

TENDER SPECIFICATIONS

**STUDY ON THE IMPLEMENTATION OF THE PROVISIONS OF THE
AUDIOVISUAL MEDIA SERVICES DIRECTIVE CONCERNING THE PROMOTION
OF EUROPEAN WORKS IN AUDIOVISUAL MEDIA SERVICES**

SMART 2010/0002

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1 CONTEXT

This study concerns the provisions in Chapters IV and VI (in particular Articles 13, 16 and 17) of Directive 2010/13/EU of 15 April 2010¹ (hereafter referred to as 'the AVMS Directive') which aims at the promotion and distribution of European works and independent productions in television programmes as well as the production of and access to European works in on-demand services. Pursuant to Article 16, Member States must report on the application of Articles 16 and 17 every two years. The last report which has been published is the Eighth Communication² on the application of Articles 4 and 5³. Pursuant to Article 13(2), Member States are also under the obligation to report on the implementation of Article 13(1), for the first time on 19 December 2011 at the latest and every four years thereafter.

In addition, Article 13(3) states that the Commission will base its report to the European Parliament and the Council both on the information provided by the Member States and on an independent study, taking into account the market and technological developments and the objective of cultural diversity.

A previous study was carried out within the framework of the proposal for the AVMS Directive which was adopted in December 2007⁴ and already included a part dedicated to on-demand services. This "Study on the application of measures concerning the promotion of the distribution and production of European works in audiovisual media services (i.e. including television programmes and non-linear services)" was delivered to the Commission by an independent consultant in May 2009 (hereinafter referred to as "the 2009 Study").⁵

In this context, the present study, building on the findings of the 2009 Study related to television programmes and on-demand services, shall identify and analyse the likely impact of the measures taken at the European and national levels to implement the Directive in the sector of linear and on-demand services.

2 OBJECTIVES

2.1 General objectives

The aim of the study is to provide the Commission with the tools and information required for the monitoring and evaluation at periodical intervals (as foreseen by the AVMS Directive) of the impact of the measures, taken at Union and national levels, for the promotion of distribution and production of European works⁶ and independent productions in television programmes and the production of and access to European works in on-demand services.

¹ [OJ L 95, 15.04.2010](#)

² COM(2008) 481 (see http://ec.europa.eu/avpolicy/reg/tvwf/implementation/promotion/index_en.htm)

³ Now Articles 16 and 17

⁴ Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC, [OJ L 332, 18.12.2007](#)

⁵ http://ec.europa.eu/avpolicy/docs/library/studies/art4_5/final_report.pdf

⁶ See Article 1 (1) (n), (3) and (4) of Directive 2010/13/EU :
(1)(n): "European works" means the following:

(i) works originating in Member States;

The study will build on the results of the 2009 Study. The geographical coverage will be the EU Member States and EEA Contracting Parties as of 1 January 2010.

2.2 Specific objectives⁷

This study should give the Commission the necessary information to comply with its obligation to evaluate periodically the impact on the audiovisual sector in the EU Member States and EEA Contracting Parties of the national legislations and measures implementing the above mentioned Articles of Chapters IV and VI of the Directive.

The study shall include an analysis of the **Content Offer on both linear broadcasting and on-demand services**⁸ covering the following aspects:

a) Programming with details on number of titles, genres, duration and **related audience** for linear broadcasting of:

- i) Recent European audiovisual works (less than 5 years) or works of more than 5 years created by independent producers or by producers linked to broadcasters, with a distinction between works produced in the country of establishment⁹ of the Audiovisual Media Service Provider and works produced in other Member States¹⁰.

and

- ii) Non-European audiovisual works.

The analysis of European audiovisual works shall identify the proportions and scheduling time of the supply and viewers' consumption of broadcast European and non-European audiovisual works.

(ii) works originating within the framework of agreements related to the audiovisual sector concluded between the Union and third countries and fulfilling the conditions of paragraph 3;

(iii) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Union and third countries and fulfilling the conditions defined in each of those documents.

Article 1 (3) : The works referred to in points (n)(i) and (ii) of paragraph 1 are works mainly made with authors and workers residing in one or more of the States referred to in those provisions provided that they comply with one of the following three conditions:

(i) they are made by one or more producers established in one or more States;

(ii) the production of the works is supervised and actually controlled by one or more producers established in one or more States;

(iii) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

Article 1 (4): Works that are not European works within the meaning of point (n) of paragraph 1 but are produced within the framework of bilateral co-production agreements concluded between Member States and third countries shall be deemed to be European works provided that the co-producers from the Union supply a majority share of the total costs of production and that the production is not controlled by one or more producers established outside the territory of the member States.

⁷ The definitions for: "audiovisual media service", "media service provider", "television broadcasting " or "linear audiovisual media service", "on-demand service", "on-demand services provider" etc. are those set in the AVMS Directive.

⁸ For on-demand services content offer should be interpreted in a broad sense and therefore include catch-up and video-on-demand services, as well as any other non-linear service

⁹ As defined in Article 2 (3) of the AVMS Directive

¹⁰ In line with Recital (70) of the AVMS Directive

b) Composition of catalogues (number of programmes offered, their genre and overall duration) and **Consumer demand** (quantities acquired and values when a payment is required) of on-demand services grouping:

i) European audiovisual works, with a distinction between works produced in the country of establishment of the on-demand audiovisual media service provider and works produced in other Member States (national and non-national),

and

ii) Non-European audiovisual works

The analysis of European audiovisual works, as defined in Article 1 (n) of the Directive, shall include in particular programme genres and modes of delivery, notably catch-up and video on-demand services, as well as any other non-linear services.

c) Overall supply on the Member States rights markets of:

- European works (national and non-national) and non-European works,
- recent European works or works older than 5 years,

for broadcasting and on-demand services.

The analysis shall provide information on quantities of available programmes, their genres and their values.

d) Impact on cultural diversity: building on the elements analysed under a) and b), the study shall include a qualitative analysis of their impact on cultural diversity, notably concerning the presence of national audiovisual works or European non-national works in programming schedules and audience for television broadcasting as well as catalogues and consumer demand for on-demand services.

In view of the above mentioned periodical evaluation, the contractor shall, at least, perform the following tasks:

2.2.1 Survey of the implementing measures of Articles 13, 16 and 17 of the Directive.

The contractor shall carry out a survey of the implementing measures of Articles 13, 16 and 17 of the Directive in the EU Member States and EEA Contracting Parties as of 1 January 2010.

- Building on the information available in the 2009 Study, the study shall cover the legislative measures which have been adopted in respect of linear broadcasting and have been adopted or are being envisaged by Member States in respect of on-demand services.
- Furthermore, the study shall examine and detail the methodology and the quantitative/qualitative indicators set out by the competent authorities in order to monitor the application of these measures. As far as on-demand services are concerned, this review shall be related in particular to:
 - the financial contribution made by on-demand services to the production and rights acquisition of European works,
 - the required share of European works in the content supply of on-demand services,
 - the prominence of European works in the catalogues,

with a distinction between national and non-national European works where applicable, and any other measure adopted or implemented on the basis of Article 13 in the Member States and EEA Contracting Parties.

2.2.2 Description and analysis of the market for audiovisual works

The study shall include a description and analysis of the market for audiovisual works in each Member State and EEA Contracting Party as of 1 January 2010, which will cover at least:

- Broadcasters and on-demand services providers
 - TV audience and consumer demand of on-demand services
- and

a description and analysis of the production industry as of beginning 2010 covering, at least:

- Independent producers
- Producers linked to broadcasters and on-demand services providers.

This analysis shall refer to the genres of audiovisual works covered by the provisions of Articles 13, 16 and 17 of the Directive specifying:

- Number of titles;
- Genres;
- Duration.

This analysis shall contain an elaboration of overall business models as of beginning 2010 with a specific focus on the audiovisual works' production sector, with reference to:

- Independent producers;
- Producers linked to broadcasters and on-demand audiovisual services providers.

The analysis shall look in particular at the broadcasters listed in the 9th Communication on the application of Articles 4 and 5 of the AVMS Directive¹¹ and the on-demand services providers operating in the EU Member States and EEA Contracting Parties.

2.2.3 Performance indicators and operational procedures

The study shall define:

- A set of **performance indicators** for the measures referred to in point 2.2.1 in order to assess their impact on the topics covered under point 2.2.2;
- A set of **operational procedures** in view of carrying out monitoring and assessment activities at periodical intervals.

As far as on-demand services are concerned, the contractor shall provide the Commission with indicators and procedures which will allow the elaboration of a model questionnaire/reporting sheet to be sent to the Member States and Contracting Parties in order to collect the necessary data to assess the application of Article 13.

2.2.4 Practicability of procedures and indicators

The contractor shall make a concrete application ("reality check"), as of 1 January 2010, of the indicators and procedures referred to in point 2.2.3 related to on-demand services in the Member States where Article 13 has already been implemented, in order to verify their practicability.

¹¹ 9th Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of Articles 4 and 5 of Directive 89/552/EEC as modified by Directive 97/36/EC and Directive 2007/65/EC – (expected to be adopted during Autumn 2010)

2.2.5 *Prospective analysis*

The study shall give the Commission the necessary elements to assess whether the provisions in the Directive are sufficient to ensure the achievement of the objective to safeguard European works in the offer of audiovisual media services in the Member States and where appropriate, which additional measures could be envisaged, taking into account the economic constraints, cultural considerations and the regulatory framework in place.

3 DURATION

Duration of the tasks must not exceed **12 months** and is subject to the provisions of Article I.2.3 of the contract.

4 DELIVERABLES, MEETINGS AND TIMETABLE

4.1 Deliverables

4.1.1 *List and definition of the deliverables*

- **A first interim study report (legal aspects)**, which will cover all the issues described in point 2.2.1 above. This first interim study report shall be submitted no later than two months after the date of entry into force of the contract.
- **A second interim study report (economic aspects, procedures and indicators)**, which will cover all the issues described in points 2.2.2, 2.2.3 and 2.2.4 above. This second interim study report shall be submitted no later than six months after the date of entry into force of the contract.
- **A preliminary final study report**, including the following sections:
 - General approach followed, a summary of the interim reports and a full report covering all issues described in points 2.2.3 and 2.2.4 above.
 - Preliminary report of the prospective analysis as described in point 2.2.5 above.
 - Overall conclusions and suggestions.

The preliminary final study report shall be submitted no later than eight months after the date of entry into force of the contract.

- **A draft final study report**, including the following sections:
 - Executive summary;
 - General approach followed, a summary of the interim reports and a full report covering all issues described in points 2.2.1 and 2.2.2 above.
 - Full report of the prospective analysis as described in point 2.2.5 above.
 - Overall conclusions and suggestions taking into account the application of procedures and indicators as foreseen under points 2.2.3 and 2.2.4 above.

The draft final study report shall be submitted within 10 months after the date of entry into force of the contract. It will take into account the outcomes of the workshop as well as the comments transmitted to the contractor by the participants within two weeks after the workshop.

- **A final study report**, which will follow the structure of the draft final study report, and take into account the comments made by the Commission at the final study report meeting. The executive summary and the conclusions shall also be provided in French and German along with an electronic slide presentation set suitable for the general public (in English, PowerPoint compatible format). The final report shall be submitted within 11 months after the date of entry into force of the contract.
- **Minutes of the bilateral meetings** will be drafted by the contractor(s) for each of the bilateral meetings listed in section 4.2.1 below. The minutes will be submitted within one week of the meeting.

This list is exhaustive, and no other deliverables should be proposed in the offer.

4.1.2 Requirements for their delivery and presentation

All study reports should be delivered in electronic format (Word or compatible software). In addition, once approved by the Commission, the Final Study Report shall be provided in a “PDF” format suitable for publication by the Commission’s services on the Commission website and in three hard copies.

Minutes of the bilateral meetings should be delivered in electronic format only (Word or compatible software).

All deliverables must be written in English.

4.2 Meetings and workshops

4.2.1 Bilateral meetings

The bilateral meetings will be organised by the Commission's services at the Commission's premises in Brussels. Their duration should not exceed half a day.

Inception meeting

A first meeting will be organised during the first month after the date of entry into force of the contract.

