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## **Specifications - Open Invitation to tender No VT/2008/063**

**concerning a contract on the analysis at EU-level of health, socio-economic and environmental aspects in connection with possible amendments to Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work.**

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

Contract on the analysis at EU-level of health, socio-economic and environmental impacts in connection with possible amendments to Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work.

### **2. BACKGROUND**

#### **2.1. Progress introduction**

The Social Agenda (2005-2010) 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.

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.

PROGRESS aims at supporting the core functions of the European Community towards fulfilling its Treaty-delegated tasks and powers in its respective areas of competence in the employment and social sphere. 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 will be instrumental in:

- providing analysis and policy advice on PROGRESS policy areas;
- monitoring and reporting on the implementation of EU legislation and policies in PROGRESS policy areas;
- promoting policy transfer, learning and support among Member States on EU objectives and priorities; and
- relaying the views of the stakeholders and society at large.

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).

The present call for tenders is issued in the context of the implementation of the 2008 annual plan of work which is consultable at :

[http://ec.europa.eu/employment\\_social/progress/annwork\\_en.htm](http://ec.europa.eu/employment_social/progress/annwork_en.htm)

## **2.2. Background information specific to this contract**

The purpose of this contract is to provide the European Commission with information on the impact of a number of policy options related to a possible amendment of directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work. As indicated above the funding for this contract is supported by PROGRESS and the detailed requirements of the subject of the contract and tasks to be carried out by the contractor are described in sections 3 and 5 respectively. Additional background information specific to this contract is provided below.

The Commission communication (COM(2002) 118 final) of 11 March 2002 on the community strategy on health and safety at work 2002 – 2006 (section 3.3.1 paragraph 1) states the need for the adaptation of existing directives to changes in scientific knowledge, technical progress and the world of work and the need to fill gaps in the existing framework. It specifically mentions the need to amend directive 2004/37/EC on carcinogens and mutagens in the workplace. Furthermore the objectives of the Community strategy for 2007- 2012 (COM (2007) 62 final) (section 3) includes a key objective on the need for an ongoing, sustainable and uniform reduction in occupational illnesses and emphasises the need to encourage changes in the behaviour of workers and to encourage employers to adopt health focused approaches together with the realisation of methods for identifying and evaluating potential new risks.

The existence of a full, coherent and solid Community legislative framework is an essential tool in terms of improving the health and safety of workers, based on the principles of preventing risks and protecting workers. It would now seem to be a logical step in the development of the EU occupational health and safety legislation on carcinogens and mutagens to study certain issues which underpin this prevention and protection policy. In particular the need to define criteria in relation to occupational cancer risk together with the principle of risk minimisation where an EU Occupational Exposure Limit (OEL) has been, or will be, adopted.

Directive 2004/37/EC requires chemical risks to be eliminated or reduced to a minimum. EU OELs are tools to help employers to further protect the health of workers who may be

exposed to carcinogens and mutagens at work. They are one of the major chemical risk management tools and they play an important role in the overall approach to chemical risk management. They are the only quantitative tool which enables employers to assess exposure and to decide on the prevention and protection measures to set up in order to comply with the objectives of the Directive.

On the basis of the above considerations the existing Occupational Exposure Limits for, wood dust and vinyl chloride should be reviewed, and where appropriate amended, to take account of developments in scientific knowledge and feasibility factors. In addition consideration should be given to revising Annex 1 of the Directive with view to including further substances, preparations or processes in this Annex and to introducing a number of OELs for carcinogenic substances for which, at present, an OEL does not exist at EU level.

### **3. SUBJECT OF THE CONTRACT**

The purpose of this contract is to assess the impact of the various policy options as outlined below, including provision of up to date information, duly supported by references to published data. This is to enable the European Commission to initiate policy discussions regarding the possible future amendment of directive 2004/37/EC. For each of the policy options the information provided shall also assess and report on the consequences of not amending the Directive.

The seven policy options to be studied are:

- 3.1** Assessment of the impact of the introduction of a system for setting OELs based on objective risk criteria.
- 3.2** Assessment of the impact of the requirement for prevention and reduction of exposure.
- 3.3** Assessment of the impact of introducing additional substances, including process generated substances, in the list contained in Annex 1 of the Directive.
- 3.4** Assessment of the impact of revising the OEL for hard wood dust.
- 3.5** Assessment of the impact of revising the OEL for vinyl chloride monomer.
- 3.6** Assessment of the impact of introducing OELs for additional substances in Annex III of the Directive.
- 3.7** Assessment of the common considerations of the health, social, economic and environmental impact related to the above policy options.

