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## **Specifications - Open Invitation to tender No VT/2008/083**

**Concerning a contract on the analysis of health, socio-economic and environmental impacts in connection with possible amendments to Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields).**

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### **1. TITLE OF THE CONTRACT**

Contract on the analysis of health, socio-economic and environmental impacts in connection with possible amendments to Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields).

### **2. BACKGROUND**

#### **2.1. Progress introduction**

The Social Agenda (2005-2010) has fixed as its overall strategic goal to promote more and better jobs and to offer equal opportunities for all. The realisation of the Social Agenda relies on a combination of instruments comprising EU legislation, the implementation of open methods of coordination in various policy fields and financial incentives such as the European Social Fund.

The Decision n°1672/2006 establishing a Community programme for employment and social solidarity – PROGRESS was adopted by the European Parliament and the Council on 24 October and published in the OJ on 15 November.

PROGRESS aims at supporting the core functions of the European Community towards fulfilling its Treaty-delegated tasks and powers in its respective areas of competence in the employment and social sphere. PROGRESS mission is to strengthen the EU contribution in support of Member States' commitments and efforts to create more and better jobs and to build a more cohesive society. To that effect, PROGRESS will be instrumental in:

- providing analysis and policy advice on PROGRESS policy areas;
- monitoring and reporting on the implementation of EU legislation and policies in PROGRESS policy areas;
- promoting policy transfer, learning and support among Member States on EU objectives and priorities; and
- relaying the views of the stakeholders and society at large.

More specifically, PROGRESS will support:

- (1) the implementation of the European Employment Strategy (section 1);
- (2) the implementation of the open method of coordination in the field of social protection and inclusion (section 2);
- (3) the improvement of the working environment and conditions including health and safety at work and reconciling work and family life (section 3);
- (4) the effective implementation of the principle of non-discrimination and promotion of its mainstreaming in all EU policies (section 4);
- (5) the effective implementation of the principle of gender equality and promotion of its mainstreaming in all EU policies (section 5).

The present call for tenders is issued in the context of the implementation of the 2008 annual plan of work which is consultable at:

[http://ec.europa.eu/employment\\_social/progress/annwork\\_en.htm](http://ec.europa.eu/employment_social/progress/annwork_en.htm)

## **2.2. Background information specific to this contract**

The purpose of this contract is to provide the European Commission with information on the impact of a number of policy options related to a possible amendment of directive 2004/40/EC on the protection of workers from the risks related to exposure to electromagnetic fields at work. As indicated above the funding for this contract is supported by PROGRESS and the detailed requirements of the subject of the contract and tasks to be carried out by the contractor are described in sections 3 and 5 respectively. Additional background information specific to this contract is provided below.

The Commission communication (COM(2002) 118 final) of 11 March 2002 on the community strategy on health and safety at work 2002 – 2006 (section 3.3.1 paragraph 1) states the need for the adaptation of existing directives to changes in scientific knowledge, technical progress and the world of work and the need to fill gaps in the existing framework. Furthermore the objectives of the Community strategy for 2007- 2012 (COM (2007) 62 final) (section 3) includes a key objective on the need for an ongoing, sustainable and uniform reduction in occupational illnesses and emphasises the need to encourage changes in the behaviour of workers and to encourage employers to adopt health focused approaches together with the realisation of methods for identifying and evaluating potential new risks.

Directive 2004/40/EC requires risks to be eliminated or reduced to a minimum. The action values and exposure limits indicated in the annex are tools to help employers to further protect the health of workers who may be exposed to electromagnetic fields at work. They are the only quantitative tool which enables employers to assess exposure and to decide on the prevention and protection measures to set up in order to comply with the objectives of the Directive.

### **3. SUBJECT OF THE CONTRACT**

The purpose of this contract is to assess the impact of the various policy options as outlined below, including provision of up to date information, duly supported by references to published data. This is to enable the European Commission to initiate policy discussions regarding the possible future amendment of directive 2004/40/EC. For each of the policy options the information provided shall also assess and report on the consequences of not amending the Directive.

The policy options to be studied are:

- 3.1** No new legislative action. The European Union does not take any new initiative in this field. Directive 2004/40/EC and national regulatory provisions on the subject are considered to be appropriate and remain in force.
- 3.2** New binding legislative action. The European Union takes due account of the latest international recommendations and introduces new exposure limit values based on these recommendations.
- 3.3** New binding legislative action. The European Union takes due account of the latest international recommendations and introduces new exposure limit values based on these recommendations. However, conditional exemptions are foreseen for specific cases.
- 3.4** New, non binding, legislative action. The European Union takes due account of the latest international recommendations and introduces new recommendations for occupational exposure to electromagnetic fields. This may also entail: production of good practice guides, launch of regular information campaigns, setting up of appropriate training programmes, establishment of voluntary agreements at European or sectoral level between social partners.
- 3.5** No new legislative action. The European Union considers it inappropriate to take any legislative initiative in this field. Directive 2004/40/EC is repealed and national regulatory provisions on the subject are considered to be appropriate and remain in force.

In order to give a comprehensive view on the situation that could result from the amendment of the directive as described above, the contractor will have to accomplish the different tasks specifically mentioned under section 5.

### **4. PARTICIPATION**

Please note that:

The competition is open to any physical person or legal entity coming within the scope of the Treaties and any other physical person or legal entity from a third country which has concluded with the Communities a specific agreement in the area of public contracts, under the conditions provided for in that agreement.

Where the Multilateral Agreement on Public Contracts concluded within the framework of the WTO applies, the contracts are also open to nationals of States that have ratified this Agreement, under the conditions provided for therein. It should be noted that research and development services, which come under category 8 of Annex II A of Directive 2004/18/CE, are not covered by this Agreement.

In practice, the participation of applicants from third countries that have concluded a bilateral or multilateral agreement with the Communities in the area of public contracts must be allowed, under the conditions provided for in that agreement. Bids submitted by applicants from third countries that have not concluded such an agreement may be accepted, but may also be rejected.

## **5. TASKS TO BE CARRIED OUT BY THE CONTRACTOR**

### **5.1. Description of the tasks**

For each task the impact on the Member States and Social Partners should be identified, assessed and presented. The analysis of the impact of the various policy options should take into consideration the criteria of effectiveness and efficiency including practicability, health impact, economic impact, social impact and environmental impact. All the relevant positive and negative impacts shall be considered alongside each other, regardless of whether they are expressed in qualitative, quantitative or monetary terms. The advantages and disadvantages should be examined for each option to support the legislator in making the most appropriate evidence-based decisions on how best to ensure that workers are effectively and appropriately protected from risks to their health and safety.

This information should be presented in a way that facilitates the ease of comparison between and within the various policy options, for example by means of a "scoreboard". Where possible the impact assessment should be supported by examples of actual situations that exist in the Member States or elsewhere.

The results of the study should provide the European Commission with sufficient and credible information to enable it to give due consideration to each of the policy options for a possible amendment of directive 2004/40/EC.

In particular, the following tasks must be carried out:

- Evaluate the quantifiable effects of implementing each of the options
- Evaluate the most probable economic impact (including organisational and administrative costs), the social impact (e.g. a reduction in absenteeism, the impact on employment, gender issues), and the environmental impact?
- Evaluate and compare the impact of each of the options in terms of work organisation (e.g. organisational measures required and impact on the workload for the implementation of each of the options)?
- Evaluate and compare the impact of each of the options in terms of reducing risks to the health and safety of workers? What would be the "residual" risks not covered by the measures involved in each option?
- Assess and report on the impact of the requirements on the prevention and reduction of exposure with a particular emphasis on the risk minimisation principle as stated in Article 5 of the Directive.

Economic impacts and impacts on work organisation, health and safety management and competitiveness shall be presented at EU and company level, including the SMEs and micro-sized organisations.

Due consideration shall be given to the following sectors and/or activities:

1. Medical procedures: Magnetic resonance imaging, including exposure of maintenance personnel. Other medical procedures using or affected by electromagnetic fields such as

diathermy should also be considered if there is evidence that the exposure limit values of current directive 2004/40/EC may be exceeded;

2. Industrial activities: metal welding, plastic welding, electricity generation and distribution, induction heating, dielectric heating, electrochemical processes, plasma discharge processes. Other industrial processes using or affected by electromagnetic fields such as crack detection processes, train locomotion should also be considered if there is evidence that the exposure limit values of current directive 2004/40/EC may be exceeded.

## **5.2. Common considerations of the Health, Social, Economic and Environmental Impact Assessment**

The following common considerations should be addressed when carrying out the tasks referred to in point 5.1:

- Where feasible, identify the approximate number of workers occupationally exposed to electromagnetic fields per sector of economic activity, by occupation, by size of employer and the typical levels of exposure.
- Assess the impact on innovation and research: would an option hinder or stimulate research and development (equipment design, alternate processes, other practices, etc.)?
- Assess the possible benefits of the proposed options in terms of reduced absenteeism, ill-health and disability compensations.
- Identify particular groups of workers affected by the occupational exposure determined by age, gender to outline benefits and drawbacks for each of the groups following a possible amendment of the Directive in relation to the exposure limit values.

## **5.3. Methodological remarks**

The contractor will indicate the methodology he intends to use, the rigour of the approach envisaged and how suitable it is for carrying out the tasks. The rigour of the proposed approach and its suitability for correctly reflecting the actual situation form part of the elements governing the award of the contract.

The contractor will also indicate which persons and entities (social partners, national, regional and local authorities in the Member States, enterprises or non-governmental organizations) will be contacted in the process of the study and how the information provided by them will be in this analysis.

## **5.4. Guide on how the activities shall be carried out**

The PROGRESS Programme aimed at promoting gender mainstreaming in all its five policy sections and commissioned or supported activities. Consequently, the Contractor will take the necessary steps to ensure that:

- Gender equality issues are taken into account when relevant for the drafting of the technical offer by paying attention to the situation and needs of women and men;
- Implementation of the requested tasks includes a gender perspective by considering systematically women and men dimension;
- Performance monitoring includes the collection and gathering of data disaggregated by sex when needed.
- its proposed team and/or staff respects the gender balance at all levels.

Equally, needs of disabled people shall be duly acknowledged and met while executing the requested service. This will in particular entail that where the Contractor organises training

sessions, conference, issues publications or develops dedicated websites, people with disabilities have equal access to the facilities or the services provided.

Finally, the Contracting Authority encourages the Contractor to promote equal employment opportunities for all its staff and team. This entails that the Contractor shall foster an appropriate mix of people, whatever their ethnic origin, religions, age, and ability.

The Contractor will be required to detail in its activity report accompanying the request for the final instalment the steps and achievements it made towards meeting these contractual provisions.

## 6. PROFESSIONAL QUALIFICATIONS REQUIRED

*See also Annex IV of the draft contract*

### Additional requirements:

The contractor should have a proven capability to carry out the tasks related to the evaluation of the health and socio-economic impact of employment legislation in the field of occupational safety and health at EU level. This should be based on a multi-disciplinary staff and/or access to external experts on a wide range of relevant disciplines, for example, economics, statistics, occupational health and safety, occupational hygiene, occupational medicine, epidemiology, electromagnetic fields physics and workplace risk assessment and management.

## 7 TIME SCHEDULE AND REPORTING

*See also Article I.2. of the draft contract.*

### 7.1 Specific deadlines for the performance of tasks:

The contractor shall provide a final report comprising a comprehensive impact assessment of each of the tasks mentioned in point 5 of the present technical specifications.

The work must be carried out within **9 (nine) months** from the date on which the contract is signed. It shall cover the following steps:

1. Within **ten working days** after signature of the contract, the contractor will present to the European Commission (Unit EMPL F/4 in Luxembourg) his detailed plan of work and the methodology he intends to use, as well as the timetable laid down. This will be done during a one day meeting at the premises of Unit EMPL F4 in Luxembourg. Experts, observers and members of the Working party "Electromagnetic Fields" mandated by the Advisory Committee for Safety and Health at work may be invited by the Commission to attend.
2. Within **3 (three) months** of signing the contract, the contractor will submit to the European Commission (Unit EMPL F/4) an interim report describing progress in relation to the timetable laid down, together with a summary of results obtained so far. The interim report should be in English. This report will be discussed during a one day meeting to be held within 60 days after receipt of the report by the Commission at the premises of Unit EMPL F4 in Luxembourg. Experts, observers and members of the Working Party "Electromagnetic Fields" mandated by the Advisory Committee for Safety and Health at Work may be invited by the Commission to attend.
3. **6 (six) months** after signature of the contract, the contractor will submit to the European Commission (Unit EMPL F/4) a draft final report, which will include the

elements referred to point 5 of the present technical specifications, along with a brief summary of the main results obtained. The report should be in English.

