



EUROPEAN COMMISSION

Employment, Social Affairs and Equal Opportunities DG

Equality between Men/Women, Action against Discrimination, Civil Society
Action against Discrimination, Civil Society

Service Contract

Contract title **Support for voluntary initiative promoting diversity management at the workplace across the EU**

Contract ref. no. **VC/2009/0407**
The above title and reference no. **must** be quoted in **all** correspondence with the Commission.

Contractor
.....

Other administrative information

Department **DG EMPL/G/4**

Pre-information notice O.J. publication ref. no: —
Call for tenders DG EMPL ref. no: VT/2009/005 of 12/05/2009
Contract notice O.J. publication ref. no: 2009/S 90-129067
EPIC (CIAME) ref. no:/.....
Service category no: A10

Other accounting information

Commitment no. **SI2.**
This commitment no. **must** be quoted in correspondence relating to **invoices / payments.**

Type of Contract V/SE/SEC02

The European Community (hereinafter referred to as “**the Community**”),
represented by the Commission of the European Communities (hereinafter referred to as “**the Commission**”),
which is represented for the purposes of the signature of this Contract by Fay DEVONIC, Head
of Unit - EMPL/G/4, Employment, Social Affairs and Equal Opportunities DG,

on the one part,

AND

.....(*official name in full*),
registered legal form:,
statutory registration number:,
official address in full:,
VAT registration number:,
(hereinafter referred to as “**the Contractor**”),
represented for the purposes of the signature of this Contract by(*forename and name
in full*),(*function*),

of the other part,

HAVE AGREED

the **Special Conditions** and the **General Conditions** below and the following **Annexes**:

- **Annex I** Tender Specifications (Invitation to Tender no. VT/...../..... of)
and Monitoring
- **Annex II** Contractor's Tender (Registre CAD ref. no. of)
- **Annex III** Breakdown of prices
- **Annex IV** CVs and classification of experts
- **Annex V** Fiscal provisions regarding invoicing by the Contractor
[“Submission of reports” option]
[option 1: normal (no Annex VI)]
[option 2: special Annex VI (PROGRESS 2007-2013)]
- **Annex VI** Final technical report to be submitted
- [end of “Submission of reports option”]

which form an integral part of this Contract (hereinafter referred to as “**the Contract**”).

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annexes. The terms set out in the Tender Specifications (Annex I) and in the Breakdown of prices (Annex III) shall take precedence over those in the Tender (Annex II).

Subject to the above, the several instruments forming part of this Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the Commission, subject to the rights of the Contractor under Article I.7 should he dispute any such instruction.

I. **Special conditions**

Article I.1 **Subject**

I.1.1. The subject of the Contract is: **Support for voluntary initiative promoting diversity management at the workplace across the EU.**

I.1.2. The Contractor shall execute the tasks assigned to him in accordance with the Tender Specifications annexed to the Contract (Annex I).

Article I.2 **Duration**

I.2.1. The Contract shall enter into force on the date on which it is signed by the last contracting party. The date of signature of the present Contract is that of the date stamp applied by the postal services of Employment, Social Affairs and Equal Opportunities DG on the title page of the present Contract after it has been signed by both parties.

I.2.2. Execution of the tasks may under no circumstances begin before the date on which the Contract enters into force.

I.2.3. The duration of the tasks shall not exceed 12 months. This period and all other periods specified in the Contract are calculated in calendar days. Execution of the tasks shall start from the date of entry into force of the Contract. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

The Commission is not obliged to react to any request for extension of the duration of the tasks received less than 30 days before expiry of the period of execution or with less than one third of the period of execution left to run, whichever period is the shorter.

I.2.4. The Contract may be renewed up to 3 time(s), each time for a period of execution of the tasks of 12 months, only before payment of the balance and with the express written agreement of the parties, indicating the date on which execution of the tasks shall start. Renewal does not imply any modification or deferment of existing obligations.

Article I.3 **Contract price**

I.3.1. *Maximum total amount*

The maximum total amount to be paid by the Commission under the Contract shall be EUR 400 000.00 covering all tasks executed.

I.3.2. *Price revisions*

Not applicable.

I.3.3. *Travel, subsistence and shipment expenses*

Not applicable.

Article I.4 **Payment periods and formalities**

Payments under the Contract shall be made in accordance with Article II.4. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the

invoice is submitted. Payment requests may not be made if payments for previous periods have not been executed as a result of default or negligence on the part of the Contractor.

I.4.1. Pre-financing

Not applicable.

I.4.2. Interim payment

Requests for interim payment by the Contractor shall be admissible if accompanied by

- an interim technical report in accordance with the instructions laid down in Annex I,
- the relevant invoices,

provided the report has been approved by the Commission.

The Commission shall have 60 days from receipt to approve or reject the report, and the Contractor shall have 30 days in which to submit additional information or a new report.

Within 30 days of the date on which the report is approved by the Commission, an interim payment corresponding to the relevant invoices, up to maximum 70% of the total amount referred to in Article I.3.1, shall be made.

I.4.3. Payment of the balance

The request for payment of the balance of the Contractor shall be admissible if accompanied by:

- the final technical report in accordance with the instructions laid down in Annex I,
- the relevant invoices,

provided the report has been approved by the Commission.

The Commission shall have 60 days from receipt to approve or reject the report, and the Contractor shall have 30 days in which to submit additional information or a new report.

Within 30 days of the date on which the report is approved by the Commission, payment of the balance of the total amount referred to in Article I.3.1 shall be made.

I.4.4. Performance guarantee

Not applicable.

Article I.5 Bank account

Payments shall be made to the Contractor's bank account denominated in euro ¹, identified ² as follows:

- Name of bank:
- Address of branch in full:
- Exact designation of account holder:
- Full account number including codes:
- IBAN or, if non available, BIC code: —

Article I.6 General administrative provisions

Any communication relating to the Contract shall be made in writing and shall bear the Contract number. Ordinary mail shall be deemed to have been received by the Commission on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses:

Commission

European Commission
Directorate-General Employment, Social Affairs and Equal Opportunities
EMPL/G/4
B-1049 Brussels (Belgium)

¹ Or local currency where the receiving country does not allow transactions in EUR.

² By a document issued or certified by the bank.

Contractor

..... (Mr/Mrs/Ms + forename and name)

..... (function)

..... (company name)

..... (official address in full)

Article I.7 Applicable law and settlement of disputes

I.7.1. The Contract shall be governed by Community law, complemented, where necessary, by the national substantive law of Belgium.

I.7.2. Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the courts of Brussels.

Article I.8 Other special conditions**Definition of the term "payment request" regarding the interests for late payments**

It is understood that a payment request, as mentioned in Article II.5.3, will only be considered as complete, if all specific documents mentioned in Article I.4; are joined to this request. If these specific documents are not sent to the Commission all together with the payment request, the 60 days shall only run from the date of the first registered receipt of the last document, making the payment request complete. As regards payments subject to the prior approval of a report (or to the signature of a certificate of final acceptance for supplies delivery) by the Commission, according to Article I.4, the period of 30 calendar days shall start only on the date when both the complete payment request has been registered and the report has been approved (or the certificate of final acceptance has been signed) by the Commission, provided the Commission has itself respected the time limits set in the present Contract and its annexes for such approvals.

Data protection

Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. It shall be processed solely for the purposes of the performance, management and follow-up of the Contract by Employment, Social Affairs and Equal Opportunities DG without prejudice to possible transmission to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF) for the purposes of safeguarding the financial interests of the Community.

The Contractor shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the Contractor have any queries concerning the processing of his personal data, he shall address them to Employment, Social Affairs and Equal Opportunities DG. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

Termination by either contracting party

Either contracting party may, of its own volition and without being required to pay compensation, terminate the Contract by serving 30 days formal prior notice. Should the Commission terminate the Contract, the Contractor shall only be entitled to payment corresponding to part-performance of the Contract. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

Other additional special conditions

Annex VI is an integral part of this contract

Article I.4.2 Interim payment is modified as follows :

Interim payment 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:

- 8 weeks after signature of the contract the Contractor can submit to the Commission a formal request for a first interim payment accompanied by an inception note describing progress since signature of the contract and the relevant invoices covering actual costs. Acceptance by the Commission of the inception note is a precondition for payment. The total amount of this interim payment cannot exceed 20% of the total amount specified under Article I.3.1.
 - At the earliest six months after signature of the contract the Contractor can submit to the Commission a formal request for a second interim payment. This request needs to be accompanied by an interim report and the relevant invoices covering actual costs. Acceptance by the Commission of the interim report is a precondition for payment.
- The Commission shall have 60 days from receipt to approve or reject the relevant reports, and the Contractor shall have 30 days in which to submit additional information or a new report. Within 30 days of the date on which the report is approved by the Commission, an interim payment corresponding to the relevant invoices shall be made.
- The total accumulated amount of these interim payments cannot exceed 70% of the total amount specified under Article I.3.1.

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II. General conditions

Article II.1 Performance of the Contract

II.1.1. The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.

II.1.2. The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.

II.1.3. Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.

II.1.4. The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to him.

II.1.5. The Contractor shall neither represent the Commission nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the European public service.

II.1.6. The Contractor shall have sole responsibility for the staff who execute the tasks assigned to him.

The Contractor shall make provision for the following employment or service relationships with his staff:

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Commission;
- the Commission may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Commission any right arising from the contractual relationship between the Commission and the Contractor.

II.1.7. In the event of disruption resulting from the action of a member of the Contractor's staff working on Commission premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Commission shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.

II.1.8. Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Commission. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

II.1.9. Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, the Commission may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the Commission may impose penalties or liquidated damages provided for in Article II.16.

Article II.2 Liability

II.2.1. The Commission shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of the Commission.

II.2.2. The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.13. The Commission shall not be liable for any act or default on the part of the Contractor in performance of the Contract.

II.2.3. The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the Commission by a third party as a result of damage caused by the Contractor in performance of the Contract.

II.2.4. In the event of any action brought by a third party against the Commission in connection with performance of the Contract, the Contractor shall assist the Commission. Expenditure incurred by the Contractor to this end may be borne by the Commission.

II.2.5. The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the Commission should it so request.

Article II.3 Conflict of Interests

II.3.1. The Contractor shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified to the Commission in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

The Commission reserves the right to verify that such measures are adequate and may require additional measures to be taken, if necessary, within a time limit which it shall set. The Contractor shall ensure that his staff, board and directors are not placed in a situation which could give rise to conflict of interests. Without prejudice to Article II.1 the Contractor shall replace, immediately and without compensation from the Commission, any member of his staff exposed to such a situation.

II.3.2. The Contractor shall abstain from any contact likely to compromise his independence.

II.3.3. The Contractor declares:

- that he has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the Contract,
- that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.

II.3.4. The Contractor shall pass on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract. A copy of the instructions given and the undertakings made in this respect shall be sent to the Commission should it so request.

Article II.4 Payments

II.4.1. Pre-financing

Where required by Article I.4.1, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract. Such guarantee

may be replaced by a joint and several guarantee by a third party. The guarantor shall pay to the Commission at its request an amount corresponding to payments made by it to the Contractor which have not yet been covered by equivalent work on his part. The guarantor shall stand as first-call guarantor and shall not require the Commission to have recourse against the principal debtor (the Contractor). The guarantee shall specify that it enters into force at the latest on the date on which the Contractor receives the pre-financing. The Commission shall release the guarantor from its obligations as soon as the Contractor has demonstrated that any pre-financing has been covered by equivalent work. The guarantee shall be retained until the pre-financing has been deducted from interim payments or payment of the balance to the Contractor. It shall be released the following month. The cost of providing such guarantee shall be borne by the Contractor.

II.4.2. Interim payment

At the end of each of the periods indicated in Annex I the Contractor shall submit to the Commission a formal request for payment accompanied by those of the following documents which are provided for in the Special Conditions:

- an interim technical report in accordance with the instructions laid down in Annex I;
- the relevant invoices indicating the reference number of the Contract to which they refer;
- statements of reimbursable expenses in accordance with Article II.7.

If the report is a condition for payment, on receipt the Commission shall have the period of time indicated in the Special Conditions in which:

- to approve it, with or without comments or reservations, or suspend such period and request additional information; or
- to reject it and request a new report.

If the Commission does not react within this period, the report shall be deemed to have been approved. Approval of the report does not imply recognition either of its regularity or of the authenticity, completeness or correctness of the declarations or information enclosed. Where the Commission requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions. The new report shall likewise be subject to the above provisions.

II.4.3. Payment of the balance

Within sixty days of completion of the tasks referred to in Annex I the Contractor shall submit to the Commission a formal request for payment accompanied by those of the following documents which are provided for in the Special Conditions:

- a final technical report in accordance with the instructions laid down in Annex I;
- the relevant invoices indicating the reference number of the Contract to which they refer;
- statements of reimbursable expenses in accordance with Article II.7.

If the report is a condition for payment, on receipt the Commission shall have the period of time indicated in the Special Conditions in which:

- to approve it, with or without comments or reservations, or suspend such period and request additional information; or
- to reject it and request a new report.

If the Commission does not react within this period, the report shall be deemed to have been approved. Approval of the report does not imply recognition either of its regularity or of the authenticity, completeness or correctness of the declarations and information enclosed. Where the Commission requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions. The new report shall likewise be subject to the above provisions.

Article II.5 General Provisions concerning Payments

II.5.1. Payments shall be deemed to have been made on the date on which the Commission's account is debited.

II.5.2. The payment periods referred to in Article I.4 may be suspended by the Commission at any time if it informs the Contractor that his payment request is not admissible, either because the amount

is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the Commission may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The Commission shall notify the Contractor accordingly and set out the reasons for the suspension by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.4 shall begin to run again once the suspension has been lifted.

II.5.3. In the event of late payment the Contractor shall be entitled to interest, provided the calculated interest exceeds EUR 200. In case interest does not exceed EUR 200, the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations ("*the reference rate*") plus seven percentage points ("*the margin*"). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the Commission may not be deemed to constitute late payment.

Article II.6 Recovery

II.6.1. If total payments made exceed the amount actually due under the Contract or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits set by the Commission.

II.6.2. In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.5.3. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.

II.6.3. The Commission may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the Communities that is certain, of a fixed amount and due. The Commission may also claim against the guarantee, where provided for.

Article II.7 Reimbursements

II.7.1. Where provided by the Special Conditions or by Annex I, the Commission shall reimburse the expenses which are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets.

II.7.2. Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.

II.7.3. Travel expenses shall be reimbursed as follows:

- (a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
- (b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
- (c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;
- (d) travel outside Community territory shall be reimbursed under the general conditions stated above provided the Commission has given its prior written agreement.

II.7.4. Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:

- (a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
- (b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;

- (c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;
- (d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.3.

II.7.5. The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the Commission has given prior written authorisation.

Article II.8 Ownership of the Results – Intellectual and Industrial Property

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

Article II.9 Confidentiality

II.9.1. The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.

II.9.2. The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

Article II.10 Use, Distribution and Publication of Information

II.10.1. The Contractor shall authorise the Commission to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article I.8 shall apply.

II.10.2. Unless otherwise provided by the Special Conditions, the Commission shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Commission.

II.10.3. Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the Commission and shall mention the amount paid by the Community. It shall state that the opinions expressed are those of the Contractor only and do not represent the Commission's official position.

II.10.4. The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Commission has specifically given prior written authorisation to the contrary.

Article II. 11 Taxation

II.11.1. The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.

II.11.2. The Contractor recognises that the Commission is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities.

II.11.3. The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.

II.11.4. Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

Article II.12 **Force Majeure**

II.12.1. *Force majeure* shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as *force majeure* unless they stem directly from a relevant case of *force majeure*.

II.12.2. Without prejudice to the provisions of Article II.1.8, if either contracting party is faced with *force majeure*, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.

II.12.3. Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by *force majeure*. Where the Contractor is unable to perform his contractual obligations owing to *force majeure*, he shall have the right to remuneration only for tasks actually executed.

II.12.4. The contracting parties shall take the necessary measures to reduce damage to a minimum.

Article II.13 **Subcontracting**

II.13.1. The Contractor shall not subcontract without prior written authorisation from the Commission nor cause the Contract to be performed in fact by third parties.

II.13.2. Even where the Commission authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Commission under the Contract and shall bear exclusive liability for proper performance of the Contract.

II.13.3. The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Commission is entitled by virtue of the Contract, notably Article II.17.

Article II.14 **Assignment**

II.14.1. The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Commission.

II.14.2. In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Commission.

Article II.15 **Termination by the Commission**

II.15.1. The Commission may terminate the Contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject

- of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has 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 he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
 - (c) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of professional misconduct;
 - (d) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
 - (e) where the Commission has evidence or seriously suspects the Contractor or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;
 - (f) where the Contractor is in breach of his obligations under Article II.3;
 - (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Commission as a condition of participation in the Contract procedure or failed to supply this information;
 - (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Commission's opinion, have a significant effect on the performance of the Contract;
 - (i) where execution of the tasks has not actually commenced within three months of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Commission;
 - (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
 - (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

II.15.2. In case of *force majeure*, notified in accordance with Article II.12, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.3.

II.15.3. Prior to termination under point c), d), e), h) or k), the Contractor shall be given the opportunity to submit his observations.

Termination shall take effect on the date on which a registered letter with acknowledgment of receipt terminating the Contract is received by the Contractor, or on any other date indicated in the letter of termination.

II.15.4. Consequences of termination

In the event of the Commission terminating the Contract in accordance with this Article and without prejudice to any other measures provided for in the Contract, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

The Commission may claim compensation for any damage suffered and recover any sums paid to the Contractor under the Contract.

On termination the Commission may engage any other contractor to complete the services. The Commission shall be entitled to claim from the Contractor all extra costs incurred in making good and completing the services, without prejudice to any other rights or guarantees it has under the Contract.

Article II.15a Substantial errors, irregularities and fraud attributable to the Contractor

Where, after the award of the Contract, the award procedure or the performance of the Contract prove to have been subject to substantial errors, irregularities or fraud, and where such errors, irregularities

or fraud are attributable to the Contractor, the Commission may refuse to make payments, may recover amounts already paid or may terminate all the contracts concluded with the Contractor, in proportion to the seriousness of the errors, irregularities or fraud.

Article II.16 **Liquidated Damages**

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Commission's right to terminate the Contract, the Commission may decide to impose liquidated damages of 0.2% of the amount specified in Article I.3.1 per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Commission within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. The Commission and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

Article II.17 **Checks and Audits**

II.17.1. Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the European Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the European Communities from signature of the Contract up to five years after payment of the balance.

II.17.2. The Commission or an outside body of its choice shall have the same rights as the European Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance.

II.17.3. In addition, the European Anti Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance.

Article II.18 **Amendments**

Any amendment to the Contract shall be the subject of a written agreement concluded by the contracting parties. An oral agreement shall not be binding on the contracting parties.

Article II.19 **Suspension of the Contract**

Without prejudice to the Commission's right to terminate the Contract, the Commission may at any time and for any reason suspend execution of the tasks under the Contract or any part thereof. Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. The Commission may at any time following suspension give notice to the Contractor to resume the work suspended. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract or of part thereof.

Signatures

1. For the Contractor,
..... (forename and name)
..... (position)
..... (company name)

2. For the Commission,
Fay DEVONIC
Head of Unit - EMPL/G/4
Employment, Social Affairs and Equal
Opportunities DG

Done at (place), Done at Brussels,
..... (date) (date)

In duplicate in English.



Tender Specifications and Monitoring

ANNEX I Tender No. VT/...../... of

1. TITLE OF THE CONTRACT

Support for voluntary initiatives promoting diversity at the workplace across the EU

2. 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 2006.

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 2009 annual plan of work which is consultable at

<http://ec.europa.eu/social/main.jsp?catId=623&langId=en>

3. BACKGROUND

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

In 2005, DG Employment, Social Affairs and Equal Opportunities commissioned a study entitled "The Business Case for Diversity: Good practices in the workplace"³ which included a EU-wide survey among companies across the EU. Of the 800 companies that participated in the survey, around 400 reported they already had a diversity policy or strategy in place. 83% of these said that their diversity initiatives had had positive repercussions for company results.

The study showed clearly that companies were making steady progress towards implementing diversity and equality strategies at the workplace. The companies surveyed said they were doing it for the clear business benefits it brought, not just for ethical and legal reasons.

The main benefit companies saw in having a diversity strategy in place lied in the way it helps in tackling manpower shortages, and in particular in recruiting and retaining highly qualified staff. This factor is likely to become more and more important, given the increasingly acute shortages of manpower companies face and demographic trends.

Companies surveyed also said that they developed diversity strategies to enhance their image, generate more creativeness and innovation, increase motivation and with it, efficiency among their employees, and broaden their customer base.

But half of the companies surveyed in 2005 had not yet put a diversity policy in place. They sometimes hesitate:

- because they don't know how to go about encouraging and managing diversity;
- because they don't know how to quantify the potential benefits;
- or because of discriminatory attitudes and behaviour at the workplace.

Following on from that study, the Commission decided to step up its commitment to promoting diversity and diversity management in companies.

A major target in 2006 was small and medium-sized enterprises, particularly as they play such an important role in the economy. There are some 23 million SMEs in Europe, representing around 75 million jobs. DG Employment, Social Affairs and Equal Opportunities organised a major conference on the advantages of diversity, with the aim of informing SMEs, raising awareness among them and answering their questions on this topic. For the conference, a guide for SMEs entitled "Diversity at work – 8 steps for SMEs"⁴ was produced.

Between autumn 2007 and spring 2008, the Commission organised a total of 28 seminars across Europe to help companies get more familiar with diversity management and its benefits. Seminars were held for companies and employers' organisations in each Member State, plus Turkey. For these training seminars, a training manual was prepared in all languages⁵. More than a thousand companies and employers organisations took part in the seminars. The training sessions were particularly useful for countries in southern Europe and in the "new" Member States, where companies are much less familiar with diversity management.

In its Communication 'Non-discrimination and equal opportunities: a renewed commitment' adopted on 2 July 2008⁶ the Commission recognised that legislation is more effective when it goes hand in hand with progressive and innovative strategies implemented by employers to manage an increasingly

³ http://ec.europa.eu/employment_social/fundamental_rights/public/pubst_en.htm#train

⁴ "Diversity at work – 8 steps for small and medium-sized businesses "
<http://www.conference.stopdiscrimination.info/2090.0.html>

⁵ http://ec.europa.eu/employment_social/fundamental_rights/public/pubst_en.htm#train

⁶ COM (2008) 420 final

diverse workforce. It highlighted that the Council has called on the Member States and the Commission to promote workforce diversity further and to foster the development of suitable business tools, including voluntary charters. It underlined that, with the support of business and employers' organisations, the Commission will encourage voluntary EU-wide initiatives.

In 2008, DG Employment, Social Affairs and Equal Opportunities commissioned a study entitled "Continuing the diversity journey – business practices, perspectives and benefits"⁷.

The study had five main objectives:

- To update the picture of diversity management practice and perspectives of companies across Europe;
- To gain greater in-depth understanding of the advantages diversity can bring SMEs — and of the obstacles they face;
- To understand diversity, innovation and productivity better and to make the link between them;
- To foster cooperation between the business sector and business schools;
- To examine the added value of the business sector's voluntary initiatives — and in particular the diversity charters existing in France, Germany and the Brussels Capital Region.

The results of the study can be consulted in a publication produced for a conference disseminating the results and held in December 2008 in Brussels:

<http://ec.europa.eu/social/main.jsp?catId=88&langId=en&eventId=125&moreDocuments=yes&tableName=events>

3.1. A special focus on diversity charters

Main results of the 2008 study with regard to the added value of the business sector's voluntary initiatives – and in particular of the diversity charters already existing include:

- Diversity charters are among the latest in a list of voluntary diversity initiatives aimed at encouraging companies to take diversity seriously, and develop and implement diversity policies.
- Unlike many kinds of initiatives, however, diversity charters are seen as both valuable starting points for companies wishing to embark upon the diversity journey and as a framework for companies to develop existing policies.
- Because of their "dual role," little consensus exists between charter signatories over the degree to which commitments should be monitored and rewarded. While companies that actively seek diversity accolades recognise the benefit of having one awarded by the charter, companies that are new to diversity do not. It seems that a clear line must be drawn between creating a diversity charter that is open to all companies and ensuring that real actions on diversity do stem from it.
- Although opinions are strongly divided over the value of an EU level diversity charter – with a large number of companies simply unsure about where they stand – the preference would seem to be for more charters at the national level (and within countries perhaps even to the regional level). The vast majority of companies and SMEs operate at regional and even just local level. Diversity initiatives are thus most valuable when they speak to issues and concerns relevant to those levels.
- At EU level, there is a need: (a) to actively promote the exchange of experience between charter organisations; (b) to promote the establishment of charters in other countries; and (c) to consider establishing an awards scheme and/or a Europe-wide 'labels' initiative. There could also be some value for companies operating EU-wide to consider establishing an EU-level charter.

The special report produced alongside the above-mentioned publication and entitled "The role of diversity charters"⁸ focuses on the implementation of diversity charters in France, Germany and

⁷ <http://ec.europa.eu/social/main.jsp?catId=88&langId=en&eventId=125&furtherEvents=yes>

⁸ <http://ec.europa.eu/social/main.jsp?catId=423&langId=en&eventId=125&moreDocuments=yes&tableName=events>

Brussels-Capital. Since finalisation of this report, important developments have taken place in other countries, in particular in Spain, where a national diversity charter was officially launched on 17 March 2009. Other countries are likely to follow these examples.

In the framework of the work carried out for the European Commission in 2008, organisations and persons in charge of implementing or facilitating national or regional diversity charters had a first opportunity to meet, exchange their experiences and learn from each other. Upon request of these organisations and persons in charge, the European Commission now wishes to support this process of exchange and mutual learning further.

3.2. Workforce monitoring, measuring results and benchmarking

One of the key findings of the above mentioned 2005 study on the "Business Case for Diversity" was the lack of systematic monitoring and evaluation of the progress and benefits of diversity among companies.

Among companies, a few examples of comprehensive monitoring were found. These companies tended to place a great deal of emphasis on internal and external benchmarking, and on the value of effective monitoring systems to enhance their demographic knowledge of markets and local communities. Many other companies also undertook some goal setting and monitoring activities, stressing their value in helping them to make a case for action by providing vital information about workforce and customer make-up. These activities also helped to demonstrate companies' commitment to effective implementation of diversity policies.

While a range of models and frameworks for setting indicators and measuring diversity performance already exists, the challenge is to promote wider application of such tools across businesses that have adopted diversity policies. Some of the common performance indicators used are: the increase in the representation of women, disabled people and ethnic minorities, especially at senior levels, in some cases linked to specific targets for each; the retention rate for high calibre managers, especially women and ethnic minorities; and the improvement in employee perceptions of diversity issues, measured against a target percent satisfaction rating in employee attitude surveys.

In 2007, the European Commission published a European handbook on equality data⁹. The handbook highlights that workforce diversity monitoring should ideally cover all aspects relating to employment, including promotion, pay and other conditions of work and termination of employment relationships. It underlines that obtaining information with regard to the representation of the different equality groups within the workforce can be useful, especially when monitoring is carried out on an on-going basis or repeated at regular intervals, as the development of longitudinal data allows the assessment of trends. But it argues that, when the internal data of an organisation can be compared with some external benchmark data, the internal data becomes even more useful.

Beyond official statistical data an important source of such benchmark data, especially when official statistical data does not exist, a useful point of comparison can be provided by data gathered by similar organisations, especially where a group of organisations has agreed to pool their data to provide a joint benchmark against which each can assess its performances.

4. PURPOSE OF THE CONTRACT

The purpose of this contract is to support voluntary initiatives promoting diversity management at the workplace across the EU. The main focus shall be on voluntary diversity initiatives taken by business and organisations working with business aimed at promoting and valuing diversity at the workplace. The initiatives considered in the framework of this contract shall primarily cover the following diversity

⁹ http://ec.europa.eu/employment_social/publications/booklets/fundamental_rights/pdf/ke7606381_en.pdf

strands: race and ethnic origin, religion or belief, age, disability, sexual orientation as well as initiatives covering multiple strands. Gender-related aspects shall be mainstreamed in all activities¹⁰.

More specifically, the main objectives of the contract are:

- a) to create and maintain a platform for EU-level exchange between organisations and persons in charge of promoting and implementing national and regional diversity charters
- b) to develop and implement a European diversity at the workplace award and/or index scheme
- c) to develop diversity benchmark data for and with business

The contract will cover the 27 EU Member States and the EFTA-EEA countries participating in PROGRESS.

5. TASKS TO BE CARRIED OUT BY THE CONTRACTOR

The contractor will carry out its tasks in close collaboration with the Commission services (EMPL/G/4). The contractor will meet with the Commission services and a steering group set up by the Commission at least four times over the contractual period in order to report on progress and decide on next steps to be taken.

The contractor shall actively exploit synergies between the following three tasks.

1.1. Description of the tasks

Task 1: Organise and maintain a platform for EU-level exchange between organisations promoting and implementing national and regional diversity charters

The contractor will organise and maintain a platform for EU-level exchange (EU Diversity Charter Exchange) between public and private organisations promoting and implementing diversity charters at national and regional level.

The platform shall be open to organisations promoting and implementing already existing national and regional diversity charters and to organisations representing new national or regional diversity charters that may be put in place within the contractual period. It shall be composed of up to two representatives by national or regional diversity charter.

Based on experiences in 2008, the Commission is confident that representatives from the diversity charters in Germany, France, Spain and Brussels-Capital would be interested to participate. In preparing the budget, the contractor shall include sufficient flexibility in order to be able to accommodate for representatives of new diversity charters that may be put in place within the contractual period.

The EU Diversity Charter Exchange shall represent an opportunity for exchange of information and experience and for mutual learning and will through its work provide support to its members as well as to organisations and persons aiming at setting up national or regional diversity charters in countries where they do not yet exist.

Based on initial consultations between the European Commission and relevant organisations and key persons at the end of 2008, main topics the EU Diversity Charter Exchange could include (non-exhaustive list; to be discussed and finalised with the members of the Exchange):

- how diversity charters are being set up and operated
- how diversity charters are funded nationally and regionally;

¹⁰ <http://ec.europa.eu/social/main.jsp?langId=en&catId=418>

- how to better promote diversity and diversity charters among non-signatory companies; how to attract signatories
- define strategies to attract SME signatories and give them the support they need;
- define strategies to include intermediary organisations in the process of creating awareness about diversity charters;
- how to attract companies that have signed up to a charter in one country to sign up to a charter in another country
- the type of support signatory companies look forward to after having signed up to a charter
- how to build capacity within regional and local organisations to provide support for SMEs;
- how to monitor commitments;
- good practices among signatory companies of all sizes;
- develop a guide or manual for setting up a national diversity charter allowing space to adapt to local, social, political and entrepreneurial cultures and realities;
- definitions of diversity and diversity management in relevant country contexts and work towards a common understanding of diversity and diversity management;
- role or contribution of public and private associations and NGOs that represent specific groups

The members of the EU Diversity Charter Exchange shall meet physically up to three times over the contractual period.

The contractor shall:

- ensure that a clear and structured work-plan is agreed by the members of the EU Diversity Charter Exchange at the beginning of the contractual period. The work-plan shall include objectives and clear outcomes to be achieved indicating timing and distribution of tasks. The work-plan shall be agreed with the Commission.
- be responsible for the organisation of the physical meetings of the EU Diversity Charter Exchange which will include:
 - identification, liaison and invitation of participants (1-2 persons per charter)
 - venue booking and payment
 - preparation of the agenda (1 day meetings)
 - logistical support for participants
 - dissemination of relevant information and documents prior to the meeting
 - management of travel and accommodation of participants including reimbursement
 - facilitation of the meetings
 - drafting of agreed minutes (10 pages maximum; in English) within two weeks of each physical meeting

The Commission would recommend that physical meetings of the EU Diversity Charter Exchange take place in the countries/regions which its members represent so as to also allow for site visits in the relevant charter organisations, if appropriate.

- provide for expert fees to be paid to members of the EU Diversity Charter Exchange if necessary
- ensure and facilitate communication between the members of the EU Diversity Charter Exchange in between physical meetings (web seminars, video conferencing, teleconferencing, forum, chats etc.)
- ensure that he/she is aware of developments towards national or regional diversity charters in countries/regions where they do not yet exist in order to be able to provide assistance and advice related to their establishment to organisations or individuals in these countries/regions
- ensure and facilitate external communication to organisations and persons interested in the activities and results of the EU Diversity Charter Exchange. To that purpose, the contractor shall not only act as point of information and advice to individuals and individual organisations

but also prepare the contents of relevant information to be put on the European Commissions "For Diversity – Against Discrimination" website:

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

The contractor will prepare the contents of this information in close cooperation with the Commission. It shall include, for example, information about the activities of the EU Diversity Charter Exchange, guidance for setting up national or regional Diversity Charters, information about existing charters, interesting developments in potential new charter countries/regions, contact information in relevant countries/regions etc. The contractor will prepare this information in English. The Commission will ensure translation into the languages of the "For Diversity – Against Discrimination" website. The contractor will ensure that the information available on the website is regularly updated.

- Organise a high-level event (1 day) towards the end of the contractual period with the members of the EU Diversity Charter Exchange, the European Commission and selected organisations providing support to existing Charters. The event shall be attended in addition by up to three companies having signed up to the relevant Diversity Charters and being considered as good-practice examples by the members of the EU Diversity Exchange.

The contractor will be responsible for:

- Identifying an appropriate venue (four star or equivalent, accessible for disabled participants) in one of the EU Member States
- Reserving meeting rooms
- Organising interpretation if considered necessary
- Conceptualising and drafting an agenda in English (with translation if considered necessary)
- Making the conference agenda available in Braille language (if needed)
- Contacting and inviting potential high-level speakers
- Sending invitations to participants
- Handling the reservation of accommodation and flights for participants (costs for 30 participants to be planned for in the proposed budget for reimbursement by the contractor)
- Drafting (English, 10 pages maximum) a report on the event and all the activities carried out by the EU Diversity Charter Exchange over the contractual period within two weeks after the event. The report shall be accompanied by 3-5 photos and shall be translated into French and German after acceptance by the Commission.

Summary of main outputs requested under Task 1:

- Organise and maintain a platform for EU-level exchange (EU Diversity Charter Exchange) between public and private organisations promoting and implementing Diversity Charters at national and regional level.
- Organise and facilitate up to three 1-day physical meetings of the EU Diversity Charter Exchange per year
- Agree a work-plan with the members of the EU Diversity Charter Exchange and produce minutes of each physical meeting
- Ensure and facilitate internal and external communication of the EU Diversity Charter Exchange, including website contents
- Organise an annual high-level event of the EU Diversity Charter Exchange
- Draft a report on the event and the activities of the EU Diversity Charter Exchange

Task 2: Development of a European diversity award and/or index scheme at the workplace

Beyond Diversity Charters, there exist other types of voluntary initiatives that encourage companies to adopt or further develop their existing diversity policies. These include competitions for "Best Practice" awards issued by external bodies, systems of ranking and benchmarking that measure success in

developing and implementing diversity policies, index schemes and collaborations between private companies and public sector contractors that encourage business between organisations with a proven record of accomplishment of diversity. Successful national examples include for example the Stonewall Workplace Equality Index ranking Britain's top employers for lesbian, gay and bisexual (LGB) staff or the MIA¹¹ Award handed out annually by the Danish Institute for Human Rights.

The European Commission wishes to establish a European diversity award and/or index scheme that draws on successful national examples. The bidder should note that the European Commission is particularly keen to promote holistic diversity practices as good practice, i.e. diversity initiatives that cover and set standards for all diversity strands covered by this contract.

The bidder is requested to propose in its bid a draft methodology for the organisation and implementation of this award and/or index scheme. When proposing the methodology, the bidder shall make clear recommendations with regard to the following points (the bidder is welcome to add additional considerations in its proposal):

- Benefits/Challenges of a European diversity award
- Benefits/Challenges of a European index scheme
- Benefits/Challenges of a combination of the two
- Which criteria companies will have to fulfil to qualify or being considered for an award?
- What should be the guiding principles of the award and/or index scheme?
- How to reach out to SMEs?
- How to reach out to companies in the new Member States?
- How to maximise awareness of the award and/or index scheme? How to reach out to specialised press targeting business?
- How to maximise take up and credibility of the initiative among companies?
- How to assess the diversity practices in companies that apply for the award and/or index scheme? Using a survey module or including site visits?
- How to organise a high-level event disseminating the results of the initiative?

When preparing the bid, the contractor is asked to include a reflection on the opportunity of combining the event mentioned under Task 1 with the event mentioned under Task 2. A final decision will be taken by the European Commission at the beginning of the contractual period.

The contractor selected will be in charge of all practical aspects related to the European award and/or index scheme, including

- Conceptualisation of the initiative
- Awareness-raising about the initiative
- Attracting companies wishing to participate
- Selecting/rating companies
- Organising a high-level event disseminating the results of the initiative (such as a award ceremony or similar), including all logistical aspects

In carrying out this task the contractor will work closely with the European Commission.

The high-level event shall be attended by up to ten companies selected. The event shall last not longer than a half-day.

For the event, the contractor will be responsible for all aspects involved, including:

- Identifying an appropriate venue and reserving a room
- Organising interpretation if considered necessary
- Contacting and inviting potential speakers
- Sending invitations to participants
- Handling the reservation of accommodation and flights for participants (costs for up to 10 participants to be reimbursed by the contractor)

¹¹ MIA=Danish acronym for diversity at the workplace

- Drafting of all relevant documents including information to the press. The contractor will in particular establish contacts with specialised press targeting business in order to maximise awareness about the event and its objectives.
- Drafting (English, 10 pages maximum) a report on the event and the activities carried out within three weeks after the event. The report shall be accompanied by 3-5 photos. The report shall be translated into German and French after acceptance by the Commission.

Summary of main outputs requested under Task 2:

- Design of the diversity award/index initiative
- Awareness-raising about the initiative
- Attracting companies wishing to participate
- Selecting/rating companies
- Organising a high-level event disseminating the results of the initiative, including all logistical aspects
- Drafting a report on the event and activities carried out under Task 2

Task 3: Development of diversity benchmark data for and with business

Workforce diversity monitoring is a useful tool for companies committed to effective implementation of diversity policies and measurable advancement.

A valuable point of comparison can be provided by data gathered by similar organisations, especially where a group of organisations has agreed to pool their data to provide a joint benchmark against which each can assess its performances. Ultimately, such a benchmark can allow business to have a factual basis with which to assess their own diversity baseline and/or potential areas for actions.

The contractor is expected to develop diversity benchmark data for and with business. According to information provided by companies to the European Commission, such diversity benchmark data should ideally include quantitative information and qualitative information relevant for the participating companies.

Quantitative information could for example include:

- company data such as size, sector, turnover etc;
- job categories (sales, production, IT, research etc.);
- job levels & relevant staff numbers in these levels (for example management population, executive population etc.);
- employee group dimensions (nationality, ethnic origin, age, religion, sexual orientation, disability etc.) broken down by sex
- employee group dimensions by job levels and job categories

Qualitative information could for example include:

- diversity policies, guidelines and processes
- results of diversity initiatives already taken
- diversity management & monitoring structures

The resulting diversity benchmark data could for example provide for:

- diversity data with employee group representation levels by country, industry, job categories, and job levels;
- summary of qualitative findings by country, industry, job categories and job levels
- company benchmark reports – confidential company comparisons (employee group representation levels by country, industry, job categories and levels)

In the first contractual year, the contractor will carry out preparatory work for the development of diversity benchmark data for business which would allow companies to objectively assess and compare diversity figures relative to the workforce composition. The contractor will carry out this preparatory work in close cooperation with a group of companies willing to contribute to it. The group of companies shall be identified by the contractor at the beginning of the contractual period through primarily, but not exclusively, its own contacts with companies and organizations working with and for companies. In carrying out the preparatory work, the contractor shall take into account all technical and practical considerations related to setting up such a benchmarking system, including all aspects related to data protection. The preparatory work will also cover the question of how to make the benchmarking system work financially and how to make it sustainable.

The contractor will present a draft final report summarizing methodology and findings of the preparatory work at least 9 months after signing of the contract. The draft final report shall be presented in English with a maximum of 20 pages including annexes. Once accepted by the Commission, the final report shall be translated by the contractor into German and French.

In case the contract is renewed, the contractor is expected to fully develop the diversity benchmark data system and act as benchmarking partner responsible for the system's management, maintenance and delivery. And the end of each contractual year, the contractor will summarize progress achieved in a progress report. The progress reports will be presented in English with a maximum of 20 pages including annexes. Once accepted by the Commission, the progress reports shall be translated into German and French.

The bidder is requested to present in its bid a draft methodology for the work to be carried out. The bidder is also requested to present how he/she intends to identify the initial group of companies he/she will work with.

In presenting its methodology, the bidder will have to keep in mind that any data submitted by companies needs to remain private and confidential. Only aggregate & anonymous benchmarks should be made available.

Summary of main outputs requested under Task 3:

- Carry out a preparatory work for the development of diversity benchmark data for business during the first contractual year
- Present a draft final report summarizing methodology and findings at least 9 months after the beginning of the contractual period. The draft final report shall be presented in English with a maximum of 20 pages including annexes. Once accepted by the Commission, the final report shall be translated by the contractor into German and French.
- Based on the preparatory work, fully develop and implement the diversity benchmark data system in case the contract is renewed
- Present progress reports summarizing progress achieved at the end of each contractual year. The progress reports shall be presented in English with a maximum of 20 pages including annexes. Once accepted by the Commission, the progress reports shall be translated by the contractor into German and French.

1.2. Guide and details of how the tasks are to 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 respect the gender balance at all levels.

Equally, needs of disabled people shall be duly acknowledged and met while executing the requested service. This will 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 Annex IV.

7. TIME SCHEDULE AND REPORTING

See Article 1.2.

The duration of the contract will be 12 months and is renewable three times.

Additional contracts for new Member States and/or candidate countries could be awarded by negotiated procedure without prior publication of a contract notice, in conformity with article 126.1.f of the implementing rules.

1.3. Additional requirements:

The specific deadlines for the completion of each of the tasks set out will be agreed between the Commission and the contractor.

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

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

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

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

For more information see:

http://ec.europa.eu/employment_social/progress/index_en.html

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.

9. 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 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 to the Commission and/or persons authorised by it on the basis of a model that will be attached to the contract. In addition, the contractor will make available to the Commission and/or persons authorised by it all documents or information that will allow PROGRESS performance measurement to be successfully completed and to give them the rights of access.

1. Additional information to the Tender specifications and monitoring

See attached document(s): 1 pages.

Contractor's Tender

ANNEX II

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See attached document: pages.

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ANNEX III Breakdown of prices

1. Breakdown of prices

Description	Unit price in €	Max. No of units	Unit type	Sub-total per item	Total amounts in €
FEES AND DIRECT COSTS (fixed prices)					
<i>Experts' fees</i>					0,00
Details for task 1	0,00	0	w.d.	0,00	
Details for task 2					
Details for task 3					
<i>Other direct costs related to the meetings and events</i>					0,00
Details for task 1	0,00		Unit		
Details for task 2					
Details for task 3					
<i>Travel and subsistence expenses for at least 4 meetings</i>					
Details	0,00	0	unit	0,00	
Total "Fees and Direct Costs" (Art. I.3.1)					0,00
Total					0,00

w.d. =1 working day for 1 expert

Additional information to the Breakdown of prices

See attached document: pages.

2. Calculation of amounts due under the present Contract

2.1. Fees

Initial calculation based on unit price(s) per w.d. of expert(s) depending on the level of qualification of the expert(s) executing the mission. The unit price(s) is (are) expected to cover the expert(s) fees, the Contractor's administrative expenses, as well as the costs of producing the contractual number of copies of the required report(s)¹² in the required format(s), but does not include the reimbursable expenses defined below.

N.B. Duration of the services: This includes, besides the time necessary for the carrying out of the services themselves, the necessary time for preparatory work, trips and travelling back and forth between the offices of the Contractor and/or the expert(s) and the places where the services are being carried out and for meetings with the services of the Commission, as well as time for the preparation of reports and output documents related to the work.

2.2. Reimbursements

If the reimbursement of expenses is foreseen in the Special Conditions, the Commission will reimburse only:

- the subsistence expenses of the Contractor and his staff,
- travel expenses (other than local transport costs),
- expenses for the shipment of equipment or unaccompanied luggage,

directly connected with performance of the tasks specified in Article I.1. of this Contract.

¹² All details on Monitoring and Reporting are to be indicated and included in the Tender Specifications.

2.2.1 DSAs (Daily Subsistence Allowances)

The daily subsistence allowance (DSA) is paid as a flat-rate amount and is considered to cover breakfast and two main meals, local travel, the cost of telecommunications, including fax and Internet, and all other sundries. They will be paid for each calendar day spent on mission away from the usual place of work, provided that the corresponding assignment is of a short-term nature. The DSA will vary according to the country in which the missions are to be carried out.

Daily subsistence allowances (DSA) are to be calculated as follows according to the length of the mission:

- 6 hours or less: reimbursement of actual expenses (on production of supporting documents);
- more than 6 hours but not more than 12 hours: 0.5 DSA;
- more than 12 hours, but not more than 24 hours: 1 DSA;
- more than 24 hours but not more than 36 hours: 1.5 DSA;
- more than 36 hours but not more than 48 hours: 2 DSA;
- more than 48 hours but not more than 60 : 2.5 DSA, and so on.

The agreed rates (in EUR per calendar day) to be used for the purposes of the present Contract are set as follows:

Destinations		DSA in EUR	Maximum hotel price in EUR	Destinations		DSA in EUR	Maximum hotel price in EUR
AT	Austria	95,00	130,00	IT	Italy	95,00	135,00
BE	Belgium	92,00	140,00	LT	Lithuania	68,00	115,00
BG	Bulgaria	58,00	169,00	LU	Luxembourg	92,00	145,00
CY	Cyprus	93,00	145,00	LV	Latvia	66,00	145,00
CZ	Czech Republic	75,00	155,00	MK	F.Y.R. of Macedonia	50,00	160,00
DE	Germany	93,00	115,00	MT	Malta	90,00	115,00
DK	Denmark	120,00	150,00	NL	The Netherlands	93,00	170,00
EE	Estonia	71,00	110,00	PL	Poland	72,00	145,00
EL	Greece	82,00	140,00	PT	Portugal	84,00	120,00
ES	Spain	87,00	125,00	RO	Romania	52,00	170,00
FI	Finland	104,00	140,00	SE	Sweden	97,00	160,00
FR	France	95,00	150,00	SI	Slovenia	70,00	110,00
HR	Croatia	60,00	120,00	SK	Slovakia	80,00	125,00
HU	Hungary	72,00	150,00	TR	Turkey	55,00	165,00
IE	Ireland	104,00	150,00	UK	United Kingdom	101,00	175,00

2.2.2 Travel expenses

Travel expenses shall be reimbursed following the provisions of Article II.7.3.

3. Additional provision

It is understood that the Parts “Fees and Direct Costs” and “Reimbursable Expenses” are set as provisions only. They constitute a maximum for the overall cumulative value of all services rendered by the Contractor under the present Contract – they will be due only if services are actually rendered to the Commission according to this Contract and its Annexes, both in quantity and in quality.

ANNEX IV CVs and classification of experts

1. Classification of experts according to level of expertise

<i>Level of qualification</i>	<i>Category of personnel</i>
I	Highly qualified expert having assumed important responsibilities in his/her profession, recruited for his/her management/supervisory, thought and creativity skills as regards professional practise. He/she must have at least 15 years professional experience of which at least 7 must be connected with the professional sector concerned and the type of tasks to be performed.
II	Highly qualified expert having assumed responsibilities in his/her profession, recruited for his/her management/supervisory, thought and creativity skills as regards professional practise. He/she must have at least 10 years professional experience of which at least 4 must be connected with the professional sector concerned and the type of tasks to be performed.
III	Certified expert having received a high-level training in his/her profession, recruited for his/her thought and creativity skills as regards professional practise. He/she must have at least 5 years professional experience of which at least 2 must be connected with the professional sector concerned and the type of tasks to be performed.
IV	Junior expert, newcomer to the profession but holding a university degree or equivalent training related to the professional sector concerned and the type of tasks to be performed.

2. List of experts assigned

<i>Full names of experts assigned</i>	<i>Level of Qualification (I to iv, see above)</i>
XXXXXXXXXX	
XXXXXXXXXX	
XXXXXXXXXX	
XXXXXXXXXX	
XXXXXXXXXX	

3. CVs of experts assigned

See Annex II.

Fiscal provisions regarding invoicing by the Contractor

Choose 1 out of 4 options:

- **(option 1: the Contractor is subject to VAT and his place of fiscal imposition is in Belgium)**

Local supplies and services

Supplier with fiscal imposition place in Belgium – delivery address in Belgium

1. VAT exemption – Exemption level

In Belgium, the terms of the present Contract have the same value as the VAT exemption request No 450 (VAT exemption – Article 42, § 3.3, VAT Code).
The European Commission benefits of a direct VAT exemption for all invoices EUR 123.95 and more.

2. Invoicing the Commission

An invoice will be made for each payment related to the present Contract. The applied VAT rate and amount shall be specified.

In view of VAT exemption, invoices addressed to the European Commission should bear the mention:

“Exonération de la TVA, article 42, § 3.3, du code de la TVA” or

“Vrijstelling van BTW, artikel 42, § 3.3, BTW-Wetboek”.

The above indication is given only as piece of information. The Contractor must refer to the Belgian national laws.

- **(option 2: the Contractor is subject to VAT and his place of fiscal imposition is a Member State other than Belgium)**

Intra-community supplies and services

Supplier with fiscal imposition place in a Member State other than Belgium – delivery address in Belgium

1. VAT exemption level

The European Commission benefits of a direct exemption of VAT for all invoices of EUR 123.95 and more.

2. Use of form 15.10

To allow the Contractor to justify to the fiscal authorities an invoicing to the European Commission using a 0% VAT rate (direct exemption) or to enable the benefit of the exemption by reimbursement, it is necessary to use the form 15.10.

These forms have recently been up-dated, and the new versions are the only ones to remain in official use. They entered into force on 01.04.1997, with a new ref. XXI/03278 – 01.04.1997.

See attached document: 2 pages and 1 page of explanatory notes.

3. Signature of the form 15.10 – Delegation of signature

The forms must normally be signed by the fiscal authorities of Belgium. However, a delegation of signature has been awarded by the Belgium authorities to the European Commission – ref. ET 76430 of 22.12.1992 (this ref. No. should be inserted in box 7 of new form 15.10). The Commission being represented for the present Contract by Fay DEVONIC, Head of Unit - EMPL/G/4 of Employment, Social Affairs and Equal Opportunities DG, form 15.10 will therefore be signed by the latter.

4. Invoicing the Commission

An invoice will be made for each payment related to the present Contract. The applied VAT rate and amount shall be specified. Concerning the direct VAT exemption or VAT exemption by the way of reimbursement, the invoice shall bear all the necessary mentions.

The above indication is given only as piece of information. The Contractor must refer to the national laws in force in his Member State of fiscal imposition.

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- ▶ **(option 3: the Contractor is not subject to VAT)**

Not applicable to the present Contract.

- ▶ **(option 4: the country of fiscal imposition of the Contractor is unknown)**

Provisions to be applied depending on the country of fiscal imposition of the Contractor.

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ANNEX VI **Final technical report to be submitted**

See attached document(s): pages.

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