

TENDER SPECIFICATIONS

Challenges of the digital era for film heritage institutions

SMART 2010/0001

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1 CONTEXT

Point 25 of the implementation report on the Film Heritage Recommendation¹ recommends to European film heritage institutions to "make the necessary changes to face the challenges of the digital era". In particular, they were asked to address the following issues:

- collection / acquisition of digital material (distributed in digital cinemas or via new channels);
- cohabitation of the unsolved challenges of analogue supports and the new challenges of digital supports;
- storage / conservation of digital material, which could require regular migration to new formats or supports;
- applying digital technologies for restoration;
- giving access via internet or new channels of distribution to the collections, while ensuring respect of copyright laws;
- integration in the European digital library (www.europeana.eu).

The Commission is preparing the second report on the implementation of the Film Heritage Recommendation² on the basis of Member States' implementation reports. This report will contain a first analysis of the challenges and opportunities of the digital era for European film heritage and some proposals for action. The full text of Member States' reports is available on the Commission's website, in English and in the original language³.

Transition to digital will have consequences on the collection and preservation of film heritage, as well as on the way film heritage will be made available. 80% of silent films are estimated to be lost. Unless action is taken, the same could happen to digitally-born films. At the same time, new technologies open new ways of accessing film heritage that we could have not imagined five years ago.

New technologies and societal changes are triggering increasing demand for accessing film heritage. The role of film heritage institutions is evolving from the traditional model of the "sealed box", conserving fragile film materials for posterity in their vaults, towards a new "full access" model, whereby they become well-springs of film culture. The main difficulty encountered during this transition is the lack of legal mechanisms permitting the cultural and educational use of the films and related film material in an efficient manner.

The second report on the implementation of the Film Heritage Recommendation lists the following preliminary findings grouped under 6 themes:

1.1 Collection of digital material

What happens to digital production once it leaves the cinemas? For certain producers, it begins its life as a "long-term studio asset"⁴. For film heritage institutions, it becomes a cultural asset. But what is done at present in the EU to ensure the systematic collection of digital cinema? Ireland points out that digitally distributed material is not deposited, even if digital projection is already happening in Ireland. Only 7 Member States already collect digital material (The

¹ SEC(2008)2373 of 4/8/2008, http://ec.europa.eu/avpolicy/reg/cinema/report/index_en.htm

² http://ec.europa.eu/avpolicy/reg/cinema/report_2/index_en.htm

³ http://ec.europa.eu/avpolicy/reg/cinema/report_2/index_en.htm

⁴ "The Digital Dilemma – Strategic issues in archiving and accessing digital motion picture materials", drafted by the USA Academy of motion picture arts and sciences in 2007.

Netherlands, Czech Republic, Denmark, Greece, Luxembourg, Slovakia, and Spain). Spain underlines that the deposit of works produced in new media are expected to increase, as well as the types of digital support. France reports that its legal deposit law has been updated, in order to cover also digital supports. Nevertheless, it is still under study how to implement this obligation.

Member States should urgently update the legal instruments establishing legal or compulsory deposit of films, in order to cover films produced in all media.

1.2 Storage and long-term preservation of digital film material

Many questions are still open about the storage and long-term preservation of digital material. While life expectancy of film material kept in optimal conditions is several centuries, life expectancy of digital supports is only several years.

At present, film heritage institutions use two strategies:

- migrate the content from a digitally-born support on to an analogue support, and preserve it in this format;
- establish a plan of regular duplications and migrations into new digital formats⁵.

Both processes are extremely expensive. They require acquisition of equipment and training of professionals. For that reason, many European film heritage institutions are not yet taking any action.

Estonia reports that they have already established a policy on digital preservation, and acquired the main equipment. Finland is creating data systems to manage digital material. France is carrying out a technical audit assessing all options of preserving digital films. The results are expected in spring 2010. Netherlands is developing a strategy for a long-term storage of and access to its digital files. Germany, Portugal and Spain are also investigating the matter. The risk is enormous: Unless action is taken, we will only transmit a list of missing and lost films from the early days of digital cinema to future generations.

