# ANNEX 3 TO THE PROCUREMENT CONDITIONS “GROUNDS OF EXCLUSION and qualification requirements”

**CHAPTER I. CONDITIONS PROHIBITING AND RESTRICTING THE PARTICIPATION OF SUPPLIERS IN THE PROCUREMENT (GROUNDS OF EXCLUSION)**

Table 1. Grounds of exclusion

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Row. No.** | **Requirement** | **Reference to the Law** | **Documents proving compliance with the requirement** | **Entity that must meet the requirement** |
| *1.* | *2.* | *3.* | *4.* | *5.* |
| **I. Conditions prohibiting and restricting the participation of Suppliers in the procurement** | | | | |
| 1. | (1) The Supplier, being a natural person, (2) the Supplier`s, being a legal person, another organisation or a subdivision thereof, the manager, other member of the management or supervisory body, or any other person(s) having the right to represent or control the Supplier, to take a decision on behalf of the Supplier, to enter into a contract, or (3) any other person(s) having the right to draw up and sign the Supplier's accounting documents, has not been subject to any conviction or sentence in the preceding five years and has no criminal record that has not been expunged or acquitted for the offence:  a) participating in, organising or directing a criminal organisation;  b) committing a terrorist offence or an offence related to terrorist activities, or disclosing or losing a state secret;  c) bribery, influence peddling and bribery;  d) fraud, embezzlement, misappropriation of assets, fraudulent misrepresentation in relation to the activities of a legal person, use of a credit, loan, grant, subsidy or grant-in-aid not for its intended purpose or in accordance with the procedures laid down, credit fraud, misrepresentation of income, profits or assets, or the failure to submit a declaration, statement, report or other document, fraudulent management and/or organisation of financial accounting or abuse, when these offences are directed against the financial interests of the European Union within the meaning of Article 1 of the Convention on the Protection of the European Communities' Financial Interests drawn up on the basis of Article K.3 of the Treaty on European Union;  e) money laundering;  f) an offence committed in another country, as defined in the criminal laws of the other countries implementing the European Union legislation listed in Article 39(1) of Directive 2009/81/EC. | Law on Public Procurement in the Field of Defence and Security Article 34 (1)(1) | 1.1. Extract from a court judgement or a certificate from the Department of Information Technologies and Communications under the Ministry of the Interior (pursuant to Item 1 of Paragraph 1 of Article 34 of the Law) or a document from the relevant foreign institution.  The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications. If the document was issued earlier but its validity period is longer than the deadline for the receipt of applications, such document shall be admissible during its validity period. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 2.1 | The Supplier (legal person) has not been the subject of a conviction for the offences referred to in points 1(a) to (f) within the last 5 years. | Law on Public Procurement in the Field of Defence and Security Article 34 (1)(2) | 2.1. Extract from a court judgmentor Certificate from the Department of Information Technologies and Communications under the Ministry of the Interior (pursuant to Item 2 of Article 34(1) of the Law) or a document issued by the relevant foreign institution.  The document submitted must be issued no earlier than 120 days before the closing date for applications. If the document is issued earlier but its validity extends beyond the deadline for receipt of applications, it shall be admissible for the duration of its validity. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 2.2. | The Supplier (legal person) has not the subject of a conviction for the criminal sanction imposed on him - a ban on the legal person's participation in a public procurement procedure. | Law on Public Procurement in the Field of Defence and Security Article 34 (1)(2) | If the Supplier is registered in the Republic of Lithuania, no supporting documents are required.  Confirmation by completing an application (Annex 3 to the Terms and Conditions) is sufficient.  Suppliers who are registered outside of the Republic of Lithuania are required to submit a document from the relevant foreign institution. The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications.  For information on the documents to be submitted by foreign Suppliers, the Contracting Authority shall check „e-Certis“ at <https://ec.europa.eu/tools/ecertis/>. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 3. | The Supplier has **not** committed a serious professional misconduct\* which leads the contracting authority to doubt the Supplier's integrity, the Supplier shall be deemed to have committed a serious professional misconduct when:  a) has committed an infringement of financial reporting and auditing legislation less than one year after the date of the infringement;  b) does not meet the minimum criteria of a reliable taxpayer set out in Article 401(1) of the Law on Tax Administration of the Republic of Lithuania. For the purpose of applying this ground for the exclusion of a Supplier from the procurement procedure, the time limits laid down in Article 401(1) of the Law on Tax Administration shall be applied, counting from the date on which the infringements referred to in Article 401(1) of the Law on Tax Administration were committed, but in any event, these time limits may not exceed 3 years;  c) has committed an infringement of the prohibition on prohibited agreements laid down in Article 5 of the Law on Competition of the Republic of Lithuania or in a similar legislation of another country and less than 3 years have elapsed since the date of the infringement;  d) the Supplier has failed to perform a Procurement Contract concluded in accordance with this Law, the Law on Public Procurement or the Law on Procurement carried out by Contracting Entities in the field of Water Management, Energy, Transport or Postal Services, or a Concession Contract, or has performed it improperly, and it has constituted a material breach of the Contract, as referred to in Article 6.217 of the Civil Code (hereafter referred to as a material breach of the Procurement Contract), which has resulted in termination of the Contract or a court decision that has entered into force in the past 3 years, which has satisfied a claim by the contracting authority, the contracting entity or the awarding authority for compensation for damages suffered as a result of the Supplier's performance of an essential term of the contract with serious or persistent deficiencies, or a decision of the contracting authority that the supplier's performance of an essential term of the contract was seriously or persistently deficient and that, as a consequence, a contractually imposed penalty has been taken within the last 3 years. On this basis, the Supplier shall also be excluded from the procurement procedure where it has been established, in accordance with the legislation of other countries, within the last 3 years, that, in the context of a previous procurement or concession contract, it has implemented an essential requirement set out in the contract with serious or persistent deficiencies, which led to the premature termination of the previous contract, to the award of damages, or to other similar penalties.  \* the contracting authority may prove the supplier's professional misconduct by any appropriate means | Law on Public Procurement in the Field of Defence and Security Article 34 (1)(3) | 3a) If the Supplier is registered in the Republic of Lithuania, no supporting documents are required. When making a decision on the exclusion of the Supplier from the Public Procurement procedure due to the condition specified in 3a), the information published in the national database at <https://www.registrucentras.lt/jar/p/index.php> as well as the information provided in this information notice at <https://vpt.lrv.lt/lt/naujienos-3/finansiniu-ataskaitu-nepateikimas-gali-tapti-kliutimi-dalyvauti-viesuosiuose-pirkimuose/> will be considered.  Suppliers who are registered outside of the Republic of Lithuania are required to submit a document from the relevant foreign institution. The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications.  For information on the documents to be submitted by foreign Suppliers, the Contracting Authority shall check „e-Certis“ at <https://ec.europa.eu/tools/ecertis/>.  3b) If the Supplier is registered in the Republic of Lithuania, no supporting documents are required. When making a decision on the exclusion of the Supplier from the Public Procurement procedure due to the condition specified in 3b), the information published in the national database at <https://www.vmi.lt/evmi/mokesciu-moketoju-informacija> will be considered.  Suppliers who are registered outside of the Republic of Lithuania are required to submit a document from the relevant foreign institution. The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications.  For information on the documents to be submitted by foreign Suppliers, the Contracting Authority shall check „e-Certis“ at <https://ec.europa.eu/tools/ecertis/>.  3c) If the Supplier is registered in the Republic of Lithuania, no supporting documents are required. When making a decision on the exclusion of the Supplier from the Public Procurement procedure due to the condition specified in 3c), the information published in the national database at <https://kt.gov.lt/lt/atviri-duomenys/diskvalifikavimas-is-viesuju-pirkimu> will be considered.  Suppliers who are registered outside of the Republic of Lithuania are required to submit a document from the relevant foreign institution. The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications.  For information on the documents to be submitted by foreign Suppliers, the Contracting Authority shall check „e-Certis“ at <https://ec.europa.eu/tools/ecertis/>.  3d) If the Supplier is registered in the Republic of Lithuania, no supporting documents are required. When making a decision on the exclusion of the Supplier from the Public Procurement procedure due to the condition specified in 3d), the information published in accordance with Law on Public Procurement in the Field of Defence and Security Article 55 <https://vpt.lrv.lt/lt/nuorodos/kiti-duomenys/powerbi/nepatikimi-tiekejai-1/> ;  <https://vpt.lrv.lt/lt/pasalinimo-pagrindai-1/nepatikimu-koncesininku-sarasas-1/nepatikimu-koncesininku-sarasas/> will be considered.  Suppliers who are registered outside of the Republic of Lithuania are required to submit a document from the relevant foreign institution. The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications.  For information on the documents to be submitted by foreign Suppliers, the Contracting Authority shall check „e-Certis“ at <https://ec.europa.eu/tools/ecertis/>. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 4. | The Supplier is **not** insolvent, it is **not** the subject of restructuring or insolvency proceedings, or of winding-up proceedings initiated or opened while its assets are being administered by a court or insolvency administrator, where it has concluded an amicable settlement with its creditors (an agreement between the Supplier and its creditors to continue the Supplier's business, whereby the Supplier assumes certain obligations and the creditors agree to postpone, reduce or waive their claims), and where the Supplier has not ceased or restricted its activities or is not in an identical or similar situation under the law of the country in which it is registered. | Law on Public Procurement in the Field of Defence and Security Article 34 (2)(1) | 4.1. If the Supplier is registered in the Republic of Lithuania, no supporting documents are required. The Contracting Authority independently checks data in the national database at <https://www.registrucentras.lt/jar/p/> .  If necessary, the Contracting Authority has the right to request a document issued by the State Enterprise Centre of Registers, confirming the joint data processed by the competent institutions. The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications.  4.2. Suppliers who are registered outside of the Republic of Lithuania are required to submit a document from the relevant foreign institution. The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications.  For information on the documents to be submitted by foreign Suppliers, the Contracting Authority shall check „e-Certis“ at <https://ec.europa.eu/tools/ecertis/>. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 5. | The Supplier is a natural person and has **not** been the subject of a criminal conviction within the last 5 years, and has **no** criminal record of any kind, whether spent or expunged, for offences against property, property rights and interests in property, intellectual or industrial property, the economy and business order, financial system, civil service and public interests, as well as for criminal offences related to the disposal of weapons, ammunition, military equipment, explosives and radioactive substances, except for the offences listed in paragraph 1 of this Table; | Law on Public Procurement in the Field of Defence and Security Article 34 (2)(2) | 5.1. Extract from a court judgment or Certificate from the Department of Information Technologies and Communications under the Ministry of the Interior (pursuant to Item 2 of Article 34(2) of the Law) or a document issued by the relevant foreign institution.  The document submitted must be issued no earlier than 120 days before the closing date for applications. If the document is issued earlier but its validity extends beyond the deadline for receipt of applications, it shall be admissible for the duration of its validity. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 6. | The Supplier, being a legal person, has **not** been the subject of a criminal conviction for the offences referred to in point 5 of this table within the last 5 years. | Law on Public Procurement in the Field of Defence and Security Article 34 (2)(3) | 6.1. Extract from a court judgment or Certificate from the Department of Information Technologies and Communications under the Ministry of the Interior (pursuant to Item 3 of Article 34(2) of the Law) or a document issued by the relevant foreign institution.  The document submitted must be issued no earlier than 120 days before the closing date for applications. If the document is issued earlier but its validity extends beyond the deadline for receipt of applications, it shall be admissible for the duration of its validity. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 7. | The Supplier has **not** committed a serious professional misconduct (other than that referred to in point 3 of paragraph 1 of this Table) which gives rise to doubts as to the Supplier's integrity on the part of the Contracting Authority and which the Contracting Authority can prove by any appropriate means. On this basis, the contracting authority may exclude the supplier from the procurement procedure if less than one year has elapsed from the date on which the infringement was committed | Law on Public Procurement in the Field of Defence and Security Article 34 (2)(4) | 7.1.If the Supplier is registered in the Republic of Lithuania, no supporting documents are required. When making a decision on the exclusion of the Supplier from the Public Procurement procedure due to the condition specified in point 7, the information published in the national database at <https://www.registrucentras.lt/jar/p/index.php> as well as the information provided in this information notice at <https://vpt.lrv.lt/lt/naujienos-3/finansiniu-ataskaitu-nepateikimas-gali-tapti-kliutimi-dalyvauti-viesuosiuose-pirkimuose/> will be considered.  7.2.Suppliers who are registered outside of the Republic of Lithuania are required to submit a document from the relevant foreign institution. The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications.  For information on the documents to be submitted by foreign Suppliers, the Contracting Authority shall check „e-Certis“ at <https://ec.europa.eu/tools/ecertis/>. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 8. | The Supplier **has** fulfilled obligations relating to the payment of social security contributions in accordance with the requirements of the country in which it is established or of the country in which the Contracting Authority is located. | Law on Public Procurement in the Field of Defence and Security Article 34 (2)(6) | 8.1. If the Supplier is a natural person registered in the Republic of Lithuania, please provide:  Certificate issued by the national social security institution or a certificate issued by the State Enterprise Centre of Registers in accordance with the procedure established by the Government of the Republic of Lithuania, confirming the joint data processed by the competent institutions.  A Supplier from another country who is a natural or legal person shall produce a certificate issued by the competent public authority of the country in which he is established.  The document must be issued no earlier than 120 days before the closing date for applications. If the document is issued earlier but its validity extends beyond the deadline for receipt of applications, it shall be admissible for the duration of its validity.  If the Supplier is a legal entity registered in the Republic of Lithuania, it is not required to provide any documents proving this requirement. The Contracting Authority shall check the data relating to the closing date for the receipt of tenders indicated in the contract notice. If, due to technical failures of the State Social Insurance Fund Board (*Sodra*) information system, the contracting authority will not be able to verify the data on the Supplier (a legal person) that are available free of charge, it will be entitled to request the Supplier (a legal person) to provide a document issued in accordance with the established procedure, which proves compliance with this requirement: an extract from a court judgment, or, if there is no such extract, a document issued in accordance with the procedure laid down by the Government of the Republic of Lithuania by the State Enterprise Centre for Registers, which confirms the combined data processed by the competent institutions. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 9. | The Supplier **has** fulfilled its obligations relating to the payment of taxes in accordance with the requirements of the country in which it is established or the country in which the Contracting Authority is located. A supplier shall be deemed to have fulfilled his obligations relating to the payment of taxes, including social security contributions, if the amount of his outstanding obligations is less than EUR 50 | Law on Public Procurement in the Field of Defence and Security Article 34 (2)(7) | 9.1. Certificate issued by the State Tax Inspectorate or a certificate issued by the State Enterprise Centre of Registers in accordance with the procedure established by the Government of the Republic of Lithuania, confirming the joint data processed by the competent institutions or a document from the relevant foreign institution.  The document must be issued no earlier than 120 days before the closing date for applications. If the document is issued earlier but its validity extends beyond the deadline for receipt of applications, it shall be admissible for the duration of its validity. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |
| 10. | The Supplier has not concealed information or provided false information during the procurement procedures concerning compliance with the requirements laid down in Articles 34, 35, 36, 37 of the Law (the contracting authority may prove that the Supplier has concealed information or provided false information by any legal means).  On this basis, a Supplier shall also be excluded from a procurement procedure if, during previous procedures carried out in accordance with the procedure laid down in this Law, the Law on Public Procurement, the Law on Procurement by Contracting Authorities in the Field of Water Management, Energy, Transport or Postal Services or the Law on Concessions of the Republic of Lithuania, he has concealed information or has provided false information as referred to in this clause, and has been excluded from the procurement procedure for the past one year. The Supplier shall also be excluded from the procurement procedure on this basis where, in accordance with the legislation of other countries, it has concealed information or supplied false information in previous procurement procedures and has therefore been excluded from the procurement or concession award procedures within the last one year or has been subject to other similar sanctions. | Law on Public Procurement in the Field of Defence and Security Article 34 (2)(8) | 10.1. If the Supplier is registered in the Republic of Lithuania, no supporting documents are required. When making a decision on the exclusion of the Supplier from the Public Procurement procedure due to the condition specified in point 10, the information published in accordance with Law on Public Procurement in the Field of Defence and Security Article 38  <https://vpt.lrv.lt/lt/nuorodos/kiti-duomenys/powerbi/melaginga-informacija-pateikusiu-tiekeju-sarasas-3/> will be considered.  10.2.Suppliers who are registered outside of the Republic of Lithuania are required to submit a document from the relevant foreign institution. The document submitted must have been issued no earlier than 120 days before the closing date for receipt of applications.  For information on the documents to be submitted by foreign Suppliers, the Contracting Authority shall check „e-Certis“ at <https://ec.europa.eu/tools/ecertis/>. | The Supplier, each member of a group of economic entities and any sub-suppliers on whose behalf the Supplier relies in order to meet the qualification requirements set out in the Procurement Conditions |

1. If the Supplier is unable to provide the documents referred to in points 1.1, 2.1, 3, 4.2, 5.1, 6.1, 7.2, 8.1, 9.1 and 10.2 because the relevant country does not issue such documents, or because the documents issued in that country do not cover all the circumstances referred to above, the following may be provided:

1.1. declaration of oath;

1.2. an official declaration by the Supplier if the country does not use a declaration of oath. The official declaration must be certified by a competent legal or administrative authority, a notary public or a competent professional or trade organisation in the Member State or in the Supplier's country of origin or in the country in which the Supplier is established.

2. The Contracting Authority shall also exclude a Supplier from the procurement procedure on the grounds of exclusion referred to in Article 34(1)(2) and (2) of the Law where it has conclusive evidence that the Supplier has established or is participating in the procurement in the place of another person for the purpose of avoiding the application of the grounds of exclusion referred to in Article 34(1)(2) and (2) of this Article.

3. If the Contracting Authority has doubts as to the suitability of a Supplier, it shall have the right to consult the competent authorities in order to obtain all the necessary information. If the information required concerns a supplier from a Member State other than the contracting authority, it may contact the relevant competent authorities of that Member State.

4. The Contracting Authority may request that the document submitted by the supplier from a foreign country be certified by an Apostille certificate in accordance with the Government of the Republic of Lithuania Regulation of 2006. October 30 by resolution no. 1079 "On document legalization and certification (Apostille) procedure description approval" and 1961 October 5 The Hague Convention on the abolition of legalization of documents issued in foreign countries, except in cases where according to international treaties of the Republic of Lithuania or European Union legislation, the document is exempted from the legalization and/or approval mark the competent authorities of that Member State.

5. The Supplier is primarily required to provide information in such certificates and forms of evidence as provided in the European Commission's information document repository „e-Certis“. For information on documents to be provided by foreign suppliers check „e-Certis“ at <https://ec.europa.eu/tools/ecertis/>.

**CHAPTER II. QUALIFICATION REQUIREMENTS**

Table 2. Qualification requirements

|  |  |  |  |
| --- | --- | --- | --- |
| 1. | During the last 5 years, or during the period from the date of registration of the Supplier (if the Supplier has been in business for less than 5 years, until the closing date for the receipt of applications), the Supplier must have concluded contracts for the sale and provision of at least 30 (thirty) units of heavy vehicles (hereinafter referred to as vehicles) of N3 classification.  If the contract/part of the contract is still being performed, the quantity of the performed part by the end of the application deadline must be at least 30 (thirty) units. machines.  If the contract/part of the contract was started earlier than in the last 5 years, but was completed in the last 5 years, in this case the entire quantity of machines under the contract shall be taken into account. | 1. **Filled out Annex 3 Appendix 1 to the Procurement Conditions “List of goods related to the purchase object submitted over the last 5 years”.**  2. **Feedback(s) from the recipient(s) of the goods proving proper completion and/or performance of each of the Contract/Part of the Contract** that is mentioned in Annex 3 Appendix 1 to the Procurement Conditions “**List of goods related to the purchase object submitted over the last 5 years**”. Each feedback must indicate the Date and Number of the Contract, performance period and the amount of the fulfilled part of the Contract in EUR excluding VAT. *A sample feedback form is attached, “Annex 3 Appendix 2 certificate/declaration about the goods delivered”.* The recipient's feedback must be signed with the recipient’s physical or qualified electronic signature.  *The Supplier is allowed to rely on the Contract that The Supplier performed with other economic entity. However, in such a case, the value of the part of the Contract performed by a specific Supplier (Supplier that is submitting an application) will be assessed (not the total value of the Contract).* | The supplier or at least one member of the group of economic entities or a sub-supplier, according to the assumed obligations in order to meet the qualification requirements set out in the Procurement Conditions. |