

Ban the SoE&A!

CONTENTS:

| | |
|--|----|
| The first newsletter | 1 |
| Confidentiality | 2 |
| Not just the SoE&A | 2 |
| Your comments | 2 |
| Other issues | 3 |
| Legal position | 3 |
| About the initiators | 4 |
| Statistics and observations | 6 |
| Your views..... | 7 |
| - Career damage | |
| - Loss of income and/or earnings opportunities | |
| - Unscrupulous contractors | |
| Case study: SoE&A fraud | 8 |
| Your views – Big Brother in Brussels | 9 |
| Our website | 9 |
| Solutions | 10 |
| Final remarks | 10 |

Ban SoE&A grows like snowball

The first SoE&A Newsletter is here

Welcome to the first SoE&A newsletter. We plan to issue a new one approximately every two weeks until the campaign is over one way or the other; more often if there is a sudden important development.

We intend to bring you up to date on all the relevant news and views about this important issue and want to make this a user-friendly publication. You are all very busy people (apart from those of us who are waiting for the results of a tender or, indeed, just waiting...) and you don't have the time to read everything here, especially as there is a lot of material, so we have divided it up into sections. Just go to those parts that interest you.

Key results

After 10 days I think we can be pleased with what has been achieved. Despite many people being on holidays, over 240 people have signed the petition, representing 35 nationalities from the Americas (north, central and south), Africa, Australia, Turkey and, of course, Europe - both EU member states and non-EU states.

You will see more on this in the **statistics and observations section**.

It would be good if some of our Asian and Middle Eastern colleagues would sign up and then we would have truly global representation.

A disappointing feature is that the number of women who have signed is only 33, around 14% of the total. Of course, it is a regrettable aspect of our business that women are very much a minority of independent consultants, so perhaps this number reflects that. Alternatively, it may be possible that proportionately more women are signing up than men. If, say, women represent only 5 to 10% of the total workforce in our profession, then 14% is excellent. Does anybody have an idea what the proportion of women in our business is? If so, please send this information to me (address at the end of this section below). Indeed, if anybody knows how many independent consultants there are, who make their living solely or primarily from this work, we would be very interested in that information as well. We are trying to find this out ourselves, but if anybody already knows the answer – please send it to me..

CONFIDENTIALITY

We want to repeat what we have already said in our mailshots to you. **We will not reveal the identities of anybody who signs the petition.**

While many of you have said we may use your name, many have said we may not, and several have privately contacted us looking for further assurances.

We take this very seriously indeed – so much so that in the *statistics and observations section* we have merged some countries with only a very few signatories into their regions or continents.

If you are the only consultant in Country X and you have signed, everybody will know who you are. We want to avoid that.

But for countries with a lot of practising consultants (EU member states especially), even where there are only one or two signatories, we have shown the country statistic since the identity is impossible to work out.

If you look at the comments and case study in later sections of this newsletter, you will see that we have stripped out any information that could possibly identify the people involved – not just consultants, but contractors and Commission officials as well. Given the similarity of so many case studies to each other, I very much doubt that anybody can work out who, when or where these events took place - unless, of course, you were a participant

Not just the SoE&A...

Several of you have raised very important additional issues concerning what is wrong with the present system, or at least what could and should be improved.

These issues are listed in *other issues apart from the SoE&A*. If this petition is successful we would like to move on to addressing the more important of these. But right now, we simply do not have the time. We are – for now – a single-issue campaign. We have to concentrate on abolishing this SoE&A and replacing it with a fairer system. This is taking all our available time. And at this stage, I want to tell you a bit about the six of us who started the process.

We are six freelance consultants from five countries and we met on LinkedIn when one of us, Henry Leerentveld (Dutch), started a discussion about this issue. The rest of us joined in and felt sufficiently strongly about it to want to do something.

You can find our profiles on LinkedIn but for those of you who are not members, or for those of you who do not want to spend all that time searching for us, we enclose some information about us in *about the initiators*. (Bill Fraser is travelling at present, we'll put his info in the next newsletter).

Your comments

Over 60 of you have written to us with your views and comments (apart from those who have contributed to the debate on LinkedIn, which continues to provide some excellent reading).