1.3 Application of digital technologies for restoration

Italy reports use of digital techniques to restore soundtracks and images. The Netherlands is using innovative digital techniques to restore their collections. In Denmark, Finland, Sweden and Spain, digital techniques complement photochemical ones when possible. France and Germany are equipped with all the hardware and software required for the digital restoration of collections. In Ireland, Luxembourg and Romania, digital restoration is carried out by external partners.

On one hand, Italy considers that progress in digital technologies goes in tandem with continual cost reduction. Therefore, restoration projects which were not possible with photochemical techniques now become feasible. On the other hand, Germany considers that the digital restoration sector is still in the development stage. Sweden affirms that the cost of digital restoration is still so high that it can only be used for occasional projects.

In summary, digital restoration technology is already available and used by certain Member States. The costs are still high, and more research is needed to further reduce costs. This would open the doors to restorations that could not have been done with photochemical techniques. Again, substantial investment is necessary in terms of equipment and professional training in this area.

⁵ The EDCine project proposed a model for this kind of strategy: <http://www.edcine.org/>

1.4 Digitisation and integration in Europeana

Most European film heritage institutions are in the process of digitising their collections. Often, digitisation is presented as a technique for preservation (Belgium, Cyprus, Finland, France, Germany, Italy, Luxembourg, Malta). The Netherlands has put in place the project "Images for the Future" (2007-2014), dedicated to the preservation of national audiovisual heritage, including cinematographic heritage by way of digitisation. Austria and Sweden point out that digitisation per se does not assure long-term survival of the collections. Digital material has to be constantly migrated in order to ensure long-term survival. Therefore, the main aim of digitisation should be increased access to collections.

Some countries have already developed film heritage digitisation strategies and programmes, which cover the whole national heritage (Denmark, Latvia). Others have decided to digitise only a limited number of films or those from a specific period. For instance, in Hungary only 100 Hungarian films have been digitised. Poland runs a project of preservation and digitisation of pre-war feature films.

The two main obstacles to digitisation of European film collections are:

- lack of funding;
- high cost in money and time for clearing rights and the lack of a legal and efficient solution allowing the use of orphan works.

The European Film Gateway⁶ (EFG) project acts as an "aggregator" for Europeana in the film domain. 15 film heritage institutions from 14 European countries are already content contributors to the EFG. Nevertheless, film content in Europeana is still small in relation to other sectors.

1.5 Increased access to collections thanks to new technologies

New technologies are opening new ways of accessing film heritage that we could have not imagined five years ago. Almost all European film heritage institutions provide on-line access to their cinematographic databases. In many cases, it is also possible to download or stream films. The Netherlands also offers a system of Video-on-Demand.

Unresolved copy-right issues, in particular the absence of legal and efficient solutions allowing the use of orphan works, hinder access to collections which could otherwise be available thanks to new technologies.

Good practices to highlight are the dedicated film heritage channels on You Tube (United Kingdom⁷ and The Netherlands⁸).

An increased access to collections will also benefit the educational and professional training sector, provided that the issues related to copy-right are solved.

1.6 Digital cinema and film heritage

European Cinémathèques also need to be equipped to project cinema in digital format. To date, only a few of them are. There is also the need to define standards (resolution, format, etc.) for digital projection of heritage films.

⁶ <http://www.europeanfilmgateway.eu/>

⁷ www.youtube.com/bffilms

⁸ <http://www.filmotech.nl/en/>

2 OBJECTIVES

2.1 Tasks to be performed under the contract

2.1.1 Description of the challenges

The contractor shall provide a detailed description of the challenges that film heritage institutions are facing in relation to all areas of their activities, as well as the opportunities that digital technologies offer. For the 6 themes listed in section 1 above, the following questions should be addressed:

Collection of digital material

- What would be the cost of extending the legal or compulsory deposit to digital support?
- What kind of digital supports should be covered by legal or compulsory deposit? And what kind of audiovisual works should be included?
- Is it appropriate to establish standards at European level specifying the conditions for the submission of digital films to archives and the conditions for their preservation? If so, what would be the most appropriate format? (European standard, CEN Workshop agreement...)? Which are the parameters that should be described in this standard?

Storage and long-term preservation of digital film material

- What are at present the options for long-term preservation of films in digital supports?
- Which elements should a national policy on preservation of digital films contain?
- What can be learnt from benchmarking with other sectors facing the same challenge of long-term preservation of digital archives?
- In which areas would it be necessary to do further research?
- How much would need to be invested in equipment and professional training in order to ensure the long-term survival of cinema in digital format?
- Is a common digital film archive an option in order to pull expertise and reduce scale costs?

Application of digital technologies for restoration

- How could the costs of digital restoration be further reduced?
- Which specific areas require additional research?
- What can be learnt from other sectors?

Digitisation and integration in Europeana

- What should be included in national strategies and plans for digitisation of film heritage?
- Which kind of cultural and economic considerations need to be made in order to decide what to include in the digitisation strategy?
- What is being done by Film Heritage Institutions that have digitised their collections in order to ensure the long term survival of the digital archives?
- What is hindering Film Heritage Institutions from making available films and related film material to Europeana, in particular through sector or national "aggregators"?

Increased access to collections thanks to new technologies

- Which are the new ways for providing access to film heritage thanks to new technologies?
- Which new audiences could be reached thanks to these new channels?

Digital cinema and film heritage

- What would be the cost of equipping cinemathèques with digital projectors? And what would be the cultural cost of not doing so?
- Are specific standards for the projection of digitised heritage film needed? If so, what parameters should they include?

2.1.2 Awareness and readiness

The contractor shall evaluate the awareness and readiness for changes of film heritage institutions and national administrations in the 27 Member States, and identify problems and best practices.

2.1.3 Comparison with the USA

The contractor shall analyse and compare the situation with film heritage institutions in the USA. In addition, it will describe the strategies of American majors and a representative sample of European production companies for long-term preservation and access to their digital or digitised films.

2.1.4 Challenges, opportunities and solutions in relation to digital archives and on-line access

The contractor shall analyse the challenges, opportunities and solutions found in relation to digital archive and on-line access in the archives of the public service broadcasters sector and another sector facing the same challenge of digital archiving and digital access and recommend which of the planned or adopted solutions can be applied also to film heritage. To this end, tenderers shall propose one suitable sector in their offers, taking into account the possibility of extrapolating the experience to the film heritage sector. .

2.1.5 Proposals

The contractor shall make proposals concerning the legal / organisational / technical / professional qualification changes that should be introduced to ensure that film archives will continue to perform their role in the digital era. An estimate of the cost of those changes should also be provided.

2.1.6 Conclusions

The conclusions of the study should provide policy options for EU and Member States as well as recommendations and a provisional calendar for film heritage institutions for adapting their activities to the digital era. Each policy option shall be analysed in terms of cost/benefit, including the risks and costs of non-action in cultural and economic terms. The policy options should be quantified in terms of financial investment. All the challenges described in point 2.1.1 should be addressed.

2.2 Expected contribution to the achievement of specific EU policy objectives

The results of the study will be an important input for a possible revision of the Film Heritage Recommendation.

The ultimate objective is a contribution to the implementation of [Article 167 of the TFEU \(ex Article 151 TEC\)](#):

1. The Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.

2. Action by the Union shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in the following areas:

— improvement of the knowledge and dissemination of the culture and history of the European peoples,

— conservation and safeguarding of cultural heritage of European significance,

— non-commercial cultural exchanges,

— artistic and literary creation, including in the audiovisual sector.

(...)

4. The Union shall take cultural aspects into account in its action under other provisions of the Treaties, in particular in order to respect and to promote the diversity of its cultures.

(...)

2.3 Preferred methodology

The methodology should include:

- Identification and analysis of all relevant literature, in relation to film heritage, public sector broadcasting archives and to the chosen third sector (cf. section 2.1.4 above).

- Interviews with European and US film heritage institutions and production companies, as well as with public sector broadcasting archives and archives of the chosen third sector. Interviews will be organised on the basis of a questionnaire prepared by the contractor and approved by the European Commission.

- Validation of the results of the Preliminary Final Report through the organisation of a Workshop. In addition, the Preliminary Final Report shall be made available on-line, in order to obtain feedback on it from all stakeholders even if they cannot attend the workshop.

- The study should clearly separate the compilation of information, its analysis, the recommendations for Member States and EU action and the cost of each recommendation in comparison with the no-action option.

2.4 Project management requirements

- One project leader should have the whole responsibility for the management of the project, the consistence of the whole project and for the daily contact with the Commission.

- The tasks should be divided into lots, according to the theme and/or geographical criteria, with a sub-project leader for each lot.

3 DURATION

Duration of the tasks must not exceed **11 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

- An **Inception report**, specifying the methodology, calendar resources and objectives provided in the tender in accordance with the indications provided by the Commission during the kick-off

meeting, shall be made available to the Commission's services within 2 weeks after the kick-off meeting is held.

- An **Interim Study Report**, which will cover the results of tasks 2.1.1-2.1.3 described above, shall be made available to the Commission's services within 3 months after the start of the execution of the tasks. In addition, it will contain a draft structure for the final report and an executive summary.

- A **Preliminary Final Study Report** shall be made available to the Commission's services within 5 months after the start of the execution of the tasks. This report will address all tasks described in section 2.1 above and will contain an executive summary. It will also include a summary and analysis of the brainstorming session (cf. section 4.2.2 below). In annex, it will contain the proposed agenda for the Workshop, the list of speakers, the list of invitees and a draft Power Point presentation of the study.

- A **Report of the Workshop and of the web consultation on the Preliminary Final Report** shall be made available to the Commission's services within 2 weeks after the workshop is held. In the report, the contractor shall summarise and analyse all the contributions received at the workshop and during the web consultation. It will highlight the aspects of the study that need to be improved according to the views of stakeholders. The annexes of this report will contain all the replies received through the web consultation, the list of participants in the Workshop and all presentations and slides used at the Workshop in a format suitable for publication by the Commission's services on the Commission website.

- The **Final Study Report** shall be made available to the Commission's services within 10 months after the start of the execution of the tasks. It will include a Power Point presentation of the study, as well as an executive summary in English, French and German.

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

4.1.2 Requirements for their delivery and presentation

- Reports should be delivered in electronic format (Word or compatible software). In addition, 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.

All deliverables must be written in English.

4.2 Meetings and workshops

4.2.1 Bilateral meetings

A half-day Kick-off meeting will be organised by the Commission and will take place at the Commission's premises in Brussels, within two weeks after the start of the execution of the tasks.

A half-day interim meeting to discuss the findings of the interim study report will be organised by the Commission and will take place at the Commission's premises in Brussels, within three weeks after the submission of the interim study report. The contractor will present the reports and address any clarification request from the Commission's services.

4.2.2 Brain storming session

A brain storming session shall be organised by the contractor with representatives of the film heritage sector, public service broadcasting archives and of the chosen third sector, as well as users willing to access film heritage (universities, schools, film producers, film directors, citizens in general...) and be held within 4 months after the start of the execution of the tasks. A maximum of 5 experts will be invited to this brainstorming session. All costs related to the organisation of the brainstorming session, including travel and subsistence expenses for the participating experts, shall be borne by the contractor.

The aim of the brainstorming is to evaluate the findings of the Interim Study Report as well as to collect a maximum of proposals for ensuring that film archives will continue to perform their role in the digital era. It will take place at the Commission's premises in Brussels and it will last one day.

This will require the contractor to prepare a short document and a presentation, which will raise issues for discussion. The contractor will also prepare the session (agenda, invitations, speakers, participants, etc.) and manage the discussion together with the Commission. The results of the brainstorming session will be incorporated in the Preliminary Final Study Report.

4.2.3 Workshop

A workshop shall be organised by the contractor within 9 months after the start of the execution of the tasks. The aim of the workshop is to present the preliminary findings of the study, and receive feedback from stakeholders. The number of participants should be between 90 and 110.

Invitees:

The Commission will provide a list of invitees (Film Heritage Institutions of the EU, European Professional associations, Commission Services, experts involved in related European projects). The contractor should propose additional invitees. The final list of invitees shall be approved by the Commission. The contractor will provide a list of confirmed participants 5 working days before the workshop is held. All invitees will pay for their own travel and subsistence expenses.

Speakers:

The selection of speakers has to be presented to the Commission for approval together with the Preliminary Final Study Report. The contractor is expected to provide a senior member of staff having worked on the contract to deliver a presentation on the main findings and a maximum of 4 other speakers.

Agenda drafting and planning:

The contractor will submit a draft agenda for the workshop together with the Preliminary Final Study Report. Once approved by the Commission, it will be made available on the Commission's website.

