



## **SPECIFICATIONS ANNEXED TO THE INVITATION TO TENDER**

**Public service contract n° DG EAC/27/03 to be awarded following an open call for tender**

**TITLE: *Study relating to the directive "Television without Frontiers"***

***Study on the impact of measures concerning the promotion of the distribution and production of TV programmes (Community and national) provided for under Article 25 (a) of the directive on television without frontiers***

### **1. INTRODUCTION – CONTEXT OF THE CONTRACT**

***This call concerns the "Television without frontiers Directive" (Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending the Council Directive 89/552/EEC), on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities<sup>1</sup>***

*The EEA States are also subject to the provisions of the Directive by way of the EEA Agreement.*

THE study "Evaluation of the impact of measures concerning the promotion of distribution and production of television programmes in the European audiovisual sector" will be carried out in application of Article 25 (a) of the Directive, which makes provision for an independent study on the impact of measures concerning the promotion of distribution and production of television programmes at Community and national levels.

### **2. PURPOSE OF CONTRACT**

#### **2.1. Description of the contract**

The geographical coverage of the study is EU and EEA member states.

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<sup>1</sup> Hereafter "the Directive"

<sup>2</sup> COM(1999)657 final, 14-12-1999

The aim of the study is to provide the Commission with the elements required for evaluating the impact of measures, taken at Community and national levels (Articles 4 and 5 of the Directive) for the promotion and distribution of television programmes, on the development of the European content industry.

The study will cover the following main points:

a) Analysis and description of the audiovisual market in each Member State, including content production, with particular reference to the broadcasting channels listed in the national reports contained in the fifth communication from the Commission to the Council and the European Parliament concerning the implementation of Articles 4 and 5 of the Directive for the period 1999 and 2000.

b) Description and analysis of measures taken by the Member States pursuant to Articles 4 and 5 of the Directive.

c) Determination of performance indicators for the measures referred to in b) in order to measure their consequences on television programmes and their economic effects on broadcasters and on the European content industry.

d) Evaluation of the consequences, in terms of economics and of the programming of European works, of the measures referred to in b) for broadcasting channels, and for the resulting demand for the European content industry analysing the effectiveness of broadcasting quotas compared with other types of support measures such as investment quotas, tax incentives, etc. A comparative analysis of the results of the different types of support measures introduced by the Member States in this area should be carried out. Consideration should be given to the quantifiable impact of such measures in the field of linguistic and cultural diversity, as well as the protection of the public interest with regard to the role of television as a vehicle for the dissemination of information, education, and culture.

e) Qualitative analysis of the main factors having a positive or negative influence on decisions taken by broadcasting channels mentioned in point a), with regard to the programming of European works. In particular, analysis of elements likely to encourage the broadcasting of non-national European works.

f) Analysis of the financial situation of independent content production (Article 5 of the Directive) in Europe and prospects for development in the new technological context, particularly in relation to the development prospects for integrated groups.

The study will consider on the one hand the results obtained at a European level and, on the other, the results obtained in each of the Member States concerned.

Workshop: in the context of this study and after completion of the final report, the contractor will organise a public workshops to be held in Commission premises (cost of meeting room and interpretation to be borne by the Commission) with, among others, representatives of the European audiovisual industry. The workshop will allow for input by interested parties. Moreover, the contractor will participate in the hearings organised by the Commission in the framework of the review of the Television without Frontiers Directive.

## **2.2 Methodology**

Each bidder must describe in detail the methodology to be applied should the bidder be awarded the contract, in particular with regard to the collection, treatment, analysis and presentation of data and information, as well as to the geographical coverage. Particular attention will be given to identification of sources of information and, where applicable, to the criteria for the design of the scenarios. It will be submitted to the European Commission representative for agreement beforehand.

### **2.3 Characteristics of the contracts**

Tasks will be performed at the usual place of business of the contractor. Subcontracting is permitted, subject to approval of the subcontractor by the Commission.

The contractor will be required to attend meetings in Brussels to:

- launch the study
- present each of the reports.

The tasks will be concluded within the periods specified under point 3 below. The duration of the contract will be eighteen months from the date of signature of the contract by the two parties.

### **3. REPORTS AND DOCUMENTS TO BE SUBMITTED**

The Commission will require the contractor to submit a first interim report after 4 months of signing the contract, a second interim report after 8 months of signing the contract and a final report after 12 months of signing containing a detailed financial statement.

All documents will be presented in English or French. All reports will be presented in 5 copies and electronically in Word format. The final report will be provided also in PDF and HTML formats

#### *Interim reports*

The interim reports will contain a detailed breakdown of the results of the analyses conducted so far, as well as the timetable for the forthcoming evaluation work. They will be sent to the Commission within 15 days of the end of the reference periods mentioned above.

Each interim report will be considered as being accepted by the Commission if, within 60 days after the receipt, the Commission has not explicitly made its observations to the contractor.

Within 20 days of receiving the Commission's observations, the contractor will submit the interim reports in definitive form, either taking account of these observations or setting out different arguments.

#### *Final report*

The final report will describe the work accomplished and the results obtained when carrying out the contract. A draft version of the final report must be submitted to the

Commission within 30 days of the end of the twelve months period from the signature of the contract. The Commission will then inform the contractor of its acceptance of the report, or will pass on its observations. Within 20 days of receiving the Commission's observations, the contractor will submit the final report in definitive form, either taking account of these observations or setting out different arguments.

In the absence of observations from the Commission within 45 days after the date of receipt of the draft report, the contractor will be entitled to request its acceptance of the report in writing.

The final report will be considered as being accepted by the Commission if, within 60 days after the receipt, the Commission has not explicitly made its observations to the contractor.

The final report will contain a detailed executive summary, charts and slides suitable for a presentation to the public (professionals and media).

#### **4. PAYMENT**

The payment procedures are as follows:

- A pre-financing payment equal to 30 % of the total amount of the contract within 30 days after the receipt of a request for pre-financing and the receipt of a duly constituted financial guarantee equal to such pre-financing;
- an interim payment of 40% of the total amount of the contract within 30 days of the date on which the second interim report accompanying a request for payment is approved by the Commission. A performance guarantee corresponding to 7 % of the total value of the Contract shall be constituted by deduction from the interim payment.
- the payment of the balance of the total amount of the contract within 30 days of the date on which the final reports and the other documents accompanying a request for payment are approved by the Commission.

Payments will be made into the bank account of the contractor upon presentation of invoices.

#### **5. TENDERS MUST BE DRAWN UP IN ACCORDANCE WITH THE MODEL CONTRACT ATTACHED TO THIS INVITATION TO TENDER (ANNEX 1).**

#### **6. THE TENDER MUST INCLUDE:**

- all of the information and documents necessary for the appraisal of tenders by the authorising department on the basis of the exclusion, selection and award criteria set out at point 9, 10 and 11, respectively.

- the methodology to be applied by the contractor to be described in detail, in particular with regard to the collection, treatment, analysis and presentation of data. The methodology shall reproduce the text of points 1 to 4 of these specifications, together with the contractor's response to them, including an indicative breakdown of personnel, travel, overhead and «other» costs and a summary table for all personnel specifying roles and qualifications (e.g. Project manager, Senior expert, Junior expert, Legal expert, Senior consultant, Junior consultant, Secretary,, etc), number of persons and working days.
- The bank details of the tenderer (account number, account holder, name, address and bank code of the branch, BIC/SWIFT code). The Annex 5 "Information concerning the tenderer" may be used;
- A declaration indicating the VAT liability and, depending on the case, either the VAT number or an exemption attestation;
- The price, in accordance with point 7 below.

**7. TENDERERS SHOULD NOTE THE FOLLOWING POINTS REGARDING THE PRICE:**

- It is an all-in price that includes all expenses including travel and subsistence costs. The price should be within the limit of 550.000 €
- Prices must be quoted in Euro:
  - tenderers from other States must use the conversion rates published at the Official Journal of the European Communities, C series, on the publication date of this call for tenders;
- Prices must be fixed amounts (in euro);
- Prices are firm and not subject to revision;
- Prices must be quoted free of all duties, taxes and other charges, including VAT, as the Communities are exempt from such charges under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities. The amount of VAT should be shown separately. VAT will not be taken into account in the award of the contract.

**8. TENDERS MUST BE DRAWN UP IN ONE OF THE OFFICIAL LANGUAGES OF THE EUROPEAN UNION AND MUST BE SUBMITTED IN TRIPLICATE.**

**9. EXCLUSION CRITERIA**

Tenderers shall be excluded from participation in a 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 judgment 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 judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

Tenderers must certify that they are not in one of the situations listed above.

As satisfactory evidence that the candidate or tenderer is not in one of the situations described in point (a), (b) or (e) above, 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.

The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) above, a recent certificate issued by the competent authority of the State concerned. Where no such certificate is 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.

Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:

- (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 contract procedure or fail to supply this information.

Administrative or financial penalties may be imposed by the contracting authority on candidates or tenderers who are in one of the cases of exclusion provided for above, in accordance with Articles 93, 94 & 96 of the Financial Regulation (Council Regulation 1605/2002 of 25/6/02) and Article 133 of the Implementing Regulation (Commission Regulation 2342/2002 of 23/12/02)”

Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to above may be requested in relation to legal persons and/or natural persons including, where considered necessary, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer. If desired to have this information in relation to legal persons, this must be specified

## **10. SELECTION CRITERIA**

### 10.1 Economic and financial capacity.

Tenderers must provide evidence of their financial and economic ability to take on the tasks specified in this contract. Such evidence may be provided in the form of one or more of the following reference documents:

- a) appropriate statements from banks or evidence of professional risk indemnity insurance;
- b) the presentation of balance sheets or extracts from balance sheets for at least the last two years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established;
- c) a statement of overall turnover and turnover concerning the works, supplies or services covered by the contract during a period which may be no more than the last three financial years

Where the tenderer wishes to sub-contract or otherwise rely on the capacities of other entities, it must in that case prove that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

If, for a justifiable reason, the tenderer is unable to produce the references required by the adjudicating authority, it is authorised to prove its economic and financial capacity by any other document considered to be appropriate by the adjudicating authority. In the case where the contractor is an individual, s/he is obliged also to provide proof of his/her independent status. To this end, s/he should provide documentary evidence concerning hi/her social security cover and VAT obligations, or proof of exemption from VAT, as appropriate.

### 10.2 Technical and professional capacity

Tenderers must provide evidence of their technical and professional ability to take on the tasks specified in this contract using the following criteria:

- a) their experience in the area of the Audiovisual Sector, in the organisation of workshops, and in particular of analysis of audiovisual markets as well as legal frameworks;
- b) their knowledge of the media market and industry, and in particular of the European system of quotas for audiovisual works;
- c) their ability to create a team capable of carrying out the work required in all participating countries.

The following documents must be provided, as a basis for assessing if the tender fulfils the above criteria:

- 1) the staff chart of the organisation and the CVs of the staff who will be responsible for the work and of any partners likely to be involved, giving details of their professional experience, their specific contributions and the qualifications and linguistic abilities of each partner;
- 2) a list of the principal services provided during the last three years, indicating the subject, the amount, the date and the recipient of the services provided (public or private);
- 3) the list of partners participating in the work across all the countries concerned, where a single contractor represents a partnership in order to fulfil the conditions required by these Specifications.

In addition, tenders from consortia of firms or from groups of service providers must specify the role, qualifications and experience of each member of the group (see point 2 above). The Commission will conclude a single contract with a single contractor, who will take responsibility for the performance of all sub-contractors and/or partners.

N.B.: Tenderers who do not provide the documentation specified or are judged not to have fulfilled the above criteria will be excluded.

## **11. AWARD CRITERIA**

The contract will be awarded to the economically most advantageous tender, on the basis of the following criteria:

a) qualitative criteria (70%)

- the relevance and quality of the methodology (21%);
- the appropriateness of the skills and experience of the team (21%)



- identification and quality of sources (21 %);
- the quality of the geographical coverage (7%)

b) the price (30%)

During the assessment of tenders, each of these criteria will have the weight as indicated.

- 12. SUBMISSION OF A TENDER IMPLIES ACCEPTANCE OF THE TERMS SPECIFIED IN THE COMMISSION'S "GENERAL CONDITIONS" SET OUT AT ANNEX II OF THE CONTRACT AND OF ALL THE PROVISIONS SET OUT IN THESE SPECIFICATIONS AND IN THE INVITATION TO TENDER AND, WHERE APPLICABLE, ADDITIONAL DOCUMENTS.**
  
- 13. THIS INVITATION TO TENDER IS OPEN TO TENDERERS FROM THE MEMBER STATES OF THE EUROPEAN UNION, THE EUROPEAN ECONOMIC AREA AND THE SIGNATORY STATES TO THE GATT TREATY, IN ACCORDANCE WITH THE PRINCIPLE OF RECIPROCITY.**
  
- 14. TENDERERS MUST KEEP THEIR BIDS OPEN, IN RESPECT OF ALL THE CONDITIONS THEREIN, FOR A PERIOD OF SIX MONTHS AFTER THE DEADLINE FOR THE SUBMISSION OF TENDERS.**
  
- 15. TENDERS MUST BE INTRODUCED BY A LETTER OF PRESENTATION\*, SIGNED BY THE TENDERER OR A PERSON DULY AUTHORISED BY HIM.**

The signature of the tender commits the tenderer vis-à-vis the contracting authority. The tenderer must indicate clearly the organisation's identity: full legal name, abridged name (if relevant), acronym (if relevant), legal status (association, company, university or other), VAT number (if relevant), address and all other relevant information.

\* Annex 5 "Information concerning the tenderer" may be used.

## **16. Clarification meeting**

A clarification meeting will be held on 24/04/2003 at 10:00 at DG EAC'building, room 7/8, rue Belliard 100, B-1049 Brussels to answer any questions on the tender dossier which have been forwarded in writing or are raised at the meeting. Minutes will be taken during the meeting and these will be posted on the website of the Education and Culture DG at the following address [http://europa.eu.int/comm/avpolicy/studi\\_en.htm](http://europa.eu.int/comm/avpolicy/studi_en.htm) together with any clarifications in response to written requests which are not addressed during the meeting - at the latest 11 calendar days before the deadline for submission of tenders. All costs of attending this meeting must be met by the tenderers.

## 17. SUBMISSION OF THE TENDERS

Tenders may be submitted:

- a) either by registered mail, posted no later than 15/05/2003 (postmark);
- b) or by delivery (in person or by an authorised representative or private courier service) to the following address:

European Commission  
Directorate-General EAC  
Unit C-1 "Audiovisual Policy"  
office  
Rue Belliard 100  
B-1049 Brussels

not later than 16h00 on 15/05/2003, in which case a receipt must be obtained as proof of submission, signed and dated by the official in the department who took delivery.

Tenders must be placed inside two sealed envelopes. The inner envelope, addressed to the department indicated above, should be marked: “**Invitation to tender n° DG EAC/27/03 -Not to be opened by the internal mail department**”. If self-adhesive envelopes are used, they must be sealed with adhesive tape and the sender must sign across this tape.

## 18. THE COSTS OF DISPATCHING THE TENDER SHALL BE BORNE BY THE TENDERER.

## 19. OPENING OF THE TENDERS

An ad hoc committee will be set up to open the tenders and to check whether the procedures for the submission of tenders have been complied with. This committee will open the tenders on 23/05/2003 at 10.00 h. in DG EAC's building, room 7/8, rue Belliard 100, B-1049 Brussels.

A representative of each bidding organisation may attend the opening of the tenders.

## 20. SECURITY OR GUARANTEES

The Commission may require the tenderer to provide a bank guarantee (or other security) to cover the total amount of the contract, as a guarantee against the correct fulfilment of the contract. The guarantee shall be paid back as and when payments are made by the Commission to the contractor. In the case of the non-fulfilment of the contract, of delay in its fulfilment or of a failure to meet quality standards, the

Commission shall be compensated for any damages, and expenses incurred in compensating for the loss, by deduction from the guarantee, whether this has been provided directly by the contractor or by a third party.

## **21. PUBLICATION**

Rights concerning the study and those relating to its reproduction and publication will remain the property of the European Commission. No document based, in whole or in part, upon the work undertaken in the context of this contract may be published except with the prior formal written approval of the European Commission.

## **22. TENDERERS WILL BE INFORMED OF THE OUTCOME OF THEIR TENDER.**

## **ANNEXES**

- 1 STANDARD SERVICE CONTRACT**
- 1/I SPECIAL CONDITIONS**
- 1/II GENERAL CONDITIONS**
- 2 PRICE TABLE (TO BE FILLED BY THE TENDERER)**
- 3 GENERAL TERMS AND CONDITIONS APPLICABLE TO THE TENDERING PROCEDURE**
- 4 INDICATIVE TABLE OF AVERAGE COSTS FOR TRAVEL FOR REFERENCE)**
- 5 INFORMATION CONCERNING THE TENDERER (TO BE FILLED BY THE TENDERER)**

<b>PRICE</b>
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(All amounts must be expressed in euro)

It is an all-in price that includes all expenses including travel and subsistence costs:

An indicative breakdown of the components of the price should be provided.

It will indicate personnel , travel , overhead and «other» costs and a summary table for all personnel specifying roles and qualifications (e.g. Project manager, Senior expert, Junior expert, Legal expert, Senior consultant, Junior consultant, Secretary,, etc), number of persons and working days.

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<b>INDICATIVE TABLE OF AVERAGE COSTS FOR TRAVEL TO MEET DG EAC IN BRUSSELS</b>
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(Euro)

Place of origin	Means of transport	Travel costs	Subsistence costs
BRUSSELS	-	-	-
ATHENS	Plane*	1.114	149,63
BONN	Train	98	149,63
COPENHAGEN	Plane*	840	149,63
DUBLIN	Plane*	650	149,63
HELSINKI	Plane*	1.100	149,63
THE HAGUE	Train	64	149,63
LISBON	Plane*	1.112	149,63
LONDON	Plane*	459	149,63
LUXEMBURG	Train	66	149,63
MADRID	Plane*	1.122	149,63
PARIS	Train	103	149,63
ROME	Plane*	907	149,63
STOCKHOLM	Plane*	1.052	149,63
VIENNA	Plane*	1.060	149,63

*\* Tariff in the class next below first class (Business Class)*

**Information concerning the tenderer**

**The tenderer's identity**

Business name (complete legal name):

Abridged name (if necessary):

Acronym (if necessary):

The applicant's legal status (association, commercial company, university etc):

N° of VAT (if necessary):

**Address of the seat**

Street:

N°:

Postal code:

City:

Country:

**The tenderer's banking references**

Name of the bank:

Street:

N°:

Postal code:

City:

Country:

Code of the bank:

N° of bank account:

BIC CODE (SWIFT):

Holder of the tendering organisation's principal account

Name and first name:

Title or quality within the tendering organisation:

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**References relating to the call for tenders**

N° call for tenders: DG EAC/27/03

Title:

N° lot and title of the lot (if necessary):

Total price quotation (without VAT and in euro):

Person who will sign the contract (Name, first name):

acting in the capacity as:

Date :

SIGNATURE: