



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

Networks & Governance

CALL FOR EXPRESSION OF INTEREST

325/G/GRO/IMA/22/2711/12562

SELECTION OF EU TESTING FACILITIES

1. INTRODUCTION – BACKGROUND

[Regulation \(EU\) 2019/1020](#) on market surveillance and compliance of products stipulates in its article 21(2) that the European Commission (hereafter “the Commission”) may designate a public testing facility of a Member State as an EU Testing Facility (hereafter “EUTF”) for specific categories of products or for specific risks related to a category of products. The role of the EUTFs is to support the activities of Market Surveillance Authorities (MSAs).

[Commission Implementing Regulation \(EU\) 2022/1267](#) of 20 July 2022 specifying the procedures for the designation of Union testing facilities for the purposes of market surveillance and verification of product compliance in accordance with Regulation (EU) 2019/1020 of the European Parliament and of the Council. This call is published in the framework of:

- the financing of the programme for Single Market, competitiveness of enterprises, including small and medium sized enterprises, and European Statistics and the adoption of the work programme for 2021-2024 (C(2021)3046 of 6/5/2021 - [Annex I, point 2.7.1.2](#));
- the financing of the Programme for the internal market, competitiveness of enterprises, including small and medium sized enterprises, the area of plants, animals, food and feed and European Statistics and the adoption of the work programme for 2022 ([C\(2022\)724 of 17/2/2022](#) – Annex I – point 2.7.1.1).

2. OBJECTIVE(S) – THEME(S) – PRIORITIES

The purpose of this call is to determine the entities that will be designated as EUTFs operating namely in the sectors of:

- Radio Equipment;
- Toys.

Once the entities to be designated as EUTFs will be determined, the designation will be carried out by means of a Commission Implementing Act.

The intention is to designate maximum two (2) EUTFs, each one dealing with a different sector; i.e. one (1) EUTF dealing with Toys and one (1) EUTF dealing with Radio Equipment.

The designation will be reviewed every five years. Designation can be withdrawn at any time, if a EUTF does not comply with the relevant EU requirements or does not fulfil its missions and/or duties.

EUTFs shall, within the area of their competence, perform the following duties:

- (a) carrying out testing of products at the request of market surveillance authorities, the EU Products Compliance Network (hereafter “EUPCN”, established under the article 29 of the Regulation (EU) 2019/1020) or the Commission;
- (b) providing independent technical or scientific advice at the request of the EUPCN;
- (c) conducting, at the request of the EUPCN, initial and further training courses for the benefit of staff of market surveillance authorities and the Commission;
- (d) organising workshops, at the request of the EUPCN (on annual basis) in collaboration with the relevant Administrative Cooperation groups (ADCOs) to present the EUTF activities;
- (e) participating at the meetings of the coordination groups of the Notified Bodies for Radio Equipment and Toys respectively, for the part of the meetings open to all laboratories;
- (f) participating at the work of the relevant groups of CEN/CENELEC or the national standardisation body of the EU Member State or the EEA EFTA country where the EUTF is established.

The EUTFs must react expediently to the requests for testing.

They must produce their test reports in English. In addition, they may produce their test reports in another language too.

EUTFs may charge the entities that have recourse to their services. The EUTFs fees must be reasonable.

The EUTFs cannot be at any time in a situation of conflict of interest regarding the products they deal with.

3. TIMETABLE

	Steps	Indicative date and time or indicative period
(a)	Publication of the call	26/7/2022
(b)	Deadline for submitting applications	26/9/2022 - 16:00 (CET)
(c)	Evaluation period	October to December 2022
(d)	Information to applicants	February 2023

4. ENVISAGED FINANCING

No funding is foreseen under this call for expression of interest.

However, Regulation (EU) 2019/1020 on market surveillance and compliance of products stipulates in its article 36(2b) that the Union may finance the establishment and functioning of Union testing facilities referred to in Article 21.

Therefore, the EUTFs designated through this call may be invited by the Commission to submit a proposal to obtain funding for the implementation of activities in the sectors mentioned in point 2 and agreed between the parties.

The total budget earmarked for the co-financing of EUTFs is estimated at 2 000 000 EUR (two million euros) for 2022. The grant per EUTF should not exceed 1 000 000 EUR for two years.

The Commission reserves the right not to distribute all the funds available and not to provide any financing.

5. ADMISSIBILITY REQUIREMENTS

In order to be admissible, applications must be:

- sent no later than the deadline for submitting applications referred to in section 3;
- submitted according to provisions of section 10 of this call and
- drafted in one of the EU official languages.

Failure to comply with those requirements will lead to rejection of the application.

6. ELIGIBILITY CRITERIA

EUTFs must be public legal entities.

EUTFs shall be accredited for the area(s) of designation as EUTF in accordance with Regulation (EC) No 765/2008.

EUTFs shall provide their services solely to market surveillance authorities, the EUPCN, the Commission, and other government or intergovernmental entities.

An applicant may apply to be selected as EUTFs for one or both of the sectors refer to under §2 of this call.

Affiliated entities: Entities affiliated¹ to the applicants are not eligible under this call. They cannot take part in the action as affiliated entities at their own costs. Multi-beneficiary applications will be explicitly excluded.

¹ In accordance with Article 187 of the Financial Regulation ([hereafter FR](#)) entities that satisfy the eligibility criteria and that do not fall within one of the situations referred to in Articles 136(1) and 141(1) of FR and that have a link with the applicant, in particular a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation, will be considered as entities affiliated to the applicant.

Subcontracting

Subcontracting of activities in the context of this call is not accepted.

Country of establishment

Only applications from legal entities established in the following countries are eligible:

- EU Member States;
- EEA EFTA countries: Iceland, Liechtenstein, Norway.

Supporting legal documents

In order to assess the applicants' eligibility, the following supporting documents are requested: copy of the resolution, decision or other official document establishing the public-law entity.

7. EXCLUSION CRITERIA

7.1. Exclusion

The authorising officer shall exclude an applicant from participating in call where:

- (a) the applicant is bankrupt, subject to insolvency or winding-up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended, or it is in any analogous situation arising from a similar procedure provided for under EU or national laws or regulations;
- (b) it has been established by a final judgment or a final administrative decision that the applicant is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law;
- (c) it has been established by a final judgment or a final administrative decision that the applicant is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the applicant belongs, or by having engaged in any wrongful intent or gross negligence, including, in particular, any of the following:
 - (i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of eligibility or selection criteria or in the performance of a contract, a grant agreement or a grant decision;
 - (ii) entering into agreement with other applicants with the aim of distorting competition;
 - (iii) violating intellectual property rights;
 - (iv) attempting to influence the decision-making process during the award procedure;
 - (v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;

- (d) it has been established by a final judgment that the applicant is guilty of any of the following:
- (i) fraud, within the meaning of Article 3 of Directive (EU) 2017/1371 of the European Parliament and of the Council and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;
 - (ii) corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 or 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, drawn up by the Council Act of 26 May 1997, or conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, or corruption as defined in the applicable law;
 - (iii) conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA;
 - (iv) money laundering or terrorist financing within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council;
 - (v) terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;
 - (vi) child labour or other offences concerning trafficking in human beings as referred to in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;
- (e) the applicant has shown significant deficiencies in complying with main obligations in the performance of a contract, a grant agreement or a grant decision financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an authorising officer, OLAF or the Court of Auditors;
- (f) it has been established by a final judgment or final administrative decision that the applicant has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;
- (g) It has been established by a final judgement or final administrative decision that the applicant has created an entity in a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of its registered office, central administration or principal place of business;
- (h) it has been established by a final judgement or final administrative decision that an entity has been created with the intent referred to in point (g);
- (i) for the situations referred to in points (c) to (h) above, the applicant is subject to:

- (i) facts established in the context of audits or investigations carried out by European Public Prosecutor's Office after its establishment, the Court of Auditors, the European Anti-Fraud Office or the internal auditor, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;
 - (ii) non-final judgments or non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;
 - (iii) facts referred to in decisions of persons or entities being entrusted with EU budget implementation tasks;
 - (iv) information transmitted by Member States implementing Union funds;
 - (v) decisions of the Commission relating to the infringement of Union competition law or of a national competent authority relating to the infringement of Union or national competition law; or
 - (vi) decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body;
- (j) the applicant has been excluded by the national authorities from the laboratories involved in official controls pursuant to relevant EU legislation;
- (k) the internal organisational structure of the applicant does not ensure its independence and impartiality.

7.2. Remedial measures

If an applicant declares one of the situations of exclusion listed above (see section 7.1), it must indicate the measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. This may include e.g., technical, organisational and personnel measures to correct the conduct and prevent further occurrence, compensation of damage or payment of fines or of any taxes or social security contributions. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to the declaration. This does not apply for situations referred in point (d) of section 7.1.

7.3. Rejection from the call

The authorising officer shall reject an applicant who:

- (a) is in an exclusion situation established in accordance with section 7.1, unless measures have been taken according to section 7.2 to remedy the exclusion situation; or
- (b) has misrepresented the information required as a condition for participating in the procedure or has failed to supply that information; or
- (c) was previously directly and individually involved in the preparation of documents used in the award procedure where this entails a breach of the principle of equal treatment, including distortion of competition, that cannot be remedied otherwise.

Administrative sanctions (exclusion) may be imposed on applicants, if any of the declarations or information provided as a condition for participating in this procedure prove to be false.

7.4. Supporting documents

Applicants must provide a declaration on their honour certifying that they are not in one of the situations referred to in Articles 136(1) and 141 of the Financial Regulation (hereafter FR), by filling in the relevant form attached to the application form accompanying the call.

8. SELECTION CRITERIA

8.1. Financial capacity

The applicants shall provide evidence of financial and economic standing based on the following documents: balance sheets, profit and loss accounts or annual reports for the last three financial years balance. Where available, audits reports of the last 3 years must be provided as well.

If the Authorising Officer considered that the financial capacity is insufficient to carry out the activities that could be co-financed in the future (see point 4), s/he will reject the application.

8.2. Accreditation certificate(s)

Applicants must be accredited for the area(s) of designation as EUTF in accordance with Regulation (EC) No 765/2008 against the standard EN ISO 17025.

In this respect, applicants must submit copies of the relevant accreditation certificate(s) and the scope(s) of accreditation.

If the Commission panel considers that the accreditation certificate(s) submitted by an applicant do not cover all the area(s) of designation as EUTF, it will reject the application.

8.3. Technical/Operational capacity

Applicants must have:

- their own infrastructure, facilities and equipment for the testing of the relevant products for which it is submitting its application;
- the professional competencies as well as appropriate qualifications necessary to complete the proposed tasks;
- suitable qualified staff with adequate training in diagnostic and analytical techniques, applied in their area of competence;
- knowledge of international standards and practices in the relevant areas.

In this respect, eligible applications will be assessed on the basis of the following criteria:

EVALUATION CRITERIA AND KEY ELEMENTS LIKELY TO BE ASSESSED BY THE EVALUATION COMMITTEE	MAX. SCORE
1. TEAM COMPOSITION AND EXCELLENCE	40
<p>In the area of designation as EUTF: knowledge of the applicable legislation and standards (in particular those establishing the relevant testing methods to determine compliance with the applicable requirements), level of experience of staff, scientific knowledge, scientific publications, participation in international and/or European standardisation activities and scientific networks, research activities, availability of validated methods.</p>	
<p>Curriculum Vitae or description of the profile of the relevant staff members (accompanied where appropriate, like in the field of research and education, by a list of relevant publications).</p> <p>The Operating Manager of the EUTF shall have good command of English, a post-graduate degree and at least five-year professional experience in the field.</p> <p>In addition to the Operating Manager, the applicant entity shall have at least two scientists, two technicians and one administrative staff.</p> <p>The scientific staff shall have a post-graduate degree. The technical staff shall have a technical degree. At least one member of the scientific staff and one member of the technical staff shall have no less than two-year professional experience.</p> <p>One member of the staff (different from the Operating Manager) must be the responsible person for the quality assurance and must have good command of English and at least two-year professional experience in quality assurance.</p>	
2. INFRASTRUCTURE AND TECHNICAL COMPETENCE	40
<p>Infrastructure (administrative and technical), technical equipment, tools and facilities of the applicant to perform the tasks and the specific testing that may be required in the area of designation as EUTF.</p>	
<p>Capacity/capability to perform testing for market surveillance authorities and interpret the test results in the area of designation.</p> <p>The EUTFs must be able to carry out as many as possible of the tests from the ones listed in the Appendixes.</p>	
<p>Personnel available for emergencies occurring within the EU.</p> <p>The applicant shall state its availability for ad-hoc support upon request by the Commission or market surveillance authorities, including during non-standard working time (weekends and public holidays in particular).</p>	
<p>If available, the two most recent annual activity reports relevant to this call.</p>	
3. COORDINATION	20
<p>Capacity/capability to organise workshops and training sessions for market surveillance authorities.</p>	
Maximum total score	100

The applicants shall provide adequate and detailed evidence to support their expression of interest.

A minimum quality threshold of 60 % of the maximum possible score will be applied for the qualitative evaluation, as well as, where appropriate, for each of the award criteria. In this case, applications falling below those thresholds shall be rejected.

Two (2) applications will be selected: one from the sector of Toys and one for the sector of Radio Equipment. These applications will be the ones with the highest scores among the applications in their respective sectors.

9. DATA PROTECTION

If processing a reply to the call involves the recording and processing of personal data (such as name, address and CV), such data will be processed pursuant to Regulation (EU) 2018/1725² of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. Unless indicated otherwise, any personal data will be processed solely for evaluation purposes under the call by the European Commission acting as data controller. Details concerning the processing of personal data are available in the privacy statement at:

https://ec.europa.eu/info/funding-tenders/rules-public-procurement/data-protection-publicprocurement-procedures_en.

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, you can contact the data controller at GROW-D3@ec.europa.eu by explicitly specifying your request.

The tenderer's personal data may be registered in the Early Detection and Exclusion System (EDES) if the tenderer is in one of the situations mentioned in Article 136 of the Financial Regulation³. For more information, see the privacy statement: http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm.

10. PROCEDURE FOR THE SUBMISSION OF EXPRESSION OF INTEREST

Applications must be submitted by the deadline set out under section 3.

Applications (including annexes and appendices) cannot exceed hundred (100) pages of A4 size. Applications have to be structured according to the template listed under the Appendix of this call. The template is intended to give detail information and help to

² OJ L 295, 21.11.2018, p. 39

³ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193 of 30.07.2018, p.1).

structure the technical answer of the potential candidates. The Commission panel will consider only applications that have followed the above instructions.

No modification to the application is allowed once the deadline for submission has elapsed. However, if there is a need to clarify certain aspects or to correct clerical mistakes, the Commission may contact the applicant during the evaluation process⁴.

Applicants will be informed in writing about the results of the selection process.

The text of this call is available in English only.

The application can be submitted by e-mail at the following address:

GROW-D3-SELECT-EUTF2022@ec.europa.eu

The Commission may, on its own initiative, inform interested parties of any error, inaccuracy, omission or other clerical error in the text of the call.

Submission of an application following this call implies acceptance by the applicant of all provisions and conditions stipulated in this call and its appendixes.

Directorate General Internal Market, Industry, Entrepreneurship and SMEs will not reimburse any expenses incurred in preparing and submitting applications.

This call in no way constitutes an obligation on behalf of the Commission to designate any EUTFs.

➤ **Appendixes:**

- Sets of tests
- Template for the submission of the applications
- Publicity
- Declaration on the honour

⁴ Articles 151 and 200(3) FR

Appendix I

Set of tests for Radio Equipment

Products

- RLAN⁵/WLAN⁶ (2.4 GHz / 5 GHz / 6 GHz);
- Wireless cameras;
- DVB-T / DAB+⁷ active antennas;
- Bluetooth devices;
- Mobile signal repeaters;
- WiFi⁸ repeaters;
- Routers;
- Set top boxes;
- Smart home equipment;
- Wireless chargers („Qi“)⁹;
- Short Range Devices;
- PMR¹⁰;
- FM¹¹-Transmitter;
- FM, DAB, DVB-S¹², DVB-T¹³;
- DECT¹⁴;
- Cellular Network;
- Mobile Terminals.

Standards (testing)

- ETSI EN 301 893;
- ETSI EN 303 609;

⁵ RLAN: Radio Local Access Network

⁶ WLAN: Wireless Local Access Network

⁷ DAB+ : Digital Audio Broadcasting +

⁸ WiFi: Wireless Fidelity

⁹ Qi (pronounced /tʃiː/ CHEE; from the Chinese word qi; traditional Chinese: 氣) is an open interface standard that defines wireless power transfer using inductive charging over distances of up to 4 cm (1.6 inches).

¹⁰ PMR: Private Mobile Radio

¹¹ FM : Frequency Modulation

¹² DVB-S : Digital Video Broadcasting - Satellite

¹³ DVB-T: Digital Video Broadcasting - Terrestrial

¹⁴ DECT: Digital Enhanced Cordless Telecommunications

- ETSI EN 300 328;
- ETSI EN 300 220-2, -3-1, -3-2, -4;
- ETSI EN 300 330;
- ETSI EN 300 440;
- EN 62368-1;
- EN 62311;
- EN 50566;
- EN 50360;
- EN 50663;
- EN 301 908-1, -2, -13;
- EN 300 296;
- EN 300 392-1;
- EN 300 422;
- EN 300 433;
- EN 300 698;
- EN 301 357;
- EN 301 406;
- EN 301 489-1...-10, -13, -15, -17, -18, -22, -25, -26, -28, -32, -33, -34, -52;
- EN 300 386;
- EN 302 065;
- EN 303 035;
- EN 303 417;
- EN 303 413;
- EN 303 345-1, -3;
- EN 303 354
- EN 301 908-25.
- ETSI EN 301 908-1, 11, 15;
- EN 300 086;
- EN 300 113;
- EN 300 607;
- EN 301 511.

Appendix II
Set of tests for Toys

Physical/mechanical	Flammability	Electrical	Chemical	Hygiene
EN 71-1 EN 71-8 EN 71-14	EN 71-2	EN 62115	EN 71-3 EN 71-4 EN 71-5 EN 71-7 EN 71-12 EN 71-13 Phthalates, azodyes, PAH (Polycyclic aromatic hydrocarbons, benzene (according to REACH). Substances listed in the Appendix C of Directive 2009/48/EC on the safety of toys, Allergenic fragrances.	Microbiological tests.

Appendix III

Template for the submission of the applications

The application must be structured according to the following sections. The applicant must enumerate and title the sections of its application as follows.

1. Identification of the applicant (Official name, address, legal form, etc.).
2. Contact point of the applicant (name of the contact person and/or e-mail).
3. Proof that the applicant fulfils the eligibility criteria as required under §6 of this call.
4. Declaration on honour (§7.4 of this call) that the applicant is not in one of the exclusion situations listed under §7.1 of this call or, if an applicant declares one of the situations of exclusion, proof of the measures it has taken to remedy the exclusion situation as required under §7.2 of this call.
5. Description of the composition of the team of the applicant and proof of its excellence as required under item 1 of the table of §8.3 of this call.
6. Description of the infrastructure and the technical competence of the applicant as required under item 2 of the table of §8.3 of this call.
7. Description of the coordination capacity/capability of the applicant as required under item 3 of the table of §8.3 of this call.
8. Proof of the financial capacity of the applicant as required under §8.1 of this call.
9. Copies of the accreditation certificate(s) as required under §8.2 of this call.

Appendix IV

Publicity

If a grant is awarded by the Commission, beneficiaries must clearly acknowledge the European Union's contribution in all publications or in conjunction with activities for which the grant is used

Beneficiaries and affiliated entities are required to give prominence to the name and logo of the European Commission on all of the equipment purchased or leased under the action.

To do this they must use the and logo available at

https://ec.europa.eu/info/resources-partners/european-commission-visual-identity_en

If this requirement is not fully complied with, the beneficiary's grant may be reduced in accordance with the provisions of the grant agreement.

With the exception of scholarships paid to natural persons and other direct support paid to natural persons in most need, all information relating to grants awarded in the course of a financial year shall be published on an internet site of the European Union institutions no later than the 30 June of the year following the financial year in which the grants were awarded.

The Commission will publish the following information:

- name of the beneficiary;
- address of the beneficiary;
- subject of the grant;
- amount awarded.

Upon a reasoned and duly substantiated request by the beneficiary, the publication shall be waived if such disclosure risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union or harm the commercial interests of the beneficiaries.

Appendix V

Declaration on honour

Ref: CALL FOR EXPRESSION OF INTEREST

325/G/GRO/IMA/22/2711/12562

SELECTION OF EU TESTING FACILITIES

The undersigned [*insert the name of the person signing this form*], representing:

<i>(only for natural persons)</i> himself or herself:	<i>(for legal persons and entities without legal personality)</i> the following entity:
ID or passport number: (‘the person’)	Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number: (‘the person’)

which has been authorised to sign the present declaration on behalf of the following other persons¹⁵:

[*insert names of other entities on behalf of which the declaration is being signed*]]

(1) declares that the person is eligible in accordance with the criteria set out in the specific call;
(2) declares that the person has the required financial and operational capacity as set out in the specific call;
(3) declares that [the] [each] person has not received any other Union funding to carry out the work programme subject of this grant application and commits to declare immediately to the Commission/ the Agency any other such Union funding it would receive until the end of the work programme;
(4) declares that the person does not have an established debt to the Union.

IF ANY OF THE ABOVE REQUIREMENTS IS NOT SATISFIED, PLEASE INDICATE in annex to this declaration which and THE NAME OF THE CONCERNED PERSON WITH A BRIEF EXPLANATION.

I – Situations of exclusion concerning the person

(5) declares that the person is not in one of the following situations. <u>If yes, please indicate in annex to this declaration which situation and the name(s) of the concerned person with a brief explanation.</u>
a) it is bankrupt, subject to insolvency or winding-up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under Union or national law;
b) it has been established by a final judgement or a final administrative decision that it is in breach of its

¹⁵ Please also consult the call for proposals in case specific options are defined to sign the declaration

obligations relating to the payment of taxes or social security contributions in accordance with the applicable law;
c) it has been established by a final judgement or a final administrative decision that it is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following: <ul style="list-style-type: none"> (i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of eligibility and selection criteria or in the performance of a contract, an agreement or a grant decision; (ii) entering into agreement with other persons or entities with the aim of distorting competition; (iii) violating intellectual property rights; (iv) attempting to influence the decision-making process of the Commission/ the Agency during the award procedure; (v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure.
d) it has been established by a final judgement that it is guilty of any of the following:
(i) fraud, within the meaning of Article 3 of Directive (EU) 2017/1371 and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;
(ii) corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 or active corruption within the meaning of 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, drawn up by the Council Act of 26 May 1997, or conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, or corruption as defined in other applicable laws;
(iii) conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA;
(iv) money laundering or terrorist financing within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council;
(v) terrorist offences or offences related to terrorist activities as well as of inciting, aiding, abetting or attempting to commit such offences as defined in Articles 3, 14 and Title III of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism;
(vi) child labour or other offences concerning trafficking in human beings as referred to in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;
e) it has shown significant deficiencies in complying with the main obligations in the performance of a contract, an agreement or a grant decision financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an Authorising Officer, OLAF or the Court of Auditors;
f) it has been established by a final judgment or final administrative decision that it has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;
g) it has been established by a final judgment or final administrative decision that the person has created an entity in a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of its registered office, central administration or principal place of business;
h) (<i>only for legal persons and entities without legal personality</i>) it has been established by a final judgment or final administrative decision that the person has been created with the intent referred to in point (g);

(6) declares that, for the situations referred to in points (5) (c) to (5) (h) above, in the absence of a final judgement or a final administrative decision, the person is¹⁶:

- i. subject to facts established in the context of audits or investigations carried out by the European Public Prosecutor’s Office, the Court of Auditors or internal auditor, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;
- ii. subject to non-final judgments or non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;
- iii. subject to facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks;
- iv. subject to information transmitted by Member States implementing Union funds;
- v. subject to decisions of the Commission relating to the infringement of Union competition law or of a national competent authority relating to the infringement of Union or national competition law;
- vi. informed, by any means that it is subject to an investigation by the European Anti-Fraud office (OLAF): either because it has been given the opportunity to comment on facts concerning it by OLAF, or it has been subject to on-the-spot checks by OLAF in the course of an investigation, or it has been notified of the opening, the closure or of any circumstance related to an investigation of the OLAF concerning it.

II – situations of exclusion concerning a natural person who is essential for the award or the implementation of the action or work programme subject to the grant application¹⁷

(7) declares that a natural person who is essential for the award or for the implementation of the work programme subject to the application is **not** in one of the following situations ***If yes, please indicate in annex to this declaration which situation and the name(s) of the concerned person(s) with a brief explanation:***

Situation (5) (c) above (grave professional misconduct)
Situation (5) (d) above (fraud, corruption or other criminal offence)
Situation (5) (e) above (significant deficiencies in performance of a contract)
Situation (5) (f) above (irregularity)
Situation (5) (g) above (creation of an entity with the intent to circumvent legal obligations)

III – Situations of exclusion concerning beneficial owners and natural or legal persons with power of representation, decision-making or control

Not applicable when the person is a natural person, a Member State, or a local authority

¹⁶ The declaration under this point (5) is voluntary and it cannot have adverse legal effect on the person until the conditions of Article 141(1)(a) FR are met.

¹⁷ Where the natural person has been defined in the grant application as essential for the award or for implementation of the legal commitment in the meaning of Article 136(4)(c) Financial Regulation (e.g. principal investigator in a research project)

<p>(8) declares that a natural or legal person who is a member of the administrative, management or supervisory body of the person(s), or who has powers of representation, decision or control with regard to the person(s) (this covers e.g. company directors, members of management or supervisory bodies, and cases where one natural or legal person holds a majority of shares), or a beneficial owner of the person(s) (as defined by point 6 of article 3 of Directive (EU) No 2015/849) is not in one of the following situations. <i>If yes, please indicate in annex to this declaration which situation and the name(s) of the concerned person(s) with a brief explanation.</i></p>
- situation (5) (c) above (grave professional misconduct)
- situation (5) (d) above (fraud, corruption or other criminal offence)
- situation (5) (e) above (significant deficiencies in performance of a contract)
- situation (5) (f) above (irregularity)
- situation (5) (g) above (creation of an entity with the intent to circumvent legal obligations)
- situation (5) (h) above (person created with the intent to circumvent legal obligations)

IV – Situations of exclusion concerning natural or legal persons assuming unlimited liability for the debts of the person

This section applies only to declarations that include a person for which a natural or legal person assumes unlimited liability for debts

<p>(9) declares that a natural or legal person that assumes unlimited liability for the debts of the person(s) is not in one of the following situations. <i>If yes, please indicate in annex to this declaration which situation and the name(s) of the concerned person(s) with a brief explanation .</i></p>
- situation (a) above (bankruptcy)
- situation (b) above (breach in payment of taxes or social security contributions)

V – Other grounds for rejection from this procedure

<p>(10) declares that the the person:</p>
<p>was not previously involved in the preparation of documents used in this award procedure, where this entailed a breach of the principle of equality of treatment including distortion of competition that cannot be remedied otherwise. <i>If yes, please indicate in annex to this declaration the name(s) of the concerned person(s) with a brief explanation .</i></p>

VI – Remedial measures

If the person(s) declares one of the situations of exclusion listed above, it may indicate remedial measures it has taken to remedy the exclusion situation, in order to allow the authorising officer to determine whether such measures are sufficient to demonstrate its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines or of any taxes or social security contributions. The

relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (5) (d) of this declaration.

VII – Evidence upon request

The Commission/Agency may request any person subject to this declaration to provide information on any natural or legal person that is member of an administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners, as well as on a natural persons who are essential for the award or for the implementation of the action or work programme subject to the grant application. and appropriate evidence that none of those persons are in one of the exclusion situations referred to in (5) (c) to (f).

The Commission/Agency may request any person subject to this declaration to provide the appropriate evidence concerning the person itself and the natural or legal persons which assume unlimited liability for the debts of the person.

Evidence may be requested as follows:

For situations described in point (5) (a), (c), (d),(f), (g) and (h) 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 establishment of the entity showing that those requirements are satisfied.

For the situations described in point (5) (a) and (b), recent certificates issued by the competent authorities of the country of establishment. These documents must provide evidence covering all taxes and social security contributions for which the entity is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

If a person has already submitted such evidence for the purpose of another award procedure of the Commission the documents must have been issued no more than one year before the date of their request and must still be valid at that date.

The person is not required to submit the evidence if it can be accessed on a national database free of charge. The signatory declares that the following internet address of the database/identification data provide access to the evidence required.

Internet address of the database	Identification data of the document
<i>Insert as many lines as necessary.</i>	

If selected to be awarded a grant, the person subject to this declaration accept(s) the terms and conditions laid down in the grant agreement.

The person must immediately inform the Commission of any changes in the situations as declared.

The person subject to this declaration may be subject to rejection from this procedure and to administrative sanctions (exclusion) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.

Full name

Date
Signature

The declaration is to be signed with:

1. *Electronic signature (recommended option):*

In case you have the possibility to sign the declaration using a qualified electronic signature (QES), please have it signed electronically by your authorised representative(s). Please note that only the qualified electronic signature (QES) within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation) will be accepted.

Before sending back your electronically signed document, please check the signature and validity of the certificate with one of the following tools:

- *DSS Demonstration validation tool available at <https://ec.europa.eu/cefdigital/DSS/webapp-demo/validation> can help you check the validity of a certificate by indicating the number and type of valid signatures in a document.*
- *EU Trusted List Browser can be consulted in order to check whether the electronic signature provider and the trust service it provides are part of European Union Trusted List: <https://webgate.ec.europa.eu/tl-browser/#>*

To make sure you use a QES compliant to eIDAS Regulation, you need to check that both the service provider and the qualified certificate generation service used are included in the EU Trusted List Browser.

2. *Handwritten signature:*

In case you do not have the possibility to sign the declaration using a qualified electronic signature (QES), please fill it in electronically, then print it and have it signed and dated by your authorised representative(s) using a hand-written signature.