

TWINNING NEWS No 27

BUILDING EUROPE TOGETHER

33rd Resident Twinning Advisers Training

The 33rd RTA training was organised in Brussels on 27 and 28 September. It took place in the new Berlaymont. For the first time the Resident Twinning Advisers (RTAs) going to the Western Balkans outnumbered the RTAs headed for the new Member States. Observers from the British, French and German NCP Offices also attended. The meeting provided a welcome opportunity to reinforce the Twinning network.



New Ceiling for input of private sector services

The 2007 Common Twinning Manual entered into effect for all Twinning contracts for which the notification of selection has been issued after 1 September 2007.

As a consequence of the recent modification of the *'Rules and procedures for services, supply and works contracts financed from the general budget of the European Communities for the purposes of cooperation with third countries'* (Section II.4.2 with reference below), the ceiling for direct agreements by the Member State Project Leader to subcontract supply of private sector services as explained in Section 7.6 of the 2007 Common Twinning Manual is raised from € 5.000 to € 10.000. Under that increased ceiling of € 10.000, the Member State Project Leader may award service contracts on the basis of a single tender. The new ceiling will apply to all Twinning contracts that follow the new Common Twinning Manual as explained above.

The new ceiling for supply of private sector services does not affect the global ceiling set for the supply of equipment that will remain limited to € 5.000 for each Twinning project. The present adjustment will further enhance the overall consistency of Twinning rules and procedures.

Please note that the Administrative Offices in the 12 new Member States may however decide to apply their national (EC compliant) procurement laws and related thresholds.

Hiring in of private sector / mandated body experts

For the sake of clarity, we recall once more the cumulative conditions under which private sector experts can be involved in Twinning projects:

1. MS should provide evidence for the need to call on private sector expertise on the basis that the MS administration itself is unable to cannot provide the requested expertise;

2. Even with such evidence, the MS can only call on such private sector expertise in limited and exceptional circumstances derived from the very nature of the substance matter involved (for instance, telecommunications). Any other more lenient approach is not allowed and could jeopardise the public sector spirit of Twinning projects;
3. When calling on such private expertise, the MS must ensure compliance with the applicable tender rules (PRAG or National rules compatible with European directives for public procurement);
4. The private sector experts are retributed on the basis of quotations and invoices, without the flat rate;
5. Mandated bodies can only hire in temporary employees for Twinning involvement if these temporary employees are clearly integrated into the host organisation, if their hierarchical authority is defined (as well as the person to whom they report and who is responsible for their backup), so that the administrations/mandated bodies who employ them are constantly able to guarantee the coherence and quality of their work. The duration of the employment of temporary public employees should as a rule not be limited to or should not be identical to the duration of their Twinning involvement. In practical terms, their employment should be already pre-existing to the Twinning assignment for at least six months;
6. A recent question requires us to highlight the following requirements in so far as related contract formalities are concerned: when hiring in external experts either through mandated bodies or as private sector consultants the contractual documents have to be in writing. Indeed when it comes to the hiring by mandated bodies, the Twinning manual spells out the requirement of structural integration into the mandated body staff and this has clearly to be stated in writing. Regarding private sector experts, the involvement under the format of a service contract also has to be in writing. Moreover in both instances, written documentation has to be available for audit purposes in order to verify the correct spending of Community funds. Needless to say that we do not favour the systematic use of mandated bodies to confer a public sector label to short term experts.

New section: Twinning best practices

This new section purports to highlight a best Twinning practice with a concrete example. In this issue of Twinning News we target the commitment of the beneficiary administration as a precondition for a successful and effective Twinning project.

As explained in section 2.4 of the common Twinning manual, Twinning can only work if; *"BC is fully determined to carry out the reforms and reorganisation needed to achieve the Twinning mandatory result. BC is committed to the implementation of Twinning projects to achieve the mandatory results. This commitment includes both high level political commitment and a more practical commitment of BC human and financial resources"*.

"Capacity strengthening of the State Commission for the Supervision of the Public Procurement Procedures" (HR 02 IB FI 03)

Basic elements

This Twinning project involved the Croatian State Commission for the Supervision of Public Procurement Procedures and the Slovenian National Review Commission for Reviewing Public Procurement Procedures. It was designed to improve the Croatian public procurement remedies system in order to align it with the EU requirements and was funded under the CARDS 2002 programme with a budget € 600.000. It lasted 18 months and ended in December 2006.



The crucial commitment of the beneficiary administration

Despite a number of start-up setbacks, the project was successful. At the beginning of the project, the Croatian Twinning partner did not have its own adequate premises: the State Commission was located at the premises of the Ministry of Finance and it was still in the process of recruiting staff. The Member State Twinning partner on the other hand, had never before implemented a Twinning project, which required a fast learning curve with regard to Twinning rules and project management. Despite the initial difficulties, the project developed into a success. Several factors were important to reach this end result but one clearly stood out: the commitment of the beneficiary administration not only to achieve the guaranteed results, but also to deliver high quality. The design of the project fully reflected the needs and priorities of the Croatian State Commission. The President of the Croatian State Commission was strongly committed to the success of the project, and took a personal lead on it on the Croatian side. A project manager from the State Commission side was dedicated for the project, providing a constant counter part for the Resident Twinning Adviser. The State Commission moreover allocated a full-time project assistant from its own staff for the project. Also the Member State Twinning partner invested resources by having a full-time project assistant in the home administration for the project. All these inputs greatly facilitated sustainability and dissemination of project results.

Project outputs

Member state expertise supported the State Commission in making proposals for a better legal framework in the area of public procurement remedies. The project provided considerable training to the members and staff of the State Commission as well as to the procuring entities. The project also produced two important manuals on public procurement remedies, one for contracting authorities and the other one for tenderers.

The Twinning experts also assisted the State Commission in raising public awareness on the importance of an efficient and reliable public procurement review system. A number of seminars and workshops as well as an international conference with prominent European and Croatian lecturers were organised to that effect. Some seminars also took place outside Zagreb in order to disseminate knowledge of procuring entities at the local government level. An updated website of the State Commission was designed to serve as a platform for different groups of interested users, including media, to familiarise themselves with all the necessary information. At present the website includes two important databases with the case law of the State Commission and the most important decisions of the European Court of Justice in the public procurement remedies area.

Enduring Partnership

Despite a difficult start, both project partners secured a significant achievement of the mandatory results and built an enduring structural linkage between their public procurement authorities. The full commitment of the beneficiary administration has been a welcome investment to guarantee the sustainability of the project results. It should also be pointed out that both Twinning parties gladly acknowledged the efforts of Delegation staff in monitoring the project and in ensuring its European visibility.



FLASH NEWS

The Project Fiches Transition Facility 2007 for Bulgaria and Romania will be circulated very soon. Bulgarian fiches (22) are ready and the circulation would probably take place within two weeks. The Romanian project fiches (18) are expected to be circulated early November.

The next RTA Training will take place early December or at the latest early January 2008.

Concerning the latest statistics, we have reached the number of 1293 Twinning projects, of which 1201 are for the PHARE and Transition Facility countries and 92 for the Western Balkans.

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| PHARE AND TRANSITION FACILITY | 1201 |
| CARDS | 92 |
| Total | 1293 |