4. The European Commission (Unit EMPL F/4) will examine the draft final report and notify the contractor of possible objections or comments to be made within 60 (sixty) days of receipt of this draft final report. A last meeting with the Contractor may be necessary during that period. This meeting is to be foreseen at the premises of Unit EMPL F4 in Luxembourg. Experts, observers and members of the Working Party "Electromagnetic Fields" mandated by the Advisory Committee for Safety and Health at Work may also be invited by the Commission to attend.
5. The contractor will have 30 (thirty) days to provide the final report taking into account, where appropriate, the objections or comments made by the European Commission (Unit EMPL F/4). The report will be accompanied by the documents and linguistic versions referred to under point 7.2.1 and will be provided in three paper copies as well as in electronic format.

## 7.2 Publicity and information requirements

- 1.- As a matter of principle, with a view to favouring valorisation by the European Commission of all results obtained and outputs delivered under PROGRESS programme, the Contractor will be required to provide - either upon specific request or in any event with the final activity report - for each of the tasks required under the present Call the following:
  - Presentation of their key points in one page. Key points should be concise, sharp and easily understandable. They shall be provided in English, French and German. Other Community languages would be welcome even if not compulsory.
  - And an executive summary in 5/6 pages in English, French and German unless otherwise more precisely described in the section "tasks to be carried out".
- 2.- In accordance with the General conditions, the Contractor is under the obligation to acknowledge that the present service is delivered on behalf of the Community in all documents and media produced, in particular final delivered outputs, related reports, brochures, press releases, videos, software, etc, including at conferences or seminars, as follows.

*"This (publication, conference, training session) is supported for under the European Community Programme for Employment and Social Solidarity (2007-2013). This programme is managed by the Directorate-General for Employment, social affairs and equal opportunities of the European Commission. It was established to financially support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields.*

*The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, EFTA-EEA and EU candidate and pre-candidate countries.*

*PROGRESS mission is to strengthen the EU contribution in support of Member States' commitments and efforts to create more and better jobs and to build a more cohesive society. To that effect, PROGRESS will be instrumental in:*

- *providing analysis and policy advice on PROGRESS policy areas;*
- *monitoring and reporting on the implementation of EU legislation and policies in PROGRESS policy areas;*

- *promoting policy transfer, learning and support among Member States on EU objectives and priorities; and*
- *relaying the views of the stakeholders and society at large.*

For more information see:

[http://ec.europa.eu/employment\\_social/progress/index\\_en.html](http://ec.europa.eu/employment_social/progress/index_en.html)"

For publications it is also necessary to include the following reference: "*The information contained in this publication does not necessarily reflect the position or opinion of the European Commission*"

With regard to publication and any communication plan linked to the present service, the Contractor will insert the European Union logo, and if any another logo developed for the employment and social solidarity fields, and mention the European Commission as the Contracting Authority in every publication or related material developed under the present service contract.

### **7.3 Reporting requirements**

PROGRESS will be implemented through a results-based management - RBM. Managing for outcomes and results is about working to maximise results for European citizens. This includes:

- Identifying the most important results for European citizens;
- Managing for these results, including setting clear desired results, implementing plans based upon these results and learning about 'what works' in the process;
- Seizing opportunities to work together whenever this helps achieve the results.

As a first step, a Strategic Framework for the implementation of PROGRESS has been developed in collaboration with Member states and organisations from the civil society. The Strategic Framework provides the framework for implementing PROGRESS, complemented by the Performance Measurement, which defines PROGRESS mandate, its long-term and specific outcomes. See in Annex the overview of PROGRESS performance measurement framework. For more information on the strategic framework, please visit PROGRESS website.

The Commission will in that context monitor the effect of PROGRESS supported or commissioned initiatives and considers how these initiatives contributes to PROGRESS outcomes as defined in the Strategic Framework. In that context, the Contractor will be asked to loyally work in close cooperation with the Commission and/or persons authorised by it to define their expected contributions and the set of performance measures against which their contribution will be assessed. The Contractor will be asked to collect and report on its own performance on a regular basis to the Commission and/or persons authorised by it. In addition, the Contractor will make available to the Commission and/or persons authorised by it all documents or information that will allow PROGRESS performance measurement to be successfully completed and to give them the rights of access.

## **8. PAYMENTS AND STANDARD CONTRACT**

In drawing up the bid, the tenderer should take into account the provisions of the standard contract comprising the "General terms and conditions applicable to service contracts".

## **8.1 Pre-financing**

Once the contract has been signed by the last contracting party, and within 30 days of the receipt of a request for pre-financing accompanied by a corresponding invoice, a pre-financing payment equal to 30% of the total amount referred to in Article 1.3.1 of the standard contract will be transferred.

## **8.2. Interim payment**

Not foreseen for this contract.

## **8.3. Payment of the balance**

The request for payment of the balance of the contractor shall be admissible if accompanied by:

- a final technical report in accordance with the instructions in section 7,
  - the corresponding invoices,
  - statements of reimbursable expenditure in accordance with Article II.7 of the standard contract,
- provided the report has been accepted by the Commission.

The Commission shall have 60 days from receipt to accept or reject it, and the contractor shall have 30 days in which to submit additional information or a new report.

Within 30 days of the date on which the report is approved by the Commission, payment of the balance shall be made.

## **9. PRICES**

Under the terms of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities, the latter are exempt from all charges, taxes and duties, including value added tax; such charges may not therefore be included in the calculation of the price quoted. The amount of VAT is to be indicated separately.

The price must be stated in EUR(€), net of VAT (using, where appropriate, the conversion rates published in the C series of the Official Journal of the European Union on the day when the invitation to tender was issued), and broken down according to the model in Annex III included in the attached standard contract.

### ***Part A: Professional fees and direct costs***

- Fees, expressed as the number of person-days multiplied by the unit price per working day for each expert proposed. The unit price should cover the experts' fees and administrative expenditure, but not the reimbursable expenses referred to below.
- Other direct costs (for example: translation costs)

### ***Part B: Reimbursable expenses***

- Travel expenses (other than local transport costs)

- Subsistence expenses of the Contractor and his staff (covering the expenditure incurred by experts on short-term trips outside their normal place of work)
- Expenses for the shipment of equipment or unaccompanied luggage, directly connected with performance of the tasks specified in Article I.1 of this Contract
- Contingencies

Total price = Part A + Part B **with a maximum of 500,000 €**

## **10. GROUPINGS OF ECONOMIC OPERATORS OR CONSORTIA**

Tenders can be submitted by groupings of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but the consortium selected may be required to assume a given legal form when it has been awarded the contract if this change is necessary for proper performance of the contract<sup>1</sup>. However, a grouping of economic operators must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the following points 11 and 12 must be supplied by every member of the grouping.

Each member of the grouping assumes a joint and several liability towards the Commission.

## **11. EXCLUSION CRITERIA AND SUPPORTING DOCUMENTS**

- 1) Bidders must provide a declaration on their honour, duly signed and dated, that they are not in one of the situation referred to in Articles 93 and 94 a) of the Financial Regulation.

Those articles are as follows :

### **Article 93 :**

Applicants or tenderers shall be excluded 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;

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<sup>1</sup> These entities can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

The contract has to be signed by all members of the group, or by one of the members, which has been duly authorised by the other members of the grouping (a power of attorney or sufficient authorisation is to be attached to the contract), when the tenderers have not formed a legal entity.

- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- d) they have not fulfilled their 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 Communities' financial interests;
- f) they are currently subject to an administrative penalty referred to in Article 96(1)<sup>2</sup>.

**Article 94 :**

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

- a) are subject to a conflict of interest;
- b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information<sup>3</sup>.

**2) The tenderer to whom the contract is to be awarded shall provide, within a time limit defined by the contracting authority and preceding the signature of the contract, the evidence referred to in Article 134 of the implementing Rules, confirming the declaration referred to in point 1 above.**

**Article 134** of the Implementation Arrangements – Supporting documents

1. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulations, production of a recent extract from the judicial record or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that these requirements are met.
2. 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 of the Financial Regulations, 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

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<sup>2</sup> "Article 96(1) : 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;
- b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget. (...)"

