



EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENERGY AND TRANSPORT
The Director

Brussels,

• **INVITATION TO TENDER NO. TREN/D3/92-2007**

(open procedure)

Dear Sir/Madam,

1. The European Commission invites tenders for a framework service contract regarding the following project: **Impact Assessments for possible implementing measures under the Eco-design Directive of Energy Using Products¹ and the Framework Directive on Energy Labelling of Household Appliances².**

This invitation to tender follows the publication of the contract notice in OJEU S **2007/S 198-239670**

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.

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 **22 November 2007** (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 and Transport
DM 28 - 0/110 - Archives
B-1049 Brussels
Belgium

By private courier

European Commission
Directorate-General Energy and Transport - DM 28 - 0/110
Avenue du Bourget, 1

¹ Directive 2005/32/EC, OJ L 191, 22.7.2005, p. 29

² Council Directive 92/75 EEC, OJ L 297, 13.10.1992, P 16-19

B-1049 Brussels (Evere)
Belgium

(b) **or delivered by hand**

Tenders must be delivered by hand at the **Central Mail of the European Commission** by **22 November 2007 not later than 4 p.m.** (Brussels time), at the following address:

European Commission
Directorate-General Energy and Transport – DM 28 0/110
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. TREN D3/92-2007
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 will entail the rejection of the bids at the opening sessions.

4. Tenders will be opened at 10.a.m.on **29 November 2007** at 28 Rue De Mot (Directorate-General Energy and Transport, mail department, ground floor, office 110 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. Tenders must be signed by the tenderer or his duly authorised representative and 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.

Requests for additional information must be sent in writing not later than six calendar days before the closing date for submission of tenders to the following address:

European Commission
Directorate-General Energy and Transport - Unit D3
DM 28-01/96
B-1049 Brussels
Belgium

Fax (+ 32 2) 2994857
e-mail: TREN-CALL-2007@ec.europa.eu

- 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.

Further information will be sent simultaneously to all tenderers who have requested the specification in writing, where this is appropriate. Tenderers who have downloaded the documents from the Directorate-General Energy and transport website (DG TREN) are invited to consult this site regularly until the deadline for submission.

After the opening of tenders

If a tenderer 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 Framework 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. The follow-up of your response to the invitation to tender will require the recording and further processing of personal data (i.e. name, address, CV, etc.). This data will be processed in accordance with the requirements of Regulation (EC) 45/2001 on the protection of

individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. Unless if otherwise stated, replies to questions and personal data requested are necessary for the purpose of assessing your tender (according to the specifications of the invitation to tender) and will only be processed within DG TREN as data controller, for this purpose. You may, upon request, have your personal data sent to you and rectify any inaccurate or incomplete particulars. Should you have any queries concerning the processing of your personal data, please address them to the entity acting as data controller within DG TREN. As regards the processing of your personal data, you have the right to bring the matter before the European Data Protection Supervisor at any time.

13. You are informed that for the purposes of safeguarding the financial interest of the Communities, your personal data may be transferred to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF).

Data of economic operators which are in one of the situations referred to in Articles 93, 94, 96(1) (b) and 96(2) (a) of the Financial Regulation may be included in a central database and communicated to the designated persons of the Commission, other institutions, agencies, authorities and bodies mentioned in Article 95(1) and (2) of the Financial Regulation. This refers as well to the persons with powers of representation, decision making or control over the said economic operators. Any party entered into the database has the right to be informed of the data concerning it, up on request to the accounting officer of the Commission.

14. Timetable

Deadline for submission	22. November 2007
Opening of the bids	29. November 2007
Evaluation of bids	February 2007, indicative
Notification to the tenderers	March 2008, indicative
Signature of the Contract	April 2008, indicative

Yours faithfully,

Alfonso Gonzalez Finat

TENDER SPECIFICATIONS
ATTACHED TO THE INVITATION TO TENDER

Invitation to tender No. TREN D3/92-2007 concerning

**A framework contract on Impact Assessment studies for possible implementing
measures under the Eco-design Directive of Energy Using Products and the
Framework Directive on Energy Labelling of Household Appliances**

Open procedure

TABLE OF CONTENTS

I.	SPECIFICATIONS	7
I.1.	Introduction.....	7
I.2.	Purpose of the contract.....	7
I.3.	Background	8
I.4.	Description of Services	9
I.4.1.	Reports and documents to produce	11
I.4.2.	Report format and publication	13
I.5.	Duration of the Contract	13
I.6.	Place of performance	13
II.	TERMS OF THE FRAMEWORK CONTRACT.....	14
II.1.	Estimate of the amount of work involved.....	14
II.2.	Terms of payment	14
II.2.1.	Pre-financing.....	14
II.2.2.	Payment of the balance	14
II.3.	Financial guarantees.....	15
II.4.	Subcontracting	15
II.5.	Legal form to be taken by the grouping of service providers to whom the contract is awarded (if applicable).....	15
II.6.	Specific contracts	15
III.	FORM AND CONTENT OF THE TENDER	16
III.1.	General	16
III.2.	Structure of the tender.....	16
III.2.1.	Section one: administrative proposal	17
III.2.2.	Section Two: Technical proposal.....	17
III.2.3.	Section Three: Financial proposal.....	18
III.2.4.	Validity of bids.....	18
III.2.5.	Opening of bids	19
IV.	ASSESSMENT AND AWARD OF THE FRAMEWORK CONTRACT.....	19
IV.1.	Exclusion criteria (exclusion of tenderers)	19
IV.1.1.	Exclusion criteria (Article 93 Financial Regulation)	19
IV.1.2.	Other cases of exclusion (Article 94 Financial Regulation)	20
IV.1.3.	Evidence to be provided by the tenderers	21
IV.1.4.	Administrative and financial penalties.....	22
IV.2.	SELECTION CRITERIA (SELECTION OF TENDERERS).....	22
IV.2.1.	Economic and financial capacity – References required	22
IV.2.2.	Technical and professional capacity – References required	23
IV.3.	EVALUATION OF TENDERS – AWARD CRITERIA	24
IV.4.	INFORMATION FOR TENDERERS.....	26
V.	Annexes.....	27
Annex 1:	Identification of the Tenderer	27
Annex 2:	Financial Identification	27
Annex 3:	Legal Entity Form	27
Annex 4:	Declaration by the Tenderer (relating to the exclusion criteria).....	27
Annex 5:	Draft Framework Contract (with Annex I, II, III and IV to the Draft Framework Contract).....	

I. SPECIFICATIONS

I.1. Introduction

The Directorate-General for Energy and Transport and in particular the unit responsible for Energy Efficiency, seeks external expertise to assist in carrying out Commission **impact assessment studies of several possible implementing measures under the Eco-design Framework Directive of Energy Using Products³** (Eco-design Framework Directive) **and the Framework Directive on Energy Labelling of Household Appliances⁴** (Energy Labelling Framework Directive).

The Commission intends to conclude a **Framework Contract with one organisation**.

The work under this contract will be to carry out impact assessment studies of possible implementing policy measures for **specific product groups** under the Eco-design Framework Directive and possible policy measures under the Energy Labelling Framework Directive. More information about the Directives and the specific product groups can be found in chapter I.4.

A "Framework Contract with one organisation" means a situation whereby a framework contract is concluded between the Commission and the selected tenderer, setting out the general contractual terms (legal, financial, technical, administrative, etc.) that apply during their period of validity and govern commercial relations between the Commission and the contractors. The award procedure for the framework contract is described in chapter IV of these Tender Specifications.

Following the conclusion of the Framework Contract the Commission will issue a request for service to the contractor. The contractor will then provide the Commission with a written offer for the tasks required and a specific contract will then be signed. The specific contract will specify the objectives of the tasks, stakeholder consultation, reporting, organisation and timing. More information about the specific contracts for carrying out an impact assessment can be found in chapter II.6.

The duration of the Framework Contract is maximum 3 years from the date on which the contract is signed.

I.2. Purpose of the contract

The purpose of the Framework Contract is to provide the Directorate-General with highly qualified external expertise to ensure objectivity and high-level technical services; aiming to support the Directorate-General in the design and preparation of possible implementing measures under the Eco-design Framework Directive and the Energy Labelling Framework Directive.

The work under this Framework Contract will take the form of specific contracts **on impact assessment studies of product groups subject to possible implementing measures under the Eco-design Framework Directive** and possible policy measures under the Energy Labelling Framework Directive.

³ Directive 2005/32/EC, OJ L 191, 22.7.2005, p. 29

⁴ Council Directive 92/75 EEC, OJ L 297, 13.10.1992, P 16-19

The required services are of intellectual nature in the area of environmental performance of energy using products that can be influenced by product design (policy and technical knowledge) or energy labelling, impact assessments and related services. The results of the impact assessment studies are fed into the Commission impact assessment reports that accompany possible implementing measures which the Commission may submit to the Regulatory Committee, the European Parliament, the Council, and the public. For this reason, a maximum of professionalism and stringency in the analytical process is required in carrying out these tasks.

I.3. Background

The Eco-design Framework Directive provides for the setting of ecodesign requirements for energy using products (EuP). The Directive seeks to achieve a high level of protection of the environment by reducing the potential environmental impact of EuPs, which will ultimately be beneficial to consumers and other end-users.

The success of the Framework Directive is directly depending on the implementing measure proposed for a particular product group and can only be assessed on the basis of the outcome of the implementing measures. Criteria for setting implementing measures are defined by Article 15 in the Framework Directive.

The Commission is doing a significant amount of work in order to document the potential for implementing eco-design measures. First, a methodology study for the Ecodesign of Energy Using Products (MEEuP) was realised in 2004-2005 in order to develop a common method to be used when carrying out the product specific preparatory studies. Then, preparatory studies on specific product groups are carried out in order to identify and recommend ways to improve at the design phase the environmental performance of the product throughout its lifecycle.

Some preparatory studies are already finalised, some are ongoing and others are about to start. The preparatory studies provide information on whether eco-design requirements could be set for a particular product group, and they describe for instance market characteristics for the product, the relevant environmental aspects of the product to be covered and their technical/economical potential for improvement, existing relevant legislation, self regulation by industry, standards and needs for standards to be developed. The studies also give a description of which eco-design requirements can be used as suitable measures to achieve targets like "Best Available Technology" or "Least Life Cycle Cost" (BAT or LLCC).

The Energy Labelling Framework Directive has been in place for 15 years, and the Commission has adopted (with regulatory committee) implementing Directives covering 8 appliances⁵. The overall objective of the Framework Directive is to promote energy savings by pulling the market towards more energy efficient products, by raising consumers' awareness throughout the compulsory labelling of products at the point of sales.

Depending on the result of the Eco-design preparatory studies it may be necessary to do impact assessments of possible implementing measures under the Energy Labelling Framework Directive, either in addition or as complement to Eco-design measures.

⁵ Refrigerators and freezers, lamps, washing machines, tumble dryers, dishwashers, electric ovens, air conditioners

I.4. Description of Services

The services that are required under this Framework Contract will support the Directorate-General in its work to inform policy-makers with an objective and unbiased judgement of the likely impacts of different policy options. The services have to be carried out according to the procedural requirements stated in this paragraph, adaptations thereto in the course of the contract and any further guidance given by the Commission.

The Product Groups under the Eco-design and Energy Labelling Framework Directives

The impact assessment studies on product groups under the Eco-design Framework Directive will evaluate the economic, environmental and social impacts and administrative cost of different policy options for implementation/achieving the appropriate specific and generic eco-design requirements or energy labelling requirements.

The table below indicates the product groups likely to be covered under this Framework Contract. The list of product groups may be changed depending on the progress of the preparatory studies. The list may also be changed after establishment of the working plan⁶.

1. Simple TV set top boxes for digital signal reception
2. Washing machines, dishwashers
3. Domestic refrigeration & freezers
4. Boilers
5. Water heaters
6. Imaging equipment
7. Commercial refrigeration & freezers
8. Room air conditioning
9. Electric motors, pumps, fans
10. Solid fuel small combustion installations (in particular for heating)
11. Laundry dryers
12. Vacuum cleaners
13. Complex set top boxes (with conditional access and/or functions that are always on)
14. Domestic lighting

The final reports of the preparatory studies will provide key information on the product groups. The tenderer should however also be able to provide additional information needed to validate and

⁶ As required in Article 16 (1) of the Eco-design directive "a working plan shall set out for the following three years an indicative list of product groups which will be considered as priorities for the adoption of implementing measures".

complement the information in the preparatory studies in order to carry out comprehensive impact assessment studies (including, if appropriate, relevant application areas not analysed in the preparatory studies which can emerge from stakeholder consultation).

The indicative policy options for the product groups to be analysed are:

- "Business as Usual" ("zero option", i.e. no eco-design or labelling implementing measure) including, as appropriate, possible effects of relevant Community and/or third country legislation
- Introduce mandatory specific/generic eco-design requirements on products placed on the market, including, as appropriate, possible interactions with relevant Community and/or third country legislation
- Complementary or alternative policy measures as e.g. energy labelling under the Energy Labelling Framework Directive (mandatory/voluntary)
- self-regulation (if proposed by an interested party)
- a combination of policy options, as appropriate

The Commission may elaborate on additional possible policy options for specific product groups. Further, the preparatory studies of the different product groups can give specific examples of possible policy options to be considered for the product groups in question.

Impact assessments

Impact Assessments are one of several concrete actions the Commission has taken to improve the way it designs policy⁷. Impact assessment is a process aimed at structuring and supporting the development of policies, which requires considering the economic, social and environmental impacts of new proposals as well as their administrative costs. The Commission has developed specific guidelines, integrating and replacing previous single-sector type approaches for impact assessments⁸.

The purpose of the impact assessment process is to assess, in a systematic and organised way, possible policy options for public interventions and their likely economic, social and environmental impacts. It is an integral part of the Commission's policy design process and allows taking decisions in the light of the best available evidence. Impact assessment is thus an aid to decision making, not a substitute for political judgement.

The services might entail one, several or all analytical steps as outlined in the following, indicating the main tasks hereunder:

- Problem definition: delineation of the extent of the problem identifying the key players, stakeholders and affected public; establishing the causes and basis of the EU's right to act.
- Objectives: set objectives at several levels that correspond to the problem and its root causes; elaboration of the intervention logic; ensuring consistency with other EU policies and strategies.

⁷ The Better Regulation package (COM (2002)275 final, COM (2002)278 final and COM (2005)97 final),.

⁸ SEC(2005)791, 15.6.2005, with update of 15 March 2006, plus Annex to the guidelines updated on 15 March 2006

- Policy options: identification of policy options and most appropriate delivery mechanisms; measuring against criteria of effectiveness, efficiency and consistency.
- Consultation of interested parties: Beyond the formal consultation of stakeholders that will take place in the Consultation Forum (art.18 of Directive 2005/32/EC), the contractor will run additional focused consultations with directly affected interested parties. The contractor will present to the Commission services a consultation plan covering the consultation process; determining the objective of the consultation(s), relevant target groups; appropriate consultation tool(s); consultation time(s) and consultation document(s). The consultation(s) must be carried out according to the Commission's general principles and minimum standards for consultation set out in the Commission Communication "Towards a reinforced culture of consultation and dialogue".⁹
- Analysis of impacts: identification and qualitative and quantitative analysis of the most significant economic, social and environmental impacts; considering the risks and uncertainties in the policy choices including obstacles to compliance and impact on administrative costs.
- Comparison of policy options: weigh-up positive and negative impacts and present in a clear and accessible manner aggregated and disaggregated results, presentation of comparisons between options by area.
- Monitoring and evaluation: identification of core progress indicators for key objectives; outline of possible monitoring and evaluation arrangements for policy proposals.

I.4.1. Reports and documents to produce

For each impact assessment study conducted under this Framework Contract the contractor is requested to present:

1. an inception report (defining the methodology)
2. a progress report produced and disclosed at least every two months (when applicable, as specified in the Specific Contracts)
3. a draft final report
4. a final report in accordance with the format established by Commission rules.

The draft final report and the final report shall be produced in two specific samples, a "written sample" and a "presentation sample". The "written sample" is defined as the reference version of the final report, containing all exhaustive qualitative and quantitative information about the evaluation/impact assessment. Its aim is to provide an in-depth comprehension of each assignment. The "presentation sample" is defined as the supportive version of the final report, containing all relevant information describing the evaluation/impact assessment. Its aim is to provide a visual summary of the evaluation/impact assessment.

a) "written sample"

The "written sample" shall be drafted in text format. The text will have to be written in English and according to the reporting format of the Commission Impact Assessment guidelines in force.

⁹ COM(2002) 704, of 11 December 2002

In addition, the “written sample” of the final report shall include the format and content as suggested below:

Title page:

- title and nature of evaluation/impact assessment
- title of policy/programme/activity, generation, duration
- identification of author, date of submission, commissioning service
- disclaimer

Table of contents:

- main headings and sub-headings
- index of tables, figures and graphs

Annexes:

- terms of reference
- references and sources
- financial overview of the programme/project (if relevant)
- list of stakeholders interviewed
- transcripts of interviews
- glossary of terms
- additional tables (if applicable)

b) “presentation sample”:

The format shall be based on a slides presentation and the content shall be informative enough to offer an audience an overview of the impact assessment/evaluation work carried out and the main results of the analysis.

Schedule for feedback concerning the draft final report

The written sample and the presentation sample of the draft final report shall be sent to the Commission by the date fixed for completion and delivery in the work order of each impact assessment study. The Commission should be informed of any delay in meeting this deadline. The Commission will have four weeks to make comments and to suggest any amendments to the draft final report.

On receipt of the Commission’s comments, the Contractor will revise both samples of the draft final report and the amended version will be sent to the Commission within two weeks.

After this approval process, the final report must be delivered before the end date specified in the work order of each impact assessment study.

The results of the studies will be published by the Commission services who decide on the dissemination of findings and conclusions and its related materials produced under this Contract. For these purposes, the tenderer must ensure that there are no restrictions based on confidentiality and/or intellectual property rights expected from a third party.

I.4.2. Report format and publication

Each report (inception report, draft final report and the final report) should be delivered in an electronic version (floppy disk, CD-ROM or sent by e-mail), in MS Word format or Excel format (if figures). Additionally, the final report shall be delivered in up to ten hard copy versions (printed paper). The reports are addressed to policy-makers as an aid to decision-making. They have to be drafted in a proper literate manner and fully comprehensible in terms of grammatical structure (complete sentences, punctuation, explanation of abbreviations, etc.), using simple and non-technical language for a non-specialised audience. Technical explications shall be given in annexes.

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

I.5. Duration of the Contract

The duration of the contract is maximum 3 years.

The foreseen impact assessment studies under this Framework Contract will start when the Commission issue a request for service and a specific contract is signed.

The tenderer must be able to **carry out up to 3 impact assessment studies in parallel**. The estimated duration of an impact assessment study is 4 months.

The length and concrete timing of each impact assessment study will be defined in the specific contract for each impact assessment study.

I.6. 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 THE 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 the Framework 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 to be paid by the Commission under the Framework Contract is **EUR 1.050.000**. Specific Contracts will not be signed once the budget is exhausted.

All reimbursable expenses are included in this maximum amount.

II.2. Terms of payment

Payments shall be made in accordance with the provisions specified in Annex 5, the draft Framework Contract.

II.2.1. Pre-financing

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 Contract 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 performance of the work and acceptance and approval of the final report by the Commission within 30 days of receipt of the request for payment.

II.2.2. Payment of the balance

The request for payment of the balance of the Contractor shall be admissible if accompanied by:

- the final report of the impact assessment study in accordance with the instructions laid down in Annex 5
- the relevant invoices

- statements of reimbursable expenses in accordance with Annex 5

Within 30 days of the date on which the final report is approved by the Commission, payment of the balance of the total price of the service shall be made.

Depending on the progress of the preparatory studies of product groups under the Eco-design Directive, the Commission may be unable to request the total number of impact assessment studies as foreseen under article I.4 within the duration of this contract.

II.3. Financial guarantees

Guarantee on pre-financing

For any pre-financing higher than 100,000 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 100,000 EUR.

II.4. Subcontracting

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

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

II.5. Legal form to be taken by the grouping of service providers to whom the contract is awarded (if applicable)

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

II.6. Specific contracts

Each time the Commission requires an impact assessment study under this Framework Contract a request for service will be issued.

Within 10 working days after the date of sending the request for services, the contractors will provide the Commission with a written offer for the tasks required. This offer shall detail the methodology, the deliveries, the composition of the team, the duration of work and the total price on the basis of the «man-day» price as agreed in the Framework Contract.

A specific contract will then be signed. The specific contract will specify the objectives of the tasks, stakeholder consultation, reporting, organisation and timing.

A draft specific contract can be found attached as Annex III to Annex 5 of this invitation.

The contractors shall take all 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 contract). They must declare in the offer their contractual relations during the last five years with any stakeholders and/or companies directly involved in the programmes, projects and legislative activities, conducted or subcontracted by the Directorate-General Energy and Transport to be evaluated under this Framework Contract. During the validity period of this Framework Contract, tenderers must declare any changes in their situation regarding the contractual relations referred to in this paragraph.

Tenderers undertake 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 completion of the tasks (see annex 5: Article II.9.1).

The attention of the tenderers is drawn to Article II.15 of the draft 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.

III. FORM AND CONTENT OF THE TENDER

III.1. General

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

In order to speed up the selection process a summary in English would be welcomed.

As English is the language to be used for the assignments, tenderers must prove in their bids that they master the necessary language skills.

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

III.2. Structure of the tender

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

III.2.1. Section one: administrative proposal

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

- Tenderers' identification (Annex 1)

–All tenderers must provide proof of **registration**, as prescribed in their country of establishment, on one of the **professional or trade registers** or provide a declaration or certificate.

–If the tenderer is a natural person, he/she must provide a copy of the identity card/passport or driving licence and proof that he/she is covered by a social security scheme as a self-employed person.

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

- Financial identification (Annex 2)

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

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

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

- Legal entities (Annex 3)

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

http://ec.europa.eu/budget/execution/legal_entities_en.htm

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

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

III.2.2. Section Two: Technical proposal

This section is of great importance in the assessment of the bids, the award of the contract and the future execution of any resulting contract.

Some guidelines are given below, but attention is also drawn to the award criteria, which define those parts of the technical proposal to which the tenderers should pay particular attention. The technical proposal should address all matters laid down in the specifications and should include models, examples and technical solutions to problems raised in the specifications. The level of detail of the tender will be extremely important for the evaluation of the tender. Tenderers must present in their bids a proposal on the methodology and the organisation of the work to carry out in the framework of the study.

In particular, tenderers must prove in the technical proposal that they have adequate analytical capability and experience in economics and econometrics to create models to be able to make forecasts of the impacts of different policy options. For this reason it is recommended to associate academia, also including design engineering, in order to satisfactorily respond to all the specific requests for services.

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

III.2.3. Section Three: Financial proposal

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

- Prices must be quoted in **euros**, including the countries which are not in the euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.
- Prices must be fixed amounts and include all expenses, such as travel expenses and daily allowances.
- **Estimated travel and daily subsistence allowance expenses must be indicated separately.** This estimate should be based on Articles I.3 and II.7 of the draft contract (Annex 5). This estimate will comprise all foreseen travel and will constitute the maximum amount of travel and daily subsistence allowance expenses to be paid for all tasks.
- **Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT**, as the Communities are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJ L 152 of 13 July 1967). Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by 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 Community is exempt from VAT;
- **Prices shall be fixed** and not subject to revision during the performance of the contract;
- **Prices shall be quoted in average price per man day**

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

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.

III.2.5. Opening of bids

- Bids will be opened in public on **29 November 2007 at 10 a.m.**, in the mail/archives service, 28 Rue De Mot (ground floor, meeting room 00/31), 1040-Brussels.

One representative of each tenderer may attend the official opening.

IV. ASSESSMENT AND AWARD OF THE FRAMEWORK CONTRACT

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

All the information will be assessed in the light of the criteria set out in these specifications. The procedure for the award of the contract, which will concern only admissible bids, will be carried out in three successive stages.

The aim of each of these stages is:

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

IV.1. Exclusion criteria (exclusion of tenderers)

IV.1.1. Exclusion criteria (Article 93 Financial Regulation¹⁰)

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

¹⁰ 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 Communities' financial interests;
 - (f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation¹¹ 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 Community budget.
2. The cases referred to in point IV.1.1. e) above shall be the following:
- a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests established by the Council Act of 26 July 1995 (OJ/C 316 of 27.11.1995, p. 48);
 - b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, established by the Council Act of 26 May 1997 (OJ/C 195 of 25.6.1997, p. 1);
 - c) cases of involvement in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council (OJ/L 315 of 29.12.1998, p. 1);
 - d) cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC (OJ/L 166 of 28.6.1991, p.77).

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

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

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

Tenderers must declare:

- that they do not have any conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties, or any other relevant connection or shared interest;
- that they will inform the contracting authority, without delay, of any situation constituting a conflict of interest or which could give rise to a conflict of interest;
- that they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;

¹¹ 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.

- that they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to the award of the contract.

The Commission reserves the right to check the above information.

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

IV.1.3. Evidence to be provided by the tenderers

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

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

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

Where no such document or certificate is issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

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

5. The Commission reserves the right to request any other document relating to the proposed tender for evaluation and verification purpose, within a delay determined in its request.

Remark:

The tenderers will be waived of the obligation to submit the documentary evidence above mentioned if such evidence has already been submitted for the purposes of another procurement procedure launched by Directorate General for Energy and 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 Community 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.¹²

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 the following documents: the balance sheets or extracts from balance sheets for the last three financial years, and a statement of overall turnover and turnover relating to the relevant services for the last three financial years.

This rule applies to all service providers, regardless of the percentage of tasks they intend to execute, once they have chosen to submit a tender. However, if the tender includes subcontractors whose tasks represent less than 20% of the contract, those subcontractors are not obliged to provide evidence of their economic and financial capacity.

¹² 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.

IV.2.2. Technical and professional capacity – References required

The applicant must provide evidence of employing directly or being readily capable of constituting a team of experts capable of carrying out in a professional and timely manner the tasks requested under contract.

The Tenderers' technical competence will be determined as follows:

The team must have the following qualifications:

- well balanced composition of relevant economic and technical education (university, post-graduate level);
- well proven professional experience in Community policies relating to energy efficiency in particular, environmental impacts of products, eco-design, energy labelling, structure and functioning of the relevant markets and industrial sectors, sustainable development and social aspects;
- well proven professional experience in the specific fields of evaluations and impact assessment analysis;
- well proven knowledge of economic and quantitative analysis, modelling, elaboration of questionnaires, surveying techniques and capabilities to use state-of-the-art information technologies
- good communication and drafting skills in English

Tenderers should provide with their offer a report of the average annual manpower in the last three years and the number of staff at senior and junior level, broken down by managerial level, data handling, surveying, research, economic and statistical analyst staff; as well as detailed curriculum vitae of each team member proposed for carrying out the work, including his or her educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills.

The tenderer should provide an indication of the in-house available information and of contacts (e.g. with industry associations, participation in specialist networks etc) allowing easy access to comprehensive information necessary for the tender.

Changes or additions to the team initially proposed must be notified to the Commission in writing. The Commission will have the right to object to any changes of members of the team from those initially proposed.

To assess the professional expertise it is requested to provide a list of the principal services provided in the past three years and relevant to this tender, together with a statement of the price of the service, the period of work and whether the service was rendered to public or private clients (name of client to be indicated).

- Where provided to public authorities, evidence might be requested by the Commission in the award procedure in the form of certificates countersigned by the competent authority. A letter from the relevant public authority that states that a particular project has been undertaken can be regarded as a certificate in this context if the letter is duly signed by the public authority and contains all relevant elements to be considered as a certificate of the professional experience. It is acceptable to submit a list of the implied authorities and add certificates for some of them as reinforcement of the information.

- Where provided to private purchasers, the Commission might request in the award procedure that delivery is to be certified by the purchaser; or failing this, simply declared by the service provider to have been effected.

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

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

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

IV.3. EVALUATION OF TENDERS – AWARD CRITERIA

The Contract will be awarded according to the criteria given below, on the basis of the economically most advantageous tender (quality/price ratio). These criteria will be assessed on the basis of the documents referred to above. In addition, the Commission reserves the right to use any other information from public sources.

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.

The technical evaluation, weighted **100 points**, will be distributed between the sub-criteria as follows:

N°	Award Criteria	Weighting
1	<p><u>Understanding of the objectives of the tender</u></p> <p>The tenderer must prove that they understand the objective of the tender and of the issues involved, with special focus on the Eco-design Framework Directive, the Energy Labelling Framework Directive and the product groups to be covered.</p>	40
2	<p>Relevance of methodology</p> <p>Tenderers must prove by examples of impact assessment studies, that they have a suitable approach (methodology), adequate knowledge and the capacity to manage any kind of analysis required under this Framework Contract. Methodologies shall respect the Commission's impact assessment and evaluation requirements. The proposed approach.</p>	30
3	<p>Ability to use analytical tools</p> <p>Tenderers must state how they intend to perform impact assessments, evaluations and related studies which may be entrusted to them. Tenderers must explain how they intend to structure, analyse and evaluate/assess a choice of policy options (or policies and programmes in regard evaluations) according to defined objectives. The knowledge of economic modelling, surveying techniques, cost-benefit analysis techniques and other quantitative analysis tools, including indicators and quantitative tools for impact assessments¹³ is essential.</p>	20
4	Completeness, clarity and presentation of the tender	10
Total number of points		100

b) Total price

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

¹³ <http://iqtools.jrc.es/bin/view/IQTool/WebHome.html>

Prices are to be quoted in **euros**, in **man-days**.

A Contract will not be awarded to tenderers who, during the procurement procedure are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

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

Annex 1: Identification of the Tenderer

Annex 2: Financial Identification

Annex 3: Legal Entity Form

Annex 4: Declaration by the Tenderer (relating to the exclusion criteria)

Annex 5: Draft Framework Contract (with Annex I, II, III and IV to the Draft Framework 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 TREN xx/xx/xxxx

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) ¹⁴	
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:	
Legal Representatives	

¹⁴ For natural persons

Names and function of legal representatives and of other representatives of the tenderer who are authorised to sign contracts with third parties	
Declaration by an authorised representative of the organisation¹⁵ I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	
Surname: First name:	Signature:

¹⁵ 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

FINANCIAL IDENTIFICATION

<u>ACCOUNT HOLDER</u>	
NAME	<input type="text"/>
ADDRESS	<input type="text"/>
TOWN/CITY	<input type="text"/> POSTCODE <input type="text"/>
COUNTRY	<input type="text"/> VAT NUMBER <input type="text"/>
CONTACT PERSON	<input type="text"/>
TELEPHONE	<input type="text"/> FAX <input type="text"/>
E - MAIL	<input type="text"/>

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

REMARKS :

<u>BANK STAMP + SIGNATURE of BANK REPRESENTATIVE</u> (Both Obligatory)

<u>DATE + SIGNATURE of ACCOUNT HOLDER :</u> (Obligatory)

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

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 of the European Communities (Council Regulation 1605/2002 of 25.6.2002) published in Official Journal L 248 of 16 September 2002, 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 judgement 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 Communities' financial interests;
 - f) I am currently not subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation¹⁶ 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 Community budget.

2. In addition, the undersigned declares on his or her honour:
 - a) that on the date of submission of the tender, the company or organisation I do represent and the staff proposed for this tender are not subject to a conflict of interests in the context of this invitation to tender; I undertake to inform the Commission without delay of any change to this situation after the date of submission of the tender.
 - b) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.

¹⁶ 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.

Done at on.....

Name

Title

Signature:

ANNEX 5



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY AND TRANSPORT

Directorate
Unit

FRAMEWORK SERVICE CONTRACT

DRAFT

CONTRACT NUMBER – []

The European Community (hereinafter referred to as "the Community"), represented by the Commission of the European Communities (hereinafter referred to as "the Commission"), which is represented for the purposes of the signature of this contract by Mr Alfonso Gonzalez Finat, Director in the Directorate-General for Energy and Transport, Directorate D

of the one part,

and

[official name in full]

[official legal form (Delete if contractor is a natural person or a body governed by public law.)]

[statutory registration number Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card or, failing that, of their passport or equivalent]

[official address in full]

[VAT registration number]

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

of the other part,

HAVE AGREED

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

Annex I – Tender Specifications (Invitation to Tender No [complete] of [complete])

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

Annex III – Draft Specific Contract

Annex IV - Daily allowances

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

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

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

I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

I.1.1 The subject of this Framework Service Contract is **impact assessment studies of possible implementing measures under the Eco-design Framework Directive of Energy Using Products¹⁷ (Eco-design Framework Directive) and the Framework Directive on Energy Labelling of Household Appliances¹⁸ (Energy Labelling Framework Directive).**

The purpose is to provide the Directorate General with highly qualified external expertise services to ensure objectivity and high-level technical expertise; aiming to support the Directorate General in the design and preparation of possible implementing measures under the Eco-design Framework Directive and the Energy Labelling Framework Directive.

The work under this Framework Contract will take the form of specific contracts **on impact assessment studies of product groups subject to possible implementing measures under the Eco-design Framework Directive and possible policy measures under the Energy Labelling Framework Directive.**

Each time the Commission requires an impact assessment study under this Framework Service Contract the Commission will issue a request for service. The contractor will then provide the Commission with a written offer for the tasks required and a specific contract will then be signed. The specific contract will specify the objectives of the tasks, stakeholder consultation, reporting, organisation and timing. **A draft specific contract can be found attached as Annex III to this Framework Contract.**

The results of the impact assessment studies are fed into the Commission impact assessment reports that are accompanying possible implementing measures which the Commission may submit to the Regulatory Committee, the European Parliament, the Council, and the public. For this reason, a maximum of professionalism and stringency in the analytical process is required in carrying out these tasks.

I.1.2 Signature of the Framework Contract imposes no obligation on the Commission to purchase. Only implementation of the Framework Contract through specific contracts is binding on the Commission.

I.1.3 Once implementation of the Contract has been asked or has commenced, the Contractor shall reply and execute the tasks in accordance with all terms and conditions of the Contract.

I.1.4 The Contract does not confer on the Contractor any exclusive right to provide the services described in Annex I to the Commission. **The Contractor is selected as the only contractor for a multiple framework contract.**

One Contractor has been selected when the contract was awarded.

1) (name and address)

ARTICLE I.2 - DURATION

¹⁷ Directive 2005/32/EC, OJ L 191, 22.7.2005, p. 29

¹⁸ Council Directive 92/75 EEC, OJ L 297, 13.10.1992, P 16-19

- I.2.1** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2** Under no circumstances may implementation commence before the date on which the Contract enters into force. Execution of the tasks may under no circumstances begin before the date on which the order or specific contract enters into force.
- I.2.3** The Contract is concluded for a period of **36 months** with effect from the date on which it enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
- I.2.4** The Specific Contract shall be returned signed before the Contract to which they refer expires.

The Specific Contracts shall be returned signed before the Framework Contract expires.

The length and concrete timing of each impact assessment study will be defined in the specific contract for each impact assessment study.

The Framework Contract shall continue to apply to such Specific Contracts after its expiry, but the period of execution of the tasks may be extended only with the express written agreement of the parties before the tasks have been completed.

ARTICLE I.3 – PRICES

- I.3.1** The price for the work must be calculated on the basis of a fee of **EUR XXX per man-day**.

The maximum total amount to be paid by the Commission under the Framework Contract shall be **EUR 1.050.000** covering all tasks executed (including the expenditure set out in I.3.4).

- I.3.2.** Prices shall be expressed in EUR.

- I.3.3** Prices shall be fixed and not subject to revision.

- I.3.4.** In addition to the total amount specified in each order or specific contract, travel, subsistence and shipment expenses shall be reimbursed in accordance with Article II.7, as shall other expenses provided for by the Tender Specifications, up to a maximum amount **determined in each specific contract**. The daily subsistence allowance referred to in Article II.7.4(d) shall be determined in accordance with Annex IV. In addition, accommodation shall be reimbursed in accordance with Art.II.7.1 up to the maximum amounts specified in Annex IV.

ARTICLE I.4 – IMPLEMENTATION OF THE CONTRACT

Once the Framework Contracts have been signed, the Commission, when the need arises, may send a request for service for carrying out impact assessment studies.

The tenderer must be able to **carry out up to 3 impact assessment studies in parallel**.

Within **10 working days** of a request for services being sent by the Commission to the Contractor, the Commission shall receive an estimate of the resources to be allocated for its execution, with particulars in support.

Within **10 working days** of a specific contract being sent by the Commission to the Contractor, the Commission shall receive it back, duly signed and dated.

ARTICLE I.5 – PAYMENT PERIODS

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

I.5.1 Pre-financing:

Within 30 days of the date on which the Contractor returns the order form or specific contract and the relevant invoice, indicating the reference number of the Contract and of the order or specific contract to which it refers, a pre-financing payment of 30% of the total value of the order or specific contract shall be made.]

I.5. 2 Payment of the balance:

The request for payment of the balance of the Contractor shall be admissible if accompanied by

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

provided the report has been approved by the Commission.

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

Within 30 days of the date of receipt of the relevant invoice(s) of the date on which the report is approved by the Commission, payment of the balance corresponding to the relevant invoices equal to 70 % of the total amount referred to in the relevant order or specific contract shall be made.

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

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

ARTICLE I.6 – BANK ACCOUNT

Payments shall be made to the Contractor's bank account denominated in euro¹⁹, identified as follows:

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

ARTICLE I.7 – GENERAL ADMINISTRATIVE PROVISIONS

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

Commission:

European Commission
European Commission
Directorate-General for Energy and Transports
Directorate D- New and Renewable sources of Energy, Energy Efficiency and Innovation
Unit D3 Energy Efficiency
B-1049 Bruxelles

Contractor:

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

ARTICLE I.8 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES

I.8.1 The Contract shall be governed by Community law complemented, where necessary, by the national substantive law of Belgium.

I.8.2 Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the courts of Belgium.

ARTICLE I.9 – DATA PROTECTION

Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the

¹⁹ Or local currency where the receiving country does not allow transactions in EUR.

Community institutions and bodies and on the free movement of such data. It shall be processed solely for the purposes of the performance, management and follow-up of the Contract by the entity acting as data controller without prejudice to possible transmission to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF) for the purposes of safeguarding the financial interests of the Community. The Contractor shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the Contractor have any queries concerning the processing of his personal data, he shall address them to the entity acting as data controller. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

ARTICLE I.10 – TERMINATION BY EITHER CONTRACTING PARTY

Either contracting party may, of its own volition and without being required to pay compensation, terminate the Contract by serving 2 months formal prior notice. Should the Commission terminate the Contract, the Contractor shall only be entitled to payment corresponding to part-performance of the Contract. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

II – GENERAL CONDITIONS

ARTICLE II. 1 – PERFORMANCE OF THE CONTRACT

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

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

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Commission;
 - the Commission may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Commission any right arising from the contractual relationship between the Commission and the Contractor.
- II.1.7** In the event of disruption resulting from the action of a member of the Contractor's staff working on Commission premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Commission shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.
- II.1.8** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Commission. The report shall include a description of

the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

- II.1.9** Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, the Commission may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the Commission may impose penalties or liquidated damages provided for in Article II.16.

ARTICLE II. 2 – LIABILITY

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

ARTICLE II. 3 - CONFLICT OF INTERESTS

- II.3.1** The Contractor shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified to the Commission in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

The Commission reserves the right to verify that such measures are adequate and may require additional measures to be taken, if necessary, within a time limit which it shall set. The Contractor shall ensure that his staff, board and directors are not placed in a situation

which could give rise to conflict of interests. Without prejudice to Article II.1 the Contractor shall replace, immediately and without compensation from the Commission, any member of his staff exposed to such a situation.

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

II.3.3 The Contractor declares:

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

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

ARTICLE II. 4 – INVOICING AND PAYMENTS

II.4.1 Pre-financing:

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

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

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

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

II.4.2 Interim payment:

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

- an interim technical report in accordance with the instructions laid down in Annex I;

- the relevant invoices indicating the reference number of the Contract and of the order or specific contract to which they refer;
- statements of reimbursable expenses in accordance with Article II.7.

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

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

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

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

II.4.3 Payment of the balance:

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

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

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

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

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

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

ARTICLE II. 5 – GENERAL PROVISIONS CONCERNING PAYMENTS

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

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

further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

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

II.5.3 In the event of late payment the Contractor shall be entitled to claim interest, provided the calculated interest exceeds EUR 200. However, in the event of payment due before 1st January 2008, the Contractor may claim interest only within two months of receiving the payment. In case interest does not exceed EUR 200, the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations (“*the reference rate*”) plus seven percentage points (“*the margin*”). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the Commission may not be deemed to constitute late payment.

ARTICLE II. 6 – RECOVERY

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

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

II.6.3 In the event of failure to pay by the deadline specified in the request for reimbursement, the Commission may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the Communities that is certain, of a fixed amount and due. The Commission may also claim against the guarantee, where provided for.

ARTICLE II. 7 - REIMBURSEMENTS

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

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

II.7.3 Travel expenses shall be reimbursed as follows:

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

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

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

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

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

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

ARTICLE II. 9 – CONFIDENTIALITY

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

II.9.2. The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties

or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

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

- II.10.1** The Contractor shall authorise the Commission to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article I.9 shall apply.
- II.10.2** Unless otherwise provided by the Special Conditions, the Commission shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Commission.
- II.10.3** Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the Commission and shall mention the amount paid by the Community. It shall state that the opinions expressed are those of the Contractor only and do not represent the Commission's official position.
- II.10.4** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Commission has specifically given prior written authorisation to the contrary.

ARTICLE II. 11 – TAXATION

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

ARTICLE II. 12 – FORCE MAJEURE

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

ARTICLE II. 13 – SUBCONTRACTING

- II.13.1** The Contractor shall not subcontract without prior written authorisation from the Commission nor cause the Contract to be performed in fact by third parties.
- II.13.2** Even where the Commission authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Commission under the Contract and shall bear exclusive liability for proper performance of the Contract.
- II.13.3** The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Commission is entitled by virtue of the Contract, notably Article II.17.

ARTICLE II. 14 – ASSIGNMENT

- II.14.1** The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Commission.
- II.14.2** In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Commission.

ARTICLE II. 15 – TERMINATION BY THE COMMISSION

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

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
- (c) where the Contractor has been guilty of grave professional misconduct proven by any means which the Commission can justify;
- (d) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (e) where the Commission seriously suspects the Contractor of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Commission as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Commission's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the tasks under a pending order or a specific contract has not actually commenced within fifteen days of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Commission;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

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

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

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

II.15.4 Consequences of termination:

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

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

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

ARTICLE II. 16 – LIQUIDATED DAMAGES

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Commission's right to terminate the Contract, the Commission may decide to impose liquidated damages of 0.2% of the amount of the relevant purchase per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Commission within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. The Commission and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

ARTICLE II. 17 – CHECKS AND AUDITS

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

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

II.17.3 In addition, the European Anti-Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and

Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance of the last implementation.

ARTICLE II. 18 – AMENDMENTS

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

ARTICLE II. 19 – SUSPENSION OF THE CONTRACT

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

SIGNATURES

For the Contractor,

[*Company name/forename/surname/function*]

For the Commission,

[*forename/surname/function*]

signature[s]: _____

signature[s]: _____

Done at [Brussels], [date]

Done at [Brussels], [date]

In duplicate in English.

ANNEX I

Tender Specifications and Monitoring

ANNEX II

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

ANNEX III

SPECIFIC CONTRACT No [complete]

The European Community (hereinafter referred to as "the Community"), represented by the Commission of the European Communities (hereinafter referred to as "the Commission"), which is represented for the purposes of the signature of this contract by Mr. Alfonso Gonzalez Finat, Director in the Directorate-General for Energy and Transport, Directorate D.

of the one part,

and

[official name in full]

[official legal form (Delete if contractor is a natural person or a body governed by public law.)]

[statutory registration number Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card or, failing that, of their passport or equivalent]

[official address in full]

[VAT registration number]

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

of the other part,

HAVE AGREED

ARTICLE III.1: SUBJECT

III.1.1 This specific contract implements Framework Contract No [complete] signed by the Commission and the Contractor on [complete date]

III.1.2 The subject of this specific contract is [short description of subject].

III.1.3 The Contractor undertakes, on the terms set out in the Framework Contract and in this specific contract and the annex[es] thereto, which form an integral part thereof, to perform the following tasks [:] [*specified in Annex [complete].*]

ARTICLE III.2: DURATION

III.2.1 This specific contract shall enter into force on the date on which it is signed by the last contracting party.

III.2.2 The duration of the tasks shall not exceed [days/months]. Execution of the tasks shall start from date of entry into force of this specific contract. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

ARTICLE III.3: PRICE

III.3.1 The total amount to be paid by the Commission under this specific contract shall be EUR [amount in figures and in words] covering all tasks executed.

III.3.2 In addition to the price [*no reimbursable costs are foreseen*][*costs up the an amount of EUR ... will be reimbursed according to the provisions of the Framework contract*]

For Contractors established in Belgium, the provisions of this contract constitute a request for VAT exemption No 450, provided the Contractor includes the following statement in his invoice(s): “Exonération de la TVA, article 42, paragraphe 3.3 du code de la TVA” or an equivalent statement in the Dutch or German language.

ARTICLE III.4: ANNEXE[S]

Annex A - Resources allocated

SIGNATURES

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

For the Commission,
[forename/surname/function]

signature[s]: _____

signature[s]:_____

Done at [Brussels], [date]

Done at [Brussels], [date]

In duplicate in [English].

Annex IV

Daily allowances for the Member States of the European Union :

DESTINATION		Indemnité Journalière en EUR	Plafond des frais d'hébergement (hôtel) en EUR
FR	EN	Daily allowance in EUR	Maximum hotel price in EUR
Allemagne	Germany	93	115
Autriche	Austria	95	130
Belgique	Belgium	92	140
Bulgarie	Bulgaria	58	169
Chypre	Cyprus	93	145
Danemark	Denmark	120	150
Espagne	Spain	87	125
Estonie	Estonia	71	110
Finlande	Finland	104	140
France	France	95	150
Grèce	Greece	82	140
Hongrie	Hungary	72	150
Irlande	Ireland	104	150
Italie	Italy	95	135
Lettonie	Latvia	66	145
Lituanie	Lithuania	68	115
Luxembourg	Luxembourg	92	145
Malte	Malta	90	115
Pays-Bas	Netherlands	93	170
Pologne	Poland	72	145
Portugal	Portugal	84	120
République tchèqu	Czech Republic	75	155
Roumanie	Romania	52	170
Royaume-Uni	United Kingdom	101	175
Slovaquie	Slovakia	80	125
Slovénie	Slovenia	70	110

Suède	Sweden	97	160
-------	--------	----	-----

Daily subsistence allowances for countries outside the European Union (in Euro)

DESTINATION		Indemnité Journalière	Plafond Hôtel
FR	EN	Daily allowance €	Maximum hotel price €
Afghanistan	Afghanistan	50	75
Afrique du Sud	South Africa	50	145
Albanie	Albania	50	160
Algérie	Algeria	85	85
Andorre*	Andorra*	68,89	126,57
Angola	Angola	105	175
Anguilla	Anguilla	75	140
Antigua et Barbuda	Antigua and Barbuda	85	140
Antilles néerlandaises	Netherlands Antilles	90	185
Arabie Saoudite	Saudi Arabia	85	195
Argentine	Argentina	75	210
Arménie	Armenia	70	210
Aruba	Aruba	80	185
Australie	Australia	75	135
Azerbaïdjan	Azerbaijan	70	200
Bahamas	Bahamas	75	115
Bahreïn	Bahrain	80	195
Bangladesh	Bangladesh	50	140
Barbade	Barbados	75	140
Belarus	Belarus	90	135
Belize	Belize	50	135
Bénin	Benin	50	100
Bermudes	Bermuda	70	140
Bhoutan	Bhutan	50	130
Bolivie	Bolivia	50	100
Bonaire	Bonaire	90	185
Bosnie Herzégovine	Bosnia and Herzegovina	65	135
Botswana	Botswana	50	135
Brésil	Brazil	65	180

Brunei	Brunei	60	165
Burkina Faso	Burkina Faso	55	90
Burundi	Burundi	50	115
Caimans, îles	Cayman Islands	60	135
Cambodge	Cambodia	50	115
Cameroun	Cameroon	55	105
Canada	Canada	65	165
Cap-Vert	Cape Verde	50	75
Centrafricaine, Rép	Central African Republic	60	80
Chili	Chile	70	175
Chine	China	55	155
Chypre	Cyprus	50	110
Cisjordanie et Bande de Gaza	West Bank and Gaza Strip	60	110
Colombie	Colombia	50	120
Comores	Comoros	50	85
Congo (Rép. Dém. du)	Congo, Dem. Rep.	105	140
Congo (Rép. du)	Congo	70	115
Cook, îles	Cook Islands	50	135
Corée (Nord), R.P.D.	D.P.R of Korea	50	180
Corée (Sud), Rép. de	Republic of Korea	100	200
Costa Rica	Costa Rica	50	140
Côte d'Ivoire	Côte d'Ivoire	60	130
Croatie	Croatia	60	120
Cuba	Cuba	75	150
Djibouti	Djibouti	65	170
Dominicaine, Rép.	Dominican Republic	60	170
Dominique	Dominica	75	140
Egypte	Egypt	65	140
El Salvador	El Salvador	55	125
Emirats arabes Unis	United Arab Emirates	70	195
Equateur	Ecuador	50	140
Erythrée	Eritrea	50	80
Estonie	Estonia	70	120
Etats-Unis d'Amérique (Autres)	USA (others)	80	200
Etats-Unis d'Amérique (New	USA (New York)	100	275

York)			
Ethiopie	Ethiopia	50	145
Fidji	Fiji	50	120
Gabon	Gabon	75	115
Gambie	Gambia	50	120
Géorgie	Georgia	80	215
Ghana	Ghana	70	140
Grenade	Grenada	75	140
Guadeloupe	Guadeloupe	65	115
Guam	Guam	60	135
Guatemala	Guatemala	50	125
Guinée équatoriale	Equatorial Guinea	60	85
Guinée, Rép. de	Guinea	50	135
Guinée-Bissau	Guinea-Bissau	50	90
Guyane	Guyana	50	160
Guyane Française	French Guiana	55	140
Haïti	Haiti	65	125
Honduras	Honduras	50	125
Hong Kong	Hong Kong	60	205
Inde	India	50	195
Indonésie	Indonesia	50	145
Indonésie - Timor oriental	Indonesia - East Timor	50	110
Iran, Rép islam	Iran	55	145
Iraq	Iraq	60	85
Islande	Iceland	85	160
Israël	Israel	105	210
Jamaïque	Jamaica	60	170
Japon	Japan	130	275
Jordanie	Jordan	60	135
Kazakhstan	Kazakhstan	70	175
Kenya	Kenya	60	165
Kirghizistan	Kyrgyzstan	75	180
Kiribati	Kiribati	60	145
Koweït	Kuwait	85	195
Laos	Lao, People's Dem. Rep.	50	145
Lesotho	Lesotho	50	100
Liban	Lebanon	70	190
Liberia	Liberia	85	150
Libye, Jamahiriya ar.	Libyan Arab Jamahiriya	50	175

Liechtenstein	Liechtenstein	80	95
Macao	Macao	55	95
Macédoine (ARY)	TFYR of Macedonia	50	160
Madagascar	Madagascar	50	105
Malaisie	Malaysia	50	200
Malawi	Malawi	50	165
Maldives	Maldives	50	135
Mali	Mali	60	95
Mariannes du Nord, îles	Northern Mariana Islands	70	135
Maroc	Morocco	75	130
Marshall, îles	Marshall Islands	50	135
Martinique	Martinique	70	110
Maurice, Rép.	Mauritius	60	140
Mauritanie	Mauritania	50	75
Mayotte	Mayotte	50	110
Mexique	Mexico	70	185
Micronésie	Micronesia	55	135
Moldova	Republic of Moldova	80	170
Monaco*	Monaco*	72,58	97,27
Mongolie	Mongolia	70	90
Montserrat	Montserrat	55	140
Mozambique	Mozambique	60	140
Myanmar	Myanmar	50	75
Namibie	Namibia	50	85
Nauru	Nauru	50	135
Népal	Nepal	50	135
Nicaragua	Nicaragua	50	135
Niger	Niger	50	75
Nigeria	Nigeria	50	185
Niue	Niue	50	135
Norvège	Norway	80	140
Nouvelle-Calédonie	New Caledonia	55	135
Nouvelle-Zélande	New Zealand	60	125
Oman	Oman	70	135
Ouganda	Uganda	55	180
Ouzbékistan	Uzbekistan	75	155
Pakistan	Pakistan	50	130
Palau	Palau, Republic of	50	135
Panama	Panama	50	160
Papouasie	Papua New Guinea	55	135

Nouvelle Guinée			
Paraguay	Paraguay	50	140
Pérou	Peru	75	135
Philippines	Philippines	60	150
Polynésie française	French Polynesia	60	135
Puerto Rico	Puerto Rico	65	140
Qatar	Qatar	65	135
Réunion	Reunion	60	90
Russie	Russian Federation	90	275
Rwanda	Rwanda	65	160
Saint Kitts et Nevis	Saint Kitts and Nevis	85	185
Sainte-Lucie	Saint Lucia	75	140
Saint Marin*	San Marino*	60,34	114,33
Saint-Vincent et les Grenadines	St. Vincent and the Grena.	75	190
Salomon, îles	Solomon Islands	50	120
Samoa	Samoa	50	135
Samoa Américaines	American Samoa	70	135
São Tome et Príncipe	Sao Tome & Príncipe	60	95
Sénégal	Senegal	65	135
Seychelles	Seychelles	85	140
Sierra Leone	Sierra Leone	55	135
Singapour	Singapore	75	150
Somalie	Somalia	50	125
Soudan	Sudan	55	215
Sri Lanka	Sri Lanka	50	105
St Marteen	St Marteen	90	185
Suisse	Switzerland	80	140
Suriname	Suriname	55	125
Swaziland	Swaziland	50	90
Syrie	Syrian Arab Republic	80	145
Tadjikistan	Tajikistan	75	110
Taiwan, Prov de Chine	Taiwan	55	200
Tanzanie	Tanzania, United Rep. of	50	200
Tchad	Chad	65	145
Thaïlande	Thailand	60	145
Timor oriental	East Timor	50	110

Togo	Togo	60	95
Tokelau, îles	Tokelau Islands	50	135
Tonga	Tonga	50	105
Trinité et Tobago	Trinidad and Tobago	60	115
Tunisie	Tunisia	60	85
Turkménistan	Turkmenistan	80	150
Turks et Caicos, îles	Turks and Caicos Island	55	135
Turquie	Turkey	55	165
Tuvalu	Tuvalu	50	135
Ukraine	Ukraine	80	190
Uruguay	Uruguay	55	160
Vanuatu	Vanuatu	60	110
Vatican*	Vatican*	60,34	114,33
Venezuela	Venezuela	85	125
Vierges, îles (Etats-Unis)	Virgin Islands (USA)	55	140
Vierges, îles (Grande-Bretagne)	Virgin Islands (UK)	75	140
Viêt-Nam	Viet Nam	50	205
Wallis et Futuna îles	Wallis & Futuna Islands	50	135
Yémen	Republic of Yemen	60	165
Yougoslavie, Rép. Féd. (Serbie et Monténégro)	Yugoslavia	80	140
Zambie	Zambia	50	135
Zimbabwe	Zimbabwe	50	115
Autres pays	Other country	60	145

* rallié géographiquement aux pays correspondants :
geographically linked to the following countries:

- Andorre/Andorra : Espagne/Spain
- Monaco : France
- Saint Marin/San Marino : Italie/Italy
- Vatican : Italie/Italy

Calcul

Le calcul des **Indemnités journalières** (I J) se fait selon les règles suivantes:

Durée du déplacement:

- inférieure ou égale à 6 heures: frais réels (sur présentation des pièces justificatives).
- plus de 6 heures à 12 heures inclus: 0,5 I J.
- plus de 12 heures à 24 heures inclus: 1 I J.

- plus de 24 heures à 36 heures inclus: 1,5 I J.
- plus de 36 heures à 48 heures inclus: 2 I J.
- plus de 48 heures à 60 heures inclus: 2,5 I J, etc....

Calculation

Daily subsistence allowances are to be calculated as follows:

Length of mission:

- six hours or less: reimbursement of actual expenses (on production of supporting documents);
- more than six hours but not more than twelve hours: half the daily allowance;
- more than twelve hours, but not more than twenty-four hours: the daily allowance;
- more than twenty-four hours but not more than thirty-six hours: one and a half times the daily allowance;
- more than thirty-six hours but not more than forty-eight hours: twice the daily allowance;
- more than forty-eight hours but not more than sixty hours: two and a half times the daily allowance, and so on.