In order to give a comprehensive view on the situation that could result from the amendment of the directive as described above, the contractor will have to accomplish the different tasks specifically mentioned under section 5.

#### **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. Description of the tasks**

For each task the impact on the Member States and Social Partners should be identified, assessed and presented. The analysis of the impact of the various policy options should take into consideration the criteria of effectiveness and efficiency including practicability, health impact, economic impact, social impact and environmental impact. All the relevant positive and negative impacts shall be considered alongside each other, regardless of whether they are expressed in qualitative, quantitative or monetary terms. The advantages and disadvantages should be examined for each option to support the legislator in making the most appropriate evidence-based decisions on how best to ensure that workers are effectively and appropriately protected from risks to their health and safety.

This information should be presented in a way that facilitates the ease of comparison between and within the various policy options, for example by means of a "scoreboard". Where possible the preparatory study for assessing impacts should be supported by examples of actual situations that exist in the Member States or elsewhere.

##### **Policy options for the amendment of Directive 2004/37/EC**

The results of the preparatory study for assessing impacts should provide the European Commission with sufficient and credible information to enable it to give due consideration to each of the policy options for a possible amendment of directive 2004/37/EC. The specific policy options and associated tasks, 5.1.1 to 5.1.7, to be studied are described below. For each of the substance specific tasks 5.1.3 to 5.1.7 the additional common considerations in tasks in 5.1.8 to 5.1.20 should be addressed. For tasks 5.1.1 and 5.1.2 the common consideration tasks should be considered when appropriate.

The assessment should report on the impact of not amending the directive, i.e. for not introducing the amendments foreseen in policy options 5.1.1 to 5.1.7.

### **5.1.1 Introduction of a system for setting OELs based on objective risk criteria.**

Assess and report on the impact of specifying objective (quantitative or semi-quantitative) policy criterion that may be used as a policy tool to facilitate setting OELs at EU level for carcinogenic substances.

It is suggested that the system for setting OELs for carcinogens could be based on a cancer risk criterion.

This policy criterion would be used to define the maximum permissible exposure levels for individual carcinogenic substances.

Such objective cancer risk criteria have been, or will be, used in a number of national OEL setting approaches. These approaches, in the EU or elsewhere, should be identified and the range of objective criteria, including their underlying reasons, should be assessed and reported.

The assessment should, firstly, take account of the advantages and disadvantages of using such approaches. And, secondly, it should address the potential impact that such an approach would have if it were to be implemented at EU level.

The impact of such a cancer risk criterion should be assessed and reported. It is suggested that the likely level of such a risk criterion may be in the range of  $10^{-5}$  and  $10^{-7}$  additional risk of developing occupational cancer, based on a working lifetime. The assessment should report on the following possible numerical values being used, or other such values that the review of EU and elsewhere approaches show to be commonly used:

**$10^{-5}$**

**$10^{-6}$**

**$10^{-7}$**

The preparatory study for assessing impacts should identify where such approaches are, or have been or will be, used in other national, EU or international policy fields, for example public health, consumer protection or environment policy areas including REACH. The preparatory study for assessing impacts should report on successes and challenges of implementing these approaches in practice.

### **5.1.2 Assessment of the requirement for prevention and reduction of exposure.**

(a) Assess and report on the impact of the requirements on the prevention and reduction of exposure with a particular emphasis on the risk minimisation principle as stated in Article 5 of the Directive.

The preparatory study for assessing impacts should report on the strengths and weaknesses of the existing requirements based on criteria, including suitability, comprehensiveness and effectiveness in relation to ensuring, that when correctly implemented, workers exposure is reduced to a minimum.

(b) The preparatory study for assessing impacts should, for the situation where an EU OEL exists, report on the effectiveness of the requirements of Article 5(5) on the need to further reduce exposure to a level below that of the OEL.

### **5.1.3 Assessment of the impact of introducing additional substances, including process generated substances, in the list contained in Annex 1 of the Directive.**

Assess and report on the impact of introducing additional substances, including process generated substances, in the list contained in Annex 1 of the Directive in accordance with the legal basis foreseen in Article 2 (a) (iii)

These substances are:

- (a) Diesel Engine Exhaust Emissions; (IARC Monograph volume 46, 1989).
- (b) Respirable crystalline silica; (IARC Monograph volume 42, 1987).
- (c) Rubber process fume and dust; (IARC Monograph volume 28, 1982).
- (d) Mineral oils (as used engine oil). (IARC Monograph volume 33, 1984).

