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| **Belgian public limited company INFRABEL** **ADMINISTRATIVE CLAUSES****Y15bis****QUALIFICATION OF SUPPLIERS****of services**

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| --- | --- | --- | --- |
|  | Name | Date | Signature |
| Written by | **Alaerts Gilles** |  |  |
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|  |  |  |  |
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| Approved by | **De Mulder Kristof** |  |  |

VERSION: 01/2018 |

**Table of amendments**

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| --- | --- |
| **Version** | **Most important amendments** |
| **01/2018** | Administrative clauses Y15bis was created for all services. Y15bis is a reduced version of administrative clauses Y15 applicable for all deliveries of products. Service specifications are split up into general administrative clauses Y15bis on the one hand and on the other hand by service a specific technical specification. Adaptation to be in line with new legislation. Adaptation of the ‘Solemn declaration’ template. Translation into German. |

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This document is also available in Dutch, French and German.

#  Scope of the administrative clauses Y15bis

The Y15bis administrative clauses applies to the launch of a public contract based on an Infrabel qualification system for services.

Every qualification system is announced according to Article 29 of the Royal Decree of 18 June 2017.

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 Y15bis qualification system, only the suppliers qualified under this qualification system shall be consulted.

Infrabel reserves the right to process contracts outside the qualification system in case publication is not required based on the amount involved. Such contracts are handled by negotiated procedure without prior publication.

Document Y15bis is in line with the European Single Procurement Document (ESPD) and full documentary evidence has to be provided at the time of qualification file submission.

Laws, Royal Decrees and Directives referred to in this document, can be consulted in French or Dutch using following link :

http://www.publicprocurement.be/nl/publicprocurementbe-english-0

#  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 services in the market.

Qualified supplier

Supplier who is qualified.

Authorised representative

Intermediary, having the required mandate to represent the supplier as described below under section 3.1.1 and Annex 2. This intermediary is

an external representative, either a legal person or a natural person (who does not belong to the company aiming to qualify).

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 is qualified again.

Technical specification

Includes the specific criteria of the qualification system for services, which are required on top of what is described in Y15bis.

Time-out

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

#  Purpose of the Y15bis administrative clauses

The Y15bis administrative clauses explains the standard administrative conditions a supplier of services must meet to become and remain qualified. Next to that, a specific technical specification is applicable by service.

#  Qualification procedure

## Representation/using a third party

### A supplier wishes to use an authorised representative.

A representative with a mandate is NOT part of the supplier's organisation (and is therefore not a commercial representative of the supplier's own organisation).

When a supplier completes Annex 2 to give an external representative a mandate 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 external representative per contract. This mandate shall then be enclosed with the bid.

### A supplier wants to use the resources of another entity (as provided in Article 72 of the Royal Decree of 18 June 2017).

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.

Other entity refers to any natural or legal person other than the supplier himself.

In that case, the 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 of these entities to make such resources available (see annex 3). It is the supplier that will be qualified, not the other entity.

## Submission of the qualification application

Qualification applications must be submitted to:

Infrabel Procurement

I-FBA.518 10-31

Marcel Broodthaersplein 2

B-1060 Brussels

kwalificaties@infrabel.be

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).

## The qualification conditions/criteria

### Administrative conditions

1. A qualification application shall include a solemn declaration duly signed and dated by a legal representative of the company (proof of signature authorisation must be provided as well) which confirms that none of the cases set forth in Articles 67 to 69 of the Law of 17 June 2016, referred to in Article 151 of that same Law, and the Articles 61 to 63 of the Royal Decree of 18 April 2017 and the Articles 67 to 69 of the Royal Decree of 18 June 2017 apply to the candidate.

The contracting authority may, at any stage of the procedure, verify that none of the exclusion criteria apply to the candidate.

1. An application has to include a certificate proving the supplier has met all requirements regarding the payment of social security contributions. This certificate shall refer to the ultimate quarter.
2. An application has to include a certificate proving the supplier has met his professional fiscal obligations according to the legal provisions of the country in which he is based. The certificate shall refer to the last fiscal period.
3. A recent certificate of non-bankruptcy issued by the Commercial Court (no older than 3 months) or a sworn affidavit or certificate in compliance with the conditions set forth in the member state in which the supplier is based.
4. A recent extract from the criminal records in the name of the company (no older than 3 months) or, failing that, an equivalent document provided by a judicial or administrative authority in the country in which the company is based.

### Neither the supplier, nor the possible third party (referred to in 3.1.2) can meet one of the exclusion criteria listed in Articles 67 to 69 of the Law of 17 June 2016. Evidence to be provided in conformity with Article 72 of the Royal Decree of 18 April 2017.

We specifically request both candidate and third party to provide the following documents[[1]](#footnote-1):

1. A solemn declaration (see in annex).
2. A stamped certificate covering the ultimate quarter, or more recent, issued by the applicant’s social security organisation attesting that the obligations regarding the payment of social security contributions have been complied with in accordance with the legislation of Belgium or of the country in which he is based.
3. A recent (< 3 months) fiscal certificate issued in the context of public procurement by the Federal Public Service for Finance or a sworn affidavit or certificate in compliance with the conditions set forth in the member state in which the applicant is based.
4. A recent (< 3 months) certificate of non-bankruptcy issued by the Commercial Court or a sworn affidavit or certificate in compliance with the conditions set forth in the member state in which the applicant is based.
5. A recent (< 3 months) extract from the criminal records in the name of the company or, failing that, an equivalent document provided by a judicial or administrative authority in the country in which the company is based.

###

###  Economic and financial conditions

These are described in the technical specification related to the specific service.

###  Technical conditions

These are described in the technical specification related to the specific service.

## 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.

Infrabel Procurement requests the supplier to provide administrative, economic, financial and technical information by submitting an application file meeting on the one hand the standard requirements of Y15bis and on the other hand the specific requirements of the technical specification.

* With respect to Y15bis, the questionnaire in annex 1 must be filled out in English, French, Dutch or German and all documents requested in the checklist must be enclosed, ordered and identified according to the checklist.
* The technical specification describes for a specific service, what is needed on top of the general administration of Y15bis. Same goes here, all documents requested in the checklist must be enclosed, ordered and identified according to the checklist.

This qualification file must be sent in paper version to the address mentioned under 3.2. A digital version has to be sent as well to kwalificaties@infrabel.be

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.

##

##  Notification of (non-)qualification to the supplier

Based on the information provided by the supplier, Infrabel will take one of the decisions mentioned below and communicate this as soon as possible, at best within 30 calendar days from receipt of the complete file.

Qualification approval

Qualification rejection

Request for additional information before the decision is made.

Under Art. 7, section 2, paragraph 1 of the Law of 17 June 2013, last changed by the Law of 16 February 2017, Infrabel Procurement shall inform the supplier and his authorised representative whether or not he qualified and for which services, and this within 6 months months (cf. Article 29 of the Royal Decree of 18 June 2017) of receipt of the complete formal file, as referred to under item 3.4.

#  Supplier qualification term

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 Y15bis and technical files are updated.

# Infrabel reserves the right to perform an audit if this is deemed necessary before extending the qualification.

# If these updated files and a possible audit show that the supplier still meets the qualification conditions/criteria, the qualification of the relevant supplier shall be extended.

# Infrabel Procurement sends the supplier and/or his authorized representative an invitation in this regard in due time.

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.

#  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 chapter 4,
* 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 68 §1and/or Article 69 2° of the Law of 17 June 2016.

As soon as the supplier submits evidence to Infrabel that he once again meets the conditions for qualification, he can again participate in tenders.

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 meet one of the exclusion criteria of Article 67 §1 and/or Article 69 1°, 3° up to and including 9° of the Law of 17 June 2016.

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 shall inform the (qualified) supplier and its authorised representative of his or her final decision.

#  Amendment or termination of an existing qualification system

When a qualification system changes, the amended version shall be made available.

The suppliers that qualified already are informed of this. It shall also be mentioned how much time the qualified company has to meet the requirements of the new specification.

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.

If the qualification system is terminated, the qualifications granted will cease to be valid as from that date.

#

**ANNEX 1:** Questionnaire

**Belgian public limited company INFRABEL**

Procurement

I-FBA.518 10-31

Marcel Broodthaersplein 2

*B-1060 BRUSSELS*

*kwalificaties@infrabel.be*

1. **Introduction**

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

Every supplier applying for qualification must answer the various questions of this questionnaire very accurately.

1. **Subject of the application**

Supplier name

……………………………………………………………………………………………

wants to be accredited as a qualified supplier for following services

…………………………………………………………………………………………………

…………………………………………………………………………………………………

according to standard administrative clauses Y15bis

and according to following technical specification

………………………………………………………………………………………………..

1. **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 ……………………………………………………………………………….

Bank details :

IBAN code: ..................................……………………………………………

SWIFT/BIC code: ..................................……………………………………………

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 ............................................................................…….

Authorised signatories

 ……………

 ……………

1. **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: ............................………………………………………………………..

Account Manager (contactperson for Infrabel contracts):

First name …………….....................................………………………………………..

Surname …………….....................................………………………………………..

Title/position…………………………………………………………………….…………….

E-mail ............................…………………………………………………………..

Telephone ........................................ Mobile ...……………………………………………..

1. **Representation/using a third party**

4.1 Authorised representative

 The supplier HAS/DOES NOT HAVE an authorised representative (cf. item 3.1.1) (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 with its qualification application.

1. **Supplier code of conduct**

Available on [www.infrabel.be](http://www.infrabel.be).

**🞏 Please tick as "read and approved"**

By signing this administrative clauses, 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.

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:** Model form ‘Supplier statement for the official appointment of an authorised representative’ (cf. 3.1.1 of Y15bis)

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 services …………………………………………………… (5).

Option 2

Manage the administration of the qualification process of a supplier, system no. …………… (4), for the services…………………………………………………… (5) and to receive the specifications for this following qualification.

I hereby accept the conditions of the Y15bis administrative clauses.

