

Belgian public limited company INFRABEL



ADMINISTRATIVE PROVISION

Y15

QUALIFICATION OF SUPPLIERS

| | Name | Date | Signature |
|---------------|-------------------------|------|-----------|
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VERSION: 09/2014

Table of amendments

| Version | Most important amendments |
|----------------|-----------------------------------|
| 09/2014 | Revision of Q1/Q3 document to Y15 |
| | |
| | |

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0 Scope of the Y15 administrative provision

The Y15 administrative provision applies to the launch of a public contract based on a Y15 qualification system.

Every Y15 qualification system is announced according to Article 40 of the Royal Decree of 16 July 2012.

Such an announcement is published on enot.publicprocurement.be and in the Official Journal of the European Union (ted.europa.eu). It also serves as an announcement of contracts launched based on the published qualification system.

Qualification applications can be submitted at all times.

When a contract is launched based on a published Y15 qualification system, only the suppliers qualified under this qualification system shall be consulted.

1 Definitions

Qualification conditions/criteria:

Describes the conditions/criteria a supplier must meet to become and remain qualified.

Qualification process:

Describes the process the supplier should follow in order to become qualified.

Supplier:

Every natural person or legal entity, every government authority or any combination of these individuals or government authorities offering to execute deliveries in the market.

Qualified supplier:

Supplier who is qualified.

Authorised representative:

Intermediary who is duly authorised by the supplier and represents the supplier as described below under § 3.1.1 and Annex 2.

HoP

Head of Procurement

Production site:

Site for which the relevant qualification was requested.

Production method:

Production process used to manufacture certain products.

Qualification suspension:

When a qualified supplier is suspended, this shall be temporary. A suspension can last for a certain period or for a certain number of tenders. During the suspension, the relevant supplier shall not participate in tenders.

Qualification withdrawal:

Qualification withdrawal means that a qualified supplier loses its qualification and can therefore no longer participate in tenders until the supplier has completed a new qualification process and qualified again.

Technical provision

Includes the technical criteria of the qualification system.

Time-out:

Period between the qualification withdrawal and the date when a new qualification application can be submitted.

QA:

The QA technical provision describes the quality assurance of goods purchased by Infrabel.

QP:

The QP technical provision describes the requirements for a quality and audit plan at Infrabel.

2 Purpose of the Y15 administrative provision

The Y15 administrative provision explains the conditions a supplier must meet to become and remain qualified.

When the Y15 administrative provision applies, the references to Q1 and Q3 of the technical provisions must be seen as Y15. A supplier that qualified for a particular Y15 qualification system before the system came into force shall automatically qualify for the corresponding "Q1 and/or Q3" qualification system if this is not the case already.

3 Qualification procedure

3.1 Representation/using a third party

3.1.1 A supplier wishes to use an authorised representative.

When a supplier completes Annex 2, in which he authorises a representative to manage the qualification procedure (option 1) and possibly receive specifications (option 2), it is always the supplier who shall qualify. If the supplier also wants to be represented for the submission of bids, it must authorise the representative per contract. This mandate must then be enclosed with the bid.

3.1.2 A supplier wants to use the resources of another entity (as provided in Article 40 of the Royal Decree of 16 July 2012).

A supplier can submit a qualification application and use the capacity of other entities for the qualification criteria that include requirements in terms of the economic, financial or technical capacity and professional competence of other entities. In that case this supplier must be able to demonstrate that it has these resources available for the qualification system's complete period of validity by presenting the agreement with these entities to make such resources available (see Annex 3). It is therefore the supplier that must qualify rather than the other entity in such cases.

3.2 Submission of the qualification application

Qualification applications must be submitted to
Infrabel Procurement I-FBA.520 section 40
Place Marcel Broodthaers/Marcel Broodthaersplein 2
B-1060 Brussels

(hereinafter referred to as "Infrabel Procurement").

Qualifications@infrabel.be

The qualification is valid per manufacturing location, per production process and per product (where applicable) for which qualification is required.

The qualification application can be submitted by the supplier or by its authorised representative.

If an authorised representative is used, the application must be accompanied by a document signed by the supplier in which this representative specifically receives permission to represent the supplier in terms of the qualification (see Annex 2, option 1).

3.3 The qualification conditions/criteria

- 3.3.1 Neither the supplier, nor the possible third party (referred to in 3.1.2) can meet one of the exclusion criteria listed in sections 1 and 2 of Article 66 of the Royal Decree of 16 July 2012 (ref.point 5 annex 1-questionnaire).
- 3.3.2 The supplier must have a quality management system that meets the requirements of ISO 9001 or an equivalent standard (ref.point 9 annex 1-questionnaire).
- 3.3.3 The supplier must be able to supply the correct quality products on time (ref.point 6.3 annex 1-questionnaire).
- 3.3.4 The supplier shall meet the technical provision applicable to the relevant Y15 qualification system.

These qualification conditions are explained further either in the questionnaire enclosed with this administrative provision as Annex 1 or in the technical provisions.

3.4 The qualification process

In order to establish whether the supplier meets the conditions/criteria listed under item 3.3, the supplier shall follow the qualification process described below.

3.4.1 Submitting the qualification file

Infrabel - Procurement requests the supplier to provide administrative, financial, legal, technical and organisational information by submitting an application file consisting of:

- A. Administrative file:
the questionnaire in Annex 1 of the Y15 document and all documents requested as enclosures with the questionnaire, ordered and identified according to the checklist.
- B. Technical file:
all documents requested as enclosures with the technical provision, ordered and identified as requested in the technical provision.

This qualification file (administrative and technical file) must be sent to the address mentioned under 3.2.

If the file is not complete, Infrabel may request additional information, although it is not obliged to do so.

A file is considered as formally complete if the checklists indicate that all necessary enclosures have been included with the file.

In this case the supplier shall be advised that the content of its qualification File shall be investigated further.

The supplier must also comply with the following regulations:

- The questionnaire must be answered in Dutch, French or English.
- The answers to the questionnaire must be sincere and complete.
- Infrabel must be given free access to the company.
- Documents regarding the quality system can be accessed freely.
- The supplier shall agree to a (possible) financial audit by an independent agency.

Within 2 months of its notification that it will examine the qualification file's content, Infrabel shall take one of the following decisions and shall inform the supplier and/or its authorised representative accordingly:

- * Supplier qualification,
- * Continuation of the qualification process,
- * Supplier non-qualification.

3.4.2 Visit to the manufacturing site

If mentioned in the technical provision, the manufacturing site(s) shall be visited. The purpose of this is to allow Infrabel to assess the supplier's technical capacity (including monitoring resources) and its quality management system. If mentioned in the technical provision, other areas can be assessed as well (logistics capacity, for example). At the end of this visit, Infrabel may suggest some improvements before taking a decision about the continuation of the qualification process.

After visiting the manufacturing site(s) and within 4 months of its notification that it will examine the qualification file's content, Infrabel shall take one of the following decisions and shall inform the supplier and/or its authorised representative accordingly:

- * Supplier qualification,
- * Continuation of the qualification process,
- * Supplier non-qualification.

3.4.3 The trial order

If mentioned in the product's technical provision, Infrabel shall place a trial order. The offered products shall be verified (inspected) according to the terms provided in the technical provision.

- The trial order must be placed within 4 months of the notification that the qualification file's content shall be investigated.
- The total term of the qualification process shall be suspended for the duration of a trial order's production time.
- The trial order shall be assessed within 2 months of receiving the inspection request.

When the trial order evaluation is finished, Infrabel shall take one of the following decisions and inform the supplier and/or its authorised representative accordingly:

- * Supplier qualification,
- * Continuation of the qualification process,
- * Supplier non-qualification.

3.4.4 Trial period

If mentioned in the product's technical provision, a trial period may be requested. The relevant technical provision determines the terms and minimum requirements for the trial period.

When the trial period products have been accepted (prototypes or products for the trial order), the trial period shall start. The standard trial period term is 15 months, unless mentioned otherwise in the technical provision.

When the trial period has ended, Infrabel shall take one of the following decisions and inform the supplier and/or its authorised representative accordingly:

- * Supplier qualification,
- * Supplier non-qualification.

3.5 Simplified qualification process

Suppliers who can objectively demonstrate that their products comply with the technical provisions applicable to the relevant qualification system only have to submit the qualification file as defined in 3.4.1. Of course these suppliers must meet the conditions/criteria listed under item 3.3. Each case shall be assessed individually to establish whether the process steps still need to be done.

Suppliers that qualified under the Q1 or Q3 qualification system only need to submit an administrative file as defined in 3.4.1.A.

3.6 Contribution

Every opening of a qualification file is free of charge the first time.

