
Specifications – Open invitation to tender No VT/2008/057

Contract to design and produce a scoreboard aimed at visualising the Member States' occupational health and safety efforts in specific areas in relation to the objectives laid down by the new Community strategy on health and safety at work for 2007-2012.

1. TITLE OF THE CONTRACT

Contract to design and produce a scoreboard aimed at visualising the Member States' occupational health and safety efforts in specific areas in relation to the objectives laid down by the new Community strategy on health and safety at work for 2007-2012.

2. BACKGROUND

2.1. PROGRESS introduction

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 by the European Parliament and the Council on 24 October and published in the OJ on 15 November.

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);
- (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).

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

2.2. Background information specific to this contract

Introduction

In its Communication "Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work"¹, the Commission called on the Advisory Committee on Safety and Health at Work (ACSH)² to cooperate with the Commission in developing "a common system for the collection and exchange of information on the content of national strategies, the assessment of the implementation of the set objectives and the effectiveness of national prevention structures".

In 2007, the Government Interest Group (GIG) of the ACSH decided to launch an initiative to develop a scoreboard, whose aim would be to illustrate the performance of the Member States in some specific areas of OSH national policies, according to the objectives provided by the Community strategy on health and safety at work 2007-2012.

In particular, the purpose of the scoreboard is to indicate how ,and possibly to what extent, each Member State meets/implements the qualitative and quantitative objectives provided in the new Community strategy.

In March 2007, the GIG set up a working group to prepare the scoreboard. The following Member States participate in the working group: Austria, the Czech Republic, Denmark, Estonia, Finland, Germany, Ireland, Poland, Spain and United Kingdom. Denmark chairs the working group, while the functions of vice-chair and "rapporteur" are performed by the Czech Republic and Ireland respectively.

The scoreboard should be seen as a supplement to other monitoring and reporting systems which may have been established/adopted at national level. It should also take into account

¹ COM(2007) 62 final of 21.2.2007.

² The ACSH is a tripartite Committee set up by Council Decision 2003/C 218/01 (OJ C 218, 13.9.2003, p. 1).

the scoreboards developed over the last few years at European level as tools to monitor the implementation of the former 2002-2006 Community strategy on OSH³.

The new scoreboard should be finalised by spring 2008. Deadline for its implementation is spring 2009.

Purpose of the project

Purposes of developing a scoreboard in relation to the Community strategy on health and safety at work are:

- To be able to monitor the situation/progress and/or the trend in the Member States' performance in relation to the objectives provided by the new Community strategy on health and safety at work 2007-2012.
- To provide a political follow-up tool for the assessment of national policies/activities by the Member States in connection with the implementation of the new Community strategy.

Objectives

The objectives of the scoreboard are:

- To provide an accessible overview of the development in the Member States' occupational health and safety situation and performance in relation to the Community strategy .
- To achieve increased transparency and knowledge of the Member States' implementation of the Community strategy.
- To enable benchmarking as regards trend of similarities and differences in the Member States' occupational health and safety situation/conditions and performance and in their implementation of the new Community strategy for health and safety at work.
- To enable the Member States to be inspired by and to learn from each other.

Phases in the project

The tasks related to the scoreboard project are divided into three phases: 1) development phase, 2) design phase, and 3) implementation phase.

During the development phase, the tasks primarily consist in determining the structure and contents of the new scoreboard. These tasks are handled by the working group itself. The tasks related to the last two project phases, i.e. designing and producing the scoreboard based on the principles laid down in the development phase, are requested to be handled by an external consultant.

³ Two projects were developed in 2003 and 2005, respectively. These documents will be made available to the contractor.

3. SUBJECT OF THE CONTRACT

The subject of the contract is to design and produce a scoreboard, aimed at visualising the Member States' occupational health and safety efforts in specific areas in relation to the objectives laid down by the new Community strategy for health and safety at work 2007-2012. The design and production of the scoreboard is to be based on the work done by the working group on scoreboard in the development phase of the project.

Principles in the scoreboard

During the development phase of the scoreboard, the working group has discussed and laid down various principles governing the structure and contents of the new scoreboard. These are:

- The scoreboard must be simple – not too detailed – in order to provide a view of the trend in the Member States on occupational health and safety performance and on progress in relation to the adopted Community strategy. The working group will seek to maintain the detail level from previous scoreboards.
- The scoreboard will only cover a selected part of the occupational health and safety activities implemented by the Member States. As a consequence, it will not provide a full picture of the Member States' performance in this area. It is important to emphasise this in the text of the scoreboard, introducing/describing the content. The scoreboard should be seen as a supplementary tool to the reporting systems already established in the Member States.
- The occupational health and safety activities vary from Member State to Member State. As far as possible, the new scoreboard should be structured in such a way that it can take account of these differences. The aim of the scoreboard is to accommodate some of the differences.
- The data collecting systems relating to occupational health and safety performances vary from Member State to Member State, and also internally with regard to regions and/or federal entities. Comparable data are to be used in the new scoreboard whenever this is possible. Furthermore, it should be ensured that information is provided from participating Member States with regard to the data sources used to answer the questionnaire.

Health and safety topics included in the scoreboard

Based on these principles, the working group has gone through the Council Resolution on the new Community strategy, and has selected a number of health and safety topics to be focused on in the new scoreboard. These are:

1. Statistics
2. National strategies
3. Occupational accidents
4. Work-related health problems and illnesses
5. Chemical agents
6. Preventive potential

Indicators

The next step for the working group is to define the indicators and parameters to be used for measuring and describing the Member States' efforts and performance in relation to the six areas

mentioned above. Besides, the working group is preparing a questionnaire to be submitted to the Member States, in order to collect information about these scoreboard indicators.

Information relating to the selected topics and indicators as well as the relevant questionnaire will be delivered from the working group to the contractor, as this information sets out the basis for designing and producing the new scoreboard.

Report

The working group will summarise its work in a report that will be submitted to the GIG in May 2008 for approval. The approved report will be transmitted to the contractor as the basic element of reference, together with the tender specifications, to design and produce the new scoreboard.

4. 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 Communities 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.

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.

5. TASKS TO BE CARRIED OUT BY THE CONTRACTOR

5.1. Description of the tasks

The contractor has to design and produce a scoreboard aimed at visualising the Member States' occupational health and safety efforts in specific areas, in accordance with the following description of tasks.

The design phase

The following tasks are requested to be carried out during the design phase of the scoreboard project:

1. Preparation of at least two different proposals for graphic design/layout of the health and safety topics and indicators to be included in the new scoreboard, as detailed in the approved working group report of May 2008.
2. Editorial reviewing of the questionnaire for the Member States prepared by the working group (see the approved working group report of May 2008), in order to ensure that the questions are unambiguous and comprehensible.

3. Setup and layout of the questionnaire for the Member States, including the preparation of an explanatory accompanying letter (purpose of the questionnaire, how to fill it in, etc.).

The implementation phase

The following tasks are requested to be carried out during the implementation phase:

1. Sending out of the questionnaire with accompanying letter to the 27 EU Member States⁴.
2. Collection and check of the completed questionnaires submitted by the Member States that have decided to participate in the project, and preparation of a reminder procedure.
3. Data processing. This will probably only be relevant in relation to one of the health and safety topics selected in the scoreboard. The other responses only need graphic design/layout.
4. Preparation of at least two drafts for the graphical presentation of the data collected and processed in the scoreboard (cf. the proposals prepared in task 1 of the design phase).
5. Presentation of the selected draft scoreboard in a final report featuring as follows:
 - Introductory text explaining the background of the scoreboard project, its purpose and objective and the reason for the selected indicators⁵.
 - The graphic layout of the selected draft scoreboard showing the data collected and processed from the participating Member States.
 - An annex that features the questionnaire, the explanatory accompanying letter, and possibly some special text parts explaining the principles of topic 6 in the scoreboard: Preventive potential.
6. Making the final scoreboard report ready for publishing, that means providing the scoreboard report in a publishable format, and printing the scoreboard report in 500 copies.
7. Making the scoreboard report available in an electronic format.

⁴ A general introductory letter, explaining the political context of the initiative, will be prepared and signed by the European Commission and attached to the accompanying letter and the questionnaire.

⁵ The introductory text will be delivered by the working group.

5.2. Guide on how the activities shall be carried out

The PROGRESS Programme aimed 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 its staff and team. This entails that the Contractor shall foster an appropriate mix of people, whatever their ethnic origin, religions, age, and ability.

The Contractor will be required to detail in its activity report accompanying the request for the final instalment the steps and achievements it made towards meeting these contractual provisions.

6. PROFESSIONAL QUALIFICATIONS REQUIRED

See also Annex IV of the draft contract

Additional requirements:

The contractor has to fulfil the process requirements and the product requirements listed in the text below.

Process requirements

- The contractor shall participate in at least 2 (two) meetings with the working group and the Commission during the design phase, with a view to:
 - adaptation of and decision on the various draft scoreboard designs prepared by the contractor;
 - approval of the questionnaire and accompanying letter prepared.
- The contractor shall participate in at least 2 (two) meetings with the working group and the Commission during the implementation phase, with a view to adaptation and choice of the final scoreboard design and its approval.

Product requirements

- All sub services in the project and the final product, i.e. the finished scoreboard, must be delivered in English.
- The contractor must ensure that all sub services and main services delivered in connection with this project are at any time proofread and quality-controlled.
- At least two (preferably more) proposals for graphic design/layout of the new scoreboard must be prepared.
- The scoreboard must be designed in a flexible way in relation to the number of participating countries⁶.
- The scoreboard must be designed to provide a good overview of the participating Member States' efforts and performance with regard to the OSH parameters/indicators selected for inclusion.
- The scoreboard must be designed in such a way that any topic and subtopic examined can be accommodated on one page and/or double page for all participating countries. As stated above, the design must enable all 27 Member States to participate. Unfolding pages can be used.
- The design proposals can deviate from the scoreboards prepared in 2003 and 2005; however, the following minimum requirements must be fulfilled: the scoreboard must provide a good overview of the participating Member States' health and safety efforts, and allow a general view of the information from all the 27 Member States as regards a specific health and safety topic on one page.
- The layout of the questionnaire must ensure that it is easy to understand and fill in.
- The text of the questionnaire prepared by the working group must be reviewed to ensure that it is worded in a simple, comprehensible and unambiguous way.
- The letter accompanying the questionnaire must at least explain the purpose of the questionnaire and describe how it is to be filled in, to whom it must be submitted, the deadline, etc. The working group may add further information to the accompanying letter.
- A reminder procedure must be taken into account while planning the time schedule for the questionnaire survey.

⁶ It may be necessary to prepare the scoreboard exercise twice during the strategy period, partly to collect the results of the Member States' health and safety efforts as soon as possible, after the end of the strategy period, partly to allow more Member States to participate. In any case, the design must enable all 27 Member States to participate, already in the first round.

- The contractor must check all responses received from the participating Member States. The check implies as follows: a) to verify whether the participating Member States have answered all the questions in the questionnaire, b) to verify whether the received responses are readable and comprehensible, and 3) to identify any inconsistencies in the responses to the different parts of the questionnaire.
- If the check shows omissions, inconsistencies or if the responses are incomprehensible further contacts with the relevant Member States must be taken in order to clarify the responses.
- The final scoreboard report must be provided in a publishable format and made available in an electronic format.

7. Time schedule and reporting

See also Article 1.2. of the draft contract.

7.1 Specific deadlines for the performance of tasks:

The work must be carried out within 9 (nine) months from the date on which the contract is signed. Within this time frame, the contractor is granted a period of approximately 3 (three) months for the design phase and approximately 6 (six) months for the implementation phase.

The work shall cover the following steps:

1. Within 30 (thirty) days of signature of the contract, an initial meeting with the working group and the European Commission (Unit EMPL F/4) will be held in Luxembourg. The contractor will be invited to take part in this meeting in order to present his work plan and discuss practical methods of executing the contract and the work.
2. Within 2 (two) months of signature of the contract, the contractor must transmit to the working group and the European Commission (Unit EMPL F/4) at least two draft proposals for graphic design/layout of indicators in the new scoreboard, draft questionnaire and draft accompanying letter to the questionnaire (cf. tasks 1-3 of the design phase). These drafts should be presented and discussed at a second meeting with the working group and the Commission department responsible (EMPL F/4) in Luxembourg.
3. Within 3 (three) months of signature of the contract, the drafts submitted under point 2 shall be presented and discussed at a second meeting between the contractor, the working group and the Commission department responsible (EMPL F/4) in Luxembourg. The contractor shall revise these documents according to the decisions taken at this meeting.
4. Within 3½ (three and a half) months of signature of the contract, the contractor shall send out the questionnaire with accompanying letter and the introductory letter from the Commission to the 27 EU Member States (cf. task 1 of the implementation phase).
5. Within 5 (five) months of signature of the contract, a reminder letter should be sent to the Member States who have not yet answered the questionnaire.
6. Within 6 (six) months of signature of the contract, a third meeting between the contractor, the working group and the Commission should be held, in order to allow the contractor to present the preliminary results of the received responses to the questionnaire (number of

Member States that have replied, first impression of the received responses, reminder procedure, need of further contacts with Member States, etc.).

7. Within 7½ (seven and a half) months of signature of the contract, the contractor must finalise the check of the completed questionnaires, process the data and prepare two drafts for graphical presentation in a scoreboard of the data collected (cf. tasks 2-4 of the implementation phase). These drafts will simultaneously be transmitted to the working group and the Commission department responsible.
8. Within 8 (eight) months of signature of the contract, a fourth meeting between the contractor, the working group and the Commission should be held, in order to allow the contractor to present and discuss the draft proposals of graphical presentation in a scoreboard of the data collected. One of these proposals will be selected by the working group.
9. Within 9 (nine) months of signature of the contract, the selected scoreboard is revised according to the decisions taken at the fourth meeting. The selected scoreboard is presented in a final report (cf. task 5 of the implementation phase), made ready for publishing, made available in an electronic format, and delivered to the Commission in 500 printed copies (cf. tasks 6 and 7 of the implementation phase).

7.2. 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 5/6 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 is delivered on behalf 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.

"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-Generale 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

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 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.

7.3 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 in Annex III the overview of PROGRESS performance measurement framework. For more information on the strategic framework, please visit PROGRESS website.

The Commission will in that context monitors the effect of PROGRESS supported or commissioned initiatives and considers how these initiatives contributes 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 its 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.

8. 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".

8.1 Pre-financing

Once the contract has been signed by the last contracting party, and within 30 days of the receipt of a request for pre-financing accompanied by a corresponding invoice, a pre-financing payment equal to 30% of the total amount referred to in Article 1.3.1 of the standard contract will be transferred.

8.2. Payment of the balance

To be acceptable, the contractor's request for payment of the balance must be accompanied by:

- a final report in accordance with the instructions set out in sections 5.1. and 7.1. of these specifications,
- corresponding invoices,
- statements of reimbursable expenditure in accordance with Article II.7 of the standard contract.

The said report must be accepted by the Commission.

After receiving the draft final report, the Commission has 60 days in which to accept or reject it, and the contractor has 30 days in which to submit new documents.

The balance in accordance with the relevant invoices will be paid within 30 days of approval of the final report by the Commission.

9. PRICES

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.

Part A: 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, but not the reimbursable expenses referred to below.
- Other direct costs (translation costs, ...)

Part B: Reimbursable expenses

- Travel expenses (other than local transport costs)
- Subsistence expenses of the Contractor and his staff (covering the expenditure incurred by experts on short-term trips outside their normal place of work)

- Expenses for the shipment of equipment or unaccompanied luggage, directly connected with performance of the tasks specified in Article I.1 of the draft contract
- Contingencies

Total price = Part A + Part B **with a maximum of 500,000 €**

10. 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 11 and 12 must be supplied by every member of the grouping.

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

11. 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;

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.

- 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;
- 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)⁸.

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 contract procedure or fail to supply this information⁹.

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.

⁸ "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. (...)"

⁹ 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 the time limit it specifies. » and Article 178(2) of the FR Implementing Rules: « The evaluation committee may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, in particular in the case of obvious clerical errors. »

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.

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.

12. SELECTION CRITERIA

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

12.1. Financial and economic standing: on the basis of the following documents:

- turnover during the previous financial year (statement on the overall turnover – at least twice the value of the contract – (i.e. EUR 1,000,000) and turnover on assessment services provided during the past three financial years;
- balance sheets and profit and loss accounts for the past 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 notice of invitation to tender was published, if the full accounts for the previous financial year are not yet available.

12.2 Technical capability of the tenderer:

- a description of the tenderer's technical capability and practical experience in the field referred to in sections 3, 5 and 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 various members;
- samples of work demonstrating tenderer's practical experience in the field of analysing the transposition of Community directives into national law.
- the tenderer must provide the names and curricula vitae (three pages maximum) of the persons responsible for the specific tasks described in section 5 of these specifications, with a view to ascertaining their practical experience and their ability to communicate with the undertakings and/or establishments;
- a description of the parts of the services to be provided by each consortium of companies or groups of service providers (where applicable).

13. AWARD CRITERIA

Taking the bids which meet the requirements of sections 11 and 12 above, the contract will be awarded on the basis of best value for money, taking account of the following criteria:

- | | |
|------------------------------------------------------------------------------------------------------------------------------------|-----|
| - understanding of the objectives and tasks: | 20% |
| - quality and consistency of the methodological approach (including ability to give proper consideration to the actual situation): | 30% |
| - quality of the work plan proposed: | 30% |
| - organisation of the work and management of the project: | 20% |

The contract will **not** be awarded to a tenderer whose bid receives less than (70%) for the award criteria.

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

14. CONTENT AND PRESENTATION OF BIDS

14.1 Content of bids

Tenders must include:

- all information and documents necessary to enable the Commission to appraise the bid on the basis of the selection and award criteria set out in sections 12 and 13 of these specifications;
- they must include all the information required by the Commission (see sections 9, 10, 11 of these specifications),
- a bank ID form duly completed and signed by the bank;
- a "legal entity" form duly completed;
- the price;
- the detailed CVs of the proposed experts;
- 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 plan of work, timetable and the description of the approach intended to apply.

14.2 Presentation of bids

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

Annex I

Exclusion criteria (Article 93(1) FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded	
	Procurement (Article 93(2) FR; Article 134 IR)	
1. Exclusion from a procurement procedure, Article 93(1) FR : <i>« Candidates or tenderers shall be excluded from participation in a procurement procedure if:</i>		
1.1. (subparagraph a) <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 regulations¹⁰;</i>	<ul style="list-style-type: none"> – Recent extract from the judicial record or recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance or – 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 	–
1.2. (subparagraph b) <i>they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata¹¹;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
1.3. (subparagraph c) <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	
1.4. (subparagraph d) <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 performed¹²;</i>	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described or <ul style="list-style-type: none"> – 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 	
1.5. (subparagraph e) <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 interests¹³;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
1.6. (subparagraph f) <i>they are currently subject to an administrative penalty referred to in Article 96(1)¹⁴. »</i>	Declaration by the candidate or tenderer that he is not in the situation described	

¹⁰ 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.

¹¹ Cf. footnote n° 10.

¹² Cf. footnote n°10.

¹³ Cf. footnote n° 10.

¹⁴ Article 96(1) FR: 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.

Exclusion criteria (Article 94 FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded.	
	Procurement	Grants
2. Exclusion from a procurement or grant award procedure Article 94 FR : « <i>Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:</i>		
2.1. (subparagraph a) <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	
2.2. (subparagraph 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»¹⁵.</i>	<ul style="list-style-type: none"> – 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 complete¹⁶ and to identify any misrepresentation 	

¹⁵ 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 the time limit it specifies. » and Article 178(2) of the FR Implementing Rules: « The evaluation committee may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, in particular in the case of obvious clerical errors. ». »

¹⁶ Cf. footnote n°15

Annex II

Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest

The undersigned [*name of the signatory of this form, to be completed*]:

- in his/her own name (*if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator¹⁷*)
or
- representing (*if the economic operator is a legal person*)

official name in full (*only for legal person*):

official legal form (*only for legal person*):

official address in full:

VAT registration number:

declares that the company or organisation that he/she represents / he/she:

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;
- e) has not 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) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

¹⁷ To be used depending on the national legislation of the country in which the candidate or tenderer is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract.
- k) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.
- l) that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above¹⁸.

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

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

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

By signing this form, the undersigned acknowledges that they have been acquainted with the administrative and financial penalties described under art 133 and 134 b of the Implementing Rules (Commission Regulation 2342/2002 of 23/12/02), which may be applied if any of the declarations or information provided prove to be false.

Full name

Date

Signature

¹⁸ Mandatory for contracts of value above €133 000 only (see art. 134(2) of the Implementing Rules). The contracting authority can nevertheless request such evidence for contracts with a lower value.

Annex III

Overview of PROGRESS performance measurement framework