

DECISION 37/2009/GB
OF THE GOVERNING BOARD OF THE EUROPEAN POLICE COLLEGE

**LAYING DOWN THE BUSINESS CASE FOR
EXCLUSION FROM PROCUREMENT RELATING TO
CONTRACTS WITH COMMON CURRICULA
MODULE ADVISERS AND EDUCATIONAL EXPERTS**

Adopted by the Governing Board
on 9 December 2009

CEPOL – Business Case for Exclusion from Procurement – Module Advisers and Education Experts

THE GOVERNING BOARD,

Having regard to:

The Council Decision 2005/681/JHA⁽¹⁾ and in particular Article 1(2) and Article 7 (a and b) thereof;

The opinion of the 16th BAC Committee

The opinion of the 17th Strategy Committee

HAS ADOPTED the Business Case for Exclusion for Tender for module Advisers and Educational Experts as detailed in Annex 1

This decision shall enter into force on the day of its adoption

Done at Aronsborg, 6 December 2009

For the Governing Board

*Ebba Sverne Arvill
Chair of the Governing Board*

¹ OH L 256, 1.10.2005, p.63.

Common Curricula Module Advisers and Educational Experts Business Case for exclusion from procurement

1. Introduction

The purpose of this document is to describe the business case that CEPOL proposes to provide to DG Budget in order to obtain an exclusion from tender for the contracting of Module Advisers and Educational Experts for the Common Curricula.

The business case is based upon two important factors that are central to the establishment and operation of CEPOL. Firstly, as laid down in The Council Decision 2005/681/JHA and in particular Article 1(2), CEPOL “shall function as a network by bringing together the national training institutes in the Member States whose tasks include the training of senior police officers, which shall cooperate closely to that end”. Secondly, Article 7(a & b) describes, the provision of training sessions, based on common standards, for senior police officers (7a) through contributions to the preparation of harmonised programmes (7b).

This document describes the cases that, apart from reasons described in the Council Decision, operational and commercial factors exist that further contribute to the case for seeking an exclusion from procurement when contracting Common Curricula Module Advisers and Educational Experts.

2. Background

The role of what are commonly referred to a Module Advisers or Educational Experts is described in Decision 29/2006/GB of the Governing Board laying down the common curricula policy, in particular:

Educational Experts

After finalisation of the Curriculum Descriptor an Educational Expert shall write the Trainer’s and Student’s Guides. The Educational Expert shall have extensive knowledge of delivery methods, training experience

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specifically in the topic of the Common Curriculum and an adequate knowledge of the English language. In case no member of the Sub-group fulfils the criteria the Sub-group shall request the allocation of an external Educational Expert from the Director, through the Common Curricula Coordination Working Group.

If the Director cannot provide an Educational Expert from the CEPOL Secretariat's staff, the Director shall invite all national police training institutes to nominate suitable candidates. The service agreement shall be concluded between the Director and the national police training institute which employs the most suitable candidate and define the work to be delivered and the person-days needed therefore. The rate to be reimbursed to the national training institute for one person-day shall be €200.

Module Advisers

For each Common Curriculum a Module Adviser shall be appointed by the Governing Board on a proposal of the Director.

Module Advisers shall in particular

- a) be in charge of further development and permanent updating of the Common Curricula;
- b) provide content support and, if possible, support on the level of training methods for the Member States' implementation;
- c) deal with enquiries coming from Member States with the support of the CEPOL Secretariat;
- d) be in contact with and report to the CEPOL Secretariat for follow-up and feedback;
- e) be a source for Member States about further developments on the topic of the Common Curriculum;
- f) provide solutions for problems which may be encountered in Member States' implementation;
- g) attend the meetings of and be in permanent contact with the Common Curricula Coordination Group;
- h) contribute to the development of material for e-learning modules.

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Module Advisors shall be specialists on the topic and preferably have experience on training and training programme development. Being a member of the Common Curricula Working Group would be an asset. The Module Advisor shall have an adequate knowledge of the English language. Experience in international police training and as an Educational Expert on the particular Common Curriculum would be of benefit.

The Director shall invite all national police training institutes to nominate suitable candidates and shall propose the most suitable candidate for appointment by the Governing Board. The service agreement shall be concluded between the Director and the national police training institute which employs the appointed candidate and define the work to be delivered and the man-days needed therefore. The rate to be reimbursed to the national training institute for one man-day shall be €200.

Regardless of this Decision of the Governing Board, various criticisms have been made for not entering into open tender procedures for the contracting of experts, most notably in reports from and discussions with the Court of Auditors, the IAS and DG JLS.

Although CEPOL shall function as a network, according to the Council decision establishing CEPOL, these EU-organs do not recognise CEPOL as a network when developing and implementing its different activities.

During discussions with the Court of Auditors and DG JLS, it has been acknowledged that the case for procurement is not clear and that CEPOL should present the case for an exclusion from tender to DG Budget.

3. Case for Exclusion from Tender

The following sections describe the key factors that CEPOL intends to present to substantiate a request for exclusion from tender with regards to the appointment or contracting of Module Advisors / Educational Experts.

3.1. Access to Law Enforcement Information

It is important that all training developed under the aegis of CEPOL meets high quality criteria that include relevance, accuracy and concurrency. To meet these criteria and thereby to create and deliver training that will meet the needs and expectations of senior law enforcement officers, requires that Module Advisors and Educational Experts have access to law enforcement information. Such

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operational information will not be available to training / educational specialists outside the national police training institutes. Whilst specialist knowledge can be contracted on the open market, it will not have the operational concurrency that can be offered by experts from the national institutions.

3.2. Police Training

It is an important criterion used during the selection of Module Advisors and Educational Experts that they be experienced and actively involved in Police Training as well as having a background in Police education. Whilst the open market will be able to provide candidates with the educational background, the experience and involvement in Police Training, with all of the practical and developmental learning experience implied, is limited to the national institutions.

3.3. Stakeholder Role

It is important to note that CEPOL training and Common Curricula are delivered by the national police training institutes. The current implementation of recruiting delegated advisors and experts from the institutes within the CEPOL network is significant in this context. The use of delegated experts ensures the representation of the institutions that will be responsible for the implementation of curricula. Experts external to the CEPOL network would not have the same responsibilities for implementation which could have a potentially damaging effect on the uptake of curricula.

3.4. Reimbursement

As has been stated previously, the current contracting process foresees that institutions within the CEPOL network will nominate delegate experts from within their staff. In return, the institutions will be compensated with the sum of €200 per man day; the individual experts are not paid by CEPOL. This is a benefit of the principle of the network, ensuring cost-effectiveness through cooperation and collaboration.

3.5. Costs

The €200 compensation paid to the institutions equates to be €25 per hour, a figure significantly lower than could be expected on the open market for the level of expertise that is required for the development of CEPOL curricula. CEPOL research shows that, dependant on the expertise required the commercial rates are range from €50 to €100 per hour.

3.6. Responsibility to the market

Responding to a tender incurs costs for any organisation. CEPOL has to ensure that it upholds its responsibilities to not only as a regulatory agency but also to the market. To launch tenders, where external parties do not have a reasonable chance of delivering the most economically advantageous offer, would not be in line with those responsibilities. In this context, the most cost effective offer is the one that offers the highest degree of expertise and relevant knowledge for the best price; including as previously described relevant and current law enforcement information.