

**TENDER SPECIFICATIONS**  
**ATTACHED TO THE INVITATION TO TENDER**

**Invitation to tender No. ENER/C1/504-2009 concerning  
"Renewable energy best practice and implementation of national action plans in the 27 EU  
Member States "**

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## **I. SPECIFICATIONS**

### **I.1. Introduction**

The European Union (EU) has an overall 20% renewable energy target in final energy consumption and a 10% target of renewable energy in transport for 2020. The Renewable Energy Directive<sup>1</sup>, apart from the EU's target, defined legally binding national renewable energy targets in final energy consumption and in the transport sector. It requires Member States to notify their respective National Renewable Energy Action Plan (NREAP) to the Commission by the end of June 2010. These Action Plans must set national sectoral (electricity, heating-cooling, transport) targets and make an estimation on the contribution of the different renewable energy technologies to the achievement of the targets. They will also have to provide exhaustive information on support schemes to promote the use of energy from renewable resources in electricity, heating and cooling; specific measures for ensuring grid connection, streamlining and expediting administrative procedures for the approval and certification of renewable energy projects; specific measures for the promotion of the use of energy from biomass, on the planned use of statistical transfers and planned participation in joint projects with other Member States or third countries, etc.

The Plans must follow the mandatory template put forward by the Commission<sup>2</sup>.

The Renewable Energy Directive also requires Member States to bring into force the laws, regulations and administrative provisions necessary to comply with its provisions by 5 December 2010. Member States are required to communicate to the Commission the text of the main provisions of national law which they adopt with a view to transposing the Directive (Art. 27). The national legislative measures transposing the provisions of the Directive must be consistent with the content of the NREAP referring to the same provisions.

For a good implementation of the NREAPs and for a correct application of the Renewable Energy Directive, the Commission needs to ensure, *inter alia*, that the national legislative measures transposing the Renewable Energy Directive are systematically, analytically and promptly checked. To ensure the legal certainty and the enforcement of the rights and obligations of those concerned, it is very important to detect at an early stage any potential conformity problem that may arise subsequently.

### **I.2. Purpose of the contract**

The objective of this contract is to obtain technical, scientific and legal support on the evaluation of the viability and consistency of the provisions of the NREAPS with the national legislative measures transposing the Renewable Energy Directive.

This assessment has to be based on the provisions of the NREAPs, forecast documents and national legislative measures implementing the provisions of the Directive. Reference is also given to the following documents, relevant for an exhaustive conformity assessment:

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<sup>1</sup> Directive 2009/28/EC OJ L140 of 5.06.2009 p. 16

<sup>2</sup> Decision 2009/548/EC OJ L182 of 15.07.2009, p. 33

- Directive 2009/28/EC of the European Parliament and the Council on the promotion of the use of energy from renewable sources amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC;
- Commission Decision of 30 June 2009 establishing a template for the National Renewable Energy Action Plans under Directive 2009/28/EC of the European Parliament and of the Council;
- Communication from the Commission on implementing the biofuel sustainability scheme (to be published)<sup>3</sup>;
- Communication from the Commission on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme (to be published)<sup>4</sup>;
- Proposal for a Decision on certain types of information about biofuels and bioliquids to be submitted by economic operators to the Member States (to be published).

The communication language between the Commission and the awarded contractor is English; therefore, tenderers in their bids must give evidence that they master English as a communication language

### 1) Description of the tasks

The concrete tasks have to cover the following:

**Task (1):** *Detailed conformity assessment of each of the 27 national legal frameworks transposing the Renewable Energy Directive.* The Commission needs to be provided with the assessment of the conformity of national policy measures with the provisions of the NREAPs and of the Directive.

The assessment studies have to cover, *at a minimum*, the following aspects for each Member State:

- a) the *consistency* of the national legislative measures with the provisions of the NREAP and the forecast documents<sup>5</sup>;
- b) the *completeness* of transposition of the provisions of the Renewable Energy Directive into the national legislation, indicating at least whether it is partial or complete;
- c) the *effectiveness* of the national legislative measures implementing the Directive in terms of delivering the results (e.g. the indicative trajectory) provided by the NREAP. The effectiveness should also be assessed, but not exclusively, with a view to national enforcement provisions (e.g. effective penalties established for breaching the respective legal provisions);
- d) the *legal analysis* of the national legislative measures, with a view to their *quality* in terms of creating a solid, coherent and effective regulatory framework, in line with the principles and objectives of the Renewable Energy Directive;

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<sup>3</sup> Available at this website [http://ec.europa.eu/energy/renewables/biofuels/sustainability\\_criteria\\_en.htm](http://ec.europa.eu/energy/renewables/biofuels/sustainability_criteria_en.htm)

<sup>4</sup> Idem 4.

<sup>5</sup> Forecast documents drafted and submitted by the Member States in compliance with the requirements of Art.4(3) of the Renewable Energy Directive. Available on the Renewable Energy Transparency Platform at this website [http://ec.europa.eu/energy/renewables/transparency\\_platform/forecast\\_documents\\_en.htm](http://ec.europa.eu/energy/renewables/transparency_platform/forecast_documents_en.htm)

e) the *relevance* of the national legislative measures with reference to the objectives and provisions of the Renewable Energy Directive;

f) the *viability* of the national legislative measures in terms of reaching the 2020 mandatory national renewable energy targets, also from the perspective of the NREAPs provisions.

The Commission will make available for the contractor the Member States' national legislative measures transposing the Directive, if notified as transposition measures. The contractor should however be aware of the fact that the situation could arise, in some Member States' cases, to provide only a partial assessment of the national implementing measures, due to partial transposition being notified. The contractor should nevertheless provide a complete assessment of the national legislative measures, when full transposition is notified.

The assessment study should not be limited to a mere identification of the full/partial character of transposition of the Renewable Energy Directive in the 27 Member States, or to a simple conformity check. The contractor must provide high quality, in-depth legal analysis of the national legislative measures from the perspective of their quality, effectiveness and viability. The assessment studies must provide recommendations, where necessary, on measures and actions to take for improving the national legal framework.

The contractor may be asked, if situation arises, to provide technical, scientific and legal support in the context of complaints or infringement procedures. These may arise due to the implementation of the NREAPs or the transposition of the Directive. The support will in most cases take the form of a technical note. Generally, the Commission will make available the technical documentation to the contractor in the language of the Member States concerned. The technical analyst must have the capability to work on the original documents. The Commission will not provide the contractor with translations. The contractor shall submit the technical note within an agreed timeframe, usually in the range of 2-3 weeks. The note shall be submitted to the Commission electronically and in English.

The complaints or infringement proceedings for which such technical note may be requested will be determined by the Commission on a case-by-case basis. It is unknown at this moment, the number of the requests for technical input or the Member States referred to in these requests. Nevertheless, the contractor should plan to handle 15 to 30 requests. On average each request for technical assessment will involve between 3 to 5 person-days.

The contractor will have to ensure by appropriate safeguards that the confidentiality of the information on complaint of infringement proceedings will be respected at all stages and that conflicts of interests will be avoided.

**Task (2):** *Translation of the national legislative measures transposing the provisions of the Renewable Energy Directive.*

The contractor will be required to provide the Commission with the translation into English of those national legal provisions which he/she has identified as transposing (fully or partially) the provisions of the Renewable Energy Directive.

Therefore, the contractor must ensure that he/she has full knowledge of the official languages of the 27 Member States.

### **I.3. Reports and documents to produce - Timetable to observe**

Execution of the tasks begins after the date on which the Contract enters into force.

A **kick-off meeting** will take place in Brussels, at the latest 10 days following the signature of the contract, in order to settle all the details of the studies, reports, translations. A **study outline** containing an extensive table of contents and description of methodological issues relevant for each task shall be submitted to the Commission within one week of the meeting and be agreed or modified by the Commission within one week. The study outline agreed by the Commission will form the structure for the work and studies.

A second meeting will take place in month 5, after submission of the interim report.

A third and final meeting will take place in month 11, after the submission of the final report.

All the reports and assessment studies must be submitted to the Commission in English.

#### ***1.3.1. Interim report***

The **interim report** showing progress and of the work on tasks (1) and (2) shall be submitted to the Commission at the latest 4 months after the date of signature of the contract.

The Commission shall have twenty days from receipt to approve or reject the report. Within 20 days of receiving the Commission's observations, the Contractor will submit additional information or another report.

The interim report shall contain at least half of the assessment studies requested.

Each assessment study shall include at least:

- a list of national laws, regulations and administrative provisions to transpose the Directive;
- a Summary Datasheet listing the problems in conformity of those measures with the Directive; the Summary Datasheet shall identify all Articles of the Directive for which the problems in conformity occur and shall clearly explain for which part of each Article and for what reasons the contractor concludes that there are problems in conformity. Any vagueness in conformity or any suspected non-conformity should also be clearly pointed out and explained. If necessary, the summary datasheet must also refer to the complaints or infringement procedures related to the particular Member State. It should provide a summary assessment of the cases;
- the Translations into English of those national legal provisions which the contractor has identified as transposing (fully or partially) the provisions of the Renewable Energy Directive;
- a Table of Correspondence including the relevant national provision(s) which transpose each Article of the Renewable Energy Directive. The Table of Correspondence should be structured as follows:

Article/Annex/ Appendix of the Directive	Citation of the Article/Annex/ Appendix of the Directive (in English)	Identification of the corresponding national measures	Citation of the corresponding national provision in the main language of the Member State	When English is not the main language of the Member States, translation of the national provision into English	Clear conclusion on conformity (conforms, does not conform, doubtful)	Comments (in English) when necessary
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### ***1.3.2. Final report***

The contractor will submit a draft final report completing tasks (1) and (2) to the Commission at the latest 10 and half months after the signature of the contract.

The Commission shall have twenty days from receipt to approve or reject the draft final report, and the Contractor shall have 20 days in which to submit additional information or a new final report.

The final report shall contain:

- an Executive Summary presenting briefly the common conclusions on the results of the conformity assessment of the transposition of the Directive for all 27 Member States;
- all requested assessment studies.

Each assessment study shall include at least:

- a list of the national laws, regulations and administrative provisions to transpose the Directive;
- a Summary Datasheet (maximum 10 pages) listing the problems of conformity of those measures with the Directive; the Summary Datasheet shall identify all Articles of the Directive for which the problems in conformity occur and shall clearly explain for which part of each Article and for what reasons the contractor concludes that there are problems in conformity. Any vagueness in conformity and any suspected non-conformity should also be clearly pointed out and explained. If necessary, the summary datasheet must also refer to the complaints or infringement procedures related to the particular Member State. It should provide a summary assessment of the cases.
- the Translations into English of those national legal provisions which the contractor has identified as transposing (fully or partially) the provisions of the Renewable Energy Directive;
- a Table of Correspondence including the relevant national provision(s) which transpose each Article of the Renewable Energy Directive. The Table of Correspondence should be structured as follows:

Article/Annex/ Appendix of the Directive	Citation of the Article/Annex/ Appendix of the Directive (in English)	Identification of the corresponding national measures	Citation of the corresponding national provision in the main language of the Member State	When English is not the main language of the Member States, translation of the national provision into English	Clear conclusion on conformity (conforms, does not conform, doubtful)	Comments (in English) when necessary
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### ***I.3.3. Report format and publication***

For *the interim report*, the contractor shall send to the Commission:

- 2 paper copies of at least half of the assessment studies presented in separate volumes;
- 2 CD-ROM with the assessment studies presented in separate electronic documents, in both PDF and Word formats; the Table of Correspondence can be presented in Excel format.

For *the final report*, the contractor shall send to the Commission:

- 5 paper copies of the Executive Summary;
- 5 paper copies of all requested assessment studies presented in separate volumes;
- 3 CD-ROMs with the Executive Study and all conformity studies presented in separate electronic documents, in both PDF and Word formats; the Tables of Correspondence can be presented in Excel format.

The Commission may publish the results of the study. For this purpose, the tenderer must ensure that the study is not subject to any restrictions deriving from intellectual property rights of third parties. Should he intend to use data in the study, which cannot be published, this must be explicitly mentioned in the offer.

### **I.4. Duration of the tasks**

The duration of the tasks shall not exceed 12 months. This period is calculated in calendar days.

### **I.5. Place of performance**

The tasks will be performed on the Contractor's premises. However, meetings between the contractor and the Commission may be held on Commission premises in Brussels.

### **I.6. Estimate of the amount of work involved**

The amount of work involved to carry out this contract is assessed at 500 man-days.



## **II. TERMS OF CONTRACT**

In drawing up his offer, the tenderer should bear in mind the provisions of the draft contract attached to this invitation to tender (Annex 5). Any limitation, amendment or denial of the terms of contract will lead to automatic exclusion from the procurement procedure.

The Commission may, before the contract is signed, either abandon the procurement procedure or cancel the award procedure without the tenderers being entitled to claim any compensation.

### **II.1. Terms of payment**

Payments shall be made in accordance with the provisions specified in Annex 5, the draft service contract.

### **II.2. Financial guarantees**

#### **Guarantee on pre-financing**

For any pre-financing higher than 150,000 EUR, a financial guarantee equivalent to the amount of the pre-financing will be requested.

Depending on the financial situation of the tenderer, the Commission may ask for the financial guarantee for amounts lower than 150,000 EUR.

### **II.3. Subcontracting**

If the tenderer intends to subcontract part of the service, he shall indicate in his offer which part will be subcontracted and to what extent (% of the total contract value).

Tenderers must ensure that Article II.17 of the contract (Annex 5) can be applied to subcontractors. Once the contract has been signed, Article II.13 of the above-mentioned contract shall govern the subcontracting.

### **II.4. Legal form to be taken by the grouping of service providers to whom the contract is awarded (if applicable)**

Groupings, irrespective of their legal form, may submit bids. Tenderers may, after forming a grouping, submit a joint bid on condition that it complies with the rules of competition. Such groupings (or consortium) must specify the company or person heading the project and must also submit a copy of the document authorising this company or person to submit a bid. If awarded, the contract will be signed by the company or the person heading the project, who will be, vis à vis the Commission, the only contracting party responsible for the performance of this contract. Tenders from a consortium of firms or groups of service providers, contractors or suppliers must specify the role, qualifications and experience of each member of the consortium or group. Each member must provide all the necessary documents for assessing the bid as a whole with regard to the exclusion criteria, selection criteria (in their entirety) and award criteria.

### III. FORM AND CONTENT OF THE TENDER

#### III.1. General

Tenders must be written in **one of the official languages** of the European Union.

Tenders must be clear and concise, with continuous page numbering, and assembled in a coherent fashion (e.g. bound or stapled, etc...). Since tenderers will be judged on the content of their written bids, they must make it clear that they are able to meet the requirements of the specifications.

#### III.2. Structure of the tender

All tenders must include three sections i.e. an administrative, a technical and a financial proposal.

##### III.2.1. Section One: administrative proposal

This section must provide the following information, set out in the standard identification forms attached to these tender specifications (Annexes 1, 2 and 3):

- Tenderers' identification (Annex 1)
  - All tenderers must provide proof of **registration**, as prescribed in their country of establishment, on one of the **professional or trade registers** or provide a declaration or certificate.
  - If the tenderer is a natural person, he/she must provide a copy of the identity card/passport or driving licence and proof that he/she is covered by a social security scheme as a self-employed person.

*Each tenderer (including subcontractor(s) or any member of a consortium or grouping) must complete and sign the identification forms in Annex 1 and also provide above-mentioned documents. However, the subcontractor(s) shall not be required to fill in or provide those documents when the services represent less than 20% of the contract.*

- Financial identification (Annex 2)

The **bank identification form** must be filled in and signed by an authorised representative of the tenderer and his/her banker. A standard form is attached in Annex 2 and a specific form for each Member State is available at the following Internet address:

[http://ec.europa.eu/budget/execution/ftiers\\_en.htm](http://ec.europa.eu/budget/execution/ftiers_en.htm)

In the case of a grouping, this form must only be provided by the person heading the project.

- Legal entities (Annex 3)

The legal entity form in Annex 3 must be filled in and should be accompanied by a number of supporting documents, available on the Web site:

[http://ec.europa.eu/budget/execution/legal\\_entities\\_en.htm](http://ec.europa.eu/budget/execution/legal_entities_en.htm)

In the case of a grouping, this form must only be provided by the person heading the project.

The Commission reserves the right, however, to request additional evidence in relation to the bid submitted for evaluation or verification purposes within a time-limit stipulated in its request.

### ***III.2.2. Section Two: 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.

Some guidelines are given below, but attention is also drawn to the award criteria, which define those parts of the technical proposal to which the 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 present in their bids a proposal on the methodology and the organisation of the work to carry out in the framework of the study.

The technical proposal must provide all the information needed for the purpose of awarding the contract.

### ***III.2.3. Section Three: Financial proposal***

All tenders must contain a financial proposal. The tenderer's attention is drawn to the following points:

- Prices must be quoted in **euros**, including the countries which are not in the euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.
- Prices must be fixed amounts and include all expenses, such as travel expenses and daily allowances.
- **Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT**, as the European Union is exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union 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 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 doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Union is exempt from VAT;

- **Prices shall be** fixed and not subject to revision during the performance of the contract;
- For each category of staff involved in the project, the tenderer must specify:
  - the total labour costs;
  - **the daily rates** and **total number of days** (man/days) each member of staff will contribute to the project;
  - other categories of costs, indicating the nature of the cost, the total amount, the unit price and the quantity.

**Bids involving more than one service provider (consortium) must specify the amounts indicated above for each provider.**

## **IV. ASSESSMENT AND AWARD OF THE 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.

The aim of each of these stages is:

- 1) to check on the basis of the exclusion criteria, whether tenderers can take part in the tendering procedure;
- 2) to check on the basis of the selection criteria, the technical and professional capacity and economic and financial capacity of each tenderer;
- 3) to assess on the basis of the award criteria each bid which has passed the exclusion and selection stages.

### **IV.1. Exclusion criteria (exclusion of tenderers)**

#### *IV.1.1. Exclusion criteria (Article 93 Financial Regulation<sup>6</sup>)*

1. To be eligible for participating in this contract award procedure, tenderers must not be 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 suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
  - (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
  - (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
  - (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
  - (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
  - (f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation<sup>7</sup> for being guilty of misrepresentation in supplying the

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<sup>6</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248 of 16.9.2002)

information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Union budget.

2. The cases referred to in point IV.1.1. e) above shall be the following:
  - a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests established by the Council Act of 26 July 1995 (OJ/C 316 of 27.11.1995, p. 48);
  - b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, established by the Council Act of 26 May 1997 (OJ/C 195 of 25.6.1997, p. 1);
  - c) cases of involvement in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council (OJ/L 315 of 29.12.1998, p. 1);
  - d) cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC (OJ/L 166 of 28.6.1991, p.77).

#### ***IV.1.2. Other cases of exclusion (Article 94 Financial Regulation)***

**Contracts will not be awarded** to tenderers who, during the procurement procedure:

- a) **are subject to a conflict of interest;**

Tenderers must declare:

- that they do not have any conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties, or any other relevant connection or shared interest;
- that they will inform the contracting authority, without delay, of any situation constituting a conflict of interest or which could give rise to a conflict of interest;
- that they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- that they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to the award of the contract.

The Commission reserves the right to check the above information.

- b) **are guilty of misrepresentation** in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply this information.
- c) find themselves in one of the **situations of exclusion**, referred to in paragraph IV.1.1. above for this procurement procedure.

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<sup>7</sup> Council Regulation (EC, Euratom) n° 1605/2002 of 25 June 2002 on the Financial regulation applicable to the general budget of the European Communities, OJ L 248 of 16 September 2002, p. 1, amended by Council Regulation (EC, Euratom) n° 1995/2006 of 13 December 2006, OJ L 390 of 30 December 2006, p.1.

### ***IV.1.3. Evidence to be provided by the tenderers***

1. When submitting their bids, each tenderer (including subcontractor(s) or any member of a consortium or grouping) shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations mentioned above (cf. IV.1.1 and VI.1.2). For that purpose, they must complete and sign the form attached in Annex 4. Where the tenderer is a legal entity, they shall, whenever requested by the Commission, provide information on the ownership or on the management, control and power of representation of the legal entity.
2. The tenderer to whom the contract is to be awarded shall provide, within 15 calendar days after notification of the results of the procurement procedure and in any case before the signature of the contract, the following evidence, confirming the declaration referred to above:

The Commission shall accept, as satisfactory evidence that the tenderer is not in one of the situations described in point IV.1.1 (a), (b) or (e) above, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied.

The Commission accepts, as satisfactory evidence that the tenderer is not in the situation described in point IV.1.1 (d) above, a recent certificate issued by the competent authority of the State concerned.

Where no such document or 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.

3. Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraph 1 and 2 above shall relate to legal and/or natural persons including, if applicable with regard to points b) and e), company directors or any person with powers of representation, decision-making or control in relation to the tenderer.
4. When the subcontracted part is above 20% of the contract value, the subcontractor(s) must also provide the above-mentioned declaration on honour. In case of doubt on this declaration on the honour, the contracting authority may also request the evidence referred to in paragraphs 2 and 3 above.
5. The Commission reserves the right to request any other document relating to the proposed tender for evaluation and verification purpose, within a delay determined in its request.

### **Remark:**

The tenderers will be waived of the obligation to submit the documentary evidence above mentioned if such evidence has already been submitted for the purposes of another procurement procedure launched by the Directorates General in charge of Energy or Transport and provided that the documents are not more than one year old starting from their issuing date and that they are still valid. In such a case, the tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement

procedure, specifying the reference of the call for tender for which the documents have been provided, and confirm that no changes in his situation have occurred.

#### ***IV.1.4. Administrative and financial penalties***

Without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have been found guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or have failed to supply this information or have been declared to be in serious breach of their obligations under contracts covered by the Union budget may be subject to administrative or financial penalties, in accordance with Article 96 of the Financial Regulation and Articles 134b and 133a of the Implementing Rules.<sup>8</sup>

## **IV.2. SELECTION CRITERIA (SELECTION OF TENDERERS)**

To be eligible, the tenderers must have the economic and financial capacity as well as the technical and professional capacity to perform the tasks required in this call for tender.

### ***IV.2.1. Economic and financial capacity – Criteria and references required***

Tenderers must provide proof of their financial and economic capacity by means of the following documents: the balance sheets or extracts from balance sheets for the last three financial years, and a statement of overall turnover and turnover relating to the relevant services for the last three financial years.

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

### ***IV.2.2. Technical and professional capacity – Criteria and references required***

Tenderers must confirm and demonstrate that their project teams have the skills and experience needed to carry out the work specified in relation to this tender and in accordance with the requirements listed below:

- 1) Excellent skills and proven legal and technical experience of at least 5 years in the field of European and national energy, particularly renewable energy, law of the Member States for which they are carrying out conformity assessments; the required experience should particularly include previous activities of assessing EU acquis transposition. The team of the contractor should consist of legal analysts with sound legal expertise in renewable energy law. Experience has to be demonstrated by *curricula vitae*.

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<sup>8</sup> Commission Regulation (EC, Euratom) n° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 357 of 31 December 2002, p. 1, last amended by Commission Regulation (EC, Euratom) n° 478/2007 of 23 April 2007, OJ L 111 of 28 April 2007, p.1.



- 2) Drafting and editing high quality documents, proven by samples of previous works carried out, that are relevant for the assessment studies and reports to be delivered within the tasks of this contract;
- 3) Full knowledge of the official languages of the Member States for which they are carrying out conformity assessment studies. The team of legal analysts must have the language capabilities necessary to carry out conformity checking for all Member States of the European Union. The curricula vitae of the legal analysts must demonstrate language capabilities.
- 4) Extensive and detailed knowledge and understanding about current EU and all Member States' policies related to the European renewable energy policy, proven by samples of previous works carried out, that are relevant for the assessment studies and reports to be delivered within the tasks of this contract.
- 5) Experience in working at EU level and in communicating with the national administrations, the relevant market actors and main stakeholders in the Member States, proven by the list of the main services and tasks, relevant to the study-contract, delivered during the last five years as well as related amounts, dates and beneficiaries with mention of the sector they belong to (private/public);
- 6) Indication of part(s) of the contract which the service provider intends to subcontract.

If several service providers/subcontractors are involved in the bid, each of them must have and show that they have the professional and technical capacity to perform the tasks assigned to them.

Tenderers should provide with their offer detailed curriculum vitae of each staff member responsible for carrying out the work, including his or her educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills.

The CV's shall be presented, preferably, in accordance to the Commission Recommendation on a common European format for curricula vitae, published in OJ L79 of 22 March 2002, p. 66.

### IV.3. EVALUATION OF TENDERS – AWARD CRITERIA

The contract will be awarded according to the criteria given below, on the basis of the economically most advantageous tender.

Only bids that have reached a total score of a minimum of 70% and a minimum score of 60 % for each criterion will be taken into consideration for awarding the contract.

a) Technical evaluation criteria in their order of importance as weighted by percentage

N°	Award Criteria	Weighting
1	Approach for implementing the work, quality and credibility of the work-plan and schedule, adequacy of analysis techniques and expected level of details in the analysis.	40
2	Demonstrated experience of the consortium (legal, technical)	30
3	Appreciation and understanding of the needs, the objectives and the scope of the tender	20
4	Overall quality, completeness, clarity and presentation of the	10

	offer	
<b>Total number of points</b>		<b>100</b>

b) Total price

The contract will be awarded to the tender which offers the best ratio quality/price.

**IV.4. 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.

Upon written request, the Commission will inform the rejected tenderers of the reasons for their rejection and the tenderers having submitted an admissible tender of the characteristics and relative advantages of the selected tender and the name of the successful tenderer.

However, certain information may be withheld where its release would impede law enforcement or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

**V. ANNEXES**

1. Identification of the Tenderer
2. Financial Identification
3. Legal Entity Form
4. Declaration by the Tenderer (relating to the exclusion criteria)
5. Draft Contract

# ANNEX 1

## IDENTIFICATION OF THE TENDERER

(Each service provider, including subcontractor(s) or any member of a consortium or grouping, must complete and sign this identification form)

**Call for tender ENER/C1/504-2009**

<b>Identity</b>	
Name of the tenderer	
Legal status of the tenderer	
Date of registration	
Country of registration	
Registration number	
VAT number	
Description of statutory social security cover (at the level of the Member State of origin) and non-statutory cover (supplementary professional indemnity insurance) <sup>9</sup>	
<b>Address</b>	
Address of registered office of tenderer	
Where appropriate, administrative address of tenderer for the purposes of this invitation to tender	
<b>Contact Person</b>	
Surname: First name: Title (e.g. Dr, Mr, Ms) : Position (e.g. manager): Telephone number: Fax number: E-mail address:	

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<sup>9</sup> For natural persons

<b>Legal Representatives</b>	
<b>Names and function of legal representatives</b> and of other representatives of the tenderer who are authorised to sign contracts with third parties	
<b>Declaration by an authorised representative of the organisation<sup>10</sup></b>  I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	
Surname: First name:	Signature:

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<sup>10</sup> This person must be included in the list of legal representatives; otherwise the signature on the tender will be invalidated.

## **ANNEX 2**

(to be completed by the tenderer and his or her financial institution)

A specific form for each Member State is available at the following Internet address:

[http://ec.europa.eu/budget/execution/ftiers\\_en.htm](http://ec.europa.eu/budget/execution/ftiers_en.htm)



# FINANCIAL IDENTIFICATION

PRIVACY STATEMENT

[http://ec.europa.eu/budget/execution/fiers\\_fr.htm](http://ec.europa.eu/budget/execution/fiers_fr.htm)

ACCOUNT NAME	
ACCOUNT NAME <sup>(1)</sup>	<input type="text"/>
	<input type="text"/>
ADDRESS	<input type="text"/>
	<input type="text"/>
TOWN/CITY	<input type="text"/>
POSTCODE	<input type="text"/>
COUNTRY	<input type="text"/>

CONTACT	<input type="text"/>
TELEPHONE	<input type="text"/>
FAX	<input type="text"/>
E - MAIL	<input type="text"/>

BANK	
BANK NAME	<input type="text"/>
	<input type="text"/>
BRANCH ADDRESS	<input type="text"/>
	<input type="text"/>
TOWN/CITY	<input type="text"/>
POSTCODE	<input type="text"/>
COUNTRY	<input type="text"/>
ACCOUNT NUMBER	<input type="text"/>
IBAN <sup>(2)</sup>	<input type="text"/>

REMARKS:	<input type="text"/>
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<b>BANK STAMP + SIGNATURE OF BANK REPRESENTATIVE</b> (Both Obligatory) <sup>(3)</sup>
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<b>DATE + SIGNATURE ACCOUNT HOLDER :</b> (Obligatory)
DATE <input type="text"/>

<sup>(1)</sup> The name or title under which the account has been opened and not the name of the authorized agent

<sup>(2)</sup> If the IBAN Code (International Bank account number) is applied in the country where your bank is situated

<sup>(3)</sup> It is preferable to attach a copy of recent bank statement, in which event the stamp of the bank and the signature of the bank's representative are not required. The signature of the account-holder is obligatory in all cases.

## **ANNEX 3**

### **Legal entity form**

Complete the legal entity form, which should be accompanied by a number of supporting documents, available on the Web site:

[http://ec.europa.eu/budget/execution/legal\\_entities\\_en.htm](http://ec.europa.eu/budget/execution/legal_entities_en.htm)

Please note that we can only accept either original documents or certified copies, which must be less than 6 months old.

In the case of a grouping, this form must only be provided by the person heading the project.

## ANNEX 4

### DECLARATION BY THE TENDERER

Each service provider, including subcontractor(s) or any member of a consortium or grouping, must sign this declaration

1. In accordance with Article 93 of the Financial Regulation<sup>11</sup>, I declare on my honour that I am not in any of the following situations which would exclude me from participating in this procurement procedure:
  - a) I am not bankrupt, being wound up or having my affairs administered by the courts, I have not entered into an arrangement with creditors, I have not suspended business activities, I am not the subject of proceedings concerning any such matters, and I am not in any similar situation arising from a similar procedure provided for in legislation or regulations;
  - b) I have not been convicted of an offence concerning my professional conduct by a judgment which has the force of res judicata;
  - c) I have not been found guilty of grave professional misconduct proven by any means which the contracting authority can justify;
  - d) I have not failed to fulfil 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 I am established or with those of the country or the contracting authority or those of the country where the contract is to be performed;
  - e) I have not 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 Union's financial interests;
  - f) I am currently not subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a contract procurement procedure or by the authorising officer as a condition of participation in a grant award procedure, for failing to supply this information or for having been declared to be in serious breach of their obligations under contracts or grants covered by the Union budget.
  
2. In addition, the undersigned declares on his or her honour:
  - a) that on the date of submission of the tender, the company or organisation I do represent and the staff proposed for this tender are not subject to a conflict of interests in the context of this invitation to tender; I undertake to inform the Commission without delay of any change to this situation after the date of submission of the tender.
  - b) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.

Done at ..... on.....  
Name .....

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<sup>11</sup> Council Regulation (EC, Euratom) n° 1605/2002 of 25 June 2002 on the Financial regulation applicable to the general budget of the European Communities, OJ L 248 of 16 September 2002, p. 1, amended by Council Regulation (EC, Euratom) n° 1995/2006 of 13 December 2006, OJ L 390 of 30 December 2006, p.1.



Title .....

Signature: