



Tender specifications

Call for tender n° VT/2013/036

Technical part

1. Title of the contract

Contract for the provision of services for the drawing up of a non-binding guide to good practice on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields).

2. Background

2.1. PROGRESS Introduction

PROGRESS¹ is the EU employment and social solidarity programme, set up to provide financial support for the attainment of the European Union's objectives in employment, social affairs and equal opportunities as set out in the Social Agenda², as well as to the objectives of the Europe 2020 Strategy. This new strategy, which has a strong social dimension, aims at turning the EU into a smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion. The European Union needs coherent and complementary contributions from different policy strands, methods and instruments,

¹ Decision No 1672/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity — Progress, JO L 315 of 15.11.2006

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Renewed social agenda: Opportunities, access and solidarity in 21st century Europe COM/2008/0412 final of 02.07.2008.

including the PROGRESS programme, to support the Member States in delivering on the Europe 2020's goals.

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

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

More specifically, PROGRESS supports:

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

The present call for tenders is issued in the context of the implementation of the 2013 annual work plan which can be consulted at <http://ec.europa.eu/social/main.jsp?catId=658&langId=fr>

New EU Programme for Social Change and Innovation (PSCI)

As PROGRESS is ending in 2013, the Commission has adopted its proposal³ for a new programme on the 6th of October 2011, the Programme for Social Change and Innovation (PSCI).⁴ This new programme should come into effect on 1st January 2014.

The Commission's proposal on PSCI integrates and extends the coverage of three existing programmes: Progress (Programme for Employment and Social Solidarity), EURES (European Employment Services) and the European Progress Microfinance Facility. The general objectives of the programme are defined as below:

- (a) Strengthen ownership of the Union objectives in the employment, social and working conditions fields among key Union and national policy-makers, as well as other interested parties in order to bring about concrete and coordinated actions at both Union and Member State level.

³ COM(2011) 609 final

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0609:FIN:EN:PDF>

- (b) Support the development of adequate, accessible and efficient social protection systems and labour markets and facilitate policy reform, by promoting good governance, mutual learning and social innovation.
- (c) Modernise Union law in line with the Smart Regulation principles and ensure that Union law on matters relating to working conditions is effectively applied.
- (d) Promote workers' geographical mobility and boost employment opportunities by developing Union labour markets that are open and accessible to all.
- (e) Promote employment and social inclusion by increasing the availability and accessibility of microfinance for vulnerable groups and micro-enterprises, and by increasing access to finance for social enterprises.

The PROGRESS axe of PSCI is foreseen to continue the current activities of PROGRESS (i.e. policy coordination, sharing of best practices, capacity-building and testing innovative policies). It would also increase its contribution to social policy experimentation and to the identification of good practices, the aim being to up-scale the most successful measures with the support of the new European Social Fund.

All activities commencing after the 1st of January 2014 under this contract will have to take into consideration the changes related to the new Programme and will have to satisfy with the implementing conditions of PSCI including in term of monitoring and evaluation.

2.2. Background information specific to this contract

Currently Directive 2004/40/EC of the European Parliament and of the Council on the exposure of workers to the risks arising from physical agents (electromagnetic fields) seeks to introduce, at Community level, minimum protection requirements for workers when they are exposed, in the course of their work, to risks arising from electromagnetic fields.

However since the adoption of Directive 2004/40/EC, a lot of concerns have been expressed by the stakeholders, in particular the medical sector using the magnetic resonance imaging technique (MRI), because some provisions of the directive, in particular those relating to the exposure limit system, would unduly hamper their activities. The Commission undertook to examine the situation and after a significant number of consultations of stakeholders and having taken into consideration the latest scientific recommendations adopted COM (2011)348 of 14 June 2011 for amending the current directive. A new directive should be adopted by the European Parliament and the Council by 31 October 2013.

A directive is the most appropriate means of achieving the desired objectives and does not go beyond what is necessary to achieve that purpose. It gives "exposure limit values" and "action values". It also explains employers' obligations with regard to determining and assessing risks, sets out the measures to be taken to reduce or avoid exposure and details how to provide information and training for workers.