A selection of these under appropriate headings is reproduced later (without identifying the contributors, of course). What is remarkable is how many of you feel so strongly about this issue. Anger and frustration are very common and some of you have told us how this system has caused you to change from your preferred mode of being long-term experts to accepting short-term assignments within existing projects, simply to avoid the adverse effects of the SoE&As.

Another interesting feature is that, although there is frustration at the unfairness and inefficiency of the system, the main target of the anger is not the European Commission but unscrupulous contractors who abuse the system – and us – to boost their chances of winning tenders.

See *your views – unscrupulous contractors* later. However, there is also a lot of frustration at the way the Commission (or some parts of it) delays tendering/evaluation processes indefinitely.

Other issues apart from the SoE&A

A number of you have written to draw attention to other issues that you think are wrong with the system and should be changed. We are not going to address these issues ourselves at this time – we got together to carry out a single-issue campaign. However, if it is successful we can certainly consider moving on to some of these other important issues. Apart from the ones that are directly related to, or caused by, the SoE&A problem, these are the areas you have identified needing attention:

“The bidding system (technical proposal and financial proposal) are long overdue for improvements. As you write, no one is clear who is bidding for what. And the 'short list' procedure is already open to abuse.”

“The Statement is like the rules for filling in Timesheets - a joke. We are only allowed to enter 8 hours but quite often have to work 12 and more to do our jobs . . . It is not acceptable . . . that travelling time in some projects is not considered working time.”

“Consideration could perhaps be given to requiring EU short-lists be limited to three competing companies with self-evident benefits to all parties concerned (particularly as the companies selected will have already been screened to reach the short-list).”

“Should consulting companies fail to pay fees on contract agreed terms (usually 30 days after end of each month) the EU should agree to support individual consultants in claiming a penalty interest on outstanding amounts until settled. (On two occasions I have had to wait eight months for payment which is to say the least stressful and of course unsatisfactory).”

“The EU should contractually oblige consultancy companies to pay the full per diem allowance and not permit them to use it as a negotiating tool.”

“I also see severe problems by judging specialists only by the CV which seem to become a more and fictitious product with little relation to the real experience of the expert.”

An additional issue is the possibility of developing a code of ethics for our profession. This has not come directly to us, but was raised on the LinkedIn discussion site.

LEGAL POSITION

As we said in our original mailshots, we have spoken to an acknowledged expert on employment legislation and competition rules and have requested that he give us an expert legal opinion. He is a very busy person, but we hope to have his opinion before the end of August and will post it on the website and in the next newsletter. In the meantime, many of those of you who have sent us comments have argued that it must be in breach of the law or regulations – nobody thinks it's perfectly legal and reasonable.

However, until we get a proper legal opinion we cannot judge. Finally, may we please plead with you once again – if you haven't signed up, please do so. And please keep reminding your friends and colleagues, especially as many are away on holidays – let this be the first thing you tell them about when they come back!



ABOUT THE INITIATORS

Stephen Dewar (Ireland)

My degrees are in economics. I have spent most of the last 14 years working on Tacis projects in Russia and Belarus, although I spent one year in the Former Yugoslav Republic of Macedonia with UNDP as a project manager. Mostly I have been a TL for multi-disciplinary projects.

Before that, I have been a journalist (editor of two financial and current affairs magazines, and deputy editor of another, in Britain and Ireland), a television reporter in Moscow and later strategy adviser to the chief executive at "Russia Today" (the Russian state-owned, English-language, 24/7 satellite television channel), an academic teaching strategic management at the University of Limerick, senior economist with the Irish Tourist Board, a farmer, a small tourism entrepreneur and a management consultant with Coopers & Lybrand (before the merger into PwC) working mostly in Africa, the Middle East and the Balkans. I write a lot, mostly non-fiction, although I am currently a quarter of the way through writing my second novel, a satirical account of the development consultancy business called "Hello, I'm Here to Help".

My last project was as TL for a €6.9 million TA project in Kaliningrad, Russia, "Administrative Capacity Building for the Kaliningrad Oblast". After an extension, that project finished in March this year.

Bill Fraser (United Kingdom)

[Traveling and unavailable at present!]

Michael Gericke (Germany)

After having finished my law studies I joined the German Federal Employment Service at which I have worked in different positions for 17 years. For seven years I headed the National Support Structure for the ADAPT Community Initiative providing Technical Assistance to the Ministry of Labour and Social Affairs and to the project applicants and implementers throughout the country. This programme successfully promoted public interventions for the benefit of SMEs (competitiveness) and employees (skills) with the help of the European Social Fund. The following two years I spent in the Ministry's ESF managing unit.

