

Service related to the effective application of Community legislation developed in the social policy field

1. TITLE OF THE CONTRACT

Service related to the effective application of Community legislation developed in the social policy field
Contract Reference VC/2007/484

2. BACKGROUND

2.1. The European Social Context

The European Union has a fundamental role to play in the development of a modern, innovative and sustainable Social Europe with more and better jobs in an inclusive society based on respect of fundamental rights and equal opportunities. Article 2 of the Treaty states that the Community shall have as part of its tasks that of promoting a high level of employment and of social protection and the raising of the standard of living and quality of life throughout the Community and economic and social cohesion.

The Lisbon European Council has agreed on a strategic goal for the Union to build a competitive and dynamic knowledge-based economy capable of sustaining economic growth with more and better jobs and greater social cohesion. In its Social Agenda (2005-2010), EU roadmap in the employment and social sphere as part of the overall Lisbon Strategy, the Union has fixed as its overall strategic goal to promote more and better jobs and to offer equal opportunities for all.

Many policies in these areas are primarily a matter for the individual Member States. Yet, all these national social policies share some commonalities as the Barcelona European Council put it. The Barcelona European Council defined the European social model as being "based on good economic performance, a high level of social protection and education and social dialogue. An active welfare state should encourage people to work, as employment is the best guarantee against social exclusion."

While, the European social model is shaped by the diversity of national policies and practices, the EU contributes where it can add value and within the limits of the Treaty provisions. Today, EU social policy builds on a solid basis which has been evolving since the 1970s. At its roots, this development is a response to changing needs for EU level action over the last few decades. The launch of the Internal Market highlighted the need to ensure minimum social standards to create a level-playing field for business and workers. It also triggered political efforts to enhance regional cohesion, which has become more important with the accession of poorer Member States.

Economic integration also brought about a convergence of challenges across Member States in many areas of economic, employment and social reform. Moving towards common objectives and learning from each other has therefore become increasingly important for the Member States.

This is particularly important in order to adapt to the fast changing global economy, technological innovation, and demographic ageing, as is highlighted by the Lisbon Strategy for growth and jobs. Demographic ageing calls for new forms of solidarity among generations. This includes increased efforts to fully tap the labour potential of people throughout their lives, and related efforts to enhance quality at work, investment in human capital and equal opportunities, as well as to step up the modernisation of social protection systems. Technological progress and globalisation both accelerate the impact of economic and social change. They underline the need to adapt

working patterns, anticipate and manage restructuring, invest in the skills needed in the knowledge economy, and to encourage social partners to strike a better balance between flexibility and security. These changes will also have an impact on the need for social protection.

To help tackle all these challenges, EU social policy combines a mix of instruments to support the Member States:

- The European Social Fund was the first Structural Fund established at European level, and is now becoming more important than ever. It is particularly vital to the EU's efforts to boost investment in human capital as a key driver for success in the Lisbon agenda.
- Legislation establishes minimum social standards and basic rights at European level, while creating a level-playing field for business across the Internal Market.
- Social dialogue plays an important role in EU legislation, as social partners are encouraged to find negotiated solutions. The EU promotes the autonomous dialogue between employers and trade unions and involves them in a 'tripartite' dialogue with EU institutions.
- The open method of coordination (OMC) helps national policies to progress towards common European goals while leaving the Member States the choice of how to achieve them. It is a key instrument of the Lisbon Strategy, co-ordinating the Member States' policies in the economic, employment, social protection and social inclusion areas.
- Partnership is key to governance in EU social policy, not just among institutions at all levels and social partners, but also in dialogue with civil society.

2.2. Community legislation developed on social policy

Legislation in the social policy area is at the core of the European social model because it fixes minimum requirements in situations where people might otherwise be exposed to risks that would endanger their fundamental rights or freedoms, their health and prosperity or even their lives. The Member States have developed complex legal systems in the social policy area, with a diversity of legal approaches and practices, while also promoting shared values.