Any employer who intends to carry out work involving risks arising from exposure to electromagnetic fields must therefore implement a series of protection measures before and during actual operations.

As for other directives in the area of health and safety at work, it would be worthwhile to have a non-binding "guide to good practice" which facilitates the appropriate choice and correct use of methods and work equipment, depending on environmental nuisances, the characteristics of the work and constraints. At many occasions, this has been encouraged by the Council and the European Parliament.

The revised Directive will be published in the Official Journal (the final version is not yet published but information will be added when this is achieved) and has the following requirements related to the contents of the Practical Guide which are included as indicative text.

"CHAPTER IV

FINAL PROVISIONS

Article 13

Practical guide

The Commission shall draw up practical guides before (*date to be inserted: the date of transposition in Article 14(1)*) in order to facilitate the implementation of this Directive, in particular on the following issues:

a) determination of exposure taking into account appropriate European or international standards, including:

- calculation methods for limit value exposure assessment,
- spatial averaging of external electric and magnetic fields,
- guidance for dealing with measurements and calculations uncertainties;

b) guidance on demonstrating compliance in special types of non-uniform exposure in specific situations, based on well established dosimetry;

c) description of the "weighted peak method" for the low frequency fields and of the "multifrequency fields summation" for high frequency fields;

d) conduct of the risk assessment and, wherever possible, provision of simplified techniques, considering in particular the needs of SMEs;

e) measures aimed at avoiding or reducing risks, including specific prevention measures depending on the level of exposure and the workplace characteristics;

f) establishment of documented working procedures as well as specific information and training measures for workers exposed to EMF during MRI related activities falling under Article 10 (2);

g) evaluation for exposure in the range of 100 kHz and 10 MHz where both thermal and nonthermal effects have to be considered;

h) guidance on medical examination/surveillance to be provided by the employer in accordance to Article 8(3)."

3. Subject of the contract

This invitation to tender is intended to attract bids with a view to collecting the information in order to prepare and produce a draft non-binding modular guide to good practice as referred to in Section 1 of these specifications. This guide should set out and provide practical guidance for better application of the Directive on the health and safety of workers who use or come into contact with electromagnetic fields as part of their professional duties.

The guide must cover the methods used for identifying and evaluating risks and offer assistance with the choice and correct use of work equipment and the optimisation and implementation of preventive measures (technical and/or organisational) on the basis of a prior risk analysis. It must also include information on the types of training and information to be provided to the workers concerned and propose effective solutions to all safety and health problems relating to workers who use or come into contact with electromagnetic fields as part of their professional duties.

The modular guide must be based on didactic principles so as to facilitate its use by non-specialists; it should use simple language, pictograms, pictures, diagrams, etc. to facilitate their understanding. All issues related to copyright of such images are the responsibility of the tenderer. (See details in model contract)

An indication of the type of information and level of detail required can be found in the existing examples of non-binding guides on different subjects:

A number of these examples of existing guides may be found on the webpage hereunder.

<http://ec.europa.eu/social/main.jsp?catId=148&langId=en&furtherPubs=yes>

The draft guide must, inter alia should pay special attention to:

- The specific features of vehicle use belonging to small and very small companies (family or artisanal firms); this can lead to constraints in the investment in new equipment, or formal training courses or the time devoted to health and safety issues;
- Risks resulting from the simultaneous presence of workers from different cultures and migrant workers, and the possible communication problems arising;
- The draft modular guide must also facilitate the adoption of measures to eliminate or reduce exposure to electromagnetic fields and must include examples to assist this task. In particular, it should be easy to apply.

The draft guide must have a modular structure so that it can be generally applied to all types and sizes of undertaking. It must facilitate the risk assessment referred to in the various directives.

4. Tasks to be carried out by the contractor

4.1 Tasks and structure of the report

The practical information to be included in the guide is defined in the Directive Article 13 (see above). Beyond that the draft guide must be structured in a modular form using simple language, pictograms, pictures, diagrams etc. to facilitate understanding.

It should contain a Foreword and Introduction, with information on how to read and navigate through the guide and have a logical structure of the different sub sections.

The tender submission must define the proposed structure of the practical guide taking account information defined in the Directive.

