



Specifications

for Invitation to Tender ECFIN/D4/2007/013

Selection of consultants to conduct operational assessments in relation to macroeconomic aid for third countries

These specifications follow the publication of the contract notice in the Official Journal of the European Communities **2007/S 198-239671**

- Part 1: Technical description
- Part 2: Administrative details
- Part 3: Assessment and award of the contract
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In the event of differences between the translations, the text in
French language prevails

PART 1: TECHNICAL DESCRIPTION

1. INTRODUCTION: CONTEXT OF THE CONTRACT

The European Commission has a range of economic cooperation policies under which it grants macroeconomic aid to many countries with a view to promoting their development, enabling them to restore their financial and economic equilibrium or indeed help them to make the transition to a market economy.

Macroeconomic aid is granted either as budgetary support or macrofinancial assistance. In the case of budgetary support, payments are made in the form of grants and used exclusively for financing expenditure specified in the budgets of the beneficiary States. Macrofinancial assistance, on the other hand, is paid in the form of grants and/or loans directly to the central banks of the beneficiary countries to support their balances of payments and/or their budgetary needs. In both cases, use of the funds must ensure that specific objectives, which are agreed between the Commission and the representatives of these countries in advance, are fulfilled.

1.1. Nature of the contract

The contract will be for conducting assessments of the operation of the administrative procedures which are in place in the countries which receive macroeconomic aid from the Commission. These assessments may also be extended to include reforms which affect the operation of the financial systems in these countries, particularly with regard to undertakings made in European Neighbourhood Policy (ENP) Action Plans.

(http://ec.europa.eu/world/enp/index_en.htm.)

The European Commission hopes to draw up a list of three consultants or specialised companies with the necessary expertise and proven experience to conduct operational assessment missions in the countries in question. The three tenderers whose bids are selected will be offered a one-year framework contract renewable two times for the period 2008-10 which will require, among other things, that the staff needed to carry out these tasks be made available to the Commission.

The three best tenders selected following this call for tenders will be rated in order of preference. The specific contract for each operational assessment will be offered to the consultant with the top rating on this list. If that consultant refuses or is prevented from accepting the contract, the contract will be offered to the consultant who is second on the list and, if that second consultant is unable to accept the contract, to the consultant who is third on the list.

1.2. Countries concerned

The countries eligible for macrofinancial assistance include the candidate countries (Croatia, the former Yugoslav Republic of Macedonia, and Turkey), potential candidate countries, particularly countries in the Western Balkans, and all the countries covered by the ENP.

2. PURPOSE OF THE CONTRACT

The total budget earmarked for conducting operational assessments for the different selected consultants is € 400 000. (Art I.3.3 of the framework contract)

On average, the Commission plans to conduct four operational assessments per year for the duration of the contract.

Each operational assessment will, on average, require 30 person days on the part of the consultant selected.

3. NATURE OF THE WORK TO BE UNDERTAKEN

The Commission plans to conduct operational assessments in all or some of the countries indicated at point 1.2 in the period 2008-10.

The objective of these operational assessments will be to provide a detailed analysis of the operation of various administrative bodies (ministries, auditing bodies and financial institutions) involved in managing Community funds in the countries receiving macroeconomic aid in its various forms (budgetary support and macrofinancial assistance) from the Commission.

In all cases, work conducted at the relevant Ministry of Finance will consist of analysing existing links with other Ministries and, where appropriate, all the administrative entities involved in managing Community macroeconomic aid. The consultant will be asked to ensure that the administrative procedures operate properly, that the supervisory bodies are effective and that a reliable accounting system is in place which covers the expenditure and revenue of the States concerned as well as their foreign debt.

For each of these operational assessments, a work programme will be drawn up in advance by staff at the Directorate-General for Economic and Financial Affairs. This work programme will take into account the specific situation of the countries to be studied, the information available in reports published by other institutions and donors, and in particular Public Expenditure and Financial Accountability (PEFA) reports, and the requirements expressed by the various Commission departments.

Prior to each mission, a preparatory meeting will be held at the Commission's offices in Brussels to clarify the practicalities of the work to be conducted on site.

The consultant may also be asked to describe and then assess the reforms which affect the operation of the financial systems. These reforms come under the ENP Action Plans or, in the case of candidate countries, represent efforts to align their systems with the Community *acquis*. The relevant work may involve, in particular, analysing the operation of the central bank, which includes analysing its statute, and examining in-house and external supervisory bodies, accounting documents and electronic processes. It may also involve looking at relevant aspects of the banking regulations in place as well as analysing relations between the central bank and various financial bodies (authorisations, refinancing rules, etc.).

The work undertaken by the consultant will always be supervised by a Commission official and carried out in accordance with the SIGMA programme (Support for

Improvement in Governance and Management in Central and Eastern European Countries. The programme will be adapted for use with the other countries.

The consultant will be expected to recommend ways of correcting the weaknesses detected during the assessment. These recommendations will take into account the seriousness of the shortcomings detected and the urgency with which they need to be corrected.

At a later stage, some missions will involve following up the observations and findings already made.

The final version of the report will be considered to be a professional opinion, drawn up by an external consultant, on the administrative system of the country analysed.

4. REPORTS, DOCUMENTS AND DELIVERABLES

Within thirty days of the end of the mission to the country in question, the contractor must present a description and the conclusions of the work conducted in the form of an interim report. A consultation meeting will be organised by the Commission within two weeks of its having received this report.

The final report must set out in detail the work carried out in the country in question as well as conclusions and recommendations, and must be submitted within six weeks of the consultation meeting.

The Commission will have 45 days to analyse the final report. Should the final report not be approved, the tenderer will have one month to amend it in accordance with the Commission's written comments and to submit a revised report to the Commission for its written approval. The approval/revision process may be repeated if the Commission considers it necessary or useful.

The contractor will provide five copies of the final version of the report.

5. PUBLICATION

The European Commission retains all rights relating to reports produced under this contract and to their use. Any document based in full or in part on the work carried out under these contracts may be disseminated or published only with the European Commission's permission.

PART 2: ADMINISTRATIVE DETAILS

1. GENERAL TERMS AND CONDITIONS FOR THE SUBMISSION OF TENDERS

Submission of a tender implies that the tenderer accepts all the terms and conditions set out in these specifications (including the annexes) and waives all other terms of business.