The above substances are not classified under the current EU system for classification and labeling of chemicals and, therefore, they are not included in the scope of the directive. However, they are recognised as human carcinogens by international scientific bodies including the WHO International Agency for Research on Cancer (IARC). In addition workers exposure is relatively widespread and significant.

The contractor shall provide information on technical feasibility aspects in respect to the affected sectors of economic activity that would result from the above substances being included within the scope of the directive.

In carrying out this task the contractor shall address the issues presented in 5.1.8 to 5.1.20 of this document.

### **5.1.4 Assessment of the impact of revising the OEL for hard wood dust.**

Assess and report on the impact of revising the OEL for hard wood dust. This should take account of the results of the scientific evaluation of the Scientific Committee on Occupational Exposure Limits (SCOEL).

SCOEL adopted in 2003 a recommendation on wood dust (SCOEL/SUM/102 December 2003) which the contractor shall study and take into account. In its recommendation, SCOEL states that exposure above  $0.5 \text{ mg/m}^3$  (total dust) induces pulmonary effects and should be avoided. Exposure levels lower than  $0.5 \text{ mg/m}^3$  (total dust) were associated with the induction of bronchial asthma only when the exposure was to western red cedar dust. The level of  $0.5 \text{ mg/m}^3$  (total dust) and  $1 \text{ mg/m}^3$  (inhalable dust) is probably below the levels to which the cases of sino-nasal cancers had been exposed.

The contractor shall provide information on technical feasibility aspects, in respect to the affected sectors of economic activity, of a change from the current OEL for wood dust of  $5 \text{ mg/m}^3$  (inhalable dust) to both of the following possible values:

**$1 \text{ mg/m}^3$  (inhalable dust).**

**$3 \text{ mg/m}^3$  (inhalable dust).**

The SCOEL document outlines the reason for basing the limit on the inhalable dust fraction even though, due to the nature of published epidemiological studies, it refers mainly to total dust.

The contractor should in this respect outline the benefits and drawbacks of basing a revised OEL on the inhalable dust fraction. This should include reporting on the availability of sampling and analytical methodologies together with reference to the relevant international standard for particle size definition.

In carrying out this task the contractor shall address the issues presented in 5.1.8 to 5.1.20.

#### **5.1.5 Assessment of the impact of revising the OEL for vinyl chloride monomer.**

Assess and report on the impact of revising the OEL for vinyl chloride monomer. This should take account of the results of the scientific evaluation of the Scientific Committee on Occupational Exposure Limits (SCOEL).

SCOEL adopted in November 2004 a recommendation on vinyl chloride (SCOEL/SUM/109 November 2004) which the contractor shall study and take into account. In its recommendation SCOEL states the different approaches resulted in final risk estimates which were basically consistent with one another. As a result, it was inferred from epidemiological studies that a continuous exposure for a working life to 1 ppm vinyl chloride would be associated with a cancer risk for hepatic angiosarcoma of about  $3 \times 10^{-4}$ .

The contractor shall provide information on technical feasibility aspects, in respect to the affected sectors of economic activity, of a change from the current OEL for vinyl chloride of 3 ppm to both of the following possible values:

**1 ppm**

**2 ppm.**

In carrying out this task the contractor shall address the issues presented in 5.1.8 to 5.1.20.

#### **5.1.6 Assessment of the impact of introducing OELs for additional substances in Annex III of the Directive – substances for which a SCOEL recommendation, including quantified risk levels, is available.**

Assess and report on the impact of introducing OELs for additional substances in Annex III of the Directive in accordance with the legal basis foreseen in Article 16.

These substances are:

(a) 1, 3 Butadiene (SCOEL SUM 75).

The SCOEL adopted in February 2007 a recommendation on 1,3 butadiene (SCOEL/SUM/75 February 2007) which the contractor shall study and take into account.

The contractor shall provide information on the technical feasibility aspects, in respect to the affected sectors of economic activity, of introducing an OEL for 1,3 butadiene at the following possible values:

**0.5 ppm**

**1 ppm**

**5 ppm.**

In carrying out this task the contractor shall address the issues presented in 5.1.8 to 5.1.20.

(b) Chrome VI, as chrome (SCOEL SUM 86)

The SCOEL adopted in December 2004 a recommendation on hexavalent chromium (SCOEL/SUM/86 December 2004) which the contractor shall study and take into account.