The offer should clearly indicate how the above mentioned factors, risks and activities will be incorporated into the general structure of the guide. This structure will be used to evaluate the understanding and methodological approach of the tenderer at the evaluation stage.

Any risk assessment checklists/tools that are developed should follow the OiRA template. The contractor should work closely with the OiRA developers to ensure compatibility. The template which replicates the structure of the OiRA tools is found at: www.oiraproject.eu/support/technical-guides/offline-xls-template-to-create-a-tool

Details of OiRA found at <http://www.oiraproject.eu/>

The draft guide must contain a bibliography of existing national and international guides and European standards (CEN – CENELEC) on the subject, available at the EU Member States, EFTA-EEA and EU candidate and pre-candidate countries level and from international bodies and institutions (ILO – WHO – IMO – ISO - ICNIRP etc.) as well as a glossary of technical terms used in the guide, and definitions to assist the understanding.

The contractor must draw up a draft guide to good practice. It must be easy to use in particular for SMEs. On the basis of existing studies and guides on this subject, notably the ones existing in the Member States of the European Union and those issued by the sectoral or standardization organisations, he will propose a draft guide containing elements which will:

- make reference to the provisions of the directive and sustaining principles, including a reference to the provisions concerning training and consultation of workers and health surveillance;
- make it possible and broadly usable to identify hazards, assess exposures and risks and define specific measures for safeguarding the safety and health of workers exposed to risks arising from electromagnetic fields, taking into account the best practice and the conditions set out in the Directive; if considered useful and within the scope of the directive, propose a hierarchy of measures for various types of situations where electromagnetic fields are present;

- where appropriate, make it possible to choose equipment offering workers adequate protection and provide them with the specific training, including information on emission values, necessary for the correct and safe use of the work equipment made available to them, in accordance with the prior risk assessment; give examples of existing Personal Protective Equipment or technical measures for exposure reduction for specific situations or sectors;
- enable the employer to give in an easily understandable format specific information to workers required to work in an environment in which they will be exposed to risks arising from electromagnetic fields;
- facilitate the task of the employer in implementing the future directive with regard to creating suitable working conditions so that work can be carried out in a high level safety and by eliminating or reducing as far as possible maximum exposure to risks arising from electromagnetic fields;
- enable the employer who is responsible for the workplace to adopt safety measures and define suitable methods for implementing the coordination necessary when workers from a number of undertakings are present at the same workplace;
- include a non-exhaustive list of sectors and activities particularly concerned by exposure to electromagnetic fields, putting concretely in evidence their specificities, with examples of possible solutions;
- include a chapter or annex giving a didactic explanation of the nature of electromagnetic radiation and their context, general principles on how to measure it, the units used, the concept of exposure limit value and action value, the possible misestimating of the risks, etc.; where appropriate, include information making the link and showing the complementarity with other European directives and recommendations with relevance to electromagnetic fields (e.g. electromagnetic compatibility, general public exposure, machinery directive, low voltage directive,) ;
- provide information and give general principles for assessment, measurement and/or calculation of worker's exposure; address the problematic of the uncertainties;
- provide information on existing tools in Member States and on Internet;
- provide information on the suitability of emission values and databases;
- provide in annex information on risks and symptoms that can arise and require health surveillance and the types of examination to be undertaken by a medical practitioner to evaluate a patient;
- include a table of content;
- provide a glossary.

More specifically, the draft guide must also provide practical information concerning:

- a) determination of exposure taking into account appropriate European or international standards, including:

- calculation methods for limit value exposure assessment,
 - spatial averaging of external electric and magnetic fields,
 - guidance for dealing with measurements and calculations uncertainties;
- b) guidance on demonstrating compliance in special types of non-uniform exposure in specific situations, based on well-established dosimetry;
- c) description of the "weighted peak method" for the low frequency fields and of the "multifrequency fields summation" for high frequency fields; this must include information on alternative methods of assessment for non-sinusoidal fields which are permitted as long as they lead to approximately equivalent and comparable results.
- d) conduct of the risk assessment and, wherever possible, provision of simplified techniques, considering in particular the needs of SMEs;
- e) measures aimed at avoiding or reducing risks, including specific prevention measures depending on the level of exposure and the workplace characteristics;
- f) establishment of documented working procedures as well as specific information and training measures for workers exposed to EMF during MRI related activities. *Note: for this specific issue, the contractor will integrate in a specific annex the content which will result from the work of dedicated working groups created by the Commission (DG EMPL) with MRI stakeholders;*
- g) evaluation for exposure in the range of 100 kHz and 10 MHz where both thermal and non-thermal effects have to be considered.

A final report including a draft guide will be provided, together with the elements referred to above as basic elements, and will include a list of the references used. The contractor will draw up the final report in such a way as to make the elements of the guide equally accessible, comprehensible and achievable for Small and Medium Enterprises and self-employed workers.

Important note: *a first draft guide to the implementation of Directive 2004/40/EC was already in preparation but the work was suspended following the discussions for amending that directive. An electronic copy of the work done so far can be forwarded upon request....*

4.2 Requirements on how the tasks shall be carried out

The PROGRESS Programme aims to promote gender mainstreaming in all its five policy sections and commissioned activities. Consequently, the Contractor shall take the necessary steps to ensure that:

- Gender equality issues are taken into account when relevant for the drafting of the technical offer by paying attention to the situation and needs of women and men;
- Implementation of proposed activities includes a perspective informed by a systematic consideration of the gender dimension;

- Performance monitoring includes the collection and gathering of data disaggregated by sex when needed;
- Its proposed team and/or staff respect the gender balance at all levels.

Equally, needs of disabled people shall be duly acknowledged and met while executing the requested service. This will ensure in particular that where the Contractor organises training sessions and conferences, issues publications or develops dedicated websites, people with disabilities will have equal access to the facilities or the services provided.

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

The Contractor will be required to detail in its final activity report the steps and achievements made towards meeting these contractual requirements.

4.3 Skills and professional qualifications required

The contractor should have a proven capability to carry out these tasks. The team should consist of multi-disciplinary staff and/or have access to external experts, in particular on dealing with radiation and electromagnetic fields in work-situations, workplace risk assessment and management, economics and drafting of technical guidance, information and awareness raising material.

5. Time schedule and reporting

See Article I.2. of the contract.

The tasks described above will be implemented and completed by the contractor **within 11 (eleven) months** from the signature of the contract, and following the scheduled and approved timeline. The contractor will be working outside (extra muros) the Commission premises.

The work of the contractor will be followed by an expert “Monitoring Committee” appointed by the Advisory Committee on Safety and Health at Work.

The draft modular guide, which will be discussed, and adapted following suggestions and contributions made by the “Monitoring Committee” (MC) and by the Commission (Unit EMPL B/3).

The contractor will take part in up to **ten (10) meetings, five (5) with the Commission (Unit Health, Safety and Hygiene at Work, named Unit EMPL B/3 hereafter in the document) and five (5) with the “Monitoring Committee”**. The latter will take place the day after meeting with the Commission, each meeting will discuss the draft modular guide adapted

following the previous meeting(s). These meetings will be held in the Commission premises in Luxembourg.

The contractor will adapt the draft modular guide no later than **three (3) weeks** after each meeting with the “Monitoring Committee”, taking account of the suggestions and proposals made by the Commission (Unit EMPL B/3) and by the “Monitoring Committee”.

Note: Due to the nature of the work and the timescale, the contractor must be prepared for extensive interaction with the relevant policy unit of DG EMPL, organised via contacts with the responsible desk officer for the contract. DG EMPL will also ensure a close scrutiny of the contractual work between formal deliverables to ensure that deadlines are met effectively. For this purpose, the contractor should consider developing working materials that facilitate effective exchange (*e.g.* documents and tables in a form that allows for inclusion of track change options etc.).

5.1 Time schedule

Actions/Deliverables	Timetable
Entry into force of the contract	Reference date
Document on methodology, work schedule, draft layout of the structure of the guide	Signature of contract + 1 month
1 st interim report	Signature of contract + 3 months
2 nd interim report	Signature of contract + 6 months
3 rd interim report	Signature of contract + 8 months
Draft final report	Signature of contract + 9 months
Final report	Signature of contract + 11 months

The duration of the contract will be **eleven (11) months** from the date on which the contract is signed. It will include the following stages:

- Not later than **one (1) month** after signature of the contract, the contractor must submit to the European Commission (Unit Health, Safety and Hygiene at Work, named Unit EMPL B/3 hereafter in the document) a detailed document relating to the methodology and approach presented in the bid, together with the work schedule and a draft layout of the structure of the guide. Subsequently the Commission will organise a **first** (kick off) meeting with the contractor in Luxembourg to further explain what is expected from the study and discuss any practicalities, namely linked to the approach and methodology proposed by the contractor.

- No more than **three (3) months** after signature of the contract, the contractor must submit an interim report in English to the European Commission (Unit EMPL B/3), describing the progress of the work in relation to the envisaged timetable. This report must contain a summary of the results that far and a copy of the draft guidance document as it stands at this moment in time. It is expected that two or more modules will be well advanced in terms of layout and content such that the Monitoring Committee can give an opinion on the approach.

Following the reception of the interim report the Commission will organise a **second** meeting with the consultant in Luxembourg to discuss the content of the interim report and to provide guidance on the preparation of the final report and the guidelines.

- No more than **six (6) months** after signature of the contract, the contractor must submit a second interim report in English to the European Commission (Unit EMPL B/3), describing the progress of the work in relation to the envisaged timetable. This report must contain a summary of the results that far and a copy of the draft guidance document which should have all modules included even if the data is incomplete.

Following the reception of the second interim report the Commission will organise a **third** meeting with the consultant in Luxembourg to discuss the content of the interim report and to provide guidance on the preparation of the final report and the guidelines.

- **Eight (8) months** after signature of the contract, the contractor must submit a third interim report in English to the European Commission (Unit EMPL B/3). This report will also include the draft of the guidance document and a brief draft summary in English of the main results obtained. The draft guidance document should include all modules and data should be complete. Following the reception of the third interim report and draft summary, the Commission will organise a **fourth** meeting with the contractor in Luxembourg to discuss their content within one week.
- A draft final report including the draft final guidance document will be submitted to the European Commission (Unit EMPL B/3) no more than **nine months (9)** after signature of the contract. The European Commission (Unit EMPL B/3) may organise a **fifth** meeting or transmit objections and comments to the contractor within **thirty (30) days of receipt** of the draft final report. The contractor will then have 30 days to present a final report, in English, taking these objections and comments into account or presenting another point of view. When submitting the final report, the contractor may obtain written confirmation of acceptance.
- **The final report must be submitted no more than eleven (11) months after the signature of the contract and it must include a brief summary in English, French and German. A one-page presentation of the key points must accompany the summary as well as a powerpoint presentation of the key points. These key points should be concise, clear and easy to understand. They must also be drafted in English, French and German.**

The detailed work plan, together with the various reports, including the final report document, and draft reports referred to in this section, must be submitted to the European Commission (Unit EMPL B/3) both on paper (in triplicate) and in a widely-used electronic format enabling word processing. The contractor must also supply a copy of the information

collected and used in preparing the guidance document and the final report. The pictograms, pictures, graphics and other illustrations must also be presented in a widely-used electronic format. Due to publishing requirements if pictures etc are used they must be of a high resolution.

5.2 Publicity and information requirements

In accordance with the General conditions, all contractors are under the obligation to acknowledge that the present service has received funding from the Union in all documents and media produced, in particular final delivered outputs, related reports, brochures, press releases, videos, software, etc, including at conferences or seminars. In the context of the European Union's Programme for Employment and Social Solidarity – PROGRESS, the following formulation shall be used:

This (publication, conference, training session etc) is commissioned by the European Union Programme for Employment and Social Solidarity - PROGRESS (2007-2013).

This programme is implemented by the European Commission. It was established to financially support the implementation of the objectives of the European Union in the employment, social affairs and equal opportunities area, and thereby contribute to the achievement of the Europe 2020 Strategy goals in these fields.

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

For more information see: <http://ec.europa.eu/progress>

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

With regard to publication and any communication plan linked to the present activity, the Contractor will insert the European Union logo and mention the European Commission as the Contracting Authority in every publication or related material developed under the present contract.

5.3 Reporting

PROGRESS is implemented through a results-based management (RBM). The Strategic Framework, developed in collaboration with the Member States, social partners and civil society organisations, sets out the intervention logic for PROGRESS-related expenditure and defines PROGRESS' mandate and its long-term and immediate outcomes. It is supplemented by performance measures which serve to determine the extent to which PROGRESS has delivered the expected results. See in Annex the overview of PROGRESS performance

measurement framework. For more information on the strategic framework, please visit PROGRESS website <http://ec.europa.eu/social/main.jsp?catId=659&langId=en> .

The Commission regularly monitors the effect of PROGRESS-supported or commissioned initiatives and considers how they contribute to PROGRESS outcomes as defined in the Strategic Framework. In this context, the Contractor will be asked to dedicatedly work in close cooperation with the Commission and/or persons authorised by it to define the expected contribution and the set of performance measures which this contribution will be assessed against.

The Contractor will be asked to collect and report on its own performance to the Commission and/or persons authorised by it against a template which will be annexed to the contract. In addition, the Contractor will make available to the Commission and/or persons authorised by it all documents or information that will allow PROGRESS performance measurement to be successfully completed and to give them the necessary rights of access.

6. Prices

6.1 Protocol and taxes applicable

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

The price must be stated in EUR(€), net of VAT, using, where appropriate, the conversion rates published in the C series of the Official Journal of the European Union on the day when the invitation to tender was issued.

6.2 Details for prices

Professional fees and other costs

- Fees, expressed as the number of person-days multiplied by the unit price per working day for each expert proposed. The unit price should cover the experts' fees and administrative expenditure (including travel and subsistence costs).

The maximum amount of the contract is 300,000 €.

6.3 Presentation of financial offer

It is recommended to present the detailed offer according to the following model breakdown of prices

Description	Unit price in EUR	Max. No of units	Unit type	Sub-total per item EUR	Total amounts in EUR
Experts' fees ⁵ Details	0.00	0	w.d.	0.00	0.00
Other costs ⁶ Details	0.00	0	Unit	0.00	0.00
Total amount (art. I.3.1. of the contract ^o)					0.00

7. Payments and contract

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

⁵ To be specified for each specific task

⁶ To be specified

Administrative part

8. Participation

Please note that:

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

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

9. Groupings of economic operators or consortia

Tenders can be submitted by groupings of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but the consortium selected may be required to assume a given legal form when it has been awarded the contract if this change is necessary for proper performance of the contract⁷. However, a grouping of economic operators must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the following points 10 and 11 must be supplied by every member of the grouping.

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

10. Exclusion criteria and supporting documents

- 1) Bidders must provide a declaration on their honour, duly signed and dated, that they are not in one of the situation referred to in Articles 106 and 107(1) of the Financial Regulation.

⁷ These entities can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

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

Those articles are as follows:

"Article 106:

1. *Candidates or tenderers shall be excluded from participation in procurement procedures 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 authority can justify including by decisions of the EIB and international organisations;*
- (d) they are not in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;*
- (e) they or persons having powers of representation, decision making or control over them have been the subject of a judgment 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 subject to an administrative penalty referred to in Article 109(1).*

(...)

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.

Article 107(1):

1. *A contract shall not be awarded to candidates or tenderers who, during the procurement procedure for that contract:*

- (a) are subject to a conflict of interests;*
- (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 that information; (...)"*.

2) The tenderer to whom the contract is to be awarded shall provide, within a time limit defined by the contracting authority and preceding the signature of the contract, the

evidence referred to in Article 143 of Rules of Application, confirming the declaration referred to in point 1 above.

Article 143 of the Rules of Application – Evidence

3. *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 points (a), (b) or (e) of Article 106(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (a) or (d) of Article 106(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State concerned.*

Where the document or certificate referred to in paragraph 1 of this Article is not issued in the country concerned and for the other cases of exclusion referred to in Article 106 of the Financial Regulation, 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.

4. *Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraphs 1 and 3 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”.*

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

3) The contracting authority may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to in Article 143 of the Rules of Application, if such evidence has already been submitted to it for the purposes of another procurement procedure launched by DG EMPL and provided that the issuing date of the documents does not exceed one year and that they are still valid.

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

11. Selection criteria

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

a) Economic and financial capacity:

- Consolidated turnover during the previous financial year (statement of overall turnover for the grouping/consortium when applicable – at least five times the value of the contract, i.e. € 1,500,000);
- Balance sheets and profit and loss accounts for the last three financial years, if the legislation of the country in which the tenderer is established requires them to be published;
- Regular accounts for the quarter preceding that in which the tender notice was published, if the full accounts for the previous financial year are not yet available.

If, for some exceptional reason which the contracting authority considers justified, the tenderer or candidate is unable to provide the references requested by the contracting authority, he may prove his economic and financial capacity by any other means which the contracting authority considers appropriate.

b) Technical capacity:

- a description of the tenderer’s technical capability and practical experience in the field referred to in section 6 of these specifications. For consortia of companies or groups of service providers, this description must relate specifically to the tasks to be performed by each of their members;
- a list of work and/or publications of the last 3 years demonstrating the tenderer’s practical experience in the fields referred to in section 6 of these specifications;
- the tenderer must provide the names and CVs (maximum of three pages each) of the persons responsible for the specific tasks described in section 5 of these specifications, with a view to demonstrating their practical experience and their capability to prepare practical guidelines;
- a description of the parts of the services to be provided by each consortium of companies or groups of service providers (where applicable).

12. Award criteria

The contract will be awarded to the most economically advantageous bid in terms of the following criteria:

- | | |
|--|-----|
| <input type="checkbox"/> Understanding of the objectives and tasks | 20% |
| <input type="checkbox"/> Quality and consistency of the proposed approach | 45% |
| <input type="checkbox"/> Quality of the work plan proposed | 15% |
| <input type="checkbox"/> Organisation of the work and management of the project: | 20% |

Please note that the contract will not be awarded to any bid that receives less than 70 % in the award criteria.

The points total will then be divided by the price, with the highest-scoring bid being chosen.

13. Content and presentation of bids

13.1 Content of bids

Tenders must include:

- all information and documents necessary to enable the Commission to appraise the bid on the basis of the exclusion, selection and award criteria (see points above);
- a bank ID form duly completed and signed by the bank;
- a "legal entity" form duly completed;
- the price;
- the name and function of the contractor's legal representative (i.e. the person authorised to act on behalf of the contractor in any legal dealings with third parties);
- proof of eligibility: tenderers must indicate the State in which they have their registered office or are established, providing the necessary supporting documents in accordance with their national law;
- the detailed CVs of the proposed experts;
- List of experts assigned, classified by level of expertise according following criteria:

Level of qualification I
<p><i>Highly qualified expert having assumed important responsibilities in his/her profession, recruited for his/her management/supervisory, thought and creativity skills as regards professional practise.</i></p> <p><i>He/she must have at least 15 years professional experience of which at least 7 must be connected with the professional sector concerned and the type of tasks to be performed.</i></p>
Level of qualification II
<p><i>Highly qualified expert having assumed responsibilities in his/her profession, recruited for his/her management/supervisory, thought and creativity skills as regards professional practise.</i></p> <p><i>He/she must have at least 10 years professional experience of which at least 4 must be connected with the professional sector concerned and the type of tasks to be performed.</i></p>
Level of qualification III
<p><i>Certified expert having received a high-level training in his/her profession recruited for his/her thought and creativity skills as regards professional practise.</i></p>

He/she must have at least 5 years professional experience of which at least 2 must be connected with the professional sector concerned and the type of tasks to be performed

Level of qualification IV

Junior expert, newcomer to the profession but holding a university degree or equivalent training related to the professional sector concerned and the type of tasks to be performed.

13.2 Presentation of bids

Bids must be submitted in triplicate (i.e. one original and two copies).

They must include all the information required by the Commission (see points above).

They must be clear and concise.

They must be signed by the legal representative.

They must be submitted in accordance with the specific requirements of the invitation to tender, within the deadlines laid down.