



EUROPEAN COMMISSION

Employment, Social Affairs and Equal Opportunities DG

Social Dialogue, Social Rights, Working Conditions, Adaptation to Change
Health, Safety and Hygiene at Work

Service Contract

Contract title **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 Dir. 92/57/EEC on temporary or mobile construction sites.**

Contract reference No **VC/2007/0493**
The above title and reference No **must** be quoted in **all** correspondence with the Commission.

Contractor
.....

Other administrative information

Department **DG EMPL/F/4**

Prior information O.J. ref. No of notice publication: _

Call for tender DG EMPL ref. No: VT/2007/053 of

Tender information O.J. ref. No of notice publication:

EPIC Record No:/...../.....

Service category No: A12

Other accounting information

Commitment No **SI2.**
This commitment No **must** be quoted in correspondence relating to **invoices / payments.**

Type of Contract **V/SE/SEC02**

The European Community (hereinafter referred to as **“the Community”**),
represented by the Commission of the European Communities (hereinafter referred to as **“the Commission”**),
which is represented for the purposes of the signature of this Contract by Jose Ramon BIOSCA
DE SAGASTUY, Head of Unit - EMPL/F/4, Employment, Social Affairs and Equal
Opportunities DG,

on the one part,

AND

.....(*official name in full*),
registered legal form:,
statutory registration number:,
official address in full:,
VAT registration number:,
(hereinafter referred to as **“the Contractor”**),
represented for the purposes of the signature and management of the present Contract by
.....(*forename and name in full*),(*function*),

of the other part,

HAVE AGREED

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

- **Annex I** Tender Specifications (Invitation to Tender No. VT/2007/053 of) and Monitoring
- **Annex II** Contractor's Tender (Registre CAD Ref. No. of)
- **Annex III** Breakdown of prices
- **Annex IV** CVs and classification of experts
- **Annex V** Fiscal provisions regarding invoicing by the Contractor

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

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annexes. The terms set out in the Tender Specifications (Annex I) and in the Breakdown of prices (Annex III) shall take precedence over those in the Tender (Annex II).

Subject to the above, the several instruments forming part of this Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the Commission, subject to the rights of the Contractor under Article I.7 should he dispute any such instruction.

I. **Special conditions**

Article I.1 **Subject**

I.1.1. The subject of the Contract is: **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 Dir. 92/57/EEC on temporary or mobile construction sites..**

I.1.2. The Contractor shall execute the tasks assigned to him in accordance with the Tender Specifications annexed to the Contract (Annex I).

Article I.2 **Duration**

I.2.1. The Contract shall enter into force on the date on which it is signed by the last contracting party. The date of signature of the present Contract is that of the date stamp applied by the postal services of Employment, Social Affairs and Equal Opportunities DG on the title page of the present Contract after it has been signed by both parties.

I.2.2. Execution of the tasks may under no circumstances begin before the date on which the Contract enters into force.

I.2.3. The duration of the tasks shall not exceed 18 months. This period and all other periods specified in the Contract are calculated in calendar days. Execution of the tasks shall start from the date of entry into force of the Contract. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

The Commission is not obliged to react to any request for extension of the duration of the tasks received less than 30 days before expiry of the period of execution or with less than one third of the period of execution left to run, whichever period is the shorter.

Article I.3 **Contract price**

I.3.1. *Maximum total amount*

The maximum total amount to be paid by the Commission under the Contract shall be EUR (*amount in figures*) covering all tasks executed.

I.3.2. *Price revisions*

Not applicable.

I.3.3. *Travel, subsistence and shipment expenses*

In addition to the total amount specified in Article I.3.1, travel, subsistence and shipment expenses shall be reimbursed in accordance with Article II.7, as shall other expenses provided for by the Tender Specifications up to a maximum amount of EUR 0.01. The daily subsistence allowance referred to in Article II.7.4(d) shall be determined in accordance with Annex III, 2.2.1.

Article I.4 **Payment periods and formalities**

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

I.4.1. 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 I.3.1 shall be made.

I.4.2. Interim payment

Requests for interim payment by the Contractor shall be admissible if accompanied by

- an interim technical report in accordance with the instructions laid down in Annex I,
- the relevant invoices,
- statements of reimbursable expenses in accordance with Article II.7,

provided the report has been approved by the Commission.

The Commission shall have 45 days from receipt to approve or reject the report, and the Contractor shall have 30 days in which to submit additional information or a new report.

Within 30 days of the date on which the report is approved by the Commission, an interim payment corresponding to the relevant invoices, up to maximum 40% of the total amount referred to in Article I.3.1, shall be made.

I.4.3. Payment of the balance

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

- the final technical report in accordance with the instructions laid down in Annex I,
- the relevant invoices,
- statements of reimbursable expenses in accordance with Article II.7,

provided the report has been approved by the Commission.

The Commission shall have 45 days from receipt to approve or reject the report, and the Contractor shall have 30 days in which to submit additional information or a new report.

Within 30 days of the date on which the report is approved by the Commission, payment of the balance of the total amount referred to in Article I.3.1 shall be made.

I.4.4. Performance guarantee

Not applicable.

Article I.5 Bank account

Payments shall be made to the Contractor's bank account denominated in euro ¹, identified ² as follows:

- Name of bank:
- Address of branch in full:
- Exact designation of account holder:
- Full account number including codes:
- IBAN or, if non available, BIC code: —

Article I.6 General administrative provisions

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

¹ Or local currency where the receiving country does not allow transactions in EUR.

² By a document issued or certified by the bank.

Commission

European Commission
Directorate-General Employment, Social Affairs and Equal Opportunities
EMPL/F/4
B-1049 Brussels (Belgium)

Contractor

..... (Mr/Mrs/Ms + forename and name)
..... (function)
..... (company name)
..... (official address in full)

Article I.7 Applicable law and settlement of disputes

I.7.1. The Contract shall be governed by the national substantive law of Belgium.

I.7.2. Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the courts of Brussels.

Article I.8 Other special conditions**Definition of the term “payment request” regarding the interests for late payments**

It is understood that a payment request, as mentioned in Article II.5.3, will only be considered as complete, if all specific documents mentioned in Article I.4; are joined to this request. If these specific documents are not sent to the Commission all together with the payment request, the 45 days shall only run from the date of the first registered receipt of the last document, making the payment request complete. As regards payments subject to the prior approval of a report (or to the signature of a certificate of final acceptance for supplies delivery) by the Commission, according to Article I.4, the period of 45 calendar days shall start only on the date when both the complete payment request has been registered and the report has been approved (or the certificate of final acceptance has been signed) by the Commission, provided the Commission has itself respected the time limits set in the present Contract and its annexes for such approvals.

Data protection

Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. It shall be processed solely for the purposes of the performance, management and follow-up of the Contract by Employment, Social Affairs and Equal Opportunities DG without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with Community law. The Contractor shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the Contractor have any queries concerning the processing of his personal data, he shall address them to Employment, Social Affairs and Equal Opportunities DG. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

II. General conditions

Article II.1 Performance of the Contract

II.1.1. The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.

II.1.2. The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.

II.1.3. Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.

II.1.4. The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to him.

II.1.5. The Contractor shall neither represent the Commission nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the European public service.

II.1.6. The Contractor shall have sole responsibility for the staff who execute the tasks assigned to him.

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

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Commission;
- the Commission may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Commission any right arising from the contractual relationship between the Commission and the Contractor.

II.1.7. In the event of disruption resulting from the action of a member of the Contractor's staff working on Commission premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Commission shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.

II.1.8. Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Commission. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

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

Article II.2 Liability

II.2.1. The Commission shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of the Commission.

II.2.2. The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.13. The Commission shall not be liable for any act or default on the part of the Contractor in performance of the Contract.

II.2.3. The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the Commission by a third party as a result of damage caused by the Contractor in performance of the Contract.

II.2.4. In the event of any action brought by a third party against the Commission in connection with performance of the Contract, the Contractor shall assist the Commission. Expenditure incurred by the Contractor to this end may be borne by the Commission.

II.2.5. The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the Commission should it so request.

Article II.3 Conflict of Interests

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

The Commission reserves the right to verify that such measures are adequate and may require additional measures to be taken, if necessary, within a time limit which it shall set. The Contractor shall ensure that his staff, board and directors are not placed in a situation which could give rise to conflict of interests. Without prejudice to Article II.1 the Contractor shall replace, immediately and without compensation from the Commission, any member of his staff exposed to such a situation.

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

II.3.3. The Contractor declares:

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

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

Article II.4 Payments

II.4.1. Pre-financing

Where required by Article I.4.1, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same article to cover pre-financing under the Contract. Such guarantee

may be replaced by a joint and several guarantee by a third party. The guarantor shall pay to the Commission at its request an amount corresponding to payments made by it to the Contractor which have not yet been covered by equivalent work on his part. The guarantor shall stand as first-call guarantor and shall not require the Commission to have recourse against the principal debtor (the Contractor). The guarantee shall specify that it enters into force at the latest on the date on which the Contractor receives the pre-financing. The Commission shall release the guarantor from its obligations as soon as the Contractor has demonstrated that any pre-financing has been covered by equivalent work. The guarantee shall be retained until the pre-financing has been deducted from interim payments or payment of the balance to the Contractor. It shall be released the following month. The cost of providing such guarantee shall be borne by the Contractor.

II.4.2. Interim payment

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

- an interim technical report in accordance with the instructions laid down in Annex I;
- the relevant invoices indicating the reference number of the Contract to which they refer;
- statements of reimbursable expenses in accordance with Article II.7.

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

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

If the Commission does not react within this period, the report shall be deemed to have been approved. Approval of the report does not imply recognition either of its regularity or of the authenticity, completeness or correctness of the declarations or information enclosed. Where the Commission requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions. The new report shall likewise be subject to the above provisions.

II.4.3. Payment of the balance

Within sixty days of completion of the tasks referred to in Annex I the Contractor shall submit to the Commission a formal request for payment accompanied by those of the following documents which are provided for in the Special Conditions:

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

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

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

If the Commission does not react within this period, the report shall be deemed to have been approved. Approval of the report does not imply recognition either of its regularity or of the authenticity, completeness or correctness of the declarations and information enclosed. Where the Commission requests a new report because the one previously submitted has been rejected, this shall be submitted within the period of time indicated in the Special Conditions. The new report shall likewise be subject to the above provisions.

Article II.5 General Provisions concerning Payments

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

II.5.2. The payment periods referred to in Article I.4 may be suspended by the Commission at any time if it informs the Contractor that his payment request is not admissible, either because the amount

is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the Commission may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The Commission shall notify the Contractor accordingly by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.4 shall begin to run again once the suspension has been lifted.

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

Article II.6 Recovery

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

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

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

Article II.7 Reimbursements

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

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

II.7.3. Travel expenses shall be reimbursed as follows:

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

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

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

- (d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.3.

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

Article II.8 Ownership of the Results – Intellectual and Industrial Property

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

Article II.9 Confidentiality

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

II.9.2. The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

Article II.10 Use, Distribution and Publication of Information

II.10.1. The Contractor shall authorise the Commission to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article I.8 shall apply.

II.10.2. Unless otherwise provided by the Special Conditions, the Commission shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Commission.

II.10.3. Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the Commission and shall mention the amount paid by the Community. It shall state that the opinions expressed are those of the Contractor only and do not represent the Commission's official position.

II.10.4. The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Commission has specifically given prior written authorisation to the contrary.

Article II. 11 Taxation

II.11.1. The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.

II.11.2. The Contractor recognises that the Commission is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities.

II.11.3. The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.

II.11.4. Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

Article II.12 Force Majeure

II.12.1. *Force majeure* shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as *force majeure* unless they stem directly from a relevant case of *force majeure*.

II.12.2. Without prejudice to the provisions of Article II.1.8, if either contracting party is faced with *force majeure*, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.

II.12.3. Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by *force majeure*. Where the Contractor is unable to perform his contractual obligations owing to *force majeure*, he shall have the right to remuneration only for tasks actually executed.

II.12.4. The contracting parties shall take the necessary measures to reduce damage to a minimum.

Article II.13 Subcontracting

II.13.1. The Contractor shall not subcontract without prior written authorisation from the Commission nor cause the Contract to be performed in fact by third parties.

II.13.2. Even where the Commission authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Commission under the Contract and shall bear exclusive liability for proper performance of the Contract.

II.13.3. The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Commission is entitled by virtue of the Contract, notably Article II.17.

Article II.14 Assignment

II.14.1. The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Commission.

II.14.2. In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Commission.

Article II.15 Termination by the Commission

II.15.1. The Commission may terminate the Contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;

- (c) where the Contractor has been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (e) where the Commission seriously suspects the Contractor of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Commission as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Commission's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the tasks has not actually commenced within three months of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Commission;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

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

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

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

II.15.4. Consequences of termination

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

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

On termination the Commission may engage any other contractor to complete the services. The Commission shall be entitled to claim from the Contractor all extra costs incurred in making good and completing the services, without prejudice to any other rights or guarantees it has under the Contract.

Article II.16 Liquidated Damages

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Commission's right to terminate the Contract, the Commission may decide to impose liquidated damages of 0.2% of the amount specified in Article I.3.1 per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Commission within thirty days of the receipt of such arguments, the

decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. The Commission and the Contractor expressly acknowledge and agree that any sums payable under this article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

Article II.17 Checks and Audits

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

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

II.17.3. In addition, the European Anti Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance.

Article II.18 Amendments

Any amendment to the Contract shall be the subject of a written agreement concluded by the contracting parties. An oral agreement shall not be binding on the contracting parties.

Article II.19 Suspension of the Contract

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

Signatures

1. For the Contractor,
..... (forename and name)
..... (position)
..... (company name)

2. For the Commission,
Jose Ramon BIOSCA DE SAGASTUY
Head of Unit - EMPL/F/4
Employment, Social Affairs and Equal
Opportunities DG

Done at (place), Done at Brussels,

..... (date) (date)

In duplicate in English.

Tender Specifications and Monitoring

ANNEX I Tender No. VT/2007/053 of

1. Background

1.1. PROGRESS programme

1.1.1. Context

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 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.

1.2. Directive 92/57/EEC

The prime objective of the new Community Strategy 2007-2012³ 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 Committee⁴, 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.

³Communication 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]

⁴Council 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).

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.

2. Purpose 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/EC⁵ and 2006/42/EC⁶ into account;
- 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/EEC⁷, as amended by Directives 95/63/EC⁸ (use of work equipment) and 2001/45/EC⁹ (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/EEC¹⁰ "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;

⁵OJ L 207, 23.07.1998, p. 1.

⁶OJ L 157, 09.06.2006, p. 24.

⁷OJ L 393, 30.12.1989, p. 13.

⁸OJ L 335, 30.12.1995, p. 28.

⁹OJ L 195, 19.07.2001, p. 46.

¹⁰OJ L 393, 30.12.1989, p. 18.

- 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/EEC¹¹ (manual handling of loads), 92/58/EEC¹² (provision of safety and/or health signs), 98/24/EC¹³ (chemical agents), 1999/92/EC¹⁴ (explosive atmospheres), 2000/57/EC¹⁵ (biological agents), 2002/44/EC¹⁶ (vibrations), 2003/10/EC¹⁷ (noise), 2003/18/EC¹⁸ (asbestos), 2004/40/EC¹⁹ (electromagnetic fields) and 2006/25/EC²⁰ (artificial optical radiation);
- 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:

¹¹ OJ L 156, 21.06.1990, p. 9.

¹² OJ L 245, 26.08.1992, p. 23.

¹³ OJ L 131, 05.05.1998, p. 11.

¹⁴ OJ L 23, 28.01.2000, p. 57.

¹⁵ OJ L 262, 17.10.2000, p. 21.

¹⁶ OJ L 177, 06.07.2002, p. 13.

¹⁷ OJ L 42, 15.02.2003, p. 38.

¹⁸ OJ L 97, 15.04.2003, p. 48.

¹⁹ OJ L 184, 24.05.2004, p. 1.

²⁰ OJ L 114, 27.04.2006, p. 38.

- 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;

3. Tasks to be performed by the Contractor

3.1 Description of the 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 Work²¹ 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.

3.2 Guide and details concerning the execution and the methodologies of the tasks

3.2.1 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

²¹ OJ C 218, 13.09.2003, p. 1.

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.

3.2.2. *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.

4. **Expertise required**²²

See Annex IV.

Specific requirements other than those mentioned in Annex IV

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;

²² See Article II.1 as regards the replacement of experts.

- 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.

5. Schedule of reports – Terms for approval, structure and content

See Article I.4.

Specific requirements other than those mentioned in Article I.4 (e.g. schedule of interim reports)

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:

- 5.1. 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.
- 5.2. 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.
- 5.3. 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.

- 5.4. **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.
- 5.5. **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.

5.6. 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.

5.7 **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

5.8 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

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.

6. Schedule of audits to be carried out in accordance with Article II.17 of this Contract

.....

7. Additional information to the Tender specifications and monitoring

See attached document(s): pages.

Draft
Draft

Contractor's Tender

ANNEX II

Registre CAD Ref. No. of

See attached document: pages.

Draft
Draft

ANNEX III Breakdown of prices

1. Breakdown of prices

<i>Description</i>	<i>Unit price in €</i>	<i>Max. No of units</i>	<i>Unit type</i>	<i>Sub-total per item</i>	<i>Total amounts in €</i>
FEES AND DIRECT COSTS (fixed prices)					
<i>Experts' fees (to be specified for each specific task)</i>					0,00
Details	0,00	0	w.d.	0,00	
<i>Other direct costs (to be specified)</i>					0,00
Details	0,00	0	unit	0,00	
Sub-total "Fees and Direct Costs" (Art. I.3.1)					0,00
REIMBURSABLE EXPENSES (max. prices)					
<i>Travel expenses</i>					0,00
Journées for experts as mentioned in Annex I					
Details	0,00	0	trip	0,00	
Provision for supplementary journeys upon request of the Commission					
Details	0,00	0	trip	0,00	
<i>Accommodation expenses</i>					0,00
Hotel expenses for experts as mentioned in Annex I					
Details	0,00	0	pers..	0,00	
Provision for supplementary accommodation expenses upon request of the Commission					
Details	0,00	0	pers.	0,00	
<i>Subsistence expense</i>					0,00
Subsistence expenses for experts as mentioned in Annex I					
Details	0,00	0	w.d.	0,00	
Provision for supplementary subsistence upon request of the Commission					
Details	0,00	0	w.d.	0,00	
<i>Shipment and/or other reimbursements (to be specified)</i>					0,00
Details	0,00	0	unit	0,00	
<i>Contingencies (cannot be used without the prior and express approval by the Commission, by the way of a written note allowing for reallocation(s) of part or total of this provision to one or several items above)</i>					
Calculation base	0,00				
Contingencies: approx. % of calculation base		0	%	0,00	
Sub-total "Reimbursable Expenses" (Art. I.3.3)					0,00
Overall Total				maximum	200.000€

w.d. =1 working day for 1 expert

Additional information to the Breakdown of prices

See attached document: pages.

2. Calculation of amounts due under the present Contract

2.1. Fees

Initial calculation based on unit price(s) per w.d. of expert(s) depending on the level of qualification of the expert(s) executing the mission. The unit price(s) is (are) expected to cover the expert(s) fees, the

Contractor's administrative expenses, as well as the costs of producing the contractual number of copies of the required report(s) ²³ in the required format(s), but does not include the reimbursable expenses defined below.

N.B. Duration of the services: This includes, besides the time necessary for the carrying out of the services themselves, the necessary time for preparatory work, trips and travelling back and forth between the offices of the Contractor and/or the expert(s) and the places where the services are being carried out and for meetings with the services of the Commission, as well as time for the preparation of reports and output documents related to the work.

2.2. Reimbursements

If the reimbursement of expenses is foreseen in the Special Conditions, the Commission will reimburse only:

- the subsistence expenses of the Contractor and his staff,
- travel expenses (other than local transport costs),
- expenses for the shipment of equipment or unaccompanied luggage,

directly connected with performance of the tasks specified in Article I.1. of this Contract.

2.2.1 DSAs (Daily Subsistence Allowances)

The daily subsistence allowance (DSA) is paid as a flat-rate amount and is considered to cover breakfast and two main meals, local travel, the cost of telecommunications, including fax and Internet, and all other sundries. They will be paid for each calendar day spent on mission away from the usual place of work, provided that the corresponding assignment is of a short-term nature. The DSA will vary according to the country in which the missions are to be carried out.

Daily subsistence allowances (DSA) are to be calculated as follows according to the length of the mission:

- 6 hours or less: reimbursement of actual expenses (on production of supporting documents);
- more than 6 hours but not more than 12 hours: 0.5 DSA;
- more than 12 hours, but not more than 24 hours: 1 DSA;
- more than 24 hours but not more than 36 hours: 1.5 DSA;
- more than 36 hours but not more than 48 hours: 2 DSA;
- more than 48 hours but not more than 60 : 2.5 DSA, and so on.

The agreed rates (in EUR per calendar day) to be used for the purposes of the present Contract are set as follows:

Destinations		DSA in EUR	Maximum hotel price in EUR
AT	Austria	95,00	130,00
BE	Belgium	92,00	140,00
BG	Bulgaria	70,00	205,00
CY	Cyprus	93,00	145,00
CZ	Czech Republic	75,00	155,00
DE	Germany	93,00	115,00
DK	Denmark	120,00	150,00
EE	Estonia	71,00	110,00
EL	Greece	82,00	140,00
ES	Spain	87,00	125,00
FI	Finland	104,00	140,00
FR	France	95,00	150,00
HR	Croatia	60,00	120,00
HU	Hungary	72,00	150,00
IE	Ireland	104,00	150,00

Destinations		DSA in EUR	Maximum hotel price in EUR
IT	Italy	95,00	135,00
LT	Lithuania	68,00	115,00
LU	Luxembourg	92,00	145,00
LV	Latvia	66,00	145,00
MK	Macedonia	50,00	160,00
MT	Malta	90,00	115,00
NL	The Netherlands	93,00	170,00
PL	Poland	72,00	145,00
PT	Portugal	84,00	120,00
RO	Romania	60,00	170,00
SE	Sweden	97,00	160,00
SI	Slovenia	70,00	110,00
SK	Slovakia	80,00	125,00
TR	Turkey	55,00	165,00
UK	United Kingdom	101,00	175,00

²³ All details on Monitoring and Reporting are to be indicated and included in the Tender Specifications.

2.2.2 *Travel expenses*

Travel expenses shall be reimbursed following the provisions of Article II.7.3.

3. Additional provision

It is understood that the Parts “Fees and Direct Costs” and “Reimbursable Expenses” are set as provisions only. They constitute a maximum for the overall cumulative value of all services rendered by the Contractor under the present Contract – they will be due only if services are actually rendered to the Commission according to this Contract and its Annexes, both in quantity and in quality.

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ANNEX IV CVs and classification of experts

1. Classification of experts according to level of expertise

<i>Level of qualification</i>	<i>Category of personnel</i>
I	Highly qualified expert having assumed important responsibilities in his/her profession, recruited for his/her management/supervisory, thought and creativity skills as regards professional practise. He/she must have at least 15 years professional experience of which at least 7 must be connected with the professional sector concerned and the type of tasks to be performed.
II	Highly qualified expert having assumed responsibilities in his/her profession, recruited for his/her management/supervisory, thought and creativity skills as regards professional practise. He/she must have at least 10 years professional experience of which at least 4 must be connected with the professional sector concerned and the type of tasks to be performed.
III	Certified expert having received a high-level training in his/her profession, recruited for his/her thought and creativity skills as regards professional practise. He/she must have at least 5 years professional experience of which at least 2 must be connected with the professional sector concerned and the type of tasks to be performed.
IV	Junior expert, newcomer to the profession but holding a university degree or equivalent training related to the professional sector concerned and the type of tasks to be performed.

2. List of experts assigned

<i>Full names of experts assigned</i>	<i>Level of Qualification (I to iv, see above)</i>
M.....	
M.....	
M.....	

3. CVs of experts assigned

See Annex II.

Fiscal provisions regarding invoicing by the Contractor

Choose 1 out of 4 options:

- **(option 1: the Contractor is subject to VAT and his place of fiscal imposition is in Belgium)**

Local supplies and services

Supplier with fiscal imposition place in Belgium – delivery address in Belgium

1. VAT exemption – Exemption level

In Belgium, the terms of the present Contract have the same value as the VAT exemption request No 450 (VAT exemption – Article 42, § 3.3, VAT Code).
The European Commission benefits of a direct VAT exemption for all invoices EUR 123.95 and more.

2. Invoicing the Commission

An invoice will be made for each payment related to the present Contract. The applied VAT rate and amount shall be specified.

In view of VAT exemption, invoices addressed to the European Commission should bear the mention:

“Exonération de la TVA, article 42, § 3.3, du code de la TVA” or

“Vrijstelling van BTW, artikel 42, § 3.3, BTW-Wetboek”.

The above indication is given only as piece of information. The Contractor must refer to the Belgian national laws.

- **(option 2: the Contractor is subject to VAT and his place of fiscal imposition is a Member State other than Belgium)**

Intra-community supplies and services

Supplier with fiscal imposition place in a Member State other than Belgium – delivery address in Belgium

1. VAT exemption level

The European Commission benefits of a direct exemption of VAT for all invoices of EUR 123.95 and more.

2. Use of form 15.10

To allow the Contractor to justify to the fiscal authorities an invoicing to the European Commission using a 0% VAT rate (direct exemption) or to enable the benefit of the exemption by reimbursement, it is necessary to use the form 15.10.

These forms have recently been up-dated, and the new versions are the only ones to remain in official use. They entered into force on 01.04.1997, with a new ref. XXI/03278 – 01.04.1997.

See attached document: 2 pages and 1 page of explanatory notes.

3. Signature of the form 15.10 – Delegation of signature

The forms must normally be signed by the fiscal authorities of Belgium. However, a delegation of signature has been awarded by the Belgium authorities to the European Commission – ref. ET 76430 of 22.12.1992 (This ref. No should be inserted in box 7 of new form 15.10). The Commission being represented for the present Contract by the Director General of Employment, Social Affairs and Equal Opportunities DG, form 15.10 will therefore be signed by the latter.

4. Invoicing the Commission

An invoice will be made for each payment related to the present Contract. The applied VAT rate and amount shall be specified. Concerning the direct VAT exemption or VAT exemption by the way of reimbursement, the invoice shall bear all the necessary mentions.

The above indication is given only as piece of information. The Contractor must refer to the national laws in force in his Member State of fiscal imposition.

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- **(option 3: the Contractor is not subject to VAT)**

Not applicable to the present Contract.

- **(option 4: the country of fiscal imposition of the Contractor is unknown)**

Provisions to be applied depending on the country of fiscal imposition of the Contractor..

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