

TENDER SPECIFICATIONS

The socio-economic benefits of network sharing

SMART 2014/0024

TABLE OF CONTENTS

| | |
|--|-----------|
| PART 1: TECHNICAL DESCRIPTION | 1 |
| 1 CONTEXT | 1 |
| 2 OBJECTIVES, TASKS AND METHODOLOGY | 1 |
| <i>METHODOLOGY</i> | 1 |
| 3 DURATION | 2 |
| 4 DELIVERABLES, MEETINGS AND TIMETABLE | 2 |
| 4.1 DELIVERABLES | 2 |
| 4.1.1 The deliverables listed below must be provided by the contractor:..... | 3 |
| 4.1.2 Report format..... | 4 |
| 4.1.3 Content | 4 |
| 4.1.3.1 Final Study Report | 4 |
| 4.1.3.2 Publishable executive summary | 5 |
| 4.1.3.3 Abstract | 6 |
| 4.1.4 Structure | 6 |
| 4.1.5 Graphic requirements | 6 |
| 4.2 MEETINGS AND WORKSHOPS..... | 7 |
| 4.3 TIMETABLE | 9 |
| 5 TERMS OF APPROVAL OF REPORTS/DELIVERABLES | 11 |
| 5.1 STUDY REPORT(S) | 11 |
| 5.2 PROGRESS REPORT(S)..... | 11 |
| 5.3 OTHER DELIVERABLES | 11 |
| 6 LAYOUT/CONTENT OF THE WORK PLAN | 12 |
| PART 2: ADMINISTRATIVE DETAILS | 13 |
| 1 ELIGIBILITY REQUIREMENTS | 13 |
| 2 <u>ADMINISTRATIVE REQUIREMENTS</u> | 13 |
| 2.1 DIFFERENT WAYS TO SUBMIT A TENDER | 14 |
| 2.2 JOINT TENDERS AND SUBCONTRACTING | 14 |
| 2.2.1 <i>Joint tenders</i> | 14 |
| 2.2.2 <i>Subcontracting</i> | 14 |
| 2.3 IDENTIFICATION OF THE TENDERER – LIST OF FORMS & EVIDENCES REQUIRED | 15 |
| 3 <u>SIGNATURE OF THE TENDER</u> | 16 |
| 4 <u>LAYOUT OF THE TENDER</u> | 17 |
| 4.1 ADMINISTRATIVE SECTION..... | 17 |
| 4.2 TECHNICAL SECTION | 17 |
| 4.3 FINANCIAL SECTION..... | 17 |
| 5 <u>EVALUATION OF TENDERS</u> | 20 |
| 5.1 EXCLUSION CRITERIA | 20 |
| 5.2 SELECTION CRITERIA | 24 |
| 5.2.1 <i>Professional information</i> | 25 |
| 5.2.2 <i>Financial and economic capacity</i> | 25 |
| 5.2.3 <i>Technical background</i> | 26 |
| 5.3 AWARD CRITERIA | 27 |
| 5.3.1 <i>Technical award criteria</i> | 27 |
| 5.3.2 <i>Price</i> | 29 |
| 6 <u>AWARD OF THE CONTRACT</u> | 29 |
| 7 <u>PAYMENT AND STANDARD CONTRACT</u> | 30 |
| 8 <u>VALIDITY OF THE TENDER</u> | 30 |
| 9 <u>ADDITIONAL PROVISIONS</u> | 30 |
| 10 <u>LIQUIDATED DAMAGES: SEE ARTICLE II.12 OF THE MODEL CONTRACT</u> | 31 |

| | | |
|-----------|---|-----------|
| 11 | <u>NO OBLIGATION TO AWARD THE CONTRACT</u> | 31 |
| 12 | <u>RESULTS</u> | 31 |
| | PART 3: ANNEXES | 32 |
| | <u>ANNEX 1: ADMINISTRATIVE IDENTIFICATION FORM</u> | 32 |
| | <u>ANNEX 2: LEGAL ENTITIES FORM</u> | 33 |
| | <u>ANNEX 3: BANK IDENTIFICATION FORM</u> | 33 |
| | ANNEX 4: DECLARATION OF HONOUR ON EXCLUSION CRITERIA AND ABSENCE OF CONFLICT OF INTEREST | 34 |
| | <u>ANNEX 5: POWER OF ATTORNEY</u> | 36 |
| | <u>ANNEX 6A: LETTER OF INTENT FOR SUB-CONTRACTORS</u> | 38 |
| | <u>ANNEX 6B: LETTER OF INTENT FOR EXTERNAL EXPERTS</u> | 39 |
| | <u>ANNEX 7: CHECK LIST OF DOCUMENTS TO BE SUBMITTED</u> | 40 |
| | <u>ANNEX 8: E-PRIOR DESCRIPTION</u> | 42 |
| | <u>ANNEX 9: COVER LETTER FOR THE TENDER</u> | 44 |
| | ANNEX 10: TEMPLATE STUDY FINAL REPORT OR EXECUTIVE SUMMARY | 46 |

PART 1: TECHNICAL DESCRIPTION

1 CONTEXT

Network sharing agreements between network operators, in particular mobile network operators, are increasingly concluded throughout the EU with a view to achieve synergies in capital and operating expenditure in particular in the context of the on-going roll-out of high-speed wireless broadband networks.

Wireless solutions have the potential to largely contribute to bringing fast broadband access to citizens and businesses, since civil engineering cost for the last mile can be avoided. Still, significant investments are needed for fast wireless networks that would meet the speed requirements of next-generation access (NGA) networks with sufficient capacity and coverage. Such networks need significant investments especially because of the cost for an increased number of smaller cells and for high-capacity backhaul links.

Passive and active infrastructure sharing can potentially provide the possibility for economic and faster wireless broadband roll-out. In addition, higher broadband speeds can be achieved if spectrum pooling schemes are applied, because the available bandwidth per connection can be multiplied. On the other hand, network sharing also entails risks to competition. Any assessment should balance potential benefits and negative effects.

Operators are increasingly seizing this opportunity for significant cost savings through infrastructure or spectrum sharing and several Member States have developed first guidance in this regard.

These sharing agreements are ranging from passive network sharing, e.g. sharing of base station sites, over active network sharing such as Radio Access Network sharing sometimes combined with spectrum pooling up to national roaming.

The Radio Spectrum Policy Programme (RSPP) encourages passive infrastructure sharing where this would be proportionate and non-discriminatory. Furthermore various national regulators have developed guidance on both active and passive infrastructure sharing. Moreover, the high-level group RSPG in collaboration with BEREC¹ took stock of the on-going developments and regulatory practices concerning this issue.

When assessing network sharing agreements on a case-by-case basis national authorities consider the potential benefits from such agreement and any potential competition issues arising through it.

At the EU-level, the Commission's Guidelines on Horizontal Cooperation Agreements² provide an analytical framework for the most common types of horizontal co-operation agreements and therefore constitute a basis to assess network sharing agreements. Some national competition authorities have also released specific guidance on the application of competition rules to network sharing agreements.

¹ Body of European Regulators for Electronic Communications

² Official Journal C 11 of 14.1.2011, p. 1-72.

There is relatively little direct experience of dealing with network sharing at EU level. The existing guidance documents of national competition authorities and national regulatory authorities reveal certain differences in their respective approaches, and recent exchanges with such authorities have examined inter alia the extent to which such differences can be explained in whole or in part by specific national market circumstances.

The European Commission is intending to further develop its knowledge on the technological and economic models that underpin network sharing and acquire a more informed understanding of the potential benefits and costs of network sharing, especially for mobile networks. This work should identify key choices and options and will contribute to assessing whether it is appropriate to provide for greater legal certainty and common conditions in the Single Market with regard to network sharing.

In particular, potential benefits, e.g. cost and capacity advantages in various geographical / demographic settings, more efficient use of spectrum, the possible effects on innovation, infrastructure-based competition and service competition, and the likelihood of consumer benefit in terms of price, choice and quality need to be explored. Furthermore any necessary framing conditions in order to attain optimal results in these various dimensions need to be studied. In this context, factors such as the remaining autonomy to differentiate from competitors on coverage, network capacity and speed, the ability and incentives to invest in network improvements, the effect on the competitors that do not take part in network sharing and on potential competitors, governance issues and the information required by network sharing, need to be better understood and evaluated.

Initial references for the Study report (*a non-exhaustive list*):

- Radio Spectrum Policy Programme (RSPP)
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:081:0007:0017:EN:PDF>
- Commission Communication — Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:011:0001:0072:EN:PDF>
- Joint BEREC/RSPG Report on Infrastructure and spectrum sharing in mobile/wireless networks (2011), available on <http://rspg-spectrum.eu/rspg-opinions-main-deliverables/>
- Commission Communication "Promoting the shared use of radio spectrum resources in the internal market" (2012)
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0478:FIN:EN:PDF>
- Commission Communication on the Telecommunications Single Market (COM(2013) 634 final)
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0634:FIN:EN:PDF>
- EU Radio Spectrum Policy web site "Wireless Europe" as part of the Digital for Europe (DAE) web site: <http://ec.europa.eu/digital-agenda/en/wireless-europe>

2 OBJECTIVES, TASKS AND METHODOLOGY

The objective of this Study is to support the Commission in building up its knowledge base on the technological and economic models of network sharing in the context of possible EU policy initiatives on the issue.

The successful tenderer is required to carry out the following tasks:

1) Estimate the cost synergies that are achievable in various mobile network sharing scenarios. In particular the successful tenderer should:

- Estimate the deployment cost of high-speed wireless broadband networks in the EU (considering radio network, backhaul and core network) in typical geographical/demographic areas and overall for different suitable sharing types (e.g. RAN sharing, national roaming) considering a combination of typical coverage, capacity and speed targets. These scenarios should include:
 - Scenario with parallel infrastructures without sharing
 - Scenario with sharing for coverage expansion, e.g. high-speed wireless broadband in rural areas with typical high-speed targets
 - Scenario with sharing for capacity expansion, e.g. small cells in urban areas
- Based on the deployment cost estimations and considering other related cost synergies, estimate the cost synergies achievable in the scenarios considered and describe the effects of such synergies on the related deployment business cases.
- Compare the findings with findings from recent network sharing agreements considering the correlation with CAPEX³ decisions and network deployments
- Describe in detail the methodology how the estimations under this task are derived, e.g. by providing simple underlying models and sources of the data used.

2) For the scenarios considered under 1) estimate the potential benefits for consumers and businesses taking into account the estimated cost synergies. In particular the successful tenderer should:

- Identify and quantify potential benefits from mobile network sharing for consumers including availability of better services, earlier availability of such services, more choice, e.g. where no roll-out would happen otherwise, and lower prices because of passed-on cost savings
- Identify and quantify other benefits from mobile network sharing including efficient use of spectrum (better utilisation, less need for freeing up spectrum from other beneficial uses), environmental benefits, e.g. by avoiding duplicating infrastructure and reducing civil engineering and the number of sites
- Assess the main underlying mechanisms that determine the likelihood that such benefits will be accrued and explore possible framing conditions that would be needed for its accrual.
- Indicate to what extent framing conditions can be identified based on a set of specific elements without complex case-by-case assessment of each network sharing agreement by national authorities and what elements still need to be considered in a case-by-case assessment.
- Describe in detail the methodology how the quantitative results under this task are derived, e.g. by providing simple underlying models and sources of the data used.

3) Identify potential negative effects arising through mobile network sharing, including less infrastructure or service competition in the relevant geographical areas, and less incentives for innovation in short-, medium and long term. In particular the successful tenderer should:

- Identify and assess effects potentially leading to less competition or competitive distortions:
 - Identify the sort of commercially sensitive information that needs to be exchanged depending on the scenario.

³ Capital Expenditure

- Assess to what extent network sharing agreements may undermine the ability and incentives to differentiate themselves from competitors as regards coverage, network capacity and speed. Identify what decisions about service provision may require a joint decision by the parties to a network sharing agreement.
- Identify what decisions about network deployment require a joint decision by the parties to a network sharing agreement (including of financial nature).
- Assess the ability and incentives by a participant in a network sharing agreement to deploy its own network in the future and the possible chilling effects on innovation.
- Identify and evaluate what advantages the parties to a network sharing agreement have with respect to their competitors (such as reduced fixed or operational costs or better access to inputs), and to what extent such advantages are replicable.
- Quantitatively assess the likelihood that such effects are actually leading to less infrastructure or service competition considering other competitive forces such as remaining competing mobile networks outside of the agreement, fixed infrastructures supporting wireless broadband, and the relevance of service providers and brokers, software/middleware providers and device makers.
- Quantitatively assess the impact for consumers and businesses of such effects considering the likelihood of negative effects assessed above.
- Describe in detail the methodology how the quantitative results under this task are derived, e.g. by providing simple underlying models and sources of the data used.
- Summarise the main underlying mechanisms that determine that such negative impact would arise and explore possible framing conditions that would prevent such impact.
- Indicate to what extent framing conditions can be identified based on a set of specific elements without complex case-by-case assessment of each network sharing agreement by national authorities and what elements still need to be considered in a case-by-case assessment.

4) Based on the findings in 1-3) the successful tenderer should assess for typical scenarios the overall effect of potential benefits and potentially arising negative effects. The findings should be compared with findings from ex-post analysis of the markets where such agreements were concluded.

5) The successful tenderer should identify existing and potential factors (in general and in specific national markets) that provide disincentives for operators from entering into network sharing agreements or from concluding those provided that potential synergies are substantial. This should include:

- Market aspects such as the possibility for service differentiation and independence
- Legal concerns such as legal uncertainty, risk of litigation, risk of future regulation
- Technical feasibility
- Other concerns

The Study should be developed following a clear methodology covering all aspects of the Study. Tenderers are free to propose the specific methodology, taking into account the context and objectives of the Study and specifying how he intends to gather the relevant information needed for the Study and how he will fulfil all tasks required. The balance between the efforts devoted to each task should be reasonable and well justified.

3 DURATION

Duration of the tasks including the period of approval of the deliverables must not exceed 11 months and is subject to the provisions of Article I.2.3 of the contract.

4 DELIVERABLES, MEETINGS AND TIMETABLE

4.1 Deliverables

4.1.1 The deliverables listed below must be provided by the contractor:

- **Inception report**, specifying the methodological approach to the tender, resources and objectives provided in the tender in accordance with the indications provided by the Commission during the inception meeting (see section 4.2 below). A draft of the report shall be made available to the Commission's services for information 5 working days before the inception meeting. The report should be finalised after the meeting taking into account all observations and comments raised at the meeting. The Inception report shall be made available within 2 weeks after the inception meeting.
- **Interim Study report** which will cover the tasks 1, 2 and 3. The Interim Study report shall be made available to the Commission's services within 5 months after signature of the contract by the last contracting party. A draft of the report shall be made available to the Commission's services at least 10 working days before the interim meeting described in section 4.2 below. The report should be finalised after the meeting taking into account all observations and comments raised at the meeting. The finalised Interim Study Report shall be submitted to the Commission's services within 2 weeks after the first interim meeting.
- **Report from the workshop with stakeholders and final workshop report** shall contain the presentations, position papers and preparatory papers; a high quality synthesis of the discussions; and the list of participants. The deliverables should be made available no later than 2 weeks after each workshop.
- **Final Study report:**
The Final Study report shall be made available to the Commission's services within 8 months after signature of the contract by the last contracting party.
- **The final datasets**, as described under Tasks 1,2,3,4 and 5 should be provided as structured data in a machine readable format (e.g. in the form of a spreadsheet and/or an RDF file) for Commission internal usage and for publishing on the Open Data Portal, in compliance with Commission Decision (2011/833/EU). If third parties' rights do not allow their publication as open data, the tenderers should describe in the offer the subpart that will be provided to the Commission free of rights for publication and the part that will remain for internal use. The raw datasets and/or the derived indicators shall be made available to the Commission's services within 9 months after signature of the contract by the last contracting party.

4.1.2. Data formats

The raw datasets should comply with the following provisions:

- The data delivered should **include the appropriate metadata** (e.g. description of the dataset, definition of the indicators, label and sources for the variables, notes) to facilitate reuse and publication
- The data delivered could be linked to data resources external to the scope of the study, preferably data and semantic resources from the Commission's own data portal or from the upcoming pan-European portal. The tenderer should describe in the offer the approach they will adopt to facilitate data linking.

4.1.3 Report format

All deliverables must be written in English.

All reports should be consistent in style (headings, margins, citations, bibliography, etc.) and contain a short executive summary. The contractor is required to properly apply quotation techniques and particular care will be taken to verify improper re-use of existing material.

Inception report, report from the workshop with stakeholders, interim Study report , final workshop report as well as draft versions of the final Study report will be submitted in electronic format (.doc, .xls, .ppt or equivalents in open formats). Exchange of advance copies as well as other non-formal communications shall take place via electronic mail.

The Commission services will decide the possible dissemination of the findings and conclusions and any other information produced under this assignment.

4.1.4 Content

4.1.4.1 Final Study Report

The final study report shall include:

- an abstract of no more than 200 words and an executive summary of maximum 6 pages, in English, French and German;
- the following standard disclaimer:

"By the European Commission, Directorate-General of Communications Networks, Content & Technology.

The information and views set out in this publication are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

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- specific identifiers which shall be incorporated on the cover page provided by the Contracting Authority.

The Final Study report shall be provided in 10 bound paper copies including annexes and in a .pdf format suitable for publication by the Commission's services on Commission websites. In addition, the executive summary shall be provided in 10 bound paper copies (for each of the three languages), and in a .pdf format suitable for publication by the Commission's services on Commission websites.

4.1.4.2 Publishable executive summary

The publishable executive summary shall be provided in English, French and German and shall include:

- the following standard disclaimer:

"By the European Commission, Directorate-General of Communications Networks, Content & Technology.

The information and views set out in this publication are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

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- specific identifiers which shall be incorporated on the cover page provided by the Contracting Authority.

4.1.4.3 Abstract

The abstract provided both in English, French and German in the Final study report (see point 4.1.3.) in no more than 200 words shall be provided as well in a separate document for the purpose of the description of the study on the website of the EU Bookshop.

No identifiers shall be incorporated on this file.

4.1.5 Structure

The **Final study report** shall include the following sections:

1. Executive summary
2. Context, objectives, method and description of work carried out
3. Results and findings of tasks
 - 3.1 Task 1
 - 3.2 Task 2
 - 3.3 Task 3
 - 3.4 Task 4
 - 3.5 Task 5
4. Conclusions
5. Annexes

4.1.6 Graphic requirements

The new visual identity applies to all commission services and related bodies.

For graphic requirements please refer to the template provided in the annex 10, "Visual identity template for DG CONNECT studies". The cover page shall be filled in by the contractor in accordance with the instructions provided in the template.

In case you foresee other logos than the Commission logo, the additional logo may only be placed on the cover page of the study if they are one of the following categories:

- a logo duly authorised by the Secretary General and the Director-General for Communication of the European Commission;
- the logo of the author of the study (i.e. the contractor);
- in case of co-branded studies, the logo of a partner organisation involved in the production of the study. In this case, the European Commission's Visual Identity Manual does not apply.

4.2 Meetings and workshops

A schedule of meetings will be agreed with the contractor for this assignment. Such meetings will be attended by representatives of the European Commission, the project manager leader and other members of the contractor's team, as required. Other knowledgeable external experts might be invited to participate by the Commission. The meetings will be chaired by a Commission representative and will take place in Brussels.

The aim of the meetings will be to guide the work of the contractor. In particular, they will allow setting-up the initial orientations, review progress in critical milestones and review the deliverables of the assignment.

Within three days following each meeting, the contractor will circulate minutes of the meeting to all participants, together with copies of presentations made during the meeting or other related documents. The minutes shall be concise and concentrate on major decisions and shall list the open action points for the next reporting period.

Inception meeting

An inception meeting will be organised by the Commission's services at the Commission's premises in Brussels within 2 weeks after signature of the contract by the last contracting party. The contractor will have to finalise the inception report on the basis of the outcome of the inception meeting.

Interim meeting

An interim meeting during which the contractor will present the interim findings will be held within 5 months after signature of the contract by the last contracting party. It will be organised by the Commission's services at the Commission's premises in Brussels. The contractor will have to finalise the Interim Study report on the basis of the outcome of the interim meeting.

Conference calls

In addition to the meetings to be organised in Brussels, two conference calls on the state of progress of the study will take place between representatives from the contractor and the Commission. They will take place in the months indicated in the timetable, see point 4.3 below.

Workshop with stakeholders

One workshop with stakeholders will be organised in order to gather input from relevant stakeholders on the preliminary findings and conclusions of tasks 1, 2, and 3, see point 4.3 below. This workshop will take place within three months, after signature of the contract by the last contracting party.

The contractor is expected to provide a senior member of staff having worked on the contract to deliver a presentation on the objectives of the Study. The workshop will be organised by the successful tenderer in cooperation with the Commission's services at the Commission's premises in Brussels.

The aim of the workshop is to inform relevant stakeholders and experts about the objectives of the Study and to inform them about preliminary findings and conclusions of tasks 1, 2, 3, validate and collect their views on them, as well as more general views, especially on current and future developments in the area of the Study and policy implications. This will require the contractor preparing a short document and/or a presentation, which will summarise the findings of the Study and will raise issues for discussion at the workshop.

The contractor will also prepare the workshop (agenda, invitations, speakers, participants, etc.) and manage the discussion together with the Commission. The feedback from the workshop will be incorporated in the Final Study report as described above. The final list of participants has to be agreed in advance with the Commission's services. The contractor will also prepare minutes of the workshop in the form of a report, which shall be submitted to the Commission within 2 weeks after the workshop was held. The contractor must include in the price, and bear, the costs of attendance of its own representatives at the workshop(s). The contractor is not required to bear the participation cost of other participants.

Final meeting

A final meeting during which the contractor will present the final findings and proposed conclusions will be held within 8 months after signature of the contract by the last contracting party. It will be organised by the Commission's services at the Commission's premises in Brussels. The contractor will have to submit draft Final Study report at least 10 working days before the final meeting. The Final Study report will be finalised on the basis of the outcome of the final meeting and within two weeks after this meeting.

Final Workshop

The Final Study report as approved by the Commission in accordance with section 5 below will be presented by the contractor during a final workshop to be held after the Final Study report has been prepared by the successful tenderer and the Commission has accepted the Final Study report. The contractor is expected to provide a senior member of staff having worked on the contract to deliver a presentation on the main findings. The workshop will be organised by the successful tenderer in cooperation with the Commission's services at the Commission's premises in Brussels.

The aim of the workshop is to inform relevant stakeholders and experts about the findings of the Final Study report. This will require the contractor preparing a short document

and/or a presentation, which will summarise the findings of the study and will raise issues for discussion at the workshop.

For all workshops, costs related to the following activities and items must be borne by the contractor and included in the price:

- Setting the workshop agenda in cooperation with the Commission;
- Identifying participants and speakers in cooperation with the Commission;
- Inviting speakers and participants;
- Cost of providing catering during the workshop;
- Printing and distributing relevant information material for speakers and participants.

Each tenderer should include costs of attendance of its own representative(s) at all the above meetings and workshops in the financial section of the offer.

4.3 Timetable

| Deliverable ↓ | Meeting ↓ | Month (at the latest) → | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|--|--|-------------------------------|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | |
| | Inception meeting | | | | | | | | | | |
| Inception report | | | | | | | | | | | |
| Conference call | | | | | | | | | | | |
| | Workshop with stakeholders from sectors covered by the Study | | | | | | | | | | |
| Report from the workshop with stakeholders | | | | | | | | | | | |
| | Interim meeting | | | | | | | | | | |
| Interim Study report | | | | | | | | | | | |
| Final meeting | | | | | | | | | | | |
| Final Study Report | | | | | | | | | | | |
| | Final workshop | | | | | | | | | | |
| Final workshop report | | | | | | | | | | | |

5 TERMS OF APPROVAL OF REPORTS/DELIVERABLES

5.1 Study report(s)

After reception of each Study report included in section 4.1 above, except for the reports linked to payments, the Commission will have 20 calendar days in which:

- to approve it,
- to reject it and request a new report.

If the Commission does not react within this period, the report shall be deemed to be approved.

Where the Commission requests a new report because the one previously submitted has been rejected, this must be submitted within 14 calendar days. The new report shall likewise be subject to the above provisions.

For the terms of approval of the reports linked to payments we refer to article I.4 of the contract.

5.2 Other Deliverables

The Commission shall have 5 days from receipt to approve or reject the deliverable(s), and the Contractor shall have 5 days in which to submit additional information or a new deliverable.

6 LAYOUT/CONTENT OF THE WORK PLAN

Offers should include a detailed work plan. The work plan should specify the management structure as well as the responsibility of each member of the team, including the main contractor and/or sub-contractors. It should include the names of the persons in charge of the different countries where data have to be gathered.

The work plan should include a list of tasks to be performed, with clear and realistic phases and milestones. Resources should be clearly associated to each task.

PART 2: ADMINISTRATIVE DETAILS

1 ELIGIBILITY REQUIREMENTS

The present tender documents are drawn up in respect of the Financial Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, as well the Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union, hereinafter referred to as the Financial Regulation.

Participation in tendering procedures is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement.

Where the Plurilateral Agreement on Government Procurement concluded within the WTO applies, the contracts are also open to nationals of the countries that have ratified this Agreement, on the conditions it lays down.

Operators in third countries which have signed a bilateral or multilateral agreement with the Union in the field of public procurement must be allowed to take part in the tendering procedure on the conditions laid down in that agreement. The Commission will refuse tenders submitted by operators in third countries which have not signed such agreements for the present call for tender.

