpose of elaboration, clarification and / or aiding mutual understanding. Any proposed subcontractors may be required to participate in the presentation.

4.3 Award of Contract

There will be an appropriate interval after the award decision is notified before a formal contract is put in place with the successful tenderer.

Any conflicts of interest involving a contractor must be fully disclosed to the awarding authority, particularly where there is a conflict of interest in relation to any recommendations or proposals put forward by the tenderer.

4.4 Payment Conditions

The following conditions will apply:-

- i. Prices and rates quoted should be in euro and be exclusive of VAT. The VAT rate(s) applicable should be indicated separately.

- ii. Payment for the delivery and implementation work will be on foot of appropriate invoices. Invoicing arrangements will be agreed with the successful contractor, following the award of contract.
- iii. The provisions of the Prompt Payment of Accounts Act 1997, as amended or revised, and the European Communities (Late Payment in Commercial Transactions) Regulations, 2002 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.

4.5 Taxation Requirements

- i. It will be a condition of the award of any contract under this RFT that the successful Tenderer shall for the term of any such contract, comply with all EU and domestic taxation law and requirements, including but not being limited to Circular 43/2006 issued by the Department of Finance. This Circular and further information is available at www.finance.gov.ie and www.revenue.ie.
- ii. Prior to the award of any contract arising out of this public procurement competition the successful Tenderer shall be required to produce a Tax Clearance Certificate from the Irish Revenue Commissioners. Alternatively, the Tenderer may supply the certificate and registration numbers, as they appear on the Tax Clearance Certificate, to facilitate online verification of their tax status by the Contracting Authority.
- iii. In the case of a non-resident supplier, a statement of suitability on tax grounds from the Irish Revenue Commissioners is required (Tax Clearance Section, Office of the Collector-General, Sarsfield House, Limerick). An application for the Certificate should be made on a standard form, which will be supplied by the Revenue Commissioners. All payments under the contract will be conditional on the contractor(s) being in possession of a valid Certificate at all times.
- iv. In addition, contractors must retain records of tax reference numbers for any sub-contractors where payments exceed €634.87 (including VAT).
- v. In accordance with Government requirements, payments for professional services will be subject to withholding tax as laid down by the Revenue Commissioners.

SECTION 5: Terms and Conditions

The supply of this request for tender and the overall process of evaluation and selection are subject to the following conditions:

- i. That only tenders submitted in the English or Irish language will be accepted.
- ii. That the awarding authority will not be liable in respect of any costs incurred by tenderers in the preparation of tenders, or any associated work effort.
- iii. That all information provided by the awarding authority will be treated in strict confidence by the tenderer.
- iv. That the awarding authority will treat as confidential all information provided by the tenderer, subject to its obligations under the Freedom of Information Act, which became effective on 21 April 1998. If the tenderer considers that certain information supplied should not be disclosed for reasons of commercial or other sensitivity, this should be identified and reasons for it being deemed sensitive given. The awarding authority will subsequently engage in consultations with the tenderer about such sensitive information before making a decision in relation to any request received under the Freedom of Information Act. If no information is identified as sensitive, with supporting reasons, then it is liable to be released in response to such a request.

- v. That the awarding authority reserves the right to update or alter any information contained within this briefing document at any time. Participating tenderers will be so informed.
- vi. That the information supplied in response to this request for tender will be regarded as forming part of any future contract entered into.
- vii. All outputs arising from this research including, but not limited to data, reports, information etc. will remain the sole property of the awarding authority, irrespective of whether or not the contract is terminated prior to its completion.
- viii. Progress and final reports will be completed within NCSE templates and must be formally signed off by the Principal Investigator before submission.
- ix. Final payment will only be issued to the successful tenderer once the quality of the work is reviewed under the Council's evaluation framework and signed off by Council.
- x. The awarding body will grant a license to the successful tender to use the material generated in the research for academic, teaching and research purposes three months after the final research report has been signed off. Any publication of material or findings in advance of this may only be done so with the explicit permission of the awarding body.

