

## **GUIDANCE NOTE 1.6.3**

### **PREQUALIFICATION OF CONSULTANTS**

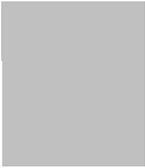
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**Minimum Standards for Suitability Criteria**

Minimum Standards for Selected Suitability Criteria  
for Consultants (Technical)  
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***Background***

A standard approach to the task of assessing the suitability of service providers has been developed. The standard approach uses the selection criteria set out in the EC Directive. It is one of the measures in the Capital Works Management Framework (CWMF) introduced to achieve better value for money for technical services provided by service providers on publicly-funded construction projects. The standard approach to suitability assessment is intended to ensure only those that qualify against certain (objective and transparent) criteria, progress to the next stage of the procurement procedure.

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***Objective of suitability assessment***

The suitability of service providers is determined:

- on the basis of objective criteria which are transparent, promote equal treatment, are proportionate; and
  - are non-discriminatory; and
  - in the case of projects governed by the EU rules to ensure compliance with those rules (see Directive 2004/18/EC and SI No. 329 of EC [Award of Public Authorities' Contracts] Regulations 2006 and Directive 2004/17/EC and SI No. 50 of EC [Award of Contracts by Utility Undertakings] Regulations 2007).
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***EU thresholds for publicly-funded service contracts***

Procurement of technical services (in a tender competition) must, when the EU thresholds apply, be based on the rules in those EU Directives. The value of the thresholds<sup>1</sup>(excluding VAT) are:

- €130,000 for Government Departments and Offices;
  - €200,000 for Local and Regional Authorities and other bodies providing public services, and
  - €400,000 for Utilities that are entities operating in the water, energy, transport and postal services sectors.
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<sup>1</sup> The thresholds are revised every two years. Complete and up to date thresholds can be checked on the EU public procurement website <http://simap.europa.eu> which can be accessed via a link on *etenders.gov.ie*.

***Below EU threshold for publicly-funded contracts***

This Guidance Note equally applies to service contracts that are not governed by the EU Directives but by the Treaties<sup>2</sup>. This is because the principles of transparency, non-discrimination and proportionality on which procurement rules are based apply to all public procurement opportunities.

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***Service provider***

A Service Provider in this guidance note is an independent private sector party who is engaged by a Contracting Authority to provide expert technical services including those contained in Category 12 services<sup>3</sup>.

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***Procurement procedure***

The normal procurement procedures used to award public service contracts are:

- The **open procedure** - where any tenderer for a service provider's position can simultaneously submit suitability assessment material and a tender for evaluation in a tender competition.
- The **restricted procedure** - where any service provider can express an interest in participating in a tender competition, but only those that pass the suitability assessment, and also in most cases the qualitative or random selection process, are subsequently invited to tender.

**Competitive Dialogue** will normally not arise as this procedure only applies to exceptionally complex service contracts which it is envisaged will not arise. Furthermore, the **Negotiated** procedure should only be used in very exceptional circumstances as set out in EU Directive 2004/18/EC.

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<sup>2</sup> Treaty of Rome 1957 and subsequent treaties such as Maastricht Treaty, Amsterdam Treaty, Nice Treaty etc

<sup>3</sup> These services include Category 12 services which are listed in the EC Directives under Annex XVII A of 2004/17/EC and SI No 329 of 2006, and Annex II A of 2004/18/EC and SI No 50 of 2007. This category includes the services of Project Supervisor and Health and Safety Coordinator services in relation to Health and Safety Legislation.

***Small to Medium Enterprises***

When work is scarce there is normally greater competition as firms compete for technical service contracts in a shrinking market. This can make it more difficult for Small to Medium Enterprises (SMEs) to compete and win such contracts. In these circumstances it is important that SMEs are not systematically excluded from participating in competitions for technical services on projects that they could perform very efficiently. Special consideration should be given to the thresholds for minimum standards of suitability criteria used to pre-qualify service providers; setting of unnecessarily high requirements for technical and financial capacity by Contracting Authorities are often cited as being a barrier to SME participation.

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***EU Directive/ Regulations***

References to Articles in this document means Articles in Directive 2004/18/EC and references to Regulations means Regulations in SI No 329 of 2006 European Communities (Award of Public Authorities' Contracts) Regulations 2006.

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***Use with other documents***

This guidance note is to be read by Contracting Authorities when using the Suitability Assessment Questionnaires QC1 and QC2 in regard to determining the minimum suitability standards for the selection of service providers to provide technical services for public works projects.

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## Main Suitability Criteria

***Introduction***

Under an *open* or *restricted procedure* a Contracting Authority must use objective criteria to determine which of the service providers that have expressed an interest in tendering for the service contract meet the Contracting Authority's minimum suitability standards for participation. Those who clearly cannot deliver the service for a project of a particular scale, nature and complexity are eliminated in the first assessment round (in some cases this may be the only round). It should be noted that once a service provider has been designated as qualified at suitability stage, the same decision based on the same facts, cannot not be re-opened at a later stage, to do so would be in breach of the EU procurement directive. This does not mean that a Contracting Authority cannot re-check the evidence presented by a service provider in the first round to ensure that there is no change in circumstance in relation to the proved minimum standards. This re-checking can be done right up to award of a service contract to ensure that the evidence presented earlier continues to remain valid.

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***Minimum Standards***

A Contracting Authority should exercise care when setting minimum standards to ensure that they are ***related and proportionate to the subject matter of the service contract***<sup>4</sup>. Minimum standards should not be set at a level that discriminates against certain groups of service providers in a particular sector that would otherwise be eligible to provide the technical service.

In order to satisfy the principle of transparency the minimum standards should be made known in the Contract Notice advertised on eTenders and/or in the OJEU<sup>5</sup> and also in the suitability questionnaire available to applicants.

The need to establish minimum standards for each criterion used in the assessment process will arise in the following circumstances:

- where an open procedure is used. It should be noted that both the suitability and award criteria are included in tender documents together with minimum standards for suitability criteria. The minimum standards for suitability criteria allows tender submissions be assessed first for suitability on a Pass/Fail basis before being assessed against award criteria.

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<sup>4</sup> See Article 44 (2) of Directive 2004/18/EC and Regulation 52 (4)(a) of SI No 329 of 2006

<sup>5</sup> Where the value of the service required is above the EU threshold

***Minimum Standards (continued)***

- where a restricted procedure is used to establish those service providers that meet the minimum suitability standards to be included in a long list of service providers that are:
    - subsequently invited to tender,
    - subsequently qualitatively selected to form a short list of qualified service providers which are invited to tender, or participate in a competitive dialogue or negotiated procedure,
    - subsequently randomly selected to form a short list of qualified service providers that are invited to tender, or participate in a competitive dialogue or negotiated procedure,
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***Qualitative Assessment***

Qualitative assessment only applies in a restricted procedure where there is short listing. Under a restricted procedure all applicants must pass the minimum standards before being eligible to go forward to be qualitatively assessed. The wording in Circular 10/10 “*when a tenderer has been shortlisted*” refers to a provisional short list (i.e. the Authority’s own list of those from whom verification will be sought), which is not the same as the final short list at which point formal letters are issued informing the various parties of their success or otherwise in regard to making the short list.