Submission of the tender binds the tenderer to whom the contract is awarded during performance of the contract.

Changes to tenders will be accepted only if they are received on or before the final date set for the receipt of tenders.

Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.

No information of any kind will be given on the progress of the evaluation of tenders.

Once the Commission has accepted the tender, it will become the property of the Commission and the Commission will treat it confidentially.

The protocol on the Privileges and Immunities or, where appropriate, the Vienna Convention of 24 April 1963 on Consular Relations shall apply to this invitation to tender.

2. NO OBLIGATION TO AWARD THE CONTRACT

Neither the putting out of the contract to tender nor the call for tender's procedure shall place the Commission under any obligation to award the contract.

The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be liable in the event of its deciding not to award the contract.

3. JOINT TENDERS

When a partnership or a consortium is envisaged three cases can arise:

1. The offer originates from a consortium already formally set up as a separate and legal entity able to submit its memorandum and articles of association, mode of operation, technical and financial capacity, such as result from the contributions of its various members. It is such a consortium that will bear the technical and financial responsibility for the contract and will present the requested financial guarantee.

2. The tender originates from companies not yet having created a consortium as a separate legal entity but planning to constitute one as referred to in item 1, if their joint tender is accepted. In such a situation, the tenderer will have to indicate the legal form, the envisaged draft statutes and mode of operation of the consortium, the various technical and financial contributions as well as the guarantees envisaged.
3. The tender originates from companies not wishing to constitute formally a consortium as a separate legal entity and thus constituting effectively an association. In such a case, the tender will be submitted in the form of subcontracting (cf. point 4), and one of the companies shall assume the total responsibility for the tender. This company will sign the contract in its name, the other companies then being regarded as subcontractors of the first.

In all cases of joint tenders, the information required below under Item 6.1 (Part 2) “Administrative Information”, Item 7 (Part 3) “Information for Assessment of Exclusion Criteria” and Item 8 (Part3), “Information for Assessment of Selection Criteria” must be provided for all members participating in the tender.

4. SUBCONTRACTORS

Where, in a tender, the amount of the services executed by a subcontractor is equal to or exceeds 20% of the contract, the subcontractor must provide all the necessary documents for assessing the tender as a whole with regard to the exclusion criteria, selection criteria (in their entirety) and award criteria. Where those services represent less than 20% of the contract, the subcontractor shall not be required to provide documents on his or her financial and economic capacity.

The tender must clearly identify the subcontractor(s) and document their willingness to perform the tasks and their acceptance of the terms and conditions set out in this document.

Tenderers must inform the subcontractors that Article II.17 of the standard service contract will be applied to them. Once the contract has been signed, Article II.13 of the above-mentioned service contract shall govern the subcontracting.

Any human resources used under contract by the successful tenderer but not part of the permanent staff will be considered as subcontracted. This also applies to independent consultants employed for a limited time and staff on secondment from another firm.

Failure to declare subcontracting may result in termination of the contract concluded with the Commission.

5. SPECIAL TERMS

5.1. Terms of payment

Payments shall be made in accordance with Article I.5 of the framework contract (Part 4).

5.2. Contractual terms

In drawing up their tenders, tenderers should bear in mind the provisions of the standard contract attached to this invitation to tender (Part 4).

6. CONTENT OF THE TENDER

All tenders must be presented in three sections:

6.1. Administrative proposal

The administrative proposal will provide the following information:

- the tenderer's name and/or business name;
- a clear description of the tenderer's legal form;
- the address of the tenderer's registered office;
- the tenderer's telephone and fax numbers, e-mail address and where available, Internet address;
- the names of the legal representatives (directors, etc.) of the tenderer who are authorised to sign contracts with third parties on behalf of the organisation;
- the tenderer's VAT number and trade-register entry number;
- the financial identification form filled in and signed by an authorised representative of the tenderer and by the tenderer's bank (see Annex 1);
- the legal entities form (see Annex 2);
- a declaration of the tenderer's eligibility certifying that the tenderer is not in any of the situations listed in articles 93 and 94 of the Financial Regulation of the European Communities (Official Journal L 248 of 16 September 2002) (see Annex 3);
- proof of financial and economic capacity: documents listed in Part 3, point 8.1;
- proof of technical and professional competence: documents listed in Part 3, point 8.2;
- other substantiating documents if the tenderer cannot, for valid reasons, provide those indicated above;
- CVs of the members of the team who will carry out the work.

6.2. Technical proposal

This section is of great importance in the assessment of the tenders, the award of the contract and the future execution of any resulting contract. Some guidelines are given below, but attention is also drawn to the award criteria, which define those parts of the technical proposal to which tenderers should pay particular attention. The technical proposal should address all matters laid down in the specifications and should include models, examples and technical solutions to problems raised in the specifications. The level of detail of the tender will be extremely important for the evaluation of the tender. Tenderers

must include in their tenders the technical specifications set out in Part 1, giving an answer to each of the points mentioned with regard to methodology, deadlines and organisation.

The technical proposal must meet the technical specifications set out below and provide, as a minimum, all the information needed for the purpose of awarding the contract.

The technical proposal will provide a well structured, concise and detailed description of:

- the contractor's understanding of the key issues underlying operational assessments;
- the manner in which the work will be conducted;
- how the team's work will be structured, from the analysis of the work programme drawn up by the Commission to the delivery of the final report;
- the technical tools and the methods which will be used to conduct the work.

6.3. Financial proposal

- **Prices must be quoted in euros**, including for the countries which do not form part of the Euro zone. Tenderers from countries which do not form part of the Euro zone should note that the amount of the offer cannot be adjusted to take exchange rate movements into account. It is up to the tenderer to choose the exchange rate, and it is the tenderer who assumes the risks or opportunities associated with exchange rate movements.
- **Prices must be quoted free of all duties, taxes and other charges, i.e. also free of VAT**, as the Communities are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJ L 152 of 13 July 1967). Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by immediate exemption.

For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT is to be shown separately. In case of uncertainty about the applicable VAT system, it is the tenderer's responsibility to contact his national authorities to clarify the way in which the European Community is exempt from VAT.

- **The price must be the final price, not subject to revision, and must include all costs.**
- The reference price for the award of the contract shall consist of two amounts:
 - a) **the amount in payment of the tasks executed**, as stated in Article III.3.1 of the contract.

For each category of staff to be involved in the project, the tenderer must specify:

- the **daily rates** of the staff which the contractor intends to deploy for the various operational assessments.

b) the amount corresponding to the reimbursable expenses

This amount, referred to in Article I.3.2 of the draft service contract referred to above, corresponds to the expenses directly connected with the execution of the tasks under the contract which are incurred by the contractor.

Reimbursable expenses are travel, subsistence and shipment expenses, in accordance with the rules on reimbursement set out in Article I.3.2. and Article II.7 of the framework contract referred to above.

In the tender, this must be indicated separately from the amount stipulated in (a).

The following information is intended to help tenderers to estimate the maximum amount of expenses:

- Meetings with the Commission:

On average, two half-day meetings will usually be held in Brussels between Commission representatives and the contractor. The first will be a preparatory meeting at which the practicalities of the work to be conducted will be addressed, and the second will be a review meeting at which the interim report will be examined. If necessary, other review meetings may be organised on the basis of the various interim reports which may be submitted by the contractor.

- Travel expenses:

We propose that consultants reimburse travel and accommodation expenses for operational assessment missions on the basis of the scale applied to Commission officials (see Annex 4).

The quoted price must be signed by the tenderer or his duly authorised representative.

PART 3: ASSESSMENT AND AWARD OF A CONTRACT

The assessment will be based on the tenderer's bid.

All information will be assessed in the light of the criteria set out in these specifications. The procedure for the award of the contract, which will concern only admissible tenders, will be carried out in three successive stages. Only tenders meeting the requirements of one stage will be examined in the following stage.

The aim of each of these stages is:

- 1) to check, in the first stage (exclusion criteria), whether tenderers can take part in the tendering procedure and, where applicable, be awarded the contract (see Part 3, section 1);
- 2) to check, in the second stage (selection criteria), the technical and professional capacity as well as the economic and financial capacity of each tenderer who has passed the exclusion stage (see Part 3, point 2 – Selection criteria);
- 3) to assess on the basis of the award criteria each tender which has passed the exclusion and selection stages (see Part 3, point 3 - Award criteria).

In the case of consortia, the exclusion, selection and award criteria will be applicable to all the members of the consortium. The same principle applies in the case of subcontractors.

The tender must clearly identify any subcontractors and document their willingness to accept the task and thus acceptance of the terms and conditions set out in this document.

Tenderers must inform the subcontractors that Article II.17 of the standard service contract will be applied to them.

Once the contract has been signed, Article II.13 of the above-mentioned service contract shall govern subcontractors.

7. EXCLUSION CRITERIA

Tenderers must confirm that they have not fallen into any of the following situations since they replied to the above-mentioned invitation to tender.

Tenders will not be considered if the candidates are in any of the following situations:

- a) They are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have ceased trading, 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;
- 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) Following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations;
- g) They are subject to a conflict of interest;
- h) They have been guilty of misrepresentation in supplying the information required or have failed to supply this information.

Tenderers or their representatives must fill in and sign the form in Annex 3 to these specifications. By completing this form, tenderers:

- state whether or not they are in one or more of the situations described in the form;
- undertake to submit to the Commission any document relating to the eligibility criteria that the Commission may see fit to request.

8. SELECTION CRITERIA

Only tenders fulfilling all the selection criteria will be examined in the light of the award criteria.

This part of the tender concerns the criteria and documents relating to the technical and professional capacity and economic and financial capacity of the service provider(s) involved in the tender. It should also contain any other document that the tenderer wishes to include by way of clarification.

Each of the several service providers involved in the tender must have the professional and technical capacity to perform the tasks assigned to them in the tender and the necessary economic and financial capacity.

This rule applies to all service providers, regardless of the percentage of work which they intend to carry out, provided that they have chosen to be tenderers.

However, if the tender includes subcontractors whose tasks represent less than 20% of the contract, those subcontractors are not obliged to provide evidence of their economic and financial capacity.

8.1. Evidence of the economic and financial capacity of the tenderer

Tenderers must include in their tenders all documents needed to update the information on their economic and financial capacity submitted at the time of the above-mentioned call for tenders. The criteria are set out below:

All tenderers (and subcontractors whose tasks are equal to or exceed 20% of the contract) must provide proof of economic and financial capacity by presenting the following documents:

- balance sheets or extracts from balance sheets for at least the last two years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the tenderer is established;
- statement of overall turnover and turnover concerning the works, supplies or services covered by the contracts during a period which may be no more than the last three financial years.

If, for some exceptional reason which the Commission considers justified, a tenderer is unable to provide one or other of the above documents, he may prove his economic and financial capacity by any other document which the Commission considers appropriate. In any case, the Commission must at least be notified of the exceptional reason and its justification in the tender. The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

8.2. Evidence of the technical and professional capacity of the tenderer

The ability of tenderers to perform the tasks in question will be assessed in particular with regard to their know-how, efficiency, experience and reliability.

Evidence of the technical and professional capacity of the persons involved in the tender may be furnished on the basis of the following documents:

- evidence of technical and professional skills will be provided in the CVs of the team members responsible for the work;
- list of main contracts carried out over the past three years (in the public or private sector) with a precise indication of the type of work carried out, the resources used and the value of the corresponding contracts;
- any other information which the tenderer considers should be brought to the attention of the Commission (in particular, the tenderer's ability to call on the help of partners in countries outside the European Union will be taken into account).

Tenderers must be prepared to provide a sample of their recent studies if requested to do so.

By submitting a tender, the tenderer and all other parties involved in the tender accept the possibility of a check being carried out by the Commission on their technical capacities and, if necessary, on their research facilities and quality control measures.

Moreover, tenderers are informed that they may be required to justify their authorisation to perform the contract in relation to the national law they fall under: a commercial or professional register registration number, or a statement under oath or certificate, membership of a specific organisation, express authorisation, or registration in the VAT register.

Tenderers should note that any total or partial omission of information for which one or more persons involved in the tender are responsible may lead the Commission to exclude the tender from the rest of the procedure.

9. AWARD CRITERIA

The contract will be awarded to the tenderer whose offer represents the best value for money on the basis of the following criteria:

- experience, expertise and language skills of the persons in the team responsible for the work – this will be analyzed on the basis of the information provided in the CVs submitted with the tender (15 points);
- the number and the quality of the partners or associated offices which the consultant has at his disposal (10 points);
- planned working methods (25 points);
- price (person/day) – (50 points).

10. AWARDING COMMITTEE

The process of awarding the contract will take place in November/December 2007. An awarding committee is to be set up for this purpose.

This committee will evaluate the offers on the basis of the award criteria indicated at section 3 above.

11. INFORMATION FOR TENDERERS

The Commission will inform tenderers of decisions reached concerning the award of the contract, including the grounds for any decision not to award a contract or to recommence the procedure.

Part 4: Project of framework service contract and specific contract

FRAMEWORK SERVICE CONTRACT

CONTRACT NUMBER – **ECFIN/ / 2007/**

The European Community (hereinafter referred to as "the Community"), represented by the Commission of the European Communities (hereinafter referred to as "the Commission"), which is represented for the purposes of the signature of this contract by

Mr Antonio de Lecea, Director of International Economic and Financial Affairs,
Directorate General Economic and Financial Affairs,

of the one part,

and

[official name in full]
[*official legal form*]
[*statutory registration number*]
[official address in full]
[*VAT registration number*]

(hereinafter referred to as "the Contractor"), represented for the purposes of the signature of this contract by [name in full and function,]

of the other part,

HAVE AGREED

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

Annex I – Tender Specifications (Invitation to Tender ECFIN/D4/2007/013)

Annex II – Contractor's Tender (No [*complete*] of [*complete*])

Annex III – Specific Contract

Annex IV – Price schedule

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

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annexes. The terms set out in the Tender Specifications (Annex I) shall take precedence over those in the specific contracts (Annex III), the latter taking precedence over the Tender (Annex II).

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the Commission; subject to the rights of the Contractor under Article I.8 should he dispute any such instruction.

I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

- I.1.1** The subject of the Contract is the carrying out of operational assessments of financial circuits and procedures in the following countries, beneficiaries of Macro Financial Assistance:
- The EU Candidate countries : Croatia, Former Yugoslav Republic of Macedonia, Turkey
 - The potential EU Candidate Countries in the Western Balkans : Albania, Bosnia and Herzegovina, Montenegro, Serbia and Kosovo
 - The European Neighbourhood Policy (ENP) countries : Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia and Ukraine
- I.1.2** Signature of the Contract imposes no obligation on the Commission to purchase. Only implementation of the Contract through specific contracts is binding on the Commission.
- I.1.3** Once implementation of the Contract has been requested or has commenced, the Contractor shall reply and provide the services in accordance with all terms and conditions of the Contract.
- I.1.4** The Contract does not confer on the Contractor any exclusive right to provide the services described in Annex I to the Commission. The Contractor is selected as the [first/second/third] contractor for a multiple framework contract.

ARTICLE I.2 - DURATION

- I.2.1** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2** Under no circumstances may implementation commence before the date on which the Contract enters into force. Provision of the services may under no circumstances begin before the date on which the order or the specific contract enters into force.
- I.2.3** The Contract is concluded for a period of 12 months with effect from the date on which it enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
- I.2.4** The specific contracts shall be returned signed before the Contract to which they refer expires.
- The Contract can continue to apply to such specific contracts after its expiry, but for no more than 6 months.
- I.2.5** The contract can be renewed maximum twice, each time for a period of twelve months, but only before the expiry date, and by means of written agreement of the parties. This renewal involves neither modifications nor transfer of obligations in force.

ARTICLE I.3 –PRICE OF THE INDIVIDUEL SPECIFIC CONTRACTS

- I.3.1** The price of the individual specific contracts will be set in accordance with the price schedule in Annex IV and will be based on:
- the daily fee(s) of the consultant(s). The fee(s) shall be fixed and not subject to revision.
 - the reimbursement of travel and subsistence expenses (hotel costs and daily allowance) in accordance with Article II.7 and the applicable rates for governing missions of the European Commission officials.
- I.3.2** Prices shall be expressed in Euro. Travel and subsistence expenses in currencies other than the Euro should be converted into the Euro using the InforEuro (http://ec.europa.eu/budget/other_main/links_en.htm) monthly accounting rate applicable.
- I.3.3** The total of the individual specific contracts for all the selected contractors referred to in Article I.1.4 cannot exceed 400,000 EUR (four hundred thousand Euros) over the whole duration of the Contract.

ARTICLE I.4 – IMPLEMENTATION OF THE CONTRACT

- I.4.1** Within 20 working days of a request for services being sent by the Commission to the Contractor, the Commission shall receive a detailed work schedule and a price offer separating the daily fees from the reimbursable expenses.

Should the Contractor be unavailable, he shall give reasons for refusal within the same period. [The Commission shall be entitled to send a request to the next contractor on the list.] In the event of failure to observe this deadline or disagreement on the allocation of resources, the Contractor shall be considered unavailable.

- I.4.2** Within 10 working days of a specific contract being sent by the Commission to the Contractor, the Commission shall receive it back, duly signed and dated. In the event of failure to observe this deadline, the Contractor may be considered unavailable.

ARTICLE I.5 – PAYMENT PERIODS

Payments under the Contract shall be made in accordance with Article II.4. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted. Payment requests may not be made if payments for previous specific contracts have not been executed as a result of default or negligence on the part of the Contractor.

Payment request:

The request for final payment shall be admissible if accompanied by:

- the final report in accordance with the instructions laid down in Annex I
- statements of reimbursable expenses in accordance with Article II.7

- the relevant invoice, indicating the reference numbers of the Framework Contract and the specific contract to which it refers

provided the report has been approved by the Commission.

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

Within thirty days of the date on which the report is approved by the Commission, a final payment corresponding to the amount referred to in the relevant specific contract shall be made.

For Contractors established in Belgium, the orders shall include the following provision: “En Belgique, l’utilisation de ce bon de commande vaut présentation d’une demande d’exemption de la TVA n° 450” or an equivalent statement in the Dutch or German language. The Contractor shall include the following statement in his invoice(s): “Exonération de la TVA, article 42, paragraphe 3.3 du code de la TVA” or an equivalent statement in the Dutch or German language.

For Contractors established in Italy, the provisions of the Contract constitute a request for VAT exemption, provided the Contractor includes the following statement in his invoice(s): “Operazione non imponibile ai sensi dell’articolo 72, comma 3) paragrafo 3 del D.P.R. n. 633 del 26/10/1972 come modificato da ultimo dal D.L. n. 323 del 20/06/1996 convertito in Legge n. 425 dell’8/8/1996”.

ARTICLE I.6 – BANK ACCOUNT

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

Name of bank: [complete]
 Address of branch in full: [complete]
 Exact designation of account holder: [complete]
 Full account number including codes: [complete]
 IBAN code: [complete]

ARTICLE I.7 – GENERAL ADMINISTRATIVE PROVISIONS

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

Commission:

European Commission
 Directorate-General Economic and Financial Affairs
 [Directorate [complete]]
 [Unit [complete]]

[Postcode and city]

Contractor:

Mr/Mrs/Ms [complete]
[Function]
[*Company name*]
[Official address in full]

ARTICLE I.8 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES

- I.8.1** The Contract shall be governed by the national substantive law of Belgium.
- I.8.2** Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the courts of the Belgium.

ARTICLE I.9 – DATA PROTECTION

Any personal data included in or relating to the Contract, including its execution shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. It shall be processed solely for the purposes of the performance, management and follow-up of the Contract by the Directorate General Economic and Financial Affairs without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with Community law. The Contractor shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the Contractor have any queries concerning the processing of his personal data, he shall address them to the Directorate General Economic and Financial Affairs. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

ARTICLE I.10 – TERMINATION BY EITHER CONTRACTING PARTY

Either contracting party may, of its own volition and without being required to pay compensation, terminate the Contract by serving 3 months formal prior notice. Should the Commission terminate the Contract, the Contractor shall only be entitled to payment corresponding to the services ordered and executed before the termination date. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the services rendered up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

II – GENERAL CONDITIONS

ARTICLE II. 1 – PERFORMANCE OF THE CONTRACT

- II.1.1** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.
- II.1.2** The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.
- II.1.3** Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.
- II.1.4** The Contractor must ensure that any staff performing the Contract has the professional qualifications and experience required for the execution of the tasks assigned to him.
- II.1.5** The Contractor shall neither represent the Commission nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the European public service.
- II.1.6** The Contractor shall have sole responsibility for the staff who execute the tasks assigned to him.

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

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Commission;
 - the Commission may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Commission any right arising from the contractual relationship between the Commission and the Contractor.
- II.1.7** In the event of disruption resulting from the action of a member of the Contractor's staff working on Commission premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Commission shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in

the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.

- II.1.8** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Commission. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.
- II.1.9** Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, the Commission may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the Commission may impose penalties or liquidated damages provided for in Article II.16.

ARTICLE II. 2 – LIABILITY

- II.2.1** The Commission shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of the Commission.
- II.2.2** The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.13. The Commission shall not be liable for any act or default on the part of the Contractor in performance of the Contract.
- II.2.3** The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the Commission by a third party as a result of damage caused by the Contractor in performance of the Contract.
- II.2.4** In the event of any action brought by a third party against the Commission in connection with performance of the Contract, the Contractor shall assist the Commission. Expenditure incurred by the Contractor to this end may be borne by the Commission.
- II.2.5** The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the Commission should it so request.

ARTICLE II. 3 - CONFLICT OF INTERESTS

- II.3.1** The Contractor shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest,

political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified to the Commission in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

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

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

II.3.3 The Contractor declares:

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

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

ARTICLE II. 4 – INVOICING AND PAYMENTS

II.4.1 Pre-financing:

Where required by Article I.5.1, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract. Such guarantee may be replaced by a joint and several guarantee by a third party.

The guarantor shall pay to the Commission at its request an amount corresponding to payments made by it to the Contractor which have not yet been covered by equivalent work on his part.

The guarantor shall stand as first-call guarantor and shall not require the Commission to have recourse against the principal debtor (the Contractor).

The guarantee shall specify that it enters into force at the latest on the date on which the Contractor receives the pre-financing. The Commission shall release the guarantor from its obligations as soon as the Contractor has demonstrated that any pre-financing has been covered by equivalent work. The guarantee shall be retained until the pre-financing has been deducted from interim payments or payment of the balance to the Contractor. It shall be released the following month. The cost of providing such guarantee shall be borne by the Contractor.

II.4.2 Interim payment:

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

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

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

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

If the Commission does not react within this period, the report shall be deemed to have been approved. Approval of the report does not imply recognition either of its regularity or of the authenticity, completeness or correctness of the declarations or information enclosed.

Where the Commission requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions. The new report shall likewise be subject to the above provisions.

II.4.3 Payment of the balance:

Within sixty days of completion of the tasks referred to in each order or specific contract, the Contractor shall submit to the Commission a formal request for payment accompanied by those of the following documents, which are provided for in the Special Conditions:

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

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

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

If the Commission does not react within this period, the report shall be deemed to have been approved. Approval of the report does not imply recognition either of its regularity or of the authenticity, completeness or correctness of the declarations and information enclosed.

Where the Commission requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions. The new report shall likewise be subject to the above provisions.

ARTICLE II. 5 – GENERAL PROVISIONS CONCERNING PAYMENTS

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

II.5.2 The payment periods referred to in Article I.5 may be suspended by the Commission at any time if it informs the Contractor that his payment request is not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the Commission may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The Commission shall notify the Contractor accordingly by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.5 shall begin to run again once the suspension has been lifted.

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

ARTICLE II. 6 – RECOVERY

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

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

II.6.3 In the event of failure to pay by the deadline specified in the request for reimbursement, the Commission may, after informing the Contractor, recover

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

ARTICLE II. 7 - REIMBURSEMENTS

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

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

II.7.3 Travel expenses shall be reimbursed as follows:

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

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

- a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
- b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
- c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including meals, local transport, insurance and sundries;
- d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.

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

ARTICLE II. 8 – OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY

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

ARTICLE II. 9 – CONFIDENTIALITY

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

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

ARTICLE II.10 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION

II.10.1 The Contractor shall authorise the Commission to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article I.9 shall apply.

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

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

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

ARTICLE II. 11 – TAXATION

- II.11.1** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.11.2** The Contractor recognises that the Commission is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities.
- II.11.3** The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.
- II.11.4** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

ARTICLE II. 12 – FORCE MAJEURE

- II.12.1** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.12.2** Without prejudice to the provisions of Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.12.3** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.12.4** The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II. 13 – SUBCONTRACTING

- II.13.1** The Contractor shall not subcontract without prior written authorisation from the Commission nor cause the Contract to be performed in fact by third parties.
- II.13.2** Even where the Commission authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Commission under the Contract and shall bear exclusive liability for proper performance of the Contract.

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

ARTICLE II. 14 – ASSIGNMENT

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

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

ARTICLE II. 15 – TERMINATION BY THE COMMISSION

II.15.1 The Commission may terminate the Contract, a pending order or a specific contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
- (c) where the Contractor has been guilty of grave professional misconduct proven by any means which the Commission can justify;
- (d) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (e) where the Commission seriously suspects the Contractor of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Commission as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Commission's opinion, have a significant effect on the performance of the Contract;

- (i) where execution of the tasks under a pending order or a specific contract has not actually commenced within fifteen days of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Commission;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

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

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

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

II.15.4 Consequences of termination:

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

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

On termination the Commission may engage any other contractor to execute or complete the services. The Commission shall be entitled to claim from the Contractor all extra costs incurred in doing so, without prejudice to any other rights or guarantees enforceable under the Contract.

ARTICLE II. 16 – LIQUIDATED DAMAGES

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Commission's right to terminate the Contract, the Commission may decide to impose liquidated damages of 0.2% of the

amount of the relevant purchase per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Commission within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. The Commission and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

ARTICLE II. 17 – CHECKS AND AUDITS

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

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

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

ARTICLE II. 18 – AMENDMENTS

Any amendment to the Contract shall be the subject of a written agreement concluded by the contracting parties. An oral agreement shall not be binding on the contracting parties. An order or a specific contract may not be deemed to constitute an amendment to the Contract.

ARTICLE II. 19 – SUSPENSION OF THE CONTRACT

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

SIGNATURES

For the Contractor,
[Company name/forename/surname/function]

For the Commission,
[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done at [Brussels], [date]
In duplicate in English.

Done at [Brussels], [date]

ANNEX I TO THE FRAMEWORK CONTRACT

Tender Specifications (Invitation to Tender ECFIN/D4/2007/013)

ANNEX II TO THE FRAMEWORK CONTRACT

Contractor's Tender (No [*complete*] of [*complete*])

ANNEX III TO THE FRAMEWORK CONTRACT

SPECIFIC CONTRACT No implementing Framework Contract No ...

The European Community (hereinafter referred to as "the Community"), represented by the Commission of the European Communities (hereinafter referred to as "the Commission"), which is represented for the purposes of the signature of this contract by [name in full, function, department],

of the one part,

and

[official name in full]
[official legal form]
[statutory registration number]
[official address in full]
[VAT registration number]

(hereinafter referred to as "the Contractor"), represented for the purposes of the signature of this contract by [name in full and function,]

of the other part,

HAVE AGREED

ARTICLE 1: SUBJECT

- 1.1 This specific contract implements Framework Contract No [complete] signed by the Commission and the Contractor on [complete date].
- 1.2 The subject of this specific contract is to carry out tasks of operational assessment of the financial circuits and procedures in [complete country], beneficiary of Macro Financial Assistance.
- 1.3 The Contractor undertakes, on the terms set out in the Framework Contract and in this specific contract and the annexes thereto, which form an integral part thereof, to provide the services specified in Annex I of the Framework Contract and Annexes A and B of this specific contract.

ARTICLE 2: DURATION

- 2.1 This specific contract shall enter into force on the date on which it is signed by the last contracting party.
- 2.2 The duration of the services to be provided shall not exceed [...] months. Provision of the services shall start from date of entry into force of this specific contract. The period of provision of the services may be extended only with the express written agreement of the parties before such period elapses.
- 2.3 The services to be provided will include [...] days of work in the office for collection and analysis of the documentation and [...] days of mission on the field as specified in Article 1.2.

ARTICLE 3: PRICE

- 3.1 The amount to be paid by the Commission for the provision of the services under this specific contract shall beEUR [amount in figures and in words] .
- 3.2 In addition to the amount specified in Article 3.1, travel and subsistence expenses (hotel costs and daily allowance) will be reimbursed for an amount of maximum ... EUR , according to the provisions of the Framework contract.

ARTICLE 4: REPORTS

The services provided by the Contractor shall be the subject of the following reports drawn up in accordance with Annex I of the Framework Contract and Article 1.3 of this specific contract.

4.1 Interim report

Within thirty days of the end of the mission, the Contractor will submit an interim report in electronic form, which will present a description of the work performed and main conclusions.

Within two weeks after the submission of the report, the Commission will organise a meeting to discuss the report.

4.2 Final report

Within six weeks of the meeting on the interim report, the Contractor will submit a final report which must set out in detail the work carried out, the conclusions and any recommendations.

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

The approval/revision process may be repeated if the Commission considers it necessary.

The Contractor will provide five copies of the final version of the report.

ARTICLE 5 – BANK ACCOUNT

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

Name of bank: [complete]
Address of branch in full: [complete]
Exact designation of account holder: [complete]
Full account number including codes: [complete]
IBAN code: [complete]

ARTICLE 6: INVOICING AND PAYMENT ARRANGEMENTS

6.1 Invoices shall be sent to: European Commission
Directorate General Economic and Financial Affairs
Head of Unit ECFIN R-2
Contract no. ECFIN/...
BU-1 3/13
B-1049 Brussels

6.2 Payment shall be made in accordance with Article I.5 of the Framework Contract.

The request for final payment shall be admissible if accompanied by:

- the final report in accordance with the instructions laid down in Annex I of the Framework Contract and in Article 1.3 of the present specific contract
- statements of reimbursable expenses in accordance with Article 3.2 of the present specific contract
- the relevant invoice, indicating the reference numbers of the Framework Contract and the specific contract to which it refers

provided the final report has been approved by the Commission.

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

Within thirty days of the date on which the report is approved by the Commission, a final payment corresponding to the amount referred to in the relevant specific contract shall be made.

ARTICLE 7: ANNEXES

Annex A – Commission's request for services

Annex B – Contractor's offer: detailed work schedule and price

SIGNATURES

For the Contractor,
[Company name/forename/surname/function]

For the Commission,
[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done at [Brussels], [date]
In duplicate in [English].

Done at [Brussels], [date]

ANNEX IV TO THE FRAMEWORK CONTRACT

Price schedule

I Daily fee(s) of the consultant(s).

... EUR/day

Fees are fixed and not subject to revision.

II Applicable rates for the reimbursement of travel and subsistence expenses (hotel costs and daily allowance)

ANNEX 1
FINANCIAL IDENTIFICATION FORM

This form can be downloaded from

http://ec.europa.eu/comm/budget/execution/ftiers_en.htm

ANNEX 2
LEGAL ENTITIES FORM

This form can be downloaded from
http://ec.europa.eu/comm/budget/execution/legal_entities_en.htm

ANNEX 3
DECLARATION OF THE CANDIDATE’S ELIGIBILITY REGARDING
EXCLUSION CRITERIA

Tenders will not be considered if the candidates are in any of the following situations:

- (a) They are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have ceased trading, 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;
- (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) Following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.
- (g) They are subject to a conflict of interest;
- (h) They have been guilty of misrepresentation in supplying the information required or have failed to supply this information.

The awarded tenderers commit themselves to provide the evidence that they are not in one or more of the situations described in the form before signing the contract with the Commission.

..... (Name)
..... (Signature)
..... (Date)

ANNEX 4 DAILY ALLOWANCES

MISSION ALLOWANCES

1. DAILY SUBSISTENCE ALLOWANCES FOR COUNTRIES IN THE EUROPEAN UNION

(COUCIL REGULATION adjusting from 1 July 2006 the scale for missions by officials and other servants of the European Communities in the Member States)

DESTINATIONS	Daily allowance in €	Maximum hotel price in €
Germany	93	115
Austria	95	130
Belgium	92	140
Bulgaria	58	169
Cyprus	93	145
Czech Republic	75	155
Denmark	120	150
Spain	87	125
Estonia	71	110
Finland	104	140
France	95	150
Greece	82	140
Hungary	72	150
Ireland	104	150
Italy	95	135
Lettonia	66	145
Lithuania	68	115
Luxemburg	92	145
Malta	90	115
Netherland	93	170
Poland	72	145
Portugal	84	120
Romania	52	170
Slovakia	80	125
Slovenia	70	110
Sweden	97	160

DESTINATIONS	Daily allowance in €	Maximum hotel price in €
United Kingdom	101	175

2. DAILY SUBSISTENCE ALLOWANCES FOR COUNTRIES OUTSIDE THE EUROPEAN UNION

DESTINATIONS	Daily allowance in €	Maximum hotel price in €
Afghanistan	50	75
Afrique du Sud	50	145
Albanie	50	160
Algérie	85	85
Andorre*	68,89	126,57
Angola	105	175
Anguilla	75	140
Antigua et Barbuda	85	140
Antilles néerlandaises	90	185
Arabie Saoudite	85	195
Argentine	75	210
Arménie	70	210
Aruba	80	185
Australie	75	135
Azerbaïdjan	70	200
Bahamas	75	115
Bahreïn	80	195
Bangladesh	50	140
Barbade	75	140
Belarus	90	135
Belize	50	135
Bénin	50	100
Bermudes	70	140
Bhoutan	50	130
Bolivie	50	100

DESTINATIONS	Daily allowance in €	Maximum hotel price in €
Bonaire	90	185
Bosnie Herzégovine	65	135
Botswana	50	135
Brésil	65	180
Brunei	60	165
Burkina Faso	55	90
Burundi	50	115
Caïmanes, îles	60	135
Cambodge	50	115
Cameroun	55	105
Canada	65	165
Cap-Vert	50	75
Centrafricaine, Rép	60	80
Chili	70	175
Chine	55	155
Cisjordanie et Bande de Gaza	60	110
Colombie	50	120
Comores	50	85
Congo (Rép. Dém. du)	105	140
Congo (Rép. du)	70	115
Cook, îles	50	135
Corée (Nord), R.P.D.	50	180
Corée (Sud), Rép. de	100	200
Costa Rica	50	140
Côte d'Ivoire	60	130
Croatie	60	120
Cuba	75	150
Djibouti	65	170
Dominicaine, Rép.	60	170
Dominique	75	140
Egypte	65	140
El Salvador	55	125
Emirats arabes Unis	70	195

DESTINATIONS	Daily allowance in €	Maximum hotel price in €
Equateur	50	140
Erythrée	50	80
Etats-Unis d'Amérique (Autres)	80	200
Etats-Unis d'Amérique (New York)	100	275
Ethiopie	50	145
Fidji	50	120
Gabon	75	115
Gambie	50	120
Géorgie	80	215
Ghana	70	140
Grenade	75	140
Guadeloupe	65	115
Guam	60	135
Guatemala	50	125
Guinée équatoriale	60	85
Guinée, Rép. de	50	135
Guinée-Bissau	50	90
Guyane	50	160
Guyane Française	55	140
Haiti	65	125
Honduras	50	125
Hong-Kong	60	205
Inde	50	195
Indonésie	50	145
Indonésie - Timor oriental	50	110
Iran, rép islam	55	145
Iraq	60	85
Islande	85	160
Israël	105	210
Jamaïque	60	170
Japon	130	275
Jordanie	60	135
Kazakhstan	70	175

DESTINATIONS	Daily allowance in €	Maximum hotel price in €
Kenya	60	165
Kirghizistan	75	180
Kiribati	60	145
Koweit	85	195
Laos	50	145
Lesotho	50	100
Liban	70	190
Liberia	85	150
Libye, Jamahiriya ar.	50	175
Liechtenstein	80	95
Macao	55	95
Macédoine (ARY)	50	160
Madagascar	50	105
Malaisie	50	200
Malawi	50	165
Maldives	50	135
Mali	60	95
Mariannes du Nord, îles	70	135
Maroc	75	130
Marshall, îles	50	135
Martinique	70	110
Maurice, Rép.	60	140
Mauritanie	50	75
Mayotte	50	110
Mexique	70	185
Micronésie	55	135
Moldova	80	170
Monaco*	72,58	97,27
Mongolie	70	90
Monténégro	80	140
Montserrat	55	140
Mozambique	60	140
Myanmar	50	75

DESTINATIONS	Daily allowance in €	Maximum hotel price in €
Namibie	50	85
Nauru	50	135
Népal	50	135
Nicaragua	50	135
Niger	50	75
Nigeria	50	185
Niue	50	135
Norvège	80	140
Nouvelle-Calédonie	55	135
Nouvelle-Zélande	60	125
Oman	70	135
Ouganda	55	180
Ouzbékistan	75	155
Pakistan	50	130
Palau	50	135
Panama	50	160
Papouasie Nouvelle Guinée	55	135
Paraguay	50	140
Pérou	75	135
Philippines	60	150
Polynésie française	60	135
Puerto Rico	65	140
Qatar	65	135
Réunion	60	90
Russie	90	275
Rwanda	65	160
Saint Kitts et Nevis	85	185
Sainte-Lucie	75	140
San Marino*	60,34	114,33
Saint-Vincent et les Grenadines	75	190
Salomon, îles	50	120
Samoa	50	135
Samoa Américaines	70	135

DESTINATIONS	Daily allowance in €	Maximum hotel price in €
São Tome et Principe	60	95
Sénégal	65	135
Serbie	80	140
Seychelles	85	140
Sierra Leone	55	135
Singapour	75	150
Somalie	50	125
Soudan	55	215
Sri Lanka	50	105
St Marteen	90	185
Suisse	80	140
Suriname	55	125
Swaziland	50	90
Syrie	80	145
Tadjikistan	75	110
Taiwan, Prov de Chine	55	200
Tanzanie	50	200
Tchad	65	145
Thaïlande	60	145
Timor Oriental	50	110
Togo	60	95
Tokelau, îles	50	135
Tonga	50	105
Trinité et Tobago	60	115
Tunisie	60	85
Turkménistan	80	150
Turks et Caïcos, îles	55	135
Turquie	55	165
Tuvalu	50	135
Ukraine	80	190
Uruguay	55	160
Vanuatu	60	110
Vatican*	60,34	114,33

DESTINATIONS	Daily allowance in €	Maximum hotel price in €
Venezuela	85	125
Vierges, îles (Etats-Unis)	55	140
Vierges, îles (Grande-Bretagne)	75	140
Viêt-Nam	50	205
Wallis & Futuna Islands	50	135
Yémen	60	165
Zambie	50	135
Zimbabwe	50	115
Autres pays	60	145

Annex 5

Example of a work programme

The overall objective of the operational assessments is to enable the European Commission to determine whether the requirement of sound financial management of the Community instrument is fulfilled.

This audit includes:

- Systems audit of each target institution: Ministries involved in the management of EU funds and Central Banks.
- Verification of the manuals and other documents relevant to the fulfilment of the requirements listed below
- The drawing up of a report (Operational Assessment Report) setting out the findings and conclusions of the audit work and giving an audit opinion which provides positive assurance that the requirements are met.

Areas to be audited

The audit is an overall systems assessment of each target institution. For each institution, the audit should focus on the following areas:

Management structure and organisation

- commitment of the subscribers of Memorandum of understanding to bear full responsibility for MFA funds;
- existence of clear and adequate organisation charts;
- clearly defined delegations, using written agreements (notably Financing or other Agreements) between the Central Bank and the Ministry of Finance.
- staff (status, competence, adequate number, jobs and responsibilities defined in writing, training programmes);
- separation of functions¹ : an official should only have one responsibility at any time for either authorising payments, or paying or accounting; each task should always be conducted under the supervision of a second official and there should be evidence of the review of the work;
- existence of written procedures :

¹ Obligations under the EC Financial Regulation (i.a. art. 164)

There should be detailed manuals explaining the procedures and identifying supporting documentation together with a general description of an audit trail

Compliance statement:

A statement covering the fulfilment of conditions of the assistance and the associated reporting has to be submitted to the Commission by the national authorities before each disbursement. A standard letter to be sent by the national authorities is attached in this respect.

The consultant will check that the MoF and Central Bank have set up an appropriate and co-ordinated system to report progress on the programme towards pre-defined indicators (both physical and financial indicators).

Management and control of funds

To be audited in particular are the bank account systems procedures, double signature systems, payments and treatment of interests. Authorisation of payments should be based on detailed verification checklists containing the completeness and correctness of supporting documents, appliance of the accurate EURO conversion rate and date of receipt.

IT process and computer security:

When a computer system is used, access to the computer system should be protected and controlled so as to ensure:

- all information entered into the system is properly validated (errors are detected and corrected);
- no data may be entered, modified or validated except by authorised officials who have individual passwords;
- the identity of each official entering or modifying data or programmes is recorded in an operations log. Passwords shall be changed regularly to avoid misuse. Computer systems should be protected from unauthorised access by physical controls, and the data should be backed up by copies stored in a separate safeguarded location. Data entry should be checked by logical checks aimed at detecting inconsistent or extraordinary data.

Internal audit capacity

There should be internal audit activities whose objective is to ensure that the system of internal control to manage MFA operates effectively. The internal audit could be performed by the MoF and Central Bank or by a central audit body or both. In any case, the internal audit service(s) should be independent from the management functions. The internal audit service should be performed according to internationally accepted audit standards.

External audit capacity

An external audit body should exist to harmonise, support and assess the work done by internal audit teams in each ministry/body and also to certify their financial reporting. This should be an independent structure adequately staffed with regularly rotated auditors or a major accounting and auditing firm.

Concerning the Central Banks specific investigations will focus on its independence vis-a-vis the Government and, in particular, the Ministry of Finance: this part of the audit will assess, inter alia; the legislative and the regulatory framework relating to:

Proper governance structure (board, committees, and governors).

Appointment and removal of top management.

Definition of the responsibility for owning and managing the foreign exchange reserves of the country.

Details on the provision of credit policy to government and the respective roles of the Central Bank and Government in policy decisions.

Financial reports.