



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR ENERGY

Brussels, 31.03.2012

**INVITATION TO TENDER No. ENER/B3/2012/154-1**

(open procedure)

Dear Sir/Madam,

1. The European Commission invites tenders for a contract regarding the following project: Study on civil liability and financial security for offshore oil and gas activities

This invitation to tender follows the publication of:

- the contract notice in OJEU 2012/S 64-103002 of 31/03/2012

2. If you are interested in this contract, you must submit a tender in **triplicate**, in one of the official languages of the European Union. A copy of the offer on a CD-Rom/USB key has also to be submitted.

Tenders must be:

**(a) either sent by registered mail or by private courier**

The tender must be sent by registered mail or by private courier, dispatched not later than **25/05/2012** (the postmark or the receipt issued by the courier service serving as proof of the dispatch) to the following address:

**By registered mail**

European Commission  
Directorate-General Energy  
DM 28  
B-1049 Brussels  
Belgium

**By private courier**

European Commission  
Directorate-General Energy - DM 24 - 03/008  
Avenue du Bourget, 1  
B-1140 Brussels (Evere)  
Belgium

**(b) or delivered by hand**

Tenders must be delivered by hand at the Central Mail of the European Commission by **25/05/2012 not later than 4 p.m.** (Brussels time), at the following address:

European Commission  
Directorate-General Energy – DM 24 – 03/008  
Avenue du Bourget, 1  
B-1140 Brussels (Evere)  
Belgium

In this case, a receipt must be obtained as proof of submission, signed and dated by the official in the Commission's central mail department who took delivery. The department is open from 08.00 to 17.00 Monday to Thursday, and from 8.00 to 16.00 on Fridays. It is closed on Saturdays, Sundays and Commission holidays.

3. Tenders must be placed inside two sealed envelopes, one inside the other. **The inner envelope should be marked:**

**Call for tenders No. ENER/B3/2012/154-1**  
**not to be opened by the internal mail department**  
**DM 28 0/110 – Archives**

If self-adhesive envelopes are used, they must be sealed with adhesive tape and the sender must sign across this tape.

**The non-compliance with these formal conditions may entail the rejection of the bids at the opening session.**

**To be admissible, the confidentiality of the bids must have been ensured and the deadline for the submission of the bids met.**

4. Tenders will be opened at 11 a.m. on 05/06/2012, at Rue De Mot 24 (Directorate-General for Energy, DM 24, office 03/058 1040-Brussels).
- This opening session will be public. Each tenderer may be represented by not more than one person. At the end of the opening session, the Chairman of the opening committee will indicate the name of the tenderers and the decision concerning the admissibility of each offer received. The prices mentioned in the bids will not be communicated.
5. The specification, listing all the documents that must be produced in order to tender, including supporting evidence of economic, financial, technical and professional capacity and the draft contract are attached.
6. All tender documents shall be perfectly legible so that there can be no doubt as to words and figures.
7. Validity period of the tender: six months as from the final date for submission of tenders mentioned under point 2 above.

8. Submission of a tender implies acceptance of all the terms and conditions set out in this invitation to tender, in the specification, in the draft contract and, where applicable, waiver of the tenderer's own general or specific terms and conditions. The terms and conditions are binding on the tenderer to whom the contract is awarded during the performance of the contract.
9. Contacts between the awarding authority and tenderers are prohibited throughout the procedure except in exceptional circumstances and under the following conditions only:

Before the closing date for submission of tenders

- At the request of the tenderer, the awarding authority may provide additional information solely for the purpose of clarifying the nature of the contract.

Any requests for additional information must be sent in writing to the following address:

Mr Eero Ailio  
European Commission  
DM 24 – 03/011  
B-1049 Brussels  
Belgium

Fax (+ 32 2) 2964337  
e-mail: ENER-OFFSHORE-TENDER@ec.europa.eu

Requests for additional information received less than five working days before the closing date for submission of tenders will not be processed.

- The Commission may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other material shortcoming in the text of the tender documents.

All additional information will be made available via Directorate-General for Energy website (DG ENER/MOVE). Tenderers are invited to consult this site regularly until the deadline for submission.

After the opening of tenders

If a tender requires clarification, or if there is a need to correct material errors which have occurred in the drafting of the tender, the Commission may take the initiative and contact the tenderer(s). Such contact shall not lead to the conditions of the tender being altered in any way.

