

**Specifications - Open invitation to tender No VT/2007/053  
Contract for the provision of services for the drawing-up of a non-binding modular draft guide to good practice with a view to help the concerned actors to better understanding and implementing Directive 92/57/EEC on the implementation of minimum safety and health requirements on temporary or mobile construction sites.**

## **1. TITLE OF THE CONTRACT**

Contract for the provision of services for the drawing-up of a non-binding modular draft guide to good practice with a view to help the concerned actors to better understanding and implementing Directive 92/57/EEC<sup>1</sup> on the implementation of minimum safety and health requirements on temporary or mobile construction sites.

## **2. BACKGROUND**

### **2.1. PROGRESS programme:**

#### **2.1.1 Background**

In its Social Agenda (2005-2010), the Union has fixed as its overall strategic goal to promote more and better jobs and to offer equal opportunities for all. The realisation of the Social Agenda relies on a combination of instruments comprising EU legislation, the implementation of open methods of coordination in various policy fields and financial incentives such as the European Social Fund.

Until now, the implementation of the open methods of coordination in the employment and social inclusion/social protection fields relied on two distinct Community programmes. Equally the promotion of gender equality and of the non-discrimination principle was at the core of two distinct Community programmes. And lastly promotion of labour law including health and safety regulations were dealt with by separate interventions.

With the view of fostering greater coherence and simplification in the way Community programmes are delivered, the Commission proposed that all these separate programmes be now integrated into one framework programme, PROGRESS.

Decision No 1672/2006 establishing a Community programme for employment and social solidarity – PROGRESS was adopted by the European Parliament and the Council on 24 October and published in the Official Journal on 15 November.

The overall aim of PROGRESS is to support financially the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields.

It sets out to support the core functions of the European Community in fulfilling its Treaty-delegated tasks and powers in its respective areas of competence in the employment and social spheres. It will support initiatives aimed at reinforcing the role of the Community in proposing EU strategies; implementing and following-up EU objectives and their translations into national policies; transposing and following-up of EU legislation's application in a

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<sup>1</sup> OJ L 245, 26.08.1992, p. 6.

coherent way through Europe; promoting the co-operation and co-ordination mechanisms between Member States and cooperating with social partners and organisations that represent civil society.

More specifically, PROGRESS will support:

- 1) the implementation of the European Employment Strategy (section 1);
- 2) the implementation of the open method of coordination in the field of social protection and inclusion (section 2);
- 3) the improvement of the working environment and conditions including health and safety at work and reconciling work and family life (section 3);
- 4) the effective implementation of the principle of non-discrimination and promotion of its mainstreaming in all EU policies (section 4);
- 5) the effective implementation of the principle of gender equality and promotion of its mainstreaming in all EU policies (section 5).

It is divided into five policy sections: (1) employment, (2) social inclusion and social protection, (3) working conditions, (4) non-discrimination and (5) gender equality.

Against this background, PROGRESS pursues the following general objectives, as set out in Article 2.1 of the Decision:

- 1) to improve the knowledge and understanding of the situation prevailing in the Member States and in other participating countries through analysis, evaluation and close monitoring of policies;
- 2) to support the development of statistical tools and methods and common indicators, where appropriate broken down by gender and age group, in the areas covered by the Programme;
- 3) to support and monitor the implementation of Community law, where applicable, and Community policy objectives in the Member States, and assess their effectiveness and impact;
- 4) to promote networking, mutual learning, identification and dissemination of good practice and innovative approaches at European level;
- 5) to enhance awareness of Community policies and objectives pursued under each of its five policy sections among stakeholders and the general public;
- 6) to boost the capacity of key European-level networks to promote, support and further develop Community policies and objectives, where applicable.

Budget heading 04.040103 "Progress Programme – Working conditions" allows the Commission of the European Communities to support projects in the area of health and safety where the objectives pursued can contribute significantly to its priorities.

## 2.2. Directive 92/57/EEC

The prime objective of the new Community Strategy 2007-2012<sup>2</sup> remains the continued improvement of working conditions and health and safety conditions of workers at work, notably through the ongoing and sustainable reduction in accidents at work and occupational illnesses. In this context, the Commission notes that in order to achieve this goal, the correct and effective implementation of Community legislation must be reinforced while supporting SMEs, particularly in "high risk" sectors, such as construction, agriculture, fishing and transport. The Communication therefore provides that through the new PROGRESS programme and in tandem with the Advisory Committee<sup>3</sup>, the Commission will draw up practical guides on the correct application of the Directives, particularly Directive 92/57/EEC.

Moreover, in the context of ongoing work concerning the development of the evaluation report on the practical implementation of Directive 92/57/EEC provided for in its Article 14, different actors in the sector have expressed their opinion on the need to clarify and spell out certain aspects of the Directive.

To this end, the Commission considers that it would be appropriate to draw up a non-binding guide to good practice which, would have the aim of improving the understanding and the practical implementation of Directive 92/57/EEC.

Directive 92/57/EEC lays down the minimum requirements for the protection of workers from risks caused by activities on temporary or mobile construction sites where building or civil engineering work is carried out, such as excavations, earthworks, construction, assembly and dismantling of prefabricated elements, renovation, maintenance, repairs, and possibly the demolition or alteration of a structure.

Directive 92/57/EEC also lays down the obligations and responsibilities of the different actors, such as the clients, the project supervisors, the coordinators, the workers, the self-employed workers, etc.

These obligations include the preparation of a safety and health plan, prior notice, a project preparation stage, and a file appropriate to the characteristics of the project containing relevant safety and health information to be taken into account during any modifications with regard to the initial and subsequent works.

## 3. SUBJECT OF THE CONTRACT

The purpose of this invitation to tender is to gather the necessary elements to draw up a non-binding guide to good practice as referred to in section 1 of these specifications.

In this respect, the draft guide should be based on the general principles of prevention, taking the following elements into account:

- the types of works referred to in Annex I to Directive 92/57/EEC;
- the works involving particular risks referred to in Annex II to Directive 92/57/EEC;
- the project preparation stage and the architectural or civil engineering choices applied, taking the "construction products" and "machinery" Directives 98/37/EC<sup>4</sup> and 2006/42/EC<sup>5</sup> into account;

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<sup>2</sup>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work [COM(2007) 62 final of 21 February 2007]

<sup>3</sup>Council Decision of 22 July 2003 on the setting up of an Advisory Committee on Safety and Health at Work (OJ C128 of 13.09.2003, p. 1).

<sup>4</sup>OJ L 207, 23.07.1998, p. 1.

<sup>5</sup>OJ L 157, 09.06.2006, p. 24.

- the choice of appropriate work equipment, based on the work or works concerned, taking account of Directives 98/37/EC and 2006/42/EC (machinery) and 89/655/EEC<sup>6</sup>, as amended by Directives 95/63/EC<sup>7</sup> (use of work equipment) and 2001/45/EC<sup>8</sup> (use of work equipment provided for temporary works at a height);
- the systems, methods and organisation of the work, along with the technical means capable of reducing the risks to which the workers are exposed;
- the choice of personal protective equipment where appropriate, if collective protection measures may not be applied (Directive 89/656/EEC<sup>9</sup> "PPE").

This draft guide to good practice must cover:

- a) the definitions and concepts used in the Directive;
- b) the tasks and responsibilities of the different actors working on a construction project, whatever the phase of the project: the design and preparation, construction, exploitation, the maintenance of the works, the dismantling of the construction site, the drainage of the site and its possible demolition or alteration;
- c) the general health and safety principles to take into account in the *"Project preparation stage"* [Articles 4 and 5 of Directive 92/57/EEC];
- d) the drawing up, subject and role of the *"Prior notice"* [Article 3 of Directive 92/57/EEC];
- e) the drawing up, subject and role of the *"Safety and health plan"* [Articles 3 and 5 b) of Directive 92/57/EEC] specifying the rules applicable to the construction site concerned and the measures that must be included based on the project preparation stage and the risk evaluation, including the architectural or civil engineering, mechanical, electrical or other choices that will be applied;
- f) the drawing up, subject and role of the *"File"* for any subsequent works [Article 5c of Directive 92/57/EEC];
- g) the choice and use of appropriate working equipment (see Directives 89/655/EEC, 95/63/EC and 2001/45/EC);
- h) the choice and use of appropriate personal protective equipment (see Directive 89/656/EEC);
- i) the relationship between Directive 92/57/EEC and other health and safety directives that also apply to temporary or mobile construction sites, such as Directive 90/269/EEC<sup>10</sup> (manual handling of loads), 92/58/EEC<sup>11</sup> (provision of safety and/or health signs), 98/24/EC<sup>12</sup> (chemical agents), 1999/92/EC<sup>13</sup> (explosive atmospheres), 2000/57/EC<sup>14</sup> (biological agents), 2002/44/EC<sup>15</sup> (vibrations), 2003/10/EC<sup>16</sup> (noise), 2003/18/EC<sup>17</sup> (asbestos), 2004/40/EC<sup>18</sup> (electromagnetic fields) and 2006/25/EC<sup>19</sup> (artificial optical radiation);

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<sup>6</sup>OJ L 393, 30.12.1989, p. 13.

<sup>7</sup> OJ L 335, 30.12.1995, p. 28.

<sup>8</sup> OJ L 195, 19.07.2001, p. 46.

<sup>9</sup> OJ L 393, 30.12.1989, p. 18.

<sup>10</sup> OJ L 156, 21.06.1990, p. 9.

<sup>11</sup> OJ L 245, 26.08.1992, p. 23.

<sup>12</sup> OJ L 131, 05.05.1998, p. 11.

<sup>13</sup> OJ L 23, 28.01.2000, p. 57.

<sup>14</sup> OJ L 262, 17.10.2000, p. 21.

<sup>15</sup> OJ L 177, 06.07.2002, p. 13.

<sup>16</sup> OJ L 42, 15.02.2003, p. 38.

<sup>17</sup> OJ L 97, 15.04.2003, p. 48.

<sup>18</sup> OJ L 184, 24.05.2004, p. 1.

<sup>19</sup> OJ L 114, 27.04.2006, p. 38.

- j) the relation between the equipment and the installations that will be part of the works and the design and development of the actual works themselves;
- k) the systems, methods and organisation of work and the technical means which could reduce risks for the workers;
- l) adequate information and training to instruct workers in the correct use of work equipment and personal protective equipment;
- m) the coexistence of workers from several companies and simple and effective procedures for managing and updating the flow of information with regard to the works and any associated risks.

The draft guide should take account of building construction works and civil engineering works, along with other engineering works being developed in any sector of activity, whether public or private, in which workers are likely to be exposed to the risks due to the activities on the temporary or mobile construction sites where these works are, in particular:

- excavations;
- earthworks;
- construction;
- assembly and dismantling of prefabricated elements;
- conversion or fitting-out;
- alterations;
- renovation;
- repairs;
- dismantling;
- demolition;
- upkeep;
- maintenance - painting and cleaning work;
- drainage;
- other.

The draft guide should focus in particular on work involving specific risks, such as:

- work which puts workers at risk of burial under earthfalls, engulfment in swampland or falling from a height;
- work which puts workers at risk from chemical or biological substances;
- work with ionising radiation;
- work near high voltage power lines;
- work exposing workers to the risk of drowning;
- work on wells, underground earthworks and tunnels;
- work carried out by divers having a system of air supply;
- work carried out by workers in caisson with a compressed-air atmosphere;
- work involving the use of explosives;
- work involving the assembly or dismantling of heavy prefabricated components;
- other.

The draft guide should pay special attention to:

- (1) the special features of small construction sites managed by small and micro companies that do not involve apparent risks;
- (2) the issues of coordination between the different phases of the work, particularly in the design and development of the project preparation stage and the project execution stage;

- (3) the problems arising from several companies, including self-employed workers, working simultaneously on the same construction site and from communication problems;
- (4) the problems arising from the "chain" sub-contracting traditionally employed on temporary or mobile construction sites, and their implications for responsibility with regard to issues of the workers' health and safety;
- (5) The draft guide should be designed in a modular style so that it may be used for every type and size of construction site and facilitate risk evaluation, preparation of the "Safety and health plan", the "Prior notice" and the "File", and so that the "Project preparation stage", particularly in its design phase, contains the general principles of prevention concerning the health and safety of workers at work. In particular, it should be simple to apply to small construction sites.

Lastly, the draft guide must contain the following elements:

- the draft modular guide in paper and electronic form, interactive enough that users – regardless of their technical skills – can easily access the required information, including a little search engine;

#### **4. PARTICIPATION IN THE TENDERING PROCEDURE**

It should be noted that:

- Participation is open on equal terms to all natural or legal persons coming within the scope of the Treaties and any other natural or legal persons from a third country which has concluded a specific agreement with the Communities in the area of public contracts, subject to the conditions provided for in that agreement.
- Where the Multilateral Agreement on Public Contracts concluded within the framework of the WTO applies, the contracts are also open to nationals of States which have ratified this Agreement, under the conditions provided for therein. It should be noted that research and development services, which come under Category 8 of Annex II A of Directive 2004/18/EEC, are not covered by this Agreement.
- In practice, the participation of applicants from third countries which have concluded a bilateral or multilateral agreement with the Communities in the area of public contracts must be allowed under the conditions provided for in that Agreement. Bids from applicants from third countries which have not concluded such an agreement may be accepted, but they may also be rejected.

#### **5. TASKS TO BE CARRIED OUT BY THE CONTRACTOR**

##### **5.1. Description of tasks**

The contractor's main tasks should be aimed at drawing up a draft modular guide to good practice which would include the elements mentioned in section 3 of these specifications and which would allow all the actors involved in the practical implementation of Directive 92/57/EEC in particular the small and medium-sized enterprises (SMEs), the micro companies and self-employed workers, to eliminate or minimise the risks to which workers are exposed during the activities that take place on a temporary or mobile construction site and consequently to improve the workers' protection against these risks.

In this regard, the contractor should take account of the fact that most of those at which the guide is aimed will be professionals who are going to develop their activity in different sectors with different sized companies, particularly SMEs and micro companies. The draft modular guide should therefore be easy to understand for the clients, project supervisors, coordinators, design professionals and technicians, workers, self-employed workers etc. who will be dealing with different types and sizes of construction sites in different areas and with different means, where subcontracting is a standard practice and where workers of different nationalities and cultures coexist.

Consequently, this modular guide to good practice must cover not only the general and practical guidelines but also the elements or guidelines necessary to achieve the objectives set out in section 3 ("Subject of the contract") of these specifications.

The draft modular guide will allow the different actors concerned to draw up a "*Safety and health plan*" with regard to the risks to which the workers will be exposed, as well as the "*Prior notice*" and the "*File*".

For this, the contractor will have to:

- (1) collect the information required for drawing up a draft modular guide and make it available to the Commission along with the draft modular guide. This information must be included in the final report to be submitted to the Commission at the end of the work;
- (2) draw up a working method which will be discussed and adopted by a "Monitoring Committee" (MC) appointed by the Advisory Committee on Safety and Health at Work<sup>20</sup> in its first meeting following the signature of the contract;
- (3) prepare a preliminary version of the draft modular guide which will be discussed and adapted following suggestions and contributions made within the "Monitoring Committee" (MC) and proposals made by the Commission (Unit EMPL F/4);
- (4) take part in twelve (12) meetings, six (6) with the Commission (Unit EMPL F/4) and six (6) with the "Monitoring Committee" (MC). The latter will take place the day after each meeting with the Commission, which each time will discuss the draft modular guide adapted following the previous meetings. These meetings will be held in the Commission buildings in Luxembourg;
- (5) adapt the draft modular guide no later than three (3) weeks after each meeting with the "Monitoring Committee" (MC), taking account of the suggestions and proposals made by the Commission (Unit EMPL F/4) and by the members of the "Monitoring Committee" (MC);
- (6) verify and validate the capacity of the draft modular guide as indicated in section 3 of these specifications. The contractor will test the draft modular guide in collaboration with the competent national authorities in three (3) Member States of the European Union and with the support of the Senior Labour Inspector's Committee (SLIC), on three (3) types of construction site that will be selected by the "Monitoring Committee" (MC) on a proposal from the contractor twelve (12) months after the signature of the contract. For example:
  - a major construction site;
  - a medium-sized construction site;
  - a small construction site;
  - a site for demolition;
  - a site for upkeep and maintenance works.
- (7) present a final report at the end of the contract, including the final draft of the modular guide, the information gathered during the test of the three (3) types of selected construction sites, as well as the bibliographical references.

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<sup>20</sup> OJ C 218, 13.09.2003, p. 1.

## **5.2 Guide and details concerning the execution and the methodologies of the tasks**

### **5.2.1 Methodology**

In the bid, the tenderer will indicate the methodology he intends to use, including the modular approach and according to the requirements laid down in section 7 of these specifications. The tenderer will indicate in the bid how suitable it is for carrying out the tasks set out in section 5.1 of these specifications, the rigour of the proposed approach (methodology), its suitability for correctly reflecting the requirements expressed in section 3 "*Subject of the contract*" above, the proposed contents of the guide and work plan, will form part of the elements governing the award of the contract. The tenderer may choose not to give full details of his methodology unless he is awarded the contract. But in the bid the tenderer must clearly indicate the fundamental elements of the methodology to enable the achievement of the objectives set out in section 3 of these specifications. In this case, he will indicate his intention in the bid, in which he will submit a summary of the methodology.

The methodology will enable the identification, analysis and assessment of the various elements cited in section 3 and section 5.1 of these specifications and should not be restricted to documentary identification and analysis. The methodology should also show the approach envisaged and its suitability for reflecting correctly the requirements expressed in sections 3 and 5.1 as well as in the table of contents of the proposed modular guide and work plan, which will form part of the elements governing the award of the contract. The draft guide should be presented in a modular form.

The methodologies described above and the work plan proposed will be among the factors governing the award of the contract.

### **5.2.2. Guide on how the activities shall be carried out**

The PROGRESS Programme aims to promote gender mainstreaming in its five policy sections and commissioned or supported activities. Consequently, the contractor will take the necessary steps to ensure that its proposed team and/or staff respects the gender balance at all levels. It will also pay due attention when appropriate to the gender dimension of the service he is asked to deliver as detailed in the description of tasks.

Equally, needs of disabled people shall be duly acknowledged and met while executing the requested service. This will in particular entail that where the contractor organises training sessions, conferences, issues publications or develops dedicated websites, people with disabilities have equal access to the facilities or the services provided.

Finally, the contracting authority encourages the contractor to promote equal employment opportunities for all its staff and team. This entails that the contractor shall foster an appropriate mix of people, regardless of their ethnic origin, religion, age and ability.

The contractor will be required to detail in its activity report accompanying the request for the final instalment the steps and achievements it made towards meeting these contractual provisions.

## **6. PROFESSIONAL QUALIFICATIONS REQUIRED**

*(Cf. Annex IV to specimen contract)*

### **Additional requirements**

To carry out the tasks described in order to achieve the objectives set out in section 3 of these specifications, the tenderer must have a team with a proven competence and confirmed experience in the following specific areas:

- the identification and prevention of risks associated with working on temporary or mobile construction sites;

- in-depth understanding of Directive 92/57/EEC, particularly the definitions, tasks, and responsibilities of the different actors involved in a construction site;
- the development of a "Safety and health plan", including risk evaluation, related to the architectural or civil engineering, mechanical, electrical or other choices, along with the "Prior notice" and the "File";
- the role of the coordinators in the different phases of the project and as the work progresses;
- the responsibilities of the clients, project supervisors, professionals and technicians who design, study and develop the project preparation stages, coordinators, workers, self-employed workers and everyone who works on a temporary or mobile construction site;
- the choice and use of appropriate work equipment and personal protective equipment (where necessary);
- the fields of teaching and of preparing modular guides to good practice aimed at a target audience with different levels of education, particularly immigrants, through diagrams and pictograms.

In particular, the team should be familiar with the problems of small and medium-sized enterprises (SMEs), micro companies, self-employed workers and subcontracting in this sector of activity.

## 7. TIME SCHEDULE AND REPORTING

*(Cf. Article 1.2 of the contract)*

### Additional requirements

The work must be carried out in not more than **eighteen (18) months** from the date on which the contract is signed. It will cover the following stages:

- 7.1. Not more than **fifteen (15) days** after signature of the contract, the contractor will submit to the European Commission (Unit EMPL F/4) and the Monitoring Committee (MC) a detailed document with the methodology and approach it intends to use together with the work schedule, which will then be assessed by the Monitoring Committee (MC) in its first meeting.
- 7.2. During the **first month**, the contractor will present the methodology, the approach it intends to use, and the work schedule to the Commission and the Monitoring Committee (MC) in an initial meeting organised by the European Commission (Unit EMPL F/4) in Luxembourg. The contractor will take part in this initial meeting of the MC, and will take into account suggestions and recommendations by the MC in the development of work for the preparation of the draft modular guide. The methodology, the approach and the work schedule will be submitted by the contractor in English.
- 7.3 The contractor will meet periodically with the Commission and the Monitoring Committee (MC) to discuss the work's progress and the content of the draft modular guide **[twelve (12) meetings, six (6) with the Commission - Unit EMPL F/4 – the day before the six (6) meetings with the Monitoring Committee (MC)]**.

Not more than **eight (8) months** after signature of the contract, the contractor will submit an interim report in English describing the progress of the work in relation to the scheduled timetable to the European Commission (Unit EMPL F/4). This report will contain a summary of the results obtained to date and a copy of the draft modular guide as it stands. The interim report must be provided in English. The Commission (Unit EMPL F/4) will submit this report to the Monitoring Committee (MC) within 15 days of receiving it, for discussion and possible amendment in the context of one of the **six (6) meetings with the Monitoring Committee (MC) provided for in these specifications**. The conclusions of the meeting of the "*Monitoring Committee*" (MC) will be taken into account by the contractor in his work and in his preparation of the draft final report.

- 7.4. **Fifteen (15) months** after signature of the contract, the contractor will submit a preliminary draft final report in English to the European Commission (Unit EMPL F/4). This preliminary

draft final report will comprise the final draft of the modular guide and the documents collected as basic elements as defined in sections 3 and 5.1 of these specifications.

This preliminary draft final report (in English) will be discussed by the MC during a meeting to be held in Luxembourg within 15 days of receipt of the final report by the Commission (Unit EMPL F/4). The conclusions of the meeting of the monitoring committee (MC) will be taken into account by the contractor in his final report.

- 7.5. **Sixteen (16) months after signature of the contract**, the contractor will submit a draft final report in English to the European Commission (Unit EMPL F/4). This draft final report (in English) will comprise the final draft of the guide together with all the documents collected as basic elements for drawing up the draft modular guide and the standards, directives and literature, as defined in sections 3 and 5.1 of these specifications.
- 7.6. The European Commission (Unit EMPL F/4) may submit objections and comments to the contractor **within thirty (30) days of receipt** of the draft final report. The contractor will then have 15 days to present a new final report, in English, taking these objections and comments into account or presenting another point of view. When submitting the final report, the contractor may obtain written confirmation of acceptance.
- 7.7 **Thirty (30) days after submission of the draft final report**, and in the absence of objections and/or comments from the European Commission (Unit EMPL F/4), the contractor will submit the final report (in English) containing the final draft modular guide in English.

The contractor must present the final report containing the various elements referred to in sections 5 and 7 of these specifications. The draft modular guide shall be provided in paper and electronic form and be interactive enough that the users, irrespective of their technical level, can easily access the required information.

The draft final report and final report will include a summary in English of the main results obtained.

The detailed methodology and work plan, as well as the various reports and draft reports mentioned in this section, will be submitted to the Commission (Unit EMPL F/4) both in triplicate on paper and in a widely-used electronic word-processing format. The contractor will also supply a copy of the information collected as mentioned in sections 5 and 7 and used in drawing up the draft guide and the final report. The graphics and other illustrations must also be presented in a widely-used electronic format compatible with the Commission's systems and separate to allow their distribution either on paper or on the DG EMPL website, as described in sections 3 and 5.1 of these specifications. At the contractor's request, this information will be treated as confidential. The contractor will also authorise the publication of all the illustrations, pictograms and/or graphics contained in the draft modular guide free of copyright. The contractor will also provide a letter attesting to this waiving of copyright along with the final report

- 7.8 In accordance with the General Conditions, the contractor is required to acknowledge that the present service is delivered on behalf of the Community in all documents and media produced, in particular final delivered outputs, related reports, brochures, press releases, videos, software, etc, including at conferences or seminars, as follows.

*This (publication, conference, training session) is supported by the European Community Programme for Employment and Social Solidarity (2007-2013). This programme was established to support financially the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields.*

*The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, EFTA and EU candidate and pre-candidate countries.*

*The programme has six general objectives:*

- 1) *to improve the knowledge and understanding of the situation prevailing in the Member States and in other participating countries through analysis, evaluation and close monitoring of policies;*
- 2) *to support the development of statistical tools and methods and common indicators, where appropriate broken down by gender and age group, in the areas covered by the Programme;*
- 3) *to support and monitor the implementation of Community law, where applicable, and Community policy objectives in the Member States, and assess their effectiveness and impact;*
- 4) *to promote networking, mutual learning, identification and dissemination of good practice and innovative approaches at European level;*
- 5) *to enhance awareness of Community policies and objectives pursued under each of its policy sections among stakeholders and the general public;*
- 6) *to boost the capacity of key European-level networks to promote, support and further develop Community policies and objectives, where applicable.*

For more information, see:

[http://ec.europa.eu/employment\\_social/progress/index\\_en.html](http://ec.europa.eu/employment_social/progress/index_en.html)

For publications it is also necessary to include the following reference: *"The information contained in this publication does not necessarily reflect the position or opinion of the European Commission"*.

With regard to publication and any communication plan linked to the present service, the contractor will insert the European Union logo, and, if applicable, any another logo developed for the employment and social solidarity fields, and mention the European Commission as the contracting authority in every publication or related material developed under the present service contract.

## **8. PAYMENTS AND STANDARD CONTRACT**

Bids should be drawn up bearing in mind the provisions of the standard contract, including the "General Terms and Conditions Applicable to Service contracts".

### **8.1 Pre-financing**

Following signature of the contract by the last contracting party, within 30 days of the receipt by the Commission of a request for pre-financing, with a relevant invoice, a pre-financing payment equal to 30% of the total amount referred to in Article 1.3.1 of the specimen contract shall be made.

### **8.2. Interim payment:**

To be acceptable, each interim payment request from the contractor must be accompanied by:

- an interim technical report in accordance with the instructions in section 7.3
- the relevant invoices
- statements of reimbursable expenses in accordance with Article II.7 of the specimen contract

provided the report has been approved by the Commission.

The Commission has 45 days to approve or reject the report following its receipt, and the contractor has 30 days in which to submit new documents.

Within 30 days of the date on which the report is approved by the Commission, an interim payment shall be made corresponding to the relevant invoices, up to a maximum of 40% of the total amount of the contract, referred to in Article 1.3.1 of the specimen contract.

### **8.3. Payment of the balance**

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

- a final technical report in accordance with the instructions in section 7.3
- the relevant invoices
- statements of reimbursable expenses in accordance with Article II.7 of the specimen contract

provided the report has been approved by the Commission.

The Commission has 45 days to approve or reject the report following its receipt, and the contractor has 30 days in which to submit new documents.

The balance in accordance with the relevant invoices shall be paid within 30 days of approval of the report by the Commission.

## 9. PRICES

As the Communities are exempt from all taxes and dues, including value added tax (VAT), pursuant to Articles 3 and 4 of the Protocol on the privileges and immunities of the European Communities annexed to the Treaty, these should not be included in the price tendered. VAT should be indicated separately. such charges may not therefore be included in the calculation of the price quoted. The amount of VAT is to be indicated separately.

Prices shall be in euros (€), excluding VAT (using the conversion rates published in the Official Journal of the European Union, C series, and applicable on the day on which the invitation to tender is issued), and broken down in accordance with the model in Annex III included in the enclosed specimen contract.

### Part A : Fees and direct costs

- Fees, expressed in number of person/days and unit price per working day for each expert proposed. The unit price covers the experts' fees and the administrative expenditure, but not the reimbursable expenses referred to below.
- Translation costs
- Other direct costs (to be specified)

### Part B: Reimbursable expenses

- Travel expenses (other than local transport costs).
- Subsistence expenses for the contractor and his staff (covering expenditure incurred by experts on short-term trips outside their normal place of work) — see page 17 of the standard contract.
- Expenses for the transport of equipment or unaccompanied baggage directly linked to the execution of the tasks set out in Article I.1 of the specimen contract
- Contingencies.

**The total bid price = Total for Part A + Total for Part B with an overall ceiling of € 200 000**

## 10. GROUPINGS OF ECONOMIC OPERATORS OR CONSORTIA

Tenders can be submitted by groupings of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but the consortium selected may be required to assume a given legal form when it has been awarded the contract if this change is

necessary for proper performance of the contract.<sup>21</sup> However, a grouping of economic operators must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the following sections 11 and 12 must be supplied by every member of the grouping.

Each member of the group assumes a joint and several liability towards the Commission.

## **11. EXCLUSION CRITERIA AND SUPPORTING DOCUMENTS**

**11.1** Bidders must provide a declaration on their honour, duly signed and dated, that they are not in one of the situation referred to in Articles 93 and 94 a) of the Financial Regulation.

Those articles are as follows:

### Article 93

*Applicants or tenderers shall be excluded if:*

- 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 judgment which has the force of res judicata;*
- c) *they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;*
- d) *they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;*
- e) *they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;*
- f) *following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.*

### Article 94

*Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:*

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

**11.2** *The tenderer to whom the contract is to be awarded shall provide, within a time limit defined by the contracting authority and preceding the signature of the contract, the evidence*

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<sup>21</sup> These entities can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

The contract has to be signed by all members of the group, or by one of the members, which has been duly authorised by the other members of the grouping (a power of attorney or sufficient authorisation is to be attached to the contract), when the tenderers have not formed a legal entity.

referred to in Article 134 of the implementing Rules, confirming the declaration referred to in section 1 above.

## Article 134 of the Implementation Arrangements – Supporting documents

1. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in one of the situations described in sections (a), (b) or (e) of Article 93 of the Financial Regulations, production of a recent extract from the judicial record or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that these requirements are met.

2. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in section (d) of Article 93 of the Financial Regulations, 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 tenderer or applicant is established, the documents referred to in paragraphs 1 and 2 above shall relate to legal entities and/or physical persons, including, where considered necessary by the awarding authority, company directors or any person with powers of representation, decision-making or control in relation to the tenderer.

***See Annex I (which may be used as a checklist) for the supporting documents accepted by the European Commission to be provided by applicants, tenderers or tenderers to who the contract will be awarded.***

**11.3** The contracting authority may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to in Article 134 of the Implementing Rules, if such evidence has already been submitted to it for the purposes of another procurement procedure launched by DG EMPL and provided that the issuing date of the documents does not exceed one year and that they are still valid.

In such a case, the candidate or tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that no changes in his situation have occurred.

## **12. SELECTION CRITERIA**

All bids must also contain the documents listed below, testifying to the tenderer's financial and economic standing, technical capability and professional qualifications, as referred to in section 6 of these specifications. In particular, the European Commission will examine:

**12.1.** Economic and financial capacity: on the basis on the following documentation:

- turnover during the previous financial year (statement on the overall turnover – at least twice the value of the contract – i.e. EUR 400 000) and turnover on assessment services provided during the past three financial years;
- balance sheets and profit and loss accounts for the past three financial years, if the legislation of the country in which the tenderer is established requires them to be published;
- regular accounts for the quarter preceding that in which the notice of invitation to tender was published, if the full accounts for the previous financial year are not yet available.

**12.2** Description of the technical capability of the tenderer:

Description of the technical capability and practical experience of the tenderer in the fields referred to in sections 3, 5 and 6 of these specifications. For consortia of companies or groups of service providers, this description must relate specifically to the tasks to be performed by each of their various members;

- Examples evidencing the tenderer's practical experience in the field of identification and prevention of risks in the sector covered by the scope of application of Directive 92/57/EEC as well as of preparation of guide to good practice as referred to in sections 3, 5 and 6 of these specifications.
- Tenderers must provide the names and CVs (maximum three pages for each) of the persons assigned the specific tasks described in sections 5 and 6 of these specifications, in order to determine their practical experience in the field referred to in each lot and their capacity to communicate with the enterprises and/or establishments.
- Description of the parts of the services to be provided by each member of the consortium of companies or group of service providers (where applicable).

***Any tender not containing the elements testifying to out the tenderer's economic, financial and technical capacity will be rejected.***

**Information which is not in the public domain must not be referred to in the technical tender.**

### **13. AWARD CRITERIA**

The contract will be awarded to the bid offering the best quality/price ratio, taking account of the following criteria:

- |   |           |
|---|-----------|
| - understanding of the objectives and tasks:  | 30 points |
| - quality and rigour of the methodological approach<br>(including ability to correctly reflect the real situation): | 30 points |
| - quality of the work plan proposed:  | 25 points |
| - organisation of the work and management of the project:   | 15 points |

It should be noted that the contract will not be awarded to any organisation whose bid receives less than 70 points for the award criteria.

The points total shall then be divided by the price. The bid with the highest figure will be selected.

### **14. CONTENT AND PRESENTATION OF BIDS**

#### **14.1 Content of bids**

The tender must include:

- a letter of presentation, signed by the legal representative;
- all information and documents necessary to enable the Commission to appraise the bid on the basis of the selection and award criteria (see sections 12 and 13 above);
- a bank identification form duly completed and signed by the bank;
- a “legal entity” form duly completed;
- the price;
- detailed CVs of the experts proposed;
- the name and function of the contractor's legal representative (person authorised to act on behalf of the contractor in any legal dealings with third parties);

- proof of eligibility: Tenderers must indicate in which state they have their registered office or residence, providing the necessary supporting documents in accordance with their national law.

#### **14.2 Presentation of bids**

- Bids must be submitted in triplicate (i.e. one original and two copies).
- They must include all the information required by the Commission (see sections 9, 10, 11 and 12 above).
- Tenders must be clear and concise.
- They must be signed by the tenderer's legal representative.
- They must be submitted in accordance with the specific requirements of the letter of invitation to tender and, without fail, within the deadlines laid down therein.

**Unsigned bids will be rejected.**

## Annex I

Exclusion criteria (Article 93(1) FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded		
	Procurement (Article 93(2) FR; Article 134 IR)		
<p><b>1. Exclusion from a procurement procedure, Article 93(1) FR :</b></p> <p><i>"Candidates or tenderers shall be excluded from participation in a procurement procedure if:</i></p>			
<p><b>1.1. (point a)</b></p> <p><i>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,</i></p> <p><i>or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations<sup>22</sup>;</i></p>	<ul style="list-style-type: none"> <li>– Recent extract from the judicial record</li> <li style="text-align: center;"><b>or</b></li> <li>– recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance</li> <li style="text-align: center;"><b>or</b></li> <li>– Where no such certificate is issued in the country concerned : 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</li> </ul>	–	–
<p><b>1.2. (point b)</b></p> <p><i>they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata<sup>23</sup>;</i></p>	Cf. supporting documents for Article 93(1)(a) FR above		
<p><b>1.3. (point c)</b></p> <p><i>they have been guilty of grave professional misconduct proven by any means which the contracting</i></p>	» Declaration by the candidate or tenderer that he is not in the situation described		

<sup>22</sup> See also Article 134(3) of the IR: Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to in paragraphs 1 and 2 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

<sup>23</sup> See footnote on page 3.

<p><i>authority can justify;</i></p>			
<p><b>1.4. (point d)</b></p> <p><i>they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed<sup>24</sup>;</i></p>	<p>– Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described</p> <p style="text-align: center;"><b>or</b></p> <p>– Where no such certificate is issued in the country concerned : 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</p>		
<p><b>1.5. (point e)</b></p> <p><i>they have 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<sup>25</sup>;</i></p>	<p>Cf. supporting documents for Article 93(1)(a) FR above</p>		
<p><b>1.6. (point f)</b></p> <p><i>following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.</i></p>	<p>Declaration by the candidate or tenderer that he is not in the situation described</p>		

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<sup>24</sup> See footnote on page 3.

<sup>25</sup> See footnote on page 3.

Exclusion criteria (Article 94 FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded	
	Procurement	Grants
<b>2. Exclusion from a procurement or grant award procedure Article 94 FR :</b> <i>"Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:</i>		
<b>2.1. (point a)</b> <i>are subject to a conflict of interest;</i>	Statement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal	
<b>2.2. (point b)</b> <i>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»<sup>26</sup>.</i>	<ul style="list-style-type: none"> <li>– No specific supporting documents to be supplied by the applicant, tenderer or bidder</li> <li>– It is the responsibility of the authorising officer, represented by the evaluation committee, to check that the information submitted is complete<sup>27</sup> and to identify any misrepresentation</li> </ul>	

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<sup>26</sup> Cf. Article 146(3) of the FR Implementing Rules: "...the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within a specified time-limit. " and Article 178(2) of the FR Implementing Rules: "The evaluation committee may ask an applicant to provide additional proof or to clarify the supporting documents establishing financial and operational capacity, within a specified time-limit."

<sup>27</sup> See footnote on page 3.

## **Annex II**

### **DECLARATION ON HONOUR**

I, the undersigned, Ms/Mr.....  
in the capacity of.....  
certify that the.....

(indicate your position in the company),  
(indicate company name).

#### **Article 93**

- a) *is not bankrupt or being wound up, does not have their affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, or is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;*
- b) *has not been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;*
- c) *has not been guilty of grave professional misconduct proven by any means which the contracting authority can justify;*
- d) *has fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;*
- e) *has 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) *following another procurement procedure or grant award procedure financed by the Community budget, has not been declared to be in serious breach of contract for failure to comply with their contractual obligations.*

#### **Article 94**

- a) *is not subject to a conflict of interest;*

Date: .....

Signature: .....