The contractor shall provide information on technical feasibility aspects, in respect to the affected sectors of economic activity, of introducing an OEL for hexavalent chromium at the following possible values:

**0.1 mg/m<sup>3</sup>**

**0.05 mg/m<sup>3</sup>**

**0.025 mg/m<sup>3</sup>**

In carrying out this task the contractor shall address the issues presented in 5.1.8 to 5.1.20.

(c) Respirable crystalline silica (SCOEL SUM 94)

The SCOEL adopted in November 2003 a recommendation on respirable crystalline silica (SCOEL/SUM/94 November 2003) which the contractor shall study and take into account.

The contractor shall provide information on technical feasibility aspects, in respect to the affected employment sectors of economic activity, of introducing an OEL for respirable crystalline silica at the following possible values:

**0.05 mg/m<sup>3</sup>**

**0.1 mg/m<sup>3</sup>**

**0.2 mg/m<sup>3</sup>**

In carrying out this task the contractor shall address the issues presented in 5.1.8 to 5.1.20.

### **5.1.7 Assessment of the impact of introducing OELs for additional substances in Annex III of the Directive – other substances.**

For these substances there is not a scientific evaluation document by SCOEL, or a SCOEL recommendation is available but it does not suggest a quantified level of risk.

For each substance the contractor should, so far as is possible, address the technical feasibility aspects for the affected employment sectors and the common consideration questions.

In addition, the contractor should, where they exist, identify the numerical value of adopted OELs at national level in the EU Member States, and elsewhere. Based on these numerical values the contractor should assess, for each substance, the impact that the most commonly adopted value, or range of values, would have if adopted at EU level.

In carrying out these tasks the contractor shall address the common consideration questions, 5.1.8 to 5.1.20.

The substances to be assessed are:

	<b>CHEMICAL</b>	<b>Synonyms</b>	<b>CAS</b>	<b>IARC Monograph Volume</b>
(a)	1,2 Dichloroethane	Ethylene dichloride	107-06-2	71, p.501,1999
(b)	1,2-Dibromoethane	Ethylene dibromide	106-93-4	60, p.73, 1994
(c)	1,2-Epoxypropane	Propylene oxide	75-56-9	60, p.181,1994
(d)	1-Chloro-2,3-epoxypropane	Epichlorhydrine	106-89-8	71, p.267, 2000
(e)	2-Nitropropane	Dimethylnitropropane	79-46-9	71, p.1079,1999
(f)	4,4 Methylene bis 2-chloraniline	MOCA; MBOCA	101-14-4	57, p.271,1993
(g)	4,4' Methylenedianiline*	MDA	101-77-9	39, p.347,1986
(h)	Benzo-a-pyrene		50-32-8	32, p.225, 1983
(i)	Beryllium and beryllium compounds			58, p.41,1993
(j)	Bromoethylene	Vinyl bromide	593-60-2	19, p.377,1979
(k)	Ethylene oxide	Epoxyethane	75-21-8	60, p.73,1994
(l)	Hexachlorobenzene	Perchlorobenzene	118-74-1	79, p.493,2001
(m)	Hydrazine		302-01-2	71, p.991,1999
(n)	o-Toluidine	2-amino-1-methylbenzene	95-53-4	77, p.267, 2000
(o)	Refractory ceramic fibres	RCF		81, 2002
(p)	Trichloroethylene*	TRI	79-01-6	63, p.75,1995
(q)	Acrylamide*	Prop-2-enamide	79-06-1	60, p.389,1994

For substances marked with a \* this denotes that a SCOEL Recommendation exists as an adopted or near final text.

**Common considerations of the Health, Social, Economic and Environmental Preparatory study for assessing impacts**

**The following common considerations, 5.1.8 to 5.1.20, should be addressed for each of the policy options in 5.1.3 to 5.1.7.**

**5.1.8** Provide an overview at EU level of occupational exposure to these substances and process generated substances (hereafter referred to as substances). In carrying out this task the contractor should:

(a) Identify the number of workers exposed to the substances within the scope of the study in all sectors of economic activity at EU-level,

(b) Where feasible identify the approximate number of workers exposed to the substances per sector of economic activity, by occupation, by size of employer and the typical levels of exposure.

(c) If appropriate, identify the significant disparities at national level.

**5.1.9** Specify the typical adverse health effects that result from this exposure including:

- (a) The extent to which occupational exposure to these substances affects the health and safety of workers.
- (b) Identification of the main adverse effects from the workers' exposure to these substances. Attempt to quantify in economic terms the adverse effects.
- (c) Identification of the number of occupational cancers associated with exposure to the substances and quantify their direct and indirect costs to the EU economy.

