

**TENDER SPECIFICATIONS**  
**ATTACHED TO THE INVITATION TO TENDER**

**Invitation to tender No. ENER/C1/463-2011 concerning  
support activities for assessment of progress in renewable energy and  
sustainability of biofuels, and the transposition of the RES Directive**

# TABLE OF CONTENTS

I	SPECIFICATIONS
I.1	INTRODUCTION
I.2	PURPOSE OF THE CONTRACT
I.3	REPORTS AND DOCUMENTS TO PRODUCE - TIMETABLE TO OBSERVE
I.3.1	<i>INTERIM REPORT(S)</i>
I.3.2	<i>FINAL REPORT</i>
I.3.3	<i>REPORT FORMAT AND PUBLICATION</i>
I.4	DURATION OF THE TASKS
I.5	PLACE OF PERFORMANCE
I.6	ESTIMATE OF THE AMOUNT OF WORK INVOLVED
II	TERMS OF CONTRACT
II.1	TERMS OF PAYMENT
II.2	FINANCIAL GUARANTEES
II.3	SUBCONTRACTING
II.4	LEGAL FORM TO BE TAKEN BY THE GROUPING OF SERVICE PROVIDERS TO WHOM THE CONTRACT IS AWARDED (IF APPLICABLE)
III	FORM AND CONTENT OF THE TENDER
III.1	GENERAL
III.2	STRUCTURE OF THE TENDER
III.2.1	<i>FIRST SECTION: ADMINISTRATIVE PROPOSAL</i>
III.2.2	<i>SECOND SECTION: TECHNICAL PROPOSAL</i>
III.2.3	<i>THIRD SECTION: FINANCIAL PROPOSAL</i>
IV	ASSESSMENT AND AWARD OF THE CONTRACT
IV.1	EXCLUSION CRITERIA - EXCLUSION OF TENDERERS
IV.1.1	<i>EXCLUSION CRITERIA (ART. 93 OF FINANCIAL REGULATION)</i>
IV.1.2	<i>OTHER CASES OF EXCLUSION</i>
IV.1.3	<i>EVIDENCE TO BE PROVIDED BY THE TENDERERS</i>
IV.1.4	<i>ADMINISTRATIVE AND FINANCIAL PENALTIES</i>
IV.2	SELECTION CRITERIA – SELECTION OF TENDERERS
IV.2.1	<i>ECONOMICAL AND FINANCIAL CAPACITY – REFERENCES REQUIRED</i>
IV.2.2	<i>TECHNICAL AND PROFESSIONAL CAPACITY – REFERENCES REQUIRED</i>
IV.3	EVALUATION OF TENDERS - AWARD CRITERIA
IV.4	INFORMATION FOR TENDERERS
V	ANNEXES

## **I. SPECIFICATIONS**

### **I.1. Introduction**

The European Union (EU) has an overall 20% renewable energy target in final energy consumption and a 10% target of renewable energy in transport for 2020. These targets have been established by the Renewable Energy Directive (RES Directive)<sup>1</sup> adopted in 2009. The RES Directive, had to be transposed by Member States in their national legislation by 5<sup>th</sup> December 2010; Member States have the obligation to notify to the Commission all the legal measures implementing the provisions of the Directive, to be assessed for the purpose of ensuring complete transposition. The RES Directive also defines legally binding national renewable energy targets and requires Member States to implement policies and measures effectively designed to reach these targets.

The RES Directive (Article 4 (1) and 4(2)) requires that each Member State adopts a National Renewable Energy Action Plan (NREAP) in which it sets out the national overall target for the share of renewable energy and sectoral targets for the use of renewable energy in electricity, heating and cooling and transport, and measures to achieve these national targets.

The RES Directive (Article 22) also requires Member States to report to the European Commission on progress in the promotion and use of renewable energy. These reports, detailing in particular the sectoral and overall shares of renewable energy in the two preceding calendar years and the measures taken at national level to promote the renewable energy, as well as other elements listed in Article 22, shall be submitted to the European Commission on bi-annual basis starting from 31 December 2011, the date by which Member States are required to submit their first progress report.

The RES Directive (Article 17 and Article 23) includes a sustainability scheme for biofuels applying to all biofuels and their raw materials irrespective of whether they were cultivated and/or produced inside or outside the territory of the EU, and rules for reporting on and monitoring the compliance with these criteria. Only biofuels and bioliquids that fulfil these criteria can be counted towards national and overall EU renewable energy transport targets, only such biofuels can count towards renewable energy obligations and are eligible for financial support.

In accordance with the requirements set out in Articles 17 (7) and 23 (1), 23 (3), 23 (4), 23 (5) and 23 (6) of the RES Directive the European Commission is required to report every two years to the European Parliament and the Council on national measures taken to respect these sustainability criteria and on the impact of biofuel production in the EU and the main third countries of supply, as well as other elements listed in these two articles. The first report shall be published in 2012.

Responding to the above mentioned legal requirements, the European Commission intends to publish a detailed report in 2012 on the progress in the promotion and use of renewable energy, and sustainability of biofuels covering the legal obligations set out in Articles 17 (7), 23 (1), 23 (3), 23 (4), 23 (5) and 23 (6). This invitation to tender concerns support activities for assessment of progress in renewable energy and sustainability of biofuels, and the transposition of the RES Directive.

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<sup>1</sup> Directive 2009/28/EC of the European Parliament and the Council on the Promotion of the use of energy from renewable sources.

Reference is made to the following articles in the RES Directive<sup>2</sup> relevant for this invitation to tender:

#### *Article 17*

##### *Sustainability criteria for biofuels and bioliquids*

*1. Irrespective of whether the raw materials were cultivated inside or outside the territory of the Community, energy from biofuels and bioliquids shall be taken into account for the purposes referred to in points (a), (b) and (c) only if they fulfil the sustainability criteria set out in paragraphs 2 to 6:*

*(a) measuring compliance with the requirements of this Directive concerning national targets;*

*(b) measuring compliance with renewable energy obligations;*

*(c) eligibility for financial support for the consumption of biofuels and bioliquids.*

*However, biofuels and bioliquids produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, need only fulfil the sustainability criteria set out in paragraph 2 in order to be taken into account for the purposes referred to in points (a), (b) and (c).*

*2. The greenhouse gas emission saving from the use of biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall be at least 35 %.*

*With effect from 1 January 2017, the greenhouse gas emission saving from the use of biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall be at least 50 %. From 1 January 2018 that greenhouse gas emission saving shall be at least 60 % for biofuels and bioliquids produced in installations in which production started on or after 1 January 2017.*

*The greenhouse gas emission saving from the use of biofuels and bioliquids shall be calculated in accordance with Article 19(1).*

*In the case of biofuels and bioliquids produced by installations that were in operation on 23 January 2008, the first subparagraph shall apply from 1 April 2013.*

*3. Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land with high biodiversity value, namely land that had one of the following statuses in or after January 2008, whether or not the land continues to have that status:*

*(a) primary forest and other wooded land, namely forest and other wooded land of native species, where there is no clearly visible indication of human activity and the ecological processes are not significantly disturbed;*

*(b) areas designated:*

*(i) by law or by the relevant competent authority for nature protection purposes; or*

*(ii) for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations*

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<sup>2</sup> Directive 2009/28/EC of the European Parliament and the Council on the Promotion of the use of energy from renewable sources.

*or the International Union for the Conservation of Nature, subject to their recognition in accordance with the second subparagraph of Article 18(4);*

*unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes;*

*(c) highly biodiverse grassland that is:*

*(i) natural, namely grassland that would remain grassland in the absence of human intervention and which maintains the natural species composition and ecological characteristics and processes; or*

*(ii) non-natural, namely grassland that would cease to be grassland in the absence of human intervention and which is species-rich and not degraded, unless evidence is provided that the harvesting of the raw material is necessary to preserve its grassland status.*

*The Commission shall establish the criteria and geographic ranges to determine which grassland shall be covered by point (c) of the first subparagraph. Those measures, designed to amend non-essential elements of this Directive, by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(4).*

*4. Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land with high carbon stock, namely land that had one of the following statuses in January 2008 and no longer has that status:*

*(a) wetlands, namely land that is covered with or saturated by water permanently or for a significant part of the year;*

*(b) continuously forested areas, namely land spanning more than one hectare with trees higher than five metres and a canopy cover of more than 30 %, or trees able to reach those thresholds in situ;*

*(c) land spanning more than one hectare with trees higher than five metres and a canopy cover of between 10 % and 30 %, or trees able to reach those thresholds in situ, unless evidence is provided that the carbon stock of the area before and after conversion is such that, when the methodology laid down in part C of Annex V is applied, the conditions laid down in paragraph 2 of this Article would be fulfilled.*

*The provisions of this paragraph shall not apply if, at the time the raw material was obtained, the land had the same status as it had in January 2008.*

*5. Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land that was peatland in January 2008, unless evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil.*

*6. Agricultural raw materials cultivated in the Community and used for the production of biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall be obtained in accordance with the requirements and standards under the provisions referred to under the heading "Environment" in part A and in point 9 of Annex II to Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers [22] and in accordance with the minimum requirements for good agricultural and environmental condition defined pursuant to Article 6(1) of that Regulation.*

7. *The Commission shall, every two years, report to the European Parliament and the Council, in respect of both third countries and Member States that are a significant source of biofuels or of raw material for biofuels consumed within the Community, on national measures taken to respect the sustainability criteria set out in paragraphs 2 to 5 and for soil, water and air protection. The first report shall be submitted in 2012.*

*The Commission shall, every two years, report to the European Parliament and the Council on the impact on social sustainability in the Community and in third countries of increased demand for biofuel, on the impact of Community biofuel policy on the availability of foodstuffs at affordable prices, in particular for people living in developing countries, and wider development issues. Reports shall address the respect of land-use rights. They shall state, both for third countries and Member States that are a significant source of raw material for biofuel consumed within the Community, whether the country has ratified and implemented each of the following Conventions of the International Labour Organisation:*

- *Convention concerning Forced or Compulsory Labour (No 29),*
- *Convention concerning Freedom of Association and Protection of the Right to Organise (No 87),*
- *Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (No 98),*
- *Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value (No 100),*
- *Convention concerning the Abolition of Forced Labour (No 105),*
- *Convention concerning Discrimination in Respect of Employment and Occupation (No 111),*
- *Convention concerning Minimum Age for Admission to Employment (No 138),*
- *Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No 182).*

*Those reports shall state, both for third countries and Member States that are a significant source of raw material for biofuel consumed within the Community, whether the country has ratified and implemented:*

- *the Cartagena Protocol on Biosafety,*
- *the Convention on International Trade in Endangered Species of Wild Fauna and Flora.*

*The first report shall be submitted in 2012. The Commission shall, if appropriate, propose corrective action, in particular if evidence shows that biofuel production has a significant impact on food prices.*

(..)

## *Article 22*

### *Reporting by the Member States*

*1. Each Member State shall submit a report to the Commission on progress in the promotion and use of energy from renewable sources by 31 December 2011, and every two years thereafter. The sixth report, to be submitted by 31 December 2021, shall be the last report required.*

*The report shall detail, in particular:*

*(a) the sectoral (electricity, heating and cooling, and transport) and overall shares of energy from renewable sources in the preceding two calendar years and the measures taken or planned at national level to promote the growth of energy from renewable sources taking into account the indicative trajectory in part B of Annex I, in accordance with Article 5;*

*(b) the introduction and functioning of support schemes and other measures to promote energy from renewable sources, and any developments in the measures used with respect to those set out in the Member State's national renewable energy action plan, and information on how supported electricity is allocated to final customers for purposes of Article 3(6) of Directive 2003/54/EC;*

*(c) how, where applicable, the Member State has structured its support schemes to take into account renewable energy applications that give additional benefits in relation to other, comparable applications, but may also have higher costs, including biofuels made from wastes, residues, non-food cellulosic material, and ligno-cellulosic material;*

*(d) the functioning of the system of guarantees of origin for electricity and heating and cooling from renewable energy sources and the measures taken to ensure the reliability and protection against fraud of the system;*

*(e) progress made in evaluating and improving administrative procedures to remove regulatory and non-regulatory barriers to the development of energy from renewable sources;*

*(f) measures taken to ensure the transmission and distribution of electricity produced from renewable energy sources, and to improve the framework or rules for bearing and sharing of costs referred to in Article 16(3);*

*(g) developments in the availability and use of biomass resources for energy purposes;*

*(h) changes in commodity prices and land use within the Member State associated with its increased use of biomass and other forms of energy from renewable sources;*

*(i) the development and share of biofuels made from wastes, residues, non-food cellulosic material, and ligno-cellulosic material;*

*(j) the estimated impact of the production of biofuels and bioliquids on biodiversity, water resources, water quality and soil quality within the Member State;*

*(k) the estimated net greenhouse gas emission saving due to the use of energy from renewable sources;*

*(l) the estimated excess production of energy from renewable sources compared to the indicative trajectory which could be transferred to other Member States, as well as the estimated potential for joint projects, until 2020;*

*(m) the estimated demand for energy from renewable sources to be satisfied by means other than domestic production until 2020; and*

*(n) information on how the share of biodegradable waste in waste used for producing energy has been estimated, and what steps have been taken to improve and verify such estimates.*

*2. In estimating net greenhouse gas emission saving from the use of biofuels, the Member State may, for the purpose of the reports referred to in paragraph 1, use the typical values given in part A and part B of Annex V.*

*3. In its first report, the Member State shall outline whether it intends to:*

*(a) establish a single administrative body responsible for processing authorisation, certification and licensing applications for renewable energy installations and providing assistance to applicants;*

*(b) provide for automatic approval of planning and permit applications for renewable energy installations where the authorising body has not responded within the set time limits;*  
*or*

*(c) indicate geographical locations suitable for exploitation of energy from renewable sources in land-use planning and for the establishment of district heating and cooling.*

*4. In each report the Member State may correct the data of the previous reports.*

## *Article 23*

### *Monitoring and reporting by the Commission*

*1. The Commission shall monitor the origin of biofuels and bioliquids consumed in the Community and the impact of their production, including impact as a result of displacement, on land use in the Community and the main third countries of supply. Such monitoring shall be based on Member States' reports, submitted pursuant to Article 22(1), and those of relevant third countries, intergovernmental organisations, scientific studies and any other relevant pieces of information. The Commission shall also monitor the commodity price changes associated with the use of biomass for energy and any associated positive and negative effects on food security. The Commission shall monitor all installations to which Article 19(6) applies.*

*2. The Commission shall maintain a dialogue and exchange information with third countries and biofuel producers, consumer organisations and civil society concerning the general implementation of the measures in this Directive relating to biofuels and bioliquids. It shall, within that framework, pay particular attention to the impact biofuel production may have on food prices.*

*3. On the basis of the reports submitted by Member States pursuant to Article 22(1) and the monitoring and analysis referred to in paragraph 1 of this Article, the Commission shall report every two years to the European Parliament and the Council. The first report shall be submitted in 2012.*

*4. In reporting on greenhouse gas emission saving from the use of biofuels, the Commission shall use the values reported by Member States and shall evaluate whether and how the estimate would change if co-products were accounted for using the substitution approach.*

*5. In its reports, the Commission shall, in particular, analyse:*

*(a) the relative environmental benefits and costs of different biofuels, the effects of the Community's import policies thereon, the security of supply implications and the ways of achieving a balanced approach between domestic production and imports;*

*(b) the impact of increased demand for biofuel on sustainability in the Community and in third countries, considering economic and environmental impacts, including impacts on biodiversity;*

*(c) the scope for identifying, in a scientifically objective manner, geographical areas of high biodiversity value that are not covered in Article 17(3);*

*(d) the impact of increased demand for biomass on biomass using sectors;*



(e) the availability of biofuels made from waste, residues, non-food cellulosic material and ligno-cellulosic material; and

(f) indirect land-use changes in relation to all production pathways.

The Commission shall, if appropriate, propose corrective action.

6. On the basis of the reports submitted by Member States pursuant to Article 22(3), the Commission shall analyse the effectiveness of measures taken by Member States on establishing a single administrative body responsible for processing authorisation, certification and licensing applications and providing assistance to applicants.

(..)

Reference is made to the following key documents:

- Directive 2009/28/EC of the European Parliament and the Council on the Promotion of the use of energy from renewable sources amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC<sup>3</sup>,
- Member State's National Renewable Energy Action Plans<sup>4</sup> (NREAPs),
- Member State's reports on progress in the promotion and use of energy from renewable sources submitted to the European Commission by 31 December 2011<sup>5</sup>,
- Tender specifications for Invitation to tender (No. TREN/D1/458-2009) concerning support activities for the development of baseline data and methodology for reporting requirements for biofuels [Biofuels 2008 Baseline study]<sup>6</sup>,
- Final report on the development of baseline data and methodology for reporting requirements for biofuels [Biofuels 2008 Baseline study]<sup>7</sup>,
- Communication from the Commission on the practical implementation of the EU biofuels and bioliquids sustainability scheme and on counting rules for biofuels (OJ C 160 page 8);
- Communication from the Commission on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme (OJ C 160 page 1);
- Commission Decision on guidelines for the calculation of land carbon stocks for the purposes of Annex V of Directive 2009/28/EC (OJ L 151 page 19);
- Commission Decision on certain types of information about biofuels and bioliquids to be submitted by economic operators to the Member States (OJ L 9, page 11);
- Tender specifications for tender ENER/C1/504-2009 concerning "Renewable energy best practice and implementation of national action plans in the 27 EU Member States" <sup>8</sup>.

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<sup>3</sup> Available on <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0028:EN:NOT>

<sup>4</sup> Available on the European Commission's website at:

[http://ec.europa.eu/energy/renewables/transparency\\_platform/action\\_plan\\_en.htm](http://ec.europa.eu/energy/renewables/transparency_platform/action_plan_en.htm)

<sup>5</sup> Once submitted, these reports will be available on European Commission's transparency platform at:

[http://ec.europa.eu/energy/renewables/transparency\\_platform/action\\_plan\\_en.htm](http://ec.europa.eu/energy/renewables/transparency_platform/action_plan_en.htm)

<sup>6</sup> Available on the European Commission's (DG ENERGY) website:

[http://ec.europa.eu/dgs/energy/tenders/doc/specifications/2009/s112\\_160619\\_specifications.pdf](http://ec.europa.eu/dgs/energy/tenders/doc/specifications/2009/s112_160619_specifications.pdf)

<sup>7</sup> Work in progress. The Commission intends to publish this report and the methodology for reporting and monitoring the impacts from biofuel use on European Commission's (DG ENERGY) website in Summer 2011:

[http://ec.europa.eu/dgs/energy/tenders/2009\\_en.htm](http://ec.europa.eu/dgs/energy/tenders/2009_en.htm).

<sup>8</sup> Available on the European Commission's (DG ENERGY) website:

[http://ec.europa.eu/dgs/energy/tenders/doc/2010/s132\\_201609\\_specifications.pdf](http://ec.europa.eu/dgs/energy/tenders/doc/2010/s132_201609_specifications.pdf)

## **I.2. Division into lots.**

Each lot is the subject of separate contract. Tenderers may bid for any number of lots, but not for parts of lots.

## **I.3. Purpose of the contract**

### ***Lot 1: Assessment of the transposition of the RES Directive in Member States' national legislation***

The objective of this lot is to obtain legal support on the evaluation of conformity of the national legislative measures transposing the Renewable Energy Directive with the provisions of the respective Directive. This evaluation should also address the consistency, effectiveness and viability of the national legislative measures transposing the Renewable Energy Directive with a view to fully meeting the principles and objectives of this Directive's provisions.

The national legislative measures subject to the evaluation under this lot are those that did not make the object of the assessment carried out under the contract signed as a result of Tender ENER/C1/504-2009 due to the delayed notification by the Member States.

This assessment shall take into consideration the provisions of the NREAPs referring to future national legislative measures to be adopted and/or implemented by the Member States with a view to implementing the provisions of the Directive; the purpose is to verify whether the measures mentioned in the NREAPs have been practically implemented and to assess their compliance with the principles and objectives of the RES Directive. Reference is also made to the documents mentioned above for an exhaustive conformity assessment.

The communication language between the Commission and the awarded contractor is English.

### **1) Description of the tasks**

The concrete tasks have to cover the following:

**Task 1:** *Detailed conformity assessment of the Member States' national legal frameworks transposing the Renewable Energy Directive.*

The Commission needs to be provided with the assessment of the conformity of national policy measures with the provisions of the Directive.

The assessment studies will address approximately 15 Member States; this number is indicative. Member States to be covered by this contract will be communicated to the contractor at the kick-off meeting.

It should be noted that the work under this contract will continue the work done under Contract ENER/C1/504-2009 (tender specifications referred to in Section I.1). The results of assessment carried out under Contract ENER/C1/504-2009, as well as the methodology used will be made available to the winning contractors at the kick-off meeting. It should also be noted that the assessment studies will cover only legislation not included in the work carried out under the aforementioned contract.

The assessment studies have to cover, *at a minimum*, the following aspects for each Member State:

- a) the *consistency* of the national legislative measures with the provisions of the Directive and, if the case, with those of the NREAP;
- b) the *completeness* of transposition of the provisions of the Renewable Energy Directive into the national legislation, indicating at least whether it is partial or complete;
- c) the *effectiveness* of the national legislative measures implementing the Directive in terms of delivering the legal principles of the Directive. The effectiveness should be assessed, but not exclusively, with a view to national enforcement provisions (e.g. effective penalties established for breaching the respective legal provisions);
- d) the *legal analysis* of the national legislative measures, with a view to their *quality* in terms of creating a solid, coherent and effective regulatory framework, in line with the principles and objectives of the Renewable Energy Directive;
- e) the *relevance* of the national legislative measures with reference to the objectives and provisions of the Renewable Energy Directive;
- f) the *viability* of the national legislative measures in terms of reaching the 2020 mandatory national renewable energy targets, also, where necessary, from the perspective of the NREAPs provisions.

The Commission will make available for the contractor the Member States' national legislative measures transposing the Directive, if notified as transposition measures. The contractor should however be aware of the fact that the situation could arise, in some Member States' cases, to provide only a partial assessment of the national implementing measures, due to partial transposition being notified. The contractor should nevertheless provide a complete assessment of the national legislative measures, when full transposition is notified.

When full transposition is notified, the contractor should first carry out a *prima facie* check to verify whether this notification is actually complete, i.e. from a geographical and material point of view. The in-depth assessment mentioned above is to be carried out as well. The *prima facie* check is not necessary in the case of notification of partial transposition.

The assessment study should not be limited to a mere identification of the full/partial character of transposition of the Renewable Energy Directive in the EU Member States, or to a simple conformity check. The contractor must provide high quality, in-depth legal analysis of the national legislative measures from the perspective of their quality, effectiveness and viability. The assessment studies must provide recommendations, where necessary, on measures and actions to be taken with a view at improving the national legal framework. Best practice examples should also be singled out in the assessment study.

The contractor may be asked, if situation arises, to provide technical, scientific and legal support in the context of complaints or infringement procedures. These may arise due to the implementation of the NREAPs and of the Directive or due to the transposition of the Directive. The support will in most cases take the form of a technical note addressing the issues specified in the respective complaint or infringement procedure. Generally, the Commission will make available the technical documentation to the contractor in the language of the Member States concerned. The legal and/or technical analyst must have the capability to work on the original documents. The Commission will not provide the contractor with translations. The contractor shall submit the technical note within an agreed timeframe, usually in the range of 2-3 weeks. The note shall be submitted to the Commission electronically and in English.

The complaints or infringement proceedings for which such technical note may be requested will be determined by the Commission on a case-by-case basis. It is unknown at this moment, the number of

the requests for technical input or the Member States referred to in these requests. Nevertheless, the contractor should plan to handle 15 to 30 requests. On average each request for technical assessment will involve between 3 to 5 person-days.

The contractor will have to ensure by appropriate safeguards that the confidentiality of the information on complaints of infringement proceedings will be respected at all stages and that conflicts of interests will be avoided. This requirement will have to be also ensured for the conformity check process and its results.

**Task 2:** *Translation of the national legislative measures transposing the provisions of the Renewable Energy Directive.*

The contractor will be required to provide the Commission with the translation into English of those national legal provisions which he/she has identified as transposing (fully or partially) the provisions of the Renewable Energy Directive.

Therefore, the contractor must ensure that he/she has full knowledge of the official languages of the 27 Member States.

**Lot 2:** *Support activities for assessment of progress in renewable energy and sustainability of biofuels.*

These support activities should include:

- data collection, analysis and assessment of the progress in the promotion and use of renewable energy in EU Member States on the basis of Member State reports in accordance with Article 22 of the RES Directive;

- data collection, analysis and assessment of the compliance of EU Member States and main third countries of supply<sup>9</sup> with the EU sustainability criteria for biofuels in accordance with Article 17 (7) of the RES Directive;

- data collection, analysis and assessment of impacts from increased use of biofuels in the EU in accordance with Articles 17 (7), 23 (1), 23 (4), 23 (5a-f) of the RES Directive.

*Description of tasks*

Support activities should cover the following tasks:

Task 1:

An analysis of Member States and aggregated EU progress in renewable energy. This assessment should be based on thorough and detailed analysis of the progress reports submitted by each of the 27 EU Member States to the European Commission in 2011 in accordance with Article 22 of the RES Directive.

The analysis should include at least the following:

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<sup>9</sup> For suggested list (non-exhaustive) of main third countries of supply, please see the methodology part (last point).

- an assessment of progress in renewable energy use and development in the EU and in each of the 27 Member States with respect to the information and measures described in their National Renewable Energy Action plan submitted to the European Commission in 2010;
- an assessment of policies in each EU Member State to ensure that progress in renewable energy development remains on track and allows the Member State to comply with its interim trajectory and targets established in Table 3 of its NREAP;
- an analysis and assessment of the support schemes and other measures to promote the renewable energy in each of the Member States;
- an analysis of the functioning of the system of guarantees of origin for electricity and heating and cooling in each of the Member States;
- an analysis of measures taken by Member States to ensure the transmission and distribution of electricity produced from renewable sources, and to improve the framework or rules for bearing and sharing of costs related to the grid connections;
- an analysis of progress made by each Member State in improving the administrative procedures to remove regulatory and non-regulatory barriers to the development of renewable energy, and the effectiveness of measures taken by Member States on establishing a single administrative body responsible for processing authorisations, certification and licensing applications for renewable energy installations and providing assistance to applicants.

#### Task 2:

An analysis of the biofuels and bioliquids consumed in the EU, the impacts related to this consumption in the EU and the main third countries of supply, as well as national measures taken in the EU Member States and main third countries of supply to respect the EU sustainability criteria for biofuels.

This assessment will include at least the following:

- data on the quantities, types and origin of biofuels and bioliquids consumed in the EU, as well as detailed data on the types and origin of their feedstocks as required in Art. 23 (1) of the RES Directive;
- an assessment of national measures taken in the EU Member States and main third countries of supply to respect the EU sustainability criteria for biofuels set out in Articles 17 (2), 17 (3), 17 (4), 17(5), 17 (6) and 17 (7), and measures taken for soil, water and air protection;
- an assessment of impacts on social sustainability, availability of foodstuffs at affordable prices, wider development issues and implementation of the conventions as specified in Article 17 (7) of the RES Directive;
- an analysis and assessment of impacts from increased EU consumption of biofuels as described in Articles 23 (1), 23 (4), 23 (5a-f) of the RES Directive.

#### *Methodology*

##### For Task 1:

- The analysis will be based on information provided in the Member State reports submitted in accordance with Article 22 of the RES Directive and NREAPs of the 27 Member States. This information will be complemented where appropriate with additional information

collected from the relevant Member State authorities. Other information sources may be used to compare/verify the claims made in Member State reports.

- On the basis of Member State reports submitted to the Commission in 2011, this assessment will evaluate the progress achieved in 2009 and 2010.

#### For Task 2:

- The data on quantities, types and origin of biofuels and bioliquids consumed in the EU in 2009 and 2010, as well as detailed data on the types and origin of their feedstocks will be sourced from Member State reports submitted to the Commission in 2011 in accordance with Art. 22 of RES Directive, EUROSTAT statistics, other public statistics and databases such as EU trade statistics, FAOSTAT. Other data sources and own data collection may be used to compare, verify and complement the data from these sources.
- The assessment of national measures taken in the EU Member States to respect the EU sustainability criteria for biofuels, and measures taken for soil, water and air protection will be based on information reported in the Member States reports submitted to the Commission in 2011 in accordance with Art. 22 of RES directive and will be complemented where appropriate with additional information collected from the relevant Member State authorities.
- The assessment of national measures taken in the main third countries of supply to respect the EU sustainability criteria for biofuels, and measures taken for soil, water and air protection will be based on information from relevant national and international bodies, as well as other relevant sources such as information from economic operators, civic organisations.
- The assessment of the impacts on social sustainability in the EU and in third countries of increased demand for biofuel, on the impact of the EU biofuel policy on the availability of foodstuffs at affordable prices, in particular for people living in developing countries, and wider development issues. This assessment shall also address the respect of land-use rights. The assessment shall also state both for third countries and Member States that are a significant source of raw material for biofuel consumed within the Community, whether the country has ratified and implemented each of the following Conventions of the International Labour Organisation:
  - *Convention concerning Forced or Compulsory Labour (No 29),*
  - *Convention concerning Freedom of Association and Protection of the Right to Organise (No 87),*
  - *Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (No 98),*
  - *Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value (No 100),*
  - *Convention concerning the Abolition of Forced Labour (No 105),*
  - *Convention concerning Discrimination in Respect of Employment and Occupation (No 111),*

- *Convention concerning Minimum Age for Admission to Employment (No 138)*,

- *Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No 182)*.

and:

- *the Cartagena Protocol on Biosafety*,

- *the Convention on International Trade in Endangered Species of Wild Fauna and Flora*.

- The assessment of impacts in the EU and main third countries of supply from increased use of biofuels in the EU will also need to cover at least the following:
  - (a) the impact of the biofuel production (for biofuels consumed in the EU irrespective of whether they have been produced in the EU or third countries), including impact as a result of displacement, on land use in the EU and the main third countries of supply. Such impact analysis shall be based on Member States' reports in accordance with Art.22 of RES directive, and those of relevant third countries, intergovernmental organisations, scientific studies and any other relevant pieces of information. This impact analysis shall also include analysis of commodity price changes associated with the use of biomass for energy and any associated positive and negative effects on food security;
  - (b) the relative environmental benefits and costs of different biofuels, the effects of the Community's import policies thereon, the security of supply implications and the ways of achieving a balanced approach between domestic production and imports;
  - (c) the impact of increased demand for biofuel on sustainability in the Community and in third countries, considering economic and environmental impacts, including impacts on biodiversity;
  - (d) the scope for identifying, in a scientifically objective manner, geographical areas of high biodiversity value that are not covered in Article 17(3);
  - (e) the impact of increased demand for biomass on biomass using sectors;
  - (f) the availability of biofuels made from waste, residues, non-food cellulosic material and ligno-cellulosic material; and
  - (g) indirect land-use changes in relation to all production pathways.
- For measuring the impacts from increased consumption of biofuels in the EU, these impacts will be measured compared to the situation on January 2008. For this purpose the analysis shall take into account the baseline data and methodology used in Biofuels 2008 Baseline study<sup>10</sup> and conduct repeated research in 2011 and 2012<sup>11</sup>.

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<sup>10</sup> Work in progress. The Commission intends to publish this report containing Biofuels 2008 baseline data and methodology for future assessments on European Commission's (DG ENERGY) website in Summer 2011: [http://ec.europa.eu/dgs/energy/tenders/2009\\_en.htm](http://ec.europa.eu/dgs/energy/tenders/2009_en.htm).

<sup>11</sup> MS reports submitted to the Commission by the end of 2011 will report on the developments in 2009 and 2010. Wherever Member States reports are used for impact analysis, the impacts should be analysed on the basis of 2009 and

- The analysis and assessment of impacts from increased EU consumption of biofuels as described of the RES Directive will be based mainly on (but not limited to) information obtained from Member States reports submitted to the Commission in 2011 in accordance with Art. 22 of RES, information from relevant national and international bodies, as well as other relevant sources such as information from economic operators, civic organisations.
- The analysis and assessment of impacts from increased EU consumption of biofuels referred to in Articles 17(7), 23 (1), 23 (4), 23 (5a-f) of the RES Directive will include aggregated results and analysis at the country level at least for the following countries/regions producing and/or exporting biofuels to the EU: EU 27 Member States, US, Canada, Brazil, Argentina, Peru, Bolivia, Guatemala, Malaysia, Indonesia, India, Pakistan, Russia and Ukraine, Ethiopia, Malawi, Mozambique, Nigeria, Sudan and Tanzania. This analysis should also consider other countries that have started to export biofuels to the EU from 2009 or may be considered as potential exporters in the near future.

#### **I.4. Reports and documents to produce - Timetable to observe**

##### ***Lot 1: Assessment of the transposition of the RES Directive in Member States' national legislation***

Execution of the tasks begins after the date on which the Contract enters into force.

A **kick-off meeting** will take place in Brussels, at the latest 10 days following the signature of the contract, in order to settle all the details of the studies, reports, translations. A **study outline** containing an extensive table of contents and description of methodological issues relevant for each task shall be submitted to the Commission within one week of the meeting and be agreed or modified by the Commission within one week. The study outline agreed by the Commission will form the structure for the work and studies.

A second meeting will take place in Brussels in month 5, after submission of the interim report.

A third and final meeting (its necessity to be decided by the Commission) will take place in Brussels in month 11, after the submission of the final report.

Contractors should be aware that other meetings may be organised in Brussels during the contract, should this necessity be caused by infringement cases or complaints. The purpose of these meetings will be to discuss and clarify aspects related to infringement cases or complaints. The necessity of having these meetings will be decided by the Commission.

All the reports and assessment studies must be submitted to the Commission in English.

##### ***Lot 2: Support activities for assessment of progress in renewable energy and sustainability of biofuels.***

Execution of the tasks begins after the date on which the Contract enters into force.

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2010 data. Where other sources are used for assessing these impacts, , in addition to data for 2009 and 2010 more recent data from 2011 should be added if available.



A **kick-off meeting** will take place in Brussels, at the latest 10 days following the signature of the contract, in order to settle all the details of the study, report, etc to be undertaken. A **study outline** containing an extensive table of contents and description of methodological issues relevant for each task shall be submitted to the Commission within one week of the meeting and be agreed or modified by the Commission within one week. The study outline agreed by the Commission will form the structure for the work and studies.

**One progress meeting** will take place in Brussels in month 5 following the submission of the interim report.

#### ***1.4.1. Interim report***

##### ***Lot 1: Assessment of the transposition of the RES Directive in Member States' national legislation***

The **interim report** showing progress and of the work on tasks (1) and (2) shall be submitted to the Commission at the latest 4 months after the date of signature of the contract.

The Commission shall have forty-five days from receipt to approve or reject the report. Within 20 days of receiving the Commission's observations, the Contractor will submit additional information or another report.

The interim report shall contain at least half of the assessment studies requested; the exact number of the assessment studies will be determined at the kick-off meeting.

Each assessment study shall include at least:

- a list of national laws, regulations and administrative provisions to transpose the Directive;
- a Summary Datasheet listing the problems in conformity of those measures with the Directive; the Summary Datasheet shall identify all Articles of the Directive for which the problems in conformity occur and shall clearly explain for which part of each Article and for what reasons the contractor concludes that there are problems in conformity. Any vagueness in conformity or any suspected non-conformity should also be clearly pointed out and explained. If necessary, the summary datasheet must also refer to the complaints or infringement procedures related to the particular Member State. It should provide a summary assessment of the cases;
- the Translations into English of those national legal provisions which the contractor has identified as transposing (fully or partially) the provisions of the Renewable Energy Directive;
- a Table of Correspondence including the relevant national provision(s) which transpose each Article of the Renewable Energy Directive. The Table of Correspondence should be structured as follows:

Article/Annex/ Appendix of the Directive	Citation of the Article/Annex/ Appendix of the Directive (in English)	Identification of the corresponding national measures	Citation of the corresponding national provision in the main	When English is not the main language of the Member States,	Clear conclusion on conformity (conforms, does not	Comments (in English) when necessary
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			language of the Member State	translation of the national provision into English	conform, doubtful)	
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***Lot 2: Support activities for assessment of progress in renewable energy and sustainability of biofuels.***

The **interim report** showing progress and of the work on tasks 1 and 2 shall be submitted to the Commission at the latest 4 months after the date of signature of the contract.

The Commission shall have forty-five days from receipt to approve or reject the report. Within 20 days of receiving the Commission's observations, the Contractor will submit additional information or another report.

***I.4.2. Final report***

***Lot 1: Assessment of the transposition of the RES Directive in Member States' national legislation***

The contractor will submit a draft final report completing tasks (1) and (2) to the Commission at the latest **10 months** after the signature of the contract.

The Commission shall have forty-five days from receipt to approve or reject the draft final report, and the Contractor shall have 20 days in which to submit additional information or a new final report.

The final report shall contain:

- an Executive Summary presenting briefly the common conclusions on the results of the conformity assessment of the transposition of the Directive for the Member States covered by this contract; the exact number of the Member States will be determined during the second meeting (after the interim report).
- all requested assessment studies.

Each assessment study shall include at least:

- a list of the national laws, regulations and administrative provisions to transpose the Directive;
- a Summary Datasheet (maximum 10 pages) listing the problems of conformity of those measures with the Directive; the Summary Datasheet shall identify all Articles of the Directive for which the problems in conformity occur and shall clearly explain for which part of each Article and for what reasons the contractor concludes that there are problems in conformity. Any vagueness in conformity and any suspected non-conformity should also be clearly pointed out and explained. If necessary, the summary datasheet must also refer to the complaints or infringement procedures related to the particular Member State. It should provide a summary assessment of the cases.

- the Translations into English of those national legal provisions which the contractor has identified as transposing (fully or partially) the provisions of the Renewable Energy Directive;
- a Table of Correspondence including the relevant national provision(s) which transpose each Article of the Renewable Energy Directive. The Table of Correspondence should be structured as follows:

Article/Annex/ Appendix of the Directive	Citation of the Article/Annex/ Appendix of the Directive (in English)	Identification of the corresponding national measures	Citation of the corresponding national provision in the main language of the Member State	When English is not the main language of the Member States, translation of the national provision into English	Clear conclusion on conformity (conforms, does not conform, doubtful)	Comments (in English) when necessary
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***Lot 2: Support activities for assessment of progress in renewable energy and sustainability of biofuels.***

The contractor will submit a draft final report covering tasks 1 and 2 to the Commission **at the latest 9 months** after the signature of the contract.

The final report shall contain:

- an Executive Summary presenting briefly the common conclusions of the results of assessments required in above specifications for Lot 2;
- Main report containing detailed analysis and assessments drafted according to the structure described in above specifications for Lot 2;
- Source data, relevant background datasets and other information used in the main report, and full list of data sources, including names of databases, statistical collections used and relevant national and international bodies consulted for data collection purposes etc.

The Commission shall have forty-five days from receipt to approve or reject the draft final report, and the Contractor shall have 20 days in which to submit additional information or a new final report.