10. This invitation to tender is in no way binding on the Commission. A commitment will come about only when a contract with the successful tenderer has been signed.

Until a contract is signed, the awarding authority may decide not to award a contract or to cancel the tendering procedure, without the candidates or tenderers being entitled to claim any compensation. Where appropriate, the decision will be substantiated and brought to the attention of the tenderers.

11. Tenderers will be informed of whether their tenders have been accepted or rejected.
12. If your offer includes subcontracting, it is recommended that contractual arrangements with subcontractors include mediation as a method of dispute resolution.

13. If processing your reply to the invitation to tender involves the recording and processing of personal data (such as your name, address and CV), such data will be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate your tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by the Director of the Shared Resource Directorate MOVE/ENER, acting as data controller. Details concerning the processing of your personal data are available on the privacy statement at: [http://ec.europa.eu/dataprotectionofficer/privacystatement\\_publicprocurement\\_en.pdf](http://ec.europa.eu/dataprotectionofficer/privacystatement_publicprocurement_en.pdf).
14. Your personal data (name, given name if natural person, address, legal form, registration number and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the Early Warning System (EWS) only or both in the EWS and Central Exclusion Database (CED) by the Accounting Officer of the Commission, should you be in one of the situations mentioned in:

- the Commission Decision 2008/969 of 16.12.2008 on the Early Warning System (for more information see the Privacy Statement on

[http://ec.europa.eu/budget/info\\_contract/legal\\_entities\\_en.htm](http://ec.europa.eu/budget/info_contract/legal_entities_en.htm)), or

- the Commission Regulation 2008/1302 of 17.12.2008 on the Central Exclusion Database (for more information see the Privacy Statement on

[http://ec.europa.eu/budget/library/expained/management/protecting/privacy\\_statement\\_ced\\_en.pdf](http://ec.europa.eu/budget/library/expained/management/protecting/privacy_statement_ced_en.pdf))

Yours faithfully,

  
Jean-Arnold Vinois,  
Director



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

**Invitation to tender No. ENER/B3/2012/154-1 concerning  
Civil liability and financial security for offshore oil and gas activities**

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## I. SPECIFICATIONS

### I.1. Introduction

#### *The EU policy context*

Following the disaster in Gulf of Mexico in April 2010, the Commission committed to assessing and increasing the level of safety of offshore oil and gas activities within the Union in its communication "Facing the challenge of the safety of offshore oil and gas activities" (COM(2010) 0560) adopted in October 2010. The Communication identified shortcomings of existing regulatory regimes in Europe. In the subsequent Impact Assessment study produced in late 2010 and early 2011, the Commission outlined the drivers of the existing risks and analyzed policy options. This study laid grounds for a proposal for a new EU Regulation.

The Impact Assessment identified a number of shortcomings in the current legislative frameworks related to offshore oil and gas activities within the Union and defined objectives for EU action based on these. The two general objectives, preventing major accidents from occurring in EU offshore oil and gas activities and enabling the EU to deal effectively with such accidents should the preventive measures fail, were expanded into the following specific objectives:

- Ensuring consistent use of best practices for major hazards control;
- Implementing best regulatory practices;
- Strengthening preparedness and response capacity to deal with emergencies; and
- Improving and clarifying existing EU liability and compensation provisions.

To achieve these, a range of possible measures were suggested and policy options presented and analysed. The options ranged from 'do nothing' to institutionalising offshore safety and environmental protection at an EU level through a new EU agency. The Impact Assessment resulted in the choice of a specific policy option, which led to the subsequent adoption by the Commission, on 27 October 2011, of a proposal for *Regulation on safety of offshore oil and gas prospection, exploration and production activities* (COM(2011) 688 final). The proposal takes a best practices approach and seeks substantial improvements across the Union while putting responsibility for prevention of offshore major accidents on the industry and strengthening the regulatory oversight by EU Member States.

#### *Proposed Regulation on safety of offshore oil and gas prospection, exploration and production activities*

Building on international best legislative practices for major accident prevention from both the on- and offshore industries, whilst acknowledging that no individual country has fully adopted all best practices, the proposed Regulation takes a goal-setting, risk-based approach to safety and environmental protection. It focuses on prevention of and response to major accidents for offshore oil and gas activities and aims to meet the objectives listed above through the following provisions:

- **Licensing** Thorough scrutiny of operators' technical and financial capability to manage the risks;
- **Best practices by industry** Based on continuous improvement in risk control, driven by operating companies, including appointment of independent expert verifiers of safety critical systems;

- **National competent authorities** Providing regulatory scrutiny and enforcement of industry and best practices for safety and the environment;
- **Transparency and cooperation** Making comparable information about industry performance and activities of national competent authorities publicly available, and facilitating the sharing of best practices between competent authorities in different Member States;
- **Emergency response** Requiring companies to assess risks and prepare publically accessible emergency response plans, to be periodically tested and put into operation when necessary;
- **Liability** Making operators fully liable for environmental damage in all EU marine waters, including in the exclusive economic zones and the continental shelves under the jurisdiction of coastal Member States;
- **International cooperation** Working with international partners to promote the implementation of highest safety standards across the world.

#### *Reasons for the study on financial security and civil liability for offshore accidents*

As showed by the Macondo incident, the costs of response to and economic recovery from extreme-scale offshore accidents have the potential to overwhelm the company responsible and risk transferring the liability to the affected State as well as irreparably damaging local business and communities. With the aim of reducing these risks, the Commission examined civil liability and financial security aspects as part of its Impact Assessment for the review of oil and gas related risks within the Union.

Many individual Member States have practices in place to deal with liability and compensation for civil damage, but there is limited availability of effective mechanisms to deal with accidents occurring on a transboundary scale and, even where available, compensation may come too late to prevent failure of the businesses affected by the accident. The Commission wants to ensure there is a comprehensive regime in place to cater for civil liability and ensure financial capacity for operators to cover such costs should they arise. In order to do so, the following two topics were considered in the Impact Assessment preceding the proposed Regulation:

- **Ensuring financial capacity of operators to cover liability** The Commission assessed possible mechanisms to better guarantee that operators can cover any liabilities arising from a major accident in the offshore oil and gas industries.
- **Establishing compensation regimes for traditional damage** The Commission examined compensation schemes for civil and economic damages such as to fishing and tourism from the perspective of ensuring that this type of traditional damage is fully covered along with environmental damage. In order to prevent failure of local businesses affected by the pollution whilst waiting for civil litigation to be concluded, it is important to make such compensation rapidly available.

To strengthen the provisions on financial security, the Regulation extends the requirements for assessing financial capacity of the operator at the licensing stage beyond the ability to cover the costs of operations to also cover the costs of liabilities resulting from a major accident. The Regulation clarifies that the operator/licensee is fully liable for all environmental damage, however caused (polluter pays principle). In addition, the associated revised elements of the Environmental Liability Directive (2004/35/EC) extends liability to water damage in the exclusive economic zones (200 nautical miles from the coastline) and the continental shelf under the Member States' jurisdiction, while currently liability applies only to water damage within territorial seas (12 nautical miles).

However it was not possible at the time of the Impact Assessment study to address fully the financial capacity and traditional damages issues as they were identified as too complex to be resolved in the available timeframe, and the available market mechanisms insufficiently mature for incorporation into the best practices framework that the Commission has adopted as the basis for its proposed Regulation.

Therefore, while measures to address these two issues in the context of liability are not included in the Regulation at this stage, the Commission intends to undertake further analysis of options to strengthen the civil liability regimes and provisions ensuring financial security within the Union.

#### *Work done so far/Knowledge gaps*

While a general shortcoming has been identified in the EU on regulatory frameworks for civil liability and ensuring financial security for major offshore oil and gas accidents, the Commission is aware that a number of different mechanisms are available to deal with these issues through national programmes and voluntary regional or global agreements or funds. The oil pollution compensation fund OPOL is the largest of such active mechanisms in Europe and while it was designed as a voluntary fund, membership is mandatory for all operators being granted a licence to explore and exploit in UK waters. OPOL has recently been under review in reports both by OSPRAG<sup>1</sup> and the Maitland panel commissioned by DECC<sup>2</sup>.

The current legislative instrument regulating international cooperation on environmental protection of the North-East Atlantic is the OSPAR Convention (the Convention for the Protection of the Marine Environment of the North-East Atlantic). Apart from this, the Commission is aware of developments within G20 on the Global Marine Environment Protection (GMEP) best practices sharing mechanism which will include offshore oil and gas activities as well as the IMO's persistent attempt at creating a global fund for offshore accidents from oil and gas activities, recently brought into discussion again by Indonesia after the Montara oil spill off the Australian coast in August-November 2009.

There is furthermore a large body of international law and agreements for maritime safety, some of which are reportedly applied to offshore oil and gas activities in some Member States. The Civil Liability and Fund Conventions, covering the strict liability on tanker owners to pay for oil spill damage, are examples of funds designed for maritime, which even if not used today could offer insights for the offshore industries. There is similarly a range of Conventions which apply to oil spills in the maritime sector, and examples are the Bonn and Barcelona Conventions.

In addition to existing legal frameworks, international agreements and funds, there is an increasing number of market-based solutions for covering the liability costs for operators in the event of an offshore oil or gas accident. The products available on the market range from traditional insurance and reinsurance to insurance linked securities, where the risk is transferred to financial markets in a way similar to catastrophe bonds. While none of these products are currently available at sufficiently high capacities to cover the full costs of a major accident today, they could provide part of the solution.

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<sup>1</sup> OSPRAG, 2011. *Strengthening UK Prevention and Response. Final report: UK oil spill prevention and response group*. Available at: <http://www.oilandgasuk.co.uk/cmsfiles/modules/publications/pdfs/EN022.pdf>

<sup>2</sup> Maitland, G., 2011. *Offshore oil and gas in the UK – an independent review of the regulatory regime*. Available at: <http://www.decc.gov.uk/assets/decc/11/meeting-energy-demand/oil-gas/3875-offshore-oil-gas-uk-ind-rev.pdf>.

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

The objective for this study is to provide the Commission with expert advice on civil liability provisions and identify financial security mechanisms available to cover civil liability damages following an offshore oil and gas accident in EU waters. The study will assist the Commission to develop policy options for ensuring that the EU has a comprehensive liability regime not only for environmental damage but also for traditional damage such as civil and economic damages that may occur to fishing, tourism and other coastal economic activities. The options should identify appropriate means and tools (such as funds, guarantees, insurance products, etc) that will enable the liable operator to use them to both cover the full costs of such resulting liabilities and to be flexible enough to render early compensation to victims of the accident.

### **Content/Description of tasks**

#### *Task 1 – Make an assessment of the extent of the problem*

The contractor will make an assessment of the coverage and extent of civil liability compensation for offshore accidents, by considering previous events in Europe in particular. The analysis will include details of past events and the type and level of traditional damage they caused; levels of compensation asked for and granted; how and when the claims were covered and disbursed by the operators; and what were the maximum insurance claims asked for and paid. The data presented needs to be of sufficient granularity and detail for identifying trends and drawing conclusions.

#### *Task 2 – Carry out an analysis of existing legal regimes for traditional damage arising from major offshore oil and gas accidents*

The contractor will analyse existing legal arrangements for covering civil liability for offshore accidents in Member States. It will include analysis of national liability regimes, bilateral agreements and other ways of treating and compensating for transboundary damages caused by offshore activities in the oil and gas sector. The analysis will cover regimes within the EU, as well as in other major offshore nations, for example USA and Australia. The analysis will also seek examples of how civil liabilities and traditional damages are dealt with in other high-risk sectors (eg maritime transport, petrochemicals, nuclear). The contractor will report on any maritime law applied to the offshore sector in EU Member States.

#### *Task 3 – Carry out an analysis of existing risk pooling mechanisms for damage compensation following an offshore accident, in place within the EU and elsewhere*

The contractor will examine current financial mechanisms for operators to cover liability for offshore accidents resulting from oil and gas activities. Consideration should be made of national schemes, risk-pooling arrangements such as compensation funds, and other mechanisms in place to increase the financial security of participating operators following a major offshore accident. Mechanisms available on the financial markets shall however not be considered here, as they are the focus of Task 4 below. Where separate schemes are in place, the analysis will only include liability for civil and economic losses and not environmental liability as this will be covered by other sources. The analysis will cover the EU and also global or regional mechanisms that are available. The analysis must consider OPOL, as well as the IMO's attempts at creating a global fund for addressing offshore accidents. The analysis should furthermore consider existing legal regimes such as the Civil Liability and Fund Conventions, covering oil spills from tankers, and similarly make reference to relevant schemes in other high-risk sectors as identified above. Each scheme should be described in sufficient detail to be comprehensible to a lay reader and analysed in terms of its advantages and disadvantages.



The contractor will also assess mechanisms for rapid payment of reasonable compensation to affected businesses and local civic systems, so as to avoid unnecessary economic failure pending the determination of legal claims, for example between principle parties to a dispute over civil liability. Such mechanisms available outside the EU will be included in the assessment, wherever sufficient information is available.

*Task 4 – Analyse the potential of financial market instruments to cover traditional liabilities following a major offshore accident*

The contractor shall perform an analysis of the potential role insurance, reinsurance and equivalent products available on the capital markets could play in ensuring financial security following an offshore accident in EU waters. This will include assessing liability covers available on the market today along with those under development for both offshore oil and gas accidents as well as accidents in other high-risk sectors. Where relevant, such instruments available outside Europe shall be included in the assessment.

The analysis should include an assessment of the capacity of the various instruments to cover the full liability costs of a major offshore accident for the operator. If full coverage is not deemed possible, the contractor should assess the extent to which the financial market-based instruments could be used to provide part of the solution for financial security (e.g. in a mix of operator guarantee, regional or international risk pooling, and insurance).

This task involves both assessment of available mechanisms and analysis of future developments; and its output will therefore be split between Work Package 1 and 2, as requested in subsequent sections.

*Task 5 – Scenario analysis for civil liability regimes and financial security mechanisms*

The contractor will assess future scenarios related to civil liability and financial mechanisms for operators to cover such costs. The options analysed with regard to risk-sharing instruments for previous sections will be assessed in terms of their potential extension and capacity, and be considered jointly as well as on their own. Apart from the options already referred to above, alternative possible solutions should be identified and analysed.

The scenario analysis will allow for improved decision-making and inform the recommendations on further action by the Commission. It will allow for consideration of currently available options as well as those that can be expected to evolve naturally or under the potential initiative of the Commission or other international entities.

*Task 6 – Make recommendations for further action by the Commission*

The contractor will make recommendations for action by the Commission to ensure strengthened provisions for financial security and a comprehensive civil liability regime in the event of a major offshore accident in Union waters. The recommendations will include best available regimes, as well as new suggested developments.

Recommendations should include but not be limited to:

- How civil liability can effectively be dealt with following a major offshore accident in Union waters, without posing the risk of economic failure for affected businesses;
- The feasibility of an EU mechanism for a compensation fund for offshore accidents, and how such a fund could function;

- Whether extension of existing risk-pooling arrangements is possible to all Union waters at a sufficiently high capacity to cover major offshore accidents;
- To what extent insurance, reinsurance and insurance linked securities can be used to ensure financial security; and
- Whether other instruments could be developed and at what capacities.

## **General Description of the Work Programme**

The study must provide an in-depth analysis of all topics listed above and will refrain from only replicating descriptive information published elsewhere. Emphasis will in such a way be placed on the analytical aspects of the tasks, making WP2 and WP3 the largest pieces of output. Results from previous studies must be used and clearly indicated where available, including reviews of existing mechanisms in recently published reports. The study should ensure to build on the Commission's Impact Assessment (SEC(2011) 1293) and any useful information found therein shall be used as background material only, similarly to that in other studies.

## **Main work packages**

*WP1 – Comparison and analysis of existing civil liability regimes and financial security mechanisms in place in EU and elsewhere*

The first work package will present the current state of provisions for civil liability and existing financial mechanisms aimed at covering major accidents in the offshore oil and gas sector within the Union and, where relevant, elsewhere. It will provide full coverage of tasks 1 to 3, as well as the historic and current parts of Task 4. It will include:

- A register of past major offshore accidents, including details of the resulting traditional damage, the claims made and paid out, as well as financial mechanisms used to cover such costs;
- A description and assessment of legislation covering civil liability for offshore activities within the Union, in Norway and where relevant elsewhere;
- A description and assessment of existing schemes for making early compensation payments to victims of the accident; and
- A description and assessment of existing financial mechanisms, including risk-pooling arrangements, with particular focus on OPOL and financial market instruments.

The information outlined above will be presented in a suitable format to allow for a good overview and comparison between different regimes and schemes in place, including comparative tables for simple overviews. The identified effective or ineffective features of the included schemes shall be clearly presented. All data and interim material used for WP1 will be made available to the Commission upon request, for continued analysis and subsequent assessments.

*WP2 – Scenario analysis for civil liability regimes and financial mechanisms to cover major offshore accidents from oil and gas activities*

The outcome of Task 5 and the forward-looking aspects of Task 4 above will form the basis for WP2, where different scenarios for both civil liability regimes and financial mechanisms to cover them will be presented and analysed. The scenarios will make use both of the existing mechanisms and regimes presented in WP1 and new proposed ones. The scenario analysis is undertaken as a decision-making tool, and shall be presented in a way suitable for that purpose.



The scenarios analysed will range from a business as usual benchmark scenario to different scenarios resulting from potential action by the Commission or another regional or international entity.

### *WP3 – Recommendations for further EU action*

As a final outcome of the study, the third work package will make recommendations to the Commission for further action, as described in Task 6 above. The recommendations should focus on ensuring a comprehensive civil liability regime and sufficient mechanisms to guarantee financial security following an offshore accident in Union waters. The recommendations should clearly demonstrate that they address the problems and underlying drivers identified in the study.

### **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.

In principle, the deadlines set out below cannot be extended. The Contractor is deemed solely responsible for delays occasioned by subcontractors or other third parties (except for rare cases of *force majeure*). Adequate resources and appropriate organisation of the work including management of potential delays should be put in place in order to observe the timetable below.

A **kick-off meeting** will take place in Brussels following the signature of the contract, in order to settle all the details of the study to be undertaken.

A presentation of the **interim report** will take place on Commission premises in Brussels within two weeks after submission of the interim report.

A presentation of the **final report** will take place on Commission premises in Brussels within two weeks after submission of the report.

The contractor shall also attend any other meeting that the Commission determines may be beneficial for the contractor to attend.

The working language for all meetings is English.

#### **I.3.1. Interim report**

The **interim report** showing progress of the work shall be submitted to the Commission at the latest 2 months after the date of signature of the contract.

The Commission shall have forty-five 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 Report will be presented after the conclusion of work on WP1 and should include:

- A register of past major offshore accidents including details as specified under WP1;
- A description and assessment of legislation for civil liability for offshore oil and gas activities;
- A description and assessment of existing schemes for early compensation to victims of offshore accidents; and
- A description and assessment of existing financial mechanisms, including all specified in WP1.

### ***1.3.2. Final report***

The contractor will submit a final report to the Commission at the latest 7 months after the signature of the contract.

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

The final report will include the following deliverables for the study:

- All data presented in the Interim report, as requested in WP1;
- A presentation and assessment of all scenarios under WP2, with supporting documentation showing the analyses and data;
- The recommendations constituting WP3, with explanations necessary for possible action by the Commission;
- An executive summary (indicative length: 2 pages);
- A PowerPoint presentation summarising the main issues (trends in data, scenarios and recommendations).

### ***1.3.3. Report format and publication***

Five copies of the reports shall be supplied in paper form and one copy in electronic form, either in MS Word or in HTML 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.

## **1.4. Duration of the tasks**

The duration of the tasks shall not exceed **9 months**. This period is calculated in calendar days.

## **1.5. 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 at the Commission's request and/or with her agreement.

## **1.6. Estimate of the amount of work involved**

The amount of work involved to carry out this contract is assessed at 150 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 6, the draft service contract

### **II.2. 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.20 of the contract (Annex 6) can be applied to subcontractors. Once the contract has been signed, Article II.6 of the above-mentioned contract shall govern the subcontracting.

### **II.3. Joint tenders**

In case of a joint tender submitted by a group of tenderers, these latter will be regarded as partners. If awarded the contract, they will have an equal standing towards the contracting authority in the execution of the contract.

The tenderers should indicate in their offer whether the partnership takes the form of:

a) a new or existing legal entity which will sign the contract with the Commission in case of award

or

b) a group of partners not constituting a new legal entity, who via a power of attorney, signed by an authorised representative of each partner (except the lead partner), designate one of the partners as lead partner, and mandate him as lead contractor to sign the contract with the Commission in case of award.

If the contractor is a grouping or consortium of two or more persons, all such persons shall be jointly and severally liable to the Commission for the fulfilment of the terms and conditions of the contract. Such persons shall designate one of them to act as leader with full authority to bind the grouping or the consortium and each of its members. It shall be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration and for coordination. The composition and constitution of the grouping or consortium, and the allocation of the scope of tasks amongst the members, shall not be altered without the prior written consent of the Commission which can be withheld at discretion.

### III. FORM AND CONTENT OF THE TENDER

#### III.1. General

Tenders must be written in **one of the official languages** of the European Union and submitted in **triplicate** (one clearly marked "original" and two copies) as well as a copy of the offer on a CD-Rom. The attention of the tenderers is drawn to the fact that the majority of the deliverables requested under Specific Contracts will have to be submitted in English.

Tenders must be clear and concise, with continuous page numbering, and assembled in a coherent fashion (e.g. bound or stapled). 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.

The original signature of the single tenderer's or lead partner's authorised representative) (preferably in blue ink) on the administrative identification form (Annex 1) shall be considered as the signature of the tender, binding the single tenderer or the group of partners to the terms included in the tender.

#### 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, 3, 4 and 5 as well other evidence required):

- 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/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm)

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

If the corresponding bank account of economic operators is already registered in the Commission's files they are not obliged to provide a new form on the condition that they confirm that no change in the information already provided as occurred. In case of doubt, we recommend submitting a new form.

- 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/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

In the case of a grouping, this form must be provided by all partners.

Economic operators already registered as a legal entity in the Commission's files (i.e. they are or have been contractors of the Commission) are not obliged to provide a new form on the condition that they confirm that no change in the information already provided as occurred, In case of doubt, we recommend submitting a new form.

- Declaration of honour with respect to the Exclusion criteria and absence of conflict of interest (Annex 4)

An original should be filled and signed by (an) authorised representative(s) of all partners. Only sub-contractors with a part of the contract above 20% should the sign the form.

- Power of attorney (Annex 5) – in case of grouping only

An original should be filled and signed by (an) authorised representative(s) of each partner.

- All the supporting documentation for the purpose of checking the selection criteria (IV.2) should also be submitted under this section

The Commission reserves the right, however, to request clarification or 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.

The award criteria as set out in chapter IV.3 define those parts of the technical proposal to which the tenderers should pay particular attention as they will be the ground for the evaluation of the quality of the proposal.

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.

### ***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 must 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 annexed to the Treaty on the Functioning of the European Union. Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption. For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT is to be shown separately. In case of 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**

Participation in tendering procedures is open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons in a third country which has a special agreement with the Union in the field of public procurement, under the conditions laid down in that agreement.

Where the Multilateral Agreement on Public Contracts concluded within the framework of the WTO applies, the contracts are also open to nationals of states which have ratified this Agreement, under the conditions provided for therein.

The procedure for the award of the contract, which will concern only admissible bids (see requirements in the invitation to tender, in particular, regarding the deadline for submission and the presentation of the offers and packaging), 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.

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.

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

###### ***IV.1.1. Exclusion criteria (Article 93 Financial Regulation<sup>3</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

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<sup>3</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)



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>4</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 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***

**1. In accordance with 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 unjustified 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, where such advantage constitutes an illegal practice or involves corruption, either

<sup>4</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.



directly or indirectly, inasmuch as it is an incentive or reward relating to performance 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.

2. As mentioned under section III.2.1., the 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.

#### *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 (c) 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 c), 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>5</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***

The tenderers must provide evidence of an average annual turnover of at least 150 000 EUR for the last three years.

Evidence of this capacity shall be furnished on the basis of the following documents: a statement of overall turnover, or equivalent documents for non-profit organisation, for the last three financial years, and the profit and loss accounts for the last three financial years for which the accounts have been closed, where publication thereof is required under the company law of the country in which the economic operator is established.

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

The tenderers must have expertise in the field of activity related to this assignment, and available staff/experts for this assignment who have relevant educational background and proven experience (minimum 3 years) in civil liability and financial security for high-risk industries.

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<sup>5</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, as amended.

Evidence of this capacity shall be furnished on the basis of the following documents:

- A 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; and
- A list of main services and tasks delivered by the tenderer during the last five years, with the sums, dates and recipients, public or private; and with particular mention of offshore oil and gas-related topics previously worked on.
- Each expert not employed by the tenderer shall provide a signed statement of availability related to this assignment.

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

Nº	Award Criteria	Weighting
1	Understanding the requirements of the tender, as reflected notably in a description/analysis of financial security related to risk management in the offshore oil and gas sector	35
2	Methodology, as reflected notably in tasks and deliverables (with specification of relevant details, e.g. intended geographic coverage for WP1, scenario analysis scope, etc.)	30
3	Proposed work plan especially with regards notably to the appropriateness and composition of the teams of experts made available for the different type of tasks and in particular the degree of allocation of resources of senior experts to the tasks required.	35
<b>Total number of points</b>		<b>100</b>

Since assessment of the tenders will be based on the quality of the proposed services, tenders should elaborate on all points addressed by these specifications in order to score as many points as possible. The mere repetition of mandatory requirements set out in these specifications, without going into details or without giving any added value, will only result in a very low score. In addition, if essential points of these specifications are not expressly covered by the tender, the Commission may decide to give a zero mark for the relevant qualitative award criteria.

b) Total price

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

Score for tender x =

$$\frac{\text{price of lowest tender}}{\text{price of tender x}} \text{ multiplied by } 0.3$$

+

$$\frac{\text{total quality score for award criteria for tender x}}{100} \text{ multiplied by } 0.7$$

#### 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 and absence of conflict of interest)
5. Power of Attorney (mandate in case of joint tender)
6. 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/B3/2012/154-1**

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>6</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>6</sup> For natural persons

Legal Representatives	
<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>7</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>7</sup> This person must be included in the list of legal representatives; otherwise the signature on the tender will be invalidated.

## **ANNEX 2**

### **Financial identification form**

(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/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm)

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

## **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/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

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



## ANNEX 4

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

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

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

- ☐ in his/her own name (*if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator<sup>8</sup>*)

or

- ☐ representing (*if the economic operator is a legal person*)

official name in full (*only for legal person*):

official legal form (*only for legal person*):

official address in full:

VAT registration number:

declares that the company or organisation that he/she represents / he/she:

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;

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<sup>8</sup> To be used depending on the national legislation of the country in which the candidate or tenderer is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).

- e) has not been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- f) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract;
- k) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete;
- l) that in case of award of contract, they shall provide upon request the evidence that they are not in any of the situations described in points a, b, d, e above.

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the Tenderer is a legal person and the national legislation of the country in which the Tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the Tenderer.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the Tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.]

By signing this form, the undersigned acknowledges that they have been acquainted with the administrative and financial penalties described under art 133 and 134 b of the Implementing Rules (Commission Regulation 2342/2002 of 23/12/02), which may be applied if any of the declarations or information provided prove to be false.

Full name

Date

Signature

## ANNEX 5

### POWER OF ATTORNEY

**mandating one of the partners in a joint tender as lead partner and lead contractor <sup>9</sup>**

The undersigned:

– Signatory (Name, Function, Company, Registered address, VAT Number)

having the legal capacity required to act on behalf of his/her company,

HEREBY AGREES TO THE FOLLOWING:

- 1) To submit a tender as a partner in the group of partners constituted by Company 1, Company 2, Company N, and led by Company X, in accordance with the conditions specified in the tender specifications and the terms specified in the tender to which this power of attorney is attached.
- 2) If the European Commission awards the Contract to the group of partners constituted by Company 1, Company 2, Company N, and led by Company X on the basis of the joint tender to which this power of attorney is attached, all the partners shall be co-signatories of the Contract in accordance with the following conditions:
  - (a) All partners shall be jointly and severally liable towards the European Commission for the performance of the Contract.
  - (b) All partners shall comply with the terms and conditions of the Contract and ensure the proper delivery of their respective share of the services and/or supplies subject to the Contract.
- 1) Payments by the European Commission related to the services and/or supplies subject to the Contract shall be made through the lead partner's bank account: [Provide details on bank, address, account number].
- 2) The partners grant to the lead partner all the necessary powers to act on their behalf in the submission of the tender and conclusion of the Contract, including:
  - (a) The lead partner shall submit the tender on behalf of the group of partners.
  - (b) The lead partner shall sign any contractual documents — including the Contract, and Amendments thereto — and issue any invoices related to the Services on behalf of the group of partners.
  - (c) The lead partner shall act as a single contact point with the European Commission in the delivery of the services and/or supplies subject to the Contract. It shall co-ordinate the delivery of the services and/or supplies by the group of partners to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present power of attorney shall be subject to the European Commission's express approval. This power of attorney shall expire when all the contractual obligations of the group of partners towards the European Commission for the delivery of the services and/or supplies subject to the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in ..... on [dd/mm/yyyy]

Place and date:

Name (in capital letters), function, company and signature:

<sup>9</sup> To be filled in and signed by each of the partners in a joint tender, except the lead partner;

**ANNEX 6**  
**DRAFT CONTRACT**

*<Appropriate draft contract (i.e. direct/framework service/supply contract EU/Euratom) should be inserted hereunder in the invitation to tender so that it can be transferred as one single electronic document for publication on the ENER/MOVE web-site. (It is not sufficient to enclose the contract only in the paper file!) Templates can be found in Sextant under <http://intratren.ftw:FinForm/Sextant/202009/Marches/contrats.mht> >*