
Specifications – Invitation to tender No VT/2009/013

Study on the use of age, disability, sex, religion or belief, race or ethnic origin and sexual orientation in financial services, in particular in the insurance and banking sectors

1. Title of the contract

Study on the use of age, disability, sex, religion or belief, race or ethnic origin and sexual orientation in financial services, in particular in the insurance and banking sectors

VC/2009/118

2. Background

Context of the contract

Financial services, such as banking services and insurances, are essential features for the active participation of people in the economy and society as a whole. They are important prerequisites to meet basic individual needs such as housing, transport, consumption etc. Furthermore insurances provide security for individuals from social, financial or physical risks. Access to financial services determines the possibility to take advantage of opportunities offered by society and the economy and their unavailability can lead to social exclusion and poverty.

Civil society organisations representing interests of women, of younger and older people as well as of people with disabilities report cases of discrimination of such people as regards the access to financial services, such as insurances, credit or mortgages. In particular it is sometimes difficult for older people and people with disabilities to obtain (affordable) services on the same basis as other consumers. Some services, such as travel, motor or complementary health insurances or loans, are reported to be unavailable or prohibitively expensive for people in older age groups or those with disabilities in certain Member States. Women and men are also affected by discrimination since their premiums for certain insurances are sometimes higher than those paid by the opposite sex.

The financial service providers affirm that such differences are based on the general rules for calculating risk. The sex, the age or a disability (as the result of a severe health impairment) of an individual are in certain cases used as criteria for determining conditions of access to various financial products. Since financial service providers operate in competitive markets, they need to be able to run cost and risk calculations taking into account individual features of the consumers concerned. However, in order not to discriminate against certain groups, differences in treatment on any of the protected grounds should be proportionate and based on a reasoned assessment of risk.

At international level, Article 12.5 of the United Nations Convention on Rights of Persons with Disabilities, which the Community and all EU Member States signed, provides that "States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities ... to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit..."

At EU level, equality and anti-discrimination legislation also partly addresses the issue. As far as gender is concerned, Council Directive 2004/113/EC implements the principle of equal treatment between men and women in the access to and supply of goods in services. Article 5 of this Directive concerns "insurance and related financial services" and allows for "proportionate difference in individuals' premiums and benefits where the use of sex is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data". It also requires such data to be compiled, published and regularly updated.

With a view to preparing its implementation report of this Directive, the Commission has committed itself to setting up a working group to assist in the "review of the current practices of Member States ... with regard to the use of sex in the calculation of premiums and benefits", as required by Article 16 of the Directive. The Commission will ask Member States, industry and civil society representatives to provide information on the legal and practical implementation of Article 5. This study will also contribute to the above-mentioned review.

The recent proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008) 426 final), adopted by the Commission on 2 July 2008, includes a specific provision for the insurance and banking industry. Article 2(7) grants an exception for financial services and allows for "proportionate differences in treatment where, for the product in question, the use of age or disability is a key factor in the assessment of risk based on relevant and accurate actuarial or statistical data."

In the explanatory memorandum to the proposal, the Commission notes the amount of complaints received about discrimination in the insurance and banking sector, but states that the use of age or disability by insurers and banks to assess the risk profile of customers does not necessarily represent discrimination, but depends on the product.

The Commission also announces its intention to "initiate a dialogue with the insurance and banking industry together with other relevant stakeholders to achieve a better common understanding of the areas where age and disability are relevant factors for the design and pricing of the products offered in these sectors." This dialogue¹ will be carried out in two stages:

- During the first stage, the aim of the dialogue will be to accompany this study, in particular to provide guidance to the contractor and discuss its findings.
- In a second stage, the dialogue would aim at developing written guidance on best practices for Member States and the financial services industry. The outcomes will depend on the adoption of the above-mentioned proposal for a Directive and on the ambition of the participants.

The study has to be seen also in the context of the EU policy on financial inclusion² and an earlier study on financial services provision and the prevention of financial exclusion³.

Introduction of PROGRESS

This study is financed under the PROGRESS programme:

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 2006 and published in the OJ on 15 November 2006.

PROGRESSSS 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 2009 annual plan of work which can be consulted at <http://ec.europa.eu/social/main.jsp?catId=658&langId=en> .

3. Subject of the contract

The study will identify current practices of financial services providers with regard to the use of age, disability, sex, race/ethnic origin, religion/belief and sexual orientation in the supply and design of financial products, as well as problems of discrimination and measures to prevent discriminatory practices.

The study has a twofold aim:

¹ The dialogue has also been announced in the recent Commission Communication "Non-discrimination and equal opportunities: a renewed commitment" (COM(2008) 420 final)

² http://ec.europa.eu/employment_social/spsi/financial_exclusion_en.htm

³ http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2008/financial_exclusion_study_en.pdf

- provide an objective basis for the above-mentioned dialogue with the financial services industry and other stakeholders on the use of age and disability as factors in risk assessment;
- provide additional information for the review of the current practices of Member States in relation to Article 5 of Directive 2004/113/EC.

While particular attention will be paid to the differentiation and discrimination on grounds of age, disability and sex (the latter including gender reassignment, pregnancy and maternity) which seem to be the most problematic ones, the other grounds listed in Article 13 EC Treaty will also be examined where relevant and necessary. The analysis will cover different financial products, such as various types of private insurances (health, life, accident, housing, motor, travel, etc.), banking services (loans, mortgages, credit cards, etc.) and other financial services (private pensions, investment products, etc.).

The assessment will cover all 27 EU Member States and EFTA/EEA countries (Norway, Iceland, Liechtenstein) for which data and information shall be collected and analysed by the contractor. In addition, the contractor should also compare the situation with at least 2-3 other OECD countries, such as the United States, Canada, Australia and Switzerland, depending on their relevance for this study.

4. **Participation**

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.

5. **Tasks to be carried out by the contractor**

Description of the tasks

The study shall cover the following:

1. **Analysis of the current practices of financial service providers** with regard to the supply and design of their products, the use of age, disability, sex, race/ethnic origin, religion/belief and sexual orientation in risk assessment and/or cost calculations and the access to these products for different individuals. This analysis will cover both private and public/semi-public operators, as well as both large and small companies. Differences between Member States (and other countries) with regard to such practices shall be examined.

The study shall identify **different types of financial products**, such as various types of private insurances (health, life, accident, housing, motor, travel, etc.), banking services (loans, mortgages, credit cards, etc.) and other financial services (private pensions, consumer credit, investment plans, etc.), distinguishing between those where age, disability or sex (or any of the other grounds in Article 13 EC Treaty) could be a relevant and determining factor for the calculation of risks or costs and those where it is not.

As regards the criterion of **gender**, the study will analyse the implementation of **Directive 2004/113/EC** in all EU Member States in law and in practice, looking at differences across Member States, in particular as regards the following questions: How have terms such as "relevant and accurate actuarial and statistical data", "proportionate differences" and "determining factor" been interpreted in practice and is there a common understanding of these terms? Have Member States and/or providers offered uni-sex premiums/fees and, if yes, what has been the practical impact (e.g. in terms of general acceptance, discrimination complaints, development of premiums/costs)? How do service providers ensure that differences in treatment are proportionate to the associated risk?

As regards the criterion of **disability**, the contractor could also analyse how those Member States that have already ratified the UN Convention on the Rights of Persons with Disabilities⁴ implement Article 12.5 of the Convention.

2. Identification and analysis of **actual and potential problems of discrimination**, in particular where such problems have been brought to the attention of public authorities, law courts, equality bodies, NGOs or the media. Discrimination can occur due to lack of access to financial products (e.g. refusal to provide requested service) or due to discriminatory conditions of access (e.g. prohibitively expensive premiums, excessively long waiting periods, downgraded access to alternative products). The study shall also look at certain techniques of financial service providers (e.g. scoring, use of private or public databases) that could be sources of discrimination.

⁴ As of 3 February 2009: Austria, Hungary, Slovenia, Spain and Sweden.

While discrimination on any of the grounds under Article 13 EC Treaty shall be covered, a specific focus should be set on **age, disability and sex**. With regard to sex discrimination, the contractor shall also analyse problems of discrimination on grounds of gender reassignment, pregnancy and maternity.

The study will also examine to what extent **innovation** in the market for financial products may ease or exacerbate problems of discrimination.

3. Identification and analysis of existing **measures to prevent discriminatory practices** and to ensure availability and affordability of financial products for all customers, including regulation, self-regulation, policy responses, company practices and civil society initiatives. These should include specific solutions for potential victims of discrimination (e.g. specialised providers of financial services for certain groups, social services of general interest). The measures reported should include relevant measures taken by at least 2-3 other OECD countries (which are not EU Member States or EEA countries), which shall be chosen by the tenderer on the basis of the relevance of their experiences for this study.

The study will examine whether the **publication of the data** used for risk calculation has proved useful in practice to ensure transparency and to avoid discriminatory practices, and whether it represents a disproportionate burden for companies (in administrative terms, for reasons of intellectual property or of commercial sensitivity of the data used).

In this respect the study shall analyse how the requirement to compile, publish and regularly update accurate data relevant to the use of sex as a determining actuarial factor (see **Directive 2004/113/EC**) has been implemented in practice. Which data have been used, and how has their relevance, accuracy and quality been guaranteed? Is the data accessible and intelligible to consumers? Have steps been taken to help consumers understand how their premiums / fees are assessed? How has the industry struck the balance between ensuring accessibility to the information and not releasing sensitive commercial data? What have Member States done to ensure the industry is complying (e.g. in terms of guidance)?

Furthermore the study shall review existing **national-level legislation or regulation** (including of other OECD countries) with regard to the other grounds (age, disability, etc.) and assess their effectiveness in ensuring a sound balance between the interests of the industry and those of consumers, including potential victims of discrimination.

In case of existing measures which limit possibilities for differentiation according to sex, age or disability (or any of the other grounds in Article 13 EC Treaty) and/or provide for wider spread of risks, the study shall analyse their impact, in particular on the general level of premiums/costs, the improved access to financial products for older/younger people, people with disabilities, women, etc., and the general acceptance.

4. **Recommendations** for possible action at EU, national and industry level. These recommendations, which will feed into the above-mentioned dialogue and review, should include a preliminary assessment of the potential consequences (cost and benefits) of the different recommendations.

Guide and details of how the tasks are to be carried out

The study will require theoretical and methodological approaches which are appropriate for the subject matter described. The proposed methodology for the collection of the information and its analysis should be explained and justified in the bid.

The tenderer shall present a work plan with a detailed division of tasks between the research team members.

To carry out the study, the contractor shall:

- identify and exploit existing sources of information on these matters, including statistical data;
- carry out own research on all EU Member States and EEA countries, including field research in at least 15 EU Member States or EEA countries and contacts with bank and insurance companies as well as individuals concerned and their representatives. The 15 countries in which more in-depth field research will be carried out shall in any event include Germany, France, the United Kingdom, Italy, Spain and Poland. The choice of the remaining countries shall be explained by the tenderer and should offer a balanced representation taking into account geographic, economic and demographic criteria, specific organisational features of the financial services industry and particular experiences in certain countries with the issues in question;
- identify and contact relevant stakeholders at European and national level, both on the industry side and the consumer / civil society side, with a view to obtaining more information and to understanding their concerns;
- meet the Commission on a regular basis to present and discuss findings and draft a report on this basis.

The contractor will be asked to participate actively and present findings in several events organised by the European Commission:

The contractor will attend three meetings of the above-mentioned dialogue on the use of age and disability in financial services. While the purpose of the first meeting will be to provide guidance to the contractor, to establish contacts and to further define the areas of research, the second meeting would be an opportunity to present more

detailed information (e.g. hearing of experts). The last meeting is meant to present and discuss the findings of the contractor's research and to obtain comments which should be reflected in the final report.

The contractor might also be invited to attend a meeting of the working group on the implementation of Article 5 of Directive 2004/113/EC (on the use of sex as a factor of calculation in financial services) held with Member States and civil society representatives.

Up to two further events (e.g. conferences) might be arranged in which the contractor would be expected to present (preliminary) findings of the study.

All meetings will be held in Brussels. Tenderers are not required to organise or to budget any of those meetings (except for his / her own participation).

Deliverables

In the course of the review the contractor will deliver an inception report, an interim activity report, a draft final report and a definitive final report, including an executive summary and technical annexes. The reports have to be drafted in English in a clear and comprehensible way. The contractor shall have all deliverables verified by persons with a perfect knowledge of the English language. The study shall also be understandable for non-specialists in financial services and should therefore avoid jargon and too technical language. If necessary, specialist terms should be explained.

*The **inception report** will contain, among others:*

- a detailed presentation of data collection tools and an analytical framework, as well as definitions of key terms and concepts;
- a list of persons and institutions to be contacted and/or interviewed as part of the information collection process;
- a revised and more detailed work plan based on the provisional work plan submitted during the tendering process, supplemented by a single overall timetable;
- an indicative provisional structure for the final report of the study based on the better understanding of the research that the contractor has developed during the inception phase. The structure will be subject to change on the basis of the progress of the work and future discussions with the Commission.

This report will enable the European Commission to validate the finalised research methodology before the start of the fieldwork.

The **interim activity report** will be the report of the contractor to the European Commission on its activities carried out so far and planned for the rest of the work until submission of the draft final report.

The **draft final report** will be the product of the research activities undertaken and will be subject to agreement by the Commission. It will not exceed 100 pages and must include at least the following:

- a succinct description of the context and objective of the study, brief information on the research methodology and on the data collected, as well as definitions of key terms and concepts;
- an analysis of current practices and possible problems by type of financial services product and by type of financial services provider;
- an analysis of problems of discrimination by ground of discrimination, with a special focus on age, disability and sex;
- an analysis of the issue by country (covering all EU Member States and EEA countries and including other OECD countries);
- an analysis of measures to prevent discriminatory practices, including regulation and self-regulation, and the publication of data used in risk calculation;
- conclusions and recommendations for possible action at EU, national and industry level.

The **final report** will take into account the observations and comments of the European Commission. The main body of the report will not exceed 100 pages and it will be accompanied by an **executive summary** of no more than 10 pages. The summary will present a synthesis of the findings, conclusions and recommendations found in the main body of the report. Furthermore, the contractor will present the **key points** of the final report in one page. The key points should be concise, sharp and easily understandable. Appended to the final report will be a series of annexes presenting in detail the methodology, along with statistical data, analyses of interview data, bibliographies, etc. and any other relevant background information. The final report will also be accompanied by a **final activity report** in a separate document which summarises the activities carried out by the contractor for the preparation of the study.

The final report will be delivered in English both in accessible electronic (Word and PDF) and paper form (10 copies). The executive summary and the key points will be provided in English, French and German.

Each of the reports has to be approved by the European Commission. The Commission has the right to request additional information or redrafting of the reports.

Gender and diversity mainstreaming

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/proposal 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 dimensions;
- 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 final activity report accompanying the request for the final instalment the steps and achievements it made towards meeting these contractual provisions.

Publicity and information requirements

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 is supported 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

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.

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

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 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.

6. Professional qualifications required

See Annex IV of the draft contract.

The tenderer must demonstrate the experience and ability to perform the administrative and financial management and the coordination of large-scale contracts and research projects at European level. The tenderer must show impartiality with regard to the subject of the study.

The tenderer's team must be composed of experienced lawyers and/or academics in the EU Member States and/or EEA countries, specialised in retail insurance and banking services, in particular consumer rights with regard to access to financial products as well as pricing of financial products and calculation of risks. The experts must also have a thorough knowledge of Community law, in particular as regards the gender equality and anti-discrimination acquis, in all grounds of discrimination under Article 13 EC.

For further details please see point 12 b (selection criteria – technical and professional capacity).

7. Time schedule and reporting

See Article I.2. of the contract.

The duration of the contract will be **9 months**.

Additional requirements (specific deadlines for the performance of tasks):

The following table summarises the timetable for the tasks to be performed, the meetings to be held and the reports to be submitted. Minor adaptations are possible and have to be agreed.

Month	Activity
0	Signing of the contract
1	Meeting of the contractor with the Commission
	Active participation in the meeting of the dialogue on the use of age and disability in financial services
	Submission of the inception report (end of the first month)
2	Possible participation in the meeting of the working group on the implementation of Article 5 of Directive 2004/113/EC (on gender)
3-5	Meeting with the Commission and active participation in the meeting of the dialogue on the use of age and disability in financial services
4	Submission of the interim activity report
7	Submission of the draft final report
7-8	Meeting with the Commission and active participation in the meeting of the dialogue on the use of age and disability in financial services
	Comments by the Commission on the draft final report
9	Submission of the final report

8. Payments and standard contract

In drawing up the tender, the provisions of the standard contract, which include the General Terms and Conditions applicable to Service Contracts, must be taken into account.

Interim payments

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

1 month after signature of the contract, the contractor can submit to the Commission a formal request for a first interim payment, accompanied by the inception report and the relevant invoice covering actual incurred costs. Acceptance by the Commission of the inception report is a precondition for payment. The total amount of this first interim payment cannot exceed **20 %** of the total amount of the contract.

4 months after signature of the contract, the contractor can submit to the Commission a formal request for a second interim payment, accompanied by the interim activity report and the relevant invoice covering actual incurred costs. Acceptance by the Commission of the interim activity report is a precondition for payment. The total amount of this second interim payment cannot exceed **40 %** of the total amount of the contract.

For each request for payment, the Commission shall have 30 days from receipt to approve or reject the report, and the contractor shall have 15 days in which to submit additional information or a new report. Within 30 days of the date on which the reports are approved by the Commission, an interim payment corresponding to the relevant invoices shall be made.

Payment of the balance

At the end of the contract, the contractor can submit to the Commission a formal request for the final payment covering the balance due, accompanied by the final report and a final financial statement on the total budget execution. Acceptance by the Commission of the final report is a precondition for payment.

The Commission shall have 30 days from receipt to approve or reject the final report, and the contractor shall have 15 days in which to submit additional information or a new report. Within 30 days of the date on which the final report is approved by the Commission, payment of the balance of the total amount shall be made.

9. Prices

The maximum amount available in this call for tender is € 400.000 (four hundred thousand euros). Tenderers should note that any bid exceeding this limit 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.

- *Fees, expressed as the number of person-days multiplied by the unit price per working day for each expert proposed.*
- *Other direct costs (please specify)*
- *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 this Contract*
- *Contingencies*

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 contract⁵. 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;*
- 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)⁶.*

(...)

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 Implementing Rules – Evidence

§3. The contracting authority shall accept as satisfactory evidence that the candidate or tenderer to whom the contract is to be awarded is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State concerned.

⁵ 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.

⁶ "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.
- (...)"

Where the document or certificate 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.

§4. Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraph 3 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

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

3) The contracting authority may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to in Article 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

a) Economic and financial capacity:

Economic and financial capacity to carry out the tasks set out in the tender specifications must be demonstrated as follows:

1. a statement of the undertaking's overall turnover for the last two financial years. For the last financial year, the annual turnover should at least equal the value of the contract;
2. balance sheets or extracts from balance sheets from the last two financial years for which accounts have been closed, where publication of the balance sheets is required under the company law in the country in which the economic operator is established;
3. a bank declaration providing evidence of good financial standing.

In the case of tenders from consortia, these documents must be provided by each member of the consortium.

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

b) Technical and professional capacity:

The tenderer must demonstrate the experience and ability to perform the administrative and financial management and the coordination of large-scale contracts and research projects at European level, as well as the capacity 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 EU Member States and EEA countries.

The tenderer must show impartiality with regard to the subject of the study. The results of the study shall be objective and recognised as such by all stakeholders involved. Therefore tenderers which are in a relationship of dependency with the financial services industry or with civil society organisations representing interests of potential victims of discrimination (e.g. older people, people with disabilities) will be excluded. A relationship of dependency is presumed if the tenderer has organisational links and/or very regularly provides services such as consultancy or expertise to the above-mentioned stakeholders. The tenderer shall declare any kind of relationship with those groups.

The tenderer's team must be composed of experienced lawyers and/or academics in the EU Member States and/or EEA countries, specialised in retail insurance and banking services, in particular consumer rights with regard to access to financial products as well as pricing of financial products and calculation of risks. The experts must also have a thorough knowledge of Community law, in particular as regards the gender equality and anti-discrimination acquis, in all grounds of discrimination under Article 13 EC.

The team should be composed at least of the following experts:

- **Senior expert in retail insurance and banking services** (level I or II) with extensive experience in pricing of financial products and calculation of risks.
- **Senior expert in retail insurance and banking services** (level I or II) with extensive experience in consumer rights with regard to access to financial products.

- **Senior expert in gender equality and anti-discrimination law** (level I or II) with extensive experience on discrimination on the grounds of age, disability and sex (and the other grounds).
- **Other expert(s)** (level I, II, III and/or IV) with experience in the above-mentioned fields and language skills allowing for field research in at least 15 EU Member States or EEA countries.

One of the senior experts should be designated as **project manager** for this study. He/she will be responsible for contacts with the European Commission and will attend all meetings, accompanied by other experts as appropriate. This expert must demonstrate the experience and ability to perform the management and coordination of large-scale contracts and studies at European level.

All senior experts must have excellent drafting and oral presentation skills in English and, if possible, very good knowledge of other Community languages. Other team members must demonstrate a solid research experience in the field concerned and sufficient language skills to perform the tasks efficiently and to ensure access to information in at least 15 EU Member States or EEA countries. For the remaining Member States and EEA countries, the tenderer must explain how information will be obtained.

The core team of experts proposed by the tenderer should not be too large in order to ensure an efficient management of the assignment.

Technical and professional capacity to carry out the contract will be assessed on the basis of the following:

- detailed CVs of all team members participating in the execution of this study.
- a list of the main services provided or studies carried out in the relevant field over the last five years;
- a declaration by the coordinator certifying that the team has the skills needed to carry out the study, including the necessary professional and linguistic ability;
- in the case of tenders from consortia: clear identification of the coordinator of the work, who will also be responsible for signing the contract, and written confirmation from each member of the consortium that they would be ready and willing to participate in the project, and that they have sufficient time to complete their tasks.

See also Annex IV of the draft contract.

13. **Award criteria**

The contract will be awarded to the bid offering the best price/quality ratio, taking account of the following criteria:

- **Approach (30%)**: understanding of the nature of the assignment, its context and the results to be achieved;
- **Methodology (40%)**: qualitative value of the proposal, including the clarity, quality and innovativeness of the overall methodology, with particular emphasis on the following aspects: identification of sources of information, collection of information, field research in Member States, contact with and consultation of stakeholders, planned presentation of the findings, validation of conclusions;
- **Work organisation (30%)**: quality of the presentation of the administrative and logistical tasks involved, in particular the project management, the allocation of tasks and responsibilities, the coordination between tasks and experts and measures to ensure quality and coherence of results.

Please note that the contract will not be awarded to any bid that receives less than 70 % in the award criteria. The points total will then be divided by the price, with the highest-scoring bid being chosen.

14. **Content and presentation of bids**

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 (see points 12 and 13 above);
- 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 in a standardised Europass format⁷;
- 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.

Presentation of bids

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

They must include all the information required by the Commission (see points 9, 10, 11 and 12 above).

They must be clear and concise.

They must be signed by the legal representative.

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

⁷ <http://europass.cedefop.europa.eu/europass/home/vernav/Europasss+Documents/Europass+CV.csp>

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