***1.4.3. Report format and publication***

***Lot 1: Assessment of the transposition of the RES Directive in Member States' national legislation***

For ***the interim report***, the contractor shall send to the Commission:

- 2 paper copies of at least half of the assessment studies presented in separate volumes;
- 2 CD-ROM with the assessment studies presented in separate electronic documents, in both PDF and Word formats; the Table of Correspondence can be presented in Excel format.

For *the final report*, the contractor shall send to the Commission:

- 5 paper copies of the Executive Summary;
- 5 paper copies of all requested assessment studies presented in separate volumes;
- 3 CD-ROMs with the Executive Study and all conformity studies presented in separate electronic documents, in both PDF and Word formats; the Tables of Correspondence can be presented in Excel format.

The Commission may publish the results of the study. For this purpose, the tenderer must ensure that the study is not subject to any restrictions deriving from intellectual property rights of third parties. Should he intend to use data in the study, which cannot be published, this must be explicitly mentioned in the offer.

***Lot 2: Support activities for assessment of progress in renewable energy and sustainability of biofuels.***

3 copies of the reports shall be supplied in paper form and one copy in electronic form, either in MS Word or in HTML format. All reports shall be written in English.

The Commission may publish the results of the study. For this purpose, the tenderer must ensure that the study is not subject to any restrictions deriving from intellectual property rights of third parties. Should he intend to use data in the study, which cannot be published, this must be explicitly mentioned in the offer.

**I.5. Duration of the tasks**

The duration of the tasks for each of lots shall not exceed 14 months. This period is calculated in calendar days.

**I.6. Place of performance**

***Lot 1: Assessment of the transposition of the RES Directive in Member States' national legislation***

The tasks will be performed on the Contractor's premises. However, meetings between the contractor and the Commission may be held on Commission premises in Brussels.

***Lot 2: Support activities for assessment of progress in renewable energy and sustainability of biofuels.***

The tasks will be performed on the Contractor's premises. Data gathering from Member States should be performed mainly by usual IT, phone and other communication tools limiting the travels to Member States for the purposes of data gathering. As far as third countries are concerned and where data or local expertise is not available, for the purposes of data gathering the Contractor should use local experts, or travel to third countries to do fieldwork in third countries. These missions should be proportionate as to the purposes of fulfilling the requirements of this contract and travel expenses shall be included in the total price of the offer.

Meetings between the contractor and the Commission will be held on Commission premises in Brussels.

#### **I.7. Estimate of the amount of work involved**

The total amount of work for both lots is assessed at 1000 man-days:

- for Lot 1 is assessed at 200 man-days,
- for Lot 2 is assessed at 800 man-days.

## **II. TERMS OF CONTRACT**

In drawing up their offers, the tenderer should bear in mind the provisions of the draft contract attached to this invitation to tender (Annex 5). Any limitation, amendment or denial of the terms of contract will lead to automatic exclusion from the procurement procedure.

The Commission may, before the contract is signed, either abandon the procurement procedure or cancel the award procedure without the tenderers being entitled to claim any compensation.

### **II.1. Terms of payment**

Payments shall be made in accordance with the provisions specified in Annex 5, the draft service contract.

### **II.2. Financial guarantees**

#### **Guarantee on pre-financing**

For any pre-financing higher than 150,000 EUR, a financial guarantee equivalent to the amount of the pre-financing will be requested.

Depending on the financial situation of the tenderer, the Commission may ask for the financial guarantee for amounts lower than 150,000 EUR.

### **II.3. Subcontracting**

If the tenderer intends to subcontract part of the service, he shall indicate in his offer which part will be subcontracted and to what extent (% of the total contract value).

Tenderers must ensure that Article II.17 of the contract (Annex 5) can be applied to subcontractors. Once the contract has been signed, Article II.13 of the above-mentioned contract shall govern the subcontracting.

### **II.4. Legal form to be taken by the grouping of service providers to whom the contract is awarded (if applicable)**

Groupings, irrespective of their legal form, may submit bids for each of lots. Tenderers may, after forming a grouping, submit a joint bid on condition that it complies with the rules of competition. Such groupings (or consortium) must specify the company or person heading the project and must also submit a copy of the document authorising this company or person to submit a bid. If awarded, the contracts for each of lots will be signed by the company or the person heading the project, who will be, vis à vis the Commission, the only contracting party responsible for the performance of this contract. Tenders from a consortium of firms or groups of service providers, contractors or suppliers must specify the role, qualifications and experience of each member of the consortium or group. Each member must provide all the necessary documents for assessing the bid as a whole with regard to the exclusion criteria, selection criteria (in their entirety) and award criteria.

### III. FORM AND CONTENT OF THE TENDER

#### III.1. General

Tenders must be written in **one of the official languages** of the European Union.

Tenders must be clear and concise, with continuous page numbering, and assembled in a coherent fashion (e.g. bound or stapled, etc...). Since tenderers will be judged on the content of their written bids, they must make it clear that they are able to meet the requirements of the specifications.

#### III.2. Structure of the tender

All tenders for each of lots must include three sections i.e. an administrative, a technical and a financial proposal.

##### III.2.1. Section One: administrative proposal

This section must provide the following information, set out in the standard identification forms attached to these tender specifications (Annexes 1, 2 and 3):

- Tenderers' identification (Annex 1)
  - All tenderers must provide proof of **registration**, as prescribed in their country of establishment, on one of the **professional or trade registers** or provide a declaration or certificate.
  - If the tenderer is a natural person, he/she must provide a copy of the identity card/passport or driving licence and proof that he/she is covered by a social security scheme as a self-employed person.

*Each tenderer (including subcontractor(s) or any member of a consortium or grouping) must complete and sign the identification forms in Annex 1 and also provide above-mentioned documents. However, the subcontractor(s) shall not be required to fill in or provide those documents when the services represent less than 20% of the contract.*

- Financial identification (Annex 2)

The **bank identification form** must be filled in and signed by an authorised representative of the tenderer and his/her banker. A standard form is attached in Annex 2 and a specific form for each Member State is available at the following Internet address:

[http://ec.europa.eu/budget/info\\_contract/ftiers\\_en.htm](http://ec.europa.eu/budget/info_contract/ftiers_en.htm)

In the case of a grouping, this form must only be provided by the person heading the project.

- Legal entities (Annex 3)

The legal entity form in Annex 3 must be filled in and should be accompanied by a number of supporting documents, available on the Web site:

[http://ec.europa.eu/budget/info\\_contract/legal\\_entities\\_en.htm](http://ec.europa.eu/budget/info_contract/legal_entities_en.htm)

In the case of a grouping, this form must only be provided by the person heading the project.

The Commission reserves the right, however, to request additional evidence in relation to the bid submitted for evaluation or verification purposes within a time-limit stipulated in its request.

### ***III.2.2. Section Two: Technical proposal***

This section is of great importance in the assessment of the bids, the award of the contract and the future execution of any resulting contract.

Some guidelines are given below, but attention is also drawn to the award criteria, which define those parts of the technical proposal to which the tenderers should pay particular attention. The technical proposal should address all matters laid down in the specifications of the lot for which the tenderer applies for and should include models, examples and technical solutions to problems raised in the specifications. The level of detail of the tender will be extremely important for the evaluation of the tender. Tenderers must present in their bids a proposal on the methodology and the organisation of the work to carry out in the framework of the study.

The technical proposal must provide all the information needed for the purpose of awarding the contract.

### ***III.2.3. Section Three: Financial proposal***

All tenders must contain a financial proposal. The tenderer's attention is drawn to the following points:

- Prices must be quoted in **euros**, including the countries which are not in the euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.
- Prices must be fixed amounts and include all expenses, such as travel expenses and daily allowances.
- **Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT**, as the European Union is exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union of 8 April 1965 (OJ L 152 of 13 July 1967). 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 a 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 Union is exempt from VAT;



- **Prices shall be** fixed and not subject to revision during the performance of the contract;
- For each category of staff involved in the project, the tenderer must specify:
  - the total labour costs;
  - **the daily rates** and **total number of days** (man/days) each member of staff will contribute to the project;
  - other categories of costs, indicating the nature of the cost, the total amount, the unit price and the quantity.