ADMISSIBILITY OF TENDERS

All the **requirements** related to the **submission and opening of the tenders** are detailed in the invitation to tender (see sections 2, 4 and 8 of the invitation to tender) including:

- *Address and deadline for submission of the tender*
- *Presentation of the offer and Packaging*
- *Opening of the Tenders*

2 ADMINISTRATIVE REQUIREMENTS

A service provider may consider submitting a tender as a single entity or decide to collaborate with other service providers to present an offer: either by submitting a **joint tender** or through **subcontracting**. Tenders may also combine both approaches. Whichever type of bid is chosen, the tender must stipulate the legal status and role of each legal entity in the tender proposed.

2.1 Different ways to submit a tender

Options 1 to 4 below describe the different ways to submit a tender.

Please make sure all required documents and evidences are submitted with your tender.
(Please refer to the checklist in Annex 7)

- Option 1:** Submission by **one tenderer: Private / Public entity / Individual.**
- Option 2:** Submission by **partners** as defined under section 2.2 below.
One must be designated as **lead partner/contractor.**
- Option 3:** Submission by **one tenderer with subcontractors** as defined under section 2.2 below
- Option 4:** Submission by **partners** (one must be designated as lead partner/contractor) **with subcontractors** as defined under section 2.2 below

The tender must include a cover letter (Annex 9) presenting the name of the tenderer (including all entities in case of joint offer as well as their roles) and identified subcontractors if applicable.

2.2 Joint Tenders and Subcontracting

2.2.1 Joint tenders

In case of a joint tender submitted by a group of tenderers, these latter will be regarded as **partners**. If awarded the contract, they will have an equal standing towards the contracting authority in the execution of the contract.

The partnership may take the form of:

- a) a **new legal entity** which will sign the contract with the Commission in case of award
- or
- b) a group of partners not constituting a new legal entity, who via a **power of attorney (Annex 5)**, signed by an authorised representative of each partner (except the lead partner), designate one of the partners as lead partner, and mandate him as lead contractor to sign the contract with the Commission in case of award.

In both cases, all partners shall be considered as tenderers and shall **assume joint and several liability towards the European Commission for the performance of the contract.**

2.2.2 Subcontracting

Subcontracting is a situation where a contract is to be established between the Commission and a service provider and where this service provider, in order to carry out the contract, enters into legal commitments with other legal entities for performing part of the tasks foreseen in the contract.

The tenderer submitting the tender, if awarded the contract, shall become the sole contractor and shall assume **full liability toward the European Commission for the**

performance of the contract as a whole. The other service providers will be regarded as subcontractors.

Subcontracting is subject to the provisions of Article II.7 of the model contract annexed to the invitation.

2.3 Identification of the tenderer – List of Forms & Evidences Required

Options 1/2/3/4: Documents to be provided by the single tenderer or lead partner:

- Annex 1: Administrative identification form (ORIGINAL filled in and signed by (an) authorised representative(s))
- Annex 2: Legal Entities form⁴ (ORIGINAL filled in, signed by (an) authorised representative(s), and supported by relevant evidences according to the entity concerned, i.e. private/public/individual)

Economic operators already registered as a legal entity in the Commission's files (i.e. they are or have been contractors of the Commission) are not obliged to provide a new form, on the condition that they confirm that no change in the information already provided has occurred. In case of doubt, we recommend submitting a new form.

- Annex 3: Financial Identification form⁵ (ORIGINAL filled in according to the instructions contained in this form)

If the corresponding bank account of economic operators is already registered in the Commission's files they are not obliged to provide a new form, on the condition that they confirm that no change in the information already provided has occurred. In case of doubt, we recommend submitting a new form.

- Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (ORIGINAL filled in and signed by (an) authorised representative(s))
- Legible photocopy of the statutes of the legal entity (for public/private entities)
- Legible copy of the **notice of appointment of the persons authorised to represent the tenderer** in dealings with third parties and in legal proceedings, if it is not included in the abovementioned documents, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. If the person(s) signing the tender or the person designated to sign the contract is/are entitled to represent the economic operator by a power of attorney from the above mentioned authorised persons, the power of attorney must also be submitted; for public entities: the **names and functions of the legal representatives** (directors, etc) of the tenderer, authorised to sign contracts with third parties (a copy of the appointment of the persons authorised to represent the tenderer must be produced).

Options 2 and 4: documents to be provided by each partner, except the lead partner

- Annex 1: Administrative identification form (ORIGINAL filled in and signed by (an) authorised representative(s))

⁴ A standard template in each EU language is available at http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

⁵ A standard template in each EU language is available at http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

- Annex 2: Legal Entities form⁶ (ORIGINAL filled in, signed by (an) authorised representative(s), and supported by relevant evidences according to the entity concerned, i.e. private/public/individual)
Economic operators already registered as a legal entity in the Commission's files (i.e. they are or have been contractors of the Commission) are not obliged to provide a new form, on the condition that they confirm that no change in the information already provided has occurred. In case of doubt, we recommend submitting a new form.
- Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (ORIGINAL filled in and signed by (an) authorised representative(s))
- Annex 5: Power of attorney (ORIGINAL filled in and signed by (an) authorised representative(s) of each partner)
- Legible photocopy of the statutes of the legal entity (for public/private entities)
- Legible copy of the **notice of appointment of the persons authorised to represent the tenderer** in dealings with third parties and in legal proceedings, if it is not included in the abovementioned documents, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. If the person(s) signing the tender or the person designated to sign the contract is/are entitled to represent the economic operator by a power of attorney from the above mentioned authorised persons, the power of attorney must also be submitted; for public entities: the **names and functions of the legal representatives** (directors, etc.) of the tenderer, authorised to sign contracts with third parties (a copy of the appointment of the persons authorised to represent the tenderer must be produced).

Options 3 and 4: Documents to be provided by subcontractors

- Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (ORIGINAL filled in and signed by (an) authorised representative(s)) needs to be provided by **identified sub-contractors whose intended share of the contract is above 15 000 euros**
- Annex 6a: Letter of intent from each subcontractor (ORIGINAL signed by (an) authorised representative(s)) to confirm their willingness and availability to perform the tasks.

Individual external experts, not part of the tenderer's staff, foreseen to execute a part of the work are also to be considered subcontractors. Individual external experts will have to provide only the letter of intent in Annex 6b (ORIGINAL).

3 SIGNATURE OF THE TENDER

The signature of the single tenderer's or lead partner's authorised representative or representatives (preferably in blue ink) on the administrative identification form (**Annex 1**) will be considered as the signature of the tender, binding the single tenderer or the group of partners to the terms included in the tender.

⁶ A standard template in each EU language is available at http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

4 LAYOUT OF THE TENDER

All tenders must be clear, complete and consistent with all the requirements laid down in the tendering documents and **presented in 3 sections** as follows:

4.1 Administrative section

The documentary evidence required in accordance with part 2 section 2, section 3, section 5.1.3 and section 5.2 of the Tender Specifications must be included in the administrative section of the tender. **Tenders not including the necessary evidence may be rejected.** The Commission reserves the right, however, to request clarification or additional evidence in relation to the exclusion and selection stages after the opening within a time limit stipulated in its request and in the conditions explained in section (3) of the invitation to tender.

4.2 Technical section

This section must address all the requirements laid down in Part 1 - Technical description of the tender specifications. Information included here will be used to conduct the qualitative assessment of the tenders on the basis of the technical award criteria listed in section 5.3 below.

The Commission will reject tenders where no technical offers are proposed.

4.3 Financial section

The price quoted must fulfil the following requirements:

- A **total** fixed price expressed **in Euro** must be included in the tender. Tenderers from countries outside the euro zone have to quote their prices in euro. The price quoted may not be revised in line with exchange rate movements. It is for the tenderer to assume the risks or the benefits deriving from any variation.
- The price quoted must **be firm and not subject to revision.**
- The European Commission, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, is exempt from all duties, taxes and dues, including value added tax (VAT).

Such charges may not therefore be included in the calculation of the price quoted.

VAT exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption.

For those countries where national legislation provides an exemption by means of reimbursement, **the amount of VAT is to be shown separately.** In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Commission is exempt from VAT.

- The price quoted shall be subject to the terms set in Article I.3 of the model contract attached.

- The price must fall within the scope of these tender specifications and be broken down into unit prices and quantities per each of the following categories:

(a) Professional fees. The daily rates and total number of person-day for each member of staff working on the contract must be specified.

(b) Travel and subsistence expenses (including costs of attendance of future contractor's representative(s) at meetings and/or workshops with the Commission as foreseen in section 4.2, part 1). In the event of travel being necessary to carry out the duties specified in the tender, travel and subsistence expenses shall be paid as indicated in the tender.

(c) Other expenses (outsourced services or supplies e.g. translation expenses, printing expenses, website development, cost of acquiring data etc.).

- Tenders involving more than one legal entity, either as partner or subcontractor (including external experts) must specify the categories above for each legal entity.
- The Commission will reject tenders where no financial offers are proposed.

The part that the tenderer intends to subcontract shall be precisely indicated and detailed.

The total price quoted cannot exceed EUR 150 000 (one hundred fifty thousand Euros). Tenders with a higher total price will be rejected.

5 EVALUATION OF TENDERS

The evaluation of tenders will be done in accordance with the following subsequent steps:

- The Commission verifies that the **tenderer** is not in one of the situations covered by the exclusion criteria (first step, see section 5.1 below)
- For all tenderers that are not in one of the situations covered by the exclusion criteria, the Commission verifies that the **tenderer** has the appropriate capacities to perform the contract on the basis of the selection criteria (second step, see section 5.2 below)
- For those tenderers that have met the minimum requirements for the selection criteria, the Commission assesses the **tender** on the basis of the award criteria (third step, see section 5.3 below).

5.1 Exclusion Criteria

5.1.1. Pursuant to Article 45(2) of Council Directive 2004/18/EC and to Article 106(1) of the Financial Regulation, the Commission will exclude tenderers from participation in the procurement procedure if:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;

- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the European Investment Bank and international organisations;
- (d) they are not in compliance with their obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which 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 or persons having powers of representation, decision making or control over them have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests;
- (f) they are currently subject of an administrative penalty referred to in Article 109(1) of the Financial Regulation.

Points (a) to (d) of the first subparagraph shall not apply in the case of purchase of supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities, or from the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law.

Points (b) and (e) of the first subparagraph shall not apply where the candidates or tenderers can demonstrate that adequate measures have been adopted against the persons having powers of representation, decision making or control over them, who are subject to a judgement as referred to in points (b) or (e) of the first subparagraph.

For the purpose of the correct application of paragraph 1, the candidate or tenderer, whenever requested by the contracting authority, shall:

(a) where the candidate or tenderer is a legal person, provide information on the ownership or on the management, control and power of representation of the legal person and certify that they are not in one of the situations referred to in paragraph 1 of Article 106 of the Financial Regulation;

(b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to in paragraph 1 of Article 106 of the Financial Regulation

5.1.2. Pursuant to Article 45(2) of Council Directive 2004/18/EC and Article 107 of the Financial Regulation, a contract shall not be awarded to candidates or tenderers who, during the procurement procedure for this contract:

- (a) are subject to a conflict of interest;
- (b) are guilty of misrepresenting 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 106(1) of the Financial Regulation, for this procurement procedure.

5.1.3. Tenderers – including identified subcontractors whose intended share of the contract is above 15 000 euros if any - shall provide a declaration on their honour (Annex 4), duly signed and dated, stating that they are not in one of the situations referred to in Article 106(1) or 107 of the Financial Regulation. The tenderers must undertake to inform the Commission, without delay, of any changes with regard to these situations after the date of submission of the tender.

5.1.4. In addition, for contracts of a value equal or higher than EUR 134000, ONLY the tenderer to whom the contract is to be awarded shall confirm the declaration by providing, within a time-limit defined by the contracting authority and preceding the signature of the contract, the following evidences (if the tender is proposed by partners, these evidences must be submitted by each partner):

- 1) The contracting authority shall accept as satisfactory evidence that the candidate or tenderer to whom the contract is to be awarded is not in one of the situations described in point (a), (b) or (e) of Article 106(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, a recent equivalent document issued **issued less than 12 months before the date of the letter informing of the contract award** by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the tenderer is a legal person and the national legislation of the country in which the tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the tenderer. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 106(1) of the Financial Regulation, recent certificates or letters issued by the competent authorities of the State concerned, **issued less than 12 months before the date of the letter informing of the contract award**. These documents must provide evidence covering all taxes and social security contributions for which the tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.
- 2) Where the document or certificate referred to in the first subparagraph is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.
If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraphs 1) and 2) shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

In case of doubt on the declaration on the honour provided by the subcontractor(s) in accordance with the indications of point 5.1.3 above, the contracting authority shall request the evidence referred to in points 1) and 2) above from the subcontractor(s).

5.1.5. Administrative and financial penalties

1. **By returning the form in Annex 4 duly signed and dated**, tenderers confirm that they have been notified of the following points: Each institution has a central database containing information on tenderers who have been in one of the situations described under 5.1.1 and 5.1.2 above. The sole purpose of this database is to ensure, in compliance with Union rules on the processing of personal data, that the above-

mentioned cases of exclusion are applied correctly. Each institution has access to the databases of the other institutions.

Tenderers and, if they are legal entities, persons who have power of representation, decision-making or control over them, are informed that, should they be in one of the situations mentioned in:

- the Commission Decision of 16.12.2008 on the Early Warning System (EWS) for the use of authorising officers of the Commission and the executive agencies (OJ, L 344, 20.12.2008, p. 125), or
- the Commission Regulation of 17.12.2008 on the Central Exclusion Database – CED (OJ L 344, 20.12.2008, p.12),

their personal details (name, given name if natural person, address, legal form and name and given name of the persons with power of representation, decision-making or control, if legal person) may be registered in the EWS only or both in the EWS and CED, and communicated to the persons and entities listed in the above-mentioned Decision and Regulation, in relation to the award or the execution of a procurement contract or a grant agreement or decision.

2. In accordance with Article 109 of the Financial Regulation the contracting authority may impose administrative or financial penalties on the following:
 - (a) contractors, candidates or tenderers in the cases referred to in point (b) of Article 107(1) of the Financial Regulation;
 - (b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.

In all cases, however, the contracting authority shall first give the person concerned an opportunity to present his or her observations.

3. The penalties referred to in paragraph 2 shall be proportionate to the importance of the contract and the seriousness of the misconduct, and may consist in:
 - (a) the exclusion of the candidate or tenderer or contractor concerned from the contracts and grants financed by the budget for a maximum period of ten years; and/or
 - (b) the payment of financial penalties by the candidate or tenderer or contractor up to the value of the contract in question.
4. In accordance with Article 141 of the Regulation laying down the rules of application of the Financial Regulation, the cases referred to in point e) of 5.1.1. above shall include all illegal activities detrimental to the Union's financial interests and be in particular the following:
 - (a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests drawn up by Council Act of 26 July 1995 (OJ C 316, 27.11.1995, p. 48);
 - (b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997 (OJ C 195, 25.6.1997, p. 1);
 - (c) cases of participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA (OJ L 300, 11.11.2008, p. 42);

- (d) cases of money laundering as defined in Article 1 of Council Directive 2005/60/EC of the European Parliament and of the Council (OJ L 309, 25.11.2005, p. 15).;
 - (e) cases of terrorist offences, offences linked to terrorist activities, and inciting, aiding, abetting or attempting to commit such offences, as defined in Articles 1, 3 and 4 of Council Framework Decision 2002/475/JHA (OJ L 164, 22.6.2002, p.3).
5. Pursuant to article 142 of the Regulation laying down the rules of application of the Financial Regulation, in order to determine duration of exclusion and to ensure compliance with the principle of proportionality, the institution responsible shall take into account in particular the seriousness of the facts, including their impact on the Union's financial interests and image and the time which has elapsed, the duration and recurrence of the offence, the intention or degree of negligence of the entity concerned and the measures taken by the entity concerned to remedy the situation.

When determining the period of exclusion, the institution responsible shall give the candidate or tenderer concerned the opportunity to express their views.

Where the duration of the period of exclusion is determined, in accordance with the applicable law, by the authorities or bodies referred to in Article 108(2) and (3) of the Financial Regulation, the Commission shall apply this duration up to the maximum duration laid down in Article 106(4) of the Financial Regulation.

6. The period referred to in Article 106(4) of the Financial Regulation is set at a maximum of five years, calculated from the following dates:
- (a) from the date of the judgment having the force of res judicata in the cases referred to in points (b) and (e) of Article 106(1) of the Financial Regulation;
 - (b) from the date on which the infringement is committed or, in the case of continuing or repeated infringements, the date on which the infringement ceases, in the cases referred to in Article 106(1)(c) of the Financial Regulation where the misconduct relates to contracts with the institution concerned.

For the purposes of point (b) of the sixth subparagraph, if the grave professional misconduct was established by a decision of a public authority or an international organisation, the date of the decision shall prevail.

That period of exclusion may be extended to ten years in the event of a repeated offence within five years of the date referred to in points (a) and (b), subject to paragraph 5.

7. Candidates and tenderers shall be excluded from a procurement and grant procedure as long as they are in one of the situations referred to in points (a) and (d) of Article 106(1) of the Financial Regulation.
8. Pursuant to article 145 of the Regulation laying down the rules of application of the Financial Regulation, without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have made false declarations, have made substantial errors or committed irregularities or fraud, or have been found in serious breach of their contractual obligations may be excluded from all contracts and grants financed by the Union budget for a maximum of five years from the date on which the infringement is established as confirmed following a contradictory procedure with the candidate, tenderer or contractor.

That period may be extended to ten years in the event of a repeated offence within five years of the date referred to in the first subparagraph.

9. Tenderers or candidates who have made false declarations, have committed substantial errors, irregularities or fraud, may also be subject to financial penalties representing 2% to 10% of the total estimated value of the contract being awarded.

Contractors who have been found in serious breach of their contractual obligations may be subject to financial penalties representing 2% to 10% of the total value of the contract in question.

That rate may be increased to 4% to 20% in the event of a repeat infringement within five years of the date referred to in the first subparagraph of paragraph 8.

The institution shall determine the administrative or financial penalties taking into account in particular the elements referred to in Article 142(1) of the Regulation laying down the rules of application of the Financial Regulation.

5.2 Selection criteria

The following selection criteria will be used to select the tenderers.

Tenderers must prove their economic, financial and technical capacity to carry out the work subject to this call for tender and that they are authorised to perform the contract under national law.

The evidence requested should be provided by each member of the group in case of joint tender. However a consolidated assessment will be made to verify compliance with the minimum capacity levels.

Documentary evidence of the tenderers' claims in respect of the selection criteria is required as indicated below. The tender should also include any other document that the tenderer(s) wish(es) to include by way of clarification.

The tenderer may rely on the capacities of other entities (e.g. its parent company), regardless of the legal nature of the links which it has with them. It must in that case prove to the Contracting Authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

5.2.1 Authorisation to perform the contract

| | |
|-----------------------|--|
| Criterion: | Authorisation to perform the contract under national law. |
| Documentary evidence: | Declaration or certificate of inclusion in a trade or professional register, or a sworn declaration or certificate, membership of a specific organisation, express authorisation, or entry in the value added tax (hereinafter 'VAT') register. ⁷ |

5.2.2 Financial and economic capacity

In order to prove their economic and financial capacity, the tenderer (i.e. in case of joint tender, the combined capacity of all members of the consortium) must comply with the following criteria:

| | |
|-----------------------|--|
| Criterion: | Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract, but at minimum an annual turnover of 3 times superior to the value of this contract ⁸ . |
| Documentary evidence: | Copy of Profit and Loss Account and balance sheets or extracts there from signed by the authorised representative of the legal entity for the last three financial years, where applicable, as approved by the general assembly of the company, audited and/or published, failing that, appropriate statements |

⁷ For private entities:

- a proof of registration, as prescribed in their country of establishment, on one of the professional or trade registers or any other official document showing the registration number;
- if the above documents do not show the VAT number, a copy of the VAT registration document, where applicable

For individuals:

- a legible copy of his or her identity card or passport;
- where applicable, a proof of registration, as prescribed in the individual's country of establishment, on one of the professional or trade registers or any other official document showing the registration number;
- if the above documents do not show the VAT number, a copy of the VAT registration document, where applicable.

For public entities:

- a copy of the resolution decree, law, or decision establishing the entity in question or failing that, any other official document attesting to the establishment of the entity;
- if the public entity has completed a VAT registration number in the legal entity form, an **official document showing the VAT number**.

⁸ In case of a consortium these thresholds will be verified on the combined level of the consortium.

In case of participation of group members, e.g. local affiliates of international companies, figures of the entire group will only be taken into account if a specific written endorsement of the participation by the mother company is provided.

| | |
|--|---|
| | from banks. If applicable, evidence of professional risk indemnity insurance. |
|--|---|

If, for some exceptional reason which the Commission considers justified, a tenderer is unable to provide one or other of the above documents, he or she may prove his or her economic and financial capacity by any other document which the Commission considers appropriate. In any case, **the Commission must at least be notified of the exceptional reason and its justification in the tender.** The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

5.2.3 *Technical background*

With respect to the criteria listed below (e.g. relevant expertise of the tenderer and other applicants, management capability), in case of participation of group members, e.g. local affiliates of international companies, documentary evidence of the entire group (e.g. list of contracts, etc.) will only be taken into account if a specific written endorsement of the participation by the local affiliate and/or mother company is provided.

With respect to the criterion relating to the team members, any team member who is not directly employed by the legal entity (or one of the entities in case of a joint tender) submitting the tender is considered as a subcontractor. In such case either his employer, even if this is a local branch of the same global company, should be declared as a subcontractor or he is to be considered to participate as independent expert. In both cases the forms requested in section 2.3. need to be submitted.

Tenderers (in case of a joint tender the combined capacity of all tenderers and subcontractors) must comply with the following criteria:

| | |
|-----------------------|--|
| Criterion: | Relevant expertise of the tenderer and other applicants, including subcontractors if any, acquired in the last three years, in the fields of 1) EU competition law applied to electronic communications services; 2) economics of electronic communications and 3) technical expertise applied to electronic communications networks. |
| Documentary evidence: | List of at least four contracts or relevant services with sums, dates and recipients, public or private, in the fields listed above performed in the past three years, or currently being performed, with a minimum value for each contract of at least 100 000 EUR. The most important contracts and services shall be accompanied by certificates of satisfactory execution, specifying that they have been carried out in a professional manner and have been fully completed. ⁹ |

⁹ If supplied to contracting authorities, evidence must be provided in the form of certificates issued or countersigned by the competent authority. If supplied to private purchasers, provision of service must be certified by the purchaser, or failing this, simply declared by the tenderer to have been provided.

| | |
|-----------------------|---|
| Criterion: | <p>The team delivering the service should include, as a minimum, the following profiles:</p> <p><u>Project Manager/project management leader</u>: At least 7 years of experience in project management, including overseeing project delivery, quality control of delivered service, client orientation and conflict resolution experience in project of a similar size (at least € 150 000) and coverage (geographical scope at least half of the one subject to this call for tender), with experience in management of team of at least 3 people.</p> <p><u>Expert in EU competition law applied to electronic communications services</u>: relevant higher education degree and at least 5 years of professional experience in EU competition law applied to electronic communications services.</p> <p><u>Expert in economics of electronic communications networks and services</u>: relevant higher education degree and at least 3 years of professional experience in economics of electronic communications networks and services.</p> <p><u>Expert with technical expertise applied to electronic communications networks</u>: relevant higher education degree and at least 3 years of professional experience in the area of telecommunications engineering.</p> |
| Documentary evidence: | <p>Concise but informative curricula vitae of team members, with the educational and professional qualifications of the persons who will provide the service for this tender (CVs) including the management staff. Each CV provided should indicate the intended function in the delivery of the service.</p> <p>The Europass curriculum vitae template (available at http://europass.cedefop.europa.eu/europass/home/hornav/Introduction.csp) shall be filled in by each person involved in the execution of the tasks foreseen in the tender. Please make sure the precise contractual link with the tenderer is clearly indicated.</p> |

| | |
|-----------------------|---|
| Criterion: | Management capability |
| Documentary evidence: | <p>List of contracts, projects or services of a value of at least EUR 100 000 performed by the tenderer(s) (including subcontractor(s), if any) in the last five years.</p> <p>Short description of the measures employed to ensure the quality of the services for each of the listed contracts.</p> |

5.3 Award criteria

5.3.1 Technical award criteria

The tenders will be qualitatively assessed on the basis of the technical award criteria and respective scores listed below:

| <u>Technical award criterion</u> | <u>Maximum score/weighting</u> | <u>Threshold</u> |
|--|---------------------------------------|-------------------------|
| <p>1. Understanding of the tasks required:</p> <p>1.1. Understanding of specific and long-term objectives.</p> <p>1.2. Value added in respect of information included in the tender specifications.</p> <p><i>(All the sub-criteria above are of equal relative importance)</i></p> | 30 | 15 |
| <p>2. Technical quality of the tender:</p> <p>2.1. Completeness and full coverage of all tasks 1, 2, 3, 4 and 5 in accordance with the objective of the Study described in chapter 2.</p> <p>2.2. Quality of the proposed methodology including soundness and appropriateness of the proposed analysis tools and data gathering techniques.</p> <p>2.3. Relevance, quality, accuracy and completeness of proposed deliverables, including the final data set for publication and data linking.</p> <p>2.4. Relevance, quality (including soundness and appropriateness) and completeness of the information proposed to be used, and of the analysis proposed to be undertaken.</p> <p><i>(All the sub-criteria above are of equal relative importance)</i></p> | 50 | 25 |

| | | |
|--|------------|-----------|
| <p>3. Organisation of work:</p> <p>3.1. Feasibility to meet the objectives specified in the tender specifications outlined by a workplan and timetable.</p> <p>3.2. Adequacy and appropriateness of the overall allocation of time and resources to the study and to each task or deliverable, as well as the level of direct participation of senior staff in performance of the tasks required under these tender specifications and specifying clearly the identity, roles, activities and responsibilities of subcontractor(s).</p> <p><i>(All the sub-criteria above are of equal relative importance)</i></p> | 20 | 10 |
| TOTAL | 100 | 60 |

Minimum score per criterion (threshold):

Tenders scoring less than 50% of the maximum score for any technical award criterion will be considered of insufficient quality and rejected.

Minimum total score (threshold):

Tenders with a total score of less than 60 points at the end of the evaluation process will be considered of insufficient quality and rejected.

5.3.2 *Price*

The price quoted must comply with the requirements laid down in Part 2 - section 4.3 above.

6 AWARD OF THE CONTRACT

The Contract shall be awarded to the tender offering the best value for money, which will be the one with the best quality/price ratio, taking into account the award criteria listed in section 5.3.

The qualitative score obtained for the technical award criteria will be divided by the total price of the tender.

7 PAYMENT AND STANDARD CONTRACT

- Payments under the contract shall be made in accordance with articles I.4, I.10 and II.15 of the model contract attached, provided that the contractor has fulfilled all this contractual obligations.

The invoice shall be submitted in electronic format only by using the e-PRIOR communication platform. A brief description of the system and connection

modalities is enclosed to the present Tender Specifications (Annex 8: e-PRIOR description). The tenderer(s) is/are required to inform the Commission about the submission modality chosen for the dispatch of the invoice, should a contract be awarded to them. To this end, the tenderer should specify in Annex 9 (Cover letter for the tender) whether (s)he intends to use the Supplier Portal or establish a direct connection between the contractor's back office and the Commission's back-office/ use the services of a third party service provider already connected to e-PRIOR and offering such services.

Further instructions/guidance documents to assist contractors in sending electronic invoices will be communicated by the Commission after the contract award.

Contractors should note that since the model service contract for this call for tender foresees submission of electronic invoices, paper invoices will not be taken into account, except in the cases referred to in points 6 and 7 of Article I.10.2 (Submission and validity of financial documents) of the Model Service Contract attached.

8 VALIDITY OF THE TENDER

Period of validity of the tender shall be nine months from the closing date for submission of the tender given above.

9 ADDITIONAL PROVISIONS

- Changes to tenders will be accepted only if they are received on or before the final date set for the receipt of tenders.
- Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.
- No information of any kind will be given on the state of progress with regard to the evaluation of tenders.
- All documents submitted by tenderers will become property of the Commission and will be regarded as confidential.

10 LIQUIDATED DAMAGES: SEE ARTICLE II.12 OF THE MODEL CONTRACT

11 NO OBLIGATION TO AWARD THE CONTRACT

Initiation of a tendering procedure imposes no obligation on the Commission to award the contract. Should the invitation to tender cover several items or lots, the Commission reserves the right to award a contract for only some of them. The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be so liable if it decides not to award the contract.

12 RESULTS

The results of the service must be forwarded to the European Commission in Brussels. **The copyright will belong to the Commission**; the Commission will in particular have the right to publish the results, including the structured final data.

If the result is not to be fully created for the purpose of the contract it is to be clearly pointed out in the tender. There should be information provided about the scope of pre-existing materials, their source and when and how right to have them have been acquired.

The provisions on the use of the results and ownership of the results can be found in the Model Service Contract (Article I.8 Exploitation of the results of the contract and Article II.10 Ownership of the results – Intellectual and Industrial Property Rights).

PART 3: ANNEXES

ANNEX 1: ADMINISTRATIVE IDENTIFICATION FORM

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| | |
|--|--|
| <u>TENDERER'S ID</u> | |
| Name | |
| Legal form | |
| Date of registration | |
| Country of registration | |
| Registration number | |
| VAT number | |
| Address of registered office | |
| Contact address (if different) | |
| URL | |
| <u>AUTHORISED REPRESENTATIVE(S)¹⁰</u> | |
| | |
| <u>CONTACT PERSON</u> | |
| Name | |
| Forename | |
| Position | |
| Telephone | |
| Fax | |
| Email | |
| <u>DECLARATION BY THE AUTHORISED REPRESENTATIVE(S):</u> I, the undersigned, certify that the information given in this tender is correct and that the tender is valid. | |

¹⁰ Please include the names of the legal representative(s) whose contract signature is required in accordance with the statutes of the organisation and the official document to be provided as required in Part 2 under section 2.3

Place and date:

Name (in capital letters) and signature:

ANNEX 2: LEGAL ENTITIES FORM

As required in PART 2 under section 2.3 of the tender specifications.

A standard template in each EU language is available at:

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

ANNEX 3: BANK IDENTIFICATION FORM

As required in PART 2 under section 2.3 of the tender specifications

A standard template in each EU language is available at:

http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

**ANNEX 4: DECLARATION OF HONOUR ON EXCLUSION CRITERIA AND
ABSENCE OF CONFLICT OF INTEREST**

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(Complete or delete the parts in blue italics in parentheses)
[Choose options for parts in blue between square brackets]

The undersigned *(insert name of the signatory of this form)*:

in *[his][her]* own name *(for a natural person)*

or

representing the following legal person: *(only if the economic operator is a legal person)*

full official name:

official legal form:

full official address:

VAT registration number:

- declares that *[the above-mentioned legal person][he][she]* is not in one of the following situations:
- a) is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - b) has been convicted of an offence concerning professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;
 - c) has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the European Investment Bank and international organisations;
 - d) is not in compliance with all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be performed;
 - e) has been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such activity is detrimental to the Union's financial interests;
 - f) is a subject of an administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a procurement procedure or failing to supply this information, or having been declared to be in serious breach of its obligations under contracts covered by the Union's budget.
- *(Only for legal persons other than Member States and local authorities, otherwise delete)* declares that the natural persons with power of representation, decision-

making or control¹¹ over the above-mentioned legal entity are not in the situations referred to in b) and e) above;

- declares that [the above-mentioned legal person][he][she]:
- g) has no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinity, family, emotional life or any other shared interest;
 - h) will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
 - i) has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to award of the contract;
 - j) provided accurate, sincere and complete information to the contracting authority within the context of this procurement procedure ;
- acknowledges that [the above-mentioned legal person][he][she] may be subject to administrative and financial penalties¹² if any of the declarations or information provided prove to be false.

In case of award of contract, the following evidence shall be provided upon request and within the time limit set by the contracting authority:

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the tenderer is a legal person and the national legislation of the country in which the tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the tenderer.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

Full name

Date

Signature

¹¹ This covers the company directors, members of the management or supervisory bodies, and cases where one natural person holds a majority of shares.

¹² As provided for in Article 109 of the Financial Regulation (EU, Euratom) 966/2012 and Article 145 of the Rules of Application of the Financial Regulation

ANNEX 5: POWER OF ATTORNEY¹³

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

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The undersigned:

– Signatory (Name, Function, Company, Registered address, VAT Number)

having the legal capacity required to act on behalf of his/her company,

HEREBY AGREES TO THE FOLLOWING:

- 1) To submit a tender as a partner in the group of partners constituted by **Company 1, Company 2, Company N**, and led by **Company X**, in accordance with the conditions specified in the tender specifications and the terms specified in the tender to which this power of attorney is attached.
- 2) If the European Commission awards the Contract to the group of partners constituted by **Company 1, Company 2, Company N**, and led by **Company X** on the basis of the joint tender to which this power of attorney is attached, all the partners shall be co-signatories of the Contract in accordance with the following conditions:
 - (a) All partners shall be jointly and severally liable towards the European Commission for the performance of the Contract.
 - (b) All partners shall comply with the terms and conditions of the Contract and ensure the proper delivery of their respective share of the services and/or supplies subject to the Contract.
- 1) Payments by the European Commission related to the services and/or supplies subject to the Contract shall be made through the lead partner's bank account: **[Provide details on bank, address, account number]**.
- 2) The partners grant to the lead partner all the necessary powers to act on their behalf in the submission of the tender and conclusion of the Contract, including:
 - (a) The lead partner shall submit the tender on behalf of the group of partners.
 - (b) The lead partner shall sign any contractual documents — including the Contract, and Amendments thereto — and issue any invoices related to the Services on behalf of the group of partners.
 - (c) The lead partner shall act as a single contact point with the European Commission in the delivery of the services and/or supplies subject to the Contract. It shall co-ordinate the delivery of the services and/or supplies by the group of partners to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present power of attorney shall be subject to the European Commission's express approval. This power of attorney shall expire when all the contractual obligations of the group of partners towards the European Commission for the delivery of the services and/or supplies subject to the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in on **[dd/mm/yyyy]**

¹³ To be filled in and signed by each of the partners in a joint tender, except the lead partner;

Place and date:

Name (in capital letters), function, company and signature:

ANNEX 6A: LETTER OF INTENT FOR SUB-CONTRACTORS

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The undersigned:

.....

Name of the company/organisation:

.....

Address:

.....

Declares hereby that, in case the contract is awarded to [name of the tenderer], the company/organisation that he/she represents, intends to collaborate in the execution of the tasks subject to this call for tender, in accordance with the tender specifications and the tender to which the present form is annexed, and is available to carry out its part of the tasks during the period foreseen for the execution of the contract.

Declares hereby taking note of Art. II.7 regarding subcontracting and Art. II.18 in relation with checks and audits of the service contract.

Place and date:

Name (in capital letters) and signature:

ANNEX 6B: LETTER OF INTENT FOR EXTERNAL EXPERTS

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The undersigned:

.....

Address:

.....

Declares hereby that, in case the contract is awarded to [name of the tenderer], he/she intends to collaborate in an individual capacity as **an external expert** in the execution of the tasks subject to this call for tender, in accordance with the tender specifications and the tender to which the present form is annexed, and is available to carry out its part of the tasks during the period foreseen for the execution of the contract. In addition, the undersigned declares not to have any conflict of interest in connection with the contract, and not to be in one of the situations of exclusion referred to in Article 106(1) of the Financial Regulation¹⁴.

Declares hereby taking note of Art. II.7 regarding subcontracting and Art. II.18 in relation with checks and audits of the service contract.

Place and date:

Name (in capital letters) and signature:

¹⁴ Available at http://ec.europa.eu/budget/documents/financial_regulation_en.htm

ANNEX 7: CHECK LIST OF DOCUMENTS TO BE SUBMITTED

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The purpose of the table below is to facilitate the preparation of the tender by providing an overview of the documents that must be included (marked by ■) depending on the role of each economic operator in the tender (be it lead partner, partner in joint bid, single tenderer or subcontractor/external expert). Some of the documents are only relevant in cases of joint bids or when subcontractors are involved. Additional documents might be necessary depending on the specific characteristics of each tender.

| Description | Lead partner in a joint bid | All the other partners in a joint bid | Single tenderer (with or without subcontractors) | Subcontractor | Subcontractor – External expert |
|---|-----------------------------|---------------------------------------|--|-----------------|---------------------------------|
| <i>Administrative section of the tender</i> | | | | | |
| Annex 1: Original Administrative identification form (see section 2.3, part 2) | ■ | ■ | ■ | ■ | |
| Annex 2: Original Legal Entity Form (see section 2.3, part 2) | ■ | ■ | ■ | | |
| Annex 3: Original Financial Identification form (see section 2.3, part 2) | ■ | | ■ | | |
| Annex 4: Original Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (see section 2.3, part 2) | ■ | ■ | ■ | ■ ¹⁵ | |
| Annex 5: Original Power of attorney (see section 2.3, part 2) | | ■ | | | |
| Annex 6 a: Original Letter of intent from each subcontractor (see section 2.3, part 2) | | | | ■ | |
| Annex 6 b: Original Letter of intent from each subcontractor (see section 2.3, part 2) | | | | | ■ |
| Annex 9: Cover letter for the tender | ■ | | ■ | | |
| Legible photocopy of the statutes of the entity (see section 2.3, part 2) | ■ | ■ | ■ | | |
| Legible photocopy of the notice of appointment of the persons authorised to represent the tenderer (see section 2.3, part 2) | ■ | ■ | ■ | | |
| Declaration or certificate of enrolment in one of the professional or trade registers in the country of establishment (see section 5.2.1, part 2) | ■ | ■ | ■ | | |
| Evidence of financial and economic capacity (see section 5.2.2, part 2) | ■ | ■ | ■ | | |

¹⁵ Only identified subcontractors whose intended share of the contract is above 15 000 euros.

| | | | | | |
|--|---|---|---|---|---|
| Evidence of Technical background (see section 5.2.3, part 2) | ■ | ■ | ■ | ■ | ■ |
| <i>Technical Section of the tender</i> (see section 4.2, part 2) | ■ | | ■ | | |
| <i>Financial Section of the tender</i> (see section 4.3, part 2) | ■ | | ■ | | |

ANNEX 8: E-PRIOR DESCRIPTION

1.1. What is e-PRIOR

e-PRIOR is the service-oriented communication platform¹⁶ that allows electronic procurement (e-Procurement) between suppliers and customers, targeted to the European Institutions, including the European Commission.

e-Procurement consists in exchanging procurement documents such as Requests, Offers, Orders, Catalogues, Invoices, etc. in an electronic format following standards. The standards that are used by e-PRIOR are promoted by the CEN ("Comité Européen de Normalisation"). Using standards allows the interoperability between the IT systems (back-offices) of the suppliers on one hand and those of the customers on the other hand.

1.2. e-PRIOR Ways of communication

There are two main ways for communicating/exchanging electronic documents between the suppliers/contractors and the European Institutions:

- Through a direct connection between the supplier's back-office and the Commission/contracting authority's back-office, via interfaces using secured web-services (machine-to-machine communication). In this case the suppliers have the option to:
 - Develop themselves the connection to e-PRIOR or,
 - Pass through a third party Service Provider already connected to e-PRIOR and offering such services¹⁷.
- Via Web Portals - Supplier and Customer portal - where specific user interfaces running in an Internet Browser may be used by end-user to create and manage electronic documents such as receiving and approving orders, creating electronic invoices¹⁸ and receiving acknowledgements, sending dispatch advices and receipt advices.

Both communication ways may be used simultaneously and combined together. Nevertheless, the machine-to-machine communication is targeted for suppliers managing large number of documents (>100 invoices/orders/etc. per year), whereas the Supplier Portal is mainly used by suppliers, such as SME's or individuals, managing few documents per year. In case of connection via web services, Directorate-General for Informatics (DIGIT) will provide all the necessary assistance.

¹⁶ For more information please consult http://ec.europa.eu/dgs/informatics/supplier_portal/index_en.htm

¹⁷ Service providers already connected to e-PRIOR: AdValvas, b2boost, certipost, inovis.

¹⁸ The User's manual for e-invoicing on the Supplier Portal is available for consultation at http://ec.europa.eu/dgs/informatics/supplier_portal/documentation/documentation_en.htm

1.3. e-PRIOR Modules

e-PRIOR is made up of several modules, but only the e-Invoicing module (standard invoices and credit notes) will be used in the execution of this contract.

1.4. What is the added value of e-PRIOR?

- Paperless
- Reduced encoding/transaction costs
- Faster communication
- Reduced payment delays
- Secure and transparent processes
- Environmental friendly

ANNEX 9: COVER LETTER FOR THE TENDER

Please select the appropriate option

OPTION 1

Single legal person or private/ public entity

- The offer is submitted by a **one tenderer**.
-

OPTION 2

Joint offers

- The offer is submitted by **partners**.
- Company acting as **lead partner** for the group of tenderers:
.....
 - **Other partners** taking part in the joint tender:
.....
.....
-

OPTION 3

Joint offers

- The offer is submitted by one tenderer **with subcontractors**.
- Company acting as **tenderer**:
.....
 - **Subcontractors**:
.....
.....
-

OPTION 4

Joint offers

- The offer is submitted by partners **with subcontractors**.
 - Company acting as **lead partner** for the group of tenderers:
.....
 - **Other partners** taking part in the joint tender:
.....
.....
 - **Subcontractors:**
.....
.....

Submission modality for the dispatch of the invoice

- Via the Supplier Portal
- Via a direct connection
 - Between the Contractor's back office and the Commission's back office
 - Using the services of a third party service provider already connected to e-PRIOR and offering such services
 - Name of the third party service provider:
.....

ANNEX 10: TEMPLATE STUDY FINAL REPORT OR EXECUTIVE SUMMARY

A

FRONT COVER

Template version 07/02/2013



B

Title

C

Subtitle (optional)

D

Insert cover picture here (optional)

E

FINAL REPORT or **EXECUTIVE SUMMARY**

A study prepared for the European Commission
DG Communications Networks, Content & Technology

F

*Digital
Agenda for
Europe*

This study was carried out for the European Commission by

G Logo(s) + Company identifier(s) + Authors' name(s) (optional)



H
Internal identification
Contract number:
SMART number

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Q

P

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