

SPECIFICATIONS

To Invitation to Tender ENV.E.2/SER/2010/0027

Monitoring of the implementation and enforcement of the EC Wildlife Trade Regulations

These specifications follow the publication of

- the prior information notice in OJEU 2010/S 56-082562 of 20/03/2010**
- the contract notice in OJEU 2010/ S 113-170897 of 12/06/2010**

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PART 1: TECHNICAL DESCRIPTION

1. Background

Annually, international trade in specimens of wild animals and plants is estimated to be worth billions of Euro and to include hundreds of millions of plant and animal specimens. The trade is diverse, ranging from live animals and plants to products derived from them, including food products, leather goods, timber, and medicines.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which was signed in 1973, aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. It accords varying degrees of protection to more than 30.000 species of animals and plants. CITES works by making international trade in specimens of selected species subject to certain controls. These require that the import, export, re-export and introduction from the sea of species covered by the Convention have to be authorized through a licensing system. The species covered by CITES are listed in three Appendices, according to the degree of protection they need. www.cites.org

Although the European Union is not yet a Party to CITES¹, its provisions have been implemented in Community law since 1982, when the first **Community-wide legislation** implementing the Convention entered into force.

There are three main reasons why CITES is implemented at EU level and not individually by each of the 27 EU Member States:

- The fact that external trade rules are of exclusive Community competence;
- The absence of systematic border controls as a result of the customs union; and
- The existence of a Community policy on the environment and legislation on the protection and conservation of the Community's indigenous species.

The existing Community legislation on wildlife trade - Council Regulation (EC) No 338/97 on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein (OJ L61 of 03.03.1997) and Commission Regulation 865/2006 (OJ L 166 of 19.6.2006) - fully implements the provisions of CITES. These Regulations also include provisions to implement the bulk of currently applicable recommendations of the Conference of the Parties on their interpretation and implementation. On a number of aspects, the Regulations go beyond CITES and they include many provisions on intra-EU trade.

Regulation (EC) No 338/97 establishes a Committee of Member States' representatives, a Scientific Review Group comprising Member States Scientific Authorities and an Enforcement Group consisting of each Member State's enforcement authorities.

¹ Accession by the Community requires the ratification of the Gaborone Amendment to the Convention by 54 Countries that were a Party in 1983. 46 Parties have ratified to date.

Although the Regulations are directly binding throughout the Community, Member States are required to take certain specific measures and are responsible for their day-to-day implementation and enforcement.

Regulation (EC) No. 338/97 requires Member States, inter alia, to:

1. Designate customs offices responsible for carrying checks on imports into and exports from the Community, notify these to the Commission, and ensure that they are provided with sufficient and adequately trained staff (Article 12);
2. Designate Management and Scientific Authorities and forward the relevant information to the Commission (Article 13);
3. Ensure adequate information to the public at border crossing-points (Article 12) and make the public aware of the provisions of the Convention and the Regulations (Article 15);
4. Monitor compliance with the provisions of the Regulation (Article 14);
5. Instigate legal action where necessary (Article 14);
6. Inform the Commission of steps taken in relation to significant infringements and the outcomes of any subsequent investigations (Article 14);
7. Compile and submit to the Commission annual reports on trade in species listed in the Annexes to the Regulation and biennial reports on legislative, regulatory and administrative measures taken to implement enforce the provisions of the Regulation 338/97 and Regulation 865/2006 (Article 15);
8. Take appropriate measures to ensure the imposition of sanctions for infringements of the Regulation (Article 16);
9. Notify the Commission of all legal instruments and measures taken for the implementation and enforcement of the Regulation (Article 20).

It also requires the Commission, inter alia, to:

10. Publish in the Official Journal the lists of designated customs offices and designated Management and Scientific Authorities (Article 12 and 13);
11. Draw the attention of the Member States' competent authorities to matters whose investigation it considers necessary (Article 14);
12. Make the public aware of the provisions of the Convention and the Regulations (Article 15);
13. Draw up an annual report on trade in species listed in the Annexes to the Regulation and a biennial report on the implementation and enforcement of the Regulation (Article 15).

Moreover, as part of its role as guardian of the Treaties, the Commission is required to monitor the implementation and enforcement of the wildlife trade Regulations in the Member States. Such monitoring is all the more important in view of quickly evolving trade patterns and enforcement issues arising from new patterns.

2. Objectives

The purpose of the contract is to:

1. provide support to the European Commission in monitoring the implementation and enforcement of the EC Wildlife Trade Regulations (Regulations (EC) 338/97 and (EC)

865/2006) and in carrying out the specific tasks required of it by the Regulations as detailed above;

2. assist the Member States in carrying out some of the tasks required of them by the Regulations as detailed above.

3. Content / Description of the tasks

In order to achieve the objectives set out above the contractor will be required to carry out the following tasks².

3.1. Monitoring trends in legal and illegal wildlife trade:

3.1.1. Compilation of information

Compile information on trends in illegal trade, significant seizures and confiscations, court cases and other enforcement-related issues in each Member States and in the EU as a whole, including reports submitted by the Member States in advance of Enforcement Group meetings and information provided in the biennial reports. This information should be provided to the Commission as a short report (max. 1 page per Member State) twice per year (6 times over the contract period). The report should make a distinction between international trade and intra-EU trade;

3.1.2. Analysis of trends and patterns in illegal trade

On the basis of the reports produced under 3.1.1, the official information submitted in the biennial reports, and any other relevant information, assess trends and patterns in illegal wildlife trade into and within the Community and identify the species, trades routes and modes of shipment for which the Enforcement agencies of some or all Member States should be attentive. Submit this information to the Commission in the form of a briefing twice per year (6 times over the contract period);

- 3.1.3.** Prepare up to five reports, in agreement with the Commission, on trade in certain species or types of goods;

3.2. Biennial report preparation, compilation and analysis

- 3.2.1.** Produce two compilations of the biennial reports of all the Member States for the periods 2009-2010 and 2011-2012.

- 3.2.2.** Draft two detailed analyses of the Member States' biennial reports with a view to assessing the state of play of implementation and enforcement of the Regulations in the Member States and identifying any shortcomings in relation to the requirements set out in the Regulations. The analysis should also cover related aspects such as

² Any outcome achieved under the previous contract(s) and relevant for the successful execution of the tasks required will be made available to the successful bidder.

trends in illegal trade (based on the reported seizures), stricter national measures, the use of IT systems, research projects or other related activities, in a format to be agreed with the Commission.

3.2.3. Draw up two summary assessments of the implementation and enforcement of the Regulations in the Member States, based on the analysis outlined in 3.2.2 above. The summary should be submitted to the Commission in a tabular form;

3.2.4. Based on the information provided for each biennial report exercise:

3.2.4.1. Update the existing table providing an overview of the stricter measures in place in Member States

3.2.4.2. Draw up a table providing up-to-date references to all national legislation relevant to the implementation of the Regulations

3.3. Monitoring implementation and enforcement measures

3.3.1. Produce updated information of each Member States' national legislation relevant to the implementation of the Regulations, where possible in English. This compilation should be subdivided by country and, where appropriate by subject (e.g. enforcement-related legislation / administrative measures etc.); an up-to-date version of this compilation should be submitted to the Commission on a CD-Rom towards the end of the contract.

3.3.2. Update the table on marking techniques used in the Member States and identify the numbering system of marking techniques.

3.3.3. Update the table on "Minimum and maximum penalties and seizure/confiscation powers in relation to Article 16 of EC Regulation 338/97 in EU Member States".

These updates and compilation shall be based on information provided in the Member States' biennial reports as well as through contacts with the individual Member States.

3.3.4. Assess implementation by the Member States of the general and country-specific recommendations of the "EU Enforcement Action Plan"³.

3.3.5. Update the Reference guide of EC wildlife trade regulations, as necessary, taking into account amendments to the Regulations or changes in relation to the interpretation of certain provisions (1-2 updates foreseen during the course of the contract);

3.3.6. Draft up to five reports, in agreement with the Commission, on the implementation/interpretation of certain provisions of the Regulations;

³ Commission Recommendation of 13 June 2007 identifying a set of actions for the enforcement of Council Regulation (EC) No 338/97. OJ L 159, 20.6.2007, p. 45

3.4. Assistance to the Commission

- 3.4.1.** Produce specialist reports for the Commission, on issues relating to Enforcement, Implementation or Species conservation, including *inter-alia* trade data analysis, trends, relevant legislation, species/scientific information and enforcement matters. Such reports should be 1-2 pages and should be produced upon request, within a one to two-week deadline, up to 10 times over the period of the contract;
- 3.4.2.** Produce detailed reports on enforcement and/or socio-economic aspects related to the implementation of CITES and/or EU measures on trade in species which are included (or might be proposed for inclusion) in CITES Appendices. Such reports should rely on a thorough analysis of the issue and on information collected among all relevant actors affected (Member States, stakeholders, third States...). This could include analysis necessary for the elaboration of impact assessments. The reports should be produced upon request within a 10-18 weeks deadline, up to 4 times over the period of the contract;
- 3.4.3.** Assist in the preparation and follow-up of 2 EU Enforcement Group meetings each year (6 over the contract period). This activity should include the following tasks:
- 3.4.3.1. Provide timely input to the Commission for the agenda;
- 3.4.3.2. Assist the Commission in establishing contacts with relevant regional organisations, international bodies/organisations, stakeholders and other bodies;
- 3.4.3.3. Assist the Commission in drafting the meeting reports and preparing follow-up notes / letters as necessary.
- 3.4.4.** Assist, as required by the Commission, with the updating (maximum once a year) and compilation of the list of places of introduction and export as well as the list of national authorities as required by Article 12 of the Council Regulation 338/97 to be published in the Official Journal;

3.5. Information to the public

- 3.5.1.** The contractor will have to merge the two websites currently dedicated to the implementation of CITES in the EU (http://ec.europa.eu/environment/cites/home_en.htm and <http://www.eu-wildlifetrade.org/>). The contractor will propose a design for the website (incl. a site map) based on the Environment website template. This website will have to be transferred to the Europa website and be integrated into the existing EU CITES website there (http://ec.europa.eu/environment/cites/home_en.htm). The contractor will maintain and update in a timely manner this website during the contract period. Updates in all languages (including translation and validation) will be done approximately twice a year.

The contractor needs to buy the domain name <http://www.eu-wildlifetrade.org/>, provide for the redirection to the website on Europa and ensure the transfer of the ownership of the url to the Commission.

The transferred version of the website cannot contain dynamic pages and must be compliant with the following rules:

General information for development or maintenance of a web-site on Europa

The contractor shall ensure that the website is compliant with the Information Provider Guidelines (IPG) for EUROPA: <http://www.ec.europa.eu/ipg>

This guide covers all aspects of publishing on the EUROPA site, describing the relevant editorial, technical and presentation standards in force, as well as providing a wide range of recommendations based on best practices.

Specific information for development of a web-site

As the website will be hosted on the Europa server of the European Commission as part of the Environment website (http://ec.europa.eu/environment/index_en.htm), the contractor should respect the environment template. For instance, the website cannot contain dynamic pages based on application programming and/or database contents. Other technologies as Flash, XML or Javascript are accepted.

The contractor will be free to use a web content management system locally but the web pages are to be delivered to the Commission in static HTML format.

The contractor will develop the website at his premises and infrastructure. The process of acceptance by DG-ENV is an iterative process that contains at least the following phases:

- delivery of a version to DG-ENV
- validation by DG-ENV
- emission of validation report by DG-ENV (minimum of 5 working days after delivery)
- correction by the contractor

Once accepted, DG-ENV will deploy the version onto the Hosting Environment.

Specific information for maintenance of a web-site

The contractor should follow the following rules for the maintenance of the web-site:

- When receiving update requests from DG ENV, the contractor should first ask validation of the files at his premises
- When validated, the contractor should send only the updated files to the mailbox "env-europa@ec.europa.eu" putting the responsible within the technical unit in copy. The files can be sent as a zip per e-mail or uploaded on one of the contractor http server. The path information should be saved within the zip file.
- The contractor will receive a notification when the files have been uploaded on the Europa server.

3.5.2. Respond to questions from the public concerning the provisions of CITES and the Regulations and their implementation and enforcement, received directly, through the website or via the Commission. The Commission shall be put in copy of all replies sent by the contractor;

3.5.3. Update the list of Frequently Asked Questions as necessary;

3.6. Participation in meetings

3.6.1. Attend meetings of the Committee on trade in wild fauna and flora and Scientific Review Group, as necessary (maximum 12 meetings during the contract period), in order to present reports or outcomes of activities carried out in the context of this contract;

3.6.2. Participate in all meetings of the EU Enforcement Group (6 over the contract period) and make presentations upon request.

3.6.3. Attend meetings with the Commission staff within one month from the date of signature of the contract and on a twice-yearly basis thereafter in order to discuss the state of play of activities and/or exchange views on a specific task;

Place of performance: outside Commission premises.

4. Experience required of the Contractor

The contractor should have demonstrable experience in the field of wildlife trade and considerable knowledge of issued relating to legal and illegal wildlife trade. The contractor should be very familiar with CITES and the EC Wildlife Trade Regulations and should be able to provide solid scientific as well as legal expertise. The contractor should also demonstrate knowledge in socio-economic aspects linked to wildlife trade. Furthermore, they should demonstrate their ability to carry out impact assessments or similar exercises.

The contractor should preferably have a minimum of 5 years of experience in this kind of work.

5. Deliverables

Where no timetable is given for the deliverables as listed under the description of tasks and/or under specific outputs below, this shall be either determined in agreement with the Commission at the beginning of the contract or will be determined in accordance with the timetable for meetings, e.g. of the EU Enforcement Group. Furthermore, depending on the issues that arise during the contractual period, topics, length and delivery date of the reports to be prepared as reflected under the tasks that shall be submitted to the Commission will be discussed and decided with the Commission as necessary.

Specific outputs:

- 3.1.1. 6 short reports to be submitted to the Commission (on a twice-yearly basis);
- 3.1.2. 6 briefings to be submitted to the Commission (on a twice-yearly basis);
- 3.1.3. 3 briefings to be submitted to the Commission (on a yearly basis);
- 3.1.4. Up to 5 reports on topics arising either from the analysis carried out under task 3.1 or becoming relevant throughout the contract period;
- 3.2.1. 2 compilations of biennial reports to be submitted within three months after submission of the reports by Member States (deadlines for Member States' submission will be fixed at a later stage);
- 3.2.2. 2 Draft analyses of biennial reports to be submitted within three months after submission of the reports by Member ; final versions to be submitted within five months after submission of the reports by Member States;
- 3.2.3. 2 summary assessments to be submitted within three months after submission of the reports by Member States;
- 3.2.4. Tables on stricter measures and national legislation to be submitted within five months after submission of the reports by Member States;
- 3.3.1. CD-Rom containing the compilation of each Member States' national legislation to be submitted towards the end of the contract;
- 3.3.2. Updated table on marking techniques;
- 3.3.3. Updated table on sanctions;
- 3.3.4. Up to 5 short reports;
- 3.3.5. Up to 2 updates of the Reference guide;
- 3.3.6. Up to 5 reports;
- 3.4.1. Up to 10 specialist reports;

3.4.2. Up to 4 detailed reports;

3.4.4. Yearly update of the list of places of introduction and export as well as the list of national authorities;

General outputs:

- A detailed work plan should be submitted within three weeks of the date of signature of the contract;
- An interim report, containing information on activities carried out during the first half of the contract period and on the state of play of other activities, should be submitted within 18 months of the date of signature of the contract;
- A final report, containing information on all activities carried out during the contract period, should be submitted upon expiry of the contract. The draft of this final report should be submitted one month before the end of the contract.

6. Duration of the tasks

The tasks should be completed within **36** months of the signature of the contract (see point 5). The execution of the tasks may not start before the contract has been signed.

7. Place of performance

The place of performance of the tasks shall be the contractor's premises or any other place indicated in the tender, with the exception of the Commission's premises.

PART 2: ADMINISTRATIVE DETAILS

1. General terms and conditions for the submission of tenders

- Submission of a tender implies that the Contractor accepts all the terms and conditions set out in these specifications (including the annexes) and waives all other terms of business.
- Submission of a tender binds the Contractor to whom the contract is awarded during performance of the contract.
- Changes to tenders will be accepted only if they are submitted on or before the final date set for the submission of tenders.
- Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.
- No information of any kind will be given on the state of progress with regard to the evaluation of tenders.
- Once the Commission has accepted the tender, it shall become the property of the Commission and the Commission shall treat it confidentially.
- The protocol on the Privileges and Immunities or, where appropriate, the Vienna Convention of 24 April 1963 on Consular Relations shall apply to this invitation to tender.

2. No obligation to award the Contract

- Fulfilment of adjudication or invitation to tender procedure shall not involve the Commission in any obligation to award the contract.
- The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be liable in the event of its deciding not to award the contract.

3. Joint tenders

When a consortium / partnership is envisaged three cases can arise:

- I. The offer originates from a consortium already formally set up as a separate and legal entity able to submit its statutes, mode of operation, technical and financial capacity, such as result from the contributions of its various members. It is such a consortium that will bear the technical and financial responsibility for the contract and will present the requested financial guarantee, if applicable.
- II. The offer originates from companies not yet having created a consortium as a separate legal entity but planning to constitute one as referred to in item I, if their joint offer is accepted. In such a situation, the tenderer will have to provide the legal form, the envisaged draft statutes and mode of operation of the consortium, the various technical and financial contributions, letters of intent, as well as the guarantees envisaged, where applicable.

- III. The offer originates from companies not wishing to constitute formally a consortium as a separate legal entity and thus constituting effectively an association. In such a case, the offer will be submitted in the form of subcontracting (cf. point 4 below), in which case one of the companies shall assume the total responsibility for the offer. This company will sign the contract in its name, the other companies then being regarded as subcontractors of the first.

For joint tenders described in cases I and II above, the information required in

- Part 2, 6.2 (“administrative proposal”)
- Part 3, 1 (“information for assessment of exclusion criteria”) and
- Part 3, 2 (“information for assessment of selection criteria”)

must be provided for **all** members participating in the tender.

For joint tenders described in case III please refer to point 4 below.

4. Subcontractors

Subcontracting is permitted subject to the following conditions:

The subcontractor is the sole responsibility of the main contractor;

- Tenderers must indicate in their offers the amount of the contract (if any) that they will subcontract to third parties, as well as the identity and availability of the chosen subcontractor(s). The contractor will not subcontract to third parties not identified in the offer as potential subcontractors without prior written authorisation from the Commission;
- the contractor shall not cause the contract to be performed in fact by third parties;
- even where the Commission authorises the contractor to subcontract to third parties, the contractor shall nonetheless remain bound by his obligations to the Commission under the contract;
- the contractor shall ensure that the subcontract does not affect rights and guarantees to which the Commission is entitled by virtue of the contract.

Where the total amount envisaged for subcontracting is above 30% of the total contract value, evidence of the subcontractor(s) ability to perform the tasks entrusted to him/them shall be included in the offer. Such evidence is the same as that also required from the contractor, as described and identified, in Part 3, point 2 below.

Where the total amount envisaged for subcontracting is above 50% of the total contract value, the subcontractor(s) must also, **if and when requested**, present evidence of compliance with the exclusion criteria (as required from the potential contractor) as described in Part 3, point.1 below.

Tenderers should note that the Commission will consider intended subcontracting below 30% of the contract value as an indication that the potential contractor has the resources to complete the tasks under the contract, as well as a factor potentially enhancing the proposed team organisation.

Therefore this point will be taken into account in the assessment of the award criterion “project management and availability”.

5. Payments

This contract will be paid on a lump sum basis.

A pre-financing payment of 30% will be paid upon signature of the contract.

An interim payment of 30% will be paid upon acceptance by the Commission of the interim report.

A final payment of 40% will be paid upon acceptance by the Commission of the final report.

The Commission reserves the right to waive the pre-financing payment if applicable, or to request a financial guarantee should it be deemed necessary.

The Commission is exempt from all taxes and dues, including value added tax, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities with regard to its financial contribution under the contract.

6. Content of the tender

All tenders must be presented in three sections:

6.1. Financial proposal

- A financial proposal duly dated and signed by the person authorized to sign on behalf of the organization. The price must be quoted in Euro using the template in annex 2, including for the countries which do not form part of the Euro zone. For the tenderers of the countries which do not form part of the Euro zone, the amount of the offer cannot be revised because of exchange rate movements. The choice of exchange rate belongs to the tenderer, who assumes the risks or opportunities associated with these exchange rate movements.
- The price must be a fixed amount, inclusive all expenses.
- The price will not be subject to revision.
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- *For guidance purposes, the maximum budget allocation to this contract is fixed at **350.000 EUR (three hundred and fifty thousand Euro)***
- The price quotation must be signed by the tenderer or his duly authorised representative.
- The price must be quoted free of all duties, taxes and other charges, including VAT, as the Communities are exempt from such charges under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJEC 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 doubts about the applicable VAT system, it is the tenderer's responsibility to contact his national authorities to clarify the way in which the European Community is exempt from VAT.

- The offer shall remain valid for a period of 12 months, as from the deadline for submission of offer.

6.2. Administrative proposal

- An administrative information form containing information on the full name of the organization, legal status, address, person to contact, person authorized to sign on behalf of the organization, telephone number, and facsimile number. The form must be duly dated, signed and stamped by the person authorized to sign on behalf of the company (see annex 1).
- Legal entity and financial identification forms (see annex 3), proof of enrolment (certificates) in one of the professional or trade registers, in country of establishment.
- If the tenderer is a natural person; she/he will be required to provide proof of her/his status as a self-employed person. To this end she/he must supply details of her/his social security cover and situation with regards to VAT regulation.
- A declaration of the candidate's eligibility; certifying that he/she is not in one of the situations listed in articles 93 and 94 of the Financial Regulation of the European Communities (Official Journal L 390 of 30/12/2006) (see annex 4)
- Documents relating to the selection criteria (see part 3, point 2.1. Financial and Economic capacity)
- The service provider's educational and professional qualifications and those of the firm's managerial staff and, in particular, those of the person or persons responsible for providing the services (curriculum vitae presented on the EU standard form which can be downloaded from the following address – <http://europass.cedefop.europa.eu/europass/home/vernav/Europasss+Documents/Europa+ss+CV/navigate.action> together with a consolidated overview of CVs in an excel table.
- A list, preferably in English or French of the principal studies, services contracts, consultancy work, surveys, publications or other work previously carried out during the past three years, indicating the name of the client and stating which, if any, were done for the European Commission.
- Tenders from consortia of firms or groups of service providers must specify the role, qualifications and experience of each member (see also part 3, points 1, 2 and 3 – exclusion, selection and award criteria).

6.3. Technical proposal

- A contract proposal with the methodology to fulfil the requirements mentioned in Part 1, point 3. The tender should give indications on the theoretical background used, the methodology used in the work that will be undertaken and on its appropriateness for this

purpose, in conformity with the guidelines included in the approach. It should also give indications on the data to be used and their reliability.

Establish the tenderer's identity

The tenderer should detail the competence, experience and the means at his disposal which would allow the tasks foreseen in the contract to be carried out.

A list of previous work carried out over the past 3 years must be included.

If a consortium is formed for the execution of the tasks presented in this call for tender, then please explain the roles of each partner in the consortium. (For the administrative details in relation to joint tenders, please refer to Part 2, point 3).

If sub-contracting is envisaged, please clearly indicate which tasks are concerned, the % that this represents of the total value of the offer, and the name and address of the sub-contractor(s), if known at this stage.

Implementation of the contract

Describe the methodology to be applied to carry out each of the tasks foreseen in the contract.

Managing the contract

The tenderer's availability during the period of the execution of the tasks must be clearly demonstrated, and explain how the project will be managed.

PART 3: ASSESSMENT AND AWARD OF A CONTRACT

The assessment will be based on each tenderers bid.

All the information will be assessed in the light of the criteria set out in these specifications. The procedure for the award of the contract will concern only admissible bids and it will be carried out in three successive phases. The first step is to check that the tenderers are not excluded in any way from taking part in the tender procedure. The second step is to check the tenderer's capacity (financial and technical) to perform the contract and the final step is to assess the quality of the offers against the award criteria.

In the case of joint tenders, the exclusion, selection and award criteria will be applicable to all the members of the consortium. The same principle will also be applied in the case where there are sub-contractors. The bid must clearly identify the subcontractors and document their willingness to accept the tasks and thus acceptance of the terms and conditions set out in Part 2.1. Tenderers must inform the subcontractors that Article II.17 of the standard contract will be applied to them. Once the contract has been signed, Article II.13 of the above mentioned contract shall govern subcontractors.

1. Exclusion criteria

Tenderers must declare on their honour that they are not in one of the situations referred to in articles 93 and 94 a) of the Financial Regulation. Tenderers or their representatives must therefore fill in and sign the form in Annex 4 to these specifications. Hereby agreeing to submit to the Commission, **if and when requested to do so**, those certificates or documents demonstrating that the tenderer is not in any of the situations described under points (a), (b), (d) and (e) below:

These articles are as follows:

Article 93:

1. 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 judgment which has the force of *res judicata*;
- (c) They have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) They have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) They are currently subject to an administrative penalty referred to in [Article 96\(1\)](#).

Article 94

A contract shall not be awarded to candidates or tenderers who, during the procurement procedure for this contract:

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

2. Selection criteria

Only those tenders fulfilling all the selection criteria will be examined in the light of the award criteria. The selection criteria are set out below

2.1. Financial and economic capacity may be shown by means of the following:

- A simplified balance sheet and profit and loss account, exclusively based on the annex 5 form attached to these specifications;

In the event that the tender is unable to complete the form as proposed above one of the following alternatives would be acceptable

- a. financial statements for the last two financial years;
OR
- b. declaration concerning the sales turnover related to the field associated with the invitation to tender during the last three financial years;
OR
- c. other substantiating documents if the candidate or tenderer cannot, for valid reasons, provide those indicated above

2.2. Technical and professional competence:

- Experience as evidenced by the qualifications, both educational and professional, of the service provider or contractor and those of the firm's managerial staff and, in particular those of the person or persons responsible for carrying out the service/work. Curriculum vitae must be provided.
- A reference list of relevant previous projects over the past 3 years must be provided, indicating the sums involved, dates, recipients, public or private.

2.3. Authorisation to perform the contract

- A tenderer must prove that he is authorised to perform the contract under national law, as evidenced by inclusion in a trade or professional register, or a sworn declaration or certificate, membership of a specific organisation, express authorisation or entry in the VAT register.

2.4. Access to the market

- A tenderer must indicate in which State they have their headquarters or domicile and to present the supporting evidence normally acceptable under their own law.

3. Award criteria

Further to the price quoted for the contract, the following award criteria will be applied:

Award criteria 1 – Understanding (max points 30)

This criterion serves to assess whether the tenderer has understood all of the issues involved, as well as the nature of the work to be undertaken and the content of the final products.

Award criteria 2 – Methodology (max points 40)

This criterion assesses the suitability and strength of the proposal as measured against the requirements of the specification in terms of the technical content, completeness, originality of ideas (*where appropriate*) and proposed effort.

Award criteria 3 – Project management and availability (max points 30)

Offers will be assessed as regards the quality of the team organisation, the time attributed to each team member and the availability of resources for the completion of the contractual tasks, which should be clearly outlined in the tender.

Since assessment of the tenders will be based on the quality of the proposed services, tenders should elaborate on all points addressed by these specifications in order to score as many points as possible. The mere repetition of mandatory requirements set out in these specifications, without going into details or without giving any added value, will only result in a very low score. In addition, if certain essential points of these specifications are not expressly covered by the tender, the Commission may decide to give a zero mark for the relevant qualitative award criteria.

4. Points

A points system to evaluate the award criteria relating to the technical value of the offers will be applied.

A maximum of 30 points will be attributed to criterion 1, a maximum of 40 points will be attributed to criterion 2, and a maximum of 30 points will be attributed to criterion 3. In addition a minimum threshold will be set up under this system of points:

- Technical sufficiency levels: Selected companies will have to score a minimum of 18, 24 and 18 points under criteria 1, 2 and 3 respectively, with a minimum total of 65 points.

5. Budget

The budget is a maximum of 350.000 EUR excluding VAT (including fees, travel and all other costs).

The Commission is exempt from all taxes and dues, including value added tax, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities with regard to its financial contribution under the contract.

The price quoted must be a firm, non-revisable price and must be quoted in euro.

Having examined the tenders from a technical point of view, the evaluation committee will proceed considering which is the economically most advantageous offer taking into account **only those tenders that have obtained at least 65 out the 100 points that are available for the technical quality of the bid**. The evaluation committee will then proceed with the financial comparison of the tenders retained for further consideration according to the ranking procedure below.

6. Ranking of the tenders and award of the contract.

The bid offering the best value for money will be chosen, provided that the minimum number of points cited above is achieved. Best value for money will be calculated as follows:

- All bids that do not reach the stated technical sufficiency levels for each individual award criteria will not be considered for contract award.
- All bids that have passed the individual levels and score 65 or higher are deemed to be technically sufficient. Then the price is divided by the total number of points awarded to obtain the price-quality ratio. The award of the contract will be made in accordance with the lowest ratio.

The Commission reserves the right not to select any tender if the amounts tendered exceed the budget envisaged for this project.

7. Opening of tenders

The tenders received will be opened on **18/08/2010 at 10h30** in the Commission building at **Avenue de Beaulieu 5, B-1160 Brussels**.

One authorised representative of each tenderer (with proof of identity) may attend the opening of tenders (no expenses paid).

8. Information for tenderers

After the award decision has been taken, the Commission will inform tenderers including the grounds for any decision not to award a contract or to recommence the procedure.

ANNEX 1 - ADMINISTRATIVE INFORMATION FORM

Organisation or individual:

NAME:

ADDRESS:

HEADQUARTERS:

PERSON AUTHORISED TO SIGN CONTRACT:

Name and position:

PERSON FOR ROUTINE CONTACT:

Name and position:

Telephone and fax number:

Signature of Contractor

ANNEX 2 - FINANCIAL OFFER TEMPLATE

(FOR GUIDANCE PURPOSES ONLY)

PRICE AND ESTIMATED BUDGET BREAKDOWN

Calculation of the costs

Name	Staff on payroll		Other statute	Time in %	Total year /	TOTAL
	Gross salary	Social charges				
...						
... etc.						
Staff costs						
Infrastructure						
Overhead costs including office material and consumables						
Office Equipment						
Travel/Missions						
Sub-contracting						
Company x						
Company y						
Company z						
Other						
TOTAL COSTS in EURO					€	

Signature of Contractor

.....

Date

.....

ANNEX 3 - LEGAL ENTITY AND FINANCIAL IDENTIFICATION FORMS

These forms can be downloaded from

http://ec.europa.eu/budget/execution/legal_entities_en.htm (Legal entity form)

http://ec.europa.eu/budget/library/execution/financial_identification/fich_sign_ba_gb_en.pdf
(financial identification form)

ANNEX 4

DECLARATION ON EXCLUSION CRITERIA AND ABSENCE OF CONFLICT OF INTERESTS

Name of the organisation/individual:

Legal address:

Registration number:

VAT number:

Name of the signatory of this form:

Position:

- representative legally authorised to represent the tenderer vis-à-vis third parties and acting on behalf of the aforementioned company or organisation *[please tick box if applicable]*

hereby certifies that *[please tick one of the two boxes]*

- they
- the company or organisation that they represent:
- a) are/is not bankrupt or being wound up, is not having their affairs administered by the court, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, or is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) have/has not been convicted of an offence concerning their professional conduct by a judgement which has the force of *res judicata*;
- c) have/has not been found guilty of grave professional misconduct proven by any means which the Commission can justify;
- d) have/has 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 those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) have/has 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 Communities' financial interests;
- f) are/is currently not subject to an administrative penalty referred to in [Article 96\(1\)](#).

In addition, the undersigned declares on their honour:

- g) that on the date of submission of the tender, they, the company or organisation they represent and the staff proposed for this tender are not subject to a conflict of interests in the context of this invitation to tender; the undersigned undertakes to inform the Commission without delay of any change to this situation after the date of submission of the tender;
- h) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete;
- i) **that, if and when requested, they will provide the evidence required under point 1, part 3 of the Specifications.**

Full name:

Date

Signature:

ANNEX 5

Explanation – please read carefully before completing the financial capacity form

Simplified balance sheet and profit and loss account

Candidates shall indicate if they are a profit or a non profit making company / organisation.

Within the form, financial data based on the company's /organisation's balance sheet are collected in a standardised form. Please find below a correspondence table giving an explanation on the regrouping of different accounts respecting the [4th Accounting Directive](#). You should complete this form carefully. Given its complexity, it is recommended that the form be completed by a professional accountant or an auditor. The data reported will be used to evaluate the financial viability of the company/organisation. Thus it is very important that data reported are accurate. The Commission may wish to cross check the data with those reported in the official certified accounts. For this purpose the Commission reserves the right to ask for further documentation during the evaluation process.

The amounts have to be filled out in euros ([use the exchange rate of the closing date of the accounts](#)).

Abbreviations t-1 and t0

The abbreviation *t0* represents the last certified historical balance sheet and profit and loss account; *t-1* is the balance sheet prior to the last certified one. Consequently, the *closing date t0* is the closing date of the last certified historical balance sheet; the *closing date t-1* is the closing date of the balance sheet prior to the last one. *Duration t0* is the number of months covered by the last historical balance sheet. *Duration t-1* is the number of months covered by the penultimate certified historical balance sheet.

BALANCE SHEET	CORRESPONDANCE 4 th ACCOUNTING DIRECTIVE	
ASSETS	ASSETS / 4th ACCOUNTING DIRECTIVE (Article 9)	
1. Subscribed capital unpaid	A. Subscribed capital unpaid	A. Subscribed capital unpaid (including unpaid capital)
2. Fixed assets	C. Fixed Assets	
2.1. Intangible fixed assets	B. Formation expenses as defined by national law C. I. Intangible fixed assets	B. Formation expenses as defined by national law C.I.1. Cost of research and development C.I.2. Concessions, patents, licences, trade marks and similar rights and assets, if they were: (a) acquired for valuable consideration and need not be shown under C (I) (3); or (b) created by the undertaking itself C.I.3. Goodwill, to the extent that it was acquired for valuable consideration C.I.4. Payments on account
2.2. Tangible fixed assets	C.II. Tangible fixed assets	C.II.1. Land and buildings C.II.2. Plant and machinery C.II.3. Other fixtures and fittings, tools and equipment C.II.4. Payment on account and tangible assets in course of construction
2.3. Financial assets	C.III. Financial assets	C.III.1. Shares in affiliated undertakings C.III.2. Loans to affiliated undertakings C.III.3. Participating interests C.III.4. Loans to undertakings with which the company is linked by virtue of participating interest C.III.5. Investments held as fixed assets C.III.6. Other loans C.III.7. Own shares (with an indication of their nominal value or, in the absence of a nominal value, their accounting par value)
3. Current assets	D. Currents assets	
3.1. Stocks	D.I. Stocks	D.I.1. Raw materials and consumables D.I.2. Work in progress D.I.3. Finished products and goods for resale D.I.4. Payment on account
3.2.1. Debtors due after one Year	D.II. Debtors, due and payable after more than one year	D.II.1. Trade debtors D.II.2. Amounts owed by affiliated undertakings D.II.3. Amounts owed by undertakings with which the company is linked by virtue of participating interest D.II.4. Others debtors D.II.6. Prepayments and accrued income
3.2.2. Debtors due within one year	D.II. Debtors due and payable within a year	D.II.1. Trade debtors D.II.2. Amounts owed by affiliated undertakings D.II.3. Amounts owed by undertakings with which the company is linked by virtue of

		participating interest D.II.4. Others debtors D.II.6. Prepayments and accrued income
3.3. Cash at bank and in hand	D.IV. Cash at bank and in hand	D.IV. Cash at bank and in hand
3.4. Other current assets	D.III Investments	D.III.1. Shares in affiliated undertakings D.III.2. Own shares (with an indication of their nominal value or, in the absence of a nominal value, their accounting par value) D.III.3. Other investments
Total assets	Total assets	

LIABILITIES	LIABILITIES / 4th ACCOUNTING DIRECTIVE (Article 9)	
4. Capital and reserves	A. Capital and reserves	
4.1. Subscribed capital	A.I. Subscribed capital A.II. Share premium account	A.I. Subscribed capital A.II. Share premium account
4.2. Reserves	A.III. Revaluation reserve A.IV. Reserves	A.III. Revaluation reserve A.IV.1. Legal reserve, in so far as national law requires such a reserve A.IV.2. Reserve for own shares A.IV.3. Reserves provided for by the articles of association A.IV.4. Other reserves
4.3. Profit and loss brought forward from the previous years	A.V Profit and loss brought forward from the previous years	A.V Profit and loss brought forward from the previous years
4.4. Profit and loss for the Financial year	A.VI. Profit or loss for the financial year	A.VI. Profit or loss for the financial year
5. Creditors	C. Creditors	
5.1.1 Long term non-bank debt	B. Provisions for liabilities and charges (> one year) C. Creditors (> one year)	B.1. Provisions for pensions and similar obligations B.2. Provisions for taxation B.3. Other provisions C.1. Debenture loans, showing convertible loans separately C.3. Payments received on account of orders in so far as they are not shown separately as deductions from stocks C.4. Trade creditors C.6. Amounts owed to affiliated undertakings C.7. Amounts owed to undertakings with which the company is linked by virtue of participating interests C.8. Other creditors including tax and social security C.9. Accruals and deferred income
5.1.2. Long term bank debt	C. Creditors "credit institutions" (> one year)	C.2. Amounts owed to credit institutions C.5. Bills of exchange payable
5.2.1. Short term non-bank Debt	B. Provisions for liabilities and charges (= one year) C. Creditors (= one year)	B.1. Provisions for pensions and similar obligations B.2. Provisions for taxation B.3. Other provisions C.1. Debenture loans, showing convertible loans separately C.3. Payments received on account of orders in so far as they are not shown separately as deductions from stocks C.4. Trade creditors C.6. Amounts owed to affiliated undertakings C.7. Amounts owed to undertakings with which the company is linked by virtue of participating interests C.8. Other creditors including tax and social security C.9. Accruals and deferred income
5.2.2. Short term bank debt	C. Creditors "credit institutions" (= one year)	C.2. Amounts owed to credit institutions C.5. Bills of exchange payable
Total liabilities	Total liabilities	

PROFIT AND LOSS ACCOUNT	PROFIT AND LOSS ACCOUNT / 4TH ACCOUNTING DIRECTIVE (Article 23)	
6. Turnover	1. Net turnover	
		1. Net turnover
7. Variation in stocks	2. Variation in stock of finished goods and in work in progress	2. Variation in stocks of finished goods and in work in progress
8. Other operating income	3. Work performed by the undertaking for its own purposes and capitalized. 4. Other operating income	3. Work performed by the undertaking for its own purposes and capitalized 4. Other operating income
9. Costs of material and consumables	5. (a) Raw materials and consumables 5. (b) Other external charges	5. (a) Raw materials and consumables 5. (b) Other external charges

10. Other operating charges	8. Other operating charges	8. Other operating charges
11. Staff costs	6. Staff costs	6. (a) Wages and salaries 6. (b) social security costs, with a separate indication of those relating to pensions
12. Gross operating profit	Gross operating profit .	
13. Depreciation and value adjustments on non financial assets	7. Depreciation and value adjustments on non financial assets	7. (a) Value adjustments in respect of formation expenses and of tangible and intangible fixed assets 7. (b) Value adjustments in respect of current assets, to the extent that they exceed the amount of value adjustments which are normal in the undertaking concerned
14. Net operating profit	Gross operating profit - Depreciation and value adjustments on non-financial assets	
15. Financial income and value adjustments on financial assets	Financial income and value adjustments on financial assets	9. Income from participating interests 10. Income from other investments and loans forming part of the fixed assets 11. Other interest receivable and similar income 12. Value adjustments in respect of financial assets and of investments held as current assets
16. Interest paid	Interest paid	13. Interest payable and similar charges
17. Similar charges	Similar Charges	
18. Profit or loss on ordinary activities	Profit or loss on ordinary activities	15. Profit or loss on ordinary activities after taxation
19. Extraordinary income and Charges	Extraordinary income and charges	16. Extraordinary income 17. Extraordinary charge
20. Taxes on profits	Taxes	14. Tax on profit or loss on ordinary activities 19. Tax on extraordinary profit or loss 20. Other taxes not shown under the above items
21. Profit or loss for the financial year	Profit or loss for the financial year	21. Profit or loss for the financial year

Annex 5 FORM to be completed

Simplified balance sheet and profit and loss account for the determination of financial capacity

Applicant name	<input type="text"/>	Type company	of	<input type="text"/>	<input type="text"/>
	<input type="text"/>		<input type="text"/>	Profit making	<input type="text"/>
	<input type="text"/>			Non profit making	<input type="text"/>
Closing date t0	<input type="text"/>	Duration t0	<input type="text"/>	months	
Closing date t-1	<input type="text"/>	Duration t-1	<input type="text"/>	months	

Balance sheet		
Assets	t0 (in Euro)	t-1 (in Euro)
1. Subscribed capital unpaid	<input type="text"/>	<input type="text"/>
2. Fixed assets (2.1+2.2+2.3)	0	0
2.1 Intangible fixed assets	<input type="text"/>	<input type="text"/>
2.2 Tangible fixed assets	<input type="text"/>	<input type="text"/>
2.3 Financial assets	<input type="text"/>	<input type="text"/>
3. Current assets (3.1+3.21+3.22+3.3+3.4)	0	0
3.1 Stocks	<input type="text"/>	<input type="text"/>
3.2.1 Debtors due after one year	<input type="text"/>	<input type="text"/>
3.2.2 Debtors due within one year	<input type="text"/>	<input type="text"/>
3.3 Cash at bank and in hand	<input type="text"/>	<input type="text"/>
3.4 Other current assets	<input type="text"/>	<input type="text"/>
Total assets (1+2+3)	0	0

Liabilities	t0 (in Euro)	t-1 (in Euro)
4. Capital and reserves (4.1+4.2+4.3+4.4)	0	0
4.1 Subscribed capital	<input type="text"/>	<input type="text"/>
4.2 Reserves	<input type="text"/>	<input type="text"/>
4.3 Profit and loss brought forward	<input type="text"/>	<input type="text"/>
4.4 Profit and loss for the financial year	<input type="text"/>	<input type="text"/>
5. Creditors (5.11+5.12+5.21+5.22)	0	0
5.1.1 Long term non-bank debt	<input type="text"/>	<input type="text"/>
5.1.2 Long term bank debt	<input type="text"/>	<input type="text"/>
5.2.1 Short term non-bank debt	<input type="text"/>	<input type="text"/>
5.2.2 Short term bank debt	<input type="text"/>	<input type="text"/>
Total liabilities (4+5)	0	0

Profit and loss

	t0 (in Euro)	t-1 (in Euro)
6. Turnover		
7. Variation in stocks		
8. Other operating income		
9. Costs of material and consumables		
10. Other operating charges		
11. Staff costs		
12. Gross operating profit (6.+7.+8.-9.-10.-11.)	0	0
13. Depreciation and value adjustments on non-financial assets		
14. Net operating profit (12.-13.)	0	0
15. Financial income and value adjustments on financial assets		
16. Interest paid		
17. Similar charges		
18. Profit/loss on ordinary activities (14+15.-16.-17.)	0	0
19. Extraordinary income and charges		
20. Taxes on profit		
21. Profit/loss for the financial year (18.+19.-20.)	0	0

ANNEX 6



EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENVIRONMENT
DIRECTORATE-GENERAL CLIMATE ACTION
SRD - Shared Resources Directorate
SRD.2 - Finance

(Please fill in your address)

ACKNOWLEDGEMENT OF YOUR TENDER

Our reference: ENV.E.2/SER/2010/0027

Your reference:

We wish to confirm the receipt and opening of your offer¹. Your offer will now be evaluated by the Commission and its experts. You will be informed of the result in due course.

We thank you for your interest.

MarketsTeam
SRD.2

¹ Your personal contact data has been recorded in a database used by the Markets Team of unit SRD.2 for the administrative management of offers. The Commission is bound by Regulation 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies. For more information, and to exercise your rights to access and eventually correct data concerning you, please don't hesitate to contact us.

ANNEX 7

CHECK LIST

1. Administrative information form filled in
2. Financial offer duly signed
3. Legal entity and financial identification forms completed and signed
4. Declaration of the candidate's eligibility regarding exclusion criteria, completed, signed and dated
5. Supporting documents for selection criteria
6. Acknowledgement form with candidate's address
7. Technical bid
8. Possible annexes