

OPEN PROCEDURE

Call for Tender ECFIN 2013 001/L

Automatic award procedure

FINANCIAL INSTRUMENTS AUDIT CERTIFICATION

TENDER SPECIFICATIONS

**These specifications follow the publication of the contract notice
in OJEU 2013/S 079-132071 dated 23 April 2013**

- Part I: Technical specifications
- Part II: Administrative details
- Part III: Assessment and award of a contract

- Annex 1: Activity of the Borrowing sector, payment schedule from 31.12.2011 to 31.12.2016
- Annex 2: Activity of the Treasury sector
- Annex 3: Financial statements of the financial instruments as at 31.12.2011
- Annex 4: Compulsory reply form for legal entity details
- Annex 5: Compulsory reply form for bank details
- Annex 6: Compulsory reply form for the declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest
- Annex 7: Compulsory reply form for the financial proposal
- Annex 8: Draft service contract

TABLE OF CONTENT

PART I: TECHNICAL SPECIFICATIONS	4
1. NATURE OF THE CONTRACT	4
2. BACKGROUND	4
3. OBJECTIVES	5
4. CONTENT, DELIVERABLES	6
4.1 TASKS TO BE PERFORMED BY THE CONTRACTOR	6
4.1.1 AUDIT CERTIFICATION OF THE VARIOUS FINANCIAL INSTRUMENTS	6
4.1.2 AUDITING OF PROCEDURES RELATING TO BORROWING AND LENDING OPERATIONS	6
4.1.3 AUDITING OF TREASURY MANAGEMENT PROCEDURES AND INVESTMENT RETURNS	6
4.1.4 "EXIT AUDIT" RELATING TO THE BUFI-FUND	7
4.2 WORKING METHODS, TIMING , REPORTS AND DOCUMENTS TO BE SUBMITTED.....	7
5. INDICATIVE TABLE FOR THE WORK	8
5.1 STARTING DATE OF THE CONTRACT, DURATION OF THE TASKS	8
5.2 PLACE OF PERFORMANCE.....	9
PART II: ADMINISTRATIVE DETAILS	10
6. GENERAL TERMS AND CONDITIONS FOR THE SUBMISSION OF TENDERS	10
7. NO OBLIGATION TO AWARD THE CONTRACT.....	10
8. JOINT TENDERS	10
9. SUBCONTRACTORS	11
10. DETAILS OF THE CONTRACT	12
10.1 PAYMENTS TERMS	12
10.2 CONTRACTUAL TERMS	12
11. CONTENT OF THE TENDER.....	12
11.1 ADMINISTRATIVE PROPOSAL	12
11.2 TECHNICAL PROPOSAL	13
11.3 FINANCIAL PROPOSAL	13
PART III: ASSESSMENT AND AWARD OF A CONTRACT	15
12. ELIGIBILITY AND EXCLUSION CRITERIA.....	15
13. SELECTION CRITERIA	17
13.1 EVIDENCE OF THE ECONOMIC AND FINANCIAL CAPACITY OF THE SERVICE PROVIDER(S)	17
13.2 EVIDENCE OF THE TECHNICAL AND PROFESSIONAL CAPACITY OF THE SERVICE PROVIDER(S).....	18

14. AWARD CRITERION 19

15. OPENING OF TENDERS..... 19

16. AWARD COMMITTEE 19

17. INFORMATION FOR TENDERERS 19

PART I: TECHNICAL SPECIFICATIONS

1. NATURE OF THE CONTRACT

This **open call for tender is conducted via the automatic award procedure** (lowest price among the offers that are in full conformity with the technical specifications) and concerns audit services covering the audit certification of various financial instruments, auditing of procedures relating to borrowing and lending operations, auditing of treasury management procedures and investment returns, and "exit audits" in relation to the BUFI-Fund.

Directorate General Economic and Financial Affairs (DG ECFIN) aims to conclude a service contract of initially twelve months, renewable up to three times with the same period, covering audit services for maximum 4 financial years 2013-2016 as well as "exit audits" requested by the Commission on demand over the whole period of validity of the contract (from the contract signature date till the expiry date of the contract).

The contract is not divisible into lots.

2. BACKGROUND

The Treaty on the European Union (EU) places upon the European Commission, here represented by DG ECFIN, specific tasks of economic policy and analysis for the Euro Area and the EU as a whole.

To ensure the smooth functioning of the EU's Economic and Monetary Union, DG ECFIN's responsibilities focus on economic surveillance, monitoring of budgetary policy, public finances, economic policy coordination and forecasting, integration of EU capital markets, freedom of capital movements, economic relations with third countries and other important financing operations.

The operations of DG ECFIN Directorate L (Finance, coordination with EIB Group, EBRD and IFIs) consist of a set of financial activities similar to those of an investment bank, together with the policy development activities emanating from the political environment (European Institutions) in which this entity operates. ECFIN-L plays an active role on the financial markets both as a borrower, lender and as a fund manager.

ECFIN-L operates for two separate legal entities:

- the European Union; and
- The European Atomic Energy Community (Euratom).

In addition it manages the assets and liabilities of the European Coal and Steel Community in liquidation which have been transferred to the European Union following the expiry on 23 July 2002¹ of the ECSC Treaty;

¹ The legal framework for the financial instrument ECSC in liquidation consists of Council Decisions (2003/76/EC, 2003/77/EC and 2003/78/EC) of 1 February 2003 establishing the measures necessary for the implementation of the Protocol N° 37 annexed to the Treaty on the Functioning of the European Union, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel.

Within the framework of the Treaty on European Union, the Treaty on the Functioning of the European Union² and of the Euratom Treaty³, ECFIN-L borrows funds and grants loans. Under Protocol N° 37 to the Treaty on the Functioning of the European Union, ECFIN-L acts as a fund manager concerning the net assets of ECSC in Liquidation and on completion of the liquidation as the assets of the Research Fund for Coal and Steel.

These two legal entities and the assets and liabilities of ECSC in liquidation are legally distinct and their respective operations (borrowings, loans, deposits etc.) are thus recorded in separate financial statements.

In addition, the European Union has a number of financial instruments for which separate financial statements are also kept. These are the Macro-Financial Assistance (MFA), Balance of Payments facility (BOP), European Financial Stabilisation Mechanism (EFSM) and the BUFI Fund. The latter concerns contested fines in the competition area imposed on companies by a Commission decision and provisionally paid to the Commission. The fines remain in the fund until a final judgement of a Community Court annuls or upholds the Commission decision. The financial management of the BUFI Fund was entrusted to DG ECFIN in 2010 in the framework of its role as fund manager.

Each year the Court of Auditors has to give an audit assurance in respect of the instruments indicated above.

Furthermore, in order to raise borrowings, ECFIN-L has to operate on the international capital market via different financial instruments. For this purpose it is necessary to obtain ratings from international rating agencies such as Moody's, Fitch and Standard & Poor's. These companies also regularly check the balance sheets of the financial instruments in order to give their ratings.

The accounting for the financial instruments cited above is established in line with the Accounting Standards as adopted by the Accountant of the European Commission. These standards are inspired by the International Public Sector Accounting Standards (IPSAS) and in absence of an IPSAS Standard, the International Financial Reporting Standards (IFRS) of the commercial sector, which covers the financial activity of DG ECFIN-L. Additional information about these financial instruments can be found in the annexes 1, 2, and 3.

3. OBJECTIVES

The Borrowing, Lending, Accounting and Back-office unit (unit L4) as well as the Treasury and Asset Management unit (unit L5), both units of DG ECFIN, in line with professional practice, avails itself of the services and expertise offered by an international firm of auditors. Work to be done and reports to be delivered are described in point 4.

² (Consolidated versions – Official Journal C 83 of 30.3.2010)

³ (O.J. n° L 359 of 31 December 1977)

4. CONTENT, DELIVERABLES

4.1 Tasks to be performed by the Contractor

The work entrusted to the selected audit firm will comprise the following tasks:

- Audit certification of the various existing financial instruments described under point 2 (see 4.1.1);
- Auditing of procedures relating to borrowing and lending operations (see 4.1.2);
- Auditing of treasury management procedures and investment returns (see 4.1.3);
- On demand: Audit of the outflow to the fined companies before actual payment occurs in relation to the BUFI Fund ("exit audit") (see point 4.1.4).

4.1.1 Audit certification of the various financial instruments

This work will comprise two parts:

- a) Audit certification of the end-of-year financial statements of the following financial instruments administered by the Directorate L of Directorate-General ECFIN: ECSC in Liquidation, Euratom, Macro-Financial Assistance, Balance of Payments, European Financial Stabilisation Mechanism, and the BUFI Fund.

The purpose of the exercise is to ensure that the financial statements accurately reflect the financial situation and have been drawn up in accordance with the EU Accounting Rules, inspired by IPSAS/IFRS. The work will be carried out on the basis of generally accepted professional standards and will include all verification procedures and review of the control environment in place which are regarded as necessary for the certification of financial statements.

The audit work of the external auditor will be made available to the European Court of Auditors.

- b) The work will also include:
 - Examination of the security and reliability of the data-processing system;
 - Assistance in the preparation of the financial statements;
 - Assistance in the discussions with the Court of Auditors.

4.1.2 Auditing of procedures relating to borrowing and lending operations

This work consists of checking that the new borrowing and lending operations carried out during the financial year have been completed in line with the relevant manual of processes and procedures. The outstanding amounts and number of existing borrowing are set out together with the schedule of due dates in Annex 1. For 2013 it is expected that there will be 4 new loan transactions under the EFSM programme, financed back-to-back by 3 to 4 borrowing transactions. There are currently no concrete disbursements planned for the year 2014 and onwards.

4.1.3 Auditing of treasury management procedures and investment returns

This work will comprise two parts:

- a) The analysis and assessment of the manual of processes and procedures relating to the unit "Treasury and Asset Management" of DG ECFIN; verifying compliance with procedures on the basis of sample transactions;
- b) The assessment of the investment returns of the treasury management during the financial year in connection with the activities of the ECSC in liquidation and the BUFI Fund.

This part of the work will consist of reviewing the main transactions under the headings current accounts, term deposits and bond portfolio to check that decisions taken were well-founded in relation to the markets. The rate obtained will be analysed in comparison with the market rates for similar operations.

It will also include an assessment of the overall yield obtained by DG ECFIN's treasury investments in comparison with a benchmark for comparable assets taking into account the investment restrictions as imposed by the legal framework in place (see Annex 2 on treasury activities).

4.1.4 "Exit Audit" relating to the BUFI-Fund

On demand: punctual audit of the outflow to the fined debtors before actual repayment occurs ("exit audit"). A guaranteed return to the fined companies will be derived from a transparent and replicable benchmark, minus a fixed spread, and calculated for each individual fine for the exact period it remained in the fund and on the basis of accruing the daily performance. The audit will consist in checking the calculation methods applied to determine the return to be reimbursed to the fined companies. It is expected that around 6 exit audits per contract period would occur. However, it should be noted that this is an indicative number and therefore in no way binding on the Commission.

4.2 Working methods, timing, reports and documents to be submitted

The first contract period of 12 months will cover the audit services related to the financial year ending on 31st December 2013 including any outstanding "exit audit" needed during the contract period.

The required documents to be submitted in English by the Contractor are the following:

Annually:

- a) Audit certificate on the financial statements prepared by DG ECFIN for each financial instrument;
- b) Management letters specifically covering the findings and the recommendations resulting from the audit work described in sections 4.1.1, 4.1.2 and 4.1.3 a);
- c) A report on the result of the audit work carried out under section 4.1.3 b).

The work shall be carried out on the basis of a detailed work programme which should be transmitted to the unit ECFIN 01 (Internal Audit), which is responsible for centralising and co-ordinating the various tasks in consultation with the different services concerned.

The interim phase of the annual auditing, focusing on procedural checks, will be carried out in November and/or December of the financial year "n" under audit. The work programme will be discussed and agreed during a *meeting* in the Luxemburg premises of the Commission. DG ECFIN confirms the successful outcome of the meeting.

The final phase of auditing the annual financial statements for the financial year "n" will be carried out at the beginning of the year "n+1".

On completion of the work, the above draft documents should be drawn up and submitted to unit ECFIN 01 as soon as possible but not later than 1st March n+1. These draft documents will be discussed with ECFIN 01 and the services concerned.

The final versions of these documents must be presented no later than 15 March of the year n+1. On receipt, the Commission shall have 15 calendar days to approve them, with or without comments, reservations or requests for additional information; or to reject them and request a new report/document. The Contractor shall have 15 calendar days in which to submit additional information or a new report/document. These deadlines and periods may be extended only with the express written agreement of the parties before such period elapses.

The final documents shall be addressed to the European Commission in English in 15 paper copies as well as in electronic format.

On demand:

"Exit" reports on the result of the audit work carried out under section 4.1.4. regarding the BUFI-fund.

Regarding the "exit audits" of the BUFI-Fund, it should be noted that the provisional fines - increased by the guaranteed return - have to be repaid to the debtors within 4 weeks after the notification of the final decision of a Community court. As a consequence, the Contractor will have short deadlines to produce and present the draft and the final audit reports to ECFIN L-4 on the dates fixed by ECFIN L-4, notably within 2-3 weeks after the notification of the final decision of a Community court. The Contractor will thus work in close cooperation with unit L4 of DG ECFIN in order to strictly respect the deadlines fixed by the Commission.

The final documents shall be addressed to the European Commission in English in 15 paper copies as well as in electronic format.

5. INDICATIVE TABLE FOR THE WORK

5.1 Starting date of the contract, duration of the tasks

The contract shall be renewed automatically up to 3 times, each time for a period of execution of tasks of 12 months, starting from the day following the end date of the previous contract period, unless written notification to the contrary is sent by one of the parties and received by the other three months before the end date of the on-going contract period. Renewal does not imply any modification or deferment of existing obligations.

The execution of the tasks may under no circumstances begin before the date on which the contract enters into force.

5.2 Place of performance

The place of performance of the tasks shall be the Contractor's premises with visits to ECFIN L4's, L5's, and L6's premises in Luxemburg.

PART II: ADMINISTRATIVE DETAILS

6. GENERAL TERMS AND CONDITIONS FOR THE SUBMISSION OF TENDERS

- Submission of a tender implies that the Contractor accepts all the terms and conditions set out in these specifications (including the annexes) and waives all other terms of business
- Submission of a tender binds the Contractor 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 state of progress with regard to the evaluation of tenders.
- Once the Commission has accepted the tender, it shall become the property of the Commission and the Commission shall treat it confidentially.
- Protocol N° 7 to the Treaty on the Functioning of the European Union on the Privileges and Immunities of the European Union or, where appropriate, the Vienna Convention of 24 April 1963 on Consular Relations shall apply to this invitation to tender.

7. NO OBLIGATION TO AWARD THE CONTRACT

- Fulfilment of adjudication or invitation to tender procedure shall not involve the Commission in 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.

8. JOINT TENDERS

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

- 8.1 The offer originates from a consortium already formally set up as a separate and legal entity able to submit its statutes, 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 financial guarantee, if requested.
- 8.2 The offer originates from companies not yet having created a consortium as a separate legal entity but planning to constitute one as referred to in item 8.1, if their joint offer is accepted. In such a situation, the Tenderer will have to provide 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. However, the constitution of the consortium should not delay the signing of the contract.
- 8.3 The offer 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 offer will be submitted in the form of subcontracting (see point 9), in which case one of the companies shall assume the total responsibility for the offer. This lead 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 sections 11.1 “Administrative proposal”, 12 “Exclusion criteria” and 13 “Selection criteria” must be provided for all members participating in the tender.

9. SUBCONTRACTORS

Where, in a bid, 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 bid as a whole with regard to the selection criteria. Where those services represent less than 20% of the contract, the subcontractor shall not be required to provide documents on his financial and economic capacity. However, regardless of the share of the services, subcontractors shall provide all necessary documents with regard to exclusion criteria (point 12).

The bid must clearly identify the subcontractor(s), specify the share (in %) of the services that will be executed by each subcontractor and document their willingness to accept the tasks and their acceptance of the terms and conditions set out in point 6.

Tenderers must inform the subcontractor(s) that Article II.18 of the draft service contract (Annex 8) will be applied to them.

Once the contract has been signed, Article II.7 of the above-mentioned service contract shall govern the subcontracting.

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

10. DETAILS OF THE CONTRACT

10.1 Payments terms

Terms of payment and payment schedule shall be made in accordance with Article I.4 of the draft service contract (Annex 8).

10.2 Contractual Terms

In drawing up his bid, the tenderer should bear in mind the provisions of the Commission's standard contract - see draft service contract in Annex 8.

11. CONTENT OF THE TENDER

All tenders must be presented in three sections:

11.1 Administrative proposal

The information required includes the following (when indicated, please use the compulsory form):

- a legal entity form (see Annex 4 – compulsory)
- the names of the legal representatives (directors, etc) of the tenderer, authorised to sign contracts with third parties on behalf of the organization;
- the tenderer's contact persons with telephone and fax numbers, e-mail address and where available, internet address;
- the tenderer's VAT number and trade-register entry number;
- a bank identification form filled in and signed by an authorised representative of the tenderer and his banker. (see Annex 5 - compulsory)
- a declaration of the candidate's eligibility; certifying that he/she is not in one of the situations listed in articles 106 and 107 of Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the Financial Rules applicable to the General Budget of the Union (see Annex 6 "Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest - compulsory)
- proof of Financial and Economic Capacity : documents listed in Part III – Point 13.1
- proof of Technical and professional competence : documents listed in Part III – Point 13.2
- other substantiating documents if the candidate or tenderer cannot, for valid reasons, provide those indicated above.

11.2 Technical proposal

This section is of great importance in the assessment of the bids, the award of the contract and the future execution of any resulting contract. The technical proposal must meet the technical specifications described in Part I and provide, as a minimum, all the information needed for the purpose of awarding the contract.

The technical proposal should address all matters laid down in the specifications and should include the requested documentation.

- Description of an audit methodology suitable for the tasks to be performed
- Proposed working programme
- A description of the working arrangements in terms of:
 - a) Staff to be assigned to the job including their Curriculum Vitae
 - b) Planning of the work
 - c) Expected duration of work

11.3 Financial proposal

THE TENDERING PARTIES' ATTENTION IS DRAWN TO THE FOLLOWING POINTS IN CONNECTION WITH THE BID PRICE:

11.3.1 Use of the form in Annex 7

The price quotation must be signed by the tenderer or his duly authorised representative. It should be submitted using the form in Annex 7.

11.3.2 Currency

Prices must be quoted in euro, including for the countries which do not form part of the euro zone. For the tenderers of the countries which do not form part of the euro zone, the amount of the offer cannot be revised because of exchange rate movements. The choice of exchange rate belongs to the tenderer, who assumes the risks or opportunities associated with these exchange rate movements.

11.3.3 All-in price, VAT excluded, fixed for the first contract period

The price must be an all-in amount, covering all expenditures incurred by the contractor in performance of the audit. Reimbursable expenses such as travel expenses, local transport costs and subsistence expenses of the Contractor and his staff; and expenses for the shipment of equipment or unaccompanied luggage directly connected with performance of the tasks specified **must be included in the price** as well as any other costs associated with the completion of the work, including overheads such as infrastructure, administration and management.

The price will be fixed for the first contract period and can be revised at the beginning of the second and every following year of the contract in accordance with the conditions of the contract (see article I.3.2 price revision of the draft contract – annex 8).

By use of the compulsory financial proposal form (see annex 7) the candidate must quote for the first year of performance of the contract:

- a total price for the audit services referred under points 4.1.1, 4.1.2 and 4.1.3 for the various instruments excluding the BUFI Fund relating to that year
and
- a total price for the audit services referred under points 4.1.1 and 4.1.3 for the BUFI Fund to that year
and
- the total price for 6 exit audits which are referred in point 4.1.4 (by stipulating the unit price for 1 exit audit) .

For practical reason, the BUFI Fund is detailed separately.

These quoted prices will **determine the fixed contract price** for the first year of the contract.

For reasons of **awarding the contract under the automatic award procedure** (lowest price among the offers that are in full conformity with the technical specifications), an overall total maximum price will be taken into consideration as follows:

4 x [total price for year 1 for the audit services for the various instruments⁴ (excluding the BUFI Fund) + total price for year 1 for the audit services for the BUFI Fund + 6 exit audits (unit price/audit x 6)].

Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT, as the European Union and Euratom are exempt from such charges in the EU under Articles 3 and 4 of Protocol N° 7 to the Treaty on the Functioning of the European Union on the Privileges and Immunities of the European Union. Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct 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 doubts about the applicable VAT system, it is the tenderer's responsibility to contact his national authorities to clarify the way in which the European Union and Euratom are exempt from VAT.

11.3.4 Expected total budget allocation

The contract and its possible renewals are to be concluded subject to the availability of budgetary appropriations.

For your guidance, the budget allocation for 4 (four) contract periods is expected not to exceed EUR 460,000.

⁴ For instruments : ECSC in liquidation, Euratom, Macro-Financial Assistance, Balance of Payments facility, European Financial Stabilisation Mechanism + BUFI Fund

PART III: ASSESSMENT AND AWARD OF A CONTRACT

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

All the 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 bids, will be carried out in three successive stages. Only bids meeting the requirements of stage one 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. Annex 6 gives a compulsory reply form for the declaration of the candidate's eligibility;
- 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 III, point 13 – selection criteria);
- 3) to assess **on the basis of the automatic award procedure** each bid which has passed the exclusion and selection stages and which is in conformity with the technical specifications (see Part III, point 14 - 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 will also be applied in the case that there are subcontractors.

12. ELIGIBILITY AND EXCLUSION CRITERIA

Eligibility:

Access to the procurement procedure is granted to candidates from states having ratified the Multilateral Agreement on Government Procurement concluded within the World Trade Organisation.

Exclusion criteria:

Tenderers falling within one or more of the following categories will automatically be excluded from the tendering procedure.

Tenders will not be considered if the candidates are in any of the following situations:⁵

⁵ In compliance with articles 106 and 107 of Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the Financial Rules applicable to the General Budget of the Union.

- (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 or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State 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 including by decisions of the EIB and international organisations;
- (d) they are not in compliance with 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 or persons having powers of representation, decision making or control over them have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests;
- (f) they are subject to an administrative penalty for serious breach of their obligations under contracts covered by the budget;
- (g) are subject to a conflict of interests;
- (h) are guilty of misrepresenting the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply that information;.

Tenderers or their representatives must provide a **declaration on honour** that they are not in one on the abovementioned situation (fill in and sign the form in Annex 6). By completing this form, tenderers:

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

Given that the value of the contract (including possible renewals) is equal to or over EUR 130,000, the tenderer to whom the contract is to be awarded shall be required to **submit**, within maximum 3 weeks and before signing the contract, **evidence confirming** his declaration on honour, by providing:

- for point (a), (b) or (e): 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.
- For point (d), a recent certificate issued by the competent authority of the State concerned. Where no such certificate is issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party

before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

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

Wherever the tenderer is a consortium of firms or groups of service providers, the abovementioned information must be provided for each member or group. Regardless of the share of services, subcontractors shall likewise provide the requested information.

However, in case such evidence confirming the declaration on honour has already been submitted to the Commission for the purpose of another procurement procedure, and provided that the issuing date of the document does not exceed one year and that they are still valid, the tenderer to whom the contract is to be awarded is allowed to send a copy of the relevant documentation together with a declaration on honour that no changes in his situation have occurred.

13. SELECTION CRITERIA

Only the 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 bid. It should also contain any other document that the tenderer(s) wish(es) to include by way of clarification.

If several service providers are involved in the bid, each of them must have and show that they have a) the professional and technical capacity to perform the tasks assigned to them in the tender, and b) the required economic and financial capacity.

This rule applies to all service providers, regardless of the percentage of tasks they intend to execute, once they have chosen to be tenderers.

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

13.1 Evidence of the economic and financial capacity of the service provider(s)

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 one or more of the following documents:

- a complete copy, certified by the tenderer's authorised representative, of the tenderer's audited annual accounts (balance sheet, profit and loss account, notes on the accounts and auditors' remarks) of the past two years, as approved by the general assembly of the company and, where applicable, published.

- a statement of overall turnover and turnover concerning the tasks, supplies or services covered by this contract for the last three financial years;
- appropriate statements from banks or evidence of professional risk indemnity insurance.

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.

13.2 Evidence of the technical and professional capacity of the service provider(s)

The ability of service providers to perform services will be assessed in particular with regard to their know-how, efficiency, experience, reliability and ability to communicate in English and French.

The tendering party will have to prove that it carries out work in the area of auditing large international public organizations and large international private sector financial institutions. Failing so, he will not be selected for the award step.

To assess the candidate's ability to perform the tasks described in Part I point 4.1, the following documents are requested:

- License or certification by the country/state authorities that the company/companies are recognized as auditors;
- Examples of work done in the past three years in the area covered by this tender, especially in major international public organizations and in the major international banking and financial institutions in the private sector, showing the necessary language coverage; if the work was done in part by subcontractors, tenderers must clearly indicate their own role and contribution;
- List of audited clients in both major international private banks and international public organizations during the past three years.
- Tenders from consortiums of undertakings or groups of service providers must specify the role, qualifications and experience of each of the members of the consortiums or group. In such cases, one of the tenderers must be designated as the main contractor.

By submitting a tender, each service provider involved therein accepts the possibility of a check being carried out by the Commission on his technical capacities and, if necessary, on his study and research facilities and quality control measures.

In addition, all tenderers are informed that they may be asked to prove that they are authorised to perform the contract under national law, as evidenced by inclusion in a professional or trade register or a sworn declaration or certificate, membership of a specific organisation, express authorisation, or entry in the VAT register.

Tenderers' attention is drawn to the fact that any total or partial omission of information for which one or more service providers involved in the tender are responsible may lead the Commission to exclude the tender from the rest of the procedure.

14. AWARD CRITERION

Contracts shall be awarded under the **automatic award procedure**, in which case the contract is awarded to the tender which quotes the **lowest price** of those tenders meeting the exclusion and selection criteria and which are in conformity with the technical specifications.

In order to determine the lowest price, an overall total maximum price will be calculated as follows:

4 x [total price for year 1 for the audit services for the various instruments⁶ (excluding the BUFI Fund) + total price for year 1 for the audit services for the BUFI Fund + 6 exit audits (unit price/audit x 6)].

15. OPENING OF TENDERS

Tenders will be opened at 11.00 on 7 June 2013 at the following location:

Office address:

*European Commission
Drosbach Building
Room DRB B3/001
Rue Guillaume Kroll 12
L-1882 Luxembourg
G.D. LUXEMBOURG*

An **authorised representative** of each tenderer may attend the opening of the bids. Companies wishing to attend are requested to notify their intention by sending an e-mail to the functional mailbox ECFIN-L4-Procurement@ec.europa.eu at least 48 hours in advance. This notification must be signed by an authorised officer of the tenderer and specify the name of the person who will attend the opening of the bids on the tenderer's behalf.

16. AWARD COMMITTEE

The process of awarding is expected to take place in June 2013. An awarding committee is to be set up for this purpose.

17. 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.

⁶ For instruments : ECSC in liquidation, Euratom, Macro-Financial Assistance, Balance of Payments facility, European Financial Stabilisation Mechanism + BUFI Fund