**Bids involving more than one service provider (consortium) must specify the amounts indicated above for each provider.**

## **IV. ASSESSMENT AND AWARD OF THE CONTRACT**

The assessment will be based on each tenderer's bid.

Separate assessments will take place for each lot.

All the information will be assessed in the light of the criteria set out in these specifications for each of lots. The procedure for the award of the contract for each of lots, which will concern only admissible bids, will be carried out in three successive stages.

The aim of each of these stages is:

- 1) to check on the basis of the exclusion criteria, whether tenderers can take part in the tendering procedure;
- 2) to check on the basis of the selection criteria, the technical and professional capacity and economic and financial capacity of each tenderer;
- 3) to assess on the basis of the award criteria each bid which has passed the exclusion and selection stages.

### **IV.1. Exclusion criteria (exclusion of tenderers)**

#### ***IV.1.1. Exclusion criteria (Article 93 Financial Regulation<sup>12</sup>)***

1. To be eligible for participating in this contract award procedure, tenderers must not be in any of the following situations:
  - (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<sup>13</sup> for being guilty of misrepresentation in supplying the

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<sup>12</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248 of 16.9.2002)

information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Union budget.

2. The cases referred to in point IV.1.1. e) 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 established by the Council Act of 26 July 1995 (OJ/C 316 of 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, established by the Council Act of 26 May 1997 (OJ/C 195 of 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 315 of 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 28.6.1991, p.77).

#### ***IV.1.2. Other cases of exclusion (Article 94 Financial Regulation)***

**Contracts will not be awarded** to tenderers who, during the procurement procedure:

- a) **are subject to a conflict of interest;**

Tenderers must declare:

- that they do not have any 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;
- that they will inform the contracting authority, without delay, of any situation constituting a conflict of interest or which could give rise to a conflict of interest;
- that they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- that 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 the award of the contract.

The Commission reserves the right to check the above information.

- 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 paragraph IV.1.1. above for this procurement procedure.

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<sup>13</sup> Council Regulation (EC, Euratom) n° 1605/2002 of 25 June 2002 on the Financial regulation applicable to the general budget of the European Communities, OJ L 248 of 16 September 2002, p. 1, amended by Council Regulation (EC, Euratom) n° 1995/2006 of 13 December 2006, OJ L 390 of 30 December 2006, p.1.

### ***IV.1.3. Evidence to be provided by the tenderers***

1. When submitting their bids, each tenderer (including subcontractor(s) or any member of a consortium or grouping) shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations mentioned above (cf. IV.1.1 and VI.1.2). For that purpose, they must complete and sign the form attached in Annex 4. Where the tenderer is a legal entity, they shall, whenever requested by the Commission, provide information on the ownership or on the management, control and power of representation of the legal entity.
2. The tenderer to whom the contract is to be awarded shall provide, within 15 calendar days after notification of the results of the procurement procedure and in any case before the signature of the contract, the following evidence, confirming the declaration referred to above:

The Commission shall accept, as satisfactory evidence that the tenderer is not in one of the situations described in point IV.1.1 (a), (b) or (e) above, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied.

The Commission accepts, as satisfactory evidence that the tenderer is not in the situation described in point IV.1.1 (d) above, a recent certificate issued by the competent authority of the State concerned.

Where no such document or 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.

3. Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraph 1 and 2 above shall relate to legal and/or natural persons including, if applicable with regard to points b) and e), company directors or any person with powers of representation, decision-making or control in relation to the tenderer.
4. When the subcontracted part is above 20% of the contract value, the subcontractor(s) must also provide the above-mentioned declaration on honour. In case of doubt on this declaration on the honour, the contracting authority may also request the evidence referred to in paragraphs 2 and 3 above.
5. The Commission reserves the right to request any other document relating to the proposed tender for evaluation and verification purpose, within a delay determined in its request.

### **Remark:**

The tenderers will be waived of the obligation to submit the documentary evidence above mentioned if such evidence has already been submitted for the purposes of another procurement procedure launched by the Directorates General in charge of Energy or Transport and provided that the documents are not more than one year old starting from their issuing date and that they are still valid. In such a case, the tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement

procedure, specifying the reference of the call for tender for which the documents have been provided, and confirm that no changes in his situation have occurred.

#### ***IV.1.4. Administrative and financial penalties***

Without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have been found guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or have failed to supply this information or have been declared to be in serious breach of their obligations under contracts covered by the Union budget may be subject to administrative or financial penalties, in accordance with Article 96 of the Financial Regulation and Articles 134b and 133a of the Implementing Rules.<sup>14</sup>

## **IV.2. SELECTION CRITERIA (SELECTION OF TENDERERS)**

To be eligible, the tenderers must have the economic and financial capacity as well as the technical and professional capacity to perform the tasks required in this call for tender.

### ***IV.2.1. Economic and financial capacity – Criteria and references required***

Tenderers bidding for Lot 1 must provide evidence of their economic and financial capacity by submitting an annual turnover of at least 400 000 EUR, for the past 2 years. In case of a consortium, this criterion applies to the consortium as a whole.

Tenderers bidding for Lot 2 must provide evidence of their economic and financial capacity by submitting an annual turnover of at least 1 000 000 EUR, for the past 2 years. In case of a consortium, this criterion applies to the consortium as a whole.

For Lots 1 and 2, all tenderers must provide proof of their financial and economic capacity by means of the following documents: the balance sheets or extracts from balance sheets for the last three financial years, and a statement of overall turnover and turnover relating to the relevant services for the last three financial years.

This rule applies to all service providers, regardless of the percentage of tasks they intend to execute, once they have chosen to submit a tender. However, if the tender includes subcontractors whose tasks represent less than 20% of the contract, those subcontractors are not obliged to provide evidence of their economic and financial capacity.

### ***IV.2.2. Technical and professional capacity – Criteria and references required***

#### ***Lot 1: Assessment of the transposition of the RES Directive in Member States' national legislation***

Tenderers must confirm and demonstrate that their project teams have the skills and experience needed to carry out the work specified in relation to this tender and in accordance with the requirements listed below:

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<sup>14</sup> Commission Regulation (EC, Euratom) n° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 357 of 31 December 2002, p. 1, as amended.

- 1) Excellent skills and proven legal and technical experience of at least 5 years in the field of European and national energy, particularly renewable energy, law of the Member States for which they are carrying out conformity assessments; the required experience should particularly include previous activities of assessing EU acquis transposition. The team of the contractor should consist of at least two legal analysts for each Member State with sound legal expertise in renewable energy law. Experience has to be demonstrated by curricula vitae.
- 2) Full knowledge of the official languages of the Member States for which they are carrying out conformity assessment studies; an excellent master of English must also be proven. The team of legal analysts must have the language capabilities necessary to carry out conformity checking for all Member States of the European Union. The curricula vitae of the legal analysts must demonstrate language capabilities.
- 3) Extensive and detailed knowledge and understanding about current EU and all Member States' policies related to the European renewable energy policy, proven by three samples of previous works carried out, that are relevant for the assessment studies and reports to be delivered within the tasks of this contract.
- 4) Experience in working at EU level and in communicating with the national administrations, the relevant market actors and main stakeholders in the Member States, proven by the list of the main services and tasks, relevant to the study-contract, delivered during the last five years as well as related amounts, dates and beneficiaries with mention of the sector they belong to (private/public);
- 5) Indication of part(s) of the contract which the service provider intends to subcontract.

If several service providers/subcontractors are involved in the bid, each of them must have and show that they have the professional and technical capacity to perform the tasks assigned to them.

Tenderers should provide with their offer detailed curriculum vitae of each staff member responsible for carrying out the work, including his or her educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills.

The CV's shall be presented, preferably, in accordance to the Commission Recommendation on a common European format for curricula vitae, published in OJ L79 of 22 March 2002, p. 66.

***Lot 2: Support activities for assessment of progress in renewable energy and sustainability of biofuels.***

Tenderers must confirm and demonstrate that their project teams have the skills and experience needed to carry out the work specified in relation to this tender and in accordance with the requirements listed below:

- 1) Excellent skills and proven experience of at least 5 years in environmental and social sustainability issues, ideally related to biofuels and/or bioenergy, and economic and environmental impact analysis, including in third countries;
- 2) Sound knowledge and understanding of the EU policy in renewable energy and sustainability of biofuels, notably the Directive on the promotion of the use of renewable energy sources, its implementing decisions regarding sustainability of biofuels and the situation and trends of the biofuel industry, including in third countries, such as those referred

to in the terms of reference for Lot 2 of this contract. This shall be proven by list of the main services and tasks, relevant to the study-contract, delivered during the last five years;

3) In relation to data collection, proof of access authorization to specific databases, global and regional land cover data sets for land use monitoring purposes and other relevant information sources, as necessary, including experience and access to relevant data sources in the EU Member States and third countries, or the capacity to obtain this access should the contract be awarded to them;

4) Excellent skills in drafting and editing high quality documents in English, and proof in the form of samples (e.g. extracts from previously done studies).

5) List of the main services and tasks, relevant to the study-contract, delivered during the last five years as well as related amounts, dates and beneficiaries of these services with mention of the sector they belong to (private/public);

6) Indication of part(s) of the contract which the service provider intends to subcontract.

If several service providers/subcontractors are involved in the bid, each of them must have and show that they have the professional and technical capacity to perform the tasks assigned to them.

Tenderers should provide with their offer detailed curriculum vitae of each staff member responsible for carrying out the work, including his or her educational background and professional experience and research work relevant to the tasks to be performed in Lot 2 of this tender, and his/her linguistic skills.

The CV's shall be presented, preferably, in accordance to the Commission Recommendation on a common European format for curricula vitae, published in OJ L79 of 22 March 2002, p. 66.

#### **IV.3. EVALUATION OF TENDERS – AWARD CRITERIA**

##### ***Lot 1: Assessment of the transposition of the RES Directive in Member States' national legislation***

The contract will be awarded according to the criteria given below, on the basis of the economically most advantageous tender.

Only bids that have reached a total score of a minimum of 70% and a minimum score of 60 % for each criterion will be taken into consideration for awarding the contract.

a) Technical evaluation criteria in their order of importance as weighted by percentage

<b>N°</b>	<b>Award Criteria</b>	<b>Weighting</b>
1	Approach and methodology to achieve the tasks and the objectives required.	40
2	Organisation of work and of the team, management of tasks, overall	30

	quality and credibility of the work-plan, team and schedule	
3	Appreciation and understanding of the needs, the objectives and the scope of the tender	20
4	Overall quality, completeness, clarity and presentation of the offer.	10
<b>Total number of points</b>		<b>100</b>

b) Total price

The contract will be awarded to the tender which offers the best ratio quality/price.

***Lot 2: Support activities for assessment of progress in renewable energy and sustainability of biofuels.***

The contract will be awarded according to the criteria given below, on the basis of the economically most advantageous tender.

Only bids that have reached a total score of a minimum of 70% and a minimum score of 60 % for each criterion will be taken into consideration for awarding the contract.

a) Technical evaluation criteria in their order of importance as weighted by percentage

N°	Award Criteria	Weighting
1	Appreciation and understanding of the needs, the objectives and the scope of the tender.	20
2	Approach and methodology to achieve the tasks and objectives required.	40
3	Organisation of work, management of tasks, overall quality and sustainability of the work-plan and schedule	30
4	Completeness, clarity and presentation of the offer.	10
<b>Total number of points</b>		<b>100</b>

b) Total price

The contract will be awarded to the tender which offers the best ratio quality/price.



#### **IV.4. INFORMATION FOR TENDERERS**

The Commission will inform tenderers of decisions reached concerning the award of the contract, including the grounds for any decision not to award a contract or to recommence the procedure.

Upon written request, the Commission will inform the rejected tenderers of the reasons for their rejection and the tenderers having submitted an admissible tender of the characteristics and relative advantages of the selected tender and the name of the successful tenderer.

However, certain information may be withheld where its release would impede law enforcement or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

#### **V. ANNEXES**

1. Identification of the Tenderer
2. Financial Identification
3. Legal Entity Form
4. Declaration by the Tenderer (relating to the exclusion criteria)
5. Draft Contract

# ANNEX 1

## IDENTIFICATION OF THE TENDERER

(Each service provider, including subcontractor(s) or any member of a consortium or grouping, must complete and sign this identification form)

**Call for tender ENER/C1/463-2011**

<b>Identity</b>	
Name of the tenderer	
Legal status of the tenderer	
Date of registration	
Country of registration	
Registration number	
VAT number	
Description of statutory social security cover (at the level of the Member State of origin) and non-statutory cover (supplementary professional indemnity insurance) <sup>15</sup>	
<b>Address</b>	
Address of registered office of tenderer	
Where appropriate, administrative address of tenderer for the purposes of this invitation to tender	
<b>Contact Person</b>	
Surname: First name: Title (e.g. Dr, Mr, Ms) : Position (e.g. manager): Telephone number: Fax number: E-mail address:	

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<sup>15</sup> For natural persons

<b>Legal Representatives</b>	
<b>Names and function of legal representatives</b> and of other representatives of the tenderer who are authorised to sign contracts with third parties	
<b>Declaration by an authorised representative of the organisation<sup>16</sup></b>  I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	
Surname: First name:	Signature:

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<sup>16</sup> This person must be included in the list of legal representatives; otherwise the signature on the tender will be invalidated.

## **ANNEX 2**

### **Financial identification form**

(to be completed by the tenderer and his or her financial institution)

A specific form for each Member State is available at the following Internet address:

[http://ec.europa.eu/budget/info\\_contract/ftiers\\_en.htm](http://ec.europa.eu/budget/info_contract/ftiers_en.htm)

## **ANNEX 3**

### **Legal entity form**

Complete the legal entity form, which should be accompanied by a number of supporting documents, available on the Web site:

[http://ec.europa.eu/budget/info\\_contract/legal\\_entities\\_en.htm](http://ec.europa.eu/budget/info_contract/legal_entities_en.htm)

Please note that we can only accept either original documents or certified copies, which must be less than 6 months old.

In the case of a grouping, this form must only be provided by the person heading the project.

## ANNEX 4

### DECLARATION BY THE TENDERER

Each service provider, including subcontractor(s) or any member of a consortium or grouping, must sign this declaration

1. In accordance with Article 93 of the Financial Regulation<sup>17</sup>, I declare on my honour that I am not in any of the following situations which would exclude me from participating in this procurement procedure:
  - a) I am not bankrupt, being wound up or having my affairs administered by the courts, I have not entered into an arrangement with creditors, I have not suspended business activities, I am not the subject of proceedings concerning any such matters, and I am not in any similar situation arising from a similar procedure provided for in legislation or regulations;
  - b) I have not been convicted of an offence concerning my professional conduct by a judgment which has the force of res judicata;
  - c) I have not been found guilty of grave professional misconduct proven by any means which the contracting authority can justify;
  - d) I have not failed to fulfil 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 I am established or with those of the country or the contracting authority or those of the country where the contract is to be performed;
  - e) I have not 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 Union's financial interests;
  - f) I am currently not subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Union budget.
2. In addition, the undersigned declares on his or her honour:
  - a) that on the date of submission of the tender, the company or organisation I do represent and the staff proposed for this tender are not subject to a conflict of interests in the context of this invitation to tender; I undertake to inform the Commission without delay of any change to this situation after the date of submission of the tender.
  - b) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.

Done at ..... on.....

Name .....

Title .....Company.....

Signature:

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<sup>17</sup> Council Regulation (EC, Euratom) n° 1605/2002 of 25 June 2002 on the Financial regulation applicable to the general budget of the European Communities, OJ L 248 of 16 September 2002, p. 1, amended by Council Regulation (EC, Euratom) n° 1995/2006 of 13 December 2006, OJ L 390 of 30 December 2006, p.1.

**ANNEX 5**  
**DRAFT CONTRACT**