
Specifications – Open invitation to tender No VT/2009/055

Service contract on " The potential impact of emerging trends and risks on labour inspection methodologies in the domain of occupational health and safety"

1. TITLE OF CONTRACT

Service contract – "The potential impact of emerging trends and risks on labour inspection methodologies in the domain of occupational health and safety".

2. BACKGROUND

2.1. PROGRESS introduction

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

The Decision n°1672/2006 establishing a Community programme for employment and social solidarity – PROGRESS was adopted by the European Parliament and the Council on 24 October and published in the OJ on 15 November.

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

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

More specifically, PROGRESS will support:

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

- (5) the effective implementation of the principle of gender equality and promotion of its mainstreaming in all EU policies (section 5).

The present call for tender is issued in the context of the implementation of the 2009 annual plan of work which is consultable at: <http://ec.europa.eu/progress>

2.2. Background information specific to this contract

The prime objective of the new Community strategy on Health and Safety at Work 2007-2012¹, supported by the Council Resolution of 25 June 2007², remains the continued improvement of working conditions and health and safety for workers at work, notably through an ongoing and sustainable reduction in work accidents and occupational diseases. This strategy quantifies the objective of an ongoing, sustainable and uniform reduction in work accidents, stipulating a 25% cut at EU-27 level.

The subject of “emerging risks” is one to which the European Community is alert, not least through the creation of the European Risk Observatory which is managed by the European Agency for Safety and Health at Work (EU-OSHA). “Emerging risks” feature in the Community strategy 2007-2012 which states that:

“The nature of occupational hazards is changing in tandem with the acceleration of innovation, the emergence of new risk factors (violence at work, including sexual and psychological harassment, and addictions) and the transformation of work patterns (working life is becoming more fragmented). These combined factors mean that a better understanding of the problem must be acquired through conducting specialised research in order to identify effective prevention measures.”³

In this regard, the Risk Observatory is able to draw upon external contractors and an EU wide network of national institutes that contributes to the collection and the analysis of data. It categorizes the risks under 6 principal themes:

- The psychosocial work environment;
- Musculoskeletal disorders;
- Dangerous substances;
- Knowledge for reproductive risks;
- Occupational health and safety management;
- Multi-factorial risks i.e. risks associated with several cross-factors such as poor ergonomics, noise, MSD, low job control, high time pressure.

The Committee of Senior Labour Inspector's (SLIC) resolution on the Community strategy highlights the importance of labour inspection in this domain:

“... the further development of Labour Inspectorate approaches to address new and emerging health and safety challenges confirms the importance of their preventative role and function in relation to safety and health at work in a broad context. Contemporary challenges about how best to target not only specific work-related

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work [COM(2007) 62 final of 21 February 2007].

² Council Resolution of 25 June 2007 on a new Community strategy on health and safety at work (2007-2012), OJ C 145, 30.06.2007, p. 1.

³ European Commission, *Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work*, COM (2007) 62 final, Brussels, 21.2.2007, p.13

health problems but also particular groups of vulnerable or exposed workers (including the young, migrant, elderly, sub-contract or so-called self-employed) figure prominently in this regard.”⁴

Accordingly, the Commission feels appropriate to initiate this contract to improve the understanding and practical implementation of strategies towards coping with new and emerging risks and improving the health and safety protection for workers. A key aspect of this examination would be to convert the goals in the preceding paragraph into an operational approach for the labour inspectorates and in particular, occupational health and safety inspectors.

3. SUBJECT AND SCOPE OF THE CONTRACT

The aim of this contract is to assess how emerging trends and risks are taken into account in labour inspection methodologies in the domain of occupational health and safety.

The scope of the contract is to explore and analyse the approaches inside and outside the EU.

With this contract the Commission wants to collect information about emerging trends and risks, how these trends will influence the work of labour inspectorates, how the work of the labour inspectorates can be modified/adjusted to be prepared for the upcoming challenges. The project should provide practical advice.

Thereby the following sub-themes need to be covered in the contract :

- i. Anticipating the skill needs of the labour inspectorates and equipping people (inspectors or the workforce in general) for managing new and emerging risks.
- ii. Which role for the national labour inspectorates in the early identification of new and emerging risks.
- iii. Opportunities / Mechanisms to convert information / trends on new and emerging risk(s) into effective operational practices.

More specifically, the subject of the contract is to provide a sound analysis and proper assessment of the current state of the art and development of the main actions taken by national authorities inside and outside the EU.

It is foreseen that its results will be disseminated, also within the framework of a mutual learning process mainly through the dissemination of good practice in one or more seminars/meetings as well as on EUROPA.

4. PARTICIPATION

Please note that:

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

⁴ SLIC, *Resolution on the role of SLIC in the Community Strategy on health and safety at work 2007-2012*, October 2007, p.5

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

5. TASKS TO BE CARRIED OUT BY THE CONTRACTOR

5.1. Description of tasks

The contractor is expected to produce an inception report, an intermediate report, a draft final report, and a final report (see point 7.1). All reports have to be validated by the Commission. Additionally, the contractor must also be available to present the results of the report at an internal seminar in the Commission as well as at an external event.

To avoid imposing significant demands on national authorities to provide information, for instance through surveys and questionnaires, demands by the contractor should be kept proportionate and minimised wherever possible for example, by using published sources of information.

Task 1: Exhaustive and detailed inventory

- i) a brief but comprehensive description and analysis of the concept of "new and emerging risks", "early identification", "skill(s)" and "labour force needs";
- ii) identify (mapping) the practices and strategies implemented by authorities / organisations / institutes;
- iii) how to address specific target groups (e.g. young workers, precarious workers, home workers, women, disabled etc facing specific risks at work) and their employers to enhance and adapt their competencies to new and emerging risks (e.g. sectoral strategies, specific initiatives, projects, etc).

Task 2: Data collection and assessment

- iv) an analysis and synthesis of data on the practices and strategies and activities undertaken;
- v) new initiatives implemented in order to face the new trends and changing labour environment, with evidence of success or impact;
- vi) investigate and identify which target-groups are mainly affected, how they are addressed and through which specific paths/approaches;
- vii) pinpoint emerging shortages and gaps in "skills", "prevention" and "protection";

Task 3 Analysis and Forward looking

- viii) explore possible innovative ways to improve the labour inspection services' ability / capacity to respond to new trends (e.g. through effective partnerships with other NGOs and organisations, and the role of civil society in the labour inspection process);
- ix) how to further develop what has been achieved so far, by describing (and, where possible, assessing) the different methods used by labour inspectorates (and other bodies/authorities) to deliver their actions/programmes;

- x) an analysis of the potential for co-operation, collaboration and synergism that can be further exploited via other policy domains e.g. mental health in the workplace (Health), nanotechnologies (Environment / Enterprise);
- xi) the analysis of the "potential" should ideally be elaborated in terms of SWOT (Strengths, Weaknesses, Opportunities, and Threats) analysis;
- xii) resource needs for the future trends and demands on national labour inspectorates;

Task 4: Good practices and transfer of findings

- xiii) the identification and selection of good practices to implement new approaches and strategies to address the impact of emerging trends and risks, which reflect / are sensitive to national situations and cultural diversity;
- xiv) the identification of ways of fertilization / (transnational) dissemination of good practices;

Task 5: Final report, publication and dissemination of the results

- xv) a comparative analysis of the various initiatives and their results. This report will summarize the work carried out under tasks 1 to 4. It will include, in particular, the type of initiatives, one sheet per country, and the presentation of case studies;
- xvi) the participation in one or 2 seminars/meetings.

Other tasks to be carried out

In executing this contract, the contractor will be expected to work closely with the Commission.

The contractor will appoint a person to coordinate the project, who will be the Commission's contact point.

The implementation of the contract will be monitored by a steering committee comprising persons representing the contractor, the relevant Commission services and external experts.

The contractor will attend a maximum of 5 meetings in Luxembourg during the term of the contract. Budget resources should therefore be earmarked for these participations in the bid. The contractor must attend the meetings referred to in these specifications and must take account of the steering committee's suggestions and recommendations during the progress of the work.

A maximum of five (5) trips from the contractor's place of work to the Commission's offices in Luxembourg should be foreseen: kick-off meeting, presentation of inception report, presentation of intermediate report, presentation of draft final report, and presentation of final report.

The contract should have the following features:

- the text of all documents will be drafted in English;
- the final report will be delivered in English both in accessible electronic (Word – or compatible – and PDF) and paper form (10 copies). The executive summary and the

key points will be provided in English, French and German. Key points should be concise, sharp and easily understandable;

- the final report must contain a bibliography on the subject (CEN – CENELEC - ISO), available at the EU-27 Member States, EFTA-EEA and EU candidate and pre-candidate countries level and from international bodies and institutions (ILO – WHO – IMO – etc.) as well as a glossary of technical terms used, and definitions to assist the understanding.

Beyond these outputs, the contractor is requested to develop a concept to communicate the findings of this contract to stakeholders. The needs and communication habits of labour inspectorates and their inspectors in the field of health and safety in the workplace should be paid particular attention to. In order to facilitate updating and broad access also an electronic tool should be considered.

5.2. Methodology

In their bids, tenderers must indicate the methods they intend to use. Bids must contain evidence of the tenderer's ability to perform the tasks set out in section 5.1 of these specifications, the rigour of the proposed approach (methodology) and the ability to meet the requirements expressed in section 3 "Subject of the contract" which will be among the factors governing the award of the contract.

Tenderers may choose not to give full details of their methodology unless they are awarded the contract. But in their bid they **must clearly indicate** the fundamental elements of the methodology allowing the objectives set out in section 3 of these specifications to be achieved. In this case, they must indicate their intention in their bid, and include a summary of the methodology.

The methodology must enable the identification, analysis and assessment of the various elements cited in sections 3 and 5.1 of these specifications and should not be restricted to documentary identification and analysis. It must also show the approach envisaged and its suitability for reflecting correctly the requirements expressed in sections 3 and 5.1 as well as the work plan, which will be among the factors governing the award of the contract.

The methodology described above and the work plan proposed will be among the factors governing the award of the contract.

5.3. Guide to how the activities will be carried out

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

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

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

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

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

6. SKILLS AND PROFESSIONAL QUALIFICATIONS REQUIRED

See Annex IV of the draft contract.

Additional requirements:

In order to carry out the required analyses and assessments properly in a way that lets the Commission feel confident that the tasks can be effectively carried out to its satisfaction; tenderers must have solid background knowledge and experience in the following areas:

- Socio-economic analysis in issues related to the protection of safety and health and the working environment;
- Evaluation of the technical merits of measures for the prevention of occupational risks;
- Risk assessment methodologies aimed at addressing specific safety and health risks, preferably in workplace settings;
- Evaluation of approaches to managing occupational safety and health;
- Drafting of guidelines, or at least of drafting guidance to tackle specific health risks; preferably in workplace settings;
- Use of statistical information and its analysis.

Tenderers are required to provide evidence of their experience and competence in the aforementioned areas.

Tenderers interested in carrying out the examination are invited to put forward a team of experts who can demonstrate a solid experience on the field of the examination and documented good knowledge.

7. TIME SCHEDULE AND REPORTING

See Article I.2. of the draft contract

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

The full duration of the contract will be **18 months**, from the date of contract signature. The project is expected to produce one inception report, one intermediate report, and a final report, on the basis of the following indicative timetable:

Kick-off meeting (within **one month** after the signature of the contract)

Inception meeting – to prepare for the meeting the contractor is expected to provide an inception report, specifying the plan of work, the distribution of tasks in the team and the methodological tools of the examination (**3 months** after the signature of contract). The contractor will submit to the European Commission (Unit EMPL F/4), and then present at a meeting with the Commission department responsible (EMPL F/4) in Luxembourg, a

detailed account of the methodology, work plan and approach which the contractor intends to use, together with the work timetable. The methodologies, the approach adopted, the work plan and the work schedule will be submitted by the contractor in English.

Intermediate report – to cover the progress of work done and first results should be submitted within **8 months** after the signature of the contract. The intermediate report should explain progress made so far, covering tasks 1 to 3 described under point 5 above (8 months after the signature of the contract). The interim report should include sufficient information to permit reorientation, if appropriate and required and will contain the information:

- a) On the remaining work to be carried out;
- b) Any particular problems encountered that would have a notable effect on the tasks to be carried out;
- c) Information and clear references on sources of information used and to be used and the value of their methodologies if appropriate

This interim report must be in English and should be presented and discussed at a meeting of the Commission department responsible (EMPL F/4) in Luxembourg.

Draft final report – to present the draft final report, to be written in English for a maximum 100 pages, excluding annexes (**14 months** after the signature of the contract). The draft final report should cover tasks 1 to 5 under point 5 above and contain:

- 1) descriptive fiches on good practices which can be published on the website for dissemination purposes and
- 2) the conclusions and recommendations, which should be presented in a very clear and concise way.

This draft final report (in English) will be discussed by the steering committee at a meeting held in Luxembourg within **1 month** of its receipt by the Commission (Unit EMPL F/4). The conclusions of the meeting of the steering committee will be taken into account by the contractor in preparing the draft final report.

Final report : The European Commission (Unit EMPL F/4) may transmit objections and comments to the contractor within **2 months** of receipt of the draft final report. The contractor will then have **1 month** to present the final report (**17 months** after signature of the contract), in English, taking these objections and comments into account or presenting another point of view. The final report will include a PowerPoint Presentation explaining the context and the results of the examination, as well as speaking points (30 minutes presentation) in English, French and German.

When submitting the final report, the contractor may obtain written confirmation of acceptance.

.All reports described above will be submitted in English, in 3 hard copies as well as in electronic format. As a matter of principle, with a view to favouring valorisation by the European Commission of all results obtained and outputs delivered under PROGRESS programme, the Contractor will be required to provide - either upon specific request or in any

event with the final activity report - for each of the tasks required under the present Call the following:

- Presentation of their key points in one page. Key points should be concise, sharp and easily understandable. They shall be provided in English, French and German. Other Community languages would be welcome even if not compulsory.
- And an executive summary in 5/6 pages in English, French and German.

NB:

The methodology and work plan, together with the various reports (intermediate report, draft final report and final report) referred to in this section, must be submitted to the European Commission (Unit EMPL F/4) both on paper (in triplicate) and in a widely-used electronic format (CD-ROM or DVD). The contractor must also supply a copy of the information collected as mentioned in sections 5 and 7 and used in preparing the draft and the final report. Pictograms, pictures, graphics and other illustrations must also be presented in a widely-used electronic format.

7.2. Publicity and information requirements

In accordance with the General conditions, all contractors are under the obligation to acknowledge that the present service has been commissioned for 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. In the context of the Community Programme for Employment and Social Solidarity – PROGRESS, the following formulation shall be used:

This (publication, conference, training session etc) is commissioned under the European Community Programme for Employment and Social Solidarity - PROGRESS (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' commitment. 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/social/main.jsp?catId=623&langId=en>

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

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

7.3 Reporting requirements

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

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

As a first step, a Strategic Framework for the implementation of *PROGRESS* has been developed in collaboration with Member states and organisations from the civil society. The Strategic Framework provides the framework for implementing *PROGRESS*, complemented by the Performance Measurement, which defines *PROGRESS* mandate, its long-term and specific outcomes. See in Annex 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 against a template which will be annexed to the contract. In addition, the Contractor will make available to the Commission and/or persons authorised by it all documents or information that will allow *PROGRESS* performance measurement to be successfully completed and to give them the rights of access.

8. PAYMENTS AND STANDARD CONTRACT

When preparing their bids, tenderers must take account of the provisions of the model contract, which includes the "general conditions applicable to service contracts".

8.1. Pre-financing

Following signature of the contract by the last contracting party, a pre-financing payment equal to 30% of the total referred to in Article 1.3.1 of the model contract will be paid within 30 days of the date of receipt of a request for pre-financing, accompanied by a corresponding invoice.

8.2. Interim payment

The contractor can request an interim payment. To be acceptable, such request must be accompanied by:

- an interim technical report in accordance with the instructions laid down in section 7,
- the relevant invoices.
- statements of reimbursable expenditure in accordance with Article II.7 of the draft contract.

The report must have been approved by the Commission.

The Commission has 60 days from receipt of the report to approve or reject it, and the contractor has 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 a maximum of 40% of the total amount referred to in Article 1.3.1 of the draft contract shall be made.

8.3. Payment of the balance

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

- a final technical report in accordance with the instructions laid down in section 7,
- the relevant invoices,
- statements of reimbursable expenditure in accordance with Article II.7 of the draft contract.

The said report must have been approved by the Commission.

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

The balance corresponding to the relevant invoices will be paid within 30 days following the date of approval of the report by the Commission.

9. PRICES

As, pursuant to Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities annexed to the Treaty, the Communities are exempt from all taxes and dues, including value-added tax (VAT), these should not be included in the price tendered. Therefore these charges should not be included when calculating the price. The amount of VAT must be shown separately.

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

■ Part A: Fees and direct costs

- Fees, expressed in number of person/days and unit price per working day for each expert proposed. The unit price covers the experts' fees and administrative expenditure, but not the reimbursable expenses referred to below.
- Translation costs, where applicable

■ Part B: Reimbursable expenses

- Travel expenses (not including local transport)

- Subsistence expenses of the contractor and his personnel (covering expenditure incurred by experts on short trips away from their normal place of work) — see Annex III to the model contract
- Expenses for the shipment of equipment or unaccompanied luggage, directly connected with performance of the tasks specified in Article I.1 of the draft contract
- Contingencies.

Total price = Part A + Part B, with a maximum of € 350 000

10. GROUPINGS OF ECONOMIC OPERATORS OR CONSORTIA

Bids may be submitted by groups of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but the group selected may be required to assume a given legal form when it has been awarded the contract if this change is necessary for proper performance of the contract⁵. However, a grouping of economic operators must nominate one party to be responsible for receiving and processing payments for its members, for the administrative management of the service, and for coordination. The documents required and listed in sections 11 and 12 below must be supplied by every member of the grouping.

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

11. EXCLUSION CRITERIA AND SUPPORTING DOCUMENTS

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

These articles read as follows:

Article 93:

Applicants or tenderers shall be excluded if:

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

⁵ This may be an entity with or without legal personality, but must offer sufficient protection of the Commission's contractual interests (depending on the Member State concerned it may be, for example, a consortium or a temporary association).
The contract must be signed by all the members of the grouping or by one of them, duly authorised by the others (a proxy or other appropriate authorisation will be appended to the contract), in cases where the tenderers have not formed a legal entity.

- e) *they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;*
- f) *they are currently subject to an administrative penalty referred to in Article 96(1)⁶.*

Article 94:

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

- a) *are subject to a conflict of interest.*
- b) *are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information⁷.*

2) The tenderer to whom the contract is to be awarded must provide, within a time limit defined by the contracting authority and preceding the signature of the contract, the evidence referred to in Article 134 of the Implementing Rules, confirming the declaration referred to in point 1 above.

Article 134 of the Implementing Rules – Supporting documents

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

The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State concerned.

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

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

⁶ "Article 96(1) : the contracting authority may impose administrative or financial penalties on the following :
a) candidates or tenderers in the cases referred to in point (b) of Article 94;
b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.
(...)"

⁷ Cf. Article 146(3) of the FR Implementing Rules: « ...the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within the time limit it specifies. » and Article 178(2) of the FR Implementing Rules: « The evaluation committee may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, in particular in the case of obvious clerical errors. »

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

3) The contracting authority may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to in Article 134 of the Implementing Rules, if such evidence has already been submitted to it for the purposes of another DG EMPL procurement procedure and provided the documents were issued no more than one year ago and are still valid.

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

12. SELECTION CRITERIA

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

12.1. Financial and economic capacity (on the basis of the following documents)

- turnover during the previous financial year (statement of overall turnover – at least twice the value of the contract, i.e. € 700 000 -)
- balance sheets and profit and loss accounts for the last three financial years, if the legislation of the country in which the tenderer is established requires them to be published;
- regular accounts for the quarter preceding that in which the tender notice was published, if the full accounts for the previous financial year are not yet available.

12.2. Tenderer's technical capability

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

13. AWARD CRITERIA

Taking the bids which meet the requirements of sections 11 and 12 above, the contract will be awarded to the best-value-for-money tender, on the basis of:

13.1 Quality of the offer (max. 100 points)

The evaluation of the quality of the offers will be done accordingly to the following criteria:

- Understanding of the scope of work, objectives and tasks: 20 points
- Quality and consistency of the methodological approach, taking into account any particularities of this specific project and including a description of the tangible results which will be delivered: 40 points
- Quality of the work plan proposed: 20 points
- Organisation of the work and management of the project: 20 points

13.2. Financial proposal

13.2.1 Minimum requirements

Tenders for which the assessment of the quality of the bid result in less than **65 points** of a perfect score (100) will be considered to be of an unacceptably low quality. Only tenderers having scored an average of 65 points or more on the bids evaluation may participate in the financial evaluation.

The total score obtained in this way will be considered together with the **price** (for method used, see 13.2.2 Financial evaluation), and the contract will be awarded to the most cost-effective tender.

The Commission reserves the right not to select a contractor if the price of the offers proposed is in excess of the budget allocated to this project.

13.2.2 Financial evaluation

Method used:

- (1) The best-value-for-money offer is determined by weighting the quality of the offer **70%** and the financial proposal **30%** using the following method:
- (2) In order to reflect the **70%** weighting to be given to the quality of the proposal, the tender with the best quality as evaluated under 13.1 is awarded the maximum **70**. Other tenders which received the minimum score of 65 points on the quality of the offer (see 13.2.1) receive points calculated according to the following equation:

Points **T** = (initial score of bid in question/initial score of best bid) x **70**

- (3) In order to reflect the **30%** weighting to be given to the financial proposal the lowest financial offer is automatically awarded the maximum of **30**.

Other tenders receive points calculated according to the following equation:

Points **F** = (least expensive price/price of tender in question) x **30**.

Final score = T+F

The highest scoring firm is deemed to have made the best-value-for-money offer.

14. CONTENT AND PRESENTATION OF BIDS

14.1. Content of bids

Bids must include:

- a presentation letter duly signed by the legal representative;
- all the information and documents necessary to enable the Commission to appraise the bid on the basis of the selection and award criteria (see sections 12 and 13 above);
- a bank ID form duly completed and signed by the bank;
- a "legal entity" form duly completed;
- the price;
- the detailed CVs of the proposed experts;
- the name and function of the contractor's legal representative (i.e. the person authorised to act on behalf of the contractor in any legal dealings with third parties);
- proof of eligibility: tenderers must indicate the State in which they have their registered office or are established, providing the necessary supporting documents in accordance with their national law.

14.2. Presentation of bids

- Bids must be submitted in triplicate (i.e. one original and two copies).
- They must be clear and concise.
- They must be signed by the legal representative.
- They must be submitted in accordance with the specific requirements of the invitation to tender, within the deadlines laid down.

Annex I

Exclusion criteria (Article 93(1) FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded	
	Procurement (Article 93(2) FR; Article 134 IR)	
1. Exclusion from a procurement procedure, Article 93(1) FR : <i>« Candidates or tenderers shall be excluded from participation in a procurement procedure if:</i>		
1.1. (subparagraph a) <i>they are bankrupt or being wound up,</i> <i>are having their affairs administered by the courts,</i> <i>have entered into an arrangement with creditors have suspended business activities, are the subject of proceedings concerning those matters,</i> <i>or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations⁸;</i>	<ul style="list-style-type: none"> – Recent extract from the judicial record or recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance or – Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance 	–
1.2. (subparagraph b) <i>they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata⁹;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
1.3. (subparagraph c) <i>they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;</i>	Declaration by the candidate or tenderer that he is not in the situation described	
1.4. (subparagraph d) <i>they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed¹⁰;</i>	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described or – Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	
1.5. (subparagraph e) <i>they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests¹¹;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
1.6. (subparagraph f) <i>they are currently subject to an administrative penalty referred to in Article 96(1)¹². »</i>	Declaration by the candidate or tenderer that he is not in the situation described	

⁸ See also Article 134(4) IR : Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to in paragraphs 1 and 3 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

⁹ Cf. footnote n° 8.

¹⁰ Cf. footnote n°8.

¹¹ Cf. footnote n° 8.

¹² Article 96(1) FR: The contracting authority may impose administrative or financial penalties on the following:
(a) candidates or tenderers in the cases referred to in point (b) of Article 94;
(b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.

Exclusion criteria (Article 94 FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded.	
	Procurement	Grants
2. Exclusion from a procurement or grant award procedure Article 94 FR : « <i>Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:</i>		
2.1. (subparagraph a) <i>are subject to a conflict of interest;</i>	Statement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal	
2.2. (subparagraph b) <i>are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information»¹³.</i>	<ul style="list-style-type: none"> – No specific supporting documents to be supplied by the applicant, tenderer or bidder – It is the responsibility of the authorising officer, represented by the evaluation committee, to check that the information submitted is complete¹⁴ and to identify any misrepresentation 	

¹³ Cf. Article 146(3) of the FR Implementing Rules: « ...the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within the time limit it specifies. » and Article 178(2) of the FR Implementing Rules: « The evaluation committee may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, in particular in the case of obvious clerical errors. ». »

¹⁴ Cf. footnote n°13

Annex II

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

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

- in his/her own name (*if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator¹⁵*)
or
- representing (*if the economic operator is a legal person*)

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

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

official address in full:

VAT registration number:

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

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

¹⁵ To be used depending on the national legislation of the country in which the candidate or tenderer is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).

In addition, the undersigned declares on their honour:

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract.
- k) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.
- l) that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above¹⁶.

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

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

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

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

Full name

Date

Signature

¹⁶ Mandatory for contracts of value above €133 000 only (see art. 134(2) of the Implementing Rules). The contracting authority can nevertheless request such evidence for contracts with a lower value.