These years have strengthened my desire to work in multi-cultural surroundings and to be a consultant for foreign governments in relation to donor-funded programmes for (mainly) employment and social policies.

Since 2004 I have been working as a consultant and trainer in an international environment. Medium and long-term assignments in Hungary, Bulgaria and Turkey were complemented by short-term work in Estonia, Russia, Romania, and Pakistan. Since the end of 2006 I have spent a long time working in China with the EU-China Social Security Reform Cooperation Project. After several missions for three different companies in the two project components I took over the team leader position for the TA component in 2010. It is the largest EU-China cooperation project. We support six provinces across the country in the development and implementation of social security reform pilots in all branches of social insurance with the aim of providing every Chinese citizen with accessible, adequate and affordable social security benefits.

Beside my consulting jobs I have also done lots of trainings in almost every of the countries mentioned before.

David Hepburn (United Kingdom)

I took early retirement from a 25-year stint in the British Army, which included 2.5 years as Military Attaché in Moscow from 1985-87, I set up my home as a country house hotel in Scotland and promptly volunteered to rejoin the Army to fight the 1st Gulf War. This was followed with an assignment for a year with the European Community Monitoring Mission in South East Croatia as a peace negotiator during the Croat/Serb/Bosnian War and a short spell as civil and military adviser to the International Conference on Former Yugoslavia in Geneva.

My last act in SE Croatia was to negotiate and witness the final withdrawal of the Yugoslav Army from those parts of Croatia that they still occupied and then to monitor the inevitable fighting that followed. A short spell as de facto Mayor of the Konavle region proved to me that I was totally untrained and unprepared for the task in hand!

My first experience in the 'real' consulting world was as Team Leader of a 2-year procurement project in Kyrgyzstan in an amount of USD 60 million for Japanese Non-Project Grant Aid administered by the World Bank.

From there, I spent a total of 8 years as Team Leader of the Tacis Coordinating Units in Tajikistan and Mongolia with a 6-month input for UNOPS in Tajikistan in the middle.

Several short inputs for Tacis followed in the Russian Federation (Results Oriented Monitoring & Evaluation) and Turkmenistan (Action Programme and ToR drafting). Six months in Afghanistan on a World Bank project in 2004 proved exciting!

A three year World Bank procurement project as Team Leader in Juba, Southern Sudan ended in December 2009, which resulted in the procurement of goods, works and services of in the region of USD 800 million...

And, finally nearly three months (it was planned as one!) as a member of a Technical Evaluation Panel for the Millennium Challenge Corporation ended in May.

I have fallen foul of the SoE&A in two serious (for me) cases. Having signed one in good faith, a contractor then dropped me at the last moment in favour of someone else – too late to go elsewhere and, on another occasion, a contractor decided not to bid three days before the closing date having fallen out with his Consortium partner over money. That, of course, should have been resolved before they decided to enter into a consortium.

Tamer Kirac (U.S.A. - Turkey)

I was born in Turkey and left with my family for Germany at a young age. I lived in Canada and the USA, as well. I finished primary school in Germany, high school in Canada and university in USA. After graduating from the University of Washington in 1980, my first job was working for the Turkish Prime Ministry State Planning Organization (1980-1984). Afterwards, other professional work followed, including assignments with UNDP, UN-FAO, UN-IFAD, JICA, World Bank and EU assisted projects in Turkey and US Government/USAID assisted projects in Iraq.

I hold a BA and MA, in political science and regional economics, respectively, from the University of Washington and Seattle, USA.

I have over 25 years of professional experience working on economic development projects, labour force / employment policy planning, local governance and environmental impacts analysis projects I have worked in Canada, USA, Italy, Japan, Iraq and Turkey on assignments as technical staff, coordinator, advisor, executive director and as team leader.

I have recently completed an assignment with ECORYS Netherlands in Turkey, for the EU assisted ISKUR Employment Measures Project. This assignment ended mid-April 2010.

I am a partner and part-time Executive Director with Eurasia Ventures Ltd. in Ankara, Turkey. I am married and have three grown children.

I make my home in Edmonds, WA, USA, as well as in Gumusluk, Bodrum in Turkey.

