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## Specifications – Invitation to tender N° VT/2008/003

### *Mapping Study on the Trade Unions practices in fighting discrimination & promoting diversity*

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## 1. TITLE OF THE CONTRACT

**Mapping Study on the Trade Unions practices in fighting discrimination & promoting diversity (VC/2008/295)**

## 2. PROGRESS INTRODUCTION

### 2.1 GENERAL CONTEXT

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

The Decision n°1672/2006 establishing a Community programme for employment and social solidarity – PROGRESS was adopted<sup>1</sup> by the European Parliament and the Council on 24 October 2006.

### 2.2 OBJECTIVES AND CONTENT

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

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

More specifically, PROGRESS will support:

- (1) the implementation of the European Employment Strategy (section 1);
- (2) the implementation of the open method of coordination in the field of social protection and inclusion (section 2);

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<sup>1</sup> OJ of the EU L 315 of 15.11.2006

- (3) the improvement of the working environment and conditions including health and safety at work and reconciling work and family life (section 3);
- (4) the effective implementation of the principle of non-discrimination and promotion of its mainstreaming in all EU policies (section 4);
- (5) the effective implementation of the principle of gender equality and promotion of its mainstreaming in all EU policies (section 5).

### **2.3 PROGRESS ANTI-DISCRIMINATION SECTION**

Finally, Article 7 (a) aims at improving the understanding of the situation in relation to discrimination, in particular through analysis and studies and, where appropriate, the development of statistics and indicators as well as by assessing the effectiveness and impact of existing legislation, policies and practices; whereas Article 9 foresees to finance analytical activities, by carrying out studies, analyses and surveys and dissemination of their results, which may be implemented, where appropriate, within a trans-national framework.

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

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

## **3. BACKGROUND INFORMATION**

### **3.1 ANTI-DISCRIMINATION AT EUROPEAN LEVEL**

According to Article 6(2) of the Treaty on European Union, the Union shall respect fundamental rights, as guaranteed by the European Convention on Human Rights.

The right of all individuals to equality before the law and to protection from discrimination is a fundamental right which is essential in order to allow any democratic society to function properly. It helps to achieve the objectives of promoting economic and social progress and a high level of employment by increasing economic and social cohesion. In Amsterdam, in June 1997, the Heads of State and Government agreed to strengthen the European Union's capacity to act in this area by introducing Article 13 of the Treaty establishing the European Community, which gives the Community specific powers to take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

On 29 June and 27 November 2000, on the basis of proposals presented by the Commission in November 1999, the Council adopted three key instruments intended to prevent and combat discrimination based on racial or ethnic origin, religion or belief, age, disability or sexual orientation:

1. Directive 2000/43/EC (Race Equality Directive) prohibits discrimination based on racial or ethnic origin in a wider range of fields such as employment, education, provision of goods and services and social protection;
2. Directive 2000/78/EC (Employment Equality Directive) prohibits discrimination in employment and excludes all discrimination based on religion or belief, disability, age or sexual orientation;
3. Community action programme to combat discrimination (Council Decision

2000/750/EC)<sup>2</sup>.

Under both Directives one identical article<sup>3</sup> targets the role of social dialogue, stating that:

1. *Member States shall, in accordance with national traditions and practice, take adequate measures to promote the social dialogue between the two sides of industry with a view to fostering equal treatment, including through the monitoring of workplace practices, collective agreements, codes of conducts, research or exchange of experiences and good practices.*
2. *Where consistent with national traditions and practice, Member States shall encourage the two sides of the industry, without prejudice to their autonomy to conclude, at the appropriate level, agreements laying down anti-discrimination rules in the fields referred to in Article 13, which fall within the scope of collective bargaining. These agreements shall respect the minimum requirements laid down by this Directive and the relevant national implementing measures.*

The strategic approach characterised by a combination of instruments - legislation backed up by a policy programme - has mostly drawn on the experience of the Community in combating gender discrimination. This approach is aimed at achieving the following three strategic objectives:

- ✓ ***Ensuring a uniform application of Community law*** - The purpose of the EU anti-discrimination legislative framework is "to lay down a set of principles on equal treatment covering key issues, including definition of discrimination extending to indirect discrimination, protection against harassment, the possibility for positive action, appropriate remedies and enforcement measures. These principles would be applied in all Member States, thus providing certainty for individuals about the common level of protection from discrimination they can expect<sup>4</sup>".
- ✓ ***Promoting effective policies to combat discrimination and promote equality*** – If legislation prohibiting discrimination is an absolute prerequisite, it is nevertheless unable on its own to achieve the goal of creating a society which is free from discrimination. Deep-rooted and multi-faceted disadvantages faced by people often for reasons related to their belonging to a particular group impede them to fully participate and contribute at all levels of society. The different nature and scale of the phenomenon of discrimination calls for a new emphasis on a more positive conception of equality, placing new responsibilities on governments to identify and address issues of socio-economic disadvantage and systemic discrimination and to implement positive legislative and programmatic measures in both the public and private sectors.
- ✓ ***Altering attitudes and behaviours towards a society which is more conducive to equality*** - The aim of any law is to alter the behaviour of those subject to regulation in order to achieve the desired outcome. The law plays in that context the role of a catalyst or stimulus, which triggers a process for social change. In the concerned field, it aims to promote recognition and acceptance within the community of the principle that all people, whatever their personal characteristics, have an equal right to be treated fairly as the rest of the community. Thus, the approach aims at altering changes to community awareness (recognition) and changes to attitudes (acceptance).

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<sup>2</sup> Now replaced by PROGRESS anti-discrimination section

<sup>3</sup> Respectively article 11 for Directive 2000/43/EC and article 13 for Directive 200/78/EC

<sup>4</sup> Communication from the Commission, to the Council, the European Parliament, the Economic and social Committee and the Committee of the Regions on certain Community measures to combat discrimination – COM (1999) final 564

Recognition implies an awareness or knowledge of the right of people not to be discriminated against, whatever their personal characteristics, but acceptance goes further, implying that the community agrees such rights are due to them and considers them as being legitimate and equal members of the community.

The Union and the Member States have already undertaken serious efforts to combat discrimination and promote equality. Nonetheless, the fight against discrimination continues to constitute a major challenge for the EU, if genuine equality is to be achieved in practice. Indeed, despite much progress, discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation continues to exist in the EU.

The 2007 European Year of Equal Opportunities for All was an opportunity to renew a shared vision of Europe where all people enjoy a life free from discrimination and to reaffirm that realising full equality of opportunities is essential for the growth, cohesion, prosperity and well being of Europe and its people.

The Council Resolution on the Follow-up of the 2007 European Year of Equal Opportunities for All (2007)<sup>5</sup> invites civil society and the social partners to participate actively in the development and promotion of policies and measures on non-discrimination and equality, and to promote diversity and equal opportunities policies within public and private organisations, as well as enterprises.

#### Business case for Diversity

The 'Business Case for Diversity' is a concept, which developed because the promotion of diversity in companies is increasingly seen as a strategic business response to more diverse societies, customers, marketplaces and human resource pools. While anti-discrimination legislation provides the 'push factor' in encouraging business to develop and implement internal diversity policies, the 'Business Case for Diversity' is looking at the 'pull factors' that should, once recognised, encourage companies to embrace and manage diversity.

The 'Business Case for Diversity' argues that companies have real business benefits to gain from the adoption of diversity practices. The challenge lies in identifying and measuring benefits to be gained from active diversity policies and in disseminating information on benefits more widely throughout Europe.

A study "*The Business Case for Diversity – Good Practices in the Workplace*"<sup>6</sup> was carried out for the European Commission in the course of 2005. Its aim was to promote the development of diversity policies by businesses. It included a survey among 3000 businesses, from blue chips to small and medium-sized enterprises (SMEs). They were asked about their attitudes to and policies on diversity in the workplace.

The around 800 responses to the survey clearly showed that companies are making steady progress in the implementation of diversity and equality strategies at the workplace. Companies surveyed indicated that they were doing this not only just for ethical and legal reasons, but also for the clear business benefits they bring.

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<sup>5</sup> Council Resolution 2007/C 308/01

<sup>6</sup> [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/events/busicase\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/events/busicase_en.pdf)

The European Commission wishes to carry out further analysis of the Business Case for Diversity in SMEs and of the contribution intermediary organisations working with or for SMEs can make to the promotion of diversity management in SMEs. It also wishes to take the Business Case for Diversity further through a number of activities, including representative surveys among business on initiatives such as enhanced co-operation with business schools or diversity charters. To this end a new project<sup>7</sup> "*Activities promoting and developing the Business Case for Diversity*" has been commissioned in 2007.

### **3.2 TRADE UNIONS, THEIR FIGHT AGAINST DISCRIMINATION AND THEIR ACTION TO PROMOTE DIVERSITY**

Within civil society, the social partners have a particular role and influence, which flow from the very nature of the subjects they cover and the interests they represent in connection with the world of work. As above mentioned, discrimination in the workplace on grounds of age, disability, religion or belief, sexual orientation, ethnic or racial origin is prohibited.

Trade unions as the recognised representatives of workers can combat discrimination in many ways, such as:

- negotiating with employers at all levels (EU, national, sectors, companies) to ensure that discrimination in the workplace is eliminated and that equal opportunities are promoted;
- providing a means for expressing and addressing the needs of workers who are discriminated against in the workplace;
- supporting victims of discrimination in securing a settlement with the employer (alternative dispute resolution);
- supporting victims of discrimination in their search for access to justice;
- promoting equality and diversity in the workplace and in the sector;
- establishing mechanisms to influence decision-making by employers and Government;
- mainstreaming non-discrimination and equal treatment in public policy, collective bargaining and workplace practices;
- co-operating with employers, organisations and authorities to combat discrimination and to promote diversity;
- monitoring, documenting and denouncing discrimination at the workplace;
- ensuring that equality is prominent on the political agenda and encouraging campaigns and action to eliminate stereotypes and prejudice as well as to promote equality.

For several years now, numerous initiatives to combat discrimination and/or promote diversity have been taken by a series of concerned stakeholders: the trade unions themselves at EU, national, sectoral or enterprise level, be it the workers' unions (e.g. ETUC and its industry federations) or the professional and managerial staff's representations, (e.g. CEC-European Managers or Eurocadres), commissioning research, organising conferences, mobilising members or developing instruments such as diversity toolkits; the Commission services promoting social dialogue activities or using the existing funding programmes to

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<sup>7</sup> [http://ec.europa.eu/employment\\_social/emplweb/tenders/tenders\\_en.cfm?id=1265](http://ec.europa.eu/employment_social/emplweb/tenders/tenders_en.cfm?id=1265)

develop, for example, new training schemes including trade unions as one of the targeted audiences (e.g. EQUAL<sup>8</sup> or the Community Action Programme against discrimination<sup>9</sup>, including the 'For Diversity. Against Discrimination' information campaign<sup>10</sup>).

In the framework of the 2007 European Year of Equal Opportunities for All<sup>11</sup>, a number of countries among the 30 participating in the Year have consulted with their national trade unions when designing their national strategies for the Year. Trade Unions were not only identified as partners, in particular in the national campaigns carried out by these countries in order to raise awareness about the rights of their population to live a life free of discrimination, but some of the trade unions were also involved as Action Leaders (e.g. NSZZ Solidarność in Poland ...); for activities aiming at raising awareness among the school community (teachers and students) on the meaning of discrimination and the existence of stereotypes, teachers and/or professors' unions were often directly involved either as actors or as targeted public to be made more aware of anti-discrimination legislation and/or of diversity issues (e.g. Ireland, Romania, France ...).

In the Eurobarometer survey<sup>12</sup> on attitudes of Europeans towards discrimination that the Commission carried out during summer 2006 in the 25 Member States and the two accession countries<sup>13</sup>, and that was published in January 2007, 42% of Europeans placed schools and universities as the first actors in society, -in front of parents and the media-, who can help combating discrimination. More generally speaking, professionals who are delivering public services to society can be seen as having a stronger responsibility in either perpetuating or fighting stereotypes and prejudices. Many unions have already started reflecting on these responsibilities (e.g. unions of teachers and professors, media professionals, postal and telecoms' agents ...).

Unfortunately however, in that same survey, only 8% of Europeans indicate trade unions as key actors to combat discrimination.

All these efforts, responding to real issues, are interesting, but disparate, and should be made more visible, in particular to the general public. Therefore, there is a clear need to build upon these initiatives, connecting them wherever possible across the various discrimination grounds addressed, and to create across the EU a sustainable impact and a reliable and visible basis for transferring good practice.

#### **4. PURPOSE OF THE CONTRACT**

The contractor will be asked to provide the Commission with a structured mapping of the most significant and/or innovative initiatives taken *by* trade unions 1) to combat discrimination at the workplace based on five<sup>14</sup> of the six grounds foreseen under Article 13 of the EC Treaty and/or 2) to promote diversity in the working environment across the 27 Member States, as well as the EFTA/EEA States (Iceland, Lichtenstein, Norway), Croatia, Turkey, Serbia and the Former Yugoslav Republic of Macedonia.

Building upon these results, the contractor will be asked to classify these initiatives, to assess their outcome and impact, to identify potential gaps (with a particular focus on the new

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<sup>8</sup> [http://ec.europa.eu/employment\\_social/equal/index\\_en.cfm](http://ec.europa.eu/employment_social/equal/index_en.cfm)

<sup>9</sup> [http://ec.europa.eu/employment\\_social/fundamental\\_rights/policy/proga\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/policy/proga_en.htm)

<sup>10</sup> <http://www.stop-discrimination.info/>

<sup>11</sup> <http://equality2007.europa.eu>

<sup>12</sup> [http://ec.europa.eu/employment\\_social/eyeq//index.cfm?page\\_id=342](http://ec.europa.eu/employment_social/eyeq//index.cfm?page_id=342)

<sup>13</sup> Bulgaria and Romania, which became Member States from 1 January 2007 onwards

<sup>14</sup> i.e. racial and ethnic origin, religion and belief, age, disability and sexual orientation.

Member States) and to provide suggestions for further action, in particular on how best practices can be made more visible and used, and how the Commission can better support the awareness of trade unions' activities in that field.

## 5. PARTICIPATION

- (1) The competition is open to any physical person or legal entity coming within the scope of the Treaties and any other physical person or legal entity from a third country which has concluded with the Communities a specific agreement in the area of public contracts, under the conditions provided for in that agreement.
- (2) 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.
- (3) In practice, the participation of applicants from third countries that have concluded a bilateral or multilateral agreement with the Communities in the area of public contracts must be allowed, under the conditions provided for in that agreement. Bids submitted by applicants from third countries that have not concluded such an agreement may be accepted, but may also be rejected.

## 6. TASKS TO BE CARRIED OUT BY THE CONTRACTOR

### Description of the tasks

- **TASK 1: Mapping of the most significant and/or innovative initiatives taken by the trade unions to combat discrimination at the workplace and/or to promote diversity in the working environment**

The contractor will be asked to identify the most significant and/or innovative initiatives<sup>15</sup> (i.e. events, projects, programmes ...) that have been carried out by the trade unions over the last 5 years whether at EU level or across the 27 Member States and the EFTA/EEA States (Iceland, Lichtenstein, Norway), Croatia, Turkey, Serbia and the Former Yugoslav Republic of Macedonia, which aim at:

- a) combating discrimination at the workplace on the basis of one or several of the 5 following grounds foreseen at Article 13 of the EC Treaty, which are: racial and ethnic origin, religion and belief, disability, age and sexual orientation,

and/or

- b) promoting diversity in the working environment, in their activities as well as in the membership and the representation of the organisations, with a special focus on the unions of professionals delivering public services to the society at large (e.g. education, media, healthcare ...).

- **TASK 2: Classification of the selected initiatives, assessment of their outcome and impact, and identification of potential gaps**

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<sup>15</sup> A minimum of 100 of such initiatives would need to be presented.

In order to be able to build upon this mapping exercise, the contractor will be asked to classify the results according to the following criteria<sup>16</sup> :

- ✓ type and level (EU, national, local, sectors, companies) of unions,
- ✓ type/nature/contents of the initiative,
- ✓ article 13 grounds covered,
- ✓ origin of the funding,
- ✓ country/countries involved,
- ✓ national/trans-national character,
- ✓ co-operation with other partners (e.g. anti-discrimination NGOs, equality bodies ...)
- ✓ target audience,
- ✓ number of workers concerned
- ✓ production of materials,
- ✓ existing recommendations for further action in the selected initiatives.

In doing this classification, the contractor should provide the Commission with all relevant information details about the selected initiatives, including relevant web links.

Building upon this classification, the contractor will be requested:

- 1) to assess the outcome and, wherever possible, the impact of the selected and classified initiatives, looking in particular at the possible resulting changes either in the workplace or/and in the membership or the representation of the unions, and if a direct connection between these two kind of changes can already be established; and
- 2) to identify potential gaps, which would need to be addressed to give these initiatives a maximum of visibility, an as wide geographical coverage as possible -across the EU Member States and the EFTA/EEA States (Iceland, Lichtenstein, Norway), Croatia, Turkey, Serbia and the Former Yugoslav Republic of Macedonia-, national/trans-national impact, inter-connection between the discrimination grounds addressed and networking possibilities<sup>17</sup>.

- **TASK 3: Suggestions for further action**

Building upon the two previous tasks, the contractor is invited to provide the Commission with suggestions for further action to be taken both at EU and national level, identifying for each of the suggestions, the main actors to be involved and focusing on the contents, scope and expected outcome of the suggested actions. Further action can either mean raising awareness on the most significant/innovative events, projects, programmes as identified, classified and assessed under Tasks 1 and 2, proposing ways to better disseminate their results and transfer them, where possible, to non covered Member States; or it can be new action emerging from the identification of potential gaps or recommendations of the selected initiatives, which so far have not received any follow up.

- **TASK 4: Follow up Seminar and Publications**

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<sup>16</sup> This is a non exhaustive list, which could obviously be upgraded by the contractor on the basis of the mapping to be carried out under Task 1

<sup>17</sup> Again this list of expected outcome is not exhaustive and should be upgraded upon suggestion by the contractor

A day-long expert seminar shall be organised by the contractor in Brussels or in Madrid<sup>18</sup> to present to the Commission and other interested parties, in particular trade union representatives, the results of the 3 previous tasks as well as to validate their suggestions for further action. This meeting should not be held in Commission premises, but in an external venue e.g. a hotel conference centre, in Brussels or Madrid. Approximately 50 people should attend this seminar. The contractor will be responsible for the organisation, reimbursements of travel and accommodation expenses for the participants.

The contractor will be requested to draft a first publication based on the findings under Task 1 (mapping), Task 2 (classification and assessment of initiatives selected in the mapping, and identification of gaps) and 3 (suggestions for further action). This work will be done in close co-operation with the European Commission's services and European trade union representatives.

This publication, which should summarise the work carried out under Tasks 1, 2 and 3, should respect the following specifications:

- The maximum length of the final text should be not more than 50 pages;
- Within these 50 pages, an Executive Summary of no more than 5 pages should be produced, that could be used as a basis for a Press release with key findings of the study;
- The contractor should submit the text in English, French and German;
- The text should be provided to the European Commission in Word and charts in Excel;
- The contractor should secure the rights and provide the Commission with 10 photos to illustrate the text.

A second publication should be produced targeting the wider public, summarising the main findings of the study and illustrating them with 15 good practices covering, if possible, all the various kinds of initiatives that will be identified through this research and ensuring an as wide geographical coverage as possible in order for the larger audience to feel concerned.

- The maximum length of the final text should be not more than 20 pages;
- The contractor should submit the text in English, French and German;
- The contractor should secure the rights and provide the Commission with 10 photos to illustrate the text.

The layout, printing and distribution of both publications, including the Executive Summary of the first publication, are not covered by this call for tenders. It is intended that these tasks should be undertaken by the company that holds the publication framework contract with DG Employment, Social Affairs and Equal Opportunities and by the EC Publications Office.

The first publication (or at least a working version of it) should be ready for distribution at the seminar mentioned above, as it would be the basis of the discussions to be held during the seminar. The feedback and conclusions of the seminar would then be built into a final draft of this publication.

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<sup>18</sup> Or any other Spanish big city, as Spain will hold the EU Presidency during the 1<sup>st</sup> semester of 2010

- **HORIZONTAL TASK: Close co-operation with European trade union representatives**

In carrying out the above-mentioned tasks, the contractor will closely collaborate and consult with the European representatives of trade unions, in particular the European Trade Union Confederation (ETUC), its industry federations, Eurocadres and CEC. The Commission is ready to provide their relevant contact details. The Commission intends to set up a Steering Committee to monitor this study, in which trade union representatives will be invited to participate.

In particular for the classification and assessment exercise (Task 2) and the drafting of suggestions for further action (Task 3), the views of European trade union organisations and of other relevant partners should be heard and taken into account.

## **7. GUIDE AND DETAILS OF HOW THE TASKS ARE TO BE CARRIED OUT**

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

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

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

Finally, the contracting authority encourages the contractor to promote equal employment opportunities for all his/her staff and team. This entails that the contractor shall foster an appropriate mix of people, whatever their ethnic origin, religions, age, ability and sexual orientation.

The contractor will be required to detail in his/her activity report accompanying the request for the final instalment the steps and achievements s/he made towards meeting these contractual provisions.

## **8. RIGHTS**

- (1) Any results, products or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the contract, shall be owned solely by the European Communities, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where industrial or intellectual property rights exist prior to the contract being entered into.

- (2) Should the contractor use third-party copyright material, whether textual or artistic, for the purpose of the performance of the contract, s/he shall have sole responsibility for taking the necessary steps to obtain unfettered rights from the copyright holder(s), or from his/her or their legal representative, to include, print, publish, and sell the material, for the full legal term of copyright, in whole or in part, in all editions, forms and media, and in any language whatsoever, as well as for the European Commission itself further to license reproduction or translation thereof.
- (3) Any costs associated to such rights shall be borne by the contractor, who ensures that any other conditions linked to the rights are fulfilled, in particular concerning the appropriate acknowledgement of the source material.

## **9. PROFESSIONAL QUALIFICATIONS REQUIRED**

See Annex IV of the draft contract, CVs and classification of experts.

The contractor will need to show the capacity to run large scale networks at European level and have a proven capacity to manage the administrative and financial aspects of such a project.

See also point 17 on "Selection Criteria".

## **10. TIME SCHEDULE AND DELIVERABLES**

The duration of the contract will be **15 months** from the entry into force of the contract.

For details, see Article I.2 of the draft contract.

The specific deadlines for the completion of each of the Tasks set out at point 6 will be agreed between the Commission and the contractor, on the proposal of the contractor to the Commission.

### **10.1 DELIVERABLES**

The following deliverables will be required covering all Tasks as outlined at point 6:

**A. An inception note** shall be submitted to the Commission for approval 6 weeks after the contract takes effect. It should present **the state of the art** in the field of trade unions practices in combating discrimination at the workplace and/or in promoting diversity in the working environment as well as the methodology the contractor intends to follow to undertake Tasks 1, 2 and 3.

#### **B. Interim report**

5 months after the signature of the contract, an interim report has to be submitted to the European Commission, summarising the progress achieved and detailing the remaining foreseen future activities until the completion of the contract. This report should not be longer than 10 pages.

#### **C. Working version of the Publications**

10 months after the signature of the contract, a first draft (working version) of the 1<sup>st</sup> publication summarising the methodology and presenting the findings under Task 1 (mapping), Task 2 (classification and assessment of initiatives selected in the mapping, and identification of gaps) and 3 (suggestions for further action) should be produced, in view of the seminar to be organised.

A first draft (working version) of the 2<sup>nd</sup> publication targeting the wider public, summarising the main findings of the study and illustrating them with 15 good practices should be produced.

Additionally, the contractor should provide the Commission with all preparatory details for the Seminar foreseen under Task 4, including in particular information about its venue (outside the Commission premises) and a tentative list of 50 participants meant to be the proper audience to discuss the findings of Tasks 1, 2 and 3 and validate the suggestions for further action.

#### **D. Seminar**

12 months after the signature of the contract, a day-long seminar should be organised by the contractor in Brussels or Madrid<sup>19</sup> to present to the Commission and other interested parties the results of the 3 previous tasks and its working version of the 1<sup>st</sup> publication.

#### **E. Final version of the Publications and draft final activity report**

13 months after the signature of the contract, building upon the seminar's discussions and conclusions, a draft final version of the two publications should be submitted for approval to the Commission. The maximum length of the final text for the 1<sup>st</sup> one should be not more than 50 pages, including up to 5 pages of Executive Summary. The maximum length of the final text for the 2<sup>nd</sup> one should be not more than 20 pages.

The contractor should submit both texts in English, French and German. The texts should be provided to the European Commission in Word and charts in Excel. The contractor should secure the rights to and provide the Commission with 10 photos for each publication to illustrate the text.

14 months after the signature of the contract, the contractor will present to the Commission for approval a draft final activity report of no more than 20 pages, presenting the whole process of carrying out this study, including short minutes of the seminar held at month 12.

### **11. PUBLICITY AND INFORMATION REQUIREMENTS**

1.- As a matter of principle, with a view to favouring valorisation by the European Commission of all results obtained and outputs delivered under PROGRESS programme, the contractor will be required to provide - either upon specific request or in any event with the final activity report - for each of the tasks required under the present call, the following:

- Presentation of their key points in one page. Key points should be concise, sharp and easily understandable. They shall be provided in English, French and German. Other Community languages would be welcome, even if not compulsory.
- And an executive summary in 5 pages in English, French and German, unless otherwise more precisely described in the section "Tasks to be carried out".

2.- In accordance with the General conditions, the contractor is under the obligation to acknowledge that the present service/activity is delivered on behalf of/with the support of the Community in all documents and media produced, in particular final delivered outputs, related reports, brochures, press releases, videos, software, etc, including at conferences or seminars, as follows:

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<sup>19</sup> Or any other Spanish big city, as Spain will hold the EU Presidency during the 1<sup>st</sup> semester of 2010

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

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

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

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

*For more information see:*

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

For publications, it is also necessary to include the following reference:

*"The information contained in this publication does not necessarily reflect the position or opinion of the European Commission".*

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

## **12. REPORTING REQUIREMENTS**

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

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

As a first step, a Strategic Framework for the implementation of PROGRESS has been developed in collaboration with Member States and organisations from the civil society. The Strategic Framework provides the framework for implementing PROGRESS, complemented by the Performance Measurement, which defines PROGRESS mandate, its long-term and

specific outcomes. See at annex II, the overview of PROGRESS performance measurement framework. For more information on the strategic framework, please visit PROGRESS website<sup>20</sup>.

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

### **13. PAYMENTS AND STANDARD CONTRACT**

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

Article 1.4 thereof provides for the modalities of payment.

Payments will be made at intervals throughout the contract period as a function of the progress made, the reports and deliverables submitted and the quality of the work undertaken.

Modalities applicable to this contract will be:

- 6 weeks after signature of the contract, the contractor can submit to the Commission a formal request for a first interim payment accompanied by the inception note and the relevant invoice covering actual costs. Acceptance by the Commission of the inception note is a precondition for payment.

The total amount of this first interim payment cannot exceed 20 % of the total amount, specified under point 14.

- 5 months after signature of the contract, the contractor can submit to the Commission a formal request for a second interim payment of maximum 40 % of the total amount specified under point 14, accompanied by an interim report as specified under point 10.1.B and the relevant invoice covering actual incurred costs. Acceptance by the Commission of the interim report is a precondition for payment.
- 10 months after signature of the contract, the contractor can submit to the Commission a formal request for a third interim payment of maximum 20 % of the total amount specified under point 14, accompanied by a first draft (working version) of the publication as specified under point 10.1.C and the relevant invoice covering actual incurred costs.

The total amount of these three interim payments cannot exceed 80 % of the total amount specified under point 14.

For each request for payment, the Commission shall have 60 days from receipt to approve or reject the interim report or any other deliverables specified under point 10.1, and the contractor shall have 30 days in which to submit additional information or a new deliverable.

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<sup>20</sup> [http://ec.europa.eu/employment\\_social/progress/index\\_en.html](http://ec.europa.eu/employment_social/progress/index_en.html)

Within 30 days of the date on which the deliverables are approved by the Commission, an interim payment corresponding to the relevant invoices shall be made.

- 14 months after signature of the contract, the Commission can make a final payment covering the balance due, payable upon written request, submitted along with the final publications and the activity report, a final financial statement on the total budget execution, a final invoice and after approval of the delivered final publications, activity report and the final invoice.

The Commission shall have 60 days from receipt to approve or reject the publications and/or the activity report, and the contractor shall have 30 days in which to submit additional information or new publication(s) and/or activity report.

Within 30 days of the date on which the final publications and the activity report are approved by the Commission, payment of the balance of the total amount referred to under point 14 shall be made.

In particular, as mentioned at point 7 on "Guide and details of how the tasks are to be carried out", the contractor is required to explain in its final activity report its achievements in meeting the described equal opportunities provisions.

## 14. PRICES

The **maximum** amount available in this call for tender is **€400.000** (*four hundred thousand euros*). Bidders should note that any bid exceeding these limits will not be considered.

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

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

### Professional fees and direct costs:

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

These include:

- ✓ travel and subsistence costs relating to the research and analysis tasks,
- ✓ travel and subsistence expenses of the contractor, his/her staff or experts arising from all the meetings necessary with the European Commission in Brussels (at least 4 meetings),
- ✓ all documentation and all costs relating to the realisation of the final publications.
- Translation costs related to the final publications.
- All costs (including, *inter alia*, accommodation, subsistence and travel expenses for all participants) relating to the organisation of a day-long seminar for around 50 persons.
- Other direct costs (please specify)

### **Reimbursable expenses:**

- There are no reimbursable expenses

### **Total price up to €400.000**

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

Tenders can be submitted by groupings of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but the consortium selected may be required to assume a given legal form when it has been awarded the contract if this change is necessary for proper performance of the contract<sup>21</sup>. However, a grouping of economic operators must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the following points 16 and 17 must be supplied by every member of the grouping.

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

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

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

*Those articles are as follows :*

*"Article 93 :*

*Applicants or tenderers shall be excluded if:*

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;*
- b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;*
- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;*
- d) they have not fulfilled their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;*

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<sup>21</sup> These entities can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

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

- e) they have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- f) they are currently subject to an administrative penalty referred to in Article 96(1)<sup>22</sup>.

(...)

Article 94 :

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

- a) *are subject to a conflict of interest;*
- b) *are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply this 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 134 of the implementing Rules, confirming the declaration referred to in point 1 above.*

Article 134 of the Implementation Arrangements – Supporting documents

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

2. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 93 of the Financial Regulations, a recent certificate issued by the competent authority of the State concerned.

Where no such document or certificate is issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

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

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<sup>22</sup> "Article 96(1): The contracting authority may impose administrative or financial penalties on the following:

- (a) candidates or tenderers in the cases referred to in point (b) of Article 94;
  - (b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.
- (...)"

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

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

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

## **17. SELECTION CRITERIA**

The candidates will be selected on the basis of their financial and economic capacity and their professional and technical capacity.

(1) **Economic and financial capacity** to carry out the tasks set out in the tender specification must be demonstrated as follows:

- (a) the tenderer (or all partners of the grouping of service providers/suppliers together) must provide proof of turnover in the last financial year for which accounts have been closed at least equivalent to 75% of the proposed price of the contract;
- (b) balance sheets or extracts from balance sheets from the last two financial years that have been closed, where publication of the balance sheets is required under company law in the country in which the service provider is established; in the case of tenders from groupings of service providers/suppliers, this certificate must be provided by each member of the grouping of service providers/suppliers;
- (c) a statement of the undertaking's turnover in respect of the services to which the contract relates for the previous two financial years; in the case of tenders from groupings of service providers/suppliers, this certificate must be provided by each member of the grouping of service providers/suppliers;
- (d) a bank declaration providing evidence of good financial standing; in the case of tenders from groupings of service providers/suppliers, this declaration must be provided by each member of the grouping of service providers/suppliers.

(2) **Professional and technical capacity**

- (a) The tenderer's professional and technical capacity in the field covered by the contract will be further assessed on the basis of the following:

For the **co-ordinator** of the contract, this will require:

- ✓ At least 5 years experience in research on the trade unions and industrial relations and the proven ability to perform the co-ordination and the administrative tasks involved in organising and managing contracts and studies at European level. The Commission will assess this criterion on the

basis, *inter alia*, of a list of previous activities in this field submitted by the tenderer.

- ✓ The proven ability to set up the appropriate organisational structure to carry out all the tasks involved, in particular the ability to call on the necessary expertise and linguistic skills to cover all the countries and all grounds of discrimination listed at point 4. The Commission will assess this criterion, *inter alia*, on the basis of a list of potential or existing partner experts/organisations/correspondents in the countries involved in the project as well as on the basis of an organisational chart explaining the structure to be put in place.
- ✓ Very good knowledge of Community working languages, particularly English to facilitate communication with the Commission.
- ✓ Excellent capacity of drafting publications in English (on the basis of previous published work).
- ✓ Excellent oral presentation skills in English (on the basis of references to the previous work).
- ✓ Excellent capacity in the co-ordination and organisation of international/European seminars (on the basis of references to previous organised seminars or events).

For the **members of the team**, this will require:

- ✓ At least 2 members of the team should have a proven experience of minimum 5 years in developing, doing, analysing and interpreting research on trade unions and industrial relations as well as in assessing the impact of their initiatives.
- ✓ At least 1 member of the team should have proven experience of minimum 5 years in the field of non-discrimination in the EU.
- ✓ At least 1 member of the team should have proven experience of the diversity issues met by unions, in particular for those representing public services' professionals (e.g. education, media, healthcare ...).
- ✓ At least 1 additional member of the team should have proven experience of gender issues to ensure the *gender mainstreaming* (i.e. gender equality + gender dimension) of the study findings and in particular of its suggestions for further action.
- ✓ At least 1 member of the team should have proven experience in the drafting of reports on diversity issues for a pan-European audience.

See Annex IV of the draft contract, CVs of experts.

(b) Means of proof required

Technical and professional capacity of the tenderer to undertake the analysis described above shall be evaluated and verified on the basis of the following:

- ✓ a list identifying the coordinator and the members of the team with a clear description of the specific tasks each person will carry out during this project;

- ✓ the CVs of the coordinator and of the team members, including a list of the main works and/or articles published by each expert involved, in relation to the relevant subject specified in this tender, undertaken over the last 5 years at least;
- ✓ a declaration by the applicant certifying his/her technical capacity and the competence of the team to carry out the services;
- ✓ firm commitments of involvement in the project signed and dated from external persons to the contracting firms/organisations.

In the case of tenders from groupings of service providers/suppliers, the following are required:

- ✓ a clear identification of the contractor who will also be responsible for signing the contract, and
- ✓ written confirmation from each member of the grouping of service providers/suppliers that they would be ready and willing to participate in the execution of the contract, and briefly describing their role(s).

Bids considered by the European Commission not to meet the above-mentioned requirements on financial and operational capacity will be eliminated without further assessment.

## **18. AWARD CRITERIA**

The contract will be awarded to the tenderer, whose offer represents the best value for money, taking account of the criteria listed below as well as of the unit prices proposed.

### **(1) *Quality of the offer***

- a) The quality of the understanding of the assignment's nature, its context and the results to be achieved (**20%**);
- b) The qualitative value of the offer (**40%**), including in particular the presentation of the overall methodology to achieve the various tasks, and in particular the identification of the relevant audience to attend the seminar in order to validate the results of the study and its recommendations;
- c) Work organisation (**40%**), in particular of the administrative and logistical tasks involved and feasibility of the time schedule given; this criteria also includes clarity and coherence of the work programme.

### **(2) *The Price***

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.

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

### **19.1 Content of bids**

The tenderer must provide all the information and documents necessary to enable the Commission to conduct an appraisal of the offer on the basis of the exclusion, selection and the award criteria.

Tenders must be presented in three parts:

- (1) **a first part:** containing all administrative information including:
  - (a) Date of bid for the provision of services;
  - (b) Name of tenderer, full address, telephone and fax numbers and e-mail address;
  - (c) Legal entity form duly completed<sup>23</sup>;
  - (d) Legal status;
  - (e) Identification of the tenderer's headquarter or domicile (presented with the supporting evidence normally acceptable under its own law);
  - (f) Date of establishment or registration;
  - (g) Name and quality of the contractor's legal representative (i.e. the person duly authorised to act legally on behalf of the contractor in relation to third parties);
  - (h) VAT number or proof of exemption;
  - (i) Social security number;
  - (j) Declaration required as set out under "Exclusion criteria and supporting documents"
  - (k) Details of the tendering organisation structure;
- (2) **a second part:** concerning the **technical content** of the bid including:
  - I) Specific information covering the technical and professional capacity as required and listed in point 17, in particular:
    - (a) Details of the proposed project team and an explanation of the nature and extent of their participation in the project;
    - (b) Description of relevant professional experience with emphasis on the specific fields covered by the invitation to tender;
    - (c) Detailed curriculum vitae of key project team members, as well as national experts.
- (3) **a third part:** comprising the **financial part** of the tender and including:
  - (a) Full details of the proposed price and following the format of Annex III of the attached blank draft contract.
  - (b) A financial identification form (Bank ID form) duly completed and signed and stamped by the bank<sup>24</sup>.
  - (c) Proof of turnover in the last financial year for which accounts have been closed at least equivalent to 75 % of the proposed price of the contract.
  - (d) Balance sheets or extracts from balance sheets from the last two financial years that have been closed, where publication of the

<sup>23</sup> Form available from [http://europa.eu.int/comm/budget/execution/legal\\_entities\\_en.htm](http://europa.eu.int/comm/budget/execution/legal_entities_en.htm)

<sup>24</sup> Form available from [http://ec.europa.eu/budget/execution/ftiers\\_en.htm](http://ec.europa.eu/budget/execution/ftiers_en.htm)

balance sheets is required under company law in the country in which the service provider is established; in the case of tenders from consortia, this certificate must be provided by each member of the consortium.

- (e) A statement of the undertaking's overall turnover and its turnover in respect of the services to which the contract relates for the previous two financial years; in the case of tenders from consortia, this certificate must be provided by each member of the consortium.
- (f) A bank declaration providing evidence of good financial standing; in the case of tenders from consortia, this declaration must be provided by each member of the consortium.

## **19.2 Presentation of the bids**

Bids must:

- 1) be signed by the tenderer's legal representative;
- 2) be submitted in triplicate (1 original and 2 copies);
- 3) contain all the information required above (points 16, 17, 18 and 19.1);
- 4) be clear and concise;
- 5) be submitted in one of the official languages of the European Union;
- 6) be delivered according to the requirements set out in the letter of invitation to tender and before the date and time limit indicated therein (all addresses, dates and deadlines are indicated in this letter).

## **20. ADDITIONAL PROVISIONS**

- 1) Fulfilment of adjudication or invitation to tender procedure shall not involve the Commission in any obligation to award the contract.
- 2) The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be liable in the event of its deciding not to award the contract.
- 3) Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.
- 4) No information of any kind will be given on the state of progress with regard to the evaluation of tenders.
- 5) All documents submitted by tenderers will become property of the European Commission.

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## Annex I

Exclusion criteria (Article 93(1) FR)	Supporting documents to be provided by applicants, tenderers or bidders	
	Procurement (Article 93(2) FR; Article 134 IR)	
<b>1. Exclusion from a procurement procedure, Article 93(1) FR :</b> <i>« Candidates or tenderers shall be excluded from participation in a procurement procedure if:</i>		
<b>1.1. (subparagraph a)</b> <i>they are bankrupt or being wound up,</i>  <i>are having their affairs administered by the courts,</i>  <i>have entered into an arrangement with creditors have suspended business activities, are the subject of proceedings concerning those matters,</i>  <i>or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations<sup>25</sup>;</i>	Recent extract from the judicial record <b>or</b> recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance <b>or</b> Where no such certificate is issued in the country concerned: sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	
<b>1.2. (subparagraph b)</b> <i>they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata<sup>26</sup>;</i>	Cf. supporting documents for Article 93(1)(a) FR above	

<sup>25</sup> See also Article 134(3) IR : Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to in paragraphs 1 and 2 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

<sup>26</sup> Cf. footnote n° 1.

<b>Exclusion criteria (Article 93(1) FR)</b>	<b>Supporting documents to be provided by applicants, tenderers or bidders</b>	
	<b>Procurement (Article 93(2) FR; Article 134 IR)</b>	
<b>1.3. (subparagraph c)</b> <i>they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;</i>	Declaration by the candidate or tenderer that he is not in the situation described	
<b>1.4. (subparagraph d)</b> <i>they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed<sup>27</sup>;</i>	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described <b>or</b> Where no such certificate is issued in the country concerned: sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	
<b>1.5. (subparagraph e)</b> <i>they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests<sup>28</sup>;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
<b>1.6. (subparagraph f)</b> <i>following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations. »</i>	Declaration by the candidate or tenderer that he is not in the situation described	

<sup>27</sup> Cf. footnote n° 1.

<sup>28</sup> Cf. footnote n° 1.

Exclusion criteria (Article 94 FR)	Supporting documents to be provided by applicants, tenderers or bidders	
	Procurement	Grants
<b>2. Exclusion from a procurement or grant award procedure Article 94 FR :</b> « <i>Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:</i>		
<b>2.1. (subparagraph a)</b>  <i>are subject to a conflict of interest;</i>	Statement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal	
<b>2.2. (subparagraph b)</b>  <i>are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information»<sup>29</sup>.</i>	No specific supporting documents to be supplied by the applicant, tenderer or bidder  It is the responsibility of the authorising officer, represented by the evaluation committee, to check that the information submitted is complete <sup>30</sup> and to identify any misrepresentation	

<sup>29</sup> Cf. Article 146(3) of the FR Implementing Rules: « ...the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within a specified time-limit. » and Article 178(2) of the FR Implementing Rules: « The evaluation committee may ask an applicant to provide additional proof or to clarify the supporting documents establishing financial and operational capacity, within a specified time-limit. »

<sup>30</sup> Cf. footnote n°1

## ANNEX II - OVERVIEW OF PROGRESS PERFORMANCE MEASUREMENT FRAMEWORK

### PROGRESS Ultimate Outcome

*Member States implement laws, policies and practices in a manner that contributes to the desired outcomes of the Social Agenda*

PROGRESS works toward its ultimate outcome by helping strengthen the EU's support for Member States' efforts to create more and better jobs and to build a more cohesive society. PROGRESS seeks to contribute to (i) an **effective legal regime** in the EU in relation to the Social Agenda; (ii) **shared understanding** across the EU with regard to Social Agenda objectives; and (iii) **strong partnerships** working toward Social Agenda objectives.

In operational terms, support provided by PROGRESS facilitates (i) provision of analysis and policy advice; (ii) monitoring and reporting on the implementation of EU legislation and policies; (iii) policy transfer, learning and support among Member States; and (iv) relaying to decision-makers the views of the stakeholders and society at large.

#### Legal Regime

##### Outcome:

*Compliance in Member States with EU law related to PROGRESS areas.*

##### Performance Indicators

1. Transposition rate of EU law on matters related to PROGRESS policy areas
2. Effectiveness of application in Member States of EU law on matters related to PROGRESS policy areas.
3. EU policies and legislation are grounded in thorough analysis of situation and responsive to conditions, needs and expectations in Member States in PROGRESS areas
4. Extent to which PROGRESS-supported policy advice feeds into the development and implementation of EU legislation and policies
5. Cross-cutting issues are addressed in PROGRESS policy sections
6. EU policies and legislation display a common underlying logic of intervention in relation to PROGRESS issues
7. Gender mainstreaming is systematically promoted in PROGRESS

#### Shared Understanding

##### Outcome:

*Shared understanding and ownership among policy/decision-makers and stakeholders in Member States, and the Commission, of objectives related to PROGRESS policy areas.*

##### Performance Indicators

1. Attitudes of decision-makers, key stakeholders and general public regarding EU objectives in PROGRESS policy areas
2. Extent to which national policy discourses or priorities reflect EU objectives
3. Extent to which principles of good governance (including minimum standards on consultation) are respected in policy debate
4. Extent to which the outcomes of policy debates feed into the development of EU law and policy.
5. Greater awareness of policy-and decision-makers, social partners, NGOs, networks regarding their rights/obligations in relation to PROGRESS policy areas
6. Greater awareness of policy-and decision-makers, social partners, NGOs, networks regarding EU objectives and policies in relation to PROGRESS policy areas

#### Strong Partnerships

##### Outcome:

*Effective partnerships with national and pan-European stakeholders in support of outcomes related to PROGRESS policy areas.*

##### Performance Indicators

1. Existence of common ground/consensus among policy and decision-makers and stakeholders on EU objectives and policies
2. Identification and involvement by the EU of key actors in a position to exert influence or change at EU and national levels
3. Effectiveness of partnerships in relation to outcomes related to PROGRESS policy areas.
4. Number of individuals served or reached by networks supported by PROGRESS.
5. Extent to which advocacy skills of PROGRESS-supported networks have improved
6. Satisfaction of EU and national authorities with the contribution of networks
7. Extent to which PROGRESS-supported networks take a cross-cutting approach