 In .............................................., on ...................................................

(signature)

1. First name and surname of the person(s) allowed to represent the supplier.
2. Supplier name and address.
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 services according to the qualification system.

**ANNEX 3:** Model form ‘Agreement for using a third party’

(cf. 3.1.2 of Y15bis)

To be completed by the persons authorised to represent the third party according to the articles of association.

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.

[name, signature and position] [date]

Documents to be included : see 3.3.1.

**ANNEX 4:** Model form ‘Solemn declaration’

**Solemn declaration[[2]](#footnote-2)**

I, the undersigned (surname, first name and position),

in my capacity as representative of the company (trade name, legal status)

with registered office at (postcode, town)

(street), (no.) .................................................................................................

Hereby solemnly declare that neither above mentioned company nor any person who is a member of its administrative, management or supervisory body nor any person who has powers of representation, decision or control therein, has been subject of a conviction by final judgment for one of the reasons listed below, by a conviction rendered at the most five years ago or in which an exclusion period set out directly in the conviction continues to be applicable.

Article 57 (1) of Directive 2014/24/EU sets out the following reasons for exclusion : Participation in a criminal organisation;

Corruption;

Fraud;

Terrorist offences or offences linked to terrorist activities;

Money laundering or terrorist financing;

Child labour and other forms of trafficking in human beings.

Hereby solemnly declare that the above company is not in any condition that could give rise to the company's exclusion in accordance with 1°, 3° up to and including 9° of Article 69 of the Law of 17 June 2016. The company is in a condition of exclusion according to this article in following cases :

1° if the contracting authority demonstrates by any appropriate means that the candidate or tenderer has violated the applicable environmental, social and labour law obligations stated in Article 7;  3° if the contracting authority can demonstrate, by any appropriate means, that the candidate or tenderer is guilty of grave professional misconduct, on account of which their integrity can be called into question;

 4° if the contracting authority has at its disposal sufficient plausible evidence to conclude that the candidate or tenderer purportedly carried out actions, concluded agreements or made arrangements which are geared towards the distortion of competition within the meaning of Article 5 paragraph 2;

  5° if a conflict of interests within the meaning of Article 6 cannot be effectively remedied with other less far-reaching measures;  6° if distortion of competition as referred to in Article 52 occurred on account of the prior involvement of the candidate or tenderer in preparation of the procurement procedure which cannot be remedied with other less far-reaching measures;  7° if the candidate or tenderer has demonstrated considerable or continued shortcomings in the performance of an essential requirement during a previous public contract, a previous contract with a contractor or a previous concession contract, resulting in the adoption of official measures, compensation or other similar sanctions;  8° if the candidate or tenderer is guilty of serious misrepresentation when supplying the information required for verifying the absence of grounds for elimination or compliance with the selection criteria, or if they have withheld information, or were unable to hand over the supporting documents which are required in accordance with Article 73 or Article 74; or  9° if the candidate or tenderer has attempted to improperly influence the decision-making process of the contracting authority, to obtain confidential information which can bring them undue advantages in the procurement procedure, or to provide deliberately misleading information which can have an important impact on decisions pertaining to elimination, selection and award.

 Drawn up in (location),

 on *(date)*

 The service provider,

 (signature)

**ANNEX 5: Checklist Y15bis to be submitted**

|  |  |  |
| --- | --- | --- |
|  | YES | NO |
| **Questionnaire (annex 1)** |  |  |
| **Extract from the trade register** |  |  |
| **Proof signature authorisation (Articles of Association) applicable for annexes 1 to 4** |  |  |
| **3.1.1. Appointment of an authorised external representative (annex 2)** |  |  |
| **3.1.2. Agreement for using a third party (annex 3), this third party also has to meet the requirements of 3.3.1** |  |  |
| **3.3.1. Administrative conditions** |  |  |
| 1. A solemn declaration (annex 4).
 |  |  |
| 1. A stamped certificate covering the ultimate quarter, or more recent, issued by the applicant’s social security organisation, attesting that the obligations regarding the payment of social security contributions have been complied with in accordance with the legislation of Belgium or of the country in which he is based.
 |  |  |
| 1. A recent (< 3 months) fiscal certificate issued in the context of public procurement by the Federal Public Service for Finance or a sworn affidavit or certificate in compliance with the conditions set forth in the member state in which the applicant is based.
 |  |  |
| 1. A recent (< 3 months) certificate of non-bankruptcy issued by the Commercial Court or a sworn affidavit or certificate in compliance with the conditions set forth in the member state in which the applicant is based.
 |  |  |
| 1. A recent (< 3 months) extract from the criminal records in the name of the company or, failing that, an equivalent document provided by a judicial or administrative authority in the country in which the company is based.
 |  |  |

1. Starting May 2018 Infrabel will print itself the documents freely available on Telemarc for Belgian companies. [↑](#footnote-ref-1)
2. *In case of a temporary association (consortium), this solemn declaration shall be submitted by each member. The exclusion of one of the temporary association's members shall also lead to the exclusion of the entire temporary association.* [↑](#footnote-ref-2)