Henry Leerentveld (The Netherlands)

I joined the world of international consultancy in 2003. Like Tamer I also work in the socio-economic field, though concentrating on some different areas; my projects are mostly related to policies related to employment, labour markets, social security, socio-economic structure (social partnership) and related institutional and capacity building. To date I have worked in East and South East Europe, Central Asia, the Middle East and Africa in EU, ETF, UNDP, ILO and GTZ projects.

My reason for getting involved in this kind of consultancy was based on my view that I had seen most of consultancy, management and interim management on national level; I consider (ed) international consultancy of added value to my previous work experience.

Between 1999 and 2006 I have worked in interim- and crisis management and strategic consultancy in the Netherlands; in the beginning of my international work I combined this work with international assignments. From 1997 to mid 1999 I was chairman of the management board of AOB Netherlands, the Dutch organisation for career and vocational guidance and employability; I had the pleasure of leading the process towards privatisation and business orientation.

It may sound surprising after this, but from 1981 to 1997 I was employed within the leading Dutch trade union; for nine years as a national secretary: employment policy, major change operations and (coordination of) collective bargaining agreements in various sectors were the main areas of my attention.

As for my private life: two daughters are my majestic life events and sports are a lifetime addiction.

Having waited for (again) more than four months on the result of a bid, meanwhile politely saying "no" to various (long-term) possibilities, including replacements, made me decide that the SoE&A should be abolished.

I currently have short-term assignments in Palestine and Turkey.

STATISTICS & OBSERVATIONS

We sent out the first mailshots starting at 12.00 GMT on Saturday 7th August. Person 150 signed up at 11.50 GMT the following Saturday – ten minutes before the first week was completed!

The table below shows the state of play at the end of Friday, 20th August. The most striking feature is that out of a total of 240, Britain accounts for 82, a bit over a third of the total, which is surely way out of proportion to the ratio of British consultants to all the other nationalities in the business. Maybe this is an example of Britain's well-known Euroscepticism! Alternatively, it may reflect the fact that three of the initiators are British (Bill and David) and Irish (Stephen), so perhaps we have a larger concentration of contacts from our own networks among our own countryfolk, just as our colleagues have far more Dutch (Henry), German (Michael) and Turkish (Tamer) contacts respectively than we have. Hopefully, as the petition gets circulated further and further, this should balance out.

Germany can be considered the nearest thing to a model country with 15 men and 7 women – the nearest country to gender balance in the table by a long way. The Netherlands comes next with 27 to 6. Britain has the starkest imbalance with 76 men to 6 women.

| Continent | No. | Country | M | F | Total | % |
|-----------------|-------|---|------|------|-------|-------|
| AFRICA | 1-4 | Africa (4 countries) | 5 | | 5 | 2.1 |
| AMERICAS | 5-6 | USA and Canada | 5 | 1 | 6 | 2.5 |
| | 7-10 | Central & South America & Caribbean (4 countries) | 4 | 1 | 5 | 2.1 |
| AUSTRALASIA | 11 | Australia | 1 | | 1 | 0.4 |
| EUROPE - EU | 12 | Austria | 2 | | 2 | 0.8 |
| | 13 | Belgium | 10 | 3 | 13 | 5.4 |
| | 14 | Britain | 76 | 6 | 82 | 34.2 |
| | 15 | Bulgaria | 2 | | 2 | 0.8 |
| | 16 | Denmark | 2 | 1 | 3 | 1.3 |
| | 17 | Egypt | 1 | | 1 | 0.4 |
| | 18 | France | 7 | 1 | 8 | 3.3 |
| | 19 | Germany | 15 | 7 | 22 | 9.2 |
| | 20 | Greece | 2 | | 2 | 0.8 |
| | 21 | Hungary | 1 | | 1 | 0.4 |
| | 22 | Ireland | 19 | 2 | 21 | 8.8 |
| | 23 | Italy | 7 | 2 | 9 | 3.8 |
| | 24 | Malta | 1 | | 1 | 0.4 |
| | 25 | Netherlands | 27 | 6 | 33 | 13.8 |
| | 26 | Norway | 1 | | 1 | 0.4 |
| | 27 | Poland | 4 | | 4 | 1.7 |
| | 28 | Portugal | 1 | | 1 | 0.4 |
| | 29 | Romania | 1 | | 1 | 0.4 |
| | 30 | Spain | 1 | | 1 | 0.4 |
| | 31 | Sweden | 1 | 1 | 2 | 0.8 |
| EUROPE - NON-EU | 32 | Turkey | 6 | 1 | 7 | 2.9 |
| | 33-36 | West Balkans (4 countries) | 5 | 1 | 6 | 2.5 |
| TOTALS | | | 207 | 33 | 240 | 100.0 |
| % | | | 86.3 | 13.8 | | |

Your views...**Your views – career damage**

Several people wrote about how the SoE&A system has stopped them following the career path they would have preferred. Here is a selection of examples.

“Some top-notch consultants that I know simply won't work for the EU because of this problem. This means that EU projects are not benefiting from their expertise.”

“[I] have been put off from offering to join a number of bids because of the SoE requirements which could have conflicted with work I was already committed to.”

“I have been a few times in a situation, where the demanded commitments in the statements made me dropping even the thought of getting involved in an EU tender.”

“Because of this rules I was unemployed for 1 year waiting for results of tenders. Since then I stopped applying as Key Expert and work only short term.”

“I've refused to sign an SoAE for some years. I know that this meant that I had effectively excluded myself from a vast number of potential opportunities, but there are always replacements needed. However, I could not think of a way around the SoAE that would not lead to my being blacklisted.”

“This situation is a problem for anyone seeking full time work and in my case, has stopped me signing up for long term work - so along with many others I expect, I'm looking for short term work because that it easier to manage and I don't have my hands tied by what appears to me to be an unlawful restriction on me for following my trade.”

Your views – loss of income and/or earnings opportunities

There are two parts to this issue – being part of a losing tender (minimum three months lost earnings if not already employed – *and that has to be subject to the necessity that it will cease before the scheduled start date for the project*) and being part of a tender, whether or not eventually successful, that drags on and on and on with no definite closing date, but with the proposed KEs locked in all the time.

“The SoAE system has prevented me from taking up a number of offers to be included in tenders for other EU projects.”

“I have suffered from this ridiculous rule so many times. For instance I joined a bid last November for a project in [country A]; as far as the contractor can tell me there is still no result (Aug 2010) but of course I am not released from the SoEA. A colleague was on the winning bid for a project in [country B] awarded last year; six months later still not mobilized.”

“Because of this rules I was unemployed for 1 year waiting for results of tenders.”

“On [date] I signed an SoE for my availability to support the implementation of a [project] in [country X]. After extending the deadline for decision making three times for two weeks [each] I was informed on [date] that the assignment had not been awarded. This commitment resulted in the non availability for other assignments for two months.”

I (Stephen Dewar) was also affected when I was locked into three successive tenders for projects across Eastern Europe in 2005/2006. All three were unsuccessful and I suffered financially – no job for a year.

Your views – unscrupulous contractors

The European Commission says that KEs don't have to sign these statements until the contractor has finalized its team for inclusion in the tender. But in practice a significant number of contractors disregard this. Clearly, this is a major abuse of the system and we include, after the selected comments, a case study where the contractor clearly states that they wish to use this system to prevent the consultant signing up with a competing contractor. We also want to make clear that many of you rightly noted that the majority of contractors are honest, reliable and professional. Unfortunately, there just seems to be a significant minority who are not.

“I am also aware of the unscrupulous behaviour of contractors trying to keep consultants off the short-list - and have experienced it.”

“The current system asks independent consultants to defer [alternative] opportunities and is subject to abuse by consortia/ consulting firms.”

“I have experience of where companies get consultants to sign the SoE and then only inform them they have not been selected after it is too late to take part in another bid; thus reducing competition. Very few other professions would tolerate this abuse of freedom.”

There are more stories about this on the LinkedIn site.

Case Study: SoE&A Fraud

And here is the case study, which reproduces the correspondence between a contractor and a proposed expert:

Dear [Consultant],

Thank you for the interest in working for this project.

We would like you to be flexible on the position for which you could be presented; we thought that, in case we find a good local expert, you would be the TL. In the case in which we propose an international team then we can discuss together who will be the TL.

Regarding the financial proposal, and due to the amount of WD ("X" for Expert N.1, "Y" for Exp n. 2) I would like to propose you the following:

- XXXX per WD
- Full Per Diem in [country] (YYY€ for every night spent in the field)
- International travels

I look forward to your reply and in case of acceptance I kindly ask you to sign the SoE here attached.