Appendix 1: Demonstration Project on In-School Therapy Support – Model of Service Delivery

Speech and Language Therapy

Tier 1: Whole School and Classroom (Support for All)	Tier 2: School Support (Support for Some)	Tier 3: School Support Plus (Support for a Few)
<p>Focus Areas: <i>Support for the implementation of the objectives of the Primary Language Curriculum for Junior Infants to 2nd class students; the Primary Curriculum from 3rd to 6th class; and the Junior and Senior Cycle Curriculum in Post Primary.</i></p> <ol style="list-style-type: none"> Whole school support for students’ oral language and communication skills: <ul style="list-style-type: none"> Promotion of the concept of ‘Communication Friendly Schools’. Support for all children and young people to access the curriculum, e.g. through use of structured vocabulary teaching, visual timetables, teacher CPD. <i>School Project Team and SLT.</i> CPD for teachers on Speech, Language and Communication Needs (SLCN): <ul style="list-style-type: none"> Information on the impact of SLCN for children and young people to access the curriculum. Support for teachers to profile, identify and overcome barriers to learning. Curriculum differentiation. <i>School Project Team and SLT.</i> Support for the implementation of approaches, strategies and activities to address identified whole school communication targets. <i>Classroom/Subject Teachers and SLT.</i> Development of a flexible strategy to maximise the participation of parents in their children’s communication development: <ul style="list-style-type: none"> Development of activity programmes for parents, 	<p>Focus Areas: <i>Identification of Speech, Language and Communication Needs and the provision of specific training and support to schools to enable them to deliver structured interventions to children at risk of educational or other difficulties as a result of SLCN.</i></p> <ol style="list-style-type: none"> SLT –Teacher Collaborative Support: SLT, SET team and classroom/subject teachers work together to identify and support small groups of students who require additional supports to those provided at Tier 1. Development/identification of evidence informed collaborative programmes and strategies to support students’ ability to engage with the curriculum: Professional development, support and in-class coaching for teachers leading targeted programmes to ensure appropriate implementation of programmes and strategies. Team-teaching (SLT & Teacher) to facilitate: <ul style="list-style-type: none"> Collaborative planning and problem solving. Sharing of knowledge, skills and expertise. Individualised planning tailored to student’s strengths and weaknesses. Generalisation of therapy into classroom (where applicable). Target setting and review to support Student Support Plans – to include inter-disciplinary collaborative consultation. Maximise parent participation of targeted students 	<p>Focus Areas: <i>Significant Persistent Speech, Language and Communication Needs - Intervention and Support for students who require additional supports to those provided at Tier 1 and Tier 2.</i></p> <ol style="list-style-type: none"> Multi –disciplinary consultation and liaison with all agencies supporting the student and family. Identification of Significant Persistent Speech, Language and Communication Needs – including SLT assessment as determined by clinical need. SLT and assigned support teacher (SET/classroom/subject teacher) work together to develop the speech, language and communication abilities of student with significant persistent needs and ensure appropriate implementation of programmes and strategies. <p>This may include:</p> <ul style="list-style-type: none"> Collaborative target-setting with relevant school staff, student, parent. Information and support for all teachers and SLTs working with the student. Working directly with the teacher and student on Speech, Language and Communication skills. Support for the teacher developing a Student Support Plan to support generalisation of communication skills.

<p>schools and early years' staff for implementation in the child's learning or home environment. <i>School Project Team, School Support Services (HSCLT/SCP etc.), SLT.</i></p> <p>5. Regular feedback on progress to all staff:</p> <ul style="list-style-type: none"> ○ Regular review of progress and adaptations. <i>School Project Team, SLT, school management, classroom/subject teachers, parents and students.</i> 	<p>to:</p> <ul style="list-style-type: none"> ○ Implement strategies to address speech, language and communication needs. ○ Embed the approach into the child's everyday environment by working with individual children and groups of children in conjunction with parents and school staff. 	
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Occupational Therapy

Tier 1: Whole School and Classroom (Support for All)	Tier 2: School Support (Support for Some)	Tier 3: School Support Plus (Support for a Few)
<p>Focus Areas: <i>Development of 'accessible environments' to support all students to achieve meaningful participation within the learning environment - whole school support for self-regulation skills, social skills and motor skills.</i></p> <p>1. Self-regulation: The promotion of an awareness of self-regulation and its relationship with meaningful participation. CPD for teachers on:</p> <ul style="list-style-type: none"> ○ Supporting self-regulation in the classroom. ○ Sensory Processing and its role in self-regulation. ○ Specific presenting needs and the impact of these on self-regulation. <i>School Project Team and OT.</i> <p>2. Social Engagement:</p> <ul style="list-style-type: none"> ○ The promotion and further understanding of the impact and application of social skills on learning and meaningful participation within the school environment. <i>School Project Team and OT.</i> <p>3. Motor Skills: The promotion of an understanding of motor skills and the impact of motor development on learning and meaningful participation within the school environment. CPD for teachers on:</p> <ul style="list-style-type: none"> ○ Motor Skills – whole class strategies to develop motor 	<p>Focus Areas: <i>Differentiation of Classroom Tasks. Collaboration and consultation with teachers, parents and students (as appropriate) to identify students who require additional supports to those provided at Tier 1. Interventions, strategies and supports provided by occupational therapy at Tier 2 will be targeted towards identified needs and will be teacher - led.</i></p> <p>1. OT–Teacher Collaborative support: OT, SET team and classroom/subject teachers work together to identify and support small groups of students who require additional supports to those provided at Tier 1.</p> <p>2. Self-Regulation:</p> <ul style="list-style-type: none"> ○ Consultation with teachers in identifying small groups of students presenting with continued self-regulation difficulties. ○ Training and in-school support for teachers implementing evidence informed self-regulation programmes. ○ Support for the adaptation of evidence informed programmes to match students' needs. <p>3. Social Engagement:</p> <ul style="list-style-type: none"> ○ Consultation with teachers in identifying students presenting with continued social skills challenges. ○ Training and in-school support for teachers implementing evidence informed programmes to support positive 	<p>Focus Areas: <i>Collaboration and consultation with teachers, parents and students (as appropriate) to identify students who require additional supports to those provided at Tier 1 and Tier 2. Supports provided by occupational therapy at Tier 3 will be individualised towards identified needs in consultation with SET team, classroom/subject teachers and parents/guardians.</i></p> <p>1. Multi-disciplinary consultation and liaison with all agencies supporting the student and family.</p> <p>2. OT works with assigned support teacher and classroom/subject teacher to ensure meaningful participation of student with significant persistent needs.</p> <p>This may include:</p> <ul style="list-style-type: none"> ○ Collaborative identification of needs and difficulties which are preventing meaningful participation of the student within the school environment. ○ Collaborative target setting with teacher, student and parent. ○ Providing information and support for all teachers and OTs working with the student. ○ Working directly with the teacher and student on functional skills development, e.g. self-regulation, social skills, motor skills, self-care.

<p>skills.</p> <ul style="list-style-type: none"> ○ Handwriting. ○ Information about specific motor skills needs. <i>School Project Team and OT.</i> <p>4. Environment: Support for schools at whole school level to ensure that the school environment (from a physical, social and sensory perspective) promotes inclusion for all students:</p> <ul style="list-style-type: none"> ○ To explore the physical, social and sensory demands of the school building. ○ The creation of a predictable, organised and consistent learning environment that supports students' access to and participation in school life. ○ Analysing classroom ergonomics and school social spaces (e.g. canteen spaces, yard) to identify potential barriers and opportunities for motor skills development and to maximise student engagement in learning. <i>School Project Team and OT.</i> ○ The utilisation of existing resources in the school to support student engagement and participation, including technology. <p>5. Support for the implementation of approaches, strategies and activities to address identified whole school development in the areas of self-regulation, social skills, motor skills and environments. <i>School Project Team and OT.</i></p> <p>6. The development of a flexible strategy to maximise the participation of parents in their children's self-regulation skills, motor skills development, social engagement and meaningful participation in school. <i>School Project Team, School Support Services (HSCLT/SCP, etc.) and OT.</i></p> <p>7. Regular review on progress to all staff <i>School Project Team, School Management, OT.</i></p>	<p>relationships.</p> <ul style="list-style-type: none"> ○ Support for the adaptation of evidence informed programmes to match students' needs. <p>4. Motor Skills</p> <ul style="list-style-type: none"> ○ Consultation with teachers in identifying targeted goals for students. ○ The development of student motor skills programmes and teacher training programmes targeting the key skills required for handwriting, communication and other classroom activities. This will be developed through interdisciplinary collaboration with teachers and the School Project Team utilising the resources already available in the school. ○ Monitoring and review of students' progress in their performance and achievement of goals. <p>5. Development/identification of evidence informed collaborative programmes and strategies to support students' ability to engage with the curriculum and meaningfully participate in school life and learning.</p> <ul style="list-style-type: none"> ○ Professional development, support and in class coaching (co-facilitation) for teachers leading above programmes to ensure fidelity to programmes and strategies. <p>6. Collaborative Planning and Problem Solving (OT and Teacher) to allow for:</p> <ul style="list-style-type: none"> ○ Sharing of knowledge, skills and expertise. ○ Individualised planning tailored to students' strengths and areas of need. ○ Target setting and review to support Student Support Plans- to include interdisciplinary collaborative consultation. <p>7. Promotion of parental participation of targeted students to implement strategies to address self-regulation, social engagement and motor skills needs.</p> <p>8. Environment Collaborative planning with teacher, parents/guardians and targeted students to assess the learning environment of the students (physical, sensory, social, cultural, etc.) with regard to their particular needs to allow for:</p>	<ul style="list-style-type: none"> ○ Support for the teacher developing a Student Support Plan to support generalisation of skills. ○ Ongoing review of the effectiveness of supports to ensure that the student is participating in school.
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	<ul style="list-style-type: none">○ Identification of possible barriers to students accessing learning.○ Identification of environmental adaptations which would support the individual student to engage in learning.	
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APPENDIX 2

ARTICLE 45 OF EU DIRECTIVE 2004/18/EC

Personal situation of the candidate or tenderer

1. Any candidate or tenderer who has been the subject of a conviction by definitive judgment of which the contracting authority is aware for one or more of the reasons listed below shall be excluded from participation in a public contract:

- (a) participation in a criminal organisation, as defined in Article 2(1) of Council Joint Action 98/733/JHA¹;
- (b) corruption, as defined in Article 3 of the Council Act of 26 May 1997² and Article 3(1) of Council Joint Action 98/742/JHA³ respectively;
- (c) fraud within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities⁴;
- (d) money laundering, as defined in Article 1 of Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering⁵.

Member States shall specify, in accordance with their national law and having regard for Community law, the implementing conditions for this paragraph.

They may provide for a derogation from the requirement referred to in the first subparagraph for overriding requirements in the general interest.

For the purposes of this paragraph, the contracting authorities shall, where appropriate, ask candidates or tenderers to supply the documents referred to in paragraph 3 and may, where they have doubts concerning the personal situation of such candidates or tenderers, also apply to the competent authorities to obtain any information they consider necessary on the personal situation of the candidates or tenderers concerned. Where the information concerns a candidate or tenderer established in a State other than that of the contracting authority, the contracting authority may seek the cooperation of the competent authorities. Having regard for the national laws of the Member State where the candidates or tenderers are established, such requests shall relate to legal and/or natural persons, including, if appropriate, company directors and any person having powers of representation, decision or control in respect of the candidate or tenderer.

2. Any economic operator may be excluded from participation in a contract who:

- (a) is bankrupt or is being wound up, whose affairs are being administered by the court, who has entered into an arrangement with creditors, who has suspended business activities or who is in any analogous situation arising from a similar procedure under national laws and regulations;
- (b) is the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding up or administration by the court or of an arrangement with creditors or of any other similar proceedings under national laws and regulations;

¹ OJ L 351, 29.12.1998, p. 1.

² OJ C 195, 25.6.1997, p. 1.

³ OJ L 358, 31.12.1998, p.2.

⁴ OJ C 316, 27.11.1995, p. 48.

⁵ OJ L 166, 28.6.1991, p. 77. Directive as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 (OJ L 344, 28.12.2001, p. 76).

- (c) has been convicted by a judgment which has the force of res judicata in accordance with the legal provisions of the country of any offence concerning his professional conduct;
- (d) has been guilty of grave professional misconduct proven by any means which the contracting authorities can demonstrate;
- (e) has not fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of the country in which he is established or with those of the country of the contracting authority;
- (f) has not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country of the contracting authority;
- (g) is guilty of serious misrepresentation in supplying the information required under this Section or has not supplied such information.

Member States shall specify, in accordance with their national law and having regard for Community law, the implementing conditions for this paragraph.

3. Contracting authorities shall accept the following as sufficient evidence that none of the cases specified in paragraphs 1 or 2(a), (b), (c), (e) or (f) applies to the economic operator:

- (a) as regards paragraphs 1 and 2(a), (b) and (c), the production of an extract from the "judicial record" or, failing that, of an equivalent document issued by a competent judicial or administrative authority in the country of origin or the country whence that person comes showing that these requirements have been met;
- (b) as regards paragraph 2(e) and (f), a certificate issued by the competent authority in the Member State concerned.

Where the country in question does not issue such documents or certificates, or where these do not cover all the cases specified in paragraphs 1 and 2(a), (b) and (c), they may be replaced by a declaration on oath or, in Member States where there is no provision for declarations on oath, by a solemn declaration made by the person concerned before a competent judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin or in the country whence that person comes.

4. Member States shall designate the authorities and bodies competent to issue the documents, certificates or declarations referred to in paragraph 3 and shall inform the Commission thereof. Such notification shall be without prejudice to data protection law.