<sup>3</sup> Cf. Article 146(3) of the FR Implementing Rules: « ...the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within the time limit it specifies. » and Article 178(2) of the FR Implementing Rules: « The evaluation committee may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, in particular in the case of obvious clerical errors. »

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 tenderer or applicant is established, the documents referred to in paragraphs 1 and 2 above shall relate to legal entities and/or physical persons, including, where considered necessary by the awarding authority, company directors or any person with powers of representation, decision-making or control in relation to the tenderer.

**See Annex I (which may be used as a checklist) for the supporting documents accepted by the European Commission to be provided by applicants, tenderers or tenderers to who the contract will be awarded.**

3) The contracting authority may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to in Article 134 of the Implementing Rules, if such evidence has already been submitted to it for the purposes of another procurement procedure launched by DG EMPL and provided that the issuing date of the documents does not exceed one year and that they are still valid.

In such a case, the candidate or tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that no changes in his situation have occurred.

## **12. SELECTION CRITERIA**

All bids must also contain the documents listed below, testifying to the tenderer's financial and economic standing, technical capability and professional qualifications. In particular, the European Commission will verify:

### **12.1. Financial and economic standing: on the basis of the following documents:**

- turnover during the previous financial year (statement on the overall turnover – at least five times the maximum value foreseen for the contract – (i.e. 5 x EUR 500,000). Consolidated turnover will be considered in case of consortium;
- balance sheets and profit and loss accounts for the past three financial years, if the legislation of the country in which the tenderer is established requires them to be published;
- regular accounts for the quarter preceding that in which the notice of invitation to tender was published, if the full accounts for the previous financial year are not yet available.

### **12.2 Technical capability of the tenderer:**

- a description of the tenderer's technical capability and practical experience in the field referred to in sections 3, 5 and 6 of these specifications. For consortia of companies or groups of service providers, this description must relate specifically to the tasks to be performed by each of their various members;
- the tenderer must provide the names and curricula vitae (three pages maximum) of the persons responsible for the specific tasks described in section 5 of these specifications, with a view to ascertaining their practical experience and their ability to communicate with the undertakings and/or establishments;
- a description of the parts of the services to be provided by each consortium of companies or groups of service providers (where applicable).

## 13. AWARD CRITERIA

Taking the bids which meet the requirements of sections 11 and 12 above, the contract will be awarded to the best-value-for-money tender, on the basis of:

### 13.1 Quality of the offer (max. 100 points)

The evaluation of the quality of the offers will be done accordingly to the following criteria:

- Understanding of the scope of work, objectives and tasks: 20 points
- Quality, completeness and consistency of the methodological approach, taking into account any particularities of this specific project and including a description of the tangible results which will be delivered: 40 points
- Quality of the work plan proposed: 20 points
- Organisation of the work and management of the project: 20 points

### 13.2. Financial proposal

#### 13.2.1 Minimum requirements

Tenders for which the assessment of the quality of the bid result in less than **65 points** of a perfect score (100) will be considered to be of an unacceptably low quality. Only tenderers having scored an average of 65 points or more on the bids evaluation may participate in the financial evaluation.

The total score obtained in this way will be considered together with the **price** (for method used, see 13.2.2 Financial evaluation), and the contract will be awarded to the most cost-effective tender.

The Commission reserves the right not to select a contractor if the price of the offers proposed is in excess of the budget allocated to this project.

#### 13.2.2 Financial evaluation

##### Method used:

- (1) The best-value-for-money offer is determined by weighting the quality of the offer **70%** and the financial proposal **30%** using the following method:
- (2) In order to reflect the **70%** weighting to be given to the quality of the proposal, the tender with the best quality as evaluated under 13.1 is awarded the maximum **70**. Other tenders which received the minimum score of 65 points on the quality of the offer (see 13.2.1) receive points calculated according to the following equation:

Points **T** = (initial score of bid in question/initial score of best bid) x **70**

- (3) In order to reflect the **30%** weighting to be given to the financial proposal the lowest financial offer is automatically awarded the maximum of **30**.

Other tenders receive points calculated according to the following equation:

Points **F** = (least expensive price/price of tender in question) x **30**.