Thank you
My best regards,
[Contractor]

Dear [Contractor],

I accept your proposed conditions.
I am ready to sign the SoAE when you confirm that my candidature is representing the consortium for this project/position. Please note that for the same project and position I also have requests for services from other companies.

Kind regards,
[Consultant]

Dear [Consultant],

Firstly thank you for accepting our conditions.
Regarding your candidature, we have to respect the rules of the FWC Commission, which oblige us to have the signed SoA of the expert before presenting his CV.

As you know we are the lead company of the Consortium, so the final decision will be in our hands. But at the same time we cannot risk you to go with another company [emphasis added] after having accepted our proposal.

I am confident that your CV could really work for this project, and I know that you have already worked successfully with [the consortium].

Due to that I hope you can consider the possibility to sign already the SoA, but I am open to discuss alternative options.

Thank you for letting me know your opinion about it.

Kindest regards,
[Contractor]

Dear [Contractor],

I understand your position, however with a signed SoAE while not being sure that I represent the consortium, I am not available for (other) opportunities that arrive in the meantime. Do you mean that [the consortium] for the internal evaluation between members only will consider consultants that have signed the SoAE for this assignment, before the consortium decides what consultant will be presented to the EC?

Regards,
[Consultant]

Dear [Consultant],

Yes, [the consortium], as all the other consortia, due to the EC rules for this specific LOT of the FWC Commission, needs the SoA of the experts to present their CV for a specific position. All the competitors for this LOT X follow the same rules, even if it could be not clearly expressed.

The SoA is the proof that you are expressing your interest in being a candidate for the specific position in this specific project. **Otherwise, without a SoA you could decide to participate for the same project with another company** [emphasis added]. All the candidatures we receive by the other companies of the Consortium must be accompanied by the SoAs. We are confident that you have a strong expertise and, knowing the experts of the other companies of the Consortium, it is very difficult that we receive a stronger Cv.

We will close our evaluation the next Friday. In the afternoon I will be able to let you know if you is the chosen CV, letting you eventually free to participate with other consortia.

I kindly ask you to let me know if you are still interested in being included in the team of experts by today at 6 pm. Otherwise I will have to find other candidates.

Thank you very much, I remain at your disposal for any further information.

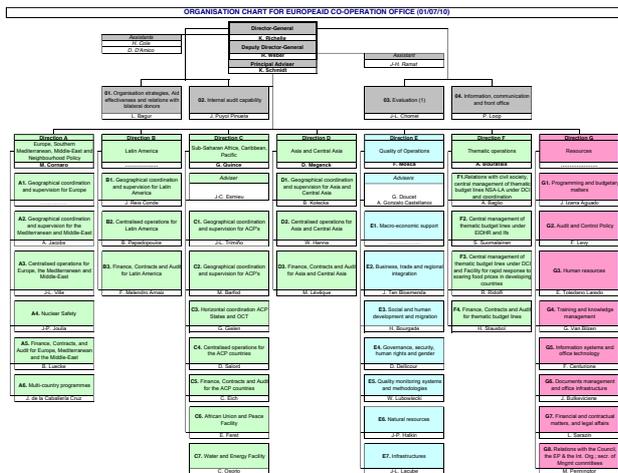
Best regards,
[Contractor]

Your views – Big Brother in Brussels

It used to be believed that even if you signed more than one SoE&A at a time – as long as they were for different projects and preferably in different countries - the Commission (and contractors) would never know. The odds against being in a winning tender, even if you are in three at the one time, are so low, it seemed like a reasonable thing to do. Perhaps this is not the case anymore. We would be grateful if anybody could tell us **definitively** whether what is said below is actually true.

“I was recently informed that the EC now cross checks any KEs on new tenders to be sure they are not already fully engaged on a project elsewhere and so they cannot be on the tender else the tenderer will be disqualified. This will occur mainly once they have selected a winning tender then they look at the KEs and see if their CV has current jobs that overlap with the start-up period and then disqualify the bid.”

“The text of the SoAs frequently mentions "... this unavailability together with its justification or its absence will be recorded in an internal data base of the Commission". I wonder who gave the Commission the right to keep such a database without giving the individual an opportunity to respond to the issue. I am a senior expert with more than 30 years of experience in the field of technical assistance (more than 120 assignments) and realize that I have signed almost 40 SoA within the last 12 months of which only one resulted in a FW-contract.”



