

GLOBAL TERMS OF REFERENCE OF THE FRAMEWORK CONTRACT

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ANNEXES

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1 BACKGROUND INFORMATION

1.1 Beneficiaries

The beneficiaries of the short-term technical assistance available via this Framework Contract (FWC) are exclusively third countries benefiting from the Commission's External aid programmes. The Framework Contract has no overall contractual amount or maximum budget. The contractual amount is fixed at the level of each individual assignment and this amount, including any addendum, will not exceed 200,000 euros¹. The funding for the various assignments will come from the different budget lines for external aid.

1.2 Contracting Authority

The Contracting Authority for the Framework Contract will be the European Commission on behalf of beneficiary countries. The Contracting Authority for each individual assignment carried out within the context of the Framework contract may be the European Commission acting on behalf of countries receiving external aid or it may be decentralised authorities which are responsible for managing the programmes concerned.

2 CONTRACT OBJECTIVES

The objective of the Framework Contract is to provide, via individual assignments through Specific Contracts, short-term technical assistance which can be mobilised at very short notice (normally within 3 weeks). The quality of this technical assistance must be guaranteed by the selected Framework Contractors who disposes of the appropriate internal or external technical skills. The technical assistance will be provided for the exclusive benefit of the country receiving the external aid.

Technical assistance may be required at any stage of the project cycle and may cover any aspect within a given technical field. Those aspects are further detailed in the annex attached to these Global Terms of Reference. However the description in the annex should not be considered as exhaustive and users may call on any additional expertise falling within the sector. For more complex assignments, teams may be complemented by expertise normally falling within another sector, provided the complementary expertise is minor compared to the core expertise.

The objectives of each individual assignment will be described in the Specific Terms of Reference which describe each individual assignment and which are part of each Specific Contract.

3 SCOPE OF THE WORK

3.1 Technical content

The Annex 1 indicates the technical content of the assignments. An assignment may cover any of the horizontal aspects numbered a. to o. and/or any of the technical sub-sectors numbered 1. to N., N depending on the Lot. The description is not exhaustive.

¹ *In some specific cases (where the Practical Guide to contract procedures financed from the General Budget of the European Communities in the context of external actions is not of application) this ceiling may not be applicable. The contractual amount allowed for each specific Contract will then reflect these cases.*

3.2 Offer

The Contractor has the obligation to respond to each Request sent to him. If he is not in position to make an offer, a justification must be provided by the deadline for submission of the offer at the latest. He is responsible for selecting the experts in line with the requirements described in the Specific Terms of Reference, for preparing the financial offer in line with the financial conditions (notably within the brackets of prices fixed at the level of the Framework Contract) and if so required, for drafting a short Methodology for the assignment. The Contractor will also obtain from the proposed expert his/her (individual) Statement of Exclusivity and availability (see Annex 7). He is also liable for the accuracy of information contained in the experts' CVs. In the case of a Consortium, the quality and accuracy of the offer lies ultimately with the Leading Partner of the Consortium.

3.3 Assignment implementation

The Contractor, who is notified that his offer is accepted in the form of a Specific Contract, is responsible for all administration in relation to the assignment. Inter alia, he must ensure that all logistical aspects of the assignment are correctly carried out such as flights, hotel bookings, payment transfer to the experts etc. The Contractor is also responsible for all administrative aspects such as contracting the experts, provision of insurance etc.

Ensuring the quality of the assignment is one of the key responsibilities of the Contractor. He is fully responsible for the quality of the reports or/and other outputs required. Those documents will be delivered physically by and under the responsibility of the Contractor. In the case of a consortium, quality control is the ultimate responsibility of the Leading Partner.

3.4 Invoicing

Once the report or other required outputs are accepted, the Contractor will invoice the Contracting Authority identified in the Specific Contract. In the case of a Consortium, the invoice will be sent by the Leading Partner of the Consortium, which is responsible for the accuracy of the invoice and of the supporting documents. The Contractor is also responsible for the timely payment of the experts. He will notably ensure that per diems are transferred rapidly to the experts. The Contracting Authority is in no way liable for any payment to the experts.

The fee rate and per diem amount which should be used are those in force on the date of the signature of the Request for services. No price revision is foreseen during the duration of the Specific Contract. Per diem amounts are available on the EuropeAid internet site http://europa.eu.int/comm/europeaid/perdiem/liste1_en.htm

The per diems are paid for experts on missions requiring an overnight stay in the beneficiary country. They may not exceed the per diem rate published on the EuropeAid web site. The items covered by the per diem are indicated on the EuropeAid web site. They notably cover accommodation, subsistence and all intra-city travels, regardless of the means of transport used by the expert. For experts who are resident in the beneficiary country where the mission is being carried out, the payment of the per diem will be accepted only if justified and accepted ex-ante by the Contracting Authority. In such cases, it will only be paid upon submission of hotel bills and evidence of payment.

However the full amount of the per diem will be paid independently of the amount of the bill.

The per diem is considered as an amount to be paid to the expert to allow him to perform his assignment in the appropriate conditions. Per diem should not be considered as a direct financial benefit for the Contractor.

Experts are expected to join and leave the place of the mission immediately before and immediately after the mission respectively, taking into account the most economically advantageous transport possibilities. Any air travel must be by economy class, train travel may be by 1st class, car travel will be reimbursed on the basis of 1st class rail travel for equivalent journey.

International and Intercity Travel costs will be considered as reimbursable costs. All reimbursable costs will be reimbursed on submission of the original supporting documents: ticket stubs, boarding passes, invoices and evidence of payment etc.

All items proposed and accepted by the Contracting authority must be specified on the Financial offer. It may not contain any Contingency (“Reserve”).

If the outputs as requested in the Specific Terms of Reference (Specific ToR’s) are not delivered or are not considered acceptable by the Contracting Authority (which has justified its position), the Contracting Authority should link the percentage of the total payment directly to the delivery and/or quality of the outputs.

The unit prices foreseen under the breakdown for Reimbursables are indicative only. They are to be considered as a provision and any change to the individual (unit) value incurred does not require any written ex-ante approval by the Contracting Authority, provided that the total amount of the Reimbursables is not affected. The reimbursement will be made on the basis of the real costs, as justified by the appropriate supporting documents. Modification of the quantity of the items such as number of flights, workshops etc. or introduction of a new item is only subject to written ex-ante approval by the Contracting Authority.

3.5 Assignment Management

The management of each individual assignment will lay with the Authority that has initiated it unless specified otherwise in the Specific ToRs. Within this authority, a Project Manager will be identified, whose role is to oversee the implementation of the assignment and to liaise with the Contractor’s Project Manager.

4 GEOGRAPHICAL COVERAGE

The Contractor will be supported by the largest possible world-wide network of associated partners specialised in consultancy in the relevant sector and sub-sectors which will be able to provide logistical support and supervision in terms of the quality of experts selected on the local markets.

Within 6 months after the Framework Contract has come into force, the successful Contractors will establish a partners’ network to cover 90 % of the countries benefiting from the External aid relevant to the lot unless indicated otherwise in the course of the implementation of the Contract.

5 LOGISTICS AND TIMING

5.1 Commencement date, period of execution

Framework contract: It is anticipated that the Framework Contract will commence on 1st April 2005 with an initial duration of 2 years. The Contracting Authority may, at its own discretion, extend the Framework Contract for a single period of a further 2 years. Any subsequent extension of the Framework Contract would be subject to satisfactory performance by the Framework Contractor.

Specific Contracts: the Request for Services will indicate the intended start date and duration of each individual assignment. The actual start date will be specified in the Specific Contract and confirmed or otherwise specified by the Project Manager once the Specific Contract has been signed.

The experts' inputs are expressed in working days (man-days). The day of travel is considered as a working day. The input of any expert in a given assignment may not exceed 260 working days. The total duration (including all addenda) of a Specific Contract may not exceed 24 months (730 calendar days).

5.2 Logistics

The Contractor must make available an appropriate logistical support for the experts, including their travel and accommodation arrangements for each assignment.

6 REQUIREMENTS

6.1 Consortia

In the case of a Consortium, the Leading Partner is ultimately responsible for all contractual and financial aspects of the Framework Contract and the individual assignments and is the only formal contact point between the Contractor and the Contracting Authority.

Sub-contracting of any aspect of the management and / or administration of the Framework Contract is not authorised.

6.2 Staff

6.2.1 Framework contract and individual project Management, Backstopping & support staff

The Contractor must make available an appropriate management and backstopping mechanism, Quality control system, secretariat and any other support staff (editors, proof readers etc.) that he considers to be necessary in order to implement this Framework Contract. All support staff shall have sufficient command of foreign languages to be able to easily maintain contact with the Project Managers both inside and outside the Commission services. Therefore a working knowledge of French and English is required, while knowledge of Spanish and Portuguese would be an advantage.

The Management Team

The composition of the management team will be determined by the Framework Contractor, however it will comprise as minimum a Project Director, who will have the

overall responsibility for the running of the contract as well as for the all contacts with the Commission. In particular, the management team shall ensure the provision of high-quality services throughout the assignment. It will also be responsible for the day-to-day management of the contract and act as the central point of contact for each individual Framework-Contract assignment. The CV of the Management team members will form part of the Framework Contract and included in Annex IV.

The management team member(s) will have a University-degree education as well as at least 10 years of professional experience in the sector covered by the related lot, 5 of which in a senior management position. Knowledge of European Commission external assistance programmes and procedures will be an advantage. The Management team as such must have an excellent working knowledge of English and French.

The Support Team

The Management Team should be assisted by a team of support staff with the qualifications required in order to ensure outstanding service to the beneficiary authorities. The Support Team will have the capacity to respond to any request to submit an offer with the shortest possible delay as well as to allow the experts to concentrate on their primary responsibilities. It will provide the experts with all the necessary logistical support both and during the assignment when and as required, and will be responsible for the overall administration of the Framework Contract including the contracting and administration of experts, preparation of offers, invoicing the Contracting Authority etc.

The cost of the contract management, of the backstopping mechanism, of the Quality control, of the secretariat and of the support staff is to be considered as an overhead and integrated in the fee rates of the experts described below in Section 6.5.1.

6.3 Facilities to be provided by the contractor

When and as appropriate, the experts will be equipped with individual laptop computers.

The Framework contractor must also transfer funds as necessary to support its activities under the contract and to ensure that its employees are paid regularly and in a timely fashion.

If the Framework contractor is a consortium, the arrangements should allow for the maximum flexibility in operation implementation. Arrangements offering each consortium partner a fixed percentage of the work to be undertaken under the contract should be avoided.

6.4 Equipment

No equipment is to be purchased on behalf of the Contracting Authority / beneficiary country within the context of this Framework contract (neither in the context of individual assignments).

Exceptionally, the Specific ToRs may foresee the purchase of documents (reports, statistical information etc.), consumables (e.g. chemicals for environmental tests) or other items strictly necessary for the Experts to perform their mission and achieve their mission objectives. Prior to any purchase, the Contractor must check whether the necessary items are not already available free of charge from the beneficiary, or the EC Delegation etc. Hiring of (equipped) training facilities, meeting rooms for debriefing sessions (for workshops, seminars) etc. is authorised provided that these costs remain marginal and are foreseen in the Specific Terms of Reference.

6.5 Office facilities and secretarial expenses

Secretarial/office-related costs which may include office rental, communications (fax, telecommunications, mail, courier etc.), report production and secretarial services both in the Contractor's Headquarters and/or individual expert's home office **and** for experts in the beneficiary country are considered to be included within the fee rates of the experts. No costs of this nature may be charged in addition.

Reports and other documents required in the Specific ToRs will be made available in a maximum of 10 copies (the precise number will be stated in the Specific ToRs). Reports may be required in a standard computerized format (electronic version, on CD-ROM etc.) at no extra charges.

No office, secretarial or communication facilities will be provided by the EC Delegations or the beneficiary.

6.5.1 Experts

The following categories of experts are defined:

Category I

Qualifications and skills

Education at least up to Masters Degree / Academic level or equivalent professional experience (the latter to be clearly defined in the Specific ToRs as the number of years above the General professional experience fixed below).

General professional experience

At least 15 years experience in the area relevant to the assignment.

Specific professional experience

The technical skills required shall be specified in the Specific ToRs.

Language skills

The language skills required for each assignment will be specified in the Specific ToRs.

Category II

Qualifications and skills

Education at least up to Masters Degree / Academic level or equivalent professional experience (the latter to be clearly defined in the Specific ToRs as the number of years above the General professional experience fixed below).

General professional experience

At least 10 years experience in the area relevant to the assignment.

Specific professional experience

The technical skills required shall be specified in the Specific ToRs.

Language skills

The language skills required for each assignment will be specified in the Specific ToRs.

Category III

Qualifications and skills

Education or type of experience will be identified in the Specific ToRs.

General professional experience

At least 5 years experience in the area relevant to the assignment.

Specific professional experience

The technical skills required shall be specified in the Specific ToRs.

Language skills

The language skills required for each assignment will be specified in the Specific ToRs.

All experts will have excellent writing and editing skills. If the Expert is unable to meet the level of quality required for preparing the report, the Contractor will provide, at no additional cost to the Contracting Authority, immediate additional support for the report to meet the appropriate standards.

For each assignment, each expert shall have to declare that:

- He or she does not have commercial associations which may affect his/her neutrality during the duration of that assignment.
- He or she undertakes not to divulge any information obtained during the currency of the assignment to any outsiders, unless given express clearance by the European Commission.
- He or she will not exploit, or seek to exploit any information obtained during the currency of the assignment, unless given written clearance by the European Commission.

The Specific ToRs may indicate either the experts required and the profile per expert or they may identify the expertise required, in which case the Contractor is responsible for proposing a team covering all the expertise required. The category(ies) of experts and related input per category must be fixed in both cases. Unless indicated otherwise in the Specific ToRs, the Contractor will identify the expert who will be the Team Leader for the given assignment.

The Specific ToRs must define all the experts or expertise required to carry out the assignment. All experts requested must be proposed by the Contractor, evaluated and contracted (identified in the Breakdown of prices). The Specific ToRs may not foresee 'key' and 'non-key' experts.

The Specific ToRs shall not discriminate the experts on the ground of their former or present nationality.

Contractors should favourably consider calling on the expertise available on the local market, whenever possible. The Contractor is expected to reflect the local market fees in the fees he proposes in his offer.

As each expert proposed will have submitted a Statement of exclusivity and availability, he is therefore obliged to remain available to start the assignment as foreseen. The Framework Contractor also has to take appropriate measure to ensure the availability of the expert all throughout the assignment. In the case of sickness or *Force majeure*, the Contractor will have to submit the CV of one or more alternative experts. In all other cases, the Contracting Authority may decide to cancel the Specific Contract.

6.6 Obligations of the Contractor

The Contractor providing each expert shall carry out the duties entrusted to it by the contract loyally and impartially and in accordance with best professional practices. It shall maintain complete independence in relation to all individual organisations or government bodies. It shall observe the strictest neutrality with regard to views and opinions, particularly in the field of politics or religion, held in the country where the assignment will be executed. It shall also respect all laws and regulations in force in the country where the assignment will be executed. It may not divulge, or use for its personal profit or for the profit of a third party, any information that it may receive in executing the project.

It shall supply the European Commission with any information relating to the execution of the project that it may reasonably request.

The experts provided under this contract shall also be bound by the above obligations.

The Contractor undertakes to make every endeavour to maintain the services of the individual(s) that are proposed for the assignment.

7 REPORTING

7.1 Reporting requirements

For the Framework Contract: a yearly report will be provided to the Commission within one month following each year of operations. This synthetic report will indicate inter alia both positive and well functioning aspects of the FWC as well as problems and obstacles met. It will propose recommendations aiming to improve the administrative and/or operational aspects of the Framework Contract and/or individual assignments. The core part of the report will not exceed 15 pages. The report will also contain annexes which will provide information on a number of administrative issues such as the number of requests received, the number to which the Contractor has replied, the number of Specific Contracts received, the amounts contracted and paid etc. A standard template will be provided to the Contractor in due time. A Final report summarizing the aspects above among others will be required at the end of the Framework Contract. It must be delivered within one month following the end of the contract.

For each Specific Contract: the reporting requirements (number of copies, format, language(s), periodicity etc.) of each Specific assignment will be detailed in the Specific Terms of Reference for the individual assignments.