Moreover, within the Internal Market, establishing minimum social standards, basic rights and free-movement of workers at European level follows the economic logic of creating a level playing field for businesses, while contributing also to social cohesion. In addition, certain issues are intrinsically of trans-national character allowing their regulation only at European level, like establishing European Work Councils or issuing a European health insurance card, to quote just two examples.

To be precise, the EC Treaty establishes four distinct areas of EU legislation in the social policy area (not including the legislation regulating the ESF): equal treatment for men and women in the employment area (Article 141 TEC); anti-discrimination provisions to protect people exposed to discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 13 TEC); free movement of workers (Articles 39 and 40 TEC); protection of health and safety of workers, labour law and working conditions and information and consultation of workers (Articles 137-139 TEC).

The first two areas listed above deal with aspects of fundamental rights derived from internationally recognised human rights instruments. The purpose is to lay down standards in the EU to put into effect the principle of equal treatment between men and women and prohibit discrimination on the grounds listed in Article 13 TEC. Despite remaining obstacles, EU legislation has triggered progress of gender equality in employment and has considerable impact on anti-discrimination policies in the Member States). The third area of EU law implements the Treaty provisions on free movement of workers, one of the four fundamental freedoms enshrined in the EC Treaty, which is crucial to tapping the full potential of the Internal Market. Please note that the present service does not cover this area of Community legislation.

The bulk of EU legislation in the social policy area has been adopted in the fourth area of EU law by fixing minimum requirements for the protection of health and safety of workers, labour law and working conditions and information and consultation of workers. EU legislation on health and safety at the workplace has contributed

largely to reducing the number of work-related accidents and illnesses in the Member States. It has allowed European businesses to compete on a level playing field based on price and product quality and not by putting workers' lives and health or their livelihoods at risk. Other parts of the legislation concern the protection of workers where their work relationship is of a particular nature (e.g. part time work, fixed term work, posting of workers, young people at work) or undergoes important changes which put workers in a vulnerable position (e.g. transfer of undertakings, insolvency of the employer, collective redundancies). Finally, EU legislation promotes the information and consultation of workers and their involvement through the European Works Councils, which is increasingly important to anticipate and manage change. EU legislation is therefore key to protecting fundamental rights and freedoms as well as establishing a common basis with minimum requirements for the protection of health and safety of workers, labour law and working conditions and information and consultation of workers in a number of situations where workers are exposed to particular risks.

It also promotes a governance model that gives preference to negotiated solutions by the social partners, which is particular for EU legislation in the social policy area and constitutes an important feature of the European social model. For the bulk of EU legislation in this area, prior consultation of the social partners at European level is required under Article 138 TEC and, in addition, the social partners must be given the opportunity to negotiate on the subject matter before any legislation may be adopted. If the social partners succeed in negotiating an agreement, they can request that it be implemented by a Council decision (in practice so far by Council directives), which gives the agreement binding force and makes it generally applicable. This was the case with their agreements on parental leave, part-time work, fixed-term work and on working time for specific sectors (seafarers, civil aviation, interoperable workers in the railway sector).

2.3. Effective application of Community legislation

The effectiveness of EU law is largely determined by its implementation at national, regional and local levels. The implementation of the Community legislation has generated a substantial amount of jurisprudence. The implementation of the Community legislation has in the first place to be guaranteed at national level.

At present, however, deficient application and enforcement remains a major problem. This is illustrated by a growing number of infringement cases as well as a steadily increasing number of complaints concerning instances of non-compliance with Community law, that are being investigated by the European Commission. The need for improved implementation has thus been recognised as a key priority, most notably in the context of the Better regulation agenda. It calls for measures to improve respect for Community rules on the protection of workers and citizens' rights, the promotion of improved standards of inspection, monitoring and enforcement by Member States and a more systematic review of the application of EU legislation across the Member States.

The Communication on "A Europe of Results – Applying Community law"¹ underscores the need to develop work to ensure that Community law is correctly applied and implemented and that citizens' enquiries and complaints are handled well. This involves more co-operation in preventing problems from arising, dealing more effectively with problems that arise and resolving identified infringements more quickly, while enhancing transparency and information exchange. It also involves better integration of implementation and enforcement considerations throughout the policy cycle – from design of laws through the adoption process to evaluation of results. Ultimately, it calls for a reinforcement of training and other guidance material among legal practitioners at EU and national levels that will facilitate the effective application of Community law.

The field of Community legislation may at times be experienced as complex and difficult to interpret by national authorities and institutions, national courts and other interested parties. In the Member States this involves public authorities, competent public institutions such as equality bodies, labour inspectorates.

2.4. The Community programme for Employment and Social Solidarity - PROGRESS

The Decision n°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 OJ on 15 November.

¹ COM (2007) 502 final

PROGRESS overall aim is to financially support 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.

PROGRESS mission is to strengthen the EU contribution in support of Member States' commitments and efforts to create more and better jobs and to build a more cohesive society. To that effect, PROGRESS:

- provides analysis and policy advice on PROGRESS policy areas;
- monitors and reports on the implementation of EU legislation and policies in PROGRESS policy areas;
- promotes policy transfer, learning and support among Member States on EU objectives and priorities;
- relays the views of the stakeholders and society at large.

More specifically, PROGRESS supports:

- (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 up into five policy sections which are (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 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 EU level;
- (5) to enhance the awareness of the stakeholders and the general public about the EU policies and objectives pursued under each of the policy sections;
- (6) to boost the capacity of key EU networks to promote, support and further develop EU policies and objectives, where applicable.

The present Call for tenders is issued in the context of the implementation of the 2007 annual plan of work which is consultable at http://ec.europa.eu/employment_social/progress/docs_en.html

3. SUBJECT OF THE CONTRACT

The contract to be awarded concerns, in relation to the Community legislation developed on gender equality, non-discrimination, protection of health and safety of workers, labour law and working conditions and information and consultation of workers².

1. The identification, analysis and reporting on problems that would impair the effective application of Community legislation and on good practices developed at EU level or in the Member states;
2. Assistance with the establishment of methodological work pertaining to the measurement of effective application of Community law;

² Areas related to social security coordination do not fall within the scope of the present service

3. The organisation of a EU legal conference in Brussels or in another participating country.

Participating countries for the service refer to the EU-27 Member States, the EFTA-EEA countries and the candidate countries as well as Serbia.

The activities will be carried out under the direct supervision and responsibility of Unit 01 "General coordination and inter-institutional relations" of the Directorate General Employment, Social Affairs and Equal Opportunities. The Unit will be assisted by a steering group composed of Commission's officials in charge of developing and monitoring the application of the Community legislation covered under the present service.

With a view to increasing the consistency and coherence of DG EMPL's position, the Contractor will be asked to coordinate, as appropriate, parts of their work with other contractors of DG EMPL. Those other contracts include in particular the following contracts services related:

- to the setting-up of European level networks made up of national legal experts on gender equality, non-discrimination and labour law,
- Networks of equality bodies on gender and non-discrimination law and network on health and safety law;
- Provision of trainings to legal practitioners on gender equality and non-discrimination law.

4. PARTICIPATION

Please note that:

The competition is open to any physical person or legal entity coming within the scope of the Treaties and any other physical person or legal entity from a third country which has concluded with the Communities a specific agreement in the area of public contracts, under 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 that 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/CE, are not covered by this Agreement.

In practice, the participation of applicants from third countries that 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 submitted by applicants from third countries that have not concluded such an agreement may be accepted, but may also be rejected.

5. TASKS TO BE CARRIED OUT BY THE CONTRACTOR

5.1- Services required under the contract will include the following tasks:

TASK 1: IDENTIFICATION, ANALYSIS AND REPORTING ON PROBLEMS THAT WOULD IMPAIR THE EFFECTIVE APPLICATION OF COMMUNITY LEGISLATION AND ON GOOD PRACTICES DEVELOPED AT EU LEVEL OR IN THE MEMBER STATES

The report should build in the first place on information available to the Contractor, such as developments in relevant national case law and the examination of Commission reports on the application of EU legislation and on national legal reports provided among others by EU legal national experts' networks on the implementation of Community legislation. Other sources of information material (such as reviews, books and articles of legal EU and national academics, United Nations Human Rights Committees' or Council of Europe's reports) shall also be considered.

The report shall present its findings in a concise manner. It shall present each problem by a clear description of the factual and legal facts that are pertinent for the understanding of the problem. The report shall analyse the problem in relation to national and Community law and suggest, if possible, the solutions that seems appropriate. Identification of problems does not concern legal issues related to interpretation or incorrect application of specific Community provisions. Rather, problems pertain to the lack or the weakness of an enabling environment that would be supportive of an effective application of EU law (such as low level of awareness on Community

provisions among national policy-makers and/or legal practitioners, or inadequate trainings offered to national judges or prosecutors, etc). Specific case studies covering a selected sample of Community legislation could help deepen the understanding of the problems impairing an effective application of Community legislation. In addition, it shall report on the identification of good practices developed either in other Community fields or at national levels along the same lines as developed in the previous sentence. Finally, the report shall consider possible actions that could be favoured or encouraged in order to improve the application of Community legislation in the Member States.

The report will consist of:

- A full report delivered at least in English, French and German. The maximum length of the final text should be not more than 100 pages. It should address all issues mentioned above (i.e. identification of problems backed by appropriate case studies, identification of good practices and of possible courses of remedial action). The text should be provided to the European Commission in Word and charts in Excel. It should be accompanied by appropriate annexes. The report should be ready for editing in the requested linguistic versions and should bear the compulsory provisions as indicated below. ;
- A synthesis available in all Community languages. The maximum length of the final text should be not more than 15 pages.
- Presentation of the key points in one page. Key points should be concise, sharp and easily understandable. They shall be provided in English, French and German.
- An executive summary in 5/6 pages and in English, French and German together with powerpoint presentations presenting the context, main findings and recommendations in English.

Jargon should be avoided and linguistic versions should be at least checked by native speakers. The printing and distribution of the report are not covered by this call for tender. The draft report, synthesis and its executive summary should be submitted to the Commission in English, no later than five months before the end of the contract's period of performance. Once approved by the Contracting Authority, the final report shall be delivered in an electronic print-ready form (PDF format) as well as paper versions (10 copies) in the requested Community languages within two months.

TASK 2: ASSISTANCE WITH THE ESTABLISHMENT OF METHODOLOGICAL WORK PERTAINING TO THE MEASUREMENT OF EFFECTIVE APPLICATION OF COMMUNITY LAW

In addition to this report, the Contractor will also be asked to undertake some methodological work pertaining to the measurement of effective application of EU legislation. This would mean as a first step to undertake a literature review of existing methodological work on measurement of application and impact of legislation (EU or national) in achieving better economic and social outcomes for citizens. Comparative analysis covering third countries shall also be envisaged in that respect.

The report will consist of:

- A full report delivered at least in English, French and German. The maximum length of the final text should be not more than 30 pages. The text should be provided to the European Commission in Word and charts in Excel. It should be accompanied by appropriate annexes. The report should be ready for editing in the requested linguistic versions and should bear the compulsory provisions as indicated below. ;
- An executive summary in 5/6 pages and in English, French and German together with powerpoint presentations presenting the context, main findings and recommendations in English
- Presentation of the key points in one page and in all Community languages. Key points should be concise, sharp and easily understandable.

Jargon should be avoided and linguistic versions should be at least checked by native speakers. The printing and distribution of the report are not covered by this call for tender. The draft report and its executive summary should be submitted to the Commission in English, no later than three months before the end of the contract's

period of performance. Once approved by the Contracting Authority, the final report shall be delivered in an electronic print-ready form (PDF format) as well as paper versions (5 copies). Once approved by the Contracting Authority, the final report shall be delivered in an electronic print-ready form (PDF format) as well as paper versions (10 copies) in the requested Community languages within one month.

TASK 3- ORGANISATION OF AN ANNUAL EU LEGAL CONFERENCE ON MATTERS RELATED TO APPLICATION OF COMMUNITY LEGISLATION

This one and a half-day conference should bring together relevant and qualified parties and should aim at disseminating and discussing the results of the activities carried out under tasks 1 and 2, with a particular emphasis on the good practices identified. It will be organised at least one month before the conclusion of the period of performance.

Travel and accommodation costs for up to 250 participants should be budgeted for in the response to this call for tender. As regards this task, participants should come from EU Member States, the EFTA-EEA countries, the candidate countries as well as Serbia.

The contractor will be responsible for:

- Identifying an appropriate venue (four star or equivalent, accessible for disabled participants) in Brussels or in one of the EU Member States;
- Reserving meeting rooms (plenary plus three to four working groups);
- Providing for hostesses for the reception and throughout the event;
- Providing for a photographer to cover the conference and the dinner;
- Organising a gala-dinner including organising the transfer by bus from the hotel to the dinner place (in case it is not hosted in the hotel) ;
- Organising interpretation for the plenary and working group meetings (English, French, German);
- Drafting and translating the conference agenda (English, French, German). The notice and the agenda must be sent to the participants at least five weeks before the date of the meetings in order to stimulate the discussions;
- Drafting and translating discussion papers of maximum ten pages each for the working group meetings to be provided in English, French and German;
- Preparing and arranging the working documents for distribution to the participants (one full set per participant);
- Making the conference agenda available in Brail language (if needed);
- Contacting and inviting potential speakers;
- Preparing the carry-names for the speakers;
- Sending invitations to participants;
- Handling the reservation of accommodation and flights for participants (costs of up to 250 participants to be reimbursed by the contractor);
- Following-up and managing the registration of the participants;
- Preparing the badges for the participants;
- Drafting and translating (English, French, German) the final report of the conference.

5.2. Guide and details of how the tasks are to be carried out

The contractor shall work in close contact with the Commission, which will guide and monitor the quality of work and compliance with deadlines.

The contractor shall appoint one contract coordinator who acts as a single contact point for the Commission on all tasks under this present service, unless agreed otherwise for specific purposes.

The contractor's structure shall ensure the sufficient flexibility to adapt to changing workload and tight deadlines. The Contractor shall be prepared to cooperate with different contact points within the Commission (e.g. for work in the different legal areas), while ensuring coherence for the overall work under this Contract.

The contractor shall ensure that any subcontractor it engages performs the work to a satisfactory standard. The contractor will remain responsible for any work performed by subcontractors and for their compliance with the deadlines agreed by the Commission. Subcontracting must be authorised by the Commission in accordance with Art.II.13. of the Standard Contract. Sub-contractors included in the tender are deemed to be authorised by the Commission if the contract is awarded.

The Contractor shall ensure the same high level of expertise in each of the legal areas covered by the present service.

The PROGRESS Programme aims at promoting gender mainstreaming in all 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, 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, whatever their ethnic origin, religions, 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 on equal employment opportunities.

6. PROFESSIONAL QUALIFICATIONS REQUIRED

See Annex IV of the draft contract, experts' CVs and classification of experts.

7. TIME SCHEDULE AND REPORTING

See Article I.2. of the contract.

Execution of tasks may not start before the signature of the contract by both parties, which is estimated to take place end of March 2008 at the latest. The period of performance will be 12 calendar months from the date of effect for the first period. The initial contract may thus be renewed 3 times for a period of 12 calendar months each.

Additional requirements

The selected contractor will comply with the following specific reporting:

The Contracting Party shall produce a short Interim Activity Report assessing overall progress towards the achievement of the key tasks over the first six months of the contract period, as well as any comments, suggestions or recommendations judged useful or necessary by the contractor. The Final Interim Activity Report should be delivered no later than six (6) months after the signature of the contract.

A Draft Final Activity Report should be delivered no later than two weeks before the last day of the period of performance of the contract.

The Final Activity Report shall be presented no later than the last day of the period of performance of the contract. It shall provide a full description of the work carried out, a presentation of the results obtained for the whole period of the performance, and any comments, suggestions or recommendations judged useful or necessary by the contractor. The Contractor will also detail the steps and achievements it made towards meeting the contractual provisions on equal employment opportunities.

All reporting must be done in English and delivered both on paper and electronically.

Additional requirement related to the mention of the Community source of funding

The contractor must acknowledge that the present service is delivered on behalf of the Community in all documents as follows:

"This session/publication is organised by the European Commission and financed from the European Community Programme for Employment and Social Solidarity (2007-2013). This programme was established to support 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. These are:

- (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 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 EU level;*
- (5) to enhance the awareness of the stakeholders and the general public about the EU policies and objectives pursued under each of the policy sections;*
- (6) to boost the capacity of key EU networks to promote, support and further develop EU policies and objectives, where applicable.*

For more information see:

http://ec.europa.eu/employment_social/progress/index_en.html

8. PAYMENTS AND STANDARD CONTRACT

See Articles I.3, I.4, II.4 and II.5 of the draft contract.

In drawing up the bid, the tenderer should take into account the provisions of the standard contract comprising the "General terms and conditions applicable to service contracts".

Payments will be made according to the following schedule:

Pre-financing payment

Following the 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 of fees and direct costs referred to in Article I.3.1 of the contract shall be made.

Interim payment

Request for interim payment by the Contractor shall be admissible if accompanied by:

- the final interim activity report within six (6) months after the official start of the contract ;
- the relevant invoices

And provided that 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. of the contract, shall be made.

Payment of the balance

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

- the final activity report in accordance with the instructions laid down in Annex I;
- the relevant invoices,

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 of the contract shall be made.

9. PRICES

Under the terms of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities, the latter are exempt from all charges, taxes and duties, including value added tax; such charges may not therefore be included in the calculation of the price quoted. The amount of VAT is to be indicated separately.

The price must be stated in EUR(€), net of VAT (using, where appropriate, the conversion rates published in the C series of the Official Journal of the European Union on the day when the invitation to tender was issued), and broken down according to the model in Annex III included in the attached standard contract.

The format given in Annex III "Breakdown of prices" of the attached blank, draft contract MUST be followed and include:

Part A: Professional fees and direct costs

- Fees, expressed in number of person/days and unit price per working day per task. The unit prices are expected to cover the Experts' fees and administrative expenses, as well as the costs of producing the contractual number of copies of the required report(s) in the required format(s), but do not include the "contingencies" under reimbursable expenses defined below;
- Travel expenses (other than local transport costs). These cover all the travel expenses of the Experts who are on mission for short term assignments outside their usual place of work and of the participants to the annual legal EU conference;
- Daily subsistence allowances (DSA's). These cover all the subsistence costs of the Experts who are on mission for short term assignments outside their usual place of work and of the participants to the annual legal EU conference;
- Expenses for the shipment of equipment or unaccompanied luggage, directly connected with performance of the tasks specified in Article I.1 of this Contract;
- Translation costs, if any;
- Interpretation costs;
- Other direct costs (to be specified), if any.

Part B: Reimbursable expenses

- Contingencies. 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 mentioned above)

The price sought ought not to exceed 600.000,00 € per year in total (including contingencies), renewable three

times.

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 contract³. 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 points 12 and 13 of the specifications must be supplied by every member of the grouping.

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

12. EXCLUSION CRITERIA AND SUPPORTING DOCUMENTS

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 judgement which has the force of res judicata;*
- c) *they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;*
- d) *they have not fulfilled their 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;*

2) The tenderer to whom the contract is to be awarded shall provide, within a time limit defined by the contracting

³ 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.

authority and preceding the signature of the contract, the evidence referred to in Article 134 of the implementing Rules, confirming the declaration referred to in point 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 points (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 point (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 of the Terms of reference (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.

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

The selection of offers will be carried out in accordance with the following criteria:

(1) Economic and financial capacity to carry out the tasks set out in the tender specification must be demonstrated as follows:

(a) the tenderer (or all partners of the consortium together) must provide proof of turnover in the last financial year for which accounts have been closed at least equivalent, to 75 % of the proposed price of the contract;

(b) balance sheets from the last two financial years that have been closed, where publication of the balance sheets is required under company law in the country in which the service provider is established; in the case of tenders from consortia, this certificate must be provided by each member of the consortium;

(c) a statement of the undertaking's overall turnover and its turnover in respect of the services to which the contract relates for the previous two financial years; in the case of tenders from consortia, this certificate must be provided by each member of the consortium;

(d) a bank declaration providing evidence of good financial standing; in the case of tenders from consortia, this declaration must be provided by each member of the consortium;

(2) Professional and technical capacity to carry out the tasks set out in the tender specification must be demonstrated as follows

(a) The tenderer's professional and technical capacity in the field covered by the contract will be further assessed on the basis of the following:

- Evidence of at least five years experience and proven ability to set up the appropriate organisational structure to carry out all the co-ordination and the administrative tasks involved in organising and managing contracts and projects at European level. The Commission will assess this criterion on the basis, inter alia, of a list of previous similar activities submitted by the tenderer as well as on the basis of an organisational chart explaining the structure to be put in place;
- Evidence of ability to call on at least five years expertise on assessment and evaluation of application of legal provisions (EU or national legal provisions). The Commission will assess this criterion, inter alia, on the basis of the list of experts to be used for the service, together with their CVs and qualifications and professional capacities;
- Evidence of ability to call on at least five years expertise on legal areas related to gender equality, non-discrimination, protection of health and safety of workers, labour law and working conditions. The Commission will assess this criterion, inter alia, on the basis of the list of experts to be used for the service, together with their CVs and qualifications and professional capacities;
- Relevant experience with the coordination and organisation of international workshops and conferences;
- Sufficient knowledge of Community working languages to facilitate communication with the Commission and ability to rely on internal or external resources to translate concerned documentation in all Community languages and provide interpretation in the requested languages for the annual conference;
- Good written skills in English;

(b) Means of proof required

Technical and professional capacity of the tenderer to undertake the analysis described above shall be evaluated and verified on the basis of the following:

- a list of coordinators and members of the team to be used for the performance of services requested, together with their CVs and qualifications, an organisational chart explaining the structure to be put in place, a clear description of the specific tasks each person will carry out during this project taking into account the above description of requirements to be fulfilled.
- if not included in the experts' CVs, a list of the main works and/or articles published by all the experts involved, in relation to the relevant subject specified in this tender, undertaken over the last 5 years at least
- a list of previous services related to the coordination and organisation of international workshops and conferences.
- a declaration by the applicant certifying his technical capacity and the competence of the team to carry out the services
- firm commitments of involvement in the project signed and dated from external persons to the firm.

In the case of tenders from consortia, the following are required:

- A clear identification of the contractor who will also be responsible for signing the contract, and
- written confirmation from each member of the consortium that they would be ready and willing to participate in the execution of the contract, and briefly describing their role(s).

Bids considered by the European Commission not to meet the above-mentioned requirements on financial and operational capacity will be eliminated without further assessment.

13. AWARD CRITERIA

The contract will be awarded to the bid offering the best price/quality ratio, taking account of the criteria listed below as well as of the price proposed.

1 – Quality of the offer

1. The quality of the understanding of the nature of the assignment, its context and the results to be achieved (20%).
2. The qualitative value of the offer (40%), including the presentation of the overall working method.
3. Work organisation (40%), in particular of the administrative and logistical tasks involved (including the organisation of the annual conference) and feasibility of the time schedule given; this criteria also includes clarity and coherence of the work programme and structure of the whole team with regard to the identification and distribution of tasks.

2 - The Price

The contract will not be awarded to any bid that receives less than 70% in the award criteria. The points total will then be divided by the price, with the highest-scoring bid being chosen.

14. CONTENT AND PRESENTATION OF BIDS

14.1- Content of bids

The tenderer must provide all the information and documents necessary to enable the Commission to conduct an appraisal of the offer on the basis of the exclusion, selection and the award criteria.

Tenders must be presented in three parts:

- (1) a first part: containing all administrative information including:
 - (a) Date of bid for the provision of services;
 - (b) Name of tenderer, full address, telephone and fax numbers and e-mail address;
 - (c) Legal entity form duly completed⁴;
 - (d) Legal status;
 - (e) Identification of the tenderer's headquarter or domicile (presented with the supporting evidence normally acceptable under its own law);
 - (f) Date of establishment or registration;
 - (g) Name and quality of the Contractor's legal representative (i.e. the person duly authorised to act legally on behalf of the Contractor in relation to third parties);
 - (h) VAT number or proof of exemption;
 - (i) Social security number;

⁴ Form available from http://europa.eu.int/comm/budget/execution/legal_entities_en.htm

- (j) Declaration required as set out under "Exclusion criteria and supporting documents"
- (k) Details of the tendering organisation structure;
- (2) a second part: concerning the technical content of the bid including:
 - I) Specific information covering the technical and professional capacity as required and listed in point 12, in particular:
 - II) Specific information covering each of the award criteria listed in point 13, in particular:
- (3) a third part: comprising the financial part of the tender and including:
 - (a) Full details of the proposed price and following the format of Annex III of the attached blank draft contract;
 - (b) A financial identification form (Bank ID form) duly completed and signed and stamped by the bank⁵;
 - (c) proof of turnover in the last financial year for which accounts have been closed at least equivalent to 75% of the proposed price of the contract;
 - (d) balance sheets or extracts from balance sheets from the last two financial years that have been closed, where publication of the balance sheets is required under company law in the country in which the service provider is established; in the case of tenders from consortia, this certificate must be provided by each member of the consortium;
 - (e) a statement of the undertaking's overall turnover and its turnover in respect of the services to which the contract relates for the previous two financial years; in the case of tenders from consortia, this certificate must be provided by each member of the consortium;
 - (f) a bank declaration providing evidence of good financial standing; in the case of tenders from consortia, this declaration must be provided by each member of the consortium;

14.2- Presentation of the bids

Bids must:

- 1) be signed by the tenderer's legal representative; all unsigned bids will be excluded;
- 2) be submitted in triplicate (1 original and 2 copies);
- 3) contain all the information required above (points 9, 10, 11, 12, 13);
- 4) be clear and concise;
- 5) be submitted in one of the official languages of the European Union;

⁵ Form available from http://europa.eu.int/comm/budget/execution/tiers_fr.htm

- 6) be delivered according to the requirements set out in the letter of invitation to tender and before the date and time limit indicated therein (all addresses, dates and deadlines are indicated in this letter).

ADDITIONAL PROVISIONS

- 1) Fulfilment of adjudication or invitation to tender procedure shall not involve the Commission in any obligation to award the contract.
- 2) The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be liable in the event of its deciding not to award the contract.
- 3) Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.
- 4) No information of any kind will be given on the state of progress with regard to the evaluation of tenders.
- 5) All documents submitted by tenderers will become property of the European Commission.