Length and place of the workshop:

The workshop will last one day and it will be held in Brussels. The Commission will provide the meeting premises for the workshop. All other organisational aspects will be the responsibility of the contractor.

Workshop documentation and on-line consultation:

The contractor shall make the Preliminary Final Report available on its webpage within one week following the Commission's approval. The Commission will also make it available on its

website. The objective is to allow a maximum number of stakeholders to give feedback on it. Workshop invitees will be notified of the availability of the draft report and be invited to submit their comments to the contractor. The on-line consultation will close 10 calendar days after the workshop. Comments may be published on the Commission's website, unless contributors explicitly request to keep their comments confidential.

Language:

The workshop will be in English. No interpretation will be provided.

Summary of costs:

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 and financing the travel and accommodation arrangements for speakers;
- Printing and distributing relevant information material for speakers and participants.

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

The work is expected to start on January 10, 2011.

Deliverable ↓	Meeting ↓	Month						
		1	3	4	5	6	9	10
	Kick-off meeting							
Inception report								
Interim Study Report								
	Interim meeting							
	Brainstorming session							
Preliminary Final Study Report								
	Workshop							
Report of the workshop + web contributions								
Final Study Report								

5 TERMS OF APPROVAL OF REPORTS

After reception of each report included in section 4.1.1 above, the Commission will have **25 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.

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 form⁹ (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 form¹⁰ (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 form¹¹ (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))

⁹ A standard template in each EU language is available at http://ec.europa.eu/budget/execution/legal_entities_en.htm

¹⁰ A standard template in each EU language is available at http://ec.europa.eu/budget/execution/ftiers_en.htm

¹¹ 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 200 000 (two 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	Declaration or certificate of enrolment in one of the professional or trade

evidence:	registers in the country of establishment
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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 AND Statements of overall turnover and turnover from contracts in the field of film heritage, audiovisual heritage or digital archiving in the last three financial years.

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 five three years, in the field of film heritage, audiovisual heritage or digital archiving.
Documentary evidence:	List of contracts in the field of film heritage, audiovisual heritage or digital archiving performed in the past five 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 film heritage, audiovisual heritage or digital archiving. 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.
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Criterion:	Management capability
Documentary evidence:	List of contracts of a value of at least EUR 100000 each, performed by the tenderer(s) (including subcontractor(s), if any) in the last 3 years. ¹² Description of the measures employed to ensure the quality of the services Statement of the average annual manpower and the number of managerial staff of the service provider or contractor in the last three years

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 objectives, issues at stake and tasks to be carried out. • Understanding the context. • 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 of the tasks • Degree of innovation • Quality of the methodology to collect, analyse and present data / Soundness and appropriateness of the proposed analysis tools and data gathering techniques • Quality of proposed deliverables <p>(All the sub-criteria above are of equal relative importance)</p>	50	25
<p>3. Management</p> <ul style="list-style-type: none"> • Feasibility to meet the objectives specified in the 	20	10

¹² 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.

tender specifications (outlined e.g. by a work plan or timetable) <ul style="list-style-type: none"> • Sound and realistic allocation of financial and human resources, including allocation of expertise (All the sub-criteria above are of equal relative importance)		
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.

The opinions expressed in this study are those of the authors and do not necessarily reflect the views of the European Commission.

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)¹³</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:

¹³ 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

<p style="text-align: center;">ANNEX 4: DECLARATION OF HONOUR WITH RESPECT TO THE EXCLUSION CRITERIA AND ABSENCE OF CONFLICT OF INTEREST</p>

Challenges of the digital era for film heritage institutions - SMART 2010/0001

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 above¹⁴.

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

¹⁴ Mandatory for contracts of value above €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 ATTORNEY¹⁵

MANDATING ONE OF THE PARTNERS IN A JOINT TENDER AS LEAD PARTNER
AND LEAD CONTRACTOR

Challenges of the digital era for film heritage institutions - SMART 2010/0001

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:

¹⁵ 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

Challenges of the digital era for film heritage institutions - SMART 2010/0001

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

Challenges of the digital era for film heritage institutions - SMART 2010/0001

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 Regulation¹⁶.

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:

¹⁶ 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>	■		■		