If the technical provision mentions a visit to the manufacturing site, this shall be free of charge once.

If a second visit is necessary because the first visit did not meet the requested requirements, the contribution for this second visit shall be billed to the potential supplier.

This sum remains payable to Infrabel regardless of the procedure's outcome.

Price list (excl. VAT)

- Travel and hotel costs
- A 500-euro contribution per day per person.

All testing and analysis costs are at the applicant's expense.

The payable amounts are transferred to Infrabel's account number 001-4468762-48.

IBAN code: BE 11001446876248

SWIFT code: GEBABEBB

The IBAN (International Bank Account Number) and SWIFT (Society for Worldwide Interbank Financial Telecommunication) codes must be provided.

3.7 Notification of (non-)qualification to the supplier

Under Article 7, section 2, paragraph 1 of the law of 17 June 2013, the Infrabel Head of Procurement shall inform the supplier and its authorised

Representative whether or not it qualified and for which products within 6 months of receiving the formally complete file mentioned in item 3.4.1 (cf. Article 40 of the Royal Decree of 16 July 2012).

In the following cases, an exception is made to the above term:

*The technical specification imposes a trial period: see 3.4.4.

*The technical specification imposes a trial order: see 3.4.3.

4 Supplier qualification term

- A. A supplier's qualification is valid for a term of 5 years.
After the 5-year period, the qualification may be extended for the same period after the administrative and technical files are updated.

However, Infrabel reserves the right to perform an audit if this is deemed necessary before extending the qualification. If the updated files and the possible audit show that the supplier still meets the qualification conditions/criteria, the qualification of the supplier in question shall be extended.

The Infrabel Procurement section informs the supplier and/or its authorised representative well in advance.

- B. The qualified supplier must continue to meet all qualification conditions/criteria for the entire qualification period.

The qualified supplier shall inform the Infrabel Procurement section of all administrative, legal, financial, organisational or technical changes in terms of the supplier itself and/or the third party (referred to under item 3.1.2).

The qualified supplier shall renew all certificates requested for the qualification expiring during the qualification period and shall provide Infrabel with a copy of these certificates.

5 Possible sanctions in case of default by the qualified supplier

Infrabel has the option to suspend a qualification if it is established, for example, that:

- either the qualified supplier fails to meet its obligation to provide information according to the above Article 4B,
- or the qualified supplier no longer meets one or several qualification conditions,
- or it is established that the qualified supplier or the third party referred to in 3.1.2 meet one of the exclusion criteria of Article 66 section 1 and/or sections 2.5 and 2.6 of the Royal Decree of 16 July 2012.

Infrabel has the option to withdraw a qualification if it is established, for example, that:

- either a qualified supplier cannot provide, will not provide or has not provided an adequate response to a suspension sanction,
- or the qualified supplier no longer meets one or more conditions of its qualification,
- or it is established that the qualified supplier or the third party referred to in 3.1.2 meets one of the exclusion criteria of Article 66 section 1 and/or sections 2.1 to 2.4 and 2.7 of the Royal Decree of 16 July 2012.

Following the decision to reject or withdraw a qualification, Infrabel always decides on the time-out, which can range from 0 to 2 years. After this time-out, the supplier and/or its authorised representative can submit a new qualification application. The new application is considered as a new file.

At least 15 calendar days before the date of the withdrawal or suspension of the qualification, the Infrabel Head of Procurement shall inform the qualified supplier and its authorised representative of his or her intention to suspend or withdraw the qualification, the reasons for this and the qualified supplier's opportunity to provide its comments within the same term.

After the above term, the Infrabel Head of Procurement informs the (qualified) supplier and its authorised representative of his or her final decision.

6 Amendment of an existing qualification system

When a qualification system changes, the amended version is published. The suppliers that already qualified are informed of this and they shall also be told by when they must be in line with the new provision.

During this term, the supplier remains qualified based on the previous version of the qualification system.

If the supplier can demonstrate within the stated period that it meets the requirements of the amended qualification system, the qualification shall continue and the supplier shall be informed in writing.

If the supplier fails to demonstrate that it meets the requirements of the amended qualification system within the stated period, its qualification shall be withdrawn. Infrabel shall also inform the supplier of this in writing.

Annex 1

Belgian public limited company INFRABEL

Procurement

I – FBA.520 section 40

Place Marcel Broodthaers/Marcel Broodthaersplein 2

B-1060 BRUSSELS

kwalificaties@infrabel.be

Qualification of suppliers

Questionnaire to be completed by the supplier and/or its authorised representative (in Dutch, French or English) and returned to the above address.

INTRODUCTION

Every supplier applying for qualification must answer the various questions of this questionnaire very accurately.
The analysis of this document may be followed by an inspection of your manufacturing site(s) or other branches (1).

1) Our representative must be given free access to all areas as required by the inspection.

1. Subject of the application

Supplier name

.....

wants to be accredited as a qualified supplier for

.....

.....

according to technical provision

.....

Trade name of the proposed product:

.....

.....

Production site

Name:

Address:

.....

.....

2. Supplier identification

Supplier name: full name and abbreviated name if one exists

.....
.....

Trade register entry/company number:

No. (according to the rules of every country)

VAT number:

Please enclose an extract from the trade register as enclosure AD 3.

Registered office address:

Address:
.....

Postcode: City:

Country:

Telephone: Fax:

E-mail:

Operations:

.....
.....
.....

Company goal (main activity for which the supplier is registered with the commercial court registry):

.....
.....

Names of key management personnel:

Director(s):

Sales department:

Order Management:

Quality Management:

Monitoring:

Production:

Laboratory:

Authorised signatories:

Please enclose a supplier organisation chart as Enclosure AD 4 A.

3. Practical information

Address to be used for correspondence (requests for quotes, orders) if different from the registered office:

Address:

.....

Postcode: City:

Country:

Telephone: Fax:

E-mail:

Address to be used for payment (billing) if different from the registered office:

Trade register entry:

No. (according to the rules in every country)

Address:

.....

Postcode: City:

Country:

Telephone: Fax:

E-mail:

Bank:

Address:

.....

Postcode: Country:

Bank account no.: SWIFT code:

IBAN code:

4. Representation / using a third party

4.1 Authorised representative

The supplier has/does not have an *authorised representative*.

(delete as appropriate) If the supplier has an authorised representative, it shall enclose a completed and signed Annex 2 with its qualification application.

4.2 Use of a third party

In case the supplier uses the resources of another entity

(cf. item 3.1.2), it shall enclose a completed and signed Annex 3 as Enclosure AD 11 with its qualification application.

5. Legal and financial information/supplier criteria

Current legal form:

Date of establishment:

Enclose the company's memorandum of association as Enclosure AD 5.

Background, history:

.....

.....

.....

Name and position of the persons authorised to represent the company:

Chairman:

General Manager:

Sales Director:

Director:

Share capital:

Capital outside the EU:%

Major company shareholders:

(Provide your major shareholders, which may be individuals or companies, and their participation)

.....%

.....%

.....%

Is the company quoted on the stock exchange? Yes No

Are you part of an industrial group?

If so, please specify.

Enclose a group organisation chart as Enclosure AD 4 B.

Do you have any subsidiaries?

If so, please specify. **Enclose an organisation chart of the subsidiaries as Enclosure AD 4C.**

Do you have any agreements with other companies?

If so, please specify.

If so, what type of agreements are they?

.....

.....

Does your company have any intellectual property rights in the field of the requested qualification?

If so, please specify. In which field?

.....

.....

Turnover:

Annual turnover before taxes, company profit and loss for the last three financial years:

| Year | Turnover | Loss | Profit |
|-------|----------|-------|--------|
| | | | |
| | | | |
| | | | |

Railway industry share of the turnover of the last three financial years.

Year:% Year:% Year:%

Qualification criteria: neither the supplier, nor the third party (referred to in item 3.1.2) can meet one of the exclusion criteria according to sections 1 and 2 of Article 66 of the Royal Decree of 16 July 2012.

Proof of this must be supplied according to section 3 of Article 66 of the Royal Decree of 16 July 2012 and enclosed with the qualification application as Enclosure AD 6. See sections 1, 2 and 3 of Article 66 of the Royal Decree of 16 July 2012 enclosed as Annex 4.

6. Identification of production site activities

6.1. Type of products the production site can supply:

.....

.....

.....

If possible, enclose a list or catalogue as Enclosure AD 7.