First interim study report meeting

A second meeting during which the contractor will present the first interim study report (legal aspects) shall be held within three weeks following the submission of the first interim study report.

Second interim study report meeting

A third meeting during which the contractor will present the second interim study report (economic aspects, procedures and indicators) shall be held within three weeks following the submission of the second interim study report.

Preliminary final study report meeting

A fourth meeting will be held within three weeks following the submission of the preliminary final study report during which the contractor will present the preliminary final study report. The organisation of the workshop will also be discussed.

Final study report meeting

A fifth meeting will be held within three weeks following the submission of the draft final study report during which the contractor will present the draft final study report.

4.2.2 Workshop

The Commission will host a one-day workshop in Brussels, organised jointly with the contractor, in order to present the preliminary results of the study to industry representatives, representatives of the countries covered by the study and stakeholders in general. It will be designed to stimulate a discussion among interested parties in order to validate the findings of the study contained in the preliminary final study report.

The workshop will take place in the Commission's premises in Brussels. The Commission undertakes to provide and bear the relevant costs of the necessary conference room facilities, coffee-breaks and interpretation. The contractor will be responsible for all other operational aspects (i.e. preparation of agenda, participants list, and distribution of invitations...).

Costs related to the following activities and items must be borne by the contractor and included in the price:

- Setting the workshop agenda in cooperation with the Commission;
- Identifying participants and speakers in cooperation with the Commission, ;
- Inviting speakers and participants;
- Managing the travel and accommodation arrangements for speakers;
- Financing the travel and accommodation expenses for speakers ;
- Any speakers' fees;
- Printing and distributing relevant information material for speakers and participants.

The estimated number of participants to the Workshop is 300 people. The invitation list will be subject to approval by the Commission.

This workshop will take place during the 9th month following the date of entry into force of the contract and after the acceptance by the Commission of the preliminary final study report.

Each tenderer should include costs of attendance of its own representative(s) at all the above meetings and workshops in the financial section of the offer.

4.3 Timetable

Deliverable ↓	Meeting ↓	Month						
		1	2	6	8	9	10	11
	Inception meeting							
Inception meeting minutes		+1 week						
First Interim Study Report								
	First report meeting		+3 weeks					
First report meeting minutes			+1 week					
Second Interim Study Report								
	Second report meeting			+3 weeks				
Second report meeting minutes				+1 week				
Preliminary Final Study Report								
	Preliminary final report meeting				+3 weeks			
Preliminary final report meeting minutes					+1 week			
	Workshop							
Draft Final Study Report								
	Final report meeting						+3 weeks	
Final report meeting minutes							+1 week	
Final Study Report								

5 TERMS OF APPROVAL OF DELIVERABLES

5.1 Study Reports

After reception of each study report included in section 4.1.1 above, the Commission will have **30 calendar days** in which:

- to approve it,
- to reject it and request a new report.

If the Commission does not react within this period, the report shall be deemed to be approved.

Where the Commission requests a new report because the one previously submitted has been rejected, this must be submitted within **15 calendar days**. The new report shall likewise be subject to the above provisions.

5.2 Minutes of the bilateral meetings

The Commission shall have 5 calendar days from receipt to approve or reject the minutes of the bilateral meetings and the Contractor shall have 5 calendar days in which to submit additional information or a new deliverable.

PART 2: ADMINISTRATIVE DETAILS

1 ELIGIBILITY REQUIREMENTS

The present tender documents are drawn up in respect of the Financial Regulation applicable to the general budget of the European Union (Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 as amended by Council Regulation (EC, Euratom) N° 1995/2006 of 13 December 2006), as well as its implementing rules (Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 as amended by i) Commission Regulation 1261/2005 of 20 July 2005, ii) Commission Regulation 1248/2006 of 7 August 2006 and iii) Commission Regulation (EC, Euratom) No 478/2007 of 23 April 2007), hereinafter referred to as the Financial Regulation.

Participation in tendering procedures is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement.

Where the Plurilateral Agreement on Government Procurement concluded within the WTO applies, the contracts are also open to nationals of the countries that have ratified this Agreement, on the conditions it lays down.

Operators in third countries which have signed a bilateral or multilateral agreement with the Union in the field of public procurement must be allowed to take part in the tendering procedure on the conditions laid down in that agreement. The Commission will refuse tenders submitted by operators in third countries which have not signed such agreements for the present call for tender.

ADMISSIBILITY OF TENDERS

All the **requirements** related to the **submission and opening of the tenders** are detailed in the invitation to tender (see sections 2, 4 and 8 of the invitation to tender) including:

- *Address and deadline for submission of the tender*
- *Presentation of the offer and Packaging*
- *Opening of the Tenders*

2 ADMINISTRATIVE REQUIREMENTS

A service provider may consider submitting a tender as a single entity or decide to collaborate with other service providers to present a bid: either by submitting a joint tender or through subcontracting. Tenders may also combine both approaches. Whichever type of bid is chosen, the tender must stipulate the legal status and role of each legal entity in the tender proposed.

2.1 Different ways to submit a tender

Options 1 to 4 below describe the different ways to submit a tender.
Please make sure that all the documents and evidences required are submitted with your tender.

- Option 1:** Submission by **one tenderer: Private / Public entity / Individual.**
- Option 2:** Submission by **partners** as defined under section 2.2 below.
One must be designated as **lead partner/contractor.**
- Option 3:** Submission by **one tenderer with subcontractors** as defined under section 2.2 below
- Option 4:** Submission by **partners** (one must be designated as lead partner/contractor) **with subcontractors** as defined under section 2.2 below

2.2 Joint Tenders and Subcontracting

2.2.1 Joint tenders

In case of a joint tender submitted by a group of tenderers, these latter will be regarded as **partners**. If awarded the contract, they will have an equal standing towards the contracting authority in the execution of the contract.

The partnership may take the form of:

a) a **new legal entity** which will sign the contract with the Commission in case of award

or

b) a group of partners not constituting a new legal entity, who via a **power of attorney (Annex 5)**, signed by an authorised representative of each partner (except the lead partner), designate one of the partners as lead partner, and mandate him as lead contractor to sign the contract with the Commission in case of award.

In both cases, all partners shall be considered as tenderers and shall **assume joint and several liability towards the European Commission for the performance of the contract.**

2.2.2 Subcontracting

Subcontracting is a situation where a contract is to be established between the Commission and a service provider and where this service provider, in order to carry out the contract, enters into legal commitments with other legal entities for performing part of the tasks foreseen in the contract.

The tenderer submitting the tender, if awarded the contract, shall become the sole contractor and shall assume **full liability toward the European Commission for the performance of the contract as a whole.** The other service providers will be regarded as subcontractors.

Subcontracting is subject to the provisions of Article II.13 of the model contract annexed to the invitation.

2.3 Identification of the tenderer – List of Forms & Evidences Required

Options 1/2/3/4: Documents to be provided by the single tenderer or lead partner:

- Annex 1: Administrative identification form (ORIGINAL filled in and signed by (an) authorised representative(s))

- Annex 2: Legal Entities form¹² (ORIGINAL filled in, signed by (an) authorised representative(s), and supported by relevant evidences according to the entity concerned, i.e. private/public/individual)
Economic operators already registered as a legal entity in the Commission's files (i.e. they are or have been contractors of the Commission) are not obliged to provide a new form, on the condition that they confirm that no change in the information already provided has occurred. In case of doubt, we recommend submitting a new form.
- Annex 3: Financial Identification form¹³ (ORIGINAL filled in according to the instructions contained in this form)
If the corresponding bank account of economic operators is already registered in the Commission's files they are not obliged to provide a new form, on the condition that they confirm that no change in the information already provided has occurred. In case of doubt, we recommend submitting a new form.
- Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (ORIGINAL filled in and signed by (an) authorised representative(s))
- Legible photocopy of the statutes of the legal entity (for public/private entities)
- Legible photocopy of the notice of **appointment of the persons authorised to represent the tenderer** in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.

Options 2 and 4: documents to be provided by each partner, except the lead partner

- Annex 1: Administrative identification form (ORIGINAL filled in and signed by (an) authorised representative(s))
- Annex 2: Legal Entities form¹⁴ (ORIGINAL filled in, signed by (an) authorised representative(s), and supported by relevant evidences according to the entity concerned, i.e. private/public/individual)
Economic operators already registered as a legal entity in the Commission's files (i.e. they are or have been contractors of the Commission) are not obliged to provide a new form, on the condition that they confirm that no change in the information already provided has occurred. In case of doubt, we recommend submitting a new form.
- Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (ORIGINAL filled in and signed by (an) authorised representative(s))
- Annex 5: Power of attorney (ORIGINAL filled in and signed by (an) authorised representative(s) of each partner)
- Legible photocopy of the statutes of the legal entity (for public/private entities)
- Legible photocopy of the notice of **appointment of the persons authorised to represent the tenderer** in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.

Options 3 and 4: Documents to be provided by each subcontractor

- Annex 1: Administrative identification form (filled in and signed by (an) authorised representative(s))

¹² A standard template in each EU language is available at

http://ec.europa.eu/budget/execution/legal_entities_en.htm

¹³ A standard template in each EU language is available at http://ec.europa.eu/budget/execution/ftiers_en.htm

¹⁴ A standard template in each EU language is available at

http://ec.europa.eu/budget/execution/legal_entities_en.htm

- Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (filled in and signed by (an) authorised representative(s))
- Annex 6a: Letter of intent from each subcontractor (signed by (an) authorised representative(s)) to confirm their willingness and availability to perform the tasks.

Individual external experts, not part of the tenderer's staff, foreseen to execute a part of the work are also to be considered subcontractors. Individual external experts will have to provide only the letter of intent in Annex 6b.

3 SIGNATURE OF THE TENDER

The signature of the single tenderer's or lead partner's authorised representative or representatives (preferably in blue ink) on the administrative identification form (**Annex 1**) will be considered as the signature of the tender, binding the single tenderer or the group of partners to the terms included in the tender.

4 LAYOUT OF THE TENDER

All tenders must be clear, complete and consistent with all the requirements laid down in the tendering documents and **presented in 3 sections** as follows:

4.1 Administrative section

The documentary evidence required in accordance with part 2 section 2, section 3, section 5.1.3 and section 5.2 of the Tender Specifications must be included in the administrative section of the tender. **Tenders not including the necessary evidence may be rejected.** The Commission reserves the right, however, to request clarification or additional evidence in relation to the exclusion and selection stages after the opening within a time limit stipulated in its request and in the conditions explained in section (3) of the invitation to tender.

4.2 Technical section

This section must address all the requirements laid down in Part 1 - Technical description of the tender specifications. Information included here will be used to conduct the qualitative assessment of the tenders on the basis of the technical award criteria listed in section 5.3 below. The Commission will reject tenders where no technical offers are proposed.

4.3 Financial section

The price quoted must fulfil the following requirements:

- A **total** fixed price expressed **in Euro** must be included in the tender.
- The price quoted must **be firm and not subject to revision**.
- The European Commission, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, is exempt from all duties, taxes and dues, including value added tax (VAT).

Such charges may not therefore be included in the calculation of the price quoted.

VAT exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption.

For those countries where national legislation provides an exemption by means of reimbursement, **the amount of VAT is to be shown separately.** In case of doubt about the

applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Commission is exempt from VAT.

- The price quoted shall be subject to the terms set in Article I.3 of the model contract attached.
- The price must fall within the scope of these tender specifications and be broken down into unit prices and quantities per each of the following categories:

(a) Professional fees. The daily rates and total number of person-days for each member of staff working on the contract must be specified.

(b) Travel and subsistence expenses (including costs of attendance of future contractor's representative(s) at meetings and/or workshops with the Commission as foreseen in section 4.2, part 1). In the event of travel being necessary to carry out the duties specified in the tender, travel and subsistence expenses shall be paid as indicated in the tender.

(c) Other expenses (outsourced services or supplies, e.g. translation expenses, printing expenses, website development, cost of acquiring data etc.)

- Tenders involving more than one legal entity, either as partner or subcontractor (including external experts) must specify the categories above for each legal entity.
- The Commission will reject tenders where no financial offers are proposed.

The part that the tenderer intends to subcontract shall be precisely indicated and detailed.

The total price quoted cannot exceed EUR 400 000 (four hundred thousand euros.) Tenders with a higher total price will be rejected.

The financial section must be submitted in a separate envelope, upon which shall be written the reference of the call for tender as indicated in the invitation, and with the clear mention “Financial section”.

5 EVALUATION OF TENDERS

The evaluation of tenders will be done in accordance with the following subsequent steps:

- The Commission verifies that the **tenderer** is not in one of the situations covered by the exclusion criteria (first step, see section 5.1 below)
- The Commission verifies that the **tenderer** has the appropriate capacities to perform the contract on the basis of the selection criteria (second step, see section 5.2 below)
- The Commission assesses the **tender** on the basis of the award criteria (third step, see section 5.3 below).

5.1 Exclusion Criteria

5.1.1. Pursuant to Article 45(2) of Council Directive 2004/18/EC and to Article 93(1) of the Financial Regulation, the Commission will exclude tenderers from participation in the procurement procedure if:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the

- subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
 - (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
 - (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
 - (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
 - (f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation.

Points (a) to (d) of the first subparagraph shall not apply in the case of purchase of supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities, or from the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law.

For the purpose of the correct application of the above paragraph, the candidate or tenderer, whenever requested by the contracting authority, must:

- (a) where the candidate or tenderer is a legal entity, provide information on the ownership or on the management, control and power of representation of the legal entity,
- (b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to in paragraph 1 of Article 93 of the Financial Regulation.

5.1.2. Pursuant to Article 45(2) of Council Directive 2004/18/EC and Article 94 of the Financial Regulation, a contract shall not be awarded to candidates or tenderers who, during the procurement procedure for this contract:

- (a) are subject to a conflict of interest;
- (b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply this information;
- (c) find themselves in one of the situations of exclusion, referred to in Article 93(1) of the Financial Regulation, for this procurement procedure.

5.1.3. Tenderers – including sub-contractors if any - shall provide a declaration on their honour (Annex 4), duly signed and dated, stating that they are not in one of the situations referred to in Article 93(1) or 94 of the Financial Regulation. The tenderers must undertake to inform the Commission, without delay, of any changes with regard to these situations after the date of submission of the tender.

5.1.4. In addition, for contracts of a value higher than EUR 125 000, ONLY the tenderer to whom the contract is to be awarded shall confirm the declaration by providing, within a time-limit defined by the contracting authority and preceding the signature of the contract, the following evidences (if the tender is proposed by partners, these evidences must be submitted by each partner):

- 1) The contracting authority shall accept as satisfactory evidence that the candidate or tenderer to whom the contract is to be awarded is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document, **issued less than 12 months before the date**

of the letter informing of the contract award by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a certificate by the competent authority of the State concerned, **issued less than 12 months before the date of the letter informing of the contract award**.

- 2) Where the document or certificate referred to in the first subparagraph is not issued in the country concerned and for the other cases of exclusion referred to in Article 93(1) of the Financial Regulation, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

Depending on the national legislation of the country in which the tenderer is established, the documents referred to in paragraphs 1) and 2) shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

In case of doubt on the declaration on the honour provided by the subcontractor(s) in accordance with the indications of point 5.1.3 above, the contracting authority shall request the evidence referred to in points 1) and 2) above from the subcontractor(s).

5.1.5. Administrative and financial penalties

1. **By returning the form in Annex 4 duly signed and dated**, tenderers confirm that they have been notified of the following points: Each institution has a central database containing information on tenderers who have been in one of the situations described under 5.1.1 and 5.1.2 above. The sole purpose of this database is to ensure, in compliance with Union rules on the processing of personal data, that the above-mentioned cases of exclusion are applied correctly. Each institution has access to the databases of the other institutions.

Tenderers and, if they are legal entities, persons who have power of representation, decision-making or control over them, are informed that, should they be in one of the situations mentioned in:

- the Commission Decision of 16.12.2008 on the Early Warning System (EWS) for the use of authorising officers of the Commission and the executive agencies (OJ, L 344, 20.12.2008, p. 125), or
 - the Commission Regulation of 17.12.2008 on the Central Exclusion Database – CED (OJ L 344, 20.12.2008, p.12),
- their personal details (name, given name if natural person, address, legal form and name and given name of the persons with power of representation, decision-making or control, if legal person) may be registered in the EWS only or both in the EWS and CED, and communicated to the persons and entities listed in the above-mentioned Decision and Regulation, in relation to the award or the execution of a procurement contract or a grant agreement or decision.
- 2. In accordance with Article 96 of the Financial Regulation the contracting authority may impose administrative or financial penalties on the following:
 - (a) candidates or tenderers in the cases referred to in point (b) of Article 94 of the Financial Regulation;
 - (b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.

In all cases, however, the contracting authority must first give the person concerned an opportunity to present his observations.

3. The penalties referred to in paragraph 2 shall be proportionate to the importance of the contract and the seriousness of the misconduct, and may consist in:
 - (a) exclusion of the candidate or tenderer or contractor from the contracts and grants financed by the Union budget for a maximum period of ten years; and/or
 - (b) the payment of financial penalties by the candidate or tenderer or contractor up to the value of the contract in question.
4. In accordance with Article 133 of the Regulation laying down the rules for the implementation of the Financial Regulation, the cases referred to in point e) of 5.1.1. above shall be the following:
 - (a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests drawn up by Council Act of 26 July 1995 (OJ C 316, 27.11.1995, p. 48);
 - (b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997 (OJ C 195, 25.6.1997, p. 1);
 - (c) cases of involvement in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council (OJ L 351, 29.12.1998, p. 1);
 - (d) cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC (OJ L 166 of 28 June 1991, p. 77).
5. Pursuant to article 133a of the Regulation laying down the rules for the implementation of the Financial Regulation, in order to determine duration of exclusion and to ensure compliance with the principle of proportionality, the institution responsible shall take into account in particular the seriousness of the facts, including their impact on the Union's financial interests and image and the time which has elapsed, the duration and recurrence of the offence, the intention or degree of negligence of the entity concerned and the measures taken by the entity concerned to remedy the situation.

When determining the period of exclusion, the institution responsible shall give the candidate or tenderer concerned the opportunity to express their views.

Where the duration of the period of exclusion is determined, in accordance with the applicable law, by the authorities or bodies referred to in Article 95(2) of the Financial Regulation, the Commission shall apply this duration up to the maximum duration laid down in Article 93(3) of the Financial Regulation.

6. The period referred to in Article 93(3) of the Financial Regulation is set at a maximum of five years, calculated from the following dates:
 - (a) from the date of the judgment having the force of *res judicata* in the cases referred to in points (b) and (e) of Article 93(1) of the Financial Regulation;
 - (b) from the date on which the infringement is committed or, in the case of continuing or repeated infringements, the date on which the infringement ceases, in the cases referred to in Article 93(1)(c) of the Financial Regulation.

That period of exclusion may be extended to ten years in the event of a repeated offence within five years of the date referred to in points (a) and (b), subject to paragraph 5.

7. Candidates and tenderers shall be excluded from a procurement and grant procedure as long as they are in one of the situations referred to in points (a) and (d) of Article 93(1) of the Financial Regulation.
8. Pursuant to article 134b of the Regulation laying down the rules for the implementation of the Financial Regulation, without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have made false declarations, have made substantial errors or committed irregularities or fraud, or have been found in serious breach of their contractual obligations may be excluded from all contracts and grants financed by the Union budget for a maximum of five years from the date on which the infringement is established as confirmed following an adversarial procedure with the contractor.

That period may be extended to ten years in the event of a repeated offence within five years of the date referred to in the first subparagraph.

9. Tenderers or candidates who have made false declarations, have committed substantial errors, irregularities or fraud, may also be subject to financial penalties representing 2% to 10% of the total estimated value of the contract being awarded.

Contractors who have been found in serious breach of their contractual obligations may be subject to financial penalties representing 2% to 10% of the total value of the contract in question.

That rate may be increased to 4% to 20% in the event of a repeat infringement within five years of the date referred to in the first subparagraph of paragraph 8.

The institution shall determine the administrative or financial penalties taking into account in particular the elements referred to in Article 133a(1) of the Regulation laying down the rules for the implementation of the Financial Regulation.

5.2 Selection criteria

The following selection criteria will be used to select the tenderers.

If the tender is submitted by partners (as defined under section 2.2 above)

- the selection criteria in respect of financial and economic capacity (see point 5.2.2 below) are to be considered as setting minimum standards which must be fulfilled by each partner; consequently, documentary evidence has to be provided by each partner and an evaluation of the financial and economic capacity will be carried out for each of them;
- the selection criteria in respect of technical capacity (see 5.2.3 below) will be assessed in relation to the combined capacities of all the members of a partnership as a whole (including subcontractors)

Documentary evidence of the tenderers' claims in respect of the selection criteria is required as indicated below. The tender should also include any other document that the tenderer(s) wish(es) to include by way of clarification.

5.2.1 Professional information

Criterion:	Enrolment in one of the professional or trade registers in the country of establishment
Documentary evidence:	Declaration or certificate of enrolment in one of the professional or trade registers in the country of establishment

5.2.2 Financial and economic capacity

Criterion:	Sufficient financial and economic standing to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract
Documentary evidence:	Photocopies of annual income statements and balance sheets or extracts there from signed by the authorised representative of the legal entity for the last 2 financial years, where applicable, as approved by the general assembly of the company, audited and/or published.

If, for some exceptional reason which the Commission considers justified, a tenderer is unable to provide one or other of the above documents, he or she may prove his or her economic and financial capacity by any other document which the Commission considers appropriate. In any case, **the Commission must at least be notified of the exceptional reason and its justification in the tender.** The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

The Commission shall have sole discretion to judge the adequacy of tenderers' financial standing and, where it considers this insufficient, the right to reject any offer or to accept an offer subject to the provision of a pre-financing guarantee. Submission of a tender implies acceptance that the Commission's decision to request a pre-financing guarantee will be final and that it will not enter into negotiations with tenderers on this subject.

5.2.3 Technical background

Criterion:	Relevant expertise of the tenderer and other applicants, including subcontractors if any, acquired in the last three years, in the field of economic and legal analysis in the audiovisual sector.
Documentary evidence:	List of contracts in the field of economic and legal analysis in the audiovisual sector performed in the past three years, or currently being performed, with their respective values

Criterion:	Experience, technical knowledge and credibility of proposed team
Documentary evidence:	Concise but informative curricula vitae of team members, demonstrating professional experience, including the requisite language skills, in the field of economic and legal analysis in the audiovisual sector of at least three years. The Europass curriculum vitae template (available at http://europass.cedefop.europa.eu/europass/home/hornav/Introduction.csp) shall be filled in by each person involved in the execution of the tasks foreseen in the tender. Please make sure the precise contractual link with the tenderer is clearly indicated.

Criterion:	Management capability
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Documentary evidence:	<p>List of contracts of a value of at least EUR 250 000 each, performed by the tenderer(s) (including subcontractor(s), if any) in the last 3 years.¹⁵</p> <p>Description of the measures employed to ensure the quality of the services</p> <p>Statement of the average annual manpower and the number of managerial staff of the service provider or contractor in the last three years</p>
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5.3 Award criteria

5.3.1 Technical award criteria

The tenders will be qualitatively assessed on the basis of the technical award criteria and respective scores listed below:

Technical award criterion	Maximum score/weighting	Threshold
<p>1. Understanding of the tasks required</p> <ul style="list-style-type: none"> • Understanding of the context. • Understanding of objectives, issues at stake and tasks to be carried out. • Value added in respect of information included in the tender specifications. <p>(All the sub-criteria above are of equal relative importance)</p>	30	15
<p>2. Technical quality of the tender</p> <ul style="list-style-type: none"> • Completeness and full coverage of the scope • Relevance, quality and completeness of the information proposed to be used. • Quality of the methodology and approach to collect economic and legal information. • Soundness and appropriateness of the proposed analysis tools. • Quality of proposed deliverables <p>(All the sub-criteria above are of equal relative importance)</p>	60	30
<p>3. Management</p> <ul style="list-style-type: none"> • Feasibility to meet the objectives specified in the tender specifications (outlined e.g. by a work plan or timetable) 	10	5

¹⁵ If the tenderer(s) or subcontractor(s) participated as a partner in a consortium, the total value of the contract should be mentioned along with the value corresponding to the work executed by the partner.

<ul style="list-style-type: none"> • Sound and realistic allocation of financial and human resources, including allocation of expertise <p>(All the sub-criteria above are of equal relative importance)</p>		
TOTAL	100	60

Minimum score per criterion (threshold):

Tenders scoring less than 50% of the maximum score for any technical award criterion will be considered of insufficient quality and rejected.

Minimum total score (threshold):

Tenders with a total score of less than 60 points at the end of the evaluation process will be considered of insufficient quality and rejected.

5.3.2 Price

The price quoted must comply with the requirements laid down in Part 2 - section 4.3 above.

6 AWARD OF THE CONTRACT

The Contract shall be awarded to the tender offering the best value for money, which will be the one with the best quality/price ratio, taking into account the award criteria listed in section 5.3 and calculated according to the following formula:

$$S_x = \left(\frac{CP}{PT_x} \right) * 30 + \left(\frac{TQS_x}{100} \right) * 70$$

where:

S_x = score for tender x

CP = cheapest price

PT_x = price of tender x

TQS_x = total quality score

7 PAYMENT AND STANDARD CONTRACT

- Payments under the contract shall be made in accordance with articles I.4 and II.4 of the model contract attached.
- Depending on the financial solidity of the tenderer, payment of the pre-financing may be made conditional upon the furnishing by the Contractor of a financial guarantee.
- In any case, a financial guarantee shall be required for the payment of pre-financing exceeding EUR 150 000. The guarantee shall be supplied by a bank or an authorised financial institution. The guarantee shall be denominated in Euro. The guarantee shall be released as and when the pre-financing is deducted from interim payments or payments of balances to the contractor in accordance with the terms of the contract.

8 VALIDITY OF THE TENDER

Period of validity of the tender shall be nine months from the closing date for submission of the tender given above.

9 ADDITIONAL PROVISIONS

- Changes to tenders will be accepted only if they are received on or before the final date set for the receipt of tenders.
- Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.
- No information of any kind will be given on the state of progress with regard to the evaluation of tenders.
- All documents submitted by tenderers will become property of the Commission and will be regarded as confidential.

10 LIQUIDATED DAMAGES: SEE ARTICLE II.16 OF THE MODEL CONTRACT

11 NO OBLIGATION TO AWARD THE CONTRACT

Initiation of a tendering procedure imposes no obligation on the Commission to award the contract. Should the invitation to tender cover several items or lots, the Commission reserves the right to award a contract for only some of them. The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be so liable if it decides not to award the contract.

12 RESULTS

The results of the service must be forwarded to the European Commission in Brussels. **The copyright will belong to the Commission;** the Commission will in particular have the right to publish the results.

13 DISCLAIMER

The following sentence is to be prominently displayed on the cover of each working paper and the final report of the study. The disclaimer should also be incorporated into the introduction of each working paper and final report.

<p>The opinions expressed in this study are those of the authors and do not necessarily reflect the views of the European Commission.</p>
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PART 3: ANNEXES

ANNEX 1: ADMINISTRATIVE IDENTIFICATION FORM

<u>TENDERER'S ID</u>	
Name	
Legal form	
Date of registration	
Country of registration	
Registration number	
VAT number	
Address of registered office	
Contact address (if different)	
URL	
<u>AUTHORISED REPRESENTATIVE(S)¹⁶</u>	
<u>CONTACT PERSON</u>	
Name	
Forename	
Position	
Telephone	
Fax	
Email	
<u>DECLARATION BY THE AUTHORISED REPRESENTATIVE(S):</u> I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	

Place and date:

Name (in capital letters) and signature:

¹⁶ Please include the names of the legal representative(s) whose contract signature is required in accordance with the statutes of the organisation and the official document to be provided under section 2.3

ANNEX 2: LEGAL ENTITIES FORM

As required in PART 2 under section 2.3 of the tender specifications.

A standard template in each EU language is available at:

http://ec.europa.eu/budget/execution/legal_entities_en.htm

ANNEX 3: BANK IDENTIFICATION FORM

As required in PART 2 under section 2.3 of the tender specifications

A standard template in each EU language is available at:

http://ec.europa.eu/budget/execution/ftiers_en.htm

**ANNEX 4: DECLARATION OF HONOUR WITH RESPECT TO THE EXCLUSION
CRITERIA AND ABSENCE OF CONFLICT OF INTEREST**

**STUDY ON THE IMPLEMENTATION OF THE PROVISIONS OF THE
AUDIOVISUAL MEDIA SERVICES DIRECTIVE CONCERNING THE PROMOTION
OF EUROPEAN WORKS IN AUDIOVISUAL MEDIA SERVICES - SMART 2010/0002**

The undersigned *[name of the signatory of this form, to be completed]*:

in his/her own name *(if the economic operator is a natural person)*

or

representing *(if the economic operator is a legal person and the declaration is signed by a director or person with powers of representation)*

official name in full:

official legal form:

official address in full:

VAT registration number:

declares that he/she / the company or organisation that he/she represents:

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;
- e) has not been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- f) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;

- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract.
- k) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.
- l) that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above¹⁷.

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the Tenderer is a legal person and the national legislation of the country in which the Tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the Tenderer.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the Tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

By signing this form, the undersigned acknowledges that they have been acquainted with the administrative and financial penalties described under art 133 and 134 b of the Implementing Rules (Commission Regulation 2342/2002 of 23/12/02), which may be applied if any of the declarations or information provided prove to be false.

Full name

Date

Signature

¹⁷ Mandatory for contracts of value above EUR 125 000 only (see art. 134(2) of the Implementing Rules). The contracting authority can nevertheless request such evidence for contracts with a lower value.

ANNEX 5: POWER OF ATTORNEY¹⁸

MANDATING ONE OF THE PARTNERS IN A JOINT TENDER AS LEAD PARTNER
AND LEAD CONTRACTOR
**STUDY ON THE IMPLEMENTATION OF THE PROVISIONS OF THE
AUDIOVISUAL MEDIA SERVICES DIRECTIVE CONCERNING THE PROMOTION
OF EUROPEAN WORKS IN AUDIOVISUAL MEDIA SERVICES - SMART 2010/0002**

The undersigned:

– Signatory (Name, Function, Company, Registered address, VAT Number)

having the legal capacity required to act on behalf of his/her company,

HEREBY AGREES TO THE FOLLOWING:

- 1) To submit a tender as a partner in the group of partners constituted by Company 1, Company 2, Company N, and led by Company X, in accordance with the conditions specified in the tender specifications and the terms specified in the tender to which this power of attorney is attached.
- 2) If the European Commission awards the Contract to the group of partners constituted by Company 1, Company 2, Company N, and led by Company X on the basis of the joint tender to which this power of attorney is attached, all the partners shall be co-signatories of the Contract in accordance with the following conditions:
 - (a) All partners shall be jointly and severally liable towards the European Commission for the performance of the Contract.
 - (b) All partners shall comply with the terms and conditions of the Contract and ensure the proper delivery of their respective share of the services and/or supplies subject to the Contract.
- 1) Payments by the European Commission related to the services and/or supplies subject to the Contract shall be made through the lead partner's bank account: [Provide details on bank, address, account number].
- 2) The partners grant to the lead partner all the necessary powers to act on their behalf in the submission of the tender and conclusion of the Contract, including:
 - (a) The lead partner shall submit the tender on behalf of the group of partners.
 - (b) The lead partner shall sign any contractual documents — including the Contract, and Amendments thereto — and issue any invoices related to the Services on behalf of the group of partners.
 - (c) The lead partner shall act as a single contact point with the European Commission in the delivery of the services and/or supplies subject to the Contract. It shall co-ordinate the delivery of the services and/or supplies by the group of partners to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present power of attorney shall be subject to the European Commission's express approval. This power of attorney shall expire when all the contractual obligations of the group of partners towards the European Commission for the delivery of the services and/or supplies subject to the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in on [dd/mm/yyyy]

Place and date:

Name (in capital letters), function, company and signature:

¹⁸ To be filled in and signed by each of the partners in a joint tender, except the lead partner;

ANNEX 6a: LETTER OF INTENT FOR SUB-CONTRACTORS

STUDY ON THE IMPLEMENTATION OF THE PROVISIONS OF THE AUDIOVISUAL MEDIA SERVICES DIRECTIVE CONCERNING THE PROMOTION OF EUROPEAN WORKS IN AUDIOVISUAL MEDIA SERVICES - SMART 2010/0002

The undersigned:

Name of the company/organisation:

Address:

Declares hereby that, in case the contract is awarded to [name of the tenderer], the company/organisation that he/she represents, intends to collaborate in the execution of the tasks subject to this call for tender, in accordance with the tender specifications and the tender to which the present form is annexed, and is available to carry out its part of the tasks during the period foreseen for the execution of the contract.

Declares hereby taking note of Art. II.13 regarding subcontracting and Art. II.17 in relation with checks and audits of the service contract.

Place and date:

Name (in capital letters) and signature:

ANNEX 6b: LETTER OF INTENT FOR EXTERNAL EXPERTS

STUDY ON THE IMPLEMENTATION OF THE PROVISIONS OF THE AUDIOVISUAL MEDIA SERVICES DIRECTIVE CONCERNING THE PROMOTION OF EUROPEAN WORKS IN AUDIOVISUAL MEDIA SERVICES - SMART 2010/0002

The undersigned:

Address:

Declares hereby that, in case the contract is awarded to **[name of the tenderer]**, he/she intends to collaborate in an individual capacity as **an external expert** in the execution of the tasks subject to this call for tender, in accordance with the tender specifications and the tender to which the present form is annexed, and is available to carry out its part of the tasks during the period foreseen for the execution of the contract. In addition, the undersigned declares not to have any conflict of interest in connection with the contract, and not to be in one of the situations of exclusion referred to in Article 93(1) of the Financial Regulation¹⁹.

Declares hereby taking note of Art. II.13 regarding subcontracting and Art. II.17 in relation with checks and audits of the service contract.

Place and date:

Name (in capital letters) and signature:

¹⁹ Available at http://ec.europa.eu/budget/documents/financial_regulation_en.htm

CHECKLIST OF DOCUMENTS TO BE SUBMITTED

The purpose of the table below is to facilitate the preparation of the tender by providing an overview of the documents that must be included (marked by ■) depending on the role of each economic operator in the tender (be it lead partner, partner in joint bid, single tenderer or subcontractor/external expert). Some of the documents are only relevant in cases of joint bids or when subcontractors are involved. Additional documents might be necessary depending on the specific characteristics of each tender.

Description	Lead partner in a joint bid	All the other partners in a joint bid	Single tenderer (with or without subcontractors)	Subcontractor	Subcontractor – External expert
<i>Administrative section of the tender</i>					
Annex 1: Original Administrative identification form (see section 2.3, part 2)	■	■	■	■	
Annex 2: Original Legal Entity Form (see section 2.3, part 2)	■	■	■		
Annex 3: Original Financial Identification form (see section 2.3, part 2)	■		■		
Annex 4: Original Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (see section 2.3, part 2)	■	■	■	■	
Annex 5: Original Power of attorney (see section 2.3, part 2)		■			
Annex 6 a: Original Letter of intent from each subcontractor (see section 2.3, part 2)				■	
Annex 6 b: Original Letter of intent from each subcontractor (see section 2.3, part 2)					■
Legible photocopy of the statutes of the entity (see section 2.3, part 2)	■	■	■		
Legible photocopy of the notice of appointment of the persons authorised to represent the tenderer (see section 2.3, part 2)	■	■	■		
Declaration or certificate of enrolment in one of the professional or trade registers in the country of establishment (see section 5.2.1)	■	■	■		
Evidence of financial and economic capacity (see section 5.2.2)	■	■	■		
Evidence of Technical background (see section 5.2.3)	■	■	■	■	■
<i>Technical Section of the tender (see section 4.2, part 2)</i>	■		■		
<i>Financial Section of the tender (see section 4.3, part 2)</i>	■		■		