

## Annex I

Exclusion criteria (Article 106(1) FR)	Supporting documents to be provided by applicants or tenderers to who the contract will be awarded
	Procurement (Article 106(3) FR; Article 143 RAP)
<p><b>1. Exclusion from a procurement procedure</b></p> <p><b>Article 106(1) FR :</b>  <i>« Candidates or tenderers shall be excluded from participation in procurement procedures if:</i></p>	
<p><b>1.1 (subparagraph a)</b>  <i>they are bankrupt or being wound up,</i>  <i>are having their affairs administered by the courts,</i>  <i>have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters,</i>  <i>or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations<sup>1</sup>;</i></p>	<p>Recent extract from the judicial record  or  recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance  or  Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance</p>
<p><b>1.2 (subparagraph b)</b>  <i>they or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by</i></p>	<p>Cf. supporting documents for Article 106(1)(a) FR above</p>

<sup>1</sup> See also Article 143(4) RAP: « Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraphs 1 and 3 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer».

<i>a judgment of a competent authority of a Member State which has the force of res judicata<sup>2</sup>;</i>	
<b>1.3 (subparagraph c)</b> <i>they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify including by decisions of the EIB and international organisations;</i>	Declaration by the candidate or tenderer that he is not in the situation described
<b>1.4 (subparagraph d)</b> <i>they have 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<sup>3</sup>;</i>	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described or Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance
<b>1.5 (subparagraph e)</b> <i>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 illegal activity is detrimental to the Union's financial interests<sup>4</sup>;</i>	Cf. supporting documents for Article 106(1)(a) FR above
<b>1.6 (subparagraph f)</b> <i>they are subject to an administrative penalty referred to in Article 109(1)<sup>5</sup>. »</i>	Declaration by the candidate or tenderer that he is not in the situation described

<sup>2</sup> Cf. footnote n°1.

<sup>3</sup> Cf. footnote n°1.

<sup>4</sup> Cf. footnote n°1.

<sup>5</sup> Article 109(1) FR: “The contracting authority may impose administrative and/or financial penalties on the following:

(a) Contractors, candidates or tenderers in the cases referred to in point (b) of Article 107(1);

(b) Contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget”.

Exclusion criteria (Article 107 FR)	Supporting documents to be provided by applicants or tenderers to who the contract will be awarded	
	Procurement	Grants
<p><b>2. Exclusion from a procurement or grant award procedure</b></p> <p><b>Article 107 FR :</b></p> <p><i>« A contract shall not be awarded to candidates or tenderers who, during the procurement procedure for that contract:</i></p>		
<p><b>2.1 (subparagraph a)</b></p> <p><i>are subject to a conflict of interest;</i></p>	Statement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal.	
<p><b>2.2 (subparagraph b)</b></p> <p><i>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»<sup>1</sup>.</i></p>	<p>No specific supporting documents to be supplied by the applicant, tenderer or bidder.</p> <p>It is the responsibility of the authorising officer, represented by the evaluation committee, to check that the information submitted is complete<sup>2</sup> and to identify any misrepresentation.</p>	

<sup>1</sup> Cf. Article 158(3) of the RAP : « ...the evaluation committee or the contracting authority may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within the time limit it specifies » and Article 204(3) of the RAP: « The evaluation committee or, where appropriate, the authorising officer responsible may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, provided that such information or clarification does not substantially change the proposal. In accordance with Article 96 of the Financial Regulation, in the case of obvious clerical errors, the evaluation committee or the authorising officer may refrain from doing so only in duly justified cases. The authorising officer shall keep appropriate records of contacts with applicants during the procedure ».

<sup>2</sup> Cf. footnote n°1.