6.2. Services provided by the production site:

| SERVICES | Are you capable of providing the following services? | | Do you have part of these services executed by a third party? | |
|---|--|----|---|----|
| | YES | NO | YES | NO |
| | (tick as appropriate) | | | |
| Sales department | | | | |
| Design Consultancy | | | | |
| Supply Purchasing | | | | |
| Inspection, monitoring Quality of the purchased products | | | | |
| Manufacturing And/or production | | | | |
| Inspections, testing During manufacturing and/or production | | | | |
| Inspections, testing At the end of manufacturing and/or production | | | | |
| Storage, handling packaging | | | | |
| Shipment, delivery, transport | | | | |
| After-sales | | | | |

6.3. Competence

Qualification condition: The supplier must be capable of supplying products meeting the quality standards on time.

The supplier shall enclose a list of references with attestations from at least 3 customers confirming the supplier's good execution of deliveries less than 3 years ago. Every attestation shall state the following: customer details (name and address), the year of the deliveries, the contact (name, office address, telephone number and e-mail address) and a concise description of the content of the contract and a confirmation of the good execution of the deliveries in terms of quality, quantity and lead times, stamped and signed by the customer. Enclose as Enclosure AD 8.

Note:

The observation of incorrect and/or late deliveries under a specific contract may be seen as failure to meet the above condition, despite the enclosure of the requested list of references.

6.4. Have you already worked in the railway industry? Yes No

- | | |
|---|--|
| <input type="checkbox"/> Manufacturers | <input type="checkbox"/> Rail infrastructure manager |
| <input type="checkbox"/> Railway operator | <input type="checkbox"/> Other: |

Please specify the companies involved:

.....

Supplied products in this industry:

.....

6.5. Do you have a Research & Development department? Yes No

6.6. Origin of the main raw materials

| Raw material | Supplier |
|--------------|----------|
| | |
| | |
| | |

7. Production site staff

7.1. Workforce

Overall number of staff:

Categorisation per role:

Consultancy:

Production:

Sales:

Quality/inspection roles:

Other:

Temporary staff: % of the overall number of staff at the site.

7.2. Staff professional competence

Is your staff subjected to internal qualification?

Yes No

If so, please specify the number of people involved and the reference documents used for each field:

.....
.....
.....
.....

Is the staff subjected to external qualification?

Yes No

If so, please specify the number of people involved and the reference documents used for each field:

.....
.....
.....
.....
.....

8. Production resources at the production site

Who owns the land?

The supplier Yes No

The third party (referred to in item 3.1.2) Yes No

Another third party Yes No

If the answer is another third party, please provide its details here:

.....
.....

Who owns the buildings?

The supplier Yes No

The third party (referred to in item 3.1.2) Yes No

Another third party Yes No

If the answer is another third party, please provide its details here:

.....
.....

Who owns the installations?

The supplier Yes No

The third party (referred to in item 3.1.2) Yes No

Another third party Yes No

If the answer is another third party, please provide its details here:

.....
.....
.....

| | | |
|-------------------|--------------------|----------------|
| Used surface area | Total | m ² |
| | Indoor | m ² |
| | Office space | m ² |
| | Workshop | m ² |
| | Storage | m ² |

Are some of your products technically qualified by customers?

Yes No

If so, please specify the products and the customers.

.....
.....

9. Quality management and quality assurance

Qualification condition: the supplier must have a quality management system that meets the requirements of ISO 9001 or an equivalent standard.

Is your quality system certified? Yes No

If so, **enclose a copy of the obtained (national and/or international) certificates as Enclosure AD 9** and clarify the field of certification, any restrictions and the institution:

.....
.....
.....

If not, **enclose a copy of your quality manual as Enclosure AD 9.**

.....
.....

By signing this Y15 administrative provision, the supplier declares that it has read the QA and QP documents and shall meet their requirements. The QA and QP documents are available on www.infrabel.be.

If the supplier uses a third party (referred to in item 3.1.2), the supplier shall also enclose a statement signed by this third party with its qualification application in which the third party declares that it has read the QA and QP documents and shall meet their requirements.

10. Supplier code of conduct

Available on www.infrabel.be.

Read and approved,

By signing this administrative provision, the supplier declares that it has read this code of conduct and shall respect it.

If the supplier uses a third party (referred to in item 3.1.2), the supplier shall also enclose a statement signed by this third party with its qualification application in which the third party declares that it has read the abovementioned code of conduct and shall respect it.

Do you and/or the third party (referred to in item 3.1.2) have

ISO 14000, EMAS or other certificates?

Yes No

.....

If so, please enclose **a copy of the obtained (national and/or international) certificates as Enclosure AD 10.**

In on

NAME

Position:

(to be signed by the person(s) authorised to represent the supplier according to the articles of association)

Signature

Annex 2

SUPPLIER DECLARATION FOR THE OFFICIAL APPOINTMENT OF AN AUTHORISED REPRESENTATIVE

I, the undersigned, (1), authorised to officially represent the supplier
..... (2),
hereby appoint (3)

as authorised representative to:

(tick and fill in the desired option)

Option 1

Manage the administration of the qualification process of a supplier system no. (4)
for the delivery of (5).

Option 2

Manage the administration of the qualification process of a supplier system no. (4)
for the delivery of (5) and to receive the tenders for this
following qualification.

I hereby accept the conditions of the Y15 administrative provision.

In, on

(signature)

- (1) First name and surname of the person(s) allowed to represent the supplier.
- (2) Supplier name and address (manufacturing site)
- (3) First name and surname or company name and address of the authorised representative
- (4) Number of the qualification system as defined in the issue of the Official Journal of the European Union
- (5) Name of the deliveries according to the qualification system

Annex 3: Model form for an agreement regarding the use of a third party (cf. 3.1.2 of the administrative provision)

The company [enter name] with company number [enter number] and its registered office at [enter address], represented by [enter representative name and position], undertakes to make available the necessary resources for the supplier qualification regarding [enter for which qualification condition(s) the supplier uses a third party] during the entire qualification term of the supplier [enter supplier name and details] for qualification system [enter qualification system name].

By signing this agreement, the undersigned declare(s) that they have read Infrabel code of conduct (available on www.infrabel.be) and shall respect it.

By signing this agreement, the undersigned declare(s) that they have read the QA and QP documents (available on www.infrabel.be) and shall respect them.

[name, signature and position]

[date]

Documents to be enclosed:

1. Extract from the trade register of the (third-party) company
2. Organisation chart of the (third-party) company
3. Memorandum of association of the (third-party) company
4. Proof that the undersigned is/are authorised to represent this (third-party) company
5. Proof that the (third-party) company does not meet one of the exclusion criteria mentioned under sections 1 and 2 of Article 66 of the Royal Decree of 16 July 2012 according to section 3 of Article 66 of the Royal Decree of 16 July 2012
6. Proof that this (third-party) company has the resources required to meet the qualification condition(s) and can make them available to the supplier
7. Optional: ISO 14000, EMAS or other certificates held by the company

Annex 4: Article 66 of the Royal Decree of 16 July 2012

Section 1 of this article implements paragraph 2 of Article 20 of the law. It corresponds to § 1 of articles 17, 39 and 60 of the Royal Decree of 10 January 1996. The four listed cases shall result in the mandatory exclusion of any access to the contract. This requirement shall always be met, unless for compelling reasons of general interest. These cases, which must be taken into account at every stage of the procedure, were explained in the explanatory memorandum with the law referred to.

Section 2 lists the cases in which a candidate or tenderer can be excluded from access to the contract without prejudice to the law regarding the recognition of contractors, which include the mandatory basic rules for awarding public works contracts. These cases correspond to those included in § 2 of articles 17, 39 and 60 of the Royal Decree of 10 January 1996. Reminder: the contracting authority is not obliged to apply all the grounds for exclusion mentioned in section 2.

For the cases listed in this provision, the contracting authority is therefore not obliged to exclude the candidate or tenderer from the contract. However, according to the principle of good administration, a contracting authority should not concern itself with such candidates or tenderers. Only in exceptional cases, for example when a company in difficulty has a monopoly on the delivery of goods to complete an installation, could the contracting authority justify a decision to give the contract to the company involved.

In accordance with the case law of the European Court of Justice in its judgment of 16 December 2008, C-213/07, Michaniki, this provision is explained as including a restrictive list of grounds for exclusion for participation in a public works contract based on professional competency criteria. However, it does not prevent the issuer of the tender from specifying other exclusion measures according to the principle of proportionality in order to guarantee transparency and equal treatment of the tenderers.

With regard to 1° en 2° about judicial reorganisation and similar situations, it is observed that the contracting authority should investigate every case carefully in order to avoid that section 2 is applied too strictly, taking into account the particularities of the law applicable to judicial reorganisation, specifically at a Belgian level.

Sections 3 and 4 elaborate on the supporting documents that may qualify. They include provisions that partly correspond to those in the abovementioned articles of the Royal Decree of 10 January 1996.

The first paragraph of section 3 mentions the documents or certificates used for verifying the situation in terms of the grounds for exclusion mentioned in §§ 1 and 2.

As is the case now, the second paragraph provides for alternative supporting documents if the documents or certificates referred to in the first paragraph are not issued in the country in question or if they do not mention all the cases referred to in § 1 en in § 2, 1°, 2°, 3°. This relates specifically to the statement under oath and the solemn declaration.

The text of the draft differs from the words of the Royal Decree of 10 January 1996 in this respect, in the sense that a choice is no longer provided in terms of the use of the abovementioned alternative supporting documents.

If the abovementioned documents or certificates are not issued or are inadequate in the country in question, from now on the next option is a statement under oath, and a solemn

declaration is only possible if a statement under oath cannot be provided in the country in question.

It should be emphasised that a statement under oath should not be confused with a sworn statement as referred to in § 4 below.

A statement under oath refers to a specific system of an authorised authority in some countries in order to add evidential value to certain statements. In the UK, for example, a statement under oath is taken with regard to social debts before a commissioner of oaths.

In order to guarantee equivalence with the statement under oath - where the formal character is assumed - it is specifically mentioned that a solemn declaration must be made before a legal or government authority, a notary or an authorised professional organisation of the country of origin.

The second paragraph of Section 4 is a new provision in line with the measures regarding administrative simplification. Insofar as the contracting authority uses the option mentioned in this provision, a sworn statement by the candidates or tenderers is sufficient showing that they do not qualify for exclusion as referred to in Article 66, §§ 1 and 2. This statement may be explicit, which means that a dated and signed document must be enclosed with the application to participate or bid. It may also implicitly result from a provision in the announcement of the contract or the other contract documents stating that simply by submitting its application to participate or bid, the candidate or tenderer declares that it does not meet the specified criteria for exclusion.

In most 2-stage procedures, the instrument of a sworn statement is not useful because firstly, the time span between the submission of the application for participation and the selection decision is often short and secondly, because the number of rejected applications for participation is sometimes small.

The sworn statement must not be equated to evidence, as the contracting authority still has to investigate the authenticity of the sworn statement. It shall request the candidates or tenderers qualifying for the selection or contract to present the relevant information or documents before deciding on selection or the awarding of the contract. If it has free electronic access to the relevant information or documents in accordance with Article 69, § 1, it shall run its investigation by that means as far as possible.

Finally, it should be borne in mind that in order to obtain the necessary information under sections 3 and 4, foreign authorities may have to be addressed. As far as the member states of the European Union are concerned, the website of the European Commission (http://ec.europa.eu/internal_market/publicprocurement/e-procurement/e-certis/index_fr.htm) has information about supporting documents and national agencies authorised to issue certificates.

| Annex 5 Checklist | | | |
|--|-----------------|------------------------|-------------|
| Documents requested for qualification | | | |
| * = mandatory enclosure | | | |
| ** = mandatory enclosure in case of implementation | | | |
| Qualification system | Y15 No.: | | |
| Supplier | | | |
| Authorised representative | | | |
| Administrative file | Page | I-FBA.52 column | |
| Enclosure AD 1 Questionnaire | * | | |
| Enclosure AD 2 Representative | ** | | |
| Enclosure AD 3 Extract from the trade register | * | | |
| Enclosure AD 4A Supplier organisation chart | * | | |
| Enclosure AD 4B Group organisation chart | | | |
| Enclosure AD 4C Subsidiary organisation chart | | | |
| Enclosure AD 5 Memorandum of association | * | | |
| Enclosure AD 6 Proof that the supplier does not meet any of the exclusion criteria | * | | |
| Enclosure AD 7 Catalogue | | | |
| Enclosure AD 8 3 customer references and attestations of good execution | * | | |
| Enclosure AD 9 ISO certificate or quality manual | * | | Valid until |
| Enclosure AD 10 ISO14000/EMAS/other certificates | | | Valid until |
| Enclosure AD 11 Agreement for using a third party (with the requested enclosures) | ** | | |
| Technical file Read Q1 and/or Q3 as Y15 | | | |
| According to checklist as enclosed with the relevant technical provision. | * | | |

Annex 6: Table of correspondance

| Page | chapter | Y15 | Page | chapter | Q1 | Page | chapter | Q3 |
|------|--------------------|---|------|---------------------|---|------|-------------------|---|
| 2 | | Table of amendments | 2 | | Table of amendments | 2 | | Table of amendments |
| 3 | | Table of contents | 3 | | Table of contents | 3 | | Table of contents |
| 4 | 0 | Scope of the Y15 administrative provision | 4 | 0 | Scope of the technical specification Q1 | 4 | 0 | Introduction |
| 5 | 1 | Definitions | 5 | 1 | Definitions | 5 | 1 | Definitions |
| 6 | 2 | Purpose of the Y15 administrative provision | 5 | 2 | Purpose of the provision | 5 | 2 | Purpose of the provision |
| 6 | 3 | Qualification procedure | 5 | 3 | Qualification procedure | 5 | 3 | Qualification procedure |
| 7 | 3.1 | Representation/ using a third party | | ***** | ***** | | ***** | ***** |
| 7 | 3.2 | Submission of the qualification application | | 3.1 | Submission of the qualification application | | 4.1 | Submission of the qualification application |
| 8 | 3.3 | The qualification conditions/criteria | 6 | 3.2.1 | Information on the supplier | 7 | 4.2 | Information on the supplier |
| 8 | 3.4 | the qualification process | 7 | ***** | ***** | 7 | ***** | ***** |
| | | | 7 | 3.2.2 | Visit to the location of manufacture | 8 | 4.3 | Second level: supply |
| | | | 7 | 3.3 | Second level: supply | | ***** | ***** |
| 11 | 3.5 | Simplified qualification process | 8 | 3.4 | Qualification based on delivery to third parties | 8 | 4.3 | Qualification based on delivery to third parties |
| 11 | 3.6 | Contribution | 9 | 3.5 | Contribution + annex 2 Q1 | 9 | 4.5 | Contribution |
| 12 | 3.7 | Notification of (non) qualification | 9 | 3.6 | Notification of a supplier's qualification | 9 | 4.6 | Notification of a supplier's qualification |
| 12 | 4 | Supplier qualification term | 9 | 4 | Supplier qualification term | 9 | 5 | Supplier qualification term |
| 14 | 5 | Possible sanctions in case of default by the qualified supplier | 10 | 5 | procedure after negative decision | 10 | 6 | procedure after negative decision |
| 15 | 6 | Amendment of an existing qualification system | 10 | 6 | Modification d'un système de qualification existant | 10 | 7 | Modification d'un système de qualification existant |
| | | Annex 1 Y15 | | | Annex 1 Q1 | | | Annex 1 Q3 |
| 2 | | Introduction | 2 | | Introduction | 2 | | Introduction |
| 3 | 1 | Subject of the application | 3 | 1 | Subject of the application | 3 | 1 | Subject of the application |
| 4 | 2 | Supplier identification | 4 | 2 | Supplier identification | 4 | 2 | Supplier identification |
| 6 | 3 | Practical information | 6 | 3 | Practical information | 6 | 3 | Practical information |
| 7 | 4 | Representation / using a third party | 7 | 4 | Representation | 7 | 4 | Representation |
| 8 | 5 | Legal and financial information/supplier criteria | 8 | 5 | Legal and financial information/supplier criteria | 8 | 5 | Legal and financial information/supplier |
| 10 | 6 | Identification of production site activities | 10 | 6 | Identification of production site activities | 10 | 6 | Identification of production site activities |
| 12 | 7 | production site staff | 12 | 7 | production site staff | 12 | 7 | production site staff |
| 13 | 8 | Production resources at the production site | 13 | 8 | Production resources at the production site | 13 | 8 | Production resources at the production site |
| 14 | 9 | Quality management and quality assurance | 14 | 9 | Quality management and quality assurance | 14 | 9 | Quality management and quality assurance |
| 15 | 10 | Supplier code of conduct | 16 | 10 | Environmental policy | 16 | 10 | Environmental policy |
| | Annex 2 Y15 | Representation | | Annex 3 Q1 | Representation | | Annex 2 Q3 | Representation |
| | Annex 3 Y15 | Model form for an agreement regarding the use of a third party | | ***** | ***** | | ***** | ***** |
| | Annex 4 Y15 | art66 du RD 16/07/2012 | | ***** | ***** | | ***** | ***** |
| | Annex 5 Y15 | Checklist | | ***** | ***** | | ***** | ***** |
| | | ***** | | Annex 6 2 Q1 | Contribution | | | |