

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

**Invitation to tender No. ENER/C1/438-2010 Assessment of voluntary schemes used for sustainability claims of biofuels under Directive 2009/28/EC**

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## **I. SPECIFICATIONS**

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

The European Union is promoting the use of renewable energy in transport to reach the objective of 10% renewable energy in transport by 2020. The use of biofuels is one way of meeting these targets. This use of biofuels was part of the European Commission's proposals for a new Energy Policy for Europe in January 2007. It was endorsed in 2007 by the European Council and by the European Parliament, both of which emphasised that the production of biofuels should be sustainable.

In 2007 the Commission organised a consultation exercise on how a biofuels sustainability scheme should be designed. On 23 January 2008 the Commission proposed a Directive on the promotion of renewable energy which contains the 10% target for renewables in transport and a sustainability scheme for biofuels and bioliquids. The Council and the European Parliament reached an agreement on the Directive in December 2008. Following its final adoption in April 2009, Directive 2009/28/EC<sup>1</sup> was officially published in the Official Journal of the European Union 5<sup>th</sup> of June, 2009.

In the EU, consignments of consumed biofuels must comply with the sustainability requirements in order to be allowed to be used for the below mentioned purposes, as set put in Art.17(1) of Directive 2009/28/EC:

- (a) measuring compliance with the requirements of this Directive concerning national targets;
- (b) measuring compliance with renewable energy obligations;
- (c) eligibility for financial support for the consumption of biofuels and bioliquids.

Member States will in the above mentioned cases need to ensure that economic operators provide evidence that the consignments of biofuels comply with the requirements of the sustainability scheme of Directive 2009/28/EC.

These requirements are laid down in both Article 17(2) to 17(5) and Article 18(1) of Directive 2009/28/EC as well as in Article 7b(2) to 7b(5) and Article 7c(1) of Directive 98/70/EC as amended by Directive 2009/30/EC<sup>2</sup>.

Economic operators may choose to use a "voluntary scheme" that the Commission has recognised for the purpose of proving compliance with this regime (Article 18 (4) 2<sup>nd</sup> paragraph of Directive 2009/28/EC). A voluntary scheme can show partial or full compliance with the sustainability criteria. The Commission will assess voluntary schemes before proposing to recognise them through a Comitology process leading to a Commission decision.

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<sup>1</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the use of energy from renewable sources amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, OJ L 140, 5.6.2009, pages 16-62.

<sup>2</sup> Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 as regards the specifications of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC, OJ L 140, 5.6.2009, pages 88-113.

The Commission may decide that a voluntary scheme also provides accurate data for the purposes of information on other sustainability issues, notably:

- measures taken for the conservation of areas that provide, in critical situations, basic ecosystem services (such as watershed protection and erosion control);
- soil, water and air protection;
- the restoration of degraded land;
- the avoidance of excessive water consumption in areas where water is scarce;
- the respect of land-use rights;
- issues covered by Conventions of the International Labour Organisation.

Based on Art. 18(3) of Directive 2009/28/EC, the Commission has put forward a proposal for a decision on certain types of information about biofuels and bioliquids that have to be submitted by economic operators to the Member States in order to ensure the compliance with the sustainability scheme for biofuels and bioliquids laid down by the Directive. The appropriate and relevant information to be submitted by economic operators shall be, for each consignment of biofuel or bioliquid, a statement of whether the consignment has been certified or otherwise accepted as fulfilling the requirements of one or more voluntary scheme(s) that has been recognised by the Commission and a statement of the name of the voluntary scheme in question. This decision has not been adopted yet<sup>3</sup>.

In addition, the Commission has adopted a *Communication on the practical implementation of the EU biofuels and bioliquids sustainability scheme and on counting rules for biofuels*<sup>4</sup>, explaining how Member States can implement the sustainability scheme. This provides details on the practical side of each of the sustainability criteria that are defined in the Directive.

