

***Concerning a contract to elaborate a 'Report on the current situation in relation to occupational diseases' systems in EU Member States and EFTA/EEA countries<sup>1</sup>, in particular relative to Commission Recommendation 2003/670/EC<sup>2</sup> concerning the European Schedule of Occupational Diseases and gathering of data on relevant related aspects.***

## **1. TITLE OF THE CONTRACT**

Contract to elaborate a '*Report on the current situation in relation to occupational diseases' systems in EU Member States and EFTA/EEA countries, in particular relative to Commission Recommendation 2003/670/EC concerning the European Schedule of Occupational Diseases and gathering of data on relevant related aspects.*

## **2. BACKGROUND**

### **2.1. Progress introduction**

PROGRESS<sup>3</sup> is the EU's employment and social solidarity programme, set up to provide financial support for the attainment of the European Union's objectives in employment, social affairs and equal opportunities as set out in the Social Agenda<sup>4</sup>. 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 PROGRESS mission is to strengthen the EU's contribution in support of Member States' commitments and efforts to create more and better jobs and to build a more cohesive society. To this 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 supports:

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

<sup>1</sup> References to 'Member States' throughout the text of this call for tender should be taken to mean also EFTA/EEA countries

<sup>2</sup> Commission Recommendation 670/EC of 19 September 2003 concerning the European Schedule of occupational diseases.

<sup>3</sup> Decision No 1672/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity — Progress, JO L 315 of 15.11.2006

<sup>4</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Renewed social agenda: Opportunities, access and solidarity in 21st century Europe COM/2008/0412 final of 02.07.2008.

- 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 2010 annual work plan which can be consulted at <http://ec.europa.eu/social/main.jsp?catId=658&langId=fr>

## 2.2. Background information specific to this contract<sup>5</sup>

An occupational disease is a health problem caused by exposure to a workplace health hazard. It can typically result from exposure to dust, gases, fumes, noise, vibration, toxic substances, abnormal temperatures or pressures, etc. Effects may be more or less immediate, gradual (e.g. lung complaints, skin problems or repetitive stress injury) or delayed (e.g. cancers). Work-related ill health is also definable as in the 1999 Labour Force Survey (LFS) ad hoc module according to which a work-related health problem covers all diseases, disabilities and other physical or psychological health problems, apart from accidental injuries, suffered by the worker, and caused or made worse by the work. For the purposes of the report to be elaborated pursuant to this call for tender, the contractor will essentially focus on ailments covered by Annexes I and II of Recommendation 670/2003/EC.

There are reasons to believe that the pace of innovation and technical progress has enlarged the number of workplace hazards and risks and these need addressing as the potential for some to be at the origin of 'new' occupational diseases is there.

In the range of ailments in any list of occupational diseases, be it national or international, are included forms of ill-health of a very serious nature that put a lot of suffering on the workers concerned and respective families. This factor could be enough to justify measures aimed at reducing the long term burden of occupational diseases, irrespective of any economic considerations in the perspective of Member States' authorities (impact on national health and compensation systems) or that of employers (insurance costs).

The European Commission has been working in this field to encourage in particular preventive measures and promote national frameworks that allow for successful compensation claims. However the Commission is concerned that economic considerations may still tempt Member States' authorities and employers to object to improvements where protective measures may be deemed to impact on social security systems' finances (because of a theoretical rise in compensation requests) and/or impact on the profitability of enterprises/employers (insurance costs). This may be due to ignorance and concerns with costs of prevention measures (including training of workers) and compensation in a theoretical scenario that would see a rise in the number of conditions included in lists of occupational diseases, making employers and eventually the Member States' authorities potentially liable to pay for them. However, improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to economic considerations where such considerations hit seriously legitimate workers' rights. Member States' authorities and employers are the key decision-makers in the field of practical implementation of occupational safety and health measures; therefore it is also important to provide them with the necessary tools and understanding facilitating their prevention work (even if dividends may not be perceived for quite some time), without, where relevant, prejudice of the legitimate rights of workers to compensation.

As to the issue of the onus of proof and the subsequent compensation Recommendation 670/2003/EC (hereafter called the Recommendation) touches on some aspects of this problem when, in its Article 1, point 2, it urges Member States to extend compensation rights to workers suffering from diseases not listed in Annex I, particularly where such conditions are listed in Annex II of the Recommendation (conditions suspect of being occupational in origin). Abiding by such principles is all the more important as workers may find themselves typically in a very disadvantaged position in that not only are they at a loss because of being the ones actually touched by some serious forms of ill-health, they also have to bear the grunt of legal battles at a moment of their lives where both time, energy and resources are more wanting.

---

<sup>5</sup> For a more in-depth perspective of the whole range of issues to be borne in mind please check also Annex IV

### **2.3 Commission Recommendation 670/2003/EC and its background**

In 1990, the Commission adopted a Recommendation concerning a European Schedule of occupational diseases (90/326/EEC). Since that time, scientific and technical progress has led to a greater understanding of how certain occupational diseases emerge and of the causal relationships involved; consequently in 2003 a new Recommendation was published (2003/670/EC).

Recommendation 2003/670/EC, which is not legally binding, contains two Annexes: the first (European schedule of occupational diseases) is a list of occupational diseases that the Commission believes should be recognised in all Member States. Annex II contains a list of diseases suspected of being occupational in origin which should be subject to notification and which may be considered at a later stage for inclusion in Annex I.

The main points of Recommendation 670/2003/EC to Member States are:

- **Recognition:** To introduce the European Schedule into EU Member States legislative frameworks. This listing covers the diseases which have been scientifically recognised as being occupational in origin, which should entitle workers suffering from them to compensation and which must be the subject of preventive measures.
- **Compensation:** Work to introduce into EU Member States legislative frameworks the necessary provisions entitling workers to compensation for occupational diseases whose origin and occupational nature can be proved.
- **Improved statistics:** To progressively make EU Member States statistics concerning occupational diseases compatible with the Schedule.
- **Preventive measures:** To develop preventive measures, by involving all interested parties and, where appropriate, by exchanging information, experience and good practice through the European Agency for Safety and Health at Work.
- **Set targets:** To establish national quantified objectives with a view to reducing the rate of recognised occupational diseases.
- **Information transfer:** To introduce a system for the collection and exchange of data on the epidemiology of the diseases and promote research.
- **Raise awareness:** To encourage national health systems to contribute actively towards disease prevention, in particular by raising the awareness of medical personnel in order to improve knowledge and diagnosis of occupational diseases.

### **2.4 Commission Communication COM (2007) 62 final of 21 February 2007: 'Improving quality and productivity at work: Community strategy 2007-2012 on safety and health at work'**

Since 2003, and particularly in its Communication COM (2007) 62 final of 21 February 2007: '*Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work*', the Commission, supported by the two resolutions of the Council and the European Parliament, stresses the major contribution that guaranteeing quality of work can play in promoting economic growth and employment. It acknowledges the importance of effective occupational health and safety policies to ensure that economic costs of problems associated with work-related ill-health will not inhibit economic growth and affect the competitiveness of businesses in the EU.

Consequently the Communication was an opportunity for the Commission to reemphasise its recognition of the importance of occupational diseases<sup>6</sup> and express its intention to continue its work on this area. *Ibid. The Commission will evaluate the measures taken in response to the recommendations concerning the European schedule of occupational diseases.*

### 3. SUBJECT OF THE CONTRACT

This invitation to tender invites bids for the elaboration of a report titled '**Report on the current situation in relation to occupational diseases' systems in EU Member States and EFTA/EEA countries, in particular relative to Commission Recommendation 2003/670/EC concerning the European Schedule of Occupational Diseases and gathering of data on relevant related aspects.**

*Relevant related aspects are, e.g. role and importance of international fora, processes of decision making at national level, scientific developments, new workplace risks, data/statistics, as aspects about which information is necessary for a good characterisation of this area of work in the EU'.*

In general terms the objective of the report will be to shed light on the degree to which Commission Recommendation 670/2003/EC, its annexes and associated documents (Diagnostic criteria guidance) will have encouraged Member States national systems to tackle the occupational diseases problematic, **drawing on the objectives of the Recommendation as reference, as per its Articles 1 (with all its points, 1 to 10, to be covered in the comparison) and 2; the report should check all such aspects.**

Assuming that differences of approach will be found as to how each EU Member State and concerned stakeholders (e.g. employers and workers via or not their legitimate representatives, academia, scientific community involved in the processes of decision making, national safety and health committees) contribute to shaping the system(s), **the objective will be also to clarify processes of decision-making in Member States and highlight possible cases of good/best practice judged as per the results achieved in trying to prevent occurrence of occupational diseases.**

Furthermore the opportunity should be taken to address the future, namely in terms of covering occupational diseases not hitherto listed in any of the annexes of the Recommendation, namely to take account of new workplace hazards and the diseases that they may bring about.

Based on the data that will be compiled the contractor will draft a report that will include a critical analysis of the more relevant aspects, as detailed under section 5, including, based on the pros and cons of the situation(s) / scenarios so detailed, **a series of options on how the 'occupational diseases system' as currently run by the EC could evolve and why.**

The tasks to be carried out are described in Section 5.

### 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

<sup>6</sup> Certain types of occupational diseases are becoming more common (musculo-skeletal disorders, infections and illnesses associated with psychological stress) and 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 changes mean that a better understanding of the problem must be acquired by conducting specialised research in order to identify effective prevention measures.

concluded with the Union a specific agreement in the area of public contracts, under the conditions provided for in that agreement.

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

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

### 5.1. Concerns and principles to be borne in mind when carrying out the tasks

In carrying out its task of elaborating the report the contractor shall be guided by Recommendation 670/2003/EC as 'checklist'.

Hence the contractor shall base himself on the following set as a baseline to carry out the work:

- **Commission Recommendation 670/2003/EC and its annexes.** As stated under SUBJECT OF THE CONTRACT, above, the objective of the report will be to shed light on the degree to which Commission Recommendation 670/2003/EC will have informed/influenced Member States national systems to tackle the occupational diseases issue, **drawing on the objectives of the Recommendation as reference, as per its Articles 1 (with all its points, 1 to 10, covered in the comparison) and 2; in other words the report should check/compare all such aspects.**
- **Information Notices on Occupational Diseases – a guide to diagnosis** (either the former version or that published in 2009<sup>7</sup>).
- **The range of replies sent by Members States pursuant to the obligations imparted on them by Commission Recommendation 670/2003/EC, as stated in its Article 4.** Where available the Commission will provide this information to the contractor; however the provision of this information for specific Member States will not dispense the contractor from obtaining, on its own, the necessary evidence relative to them, since the nature of the information thus provided by the Commission may be scant and unlikely to correspond to the necessary degree of completeness to carry out the required in-depth analysis.
- **Any relevant information in the field of occupational diseases available internationally,** from e.g. OSHA, EIRO (part of the European Foundation for the Improvement of Working and Living conditions) and particularly as laid down by any such system, e.g. the ILO one and indeed any available from Member States national system(s) that might, at face value, seem to be robust enough to be useful in this regard and stand a meaningful comparison with the Recommendation. In carrying out this task the contractor will make a critical analysis of the pros and cons of the cases in the chosen Member States (see below) it will identify as relevant enough to warrant such a critical analysis and be chosen as examples.

The methods for obtaining include the range normally considered, i.e. desk research, interviews, relevant literature, internet, etc. Used sources must be mentioned in the report.

### 5.2 Specific tasks

<sup>7</sup> Available in <http://ec.europa.eu/social/main.jsp?catId=716&langId=en&intPageId=229> by clicking in the 2009 document just under 'related documents' in the right hand column.

**5.2.1.** The contractor shall analyse and characterise how decision-making takes place, on the understanding that, (should a, say, tripartite mechanism be at play involving, by way of example, government, workers and employers representatives) some mechanism of refereeing should be in place to arbitrate those cases where consensus on whether a disease should be listed as occupational or not is difficult to reach.

**5.2.2.** The contractor shall also inform himself with relevant stakeholders (national authorities, worker's representatives, employers, occupational physicians, safety and health committees) as to what are the concerns they currently have with the EU system as it stands and/or problems they may have with the national systems. The following are a few clues/questions as to how the contractor may approach this task and in doing so, the contractor shall devise a suitable questionnaire without prejudice of the need to adapt it to different settings/circumstances:

- Are stakeholders generally happy with the system (Commission Recommendation and/or national system(s)) and what do they see as being its main assets and shortcomings.
- Given the above what changes would they like to see made to them, if any; more specifically what suggestions for change they would have and why.
- Specifically, would they welcome or accept a more harmonised approach, EU wide, with EU wide valid lists of occupational diseases with a more legally binding status? An analysis of both affirmative and negative replies to this question will be required. Indeed the contractor should analyse how all the different types of stakeholders approach this question and probe, for each, whether a separation of the setting of EU wide lists of occupational diseases from any related measures, particularly payment of compensation, would make such a change more 'palatable' to them. Characterize national lists of occupational diseases in terms of how the respective entries are structured as compared with the annexes of the Recommendation. By way of example, Annex I of Recommendation 670/2003/EC is structured in terms of five different types of entries, i.e.:
  1. *Diseases caused by the following chemical agents.*
  2. *Skin diseases caused by substances and agents not included under other headings*
  3. *Diseases caused by the inhalations of substances and agents not included under other headings*
  4. *Infectious and parasitic diseases*
  5. *Diseases caused by the following physical agents.*

The contractor will check to what extent this 'model' is mirrored by Member States' systems and will highlight any significant differences found (what alternative forms of structuring entries are followed by Member States' systems) relative to it and ascertain to the extent possible the reasons behind such differences (possibly as determined by the characterisation of the respective processes of decision making).

- The consequences of the form/structure and content of its Annexes in particular with regard to missing new and emerging workplace/occupational risks/diseases (e.g. nanotechnology, stress at Work, electromagnetic radiation, and indeed any that the contractor will deem potentially candidate for inclusion in a possible list/annex devoted to tackling as yet not addressed occupational hazards, etc.).
- Are stakeholders generally happy with the current coverage of the Recommendations' annexes or would they welcome a change or expansion of their coverage and if so in what way and to cover what conditions/ailments?
- On the understanding that there is room for annexes of the Recommendation to expand, and indeed for a different type of annex(es) to be considered (to address e.g. new hazards and risks, new working practices and patterns, new workplace technology, higher worker mobility, etc.) do they see such a possible change

feasible in the framework of the current 'legal instrument' (Recommendation) or would a different one be preferable, and if so of which type and why?

**5.2.3.** In the process of gathering the necessary data to elaborate the report a critical analysis of possible good or best practice examples already in place shall be carried out, this meaning identifying those Member States' systems and/or framework agreements, codes of practice and/or social pacts between employers and workers representatives that, in the light of principles respecting the rights of workers and employers alike, can be put forward as good/best practice examples, while respecting also a logic that puts scientific evidence in the forefront of things even if, in the absence of more formal legislative rules, they may have been designed to address only a few conditions/diseases.

**5.2.4.** Also, where possible, a detailed cost-benefit analysis should be an integral part of the chosen good/best practice examples with an evaluation of the costs of work-related forms of ill health, and of the incremental benefit to enterprises if they develop an effective prevention policy of them. This shall be done based on desk research and case studies taking into account different insurance systems in Member States.

**5.2.5.** In keeping with the provisions of Article 1, point 5 of the Recommendation, when checking Member States' systems, a particular attention shall be devoted to reporting systems/mechanisms and the respective characterisation. The contractor should evaluate the consequences of keeping the *status quo*, meaning no change whatsoever of either the provisions of the Recommendation or its annexes and what impacts this would have at various levels, e.g. cross border compatibility of systems, including at the level of rights of workers to compensation, how would this be consistent or not with the objectives of a Europe where goods, capital and people are supposed to circulate freely, what implications this may have in wider international terms given the participation of some EU Member States in international *fora* where similar issues are debated and decisions taken, sometimes with legally binding decisions and the corresponding legal implications, etc.

Such a critical analysis highlighting the pros and cons of each option, as well as a proposed 'ideal' solution by the contractor, should address the consequences of adopting or not a different legal instrument or a combination of a binding element plus a non binding one.

**5.2.6.** Consequently the contractor will prepare a proposal and connected information material that will include possible options as a basis for a possible change of approach on how to manage the several aspects of occupational diseases management EU wide, as described per the requirements of section 5.

**5.2.7.** The outcome of all the mentioned steps shall be the preparation by the contractor of a report of no less than 100 pages (more likely substantially more), this figure not including any supporting annexes, titled '*Report on the current situation in relation to 'Occupational diseases' systems in EU Member States and EFTA/EEA countries, in particular relative to Commission Recommendation 2003/670/EC concerning the European Schedule of Occupational Diseases and gathering of data on relevant related aspects*' to be submitted to the Commission. The report shall address all the items under the whole section 5 of these specifications. Depending on how the contractor will have proposed (and as subsequently agreed by the Commission) to cover the various aspects, the report may be drafted in chapters that may highlight, each and apart from the classical Introduction/background chapter, synthesis chapter and executive summary, also: individual Member States' approaches, case-studies, best practice examples, relevance and influence of international systems, structure of annexes/occupational diseases lists, diagnostic criteria setting, new workplace hazards/risks, options for the future.

### **5.3 Structure of work / hints on methodology**

**5.3.1.** Collecting and analysing information from existing data sources (from Member States, employers' and workers' organisations, the Commission, other – see point

5.1 above) and on such a basis describe/characterise the main features of Members States' systems of occupational diseases management, particularly with regard to how they may have been encouraged by the provisions of Commission Recommendation 670/2003/EC. Should such shaping have been influenced by also or essentially other international systems (e.g. ILO, other) this should be described as well and characterised in sufficient detail, plus in tabulated form where feasible.

- 5.3.2.** By default all Member States and EFTA/EEA countries should be covered and where such covering of all such States will not be proposed in the tenders, a proper justification will have to be put forward.

Since the information will have to be gathered also from various types of stakeholders (e.g. Member States authorities, employers and workers representatives, etc.) in choosing the respective samples and as regards the latter two, employers and workers representatives operating/represented in the different Member States should be targeted in order to collect robust information on the various types of solutions found as compared to the initial EU wide objectives.

- 5.3.3.** In a subsequent step the contractor should highlight obvious cases of diseases that are clearly and differently considered as to how occupational factors justify their coming about or not, in other words, examples of diseases listed in given Member States' national lists of occupational diseases but not in other(s). Such cases should be clearly identified and the arguments typically put forward by each party justifying their inclusion or not in the lists, described in detail and in tabulated form.

These chosen cases could also be informed on how they could have been typically prevented including an estimate of the costs of the measures that, if undertaken, would have permitted to avoid them. They should be a representative sample of a sufficiently varied range of health concerns in, where possible, typical but varied sectors of economic activity in terms of size and working processes involved. Worker' age, sex, occupational status etc. shall be representative for the distribution of these variables in the sectors chosen.

In performing this work the contractor should take into consideration obligations of employers and their responsibility to take the general measures necessary for avoiding the occupational diseases of concern. This may include, e.g. measures to combat at source risks that cannot be avoided, adapting the work to the individual and adapting to technical progress. It should be also analysed, firstly, whether, if applicable, the employer followed the rule of replacing the dangerous by the non-dangerous or the less dangerous and gave collective protective measures priority over individual protective measures and secondly, how implementing such measures compared in the incremental cost-benefit ratio.

- 5.3.4.** The comparison of data collected through case studies, be them examples of national systems or possible framework agreements (social dialogue) between employers and workers representatives, should enable the contractor to compare the costs of ineffective health and safety management and the business benefits of good health and safety management. In pursuing this task the contractor may obviously draw on concrete examples of specific occupational diseases that may be typical either of a particular setting/working place type, or even be the focus of attention because of an acknowledged momentarily importance.

- 5.3.5.** Tenderers must submit a methodology behind the critical review (literature, other) on possible different approaches (that may be dependent on e.g. tradition - some Member States may have tackled occupational diseases issues since a time before

the Commission first started addressing them) and other aspects such as the role of employers and workers organisations/representatives, including international ones, to shaping the respective policies. Should specific enterprises be included in the sampling a range of different sizes including SMEs should be covered. Data obtained from their legitimate representatives will be acceptable. Also and where relevant, other aspects such as risk exposures and socio-economic features: demographic characteristics of workers (e.g. age, sex, occupation) should be addressed too.

- 5.3.6.** The contractor shall prepare detailed comparative tables highlighting, across EU Member States and, where available, from other stakeholders (e.g. employers' and workers' representatives, other) the aspects covered by Recommendation 670/2003/EC, namely those under its articles 1 and 2 and also comparability of any official lists of occupational diseases in force in EU Member States with the Annexes of the Recommendation. In respect of article 2 the contractor will ascertain to what extent any diagnostic criteria in force, as per the EU Member States' systems checked, will have been informed/influenced by the former version of the 'Information notices on diagnosis of occupational diseases' (it is assumed that it may be too soon for the new version, made available since June 2009, to have helped shape significantly, if at all, the mentioned systems but should such evidence/information be available it should be covered also).

In the absence of an evident link between the mentioned Information notices guidance (from either the former or the most recent version) and the current diagnostic criteria used by the Member States checked, the contractor will describe how do EU Member States' systems address this, *i.e.* how are the respective diagnostic criteria of occupational diseases validated nationally, set.

- 5.3.7.** On the basis of a contract period of fifteen months, the contractor is asked to provide a detailed work plan for the distribution of tasks over time with reference to how the objectives of the analysis of data will be achieved and timetable of working meetings with the Commission's service in charge (see point 7.1 below). The bid shall include a description of the approach and methodology with regard both to data gathering and analysis.

Any drafts produced will be created in a standard electronic format enabling modifications for later publication on paper and on the websites of DG EMPL of the European Commission.

#### **5.4 REQUIREMENTS ON HOW THE TASKS SHALL BE CARRIED OUT**

The PROGRESS Programme aims to promote gender mainstreaming in all its five policy sections and commissioned activities. Consequently, the Contractor shall 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 the 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 ensure in particular that where the Contractor organises training sessions and conferences, issues publications or develops dedicated websites, people with disabilities will 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 is encouraged to foster an appropriate mix of people, whatever their ethnic origin, religion, age, and ability.

The Contractor will be required to detail in its final activity report the steps and achievements made towards meeting these contractual requirements.

## 6. PROFESSIONAL QUALIFICATIONS REQUIRED

*See also 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 and prevention of occupational diseases;
- Risk assessment methodologies aimed at addressing specific safety and health risks, preferably in workplace settings;
- Evaluation of approaches to managing occupational safety and health in general and specifically workplace related, including approaches to tackling occupational diseases;
- Drafting of reports, 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 as well as evidence of experience communicating with:

- Member States responsible services/sectors, in particular health and safety at work ones, and/or safety and health at work professionals and agents.
- The risk assessment community,
- Undertakings and enterprises in different sectors of economic activity and of different size, in particular with SMEs, and
- Their employees in Member States concerned by this invitation to tender.

## 7. TIME SCHEDULE AND REPORTING

*See Article I.2 of the draft contract.*

### 7.1. Specific deadlines for the performance of tasks:

The work must be carried out in not more than **fifteen (15)** months from the date on which the contract is signed. It will cover the following stages:

1. Not more than **thirty (30) days** after signature of the contract, the contractor will submit to the European Commission, Unit Health, Safety and Hygiene at Work (named Unit EMPL F/4 hereafter), and then present at a meeting with the unit 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.

2. Within **four (4) months** after the signature of the contract, the contractor will send to the European Commission (Unit EMPL F/4), and then present at a meeting with the unit EMPL F/4 in Luxembourg, a preliminary report describing progress in relation to the timetable laid down. This preliminary report will contain a summary of the results obtained that far and a first draft of the conclusions. The preliminary 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

This preliminary report must be in English.

3. **Eight (8) months** after signature of the contract, the contractor will submit to the European Commission, (Unit EMPL F/4) in Luxembourg, an interim report in English. This interim report should also be presented and discussed at a meeting with unit EMPL F/4 in Luxembourg within four weeks after submission.
4. **Twelve (12) months** after signature of the contract, the contractor will submit a draft of the final report to the European Commission (Unit EMPL F/4). This final draft will comprise the work methodology used and all information and documents as set out in sections 3 and 5.2 of these specifications which were used to draw it up. It will also contain the preliminary electronic draft version of the publication as provided for in section 5.2 of these specifications. Both the draft of the final report and the preliminary draft publications will be provided in English. The draft final report will be discussed in a meeting in Luxembourg with Unit EMPL F4 within 4 weeks after submission.
5. **Fifteen (15) months** after signature of the contract, the contractor will submit the final report and the final publication in English.

The detailed methodologies and work plan, together with the various reports and publications referred to in this section, will be submitted to the European Commission (Unit EMPL F/4) both on paper (in triplicate) and in a standard electronic format suitable for further word processing. The graphs and other illustrations must also be presented in a standard electronic format compatible with the systems used at the Commission, and separately to facilitate publication either on paper or on the Commission's websites (DG EMPL). The contractor must also provide a copy of the information collected and used in preparing the final report. At the contractor's request, this information will be treated as confidential. The contractor will also authorise the publication of all illustrations and/or graphs contained in the publications free of copyright.

## 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 received funding from the Union 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 by the 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/progress>*

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 is 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 these results, including setting out clearly the 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.

The Strategic Framework, developed in collaboration with Member States and civil society organisations, sets out the intervention logic for Progress-related expenditure and defines PROGRESS' mandate and its long-term and immediate outcomes. It is supplemented by performance measures which serve to determine the extent to which PROGRESS has delivered the expected results. See in Annex the overview of PROGRESS performance measurement framework. For more information on the strategic framework, please visit PROGRESS website <http://ec.europa.eu/social/main.jsp?catId=659&langId=en>.

The Commission regularly monitors the effect of PROGRESS-supported or commissioned initiatives and considers how they contribute to PROGRESS outcomes as defined in the Strategic Framework. In this context, the Contractor will be asked to dedicatedly work in close cooperation with the Commission and/or persons authorised by it to define the expected contribution and the set of performance measures which this contribution will be assessed against. 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 necessary rights of access.

## **8. PAYMENTS AND STANDARD CONTRACT**

When preparing their bids, tenderers must take account of the provisions of the standard 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 I.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 which shall be admissible if accompanied by:

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

provided the interim 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 40 % of the total amount referred to in Article I.3.1. of the contract will be made.

### **8.3. Payment of the balance**

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

- a final technical report in accordance with the instructions in section 7,
- the corresponding invoices,
- statements of reimbursable expenditure in accordance with Article II.7 of the standard contract.

provided the report has been accepted by the Commission.

The Commission shall have 60 days from receipt to accept or reject it, 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 shall be made.

## **9. PRICES**

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

The price must be stated in EUR(€), net of VAT (using, where appropriate, the conversion rates published in the C series of the Official Journal of the European Union on the day when the

invitation to tender was issued), and broken down according to the model in Annex III included in the attached standard contract.

#### **Part A: Professional fees and direct costs**

- Fees, expressed 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.
- Other direct costs (please specify)

#### **Part B: Reimbursable expenses**

- Travelling expenses (not including local transport)
- Subsistence expenses of the contractor and his staff (covering the expenditure incurred by experts on short-term trips outside their normal place of work) — see p. 17 of the standard contract
- Cost of transporting equipment or unaccompanied baggage directly linked to the performance of the tasks set out in Article I.1 of the standard contract
- Contingencies

The total price = Part A + Part B, **with a maximum of 350,000 €**

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

Tenders can be submitted by groupings of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but the consortium selected may be required to assume a given legal form when it has been awarded the contract if this change is necessary for proper performance of the contract<sup>8</sup>. However, a grouping of economic operators must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the following points 11 and 12 must be supplied by every member of the grouping.

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

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

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

Those articles are as follows:

"Article 93:

Applicants or tenderers shall be excluded if:

<sup>8</sup> These entities can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

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

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- d) they have not fulfilled their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- f) they are currently subject to an administrative penalty referred to in Article 96(1)<sup>9</sup>.

(...)

#### Article 94:

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

- a) are subject to a conflict of interest;
  - b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply this information;"
- 2) The tenderer to whom the contract is to be awarded shall provide, within a time limit defined by the contracting authority and preceding the signature of the contract, the evidence referred to in Article 134 of the implementing Rules, confirming the declaration referred to in point 1 above.

#### *Article 134 of the Implementing Rules – Evidence*

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

*Where the document or certificate is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.*

- §4. *Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraph 3 shall relate to legal persons and/or*

---

<sup>9</sup> "Article 96(1): The contracting authority may impose administrative or financial penalties on the following:

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

*natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.*

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

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

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

## **12. SELECTION CRITERIA**

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

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

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

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

### **12.2 Technical capability of the tenderer:**

- a description of the tenderer's technical capability and practical experience in the field referred to in section 6 of these specifications. For consortia of companies or groups of service providers, this description must relate specifically to the tasks to be performed by each of their various members;
- samples of work demonstrating tenderer's practical experience in the field referred to in section 6 of these specifications;
- the tenderer must provide the names and curricula vitae (three pages maximum) of the persons responsible for the specific tasks described in section 5 of these specifications, with a view to ascertaining their practical experience and competence in communicating with the undertakings and/or establishments;
- a description of the parts of the services to be provided by each consortium of companies or groups of service providers (where applicable).

## **13. AWARD CRITERIA**

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

- |   |     |
|---|-----|
| - understanding of the objectives and tasks:              | 25% |
| - quality and consistency of the methodological approach  | 40% |
| - quality of the work plan proposed:                      | 15% |
| - organisation of the work and management of the project: | 20% |

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

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

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

### **14.1 Content of bids**

Tenders must include:

- all information and documents necessary to enable the Commission to appraise the bid on the basis of the selection and award criteria set out in sections 12 and 13 of these specifications;
- they must include all the information required by the Commission (see sections 9, 10, 11 of these specifications),
- a bank ID form duly completed and signed by the bank;
- a "legal entity" form duly completed;
- the price;
- the detailed CVs of the proposed experts;
- the name and function of the contractor's legal representative (i.e. the person authorised to act on behalf of the contractor in any legal dealings with third parties);
- proof of eligibility: tenderers must indicate the State in which they have their registered office or are established, providing the necessary supporting documents in accordance with their national law;
- the plan of work, timetable and the description of the approach intended to apply (see section 7.1).

### **14.2 Presentation of bids**

- Bids must be submitted in triplicate (i.e. one original and two copies).
- They must be clear and concise.
- They must be signed by the legal representative.
- They must be submitted in accordance with the specific requirements of the invitation to tender, within the deadline 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)		
<b>1. Exclusion from a procurement procedure, Article 93(1) FR :</b> « Candidates or tenderers shall be excluded from participation in a procurement procedure if:			
<b>1.1. (subparagraph a)</b> 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 <sup>10</sup> ;	- 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		
<b>1.2. (subparagraph b)</b> they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata <sup>11</sup> ;	Cf. supporting documents for Article 93(1)(a) FR above		
<b>1.3. (subparagraph c)</b> they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;	Declaration by the candidate or tenderer that he is not in the situation described		
<b>1.4. (subparagraph d)</b> they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed <sup>12</sup> ;	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		
<b>1.5. (subparagraph e)</b> they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests <sup>13</sup> ;	Cf. supporting documents for Article 93(1)(a) FR above		
<b>1.6. (subparagraph f)</b> they are currently subject of an administrative penalty referred to in Article 96(1) <sup>14</sup> . »	Declaration by the candidate or tenderer that he is not in the situation described		

<sup>10</sup> See also Article 134(3) IR : Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to in paragraphs 1 and 2 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

<sup>11</sup> Cf. footnote n° 10.

<sup>12</sup> Cf. footnote n°10.

<sup>13</sup> Cf. footnote n° 10.

<sup>14</sup> 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	
<b>2. Exclusion from a procurement or grant award procedure Article 94 FR : « Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:</b>			
<b>2.1. (subparagraph a)</b> <i>are subject to a conflict of interest;</i>	Statement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal		
<b>2.2. (subparagraph b)</b> <i>are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information</i> <sup>15</sup> .	<ul style="list-style-type: none"> <li>– No specific supporting documents to be supplied by the applicant, tenderer or bidder</li> <li>– It is the responsibility of the authorising officer, represented by the evaluation committee, to check that the information submitted is complete<sup>16</sup> and to identify any misrepresentation</li> </ul>		

<sup>15</sup> Cf. Article 146(3) of the FR Implementing Rules: « ...the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within 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. »

<sup>16</sup> Cf. footnote n°15

## Annex II

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

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

- in his/her own name (*if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator<sup>17</sup>*)  
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;

---

<sup>17</sup> 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).

- f) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

- 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 upon request the evidence that they are not in any of the situations described in points a, b, d, e above.

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

**Annex III:** Overview of PROGRESS performance measurement framework

## **Annex IV: Important considerations relevant to this call for tender**

### **A. Compliance with Commission Recommendation 2003/670/EC**

Commission Recommendation 2003/670/EC put forward a number of principles and suggestions in the hope that EU Member States would abide by them. It is also important to stress that the Recommendation saw the light of day just before what was the most significant enlargement of the EU ever (initially to ten new Member States, followed by another two shortly after). On the assumption that the 12 newer Member States might have something to learn and align themselves by, the Recommendation certainly provided a framework for possibly more than a modicum of standardisation so that EU policies and measures could make sense EU wide in what is certainly an important and sensitive area. This is of the utmost importance in an economic space that prides itself of allowing for the free circulation of goods, capital and people (which of course includes workers), the implication being that, in allowing for such a free circulation, rules of equity in terms of the rights of such workers need to be ensured.

One of the Recommendation's provisions (Article 4) requested Member States to inform the Commission, no later than 31 December 2006, of the measures taken or envisaged in response to the Recommendation. With the notable exception of only one Member State, all the others needed reminders to be sent to them, after that date, before the Commission would receive the information.

But since no formal rules had been set for Member States to report to the Commission, the compliance with that 'obligation' arrived, apart from a legitimate variety of official EU languages, also in a varied range of forms, sizes, nature of contents and degrees of detail that made it a less than ideal set of information for the Commission to reach any meaningful conclusions as to what the EU *status quo* is in this field.

The range of responses received was certainly not sufficiently harmonised to allow for a comparative analysis across Member States to be made and subsequently inform an exercise on what possible changes may be required and avenues of action pursued to improve 'a EU occupational diseases system'.

The analysis of the information to be compiled in the report that this call for tender aims to have elaborated should fill in such gap.

### **B. Comparability of data / statistics and its relevance for setting targets**

The third whereas clause of the Recommendation also states that '*The experience acquired since 1990 by monitoring Recommendation 90/326/EEC in the Member States has highlighted various aspects which could be improved in order to attain more fully the Recommendation's objectives, particularly in relation to prevention and the collection and comparability of data*'.

And the seventh whereas clause '*...calls on Member States to develop and implement coordinated, coherent prevention policies, geared to national conditions, with measurable targets set in this context for reducing accidents at work and occupational illnesses, especially in those sectors of activity in which rates are above average*'.

As regards the availability of data/statistics it is important to stress that EUROSTAT has been carrying out over recent years an exercise called EODS (European Occupational

Diseases Statistics) the main purpose of which is to allow for information on occupational diseases to be made available EU wide<sup>18</sup>.

The results (data) of this EODS exercise have been very slow coming, arguably, at least in part, or so some Member States have complained, since they have lacked guidance on the part of the Commission on a sufficiently harmonised set of diagnostic criteria helping shed light on what is or not an occupational disease. Such a concern expressed by Member States participating in the EODS exercise reflect their being positioned beyond the requirements of article 2 of the Recommendation since this states that '*The Member States shall themselves determine the criteria for the recognition of each occupational disease in accordance with the national laws or practice in force*', an aspect that, if left unchanged, will not pave the way towards a more desirable degree of harmonisation.

With the recent publication in the summer of 2009 of the most recent version of the '*Information Notices on Occupational Diseases – a guide to diagnosis*'<sup>19</sup> a step in the right direction aiming to break this vicious circle was certainly taken, even if such guidance is not legally binding.

### C. International *fora*, scientific developments and new workplace risks

In parallel, developments in related international *fora*, in particular the ILO, have the potential to compound the problem further since some EU Member States do participate actively in the respective meetings, together with workers and employers representatives, negotiating and making decisions on whether or not to accept that certain ailments should or not be considered as occupational in origin. Hence there is potential for what one might consider as a more and desirable harmonised situation across the EU to go further astray. In this regard the Commission certainly has an obligation to provide the necessary guidance to Member States and create to the extent possible an even playing field across the EU.

Regarding scientific developments, given that they take place more or less constantly, they too call for a Commission 'keeping up' exercise in order to provide the EU with a modern and consistent approach to tackling problems in the field of occupational diseases.

On the other hand, emerging or new workplace hazards and risks cannot be ignored either. Their number is already quite significant and is likely to grow further, in line with the pace of structural changes in the EU's economy, new ways of work organisation and technological developments at workplace level. In fact it is widely acknowledged that the number and type of occupational hazards is changing in tandem with the transformation of the EU's economy away from industry and manufacturing to a service-focused one, and with the acceleration of innovation. In fact, the continuing relative growth of the service sector's role as a productive activity and provider of workplaces has prompted a shift from manual work towards more flexible and more cognitive-demanding work patterns. This brings with it also an increase of the importance of the psychosocial competences of workers and their ability to cope with increasing work burdens and more

---

<sup>18</sup> Regulation 1338/2008 on community statistics on public health and health and safety at work describes EODS in its annex V.

<sup>19</sup> Available in <http://ec.europa.eu/social/main.jsp?catId=716&langId=en&intPageId=229> by clicking in the 2009 document just under 'related documents' in the right hand column.

diverse tasks, which can be perceived as stressful. Together with the introduction of new technology such as nanotechnology and the ever increasing use of information technology devices, their role as contributing factors behind up to now largely ignored cause and effect relationships and occupational diseases should, in keeping with the preventive approach promoted by the Commission, be checked.

And some others, such as violence at work, including sexual and psychological harassment, addictions, workplace stress and mental/psychological factors are certainly not new but, while they have been gradually recognised as occupational in origin, are far from having found their way into official and accepted lists of occupational diseases and/or entitling workers to compensation everywhere in the EU.

Last but not least changing working patterns with a more fragmented working life (less security of tenure, higher mobility across jobs, migration of workers) do compound the problem further.

All the above aspects call for consideration to be given to whether or not they should be given the necessary attention and possibly be integrated in one of the current Recommendations' annexes or indeed in a new type of Annex possibly better suited to tackle new risks, be it in a new Recommendation or some alternative legal instrument serving a similar purpose.

These changes mean that a better understanding of these problems must be acquired by conducting specialised research in order to identify clear cause and effect relationships with the ultimate objective of allowing for the taking of effective prevention measures.

#### **D. Other general considerations**

The burden of accidents at work and work-related ill health can be analysed from different perspectives: workers, employers, insurers and the society as a whole. But it is especially difficult to quantify or present in monetary terms the burden that falls on the worker given the pain and suffering, loss of function, diminished quality of life and premature death involved.

Because of the wide range of occupational diseases that workers at large are potentially likely to suffer from, the correct tackling of such problems (via their proper characterisation first and taking of preventive measures after) will, in the medium to long term, not only improve significantly their quality of life but also the economic prospects of all involved (reducing costs of absenteeism, compensation costs, etc).

And this is one area where community action may bring in a significant dose of added value to the process, now that the free circulation of workers across the EU makes the scattering of actions/policies run the risk of being highly inefficient policy-wise and potentially unfair to workers<sup>20</sup>.

The degree to which Community legislation has actually been implemented may differ measurably from one Member State to another. For all such reasons, efforts must be

---

<sup>20</sup> The theoretical scenario of a worker with a specific occupational disease being entitled to compensation in one Member State but not in another because the former recognises the condition but not the latter is something that the current *status quo* in the EU allows for and it may have materialised already in specific cases.

continued and stepped up in order to promote health and safety at work for the duration of the current Community strategy on safety and health at work.

The reason why the field of occupational diseases is 'governed' EU wide, by a Recommendation rather than by a more legally binding instrument (Directive, Regulation) may, at least in part, have been influenced by the potential impact that adding certain occupational diseases to the 'official' list(s) may have in terms of compensation claims and obviously stakeholders may prefer to try and control their 'immediate' environments, rather than put up with rules imposed at a higher and wider level (EU). In such a 'tug of war', employers and workers will keep 'pulling the rope' to their respective sides, equipped with, sometimes if not mostly, seemingly different sets of scientific criteria as to what constitutes an occupational disease, with national governments somewhere in between, more often than not struggling to see independent and scientifically sound decisions made in the process.

In fact it is arguably true that, even bearing in mind that an extension of the number of conditions likely to be included in such lists will theoretically and correspondingly imply an extra effort on public authorities' and employers' finances, the purpose it will ultimately serve is in the interest of not only workers but that of the companies they work for and of Member States as well. This will be in part a consequence of a higher degree of awareness that this theoretical change will bring about and the related better preventive measures. All will ultimately impact positively on a whole range of economic factors (e.g. healthier workers will in the long run be more productive and, in turn, likely to improve their own acquisitive power as they too are consumers).

Failing the recognition of a purported influence of an economic/social dilemma as the main driver behind the current decision-making rules, arguably only differences of scientific criteria can explain a multitude of systems EU wide, each with its own lists of occupational diseases, as if it was acceptable to have potentially 27 different sets of scientific criteria in Europe – this is of course untenable and not supported by examples of how problems of a similar nature are dealt with at EU level. By way of example one could mention how chemicals are classified in the EU; in fact the area of work of chemicals classification has even evolved to see developed recently a worldwide set of criteria for classification (Global Harmonised System) to which the Commission signed up adopting Regulation (EC) No 1272/2008 in order to implement, within the European Union, the United Nations Globally Harmonised System of Classification and Labelling of Chemicals, thus proving that it is possible to accept that matters where scientific debate is at the heart of things can and should be solved very widely indeed.

But as regards occupational diseases, the current state of affairs contributes to unduly influence clarity and prevent a harmonised approach in the setting of scientific criteria<sup>21</sup> of what constitutes an occupational disease (something on which one would expect the mentioned scientific criteria to be the overriding factor) and the definition of common lists valid EU wide. Problems of potential cross-border incompatibility will remain and allow for the theoretical scenario where a worker can have the disease he/she suffers from recognised as occupational in one Member State and not in another. In a EU space that is nearing 500 million people and with mobility of workers ever increasing it is only a matter of time before this incompatibility will start posing serious problems; maybe there are cases out there already consistent with this incompatibility leaving workers at the mercy of an incoherent system.

---

<sup>21</sup> Not to be confused with the expert judgment necessary when considering individual cases

## **E. Important aspects/factors to be borne in mind in drawing up the report**

The aspects/factors to be covered in the report can be broken down into four main categories, i.e.:

- 1. Technical, legal and administrative aspects**, relating to the nature of the instruments and associated texts in place at EU level (Recommendation, Information Notices guide to diagnosis and, if relevant, specific daughter directives, etc.) and how Member States have taken them on board or not. In this regard a comparative exercise is required highlighting the perceived degree of conformity on the part of Member States systems as to how they deal or have dealt with them and to what extent their systems' mirror the provisions of Commission Recommendation 670/2003/EC or have been significantly influenced by it. In tackling this category and/or the two following ones the contractor will, apart from the task of comparing the degree of 'conformity' of Member States' systems with the Recommendation, be expected to address and characterise the processes of decision making at Member State level in the field of occupational diseases, particularly regarding the setting of lists of occupational diseases, their status (degree of enforceability), how are diagnostic criteria addressed and determined and what is the range of stakeholders involved in the various processes of decision-making and with which degree of 'say' in it (health professionals, state department representatives, occupational safety and health institutes/committees, workers and employers representatives, including trade unions and even EU social partners such as UEAPME, CEEP and ETUC, other?)
- 2. Political and economic factors**, concerning Member States and relevant stakeholders' attitudes and beliefs on how best to address the difficulties at hand. These may be largely driven by economic pressures 'from one side' and social pressures 'from the other'. The prospect of significant changes in the sense of an increase in the number of ailments/diseases considered as being of occupational origin may lead Member States authorities and employers to typically fear any consequent legal and budgetary implications (a possible higher number of compensation requests and of insurance costs). On the other hand, workers and their representatives may fear that intransigence on the part of the former groups may be detrimental to their legitimate rights of recognition of certain diseases as being of occupational origin and consequent rights to compensation as they are the ones who ultimately are in the receiving end of things.
- 3. Control factors**, as these may be the expression, closely related to the previous point 2, of the mentioned attitudes and beliefs, namely the extent to which Member States, employers, workers and the respective representatives feel that they are able to control their 'environments'. These could be linked and/or influence the nature of either the mechanisms of decision-making at Member States central administrative level (or both), or the reaching of possible framework agreements / social pacts between employers and workers and how far they may go (with concessions on the part of both in order to 'live together' but at what cost to each side?). Where such possible collective agreements / social pacts / social dialogue instruments will be found they should be highlighted and their nature sufficiently described.
- 4. International factors** such as the possible need to integrate national systems and practices in the framework of other international systems/fora (e.g. ILO) namely those on which stakeholders typically have a right to vote. The contractor should try and characterise the extent to which participation in or information from such international systems also informs and influences Member States systems of occupational diseases, particularly, should that be the case, regarding the aspects of setting lists of occupational diseases and diagnostic criteria.