**5.1.10** Assess the possible benefits of the proposed amendments of the directive in terms of reduced absenteeism, ill-health and disability compensations.

**5.1.11** Assess the extent to which possible amendments of the directive in relation to the substances mentioned in tasks 5.1.3 to 5.1.7 increase or decrease the likelihood of health risks for workers and to what extent are changes in exposure patterns likely to occur.

**5.1.12** Identify particular groups of workers affected by this exposure determined by age, gender and to outline benefits and drawbacks for each of the groups following a possible amendment of the Directive in relation to these substances.

**5.1.13** Assess the possible costs of:

- (a) Not extending the scope of Annex 1, as foreseen in policy option 5.1.3.
- (b) Maintaining the numerical value of the existing OELs at their present values, i.e. not changing them as foreseen in policy options 5.1.4 and 5.1.5.
- (c) Not introducing the additional OELs, as foreseen in policy options 5.1.6 and 5.1.7.

**5.1.14** Assess the impact on operating costs and conduct of business.

- (a) What kind of compliance costs will the amendments impose on employers?
- (b) Will they entail stricter regulation of the conduct of employers?
- (c) Will they lead to the closing down of companies?
- (d) Are some employers (for example SMEs) treated differently from others in a comparable situation?
- (e) What kind of administrative costs will the amendments impose on employers and public authorities?

Concerning the administrative costs, the contractor shall apply, if considered feasible, the approach defined in the Commission working document SEC (2005) 175 "Detailed outline of a possible EU Net Administrative Cost Model".

**5.1.15** Assess the impact on innovation and research.

- (a) Do the amendments stimulate or hinder research and development?
- (b) Do they facilitate the introduction and dissemination of new production methods, technologies and products?

**5.1.16** Assess the impact on sectors of economic activity.

- (a) Do the amendments have significant effects on certain sectors of economic activity?
- (b) Do they have specific consequences for SMEs?

**5.1.17** Assess the impact on employment and labour markets

Do the possible amendments facilitate or restrict restructuring, adaptation to change and the use of technological innovations in the workplace?

**5.1.18** Assess the macroeconomic impact.

What are the overall consequences of the amendments for economic growth and employment?

**5.1.19** Provide answers on the impacts at EU-level, if appropriate significant disparities at national level shall be identified.

**5.1.20** Assess the impact on the environment.

Analyse, where possible, to which extent the proposed amendments could imply the release of these substances to the environment and what impact it could have on the ecosystem i.e. air, soil and water quality as well as on plants and animals.

**5.2 Methodological remarks**

The contractor will indicate the methodology he intends to use, the rigour of the approach envisaged and how suitable it is for carrying out the tasks. The rigour of the proposed approach and its suitability for correctly reflecting the actual situation form part of the elements governing the award of the contract.

The contractor will also indicate which persons and entities (social partners, national, regional and local authorities in the Member States, enterprises or non-governmental organisations) will be contacted in the process of the study and how the information provided by them will be in this analysis.

**5.3 Guide on how the activities shall be carried out**

The PROGRESS Programme aimed 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:

- Gender equality issues are taken into account when relevant for the drafting of the technical offer/proposal by paying attention to the situation and needs of women and men;
- Implementation of the requested tasks includes a gender perspective by considering systematically women and men dimension;
- Performance monitoring includes the collection and gathering of data disaggregated by sex when needed.
- its proposed team and/or staff respects the gender balance at all levels.

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, conference, 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, 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.

## **6. PROFESSIONAL QUALIFICATIONS REQUIRED**

*See also Annex IV of the draft contract*

### Additional requirements:

The contractor should have a proven capability to carry out the tasks related to the evaluation of the health and socio-economic impact of employment legislation in the field of occupational safety and health at EU level. This should be based on a multi-disciplinary staff and/or access to external experts on a wide range of relevant disciplines, for example, economics, occupational health and safety, occupational hygiene, occupational medicine, toxicology, epidemiology, chemistry and workplace chemical risk assessment and management.

## **7 TIME SCHEDULE AND REPORTING**

*See also Article I.2. of the draft contract.*

### **7.1 Specific deadlines for the performance of tasks:**

The contractor shall provide a final report comprising a comprehensive preparatory study for assessing impacts of each of the tasks mentioned in point 5 of the present technical specifications.

The work must be carried out within **14** (fourteen) months from the date on which the contract is signed. It shall cover the following steps:

1. Within ten days of signing the contract, the contractor will present to the European Commission (Unit EMPL F/4 in Luxembourg) his plan of work and the methodology he intends to use, as well as the timetable laid down.
2. Within 5 (five) months of signing the contract, the contractor will present to the European Commission (Unit EMPL F/4) an interim report describing progress in relation to the timetable laid down, together with a summary of results obtained so far. The interim report should be in English.
3. Nine months after signature of the contract, the contractor will present to the European Commission (Unit EMPL F/4) a draft final report, which will include the elements referred to point 5 of the present technical specifications, along with a brief summary of the main results obtained. The report should be in English.
4. The European Commission (Unit EMPL F/4) will examine the draft final report and notify the contractor of possible objections or comments to be made within 60 (sixty) days of receipt of this draft final report.
5. The contractor will have 30 (thirty) days to provide the final report taking into account, where appropriate, the objections or comments made by the European Commission (Unit EMPL F/4).
6. Within 60 (sixty) days of return of the final report, and in the absence of objections and/or comments by the European Commission (Unit EMPL F/4), the contractor will submit the final report in English and French and three paper copies in each language version, as well as in electronic format.

## **7.2 Publicity and information requirements**

- 1.- As a matter of principle, with a view to favouring valorisation by the European Commission of all results obtained and outputs delivered under PROGRESS programme, the Contractor will be required to provide - either upon specific request or in any event with the final activity report - for each of the tasks required under the present Call the following:
  - Presentation of their key points in one page. Key points should be concise, sharp and easily understandable. They shall be provided in English, French and German. Other Community languages would be welcome even if not compulsory.
  - And an executive summary in 5/6 pages in English, French and German unless otherwise more precisely described in the section "tasks to be carried out".
- 2.- In accordance with the General conditions, the Contractor is under the obligation 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 for under the European Community Programme for Employment and Social Solidarity (2007-2013). This programme is managed by the Directorate-General for Employment, social affairs and equal opportunities of the European Commission. It was established 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.*

*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-EEA and EU candidate and pre-candidate countries.*

*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 will be instrumental in:*

- *providing analysis and policy advice on PROGRESS policy areas;*
- *monitoring and reporting on the implementation of EU legislation and policies in PROGRESS policy areas;*
- *promoting policy transfer, learning and support among Member States on EU objectives and priorities; and*
- *relaying the views of the stakeholders and society at large.*

*For more information see:*

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

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

With regard to publication and any communication plan linked to the present service, the Contractor will insert the European Union logo, and if 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.

### **7.3 Reporting requirements**

PROGRESS will be implemented through a results-based management - RBM. Managing for outcomes and results is about working to maximise results for European citizens. This includes:

- Identifying the most important results for European citizens;
- Managing for these results, including setting clear desired results, implementing plans based upon these results and learning about 'what works' in the process;
- Seizing opportunities to work together whenever this helps achieve the results.

As a first step, a Strategic Framework for the implementation of PROGRESS has been developed in collaboration with Member states and organisations from the civil society. The Strategic Framework provides the framework for implementing PROGRESS, complemented by the Performance Measurement, which defines PROGRESS mandate, its long-term and specific outcomes. See in Annex the overview of PROGRESS performance measurement framework. For more information on the strategic framework, please visit PROGRESS website.

The Commission will in that context monitors the effect of PROGRESS supported or commissioned initiatives and considers how these initiatives contributes to PROGRESS outcomes as defined in the Strategic Framework. In that context, the Contractor will be asked to loyally work in close cooperation with the Commission and/or persons authorised by it to define their expected contributions and the set of performance measures against which their contribution will be assessed. The Contractor will be asked to collect and report on its own performance on a regular basis to the Commission and/or persons authorised by it. In addition, the Contractor will make available to the Commission and/or persons authorised by it all

documents or information that will allow PROGRESS performance measurement to be successfully completed and to give them the rights of access.

## **8. PAYMENTS AND STANDARD 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".

### **8.1 Pre-financing**

Once the contract has been signed by the last contracting party, and within 30 days of the receipt of a request for pre-financing accompanied by a corresponding invoice, a pre-financing payment equal to 30% of the total amount referred to in Article 1.3.1 of the standard contract will be transferred.

### **8.2. Interim payment**

The contractor can request an interim payment which shall be admissible if accompanied by:

- an interim technical report in accordance with the instructions laid down in section 7 of these specifications
- the relevant invoices,  
provided the report has been approved by the Commission.

The Commission shall have 60 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 1.3.1. of the draft contract shall be made.

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

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

- a final technical report in accordance with the instructions in section 7,
- the corresponding invoices,
- statements of reimbursable expenditure in accordance with Article II.7 of the standard contract.

provided the report has been accepted by the Commission.

The Commission shall have 60 days from receipt to accept or reject it, 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 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.

### ***Part A: Professional fees and direct costs***

- Fees, expressed as the number of person-days multiplied by the unit price per working day for each expert proposed. The unit price should cover the experts' fees and administrative expenditure, but not the reimbursable expenses referred to below.
- Other direct costs (for example: translation costs)

### ***Part B: Reimbursable expenses***

- Travel expenses (other than local transport costs)
- Subsistence expenses of the Contractor and his staff (covering the expenditure incurred by experts on short-term trips outside their normal place of work)
- Expenses for the shipment of equipment or unaccompanied luggage, directly connected with performance of the tasks specified in Article I.1 of this Contract
- Contingencies

Total price = Part A + Part B **with a maximum of 500,000 €**

## 10. GROUPINGS OF ECONOMIC OPERATORS OR CONSORTIA

Tenders can be submitted by groupings of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but the consortium selected may be required to assume a given legal form when it has been awarded the contract if this change is necessary for proper performance of the contract<sup>1</sup>. However, a grouping of economic operators must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The

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<sup>1</sup> These entities can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

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

documents required and listed in the following points 11 and 12 must be supplied by every member of the grouping.

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

## **11. 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) they are currently subject to an administrative penalty referred to in Article 96(1)<sup>2</sup>.

### **Article 94 :**

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

- a) are subject to a conflict of interest;
- b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information<sup>3</sup>.

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<sup>2</sup> "Article 96(1) : the contracting authority may impose administrative or financial penalties on the following :

a) candidates or tenderers in the cases referred to in point (b) of Article 94;  
b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget. (...)"

<sup>3</sup> Cf. Article 146(3) of the FR Implementing Rules: « ...the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within the time limit it

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

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specifies. » and Article 178(2) of the FR Implementing Rules: « The evaluation committee may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, in particular in the case of obvious clerical errors. »

## 12. SELECTION CRITERIA

All bids must also contain the documents listed below, testifying to the tenderer's financial and economic standing, technical capability and professional qualifications. In particular, the European Commission will verify:

### 12.1. Financial and economic standing: on the basis of the following documents:

- turnover during the previous financial year (statement on the overall turnover – at least twice the value of the contract – (i.e. 2 x EUR 500,000);
- balance sheets and profit and loss accounts for the past three financial years, if the legislation of the country in which the tenderer is established requires them to be published;
- regular accounts for the quarter preceding that in which the notice of invitation to tender was published, if the full accounts for the previous financial year are not yet available.

### 12.2 Technical capability of the tenderer:

- a description of the tenderer's technical capability and practical experience in the field referred to in sections 3, 5 and 6 of these specifications. For consortia of companies or groups of service providers, this description must relate specifically to the tasks to be performed by each of their various members;
- the tenderer must provide the names and curricula vitae (three pages maximum) of the persons responsible for the specific tasks described in section 5 of these specifications, with a view to ascertaining their practical experience and their ability to communicate with the undertakings and/or establishments;
- a description of the parts of the services to be provided by each consortium of companies or groups of service providers (where applicable).

## 13. AWARD CRITERIA

Taking the bids which meet the requirements of sections 11 and 12 above, the contract will be awarded on the basis of best value for money, taking account of the following criteria:

- |  |     |
|--|-----|
| - understanding of the objectives and tasks:   | 20% |
| - quality and consistency of the methodological approach (including ability to give proper consideration to the actual situation): | 40% |
| - quality of the work plan proposed:   | 20% |
| - organisation of the work and management of the project:  | 20% |

The contract will **not** be awarded to a tenderer whose bid receives less than (70%) for 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

Tenders must include:

- all information and documents necessary to enable the Commission to appraise the bid on the basis of the selection and award criteria set out in sections 12 and 13 of these specifications;
- they must include all the information required by the Commission (see sections 9, 10, 11 of these specifications),
- a bank ID form duly completed and signed by the bank;
- a "legal entity" form duly completed;
- the price;
- the detailed CVs of the proposed experts;
- the name and function of the contractor's legal representative (i.e. the person authorised to act on behalf of the contractor in any legal dealings with third parties);
- proof of eligibility: tenderers must indicate the State in which they have their registered office or are established, providing the necessary supporting documents in accordance with their national law;
- the plan of work, timetable and the description of the approach intended to apply (see section 7.1).

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

- Bids must be submitted in triplicate (i.e. one original and two copies).
- They must be clear and concise.
- They must be signed by the legal representative.
- They must be submitted in accordance with the specific requirements of the invitation to tender, within the deadline laid down.

## Annex I

Exclusion criteria (Article 93(1) FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded	
	Procurement (Article 93(2) FR; Article 134 IR)	
<b>1. Exclusion from a procurement procedure, Article 93(1) FR :</b> <i>« Candidates or tenderers shall be excluded from participation in a procurement procedure if:</i>		
<b>1.1. (subparagraph a)</b> <i>they are bankrupt or being wound up,</i>  <i>are having their affairs administered by the courts,</i>  <i>have entered into an arrangement with creditors have suspended business activities, are the subject of proceedings concerning those matters,</i>  <i>or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations<sup>4</sup>;</i>	– Recent extract from the judicial record <b>or</b> recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance <b>or</b> – Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	–
<b>1.2. (subparagraph b)</b> <i>they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata<sup>5</sup>;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
<b>1.3. (subparagraph c)</b> <i>they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;</i>	Declaration by the candidate or tenderer that he is not in the situation described	
<b>1.4. (subparagraph d)</b> <i>they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed<sup>6</sup>;</i>	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described <b>or</b> – Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	
<b>1.5. (subparagraph e)</b> <i>they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests<sup>7</sup>;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
<b>1.6. (subparagraph f)</b> <i>they are currently subject to an administrative penalty referred to in Article 96(1)<sup>8</sup>. »</i>	Declaration by the candidate or tenderer that he is not in the situation described	

<sup>4</sup> See also Article 134(3) IR : Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to in paragraphs 1 and 2 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

<sup>5</sup> Cf. footnote n° 4.

<sup>6</sup> Cf. footnote n°4.

<sup>7</sup> Cf. footnote n° 4.

<sup>8</sup> Article 96(1) FR: The contracting authority may impose administrative or financial penalties on the following:

(a) candidates or tenderers in the cases referred to in point (b) of Article 94;

(b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.

Exclusion criteria (Article 94 FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded.	
	Procurement	Grants
<b>2. Exclusion from a procurement or grant award procedure Article 94 FR :</b> « <i>Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:</i>		
<b>2.1. (subparagraph a)</b>  <i>are subject to a conflict of interest;</i>	Statement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal	
<b>2.2. (subparagraph b)</b> <i>are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information»<sup>9</sup>.</i>	<ul style="list-style-type: none"> <li>– No specific supporting documents to be supplied by the applicant, tenderer or bidder</li> <li>– It is the responsibility of the authorising officer, represented by the evaluation committee, to check that the information submitted is complete<sup>10</sup> and to identify any misrepresentation</li> </ul>	

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<sup>9</sup> Cf. Article 146(3) of the FR Implementing Rules: « ...the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted in connection with the exclusion and selection criteria, within a specified time-limit. » and Article 178(2) of the FR Implementing Rules: « The evaluation committee may ask an applicant to provide additional proof or to clarify the supporting documents establishing financial and operational capacity, within a specified time-limit. »

<sup>10</sup> Cf. footnote n°9

## **Annex II**

### **Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest**

The undersigned [*name of the signatory of this form, to be completed*]:

- in his/her own name (*if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator<sup>11</sup>*)  
or
- representing (*if the economic operator is a legal person*)

official name in full (*only for legal person*):

official legal form (*only for legal person*):

official address in full:

VAT registration number:

declares that the company or organisation that he/she represents / he/she:

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;
- e) has not 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) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

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<sup>11</sup> To be used depending on the national legislation of the country in which the candidate or tenderer is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract.
- k) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.
- l) that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above<sup>12</sup>.

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the tenderer is a legal person and the national legislation of the country in which the tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the tenderer.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not 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.]

By signing this form, the undersigned acknowledges that they have been acquainted with the administrative and financial penalties described under art 133 and 134 b of the Implementing Rules (Commission Regulation 2342/2002 of 23/12/02), which may be applied if any of the declarations or information provided prove to be false.

Full name	Date	Signature
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<sup>12</sup> Mandatory for contracts of value above €133 000 only (see art. 134(2) of the Implementing Rules). The contracting authority can nevertheless request such evidence for contracts with a lower value.

**Annex III** : Overview of PROGRESS performance measurement framework