**Final score = T+F**

**The highest scoring firm is deemed to have made the best-value-for-money offer.**

## **14. CONTENT AND PRESENTATION OF BIDS**

### **14.1 Content of bids**

Tenders must include:

- all information and documents necessary to enable the Commission to appraise the bid on the basis of the selection and award criteria set out in sections 12 and 13 of these specifications;
- they must include all the information required by the Commission (see sections 9, 10, 11 of these specifications),
- a bank ID form duly completed and signed by the bank;
- a "legal entity" form duly completed;
- the price;
- the detailed CVs of the proposed experts;
- the name and function of the contractor's legal representative (i.e. the person authorised to act on behalf of the contractor in any legal dealings with third parties);
- proof of eligibility: tenderers must indicate the State in which they have their registered office or are established, providing the necessary supporting documents in accordance with their national law;
- the plan of work, timetable and the description of the approach intended to apply (see section 7.1).

### **14.2 Presentation of bids**

- Bids must be submitted in triplicate (i.e. one original and two copies).
- They must be clear and concise.
- They must be signed by the legal representative.
- They must be submitted in accordance with the specific requirements of the invitation to tender, within the deadline laid down.

## Annex I

Exclusion criteria (Article 93(1) FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded	
	Procurement (Article 93(2) FR; Article 134 IR)	
<b>1. Exclusion from a procurement procedure, Article 93(1) FR :</b> <i>« Candidates or tenderers shall be excluded from participation in a procurement procedure if:</i>		
<b>1.1. (subparagraph a)</b> <i>they are bankrupt or being wound up,</i>  <i>are having their affairs administered by the courts,</i>  <i>have entered into an arrangement with creditors have suspended business activities, are the subject of proceedings concerning those matters,</i>  <i>or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations<sup>4</sup>;</i>	<ul style="list-style-type: none"> <li>– Recent extract from the judicial record <b>or</b> recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance</li> <li><b>or</b></li> <li>– Where no such certificate is issued in the country concerned : 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</li> </ul>	–
<b>1.2. (subparagraph b)</b> <i>they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata<sup>5</sup>;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
<b>1.3. (subparagraph c)</b> <i>they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;</i>	Declaration by the candidate or tenderer that he is not in the situation described	
<b>1.4. (subparagraph d)</b> <i>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<sup>6</sup>;</i>	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described <b>or</b> – Where no such certificate is issued in the country concerned : 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	
<b>1.5. (subparagraph e)</b> <i>they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests<sup>7</sup>;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
<b>1.6. (subparagraph f)</b> <i>they are currently subject to an administrative penalty referred to in Article 96(1)<sup>8</sup>. »</i>	Declaration by the candidate or tenderer that he is not in the situation described	

<sup>4</sup> See also Article 134(3) IR : Depending on the national legislation of the country in which the tenderer or candidate 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.

<sup>5</sup> Cf. footnote n° 4.

<sup>6</sup> Cf. footnote n° 4.

<sup>7</sup> Cf. footnote n° 4.

<sup>8</sup> Article 96(1) FR: 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;

(b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.

Exclusion criteria (Article 94 FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded.	
	Procurement	Grants
<b>2. Exclusion from a procurement or grant award procedure Article 94 FR :</b> « <i>Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:</i>		
<b>2.1. (subparagraph a)</b>  <i>are subject to a conflict of interest;</i>	Statement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal	
<b>2.2. (subparagraph b)</b> <i>are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information»<sup>9</sup>.</i>	<ul style="list-style-type: none"> <li>– No specific supporting documents to be supplied by the applicant, tenderer or bidder</li> <li>– It is the responsibility of the authorising officer, represented by the evaluation committee, to check that the information submitted is complete<sup>10</sup> and to identify any misrepresentation</li> </ul>	

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<sup>9</sup> Cf. Article 146(3) of the FR Implementing Rules: « ...the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within a specified time-limit. » and Article 178(2) of the FR Implementing Rules: « The evaluation committee may ask an applicant to provide additional proof or to clarify the supporting documents establishing financial and operational capacity, within a specified time-limit. »

<sup>10</sup> Cf. footnote n°9

## **Annex II**

### **Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest**

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 in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator<sup>11</sup>*)  
or
- representing (*if the economic operator is a legal person*)

official name in full (*only for legal person*):

official legal form (*only for legal person*):

official address in full:

VAT registration number:

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

- 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 Communities' 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:

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<sup>11</sup> To be used depending on the national legislation of the country in which the candidate or tenderer is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).



**Annex III** : Overview of PROGRESS performance measurement framework