The timing indicated in the Specific Terms of Reference shall allow the Framework contractor to ensure the quality control of the required outputs.

It is anticipated that the Commission services may organise a meeting inviting all Framework Contractors to report on and analyse the functioning of the FWC on a yearly basis. The participation of Framework Contractors will be encouraged, however their related travel and accommodation costs will not be reimbursed by the European Commission or financed from this contract.

The Framework Contractor must keep all the documents related to the Framework contract implementation for a period of seven years following the closure of the Framework contract. Besides finance-related documents (copies for the invoice supporting documents), the Contractor must also keep all Requests received, correspondence with the Contracting Authorities etc.

8 CONDITIONS OF IMPLEMENTATION

8.1 Procedures

This is a multiple Framework Contract. It is concluded on the same terms with a minimum of 4 service providers.

In order to guarantee equality between the companies retained for each lot of the Framework contract, within each lot, the Framework contractors shall receive a number of requests in an overall balanced way.

No guarantee can be provided as to the number of Requests for services sent to the Framework contractor, Specific Contracts awarded to him or as to the total amount contracted with an individual Framework Contractor.

For each assignment, a Specific Contract containing the Specific ToRs will be issued and will be signed in accordance with the respective clauses of the Framework contract.

8.1.1 Request to submit an offer

Three Framework Contractors will receive a request to submit an offer via e-mail (fax may be used in exceptional cases only, or as a confirmation of the documents already sent by e-mail). The e-mail will contain a request using a standard template and the Specific Terms of Reference (model annexed) which will state, inter alia, the venue, start date and duration of the assignment, the expertise or the experts' category, specific technical skills required, the number of man-days per category etc. The request will indicate the deadline for the Contractor to respond to the request, the period of implementation of the assignment (foreseen date of the start), the maximum or indicative budget, the Contracting Authority, the eligibility rules for the experts etc. When justified by the complexity of the action, a short methodology may be also requested.

The three Framework Contractors contacted must send by return mail an acknowledgement of receipt of the Request (fax may only be used in exceptional cases).

The Specific Contracts may be either global price contracts or fee-based contracts, based in both cases on a detailed offer. The type of contract will be decided by the Project Manager and will be also specified in the request.

8.1.2 Offer

Unless a derogation of the following rule is granted, the Contractor will dispose of a minimum of fourteen calendar days (counted from the date of dispatch of the Request) to prepare and dispatch (by e-mail) its offer.

The request may allow for a longer period of submission of offers taking into account factors such as the complexity of the assignment. In exceptional cases, the request may give a shorter period of submission of offers. If at least one Framework contractor notifies back, within one working day, its refusal to make offer within less than 14 days, the Request will be cancelled or re-launched (with a minimum of 14 days to make offer), as appropriate.

The offer will, according to the template, identify all the experts required to carry-out the assignment and provide a detailed budget breakdown as well as the total cost for rendering the requested services

The Framework Contractor will submit a) the CV's of the experts proposed, b) each expert's Statement of Exclusivity and availability, c) the Breakdown of prices as well as d) a methodology, if required in the Specific ToRs. Unless stated otherwise in the Specific ToRs, the methodology, if required, will not exceed 5 pages.

If clarifications are required on the request, any of the contacted Framework Contractors (the Leading Partner in the case of a consortium) may consult the Project Manager by e-mail (fax may be used in exceptional cases only). The Project manager must answer as rapidly as possible by sending the question/request for clarification and the answer to all three Framework contractors simultaneously. The Contracting Authority may fix a new

deadline for submission of offers if justified by the type of problem raised and its impact on the preparation of the offers.

By signing the Statement of Exclusivity, Availability and Confidentiality, the expert commits himself to

- a) allow only one Framework Contractor to present his CV for a given assignment;
- b) work exclusively for a given assignment during the days charged to the related Specific Contract (one working day may not be charged to more than one project/assignment)
- c) remain available to start and perform the assignment as scheduled in the Terms of Reference.

8.1.3 Evaluation

Only **admissible** offers will be evaluated. The criteria of admissibility of the offers are the following:

- the deadline for the submission of offers has been respected
- the offer complies with the assignment eligibility rules with regard to the experts' nationality
- the fee rates are within the contractual price brackets
- when appropriate, the maximum budget has been respected

The Contracting authority chooses the economically most advantageous tender on the basis of the profile of the experts, the price and the period of mobilisation of the expert.

The offers which are admissible will be evaluated on the grounds of

- 1) the conformity of the CV of the expert proposed to the skills required, as described in the Specific ToRs
- 2) the total costs of the fees
- 3) the availability of experts as required in the specific ToR's.

The Contracting Authority will have up to fourteen calendar days to evaluate, accept or reject the offer and notify the first ranked Framework Contractor. During this period, the Framework Contractor may not alter his offer on his own initiative.

After this period, the Contractor is not any longer bound by its offer and may disband the team proposed. Under exceptional circumstances, the Contracting Authority may however ask in writing for the Framework Contractor to extend the validity of his offer. It will notify all the three Framework Contractors about the result of the evaluation as rapidly as possible.

The interviews of experts by phone and in the beneficiary country concerned can take place exceptionally when duly justified. Interviews may not generate any additional costs (travel, accommodation, telecommunication costs) to the Framework Contractor.

8.1.4 The Specific Contract

The Specific Contract will be drawn up in accordance with the standard format (draft shown in the annex). The contract will come into force the day of its signature by the Contracting Authority for the individual assignment. The Breakdown of prices, the Specific Terms of Reference as well as the Methodology (if relevant), form an integral part of the Specific Contract. Any expenses incurred by the Contractor before the date of signature by the Contracting Authority are not eligible for funding.

8.2 Conflict of Interest

Conflicts of interest are judged **on a case by case basis** for each assignment. They affect the firm and experts performing the assignment as well as all the members of the consortium. They may have two consequences :

- 1) prevent Framework contractors to make an offer if the execution of the assignment foreseen is incompatible with contracts executed by them or by any member of the consortium.
- 2) prevent Framework contractors to participate in an invitation to tender or contract which directly result of the assignment carried out under the Framework contract.

Framework contractors which have been consulted are responsible to check and notify the Project Manager if performing the assignment under the Framework contract will cause a conflict of interest. This is particularly important if the assignment to be carried out under the FWC is an evaluation of a programme even partially designed or implemented by the Framework Contractor. Conditions of the conflict of interest must be fulfilled at the time of the request : Framework contractors cannot prevail themselves of an intention to participate in future actions conflicting with the proposed assignment for not making an offer.

If a Framework contractor receives a Specific Contract, he and all the members of his consortium as well as the experts shall be excluded automatically from any participation in the calls for tenders and contracts which could directly arise from the assignment and from the Specific Contract concerned.

8.3 Assignment evaluation

A Framework Contractor's performance evaluation scheme will be put in place. Whilst its details will be fixed in due time, it is anticipated that its key features will be the obligation for the Specific Contract Contracting Authority to complete an assignment evaluation sheet.

It will be send to the Framework contractor for comments to be provided within a limited period and not exceeding the number of pages to be fixed. Both the evaluation sheet and the comments received will be available on the Commission Intranet, accessible to Commission (AIDCO) staff only.

The implementation of the FWC is frequently negatively affected by false availability statement made by some experts. Indeed, in spite of their written commitment to be available, they declare themselves unavailable - without any acceptable reasons (sickness or *Force majeure*) - once the Specific Contract is notified. Since the process foresees that those experts may not be eligible for other Commission funded projects, the list of experts not respecting their declaration will be made available to the Commission staff. This information could be also made available to the Framework contractors.

8.4 Sub-standard performance

Should it appear that a Framework contractor is repetitively either unable (or not willing/interested) to make offer or its offers are technically bellow expected standards or its performance is frequently sub-standard or not compliant with the Terms of Reference, the Contracting Authority may either suspend this contractor for a given period from receiving any Requests or, ultimately, terminate the Framework contract in line with the provisions of the General Conditions.

9 TAX ARRANGEMENTS

The Request will provide the necessary information regarding notably the tax arrangements related in particular to reimbursables.

10 ANNEXES

The templates shown in the annexes are indicative only and they may be modified without notice by the Framework contract Contracting Authority in the course of implementation of the Framework contract.