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***Main Criteria***

A total of 16 criteria have been developed from the suitability criteria identified under Section 2 of 2004/18/EC (Articles 45 to 48) under the following 4 headings: 1. *Personal situation of candidate*;<sup>6</sup> 2. *Suitability to pursue the professional activity*; 3. *Economic and financial standing* and 4. *Technical and/or professional ability*. Criteria 3 and 4 have seven sub-criteria each. The criteria that relate to *Personal situation of candidate*; *Suitability to pursue the professional activity* and *Technical and/or professional ability* are exhaustive whereas the list relating to *Economic and financial standing* is not exhaustive. If for any reason a service provider cannot supply evidence requested under *Economic and financial standing* the service provider can supply alternative evidence that the Contracting Authority deems as a suitable substitute. Article 47 (5)

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<sup>6</sup> The reference to candidate in this main heading is a reference to service provider

*Schedule of main suitability criteria*

The following table lists the sixteen suitability main criteria in the service provider's standard Suitability Assessment Questionnaire. The references in the left hand column are those used in the QC1 and QC2 forms.

Table 1	MAIN SUITABILITY CRITERIA
3.1	PERSONAL SITUATION
3.2	SUITABILITY TO PURSUE THE PROFESSIONAL ACTIVITY
3.3	ECONOMIC AND FINANCIAL STANDING
3.3a	Turnover*
3.3b	Balance Sheet or Extracts from a Balance Sheet*
3.3c	Banker's Letter
3.3d	Other Financial/Economic Information/References
3.3e	Professional Indemnity Insurance
3.3f	Public Liability Insurance
3.3g	Employer Liability Insurance
3.4	TECHNICAL AND/OR PROFESSIONAL ABILITY
3.4a	Educational and Professional Qualifications (Managerial)
3.4b	Educational and Professional Qualifications (Personnel)
3.4c	List of Technical Services provided over the past 3/5/7 Years*
3.4d	Measures for Ensuring Quality
3.4e	Average Annual Manpower over the Past 3 Years*
3.4f	Technical Equipment Available to carry out the Contract
3.4g	Technicians or Technical Bodies Available

**Note:\*** A service provider may only be asked to submit evidence relating to a three year period. At their discretion, a Contracting Authority may elect to consider evidence over a longer period. Regardless of the length of period stated, it should be regarded as a maximum period and, if for any valid reason (i.e. only recently established), a service provider cannot provide the evidence for three, five or seven years this should not be used as a reason to reject it.

## Main Criteria (Personal Situation)

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Article 45 and Regulation 53 list specific grounds for excluding service providers from competing in a tender competition. These exclusions are divided into two categories, the first deals with mandatory exclusions and the second deals with discretionary exclusions.

### The Mandatory Exclusion Rule is:

The Contracting Authority must exclude service providers who have been convicted by final judgment of participation in a criminal organisation, corruption, fraud or money-laundering. The exclusion must be put into effect as soon as the Contracting Authority becomes aware of the conviction.

### The Discretionary Exclusion Rule is:

If a service provider:

- is bankrupt or whose affairs are being wound up;
- is subject to proceedings leading to a declaration of bankruptcy;
- has been found guilty of professional misconduct;
- has committed grave professional misconduct by means the Contracting Authority can demonstrate;
- has defaulted in payment of taxes or social insurance contributions; or
- has provided false or misleading information, or failed to provide required information.

Because the rules are discretionary the Contracting Authority must investigate the event thoroughly before a decision is taken on the course of action to take.

**Minimum Standard:** *The minimum standard is to provide upon request the declaration at Appendix A properly executed<sup>7</sup> by the service provider in the presence of a practising solicitor or Commissioner for Oaths or, where there is no provision for a declaration on oath in other EU jurisdictions, one of the alternatives referred to in the Directive appropriate to the jurisdiction concerned. Also a letter of confirmation should accompany the completed declaration (Appendix A1), signed by the service provider or on behalf of the service provider, stating that since the making of the declaration the legal situation of the service provider regarding the circumstances stated in the declaration has not changed in any way that would prohibit the service provider from making a new declaration on oath (or using one of the alternatives mentioned above) on the same basis.*

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<sup>7</sup> A certified copy of the original not more than 12 months old signed and dated by the service provider should be acceptable provided the Contracting Authority reserves the right to inspect the original at any time if considered necessary.

## Main Criteria (Suitability to Pursue the Professional Activity)

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Article 46 and Regulation 54 deal with the service provider's enrolment on professional or trade registers in a Member State.

**Minimum Standard (Ireland and UK):** *The minimum standard is to provide proof of registration with the Register of Companies or the Register of Friendly Societies. This may be done by a service provider providing a certificate of enrolment which includes the service provider's registration number.*

**Note:** *In Ireland these bodies, under the aegis of the Department of Jobs, Enterprise, and Innovation, are located in the Companies Registration Office and the Office of Register of Friendly Societies*

**Minimum Standard (Other EU Member States):** *The minimum standard is to provide proof of registration in the EU country of establishment on one of its professional or trade registers by providing a certificate of enrolment. If there is no such professional or trade register in a particular member state the service provider should provide a declaration or where permitted a declaration on oath stating that the service provider is engaged in a specific profession or trade in a specified place; and under a specified business in the country of establishment.*

It should be noted that Sole Traders or General Partnerships are not required to be registered with the Companies Registration Office and Contracting Authorities, when using this criterion, should consider whether its use would discriminate against this body of service providers.

Enrolment on a profession or trade register should not be confused with being a member of the Construction Industry Federation or the Association of Consulting Engineers of Ireland or any other similar body. Annex IX C attached to EU Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts lists the titles of Registers in all Member States for which certificates of membership can be obtained.

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## Main Criteria (Economic and Financial Standing)

### SUB-CRITERION: TURNOVER

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Article 47(1)(c) and Regulation 55(1)(c)(i) and (ii) deal with the turnover of the service provider.

Turnover is a means to establish the capacity of an applicant/tenderer and is not a reliable indicator of their financial standing. Turnover is a historical figure and is not reflective of the applicant's/tenderer's current circumstances. However it does provide an insight into the scale or volume of work that the applicant/tenderer has undertaken in the past and, when considered alongside experience and satisfactory references, it does give a broad indication as to the level of service that might be expected if they were awarded a contract.

In setting proportionate turnover levels contracting authorities should consider the following:

1. The level of input from each of the principal service providers identified for the project. For example a reasonably straightforward structure on a green field site may have a high building services content. In this case the lead consultant will probably be an architect, however a sizeable proportion of the construction cost will encompass the building services element and the level of turnover sought should be proportionate to the level of service required from each principal service provider.
2. The duration of the service provision. If a services contract encompasses a phased approach to a development where there are distinct projects within the overall service delivery then this should be the determining factor when setting an appropriate turnover level. On the other hand if there is a requirement for a single project to be delivered in a short timeframe necessitating a high level of resources upfront then this should be considered when setting the turnover level required.
3. Complexity of project. A contract value on its own does not provide a complete picture of the project under consideration and a reasonably small contract value may have a level of complexity that requires a reasonably sized team to deliver it successfully.

Table 2 sets out indicative turnover levels which are based upon contract values and do not take into account points 1 – 3 above. It is important to note that these turnover levels relate to project Stages (i) to (v) inclusive. Where Stage (i) services alone are required then turnover may not be a critical pre-qualification criterion and Contracting Authorities should decide whether to include it or not.

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## 1.4

Criterion  
3.3a**Main Criteria (Economic and Financial Standing)****SUB-CRITERION: TURNOVER (continued)**

Table 2		SUGGESTED TURNOVER LEVELS RELATIVE TO CONTRACT VALUE	
Total Project Value	Annual Turnover (Building)		Annual Turnover *
	Lead Design Consultant	Other Consultants	(Civil Engineering)
€	€	€	€
500,000	60,000	60,000	60,000
1,000,000	100,000	100,000	150,000
5,000,000	250,000	150,000	400,000
10,000,000	350,000	175,000	700,000
15,000,000	450,000	300,000	1,000,000
20,000,000	600,000	400,000	1,300,000
50,000,000	1,500,000	1,000,000	2,500,000
100,000,000	2,500,000	1,750,000	4,500,000

\* The turnover figures for Civil Engineering consultancies reflect the difference between civil engineering projects where a single consultant or consortium provides all required services in contrast to a building project where typically each consultant is engaged separately.

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## Main Criteria (Economic and Financial Standing)

### SUB-CRITERION: TURNOVER (continued)

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#### *Option for small firms*

If a Consultant does not have the turnover to satisfy the minimum amount set by a Contracting Authority for a particular appointment, the Consultant may collaborate with another practice or, if the Contracting Authority so states in the Suitability Questionnaire, group of practices providing a similar range of services so that the combined turnover of the practices satisfies the required minimum. There should be no initial requirement to enter into a legally binding relationship. Where there is collaboration the Consultant offering to provide the service should show that it has at least 50% of the turnover required. Any business put forward as a collaborating partner must have the same level of resources as the Consultant proposing to provide the service.

A Consultant should make it clear in its response to a Suitability Questionnaire that the application is being made on the basis of a joint submittal which should include declarations signed by each additional party in a collaboration confirming that party's understanding that it will be required to enter into a separate legally binding agreement (not the standard Conditions of Engagement) with a Contracting Authority to complete the service that is the subject of the application/tender should the initial Consultant appointed default. On receipt of such a response a Contracting Authority in its assessment of whether the required minimum standard has been achieved should take into consideration the combined turnover amounts of the other supporting business. This arrangement can continue in a non-legal form through the procurement process up to the time of contract award. However, before a contract is awarded, and as a prerequisite "*for the satisfactory performance of the contract*"<sup>8</sup> both firms must have entered into a legally binding relationship on a formal basis so that they are both legally bound in the form indicated in the submission and accepted by the contracting authority<sup>9</sup>.

The extent of the relationship is at the discretion of the firms concerned (e.g. both firms may wish to sign the standard Conditions of Engagement) but, as a minimum, it must bind them to the provision of the service that is the subject of the appointment on the basis of both firms being jointly and severally liable for its satisfactory completion. It is important that a Contracting Authority clearly specifies this minimum requirement in the Suitability Questionnaire issued at prequalification stage under a restricted procedure, or with tender documents in an open procedure.

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<sup>8</sup> Article 4(2) of Directive 2004/18/EC and Regulation 19 of SI No 329 of 2006 where in the opinion of the contracting authority the imposition of the requirement is necessary"

<sup>9</sup> What is envisaged is the provision of a separate parallel legal agreement between Consultancy practices with a Collateral Agreement in place between the other business and the Contracting Authority.

## Main Criteria (Economic and Financial Standing)

### SUB-CRITERION: TURNOVER (continued)

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Once a Consultant is prequalified (restricted), or qualifies (open) on the basis of its turnover being combined with that of another firm, the arrangement must continue right up to the time of the award of the contract. If the arrangement breaks down (for any reason), the Consultant should be disqualified from participating further in the competition and an award should not be concluded with them.

This facility is of particular importance for small businesses and sole traders where a back-up resource (i.e. another practice of similar standing) is crucial to the satisfactory provision of the required service should there be a failure for any reason by the Consultant awarded the contract.

**Collaboration is not the same as being in a joint venture where all joint venture parties sign the COE1.**

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#### *Maximum number of years and average annual turnover*

Contracting Authorities should be aware that the period for which statements of turnover are required is a *maximum of three years*. Shorter periods should be considered where appropriate to facilitate recently established businesses that may not be in a position to provide evidence for three years. This would be particularly important in relation to lower value projects. Such flexibility would need to be clearly expressed by the Contracting Authority in the Suitability Questionnaire (QC1 and QC2).

Also, as a means of supporting small to medium sized businesses in a downturn, consideration should be given to assessing the average turnover of a professional practice over the three year period to meet the minimum standard, rather than considering each year separately. QC1 and QC2 allow for flexibility in choosing either 'minimum value' or 'average minimum value'.

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## 1.4

### Criterion 3.3b

## Main Criteria (Economic and Financial Standing)

### SUB-CRITERION: BALANCE SHEETS AND EXTRACT FROM BALANCE SHEETS

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Article 47(1)(b) and Regulation 55(1)(b) deal with the service provider's balance sheets (or extracts from balance sheets).

**Minimum Standard:** *The minimum standard is to provide balance sheets or extracts from balance sheets where publication of the balance sheet is required under law of the country in which the service provider is established. The minimum standard can be increased by stating a minimum net worth provided such a requirement is proportionate to the needs of the contract and is not discriminatory. Evidence provided under this criterion should be considered with evidence provided under Criterion 3.3d below (i.e. balance sheets not required by law to be published) to determine the financial robustness of a particular service provider. If this cannot be provided alternative evidence which the Contracting Authority considers appropriate should be provided (e.g. the balance sheets of a parent company).*

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### Criterion 3.3c

### SUB-CRITERION: BANKERS LETTER

Article 47(1)(a) and Regulation 55(1)(a) deal with the service provider's banker's letter.

**Minimum Standard:** *The minimum standard is to provide a statement from a bank saying that the service provider's principal account is in good standing. The statement must be an original or alternatively can be in the form of a copy signed by the service provider and dated within the previous six months stating that the service provider's account is in good standing. If this cannot be provided alternative evidence which the Contracting Authority considers appropriate should be provided.*

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### Criterion 3.3d

### SUB-CRITERION: OTHER FINANCIAL/ECONOMIC INFORMATION/REFERENCES

Article 47(1) and Regulation 55(1) permits evidence of other financial/economic information/references be requested.

**Minimum Standard:** *The minimum standard is to provide the evidence in relation to economic and financial material such as balance sheets not required by law to be published so that the financial robustness of a service provider can be ascertained.*

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**Main Criteria (Economic and Financial Standing)****SUB-CRITERION: PROFESSIONAL INDEMNITY INSURANCE**

Article 47(1)(a) and Regulation 55(1)(a) deal with the professional indemnity insurance.

**Minimum Standard:** *The minimum standard is to provide evidence from the service provider's insurer or insurance broker that the level of professional risk indemnity insurance identified is in place, or if higher will be in place at contract award stage. Evidence in the form of a properly executed certificate, model form MF 2.1 is required to be produced by the service provider prior to the award of the service contract. The minimum standard of cover required for six years after satisfactory completion of the service is set in the following table:*

<b>Table 3</b> Estimated Construction Cost	Minimum Professional Indemnity Insurance Cover	Maximum Level of Excess (Capped at €150,000) *
€50,000 or less	€500,000	€10,000 or 1.5% of gross fee turnover whichever is greater.*
€50,001 - €1,000,000	€750,000	€20,000 or 1.5% of gross fee turnover whichever is greater.*
€1,000,001 - €5,000,000	€1,500,000	€30,001 - €45,000 or 1.5% of gross fee turnover whichever is greater.*
€5,000,001 - €20,000,000	€3,000,000	€45,001 - €150,000 or 1.5% of gross fee turnover whichever is greater.*
€20,000,001 - €30,000,000	€4,500,000	€150,000*
€30,000,001 - €40,000,000	€5,000,000	€150,000*
€40,000,001 - €60,000,000	€6,000,000	€150,000*
Over €60,000,000	€6,500,000	€150,000*

\* The level of excess may be based upon a % of the service provider's turnover (usually capped at 3-4 claims). **Generally the level of excess should be capped at €150,000 in any one year**, however where an applicant is part of a multi-national organisation and its level of excess for insurance purposes is based upon the turnover of the multi-national organisation, prior to the award of any contract, the contracting authority must seek a written guarantee from the parent company to cover the level of excess in the event of a claim being made.

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## 1.4

### Criterion 3.3e

## Main Criteria (Economic and Financial Standing)

### SUB-CRITERION: PROFESSIONAL INDEMNITY INSURANCE (continued)

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The excess levels in the table on the previous page are structured so that the figures selected are relevant and proportionate to the size of a particular project. They are arranged in such a way that both large and small to medium sized businesses can compete on a relatively level playing pitch.

The minimum Professional Indemnity Insurance cover and the maximum excess level should be clearly stated at section 1.4 *Principal Service Required* of the Service Provider's standard suitability questionnaire (QC1 and QC2). The PII cover must comply with the following conditions:

- cover is provided on an 'each and every' claim basis;
  - legal defence costs are covered in addition to the cover levels set out in the policy;
  - cover includes for claims for breach of professional duty or civil liability as well as negligence;
  - cover extends to include claims arising out of the sub-consulting of professional services by applicant;
  - cover is provided in respect of Joint and Several liability where the service provider is operating in a Joint Venture or a Consortium;
  - the jurisdiction in which claims can be lodged and settled is IRELAND.
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### Criterion 3.3f

### SUB-CRITERION: PUBLIC LIABILITY INSURANCE

Article 47 and Regulation 55 permits evidence of public liability insurance to be requested.

**Minimum Standard:** *The minimum standard is proof that the service provider has public liability insurance cover for €2,600,000 in place for any one event where there is no significant manual work involved in the service provision. For ground investigation or archaeological investigation works then the public liability insurance should be set at €6,500,000. The maximum excess limit should be €10,000 for property only with no excess for death, injury or illness. This minimum level can be increased by stating a higher financial figure; that is provided the threshold set is proportionate to the needs of the contract, reflects what the courts are prepared to award and is not discriminatory.*

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## 1.4

### Criterion 3.3g

## Main Criteria (Economic and Financial Standing)

### SUB-CRITERION: EMPLOYER'S LIABILITY INSURANCE

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Article 47 and Regulation 55 permits evidence of employer's liability insurance to be requested.

**Minimum Standard:** *The minimum standard is proof that service provider has employer's liability insurance cover for €13,000,000 in place for any one event with no excess. This minimum level may be increased by stating a higher financial limit; that is provided the threshold set is proportionate to the needs of the contract, reflects what the courts are prepared to award and is not discriminatory.*

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## Main Criteria (Technical and/or Professional Ability)

### CRITERIA 3.4a – 3.4g

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#### *Introduction*

In the context of health and safety in regard to design there is a need to demonstrate competence in relation to section 17(1) of the Safety Health & Welfare at Work Act 2005 and Regulations 7 and 15 of the Safety Health & Welfare at Work (Construction) Regulations 2006 – 2013. So under an *open* or *restricted procedure* a Contracting Authority, in addition to setting general suitability criteria for design services for a particular project, must set health and safety sub-criteria to establish the competence of the service providers in regard to health and safety matters associated with design. Similarly, in the case of designers or other technical service providers being required to provide health and safety project supervisory services there is a need to demonstrate competence in relation to Regulations 6; 7; 11 – 14; 16 – 22 of the Safety, Health & Welfare at Work (Construction) Regulations 2006 – 2013.

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#### *Competence*

Under the Safety, Health and Welfare at Work Act 2005, Section 2.(2) a competent person is described thus: *For the purposes of the relevant statutory provisions, a person is deemed to be a competent person where, having regard to the task he or she is required to perform and taking account of the size or hazards (or both of them) of the undertaking or establishment in which he or she undertakes work, the person possesses sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken.*

**The Safety and Health Declarations, model forms MF 2.4, MF 2.5 or MF 2.6, must be provided by appropriate Service Providers prior to the award of contracts for Design, PSDP/HSC or PSCS services respectively.**

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## Main Criteria (Technical and/or Professional Ability)

### CRITERIA 3.4a – 3.4g

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#### *Independent Health and Safety Project Supervisory Services*

Project Supervisor Design Process (PSDP) and Project Supervisor Construction Stage (PSCS) roles may be treated as Principal Service Providers and separate Suitability Assessment Questionnaires (SAQs) are to be provided where such services are required. Where a service provider applies for a PSDP or a PSCS service role in addition to one of the other Principal Services required then they need not submit duplicate responses to criteria 3.1, 3.2 and 3.3 (3.3a – 3.3g where applicable) of the PSDP or PSCS SAQ providing they reference the information contained in the SAQ relevant to their other Principal Service application.

Consequently form QC3 – Service Provider – Independent Project Supervisor for the Design Process and form QC4 – Service Provider – Independent Project Supervisor for the Construction Stage and Health and Safety Supplements 3.4.1, 3.4.2 and 3.4.3 are withdrawn.

However such roles may still be identified as specialist skills and as such any criteria associated with these roles must be identified in the Specialist Skills section of QC 1 and QC 2.

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#### *Project type*

The minimum standards used and level of proof required to demonstrate health and safety competence must be proportionate to the size, scale and complexity of the service required for the project. In the case of the Project Supervisor for the Construction Stage (PSCS) each project must be categorized as follows:

- **Project Type 1** applies to all projects that are €500,000 or less in value
- **Project Type 2** applies to all projects that are between €500,000 and €5 million in value, and
- **Project Type 3** applies to all projects that are over €5 million in value.

If a significant health and safety risk associated with the PSCS service being provided for a particular project warrants a higher level of investigation than the category Type related to value would allow, that category Type should be disregarded and a higher category Type chosen relative to the health and safety risk exposure.

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**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS  
(Managerial)**

Article 48(2)(e) and Regulation 59(1)(e) deal with the educational, professional qualifications and experience of the service provider and/or its managerial staff.

Construction consultancy services essentially break down into two classes of service provider – designers and non-designers. Under the Safety Health and Welfare at Work (Construction) Regulations 2006 – 2013 the client has a duty to appoint competent designers and supervisors.

QC1 and QC2 require a separate Suitability Assessment Questionnaire for all the service providers for a particular project. This includes the key appointments of Project Supervisor Design Process (PSDP) and Project Supervisor Construction Stage (PSCS). The guidance below is set out on an incremental basis with increasing requirements depending on the role of the service provider. For each of the roles outlined below the Minimum Standard at A below should be augmented as appropriate to the service provision required.

**It is important to note that the service provider and/or its managerial staff who can demonstrate adequate training and qualifications but cannot demonstrate experience, or appropriate experience is not deemed to be adequate. Applicants/tenderers should always be required to demonstrate experience.**

**A. Minimum Standard – Applicable to:****ALL SERVICE PROVIDERS**

*The minimum standard is to provide evidence of the service provider and/or its managerial staff's educational and professional qualifications (e.g. professionally qualified project managers, architects, engineers etc -with dates obtained) and experience including their curriculum vitae and also the organisation structure of the business. Furthermore, evidence should be provided that a service provider and/or its managerial staff nominated in a particular role are competent to fulfil that role. This may be demonstrated by examples of previous experience (in the various roles) on contracts of a similar nature, scale and complexity satisfactorily completed. Also the service provider and/or its managerial staff should have training/ qualifications/ experience appropriate to the function they fulfil. When setting the level of qualifications regard shall be had to the EU Directive 2005/36/EC on the recognition of professional qualifications.*

*When the circumstances of the project require a particular service, the minimum standard can be increased by asking that at least one number (or more) of the service provider or its managerial staff have acquired certain technical accreditations, qualifications (professional or otherwise) or work experience (on "x" number of specific project types) in that particular service area.*

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**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS  
(Managerial) (continued)**

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Safety, Health and Welfare at Work (Construction) Regulations 2006 - 2013

**B. Minimum Standard – Applicable to:****ALL SERVICE PROVIDERS**

*In addition to the recommended standards set out at A on the previous page the competency of those with an input into the design of the project (principal) and/or its managerial staff, should be demonstrated by way of:*

- *Attendance at a course introducing the principles of the Safety Health and Welfare at Work (Construction) Regulations 2006 – 2013 by the service provider (principal) and/or its managerial staff run by one of the professional bodies or other reputable training organisation. The course should be structured to address the duties of the service provision in relation to construction under the health and safety regulations.*

**C. Minimum Standard – Applicable to:****PSDP**

*In addition to the recommended standards set out at A on the previous page the competency of the service provider as Project Supervisor for the Design Process (principal) and/or its managerial staff, should be demonstrated by way of:*

- *Satisfactory completion of a course by the service provider (principal) and/or its managerial staff run by one of the professional bodies or other reputable training organisation. The course should be structured to address the duties of the PSDP in relation to construction under the Safety, Health and Welfare at Work (Construction) Regulations 2006 – 2013.*

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**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS  
(Managerial) (continued)****D. Minimum Standard – Applicable to:****PSCS**

Sections 1.6 and 1.7 of the Suitability Assessment Questionnaire set out the potential Safety and Health risk category for the project in question. It is important that the person appointed to the role of Project Supervisor for the Construction Stage can demonstrate qualifications and experience that are appropriate to the project in question. When selecting the appropriate project category at Section 1.6 of QC1 or QC2 the Minimum Standard for all service providers set out at A should be augmented with the Standards relevant to the Project Category.

**Project Type 1:** *In addition to the recommended standards set out at A the competency of the service provider as PSCS and/or its managerial staff should be demonstrated by way of providing evidence of:*

- *experience in providing PSCS services by at least one member of the service provider and/or its managerial staff on projects of a similar scale, nature and complexity.*
- *In the case of a small professional practice the service provider and/or at least one of its managerial staff having:*
  - *at least 8 hours annual health and safety training in the provision of PSCS services (i.e. in-house or a CPD course).*

**Project Type 2:** *In addition to the recommended standards set out at A the competency of the service provider as PSCS and/or its managerial staff should be demonstrated by way of providing evidence of:*

- *experience with at least one member of the service provider and/or its managerial staff with PSCS experience on projects of a similar scale, nature and complexity.*
- *In the case of a small/medium sized professional practice the service provider and/or at least one of its managerial staff having:*
  - *at least 16 hours annual health and safety training in PSCS services (i.e. in-house or a CPD course).*

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## Main Criteria (Technical and/or Professional Ability)

### SUB-CRITERION: EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS (Managerial) (continued)

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**Project Type 3:** *In addition to the recommended standards set out at A the competency of the service provider as PSCS and/or its managerial staff should be demonstrated by way of providing evidence of:*

- *experience in providing PSCS services by at least one member of the service provider and/or its managerial staff on projects of a similar scale, nature and complexity.*
  - *has attended a generally structured externally-validated health and safety training course that provides at least 16 hours annual health and safety training in relation to providing PSCS services (ideally from a management perspective), (In this context in-house PSCS health and safety training seminars or continuing professional development courses are insufficient), or*
  - *has attained some form of formal health and safety post-graduate qualification (for example, a health and safety degree, diploma), or specific additional appropriate health and safety qualifications (for example, a certificate), or*
  - *Is a member of a recognised health and safety professional institute.*
  - *The minimum standard can be increased by:*
    - *requiring that a higher number (e.g. at least two) of the service provider and/or its managerial staff have a specific level of training as PSCS, or*
    - *evidence that they have appropriate PSCS Health and Safety qualifications, and experience in providing the services relevant to the scale, nature and complexity of the project. That is provided such a minimum standard is proportionate to the needs of the contract and is not discriminatory.*
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**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS (Personnel)**

Article 48(2)(e) and Regulation 59(1)(e) deal with the service provider's personnel's educational, professional qualifications and experience.

Construction consultancy services essentially break down into two classes of service provider – designers and non-designers. Under the Safety Health and Welfare at Work (Construction) Regulations 2006 – 2013 the client has a duty to appoint competent designers and supervisors.

QC1 and QC2 require a separate Suitability Assessment Questionnaire for all the service providers for a particular project. This includes the key appointments of Project Supervisor Design Process (PSDP) and Project Supervisor Construction Stage (PSCS). The guidance below is set out on an incremental basis with increasing requirements depending on the role of the service provider. For each of the roles outlined below the Minimum Standard at **A** below should be augmented as appropriate to the service provision required.

**It is important to note that personnel who can demonstrate adequate training and qualifications but cannot demonstrate experience, or appropriate experience are not deemed to be adequate. Applicants/tenderers should always be required to demonstrate experience.**

**A. Minimum Standard – Applicable to:****ALL SERVICE PROVIDERS**

*The minimum standard is to provide evidence of the educational and professional qualifications (e.g. professionally qualified project managers, architects, engineers etc - with dates obtained) and experience including the curriculum vitae of the person or persons responsible for performing the services.*

*At all times there is a need to ensure that the minimum standard set is relevant, proportionate to the needs of the contract and is not discriminatory. However when the circumstances of the project require a particular service, the minimum standard can be increased by asking that at least the person or one of the persons responsible for performing the services has acquired certain technical accreditations, qualifications (or equivalent) or work experience (on projects of a similar nature, scale and complexity) in that particular service area. This may be further increased by requiring a minimum number of such projects or that experience over a stated number of years working on projects of a similar nature, scale and complexity once a particular qualification was obtained.*

*The required standard for each individual in a particular role is evidence of their competency to fulfil the assigned role. Furthermore, such educational and professional qualifications and experience as referred to above must complement the appropriate Health and Safety qualification, training and experience required to meet the minimum standard for health and safety sub-criteria.*

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**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS  
(Personnel) (continued)**

Safety, Health and Welfare at Work (Construction) Regulations 2006 - 2013

**B. Minimum Standard – Applicable to: ALL SERVICE PROVIDERS**

*In addition to the recommended standards set out at A on the previous page the competency of those with an input into the design of the project should be demonstrated by way of:*

- *Attendance at a course introducing the principles of the Safety Health and Welfare at Work (Construction) Regulations 2006 – 2013 by the person or persons providing the service run by one of the professional bodies or other reputable training organisation. The course should be structured to address the duties of the service provision in relation to construction under the health and safety regulations.*

**C. Minimum Standard – Applicable to: PSDP**

*In addition to the recommended standards set out at A on the previous page the competency of those delivering the PSDP service for the project should be demonstrated by way of:*

- *Satisfactory completion of a course by the person or persons providing the PSDP or Health and Safety Co-ordinator (HSC) role which is run by one of the professional bodies or other reputable training organisation. The course should be structured to address the duties of the PSDP in relation to construction under Safety, Health and Welfare at Work (Construction) Regulations 2006 – 2013.*

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**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS  
(Personnel) (continued)****D. Minimum Standard – Applicable to:****PSCS**

Sections 1.6 and 1.7 of the Suitability Assessment Questionnaire set out the potential Safety and Health risk category for the project in question. It is important that the person appointed to the role of Project Supervisor for the Construction Stage can demonstrate qualifications and experience that are appropriate to the project in question. When selecting the appropriate project category at Section 1.6 of QC1 or QC2 the Minimum Standard for all service providers set out at A should be augmented with the Standards relevant to the Project Category.

**Project Type 1:** *In addition to the recommended standards set out at A, the competency of those delivering the PSCS service for the project should be demonstrated by way of:*

- *Experience by the person or persons delivering the PSCS service in managing the provision of such services on projects of a similar scale, nature and complexity.*
- *In the case of a small professional practice the person or persons responsible for managing the provision of the PSCS services having:*
  - *at least 8 hours annual health and safety training in PSCS services (i.e. in-house or a CPD course.)*

**Project Type 2:** *In addition to the recommended standards set out at A, the competency of those delivering the PSCS service for the project should be demonstrated by way of:*

- *Experience by the person or persons delivering the PSCS service in managing the provision of such services on projects of a similar scale, nature and complexity.*
- *In the case of a small/medium sized professional practices the person or person responsible for providing the PSCS services having:*
  - *at least 16 hours annual health and safety training in PSCS services (i.e. in-house or a CPD course).*

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## Main Criteria (Technical and/or Professional Ability)

### SUB-CRITERION: EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS (Personnel) (continued)

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**Project Type 3:** *In addition to the recommended standards set out at A, the competency of those delivering the PSCS service for the project should be demonstrated by way of:*

- *Experience by the person or persons delivering the PSCS service in managing the provision of such services on projects of a similar scale, nature and complexity.*
  - *The person or persons delivering the service has attended some form of generally structured externally-validated health and safety training course that provides at least 16 hours annual health and safety training in the provision of PSCS services (In this context in-house health and safety training seminars or continuing professional development courses are insufficient), or*
  - *The person or persons delivering the service has attained some form of formal health and safety post-graduate qualification (for example, a health and safety degree, diploma), or specific additional appropriate health and safety qualifications (for example, a certificate), or*
  - *The person or persons delivering the service is a member of a recognised health and safety professional institute.*
  - *The minimum standard can be increased by:*
    - *requiring that the person or person managing the provision of PSCS services has a specific level of relevant health and safety training, or*
    - *evidence of appropriate Health and Safety qualifications, and experience equivalent to that required for projects of similar scale, nature and complexity being provided.*
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## Main Criteria (Technical and/or Professional Ability)

### SUB-CRITERION: LIST OF TECHNICAL SERVICES PROVIDED IN THE PAST 3/5/7 YEARS

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Article 48(2)(a)(ii) and Regulation 59(1)(a) deal with the technical services provided by the service provider in the past 3 years

#### Service Delivery Period

3 years is the maximum period for which a contracting authority may require an applicant/tenderer to submit evidence, however the contracting authority may take into consideration projects over a longer period. In circumstances where construction activity has seen a sustained period of decline then such a consideration is entirely appropriate.

If a longer period is considered appropriate, having regard to the particular contract, then this should be clearly stated in the Suitability Questionnaire (QC1, QC2) by changing the reference to '3 years' in the title to the longer period of '5' or '7' years. In this case, the title should be changed to '**List of Technical Services Provided over the past '5' or '7' Years**'.

**Note 1:** When requested for evidence to satisfy this criterion applicants/tenderers should provide the list template at Appendix B1 and Certificates at Appendix B3. If a longer period is specified and the minimum standard is met having regard to works that have been carried out within that period, then that applicant should be accepted as having passed this criterion. If the response is to be subsequently qualitatively assessed, an applicant with recently undertaken projects should not automatically obtain more marks than an applicant whose projects date from the earlier part of the specified period.

**Note 2:** The Period specified is a period within which the applicant may provide evidence of its technical services provided, but it should not be mandatory to require technical services to be evidenced for the whole period. If a firm cannot provide evidence for the entire period (e.g. a firm has not been trading for the whole period) this should not be used as a reason to reject it.

#### Certificate of Satisfactory Delivery of Service (Appendix B3)

It is deemed that in submitting *Certificates of Satisfactory Delivery of Services*, consent is given by the service provider for the Contracting Authority to check the reference with the relevant Contracting Authority to see that the services were satisfactorily carried out within the time agreed. Care needs to be exercised to ensure that the threshold set for the minimum standard is relevant, proportionate to the needs of the project and is not discriminatory. The reason applicants are permitted to submit certificates under their own name is because contracting authorities are not issuing such certificates even though there is no sound reason not to do so.

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**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: LIST OF TECHNICAL SERVICES PROVIDED IN THE PAST 3/5/7 YEARS (continued)****A. Minimum Standard – Applicable to: ALL SERVICE PROVIDERS**

*Satisfactory experience in providing technical services on projects of a similar scale, nature and complexity to the one for which applications are being assessed. Evidence of delivery of technical services should be provided in the form of a list of commissions carried out over the period specified (the list should be provided in the format set out in Appendix B1).*

*These commissions should indicate how the service provider provided the service. The applicant should provide Certificates of Satisfactory Delivery of Services (Appendix B3) for each project cited. The certificates should, under ‘Other Information; include a written narrative dealing with the information required in not more than 200 words.*

*The Employer may, if it wishes, set a maximum number of reference commissions which may be submitted. If the Employer chooses to do this, it should be clearly stated under this criterion in the suitability questionnaire that the commissions will be read in the order of the date of their preparation – most recent projects first (which should be listed – see template at Appendix B1) up to the maximum number and that any further commissions submitted will not be taken into account in the evaluation.*

**Safety, Health and Welfare at Work (Construction Regulations) 2006 - 2013****B. Minimum Standard – Applicable to: ALL DESIGNERS**

*The competency of those responsible for the design of the project should be demonstrated by way of:*

- *Satisfactory experience in design of projects of a similar scale, nature and complexity to the one for which applications are being assessed. Evidence of delivery of design services should be provided in the form of a list of design commissions carried out over the period specified (the list should be provided in the format set out in Appendix B1).*
- *These commissions should indicate how health and safety in project design was managed, how risk assessments were carried out and how hazards were managed on projects. The applicant should provide Certificates of Satisfactory Delivery of Services for each project cited (Appendix B3). The certificates should, under ‘Other Information; include a written narrative dealing with the information required in not more than 200 words.*
- *The Employer may, if it wishes, set a maximum number of reference commissions in the manner set out at A above.*

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**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: LIST OF TECHNICAL SERVICES PROVIDED IN THE PAST 3/5/7 YEARS (continued)****C. Minimum Standard – Applicable to:****PSDP**

*The competency of those delivering the PSDP service for the project should be demonstrated by way of:*

- *Satisfactory experience in the provision of PSDP services of a similar scale, nature and complexity to the one for which applications are being assessed. Evidence of delivery of PSDP services should be provided in the form of a list of commissions carried out over the period specified (the list should be provided in the format set out in Appendix B1).*
- *These commissions should indicate how health and safety in project design was managed and how the principles of prevention were applied in their role as PSDP. The applicant should provide Certificates of Satisfactory Delivery of Services for each project cited (Appendix B3). The certificates should, under ‘Other Information; include a written narrative dealing with the information required in not more than 200 words.*
- *The Employer may, if it wishes, set a maximum number of reference commissions in the manner set out at A on the previous page.*

**D. Minimum Standard – Applicable to:****PSCS**

Sections 1.6 and 1.7 of the Suitability Assessment Questionnaire set out the potential Safety and Health risk category for the project. When selecting the appropriate project category at Section 1.6 of QC1 or QC2 the Minimum Standard included must be relevant to the Project Category.

**Project Types 1, 2 and 3:** *The minimum standard is to provide evidence in the form of:*

- *Satisfactory experience in the provision of PSCS services of a similar scale, nature and complexity to the one for which applications are being assessed. Evidence of delivery of PSCS services should be provided in the form of a list of commissions carried out over the period specified (the list should be provided in the format set out in Appendix B1).*
- *These commissions should indicate how health and safety was managed during the construction stage and how risk assessments were carried out. The applicant should provide Certificates of Satisfactory Delivery of Services for each project cited (Appendix B3). The certificates should, under ‘Other Information; include a written narrative dealing with the information required in not more than 200 words.*
- *The Employer may, if it wishes, set a maximum number of reference commissions in the manner set out at A on the previous page.*

**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: MEASURES FOR ENSURING QUALITY**

Article 48(2)(c) and Regulation 59(1)(c) deal with the technical facilities and measures for ensuring quality of services and study and research facilities used by the service provider.

**Minimum Standard:** *The minimum standard is to provide evidence in the form of a statement of the facilities and measures used by the service provider to ensure the quality of the service being provided. The service provider is also required to provide a statement in relation to study and research facilities it has.*

The arrangements for quality assurance systems as a minimum requirement that may be used under this criterion to determine suitability of construction-related consultancy firms for public sector service contracts are set out hereunder. These arrangements apply irrespective of whether the value of the service contract is above or below the EU procurement threshold.

**Article 48 and 49 of 2004/18/EC and Regulations 59(1) (c) and 63 of SI No 329 of 2006**

The provisions under Article 48(2)(a) of Directive 2004/18/EC allows for contracting authorities to specify as part of suitability assessment stage, the quality assurance systems that would be acceptable in order to meet a minimum requirement. Article 49 of the Directive sets out how such systems are benchmarked and verified. The Article states that where contracting authorities “*require the production of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain quality assurance standards, contracting authorities shall refer to quality assurance systems based on the relevant European standards series certified by bodies conforming to the European standards series concerning certification. They shall also accept other evidence of equivalent quality assurance measures from economic operators.*”

SI 329 of 2006, Regulation 59(1) (c) allows contracting authorities to ask for “*a description of the technical facilities and measures used by the operator for ensuring the quality of services that are supplied by the operator,*” Minimum requirements can be specified in regard to delivery, risk management and service quality.

Regulation 63 sets out what type of certification is acceptable in respect of certain quality assurance standards and which bodies may offer certification such that applicants conform to set standards. Where applications make reference to standards that would fall under Regulation 63(b) or (c) the onus will be on the applicant to satisfy through the submission, by an accredited certification body, that the standard referenced is equivalent to EN ISO 9001. Contracting authorities may accept such evidence when considering a submission.

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## Main Criteria (Technical and/or Professional Ability)

### SUB-CRITERION: MEASURES FOR ENSURING QUALITY

(continued)

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#### ***Quality assurance measures – Minimum Requirements***

When setting the minimum requirements for quality assurance systems contracting authorities should be conscious of the need to ensure that the requirements set are proportionate to the nature, scale and complexity of the project being considered. For instance in setting minimum criteria for the services of construction consultants to design a large and complex project the consultants should be required to demonstrate that they have an acceptable system in place to deal with the administrative burden that such projects carry and a quality management system (QMS) such as EN ISO 9001:2008 or equivalent would adequately demonstrate this capacity. On the other hand for most small scale projects, and particularly those where the Public Works Short Form of Contract is to be used, the minimum criteria should include items such as a statement from the consultant as to the manner in which they manage their office outputs, whether they subscribe to an information database/library, IT equipment and software available to deliver the project, etc.

A pass/fail assessment should not require an applicant to have a QMS. This should be qualitatively assessed only – see *Quality assurance measures – Qualitative Assessment* below.

#### ***Independently Certified QMS***

Consultancy service providers may have their own in-house QMS systems, however in-house QMS that are or are not independently certified will not meet the same standards imposed by a certified system that follows an industry-wide, standardized process. Where it is warranted, such as in the case of particularly complex or larger scale projects it may be appropriate to set higher standards for quality assurance. The guidance below in *Quality assurance measures – Qualitative Assessment* sets out the hierarchy by which Contracting Authorities should apply marks to quality management systems.

All independently certified QMS must be both certified and audited at regular intervals by an accredited certification body that is registered with the Irish National Accreditation Board or an equivalent accreditation body in another EU member state that has been established in line with EC/765/2008. The following link provides information on the relevant accreditation body for each of the EU member states.

<http://www.european-accreditation.org/ea-members>

Where an applicant demonstrates that they had subscribed to an independently certified QMS (any of the last three options listed below) and their certification has lapsed then they may only be considered to meet the second option listed overleaf – an in-house QMS that is not independently certified.

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**Main Criteria (Technical and/or Professional Ability)****SUB-CRITERION: MEASURES FOR ENSURING QUALITY**(continued)

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***Quality assurance measures – Qualitative Assessment***

In a restricted procurement procedure a contracting authority may choose to undertake a Qualitative Assessment under 3.4d 'Measures for Ensuring Quality'. Following the assessment for the minimum requirements (mentioned previously), should evidence of quality management systems be required such systems should be qualitatively assessed by means of awarding marks in the following order:

1. zero marks for no system;
2. At least 50% of the available marks should be awarded for an in-house system not independently certified;
3. contracting authorities may award maximum marks for a system that is independently certified by an accredited certification body, providing that the system is appropriate for use by construction consultants operating within their particular profession.

There are a number of QMS options available for construction professionals and the extent of marks awarded under item 2 should be inversely proportionate to the scale and complexity of the project. Where consultants' submit their QMS to third party certification by an accredited independent certification body (item 3 above) this displays an ongoing commitment to maintaining standards and recognition should be given in the awarding of marks. Where it is deemed appropriate, contracting authorities may award higher marks for the different QMS that fall under item 3 above, providing that they possess the relevant expertise to assess the merits of the systems presented on the basis of their equivalence with the relevant European standards series; EN ISO 9001: 2008.

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## 1.5

### Criterion 3.4e

## Main Criteria (Technical and/or Professional Ability)

### SUB-CRITERION: AVERAGE MANPOWER OVER THE PAST 3 YEARS

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Article 48(2)(g) and Regulation 59(1)(g) deal with the service provider's average annual manpower over the past 3 years.

The three year period should be regarded as a maximum period and if for any valid reason a firm cannot provide evidence for the three years (i.e. firm has not been trading for three years) this should not be used as a reason to reject it.

The minimum standard below is applicable to any principal service provider including designers and Project Supervisors. In setting the minimum standard they must be proportionate to the project in question and the same principles as set out under criterion '3.3a Turnover' also apply to the level of manpower sought.

**Minimum Standard:** *The minimum standard is to provide evidence in the form of a statement from the service provider scheduling the average number of persons providing the services on an annual basis and the number of persons employed by the service provider in managerial positions during the immediately preceding 3 years.*

*The minimum standard may include a requirement that the service provider presents the information in a particular format, for example, separate schedules should be made of (i) managerial technical and administrative staff, (ii) qualified senior professionals, (iii) qualified junior professionals, (iv) technicians, (v) unqualified personnel etc.*

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### Criterion 3.4f

### SUB-CRITERION: TECHNICAL EQUIPMENT AVAILABLE

Article 48(2)(h) and Regulation 59(1)(h) deal with the technical equipment available to the service provider.

The minimum standard below is applicable to any principal service provider including Designers and Project Supervisors.

**Minimum Standard:** *The minimum standard is to provide evidence in the form of a statement from the service provider regarding the software packages, specifications of IT equipment or other technical equipment that would be available to the service provider to assist in the delivery of the required technical service.*

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## 1.5

### Criterion 3.4g

## Main Criteria (Technical and/or Professional Ability)

### SUB-CRITERION: TECHNICIANS OR TECHNICAL BODIES AVAILABLE

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Article 48(2)(b) and Regulation 59(1)(b) deal with the technicians and technical bodies available to the service provider.

The minimum standard below is applicable to any principal service provider including designers and Project Supervisors.

**Minimum Standard:** *The minimum standard is to provide evidence in the form of a list of the relevant technicians or technical bodies upon whom the service provider can call on in order to provide the service or whom the service provider is going to use in relation to quality control.*

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