(1) This unit is common to the 3 Directorate Generals: AIDCO, DEV and RELX and ensures the evaluation function in these 3 DG's. Administratively located in DG AIDCO, this unit directly reports to the Commissioners Pöhl and Füle.

OUR WEBSITE

We have no funds for this action – we are all simply contributing our time when we can. With regard to the website, none of us have the technical expertise to set one up and maintain it properly. Thus, we wish to acknowledge the generosity of **Coert van der Burg**, who has done all the work for us in this area without charge. However, he has to make a living himself, like the rest of us, so much as we want to improve and develop the website, we are happily prepared to wait until he and his technical staff have the time to do the extra software development. We ask those of you who have written to us with suggestions to be patient as well. They will be done as soon as feasible.

Project Information – Ban signing a Statement of Availability and Exclusivity (SoAE) for EU financed projects
<http://www.bansoae.portal4project.net/projectinformation>
 n Television ▶ Henry Apple Yahoo! Google Maps YouTube Wikipedia News (419) ▶ Popular ▶ Rabob
 Welcome Guest | Re
Sign the petition!
 Time to change some rules
the Statement of Exclusivity and Availability (SoE&A) for EU financed contracts
 on Download E-leaflet Management News

Welcome to the website of "Ban SoE&A"

Statements of Exclusivity & Availability (SoE&A) are:

- Illegal
- Discriminate against us unfairly
- Impose huge lost earnings
- Lead to lower standards of project execution
- And are totally unnecessary

The SoE&A should be abolished. Here is why.....

We are all affected

As independent consultants you have all at some time or another been proposed as a Key Expert in a bid for EU-funded projects. As you know, once you agree to be part of a contractor's bid, you have to sign the Statement of Exclusivity and Availability (SoE&A). If you abide by the terms of this document you are then forbidden from applying for any other work whatsoever for the duration of the tendering process, which may overlap with the planned and actual implementation period of the project. The Exclusivity part bans you from participating in any other EU-funded projects. The Availability part bans you from participating in any other work at all, whether funded by another donor or development agency (USAID, World Bank, UNDP, etc) or, indeed, any other kind of work that might stop you being "available".

You are not alone

A group of us feel strongly that these SoE&As are illegal, discriminate against us unfairly, impose huge lost earnings, lead to lower standards of project execution, and are totally

Solutions

Several of you have suggested reforms, but they do not follow the same pattern. Suggestions include:

- Amending/editing the statement to make it more “flexible”;
- Separating Exclusivity from Availability and having different rules for each;
- Setting an absolute cap on the maximum period the statement could be valid for (e.g. five days);
- Remunerating consultants for the period they are bound by the SoE&A;
- Abolishing the entire system and replacing it with a better one.

With regard to the last suggestion several people have made the point that the donor (European Commission) should surely be concerned with getting the best job done possible, which means, among other things, fielding the best possible experts available. On this basis, experts should be free to go with whichever contractor wins the tender, (which should be judged *on the basis of the quality of the technical proposal*), subject to the approval of the Commission and the beneficiary. This is the practice followed by some of the other agencies.

This, of course, is a fundamental issue in the whole campaign.

We have to have a practical, better procedure to propose to Brussels when we finally get to discuss this with the decision-makers there. Please keep your comments and proposals coming.

Final remarks

Thank you all so much for your enthusiastic support. It is clear that many of us feel very badly about the situation and want radical change. We think that with this kind of material we are already building a very strong case, supported by the ever-growing number of consultants from around the world who are willing to put their names to the petition.

Two critical issues are the exact legal status, for which we will have to wait a little longer until the legal expert has had time to prepare the required opinion. The second issue is finding a good alternative procedure, but we think we should be able to do that without too much difficulty. We are, after all, consultants. It is our job to solve problems.

A special word of thanks to all those of you who wrote in to us. Several of you will recognise your comments among those quoted earlier. And to those of you who were not quoted, please don't be upset! We have a huge file containing ALL the comments and it is simply not possible to reproduce them all here in such a limited space. But, they have all been read and carefully considered. We have already selected a number of other important comments for reproduction in the next newsletter.

THANK YOU!!!

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