Also, the Commission has adopted a *Communication on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme*<sup>5</sup> aiming at encouraging industry to create 'voluntary sustainability schemes' that can include more sustainability aspects than those provided by the Directive. This Communication shows how these voluntary sustainability schemes can be made reliable and fraud-resistant.

Within the framework of the sustainability scheme established by Directive 2009/28/EC, the Commission will also recognise areas for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature (Art. 18 (4) second subparagraph, third sentence). The purpose of this recognition is to ensure that these areas are not used to resource raw material used for the production of sustainable biofuels and bioliquids, as specified in Article 17 (3)(b)(ii).

Reference is given to the following documents:

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<sup>3</sup> The offer of the tenderers shall be based under the assumption that the proposal made by the Commission to the Advisory Committee on reporting requirements reflects the scope of the final reporting requirements for economic operators.

<sup>4</sup> OJ C160, page 8

<sup>5</sup> OJ C160, page .

- 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
- Communication from the Commission on the practical implementation of the biofuels and bioliquids sustainability scheme and on counting rules for biofuels (OJ C160, page 8)
- Communication from the Commission on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme (OJ C160, page 1)
- 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)

## I.2. Purpose of the contract

### GENERAL

The purpose of this framework contract is to help the Commission in assessing voluntary schemes covering sustainability criteria set out by Directive 2009/28/EC. This framework contract will be signed with one contractor selected from the tenders submitted.

A framework contract means a situation whereby the Commission and one contractor will conclude a contract setting out the general contractual terms (legal, financial, technical, administrative, etc.) that apply during the period of validity and govern commercial relations between the Commission and the contractor. The award procedure for this framework contract is described in Chapter IV of these Tender Specifications.

Following the conclusion of the Framework Contract, the Commission may conclude a Specific Contract for each assignment specified in Chapter I.3 Description of Services. More information about the Specific Contracts for carrying out an assignment can be found in Chapter II.4 and the award procedure is described in Chapter IV.4.

The maximum duration of the framework contract is 3 years. The communication language between the Commission and the awarded contractors is English; therefore, tenderers in their bids must give evidence that they master English as a communication language.

The Commission will ask the contractor:

1. To assess voluntary schemes' compliance with the mandatory sustainability requirements of Directive 2009/28/EC for biofuels (Task 1);
2. To develop a methodology for the assessment of voluntary schemes as concerns data in relation to sustainability aspects as referred to in Art. 18(4) 2<sup>nd</sup> sub-paragraph, 2<sup>nd</sup> sentence of Directive 2009/28/EC (Task 2)
3. To assess if voluntary schemes provide relevant data in relation to sustainability as referred to in Art. 18(4) 2<sup>nd</sup> sub-paragraph, 2<sup>nd</sup> sentence of Directive 2009/28/EC (Task 3)
4. To develop a methodology for the assessment of the lists of areas drawn up by intergovernmental organisations or the International Union for the Conservation of Nature for the purpose of protecting rare, endangered or threatened ecosystems or species, with a view to the purposes of Art. 17(3)(b)(ii) of Directive 2009/28/EC (Task 4)
5. To assess these lists with a view to their recognition by the Commission, as referred to in Art. 18(4) 2<sup>nd</sup> sub-paragraph, 3<sup>rd</sup> sentence of Directive 2009/28/EC (Task 5)

### TASK 1 - ASSESSMENT OF VOLUNTARY SCHEMES

In view of the tasks referred to in the introduction, the Commission will ask the contractor to assess **voluntary schemes** that have been submitted to the Commission. This assessment will be for the purpose of establishing their compliance with the sustainability criteria set out in Articles 17, 18 and 19 of Directive 2009/28/EC. The assessment will need to focus on the land use criteria, the greenhouse gas (GHG) savings, the chain of custody and the verification methods including an adequate standard of independent auditing.

The practical rules for complying with the recognition requirements laid down by *the Communication from the Commission on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme* (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)) shall be used as a guideline for the assessment.

## **TASK 2 - DEVELOPMENT OF METHODOLOGY FOR ASSESSMENT OF SCHEMES ON NON-MANDATORY CRITERIA**

Art. 18 (4) 2nd sub-paragraph, 2nd sentence of Directive 2009/28/EC allows the Commission to decide that voluntary schemes contain accurate data on the measures taken for the conservation of areas that provide, in critical situations, basic ecosystem services (such as watershed protection and erosion control), for soil, water and air protection, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and on the issues referred to in the second subparagraph of Article 17(7). The Commission intends to make use of this possibility.

Therefore, the contractors are asked to develop a **methodology** for determining whether a voluntary scheme contains data<sup>6</sup> that are accurate and useful for assessing the sustainability and impact of (increased demand for) biofuels on: basic ecosystem services (such as watershed protection and erosion control); soil, water and air protection; the restoration of degraded land; the avoidance of excessive water consumption in areas where water is scarce; the respect of land-use rights; the implementation of Conventions of the International Labour Organisation.

Therefore, this contract should provide the Commission with a proposal for an assessment methodology enabling the Commission to decide whether it can recognise voluntary schemes for covering the above mentioned non-mandatory sustainability issues.

This work should take into consideration, if available, the results of work carried out under Tasks 5 and 6 of the Project "Support activities for the development of baseline data and methodology for reporting requirements", due to be available in December 2010 (task 5) and in February 2011 (task 6). The detailed content of these tasks can be consulted on: [http://ec.europa.eu/dgs/energy\\_transport/tenders/doc/specifications/2009/s112\\_160619\\_specifications.pdf](http://ec.europa.eu/dgs/energy_transport/tenders/doc/specifications/2009/s112_160619_specifications.pdf). The results of these tasks will be made available to the contractor which will be in charge of the current tender.

## **TASK 3 - ASSESS COVERAGE OF NON-MANDATORY CRITERIA BY VOLUNTARY SCHEMES**

If appropriately covered, the Commission intends to recognise relevant elements of schemes that go further than the mandatory requirements of the Directive. The developed methodology under point (3) shall be applied by the contractor to evaluate if schemes provide accurate data for covering the extra element referred to in Article 18(4) second subparagraph, second sentence of Directive 2009/28/EC.

## **TASK 4 - DEVELOPMENT OF METHODOLOGY FOR ASSESSMENT OF AREAS FOR PROTECTION**

Within the framework of the sustainability scheme laid down by Directive 2009/28/EC, Article 18(4) allows the Commission to recognise areas for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by

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<sup>6</sup> According to the provision in Article 18(4) second subparagraph, second sentence.

intergovernmental organisations or the International Union for the Conservation of Nature. The Commission also intends to make use of this possibility.

Therefore, the contractors are asked to develop a **methodology** for assessing the lists of areas for protection of rare, threatened or endangered ecosystems or species submitted to the Commission, with a view to the purposes of Article 17(3)(b)(ii).

## **TASK 5 - ASSESS PROPOSED AREAS FOR PROTECTION**

If appropriate, the Commission intends to recognise areas for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature. The developed methodology under point (4) shall be applied by the contractor to evaluate if proposed lists of such areas match with the objectives in article 17 (3)b ii.

### **I.3. Description of services**

The services provided will at least include the following assignments:

1. **Proposing a methodology** for assessing whether a voluntary scheme also contains accurate data with a view to the provisions of Article 18(4) second subparagraph second sentence of Directive 2009/28/EC (**Task 2**).

2. **Checking the compliance of the voluntary schemes** received by the Commission with the mandatory sustainability requirements established by Directive 2009/28/EC (**Task 1**) and **providing** the Commission with a **report** for **each** voluntary scheme assessed, containing at least:

- the information indicating what part of the mandatory sustainability criteria is covered by the respective scheme;
- the assessment of the land use criteria against the Directive's requirements;
- the assessment of the GHG methodology against the Directive's requirements;
- the assessment on the mass balance system against the Directive's requirements;
- the assessment of the adequate standard of independent auditing;
- the assessment of the data provided by the scheme with respect to Article 18(4) second subparagraph, second sentence (non-mandatory criteria), based on the methodology developed in **Task 2**, both for schemes that are being submitted during the period of the contract as well as for schemes that have been submitted before the start of the contract and have been assessed for mandatory criteria only;
- the recommendations indicating whether the sustainability requirements are appropriately covered.

The assessment of voluntary scheme shall also be based on the provisions laid down by *Communication from the Commission to the Council and the European Parliament on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme* (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)).

3. **Proposing a methodology** for assessing the lists of areas for protection of rare, threatened or endangered ecosystems or species that may be submitted to the Commission, with a view to the purposes of Article 17(3)(b)(ii), as part of the framework of the sustainability scheme laid down by Art. 17 of Directive 2009/28/EC (**Task 4**).



4. **Assessing** the above-mentioned lists according to the developed methodology (**Task 5**) and providing the Commission with **a report** for **each** list assessed, containing at least:
- the recommendations indicating whether the lists are in line with the purposes of Art. 17(3)(b)(ii).

The tenderers should note that there are no missions foreseen for the providing of the services requested under this chapter.

#### **I.4 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.

## **II. TERMS OF FRAMEWORK CONTRACT**

In drawing up his offer, the tenderer should bear in mind the provisions of the draft Framework 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 framework contract is signed, either abandon the procurement procedure or cancel the award procedure without the tenderers being entitled to claim any compensation.

The Commission reserves the right to contract services described in this call for tenders outside this framework contract.

### **II.1. ESTIMATE OF THE AMOUNT OF WORK INVOLVED**

The indicative maximum amount for this framework contract is EUR 305 000 (up to 3 years). Specific contracts will not be signed once the budget will be exhausted.

All reimbursable expenses, such as travel and daily allowances, are included in this maximum amount.

### **II.2. DURATION OF THE CONTRACT**

This contract will be concluded for a period of 1 year (12 months) from when it is first signed and it may be renewed for further two one-year periods, by tacit agreement. The total duration of the framework contract will not exceed 3 years (36 months) from when it is first signed.

### **II.3. LEGAL FORM TO BE TAKEN BY THE GROUPING OF SERVICE PROVIDERS TO WHOM THE CONTRACT IS AWARDED**

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.

### **II.4. SPECIFIC CONTRACTS UNDER THIS FRAMEWORK CONTRACT**

Once the Framework Contract has been signed, when the need arises, the Commission will send a Request for Services to the contractor to submit an offer for carrying out the assignments in Chapter I.3.

Within 5 Commission working days of a Request for Services being sent by the Commission to the Contractor, the Contractor shall express in writing, by post or e-mail, his availability to carry out the services required.

Within 10 Commission working days of a Request for Services being sent by the Commission to the Contractor, the Contractor shall provide the Commission with a written offer for the tasks

required. This offer shall detail the methodology, the deliverables, the composition of the team, the duration of the work and the total price on the basis of the person-day price as agreed in the Framework Contract. A Specific Contract will then be signed with the Contractor.

For each Specific Contract, the Contractor and, if applicable, the members of the group or the association carrying out the task under the specific contract, will have to sign a conflict of interest declaration stating that he/she has no direct link with the work subject of the task.

The Contractor shall take all the necessary measures to prevent any situation that could compromise the impartial and objective performance of the contract (see Annex 5: Article II.3.1. of the draft Framework Contract). He/she must indicate in the offer if he/she is/was involved in developing voluntary sustainability schemes covering the production of biofuels for third parties at the time of the contract or previously. If so, he/she shall explain why there is no potential conflict of interests or propose an adequate solution to deal with this conflict of interests when that scheme would apply for recognition under Directive 2009/28/EC.

During the validity period of this Framework Contract, the Contractor must declare any changes in their situation regarding the contractual relations referred to in this paragraph.

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 the performance of the assignments and they shall continue to be bound by this undertaking after the completion of these tasks (see Annex 5: Article II.9.1).

The attention of the tenderers is drawn to Article II.15 of the draft Framework Contract: "Termination of the contract by the Commission" (see Annex 5): in particular in case of failure by the contractor to fulfil his/her obligations the Commission may terminate the contract at any time by registered letter without formal notice or payment of any compensation.

The award of the specific contract will be conditioned by the availability of sufficient funds.

#### *II.4.1. Reports and documents to be submitted*

For the Specific Contracts under this Framework Contract the contractor is requested to deliver:

- 1) the **methodology** for assessing whether a voluntary scheme also contains accurate data with a view at the provisions of Article 18(4) second subparagraph second sentence of Directive 2009/28/EC.
- 2) a **report** for **each** of the voluntary scheme assessed on the basis of the methodology at **point 1**) and assessed as well for compliance with the sustainability requirements established by Directive 2009/28/EC and, containing at least the elements specified in Section I.3.2.
- 3) the **methodology** for assessing the lists of areas for protection of rare, threatened or endangered ecosystems or species submitted to the Commission, with a view to the purposes of Article 17(3)(b)(ii), as part of the framework of the sustainability scheme laid down by Art. 17 of Directive 2009/28/EC.
- 4) a **report** for **each** list assessed on the basis of the methodology at point 3), containing at least the recommendations indicating whether the lists are in line with the purposes of Art. 17(3)(b)(ii).

For all four points above, each methodology/assessment report shall be delivered in an electronic version (CD-ROM or sent by e-mail), in MS Word or in HTML format (if figures). Additionally, 5 copies of each methodology and 5 copies of each assessment report of each voluntary scheme/list shall be delivered in paper form. All assessment reports and methodologies shall be written in English. They have to be drafted in a proper literate manner and must be fully comprehensible in terms of grammatical structure (complete sentences, punctuation, explanation of abbreviations, etc.).

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

### **Schedule for feedback concerning the deliverables of the Specific Contracts**

1) the **methodology** for assessing whether a voluntary scheme also contains accurate data with a view at the provisions of Article 18(4) 2<sup>nd</sup> subparagraph 2<sup>nd</sup> sentence of Directive 2009/28/EC shall be submitted to the Commission **at the latest 3 months after the date of signature** of the respective Specific Contract. This duration may be adjusted in accordance with the conditions in the Request for Services at the time of sending the request.

The Commission shall have forty-five days from receipt to approve or reject the methodology. Within 20 days of receiving the Commission's observations, the Contractor will submit additional information or improved methodology.

2) the **methodology** for assessing the lists of areas for protection of rare, threatened or endangered ecosystems or species submitted to the Commission, with a view to the purposes of Article 17(3)(b)(ii) of Directive 2009/28/EC shall be submitted to the Commission **at the latest 4 months after the date of signature** of the respective Specific Contract. This duration may be adjusted in accordance with the conditions in the Request for Services at the time of sending the request.

The Commission shall have forty-five days from receipt to approve or reject the methodology. Within 20 days of receiving the Commission's observations, the Contractor will submit additional information or improved methodology.

3) the **assessment report** for each voluntary scheme assessed shall be submitted to the Commission **at the latest four weeks** after the signing of the respective Specific Contract. This term may be extended by the Commission in case the contractor during the assessment indicates to the Commission that the scheme does not seem to comply with the Directive's requirements. The Consultant shall deliver a continuous updated overview of the elements voluntary schemes are recognised for, for publication on the Commission's transparency platform. A reader friendly template shall be delivered together with the first assessment report.

The Commission shall have forty-five days from receipt to approve or reject the assessment report for each voluntary scheme. Within 20 days of receiving the Commission's observations, the Contractor will submit additional information or another assessment report.

For the above mentioned reader friendly template, the Commission shall also have forty-five days from receipt to approve or reject the assessment report for each voluntary scheme. Within 20 days of receiving the Commission's observations, the Contractor will submit additional information or another template.

4) the **report** for each list assessed on the basis of the methodology at point 3), containing at least the recommendations indicating whether the lists are in line with the purposes of Art. 17(3)(b)(ii) of Directive 2009/28/EC, shall be submitted to the Commission **at the latest eight weeks** after the signing of the respective Specific Contract.

## **II.5 SUBCONTRACTING**

If the tenderer intends to subcontract part of the service, he/she shall indicate in his/her offer what parts of the work, if any, he/she intends to subcontract, and to what extent (% of the total contract value), specifying the names, addresses and legal status of the subcontractors. Legal persons must produce a document containing a list of the professional qualifications of the subcontractor. Tenderers may not choose subcontractors other than those mentioned in the bids unless they obtain the prior written authorisation of the Commission. The overall responsibility for the work remains with the tenderer.

Contractors 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.6 TERMS OF PAYMENT**

Payments shall be made in accordance with the provisions specified in the draft framework contract (Annex 5) and in the draft specific contract, attached to this invitation to tender.

- For Specific Contracts **less than €25 000**:

Payments will be made after performance of the work and acceptance thereof by the Commission within 30 days of receipt of the request for payment.

- For Specific Contracts **of €25 000 or above**:

The Contractor may request an advance of 30% of the total price of the service. The balance will be paid after the performance of the work and acceptance and approval of the final deliverable by the Commission within 30 days of receipt of the request for payment.

## **II.7 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.8. PENALTIES**

In the event of failure to provide the services within the deadline set in the Specific Contract OR if not provided in the due form, penalties or liquidated damages may be applied as stipulated in the draft framework contract, Article II.16 (Annex 5).

### 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.

Tenders must be signed by a duly authorised person.

#### 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):

Ø 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.*

Ø 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.

## Ø 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.

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 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 an **outline** for each of the methodologies needed in Task 2 and Task 4, as well as a **template** for each of the assessment reports required in Task 1 and Task 3, as well as in Task 5. Tenderers must also present a proposal on the organisation of the work to carry out in the framework of this contract. Tenderers must also provide drafting samples for the purposes of verifying the quality of writing skills.

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 tenderers should submit their financial proposals as **one single price per person-day for each individual type of assessment or methodology**.

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.
- **Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT**, as the 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 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 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 Union is exempt from VAT;

- Tenderers shall specify **one single price per person-day** for the all the services to be delivered under the tasks of this Framework Contract. The price per person-day shall be valid for the services delivered under a Specific Contract. This price must be a flat rate and include all administrative costs, with the exception of travel expenses which will be reimbursed, where appropriate, in accordance with the provisions of Article II.7 of the Framework Contract. **Prices per person-day** shall be **fixed** and not subject to revision during the whole duration of the Framework Contract and any extension.

#### *III.2.4 Validity of bids*

Tenderers must be prepared to maintain their bids for six months from the final date for the submission of bids.

Requests for further information do not affect the deadline for submitting bids.



## **IV. ASSESSMENT AND AWARD PROCEDURE FOR THE FRAMEWORK CONTRACT**

The assessment for the framework contract 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 framework 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) FOR THE FRAMEWORK CONTRACT**

#### ***IV.1.1 Exclusion criteria (Article 93 Financial Regulation<sup>7</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;

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<sup>7</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)

- (f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation<sup>8</sup> 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. 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 Union 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 indicate if they are/were involved in developing voluntary sustainability schemes covering the production of biofuels for third parties at the time of the contract. If so, they shall propose an adequate solution to deal with this conflict of interests when that scheme would apply for recognition under Directive 2009/28/EC;
- 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.

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<sup>8</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.

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.

#### ***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.

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 Directorate General for Energy 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>9</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 – References required***

Tenderers must provide proof of their financial and economic capacity by means of documents such as: 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 – References required***

Tenderers must confirm and demonstrate by providing proof that their project teams have the skills and experience needed to carry out the tasks requested under the Framework Contract and in accordance with the requirements listed below:

- 1) At least 50% of the team members to have experience of at least 5 years in environmental, economic and social sustainability issues and standard setting. Experience has to be clearly demonstrated by curricula vitae.
- 2) Knowledge and understanding of the current EU policies, notably the Directive 2009/28/EC on the promotion of the use of renewable energy sources, and the situation of the sustainability schemes, proven by samples of previous works carried out, that are relevant for the methodologies and assessment reports to be delivered within the tasks of this Framework Contract.

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<sup>9</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.

- 3) Experience in working on renewable energy at EU level and with the national administrations, the relevant market actors or main stakeholders in the Member States, proven by the list of the main services and tasks relevant to this Framework Contract, delivered during the last 5 years as well as the related amounts, dates and beneficiaries of these services with the mention of the sector they belong to (private/public);
- 4) In relation to data collection, proof of the existence of access authorization to specific databases and other relevant information sources, as necessary, or the capacity to obtain this access should the contract be awarded to them;
- 5) Drafting and editing high quality documents, proven by samples of previous works carried out, that are relevant for the methodologies and assessment reports to be delivered within the tasks of this Framework Contract;
- 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 FOR THE FRAMEWORK CONTRACT**

The Framework contract will be awarded according to the criteria given below, on the basis of the economically most advantageous tender (quality/price ratio).

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

<b>N°</b>	<b>Award Criteria</b>	<b>Weighting</b>
1	Approach and methodology for the overall work, quality and relevance of the outlines, respectively templates, submitted for the methodologies, respectively the reports to be delivered, quality and sustainability of the work-plan and schedule	60
2	Appreciation and understanding of the needs, the objectives and the scope of the tender	30
3	Overall quality, completeness, clarity and presentation of the offer	10
<b>Total number of points</b>		<b>100</b>

## b) Price

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

### **IV. 4 AWARD OF THE SPECIFIC CONTRACTS**

Once the Framework Contract has been signed, when the need arises, the Commission will send, under the conditions laid down in Chapter II.4, a Request for Services to the contractor to submit an offer for carrying out an individual assignment in Chapter I.3.

Offers must contain:

- a) a technical part, detailing the methodology, the composition and skills of the team and the responsible team leader for the specific assignment;
- b) a financial part, detailing the number of person-day to be multiplied by the person-day price as defined in the Framework Contract, and the maximum budget for reimbursable expenses, which will be reimbursed, where appropriate, on the basis of the provisions defined in Annex 5 (Article II.7 of the Framework Contract).

The Commission may conclude a Specific Contract with the Contractor for the respective assignment on the basis of the offer it has submitted.

### **IV. 5 INFORMATION FOR TENDERERS**

The Commission will inform tenderers of decisions reached concerning the award of the framework 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.

## **VI. CHANGES IN THE TEAM**

Any changes to the team of the contractor must be approved by the Commission.

## **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 Framework Service Contract (with Annex I, II, III to the Framework Contract and Appendix I and II to the model of Specific 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/.....

Identity	
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>10</sup>	
Address	
Address of registered office of tenderer	
Where appropriate, administrative address of tenderer for the purposes of this invitation to tender	
Contact Person	
Surname: First name: Title (e.g. Dr, Mr, Ms) : Position (e.g. manager): Telephone number: Fax number: E-mail address:	

<sup>10</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>11</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>11</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)

The tenderer's attention is drawn to the fact that this document is a model and that 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

### ACCOUNT HOLDER

NAME																								
ADDRESS																								
TOWN/CITY													POSTCODE											
COUNTRY							VAT NUMBER																	
CONTACT PERSON																								
TELEPHONE													FAX											
E - MAIL																								

### BANK

BANK NAME																								
BRANCH ADDRESS																								
TOWN/CITY													POSTCODE											
COUNTRY																								
ACCOUNT NUMBER																								
IBAN (optional)																								

REMARKS :

<b>BANK STAMP + SIGNATURE of BANK REPRESENTATIVE</b> (Both Obligatory)
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<b>DATE + SIGNATURE of ACCOUNT HOLDER :</b> (Obligatory)
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## **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>12</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's budget.

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<sup>12</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.

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 .....

Title .....

Signature: