Specifications – Open invitation to tender No VT/2010/013

Study service contract to analyse and evaluate the health, social, economic and environmental impact of a possible amendment of certain EC directives on health and safety at work as a result of the adoption of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

1. TITLE OF CONTRACT

Study service contract to analyse and evaluate the health, social, economic and environmental impact of a possible amendment of certain EC directives on health and safety at work as a result of the adoption of Regulation (EC) No 1272/2008[1] on classification, labelling and packaging of substances and mixtures.

2. BACKGROUND

2.1. PROGRESS introduction

PROGRESS[2] is the EU's employment and social solidarity programme, set up to provide financial support for the attainment of the European Union's objectives in employment, social affairs and equal opportunities as set out in the Social Agenda[3]. 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 PROGRESS mission is to strengthen the EU's contribution in support of Member States' commitments and efforts to create more and better jobs and to build a more cohesive society. To this 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 supports:

- The implementation of the European Employment Strategy (section 1);
- The implementation of the open method of coordination in the field of social protection and inclusion (section 2);
- The improvement of the working environment and conditions including health and safety at work and reconciling work and family life (section 3);

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[1] Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006. OJ L 353, 31.12.2008, p. 1.

[2] Decision No 1672/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Community Programme for Employment and Social Solidarity — Progress, JO L 315 of 15.11.2006.

[3] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Renewed social agenda: Opportunities, access and solidarity in 21st century Europe COM/2008/0412 final of 02.07.2008.

- The effective implementation of the principle of non-discrimination and promotion of its mainstreaming in all EU policies (section 4);
- 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 2010 annual work plan which can be consulted at :

http://ec.europa.eu/social/main.jsp?catId=658&langId=fr.

2.2. Background information specific to this contract

2.2.1 Purpose

The purpose of this study is to assess the health, social, economic and environmental impact of the possible amendment of five directives on health and safety at work. These amendments would reflect new requirements laid down for classification, labelling and packaging of chemicals as a result of the adoption of Regulation (EC) No 1272/2008 in order to implement, within the European Union, the United Nations Globally Harmonised System of Classification and Labelling of Chemicals.

Five EU directives on health and safety at work refer to classification and labelling requirements for chemicals. The five directives concern chemicals including carcinogens and mutagens, safety signs and two specific categories of workers, namely pregnant or breastfeeding workers and young persons. The full titles and references of these directives are provided at Section 3 which details the scope of this study. The references to classification and labelling in the Directives define either the scope or specific requirements of the directives. The principle underlying the need to consider amending these five directives is to ensure that the current level of worker protection is maintained.

2.2.2 The general context

The Globally Harmonised System of Classification and Labelling of Chemicals (GHS) is a United Nations system to identify hazardous chemicals and to inform users about the related hazards by means of standard symbols and phrases on packaging labels and to communicate relevant information within safety data sheets (SDS).

Following successful negotiations on the proposal, the European Parliament and the Council adopted Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures ('the CLP Regulation') on 16 December 2008. This Regulation aligns the EU system for classification, packaging and labelling of chemical substances and mixtures with the United Nations Globally Harmonised System (GHS)[4] and was published in the Official Journal on 31 December 2008.

The CLP Regulation entered into force on 20 January 2009. The deadlines for classification in accordance with the new rules will be 1 December 2010 for substances and 1 June 2015 for mixtures. The CLP Regulation will ultimately replace the current rules on classification, labelling

[4] The Globally Harmonised System of Classification and Labelling of Chemicals (GHS) provides a harmonised basis for globally uniform physical, environmental and health and safety information on hazardous chemical substances and mixtures. In its Plan of Implementation, adopted in **Johannesburg** on 4 September 2002, the **World Summit on Sustainable Development** encouraged countries to implement the harmonised system as soon as possible, with a view to making it fully operational by 2008.

and packaging of substances (Directive 67/548/EEC[5]) and preparations (Directive 1999/45/EC[6]) after the transition period provided for in Article 61 of the same Regulation.

The CLP Regulation is expected to facilitate global trade and harmonised communication of information on hazards posed by chemicals and to promote regulatory efficiency. It will complement the new 'REACH Regulation' (Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals[7]).

Implementation of the GHS in the European Union via the CLP Regulation will require companies to classify, label and package their substances and mixtures appropriately before placing them on the market after a transition period when the two systems will be in force side by side. It aims to protect workers, consumers and the environment by means of labelling indicating possible hazardous effects of any particular chemical.

The safety data sheets provided by chemical suppliers are a major source of information for employers and workers. Transitional arrangements will also apply to the legislative requirements applicable to safety data sheets.

2.2.3 Impact of adoption of the EC Regulation on classification, labelling and packaging of chemicals on downstream EU legislation including directives on health and safety at work

Classification of substances and preparations (in the GHS the term 'mixtures' is used) triggers other obligations in downstream EC legislation. The Commission departments concerned have assessed the potential effects of application of the GHS criteria on downstream legislation[8].

They concluded that the effects are either minimal or can be minimised by appropriate changes to particular downstream legislation. The CLP Regulation itself includes such changes to the REACH Regulation. Separate amendments have been adopted to implement the CLP Regulation in other downstream European Union legislation.

However, these amendments of downstream legislation did not address the five directives on health and safety at work which refer to the existing European Union system for classification and labelling of chemicals (Directives 67/548/EEC on substances and 1999/45/EC on preparations) as a means of defining the scope or specific requirements of the directives.

Therefore, it is necessary to consider the need to amend the directives on health and safety at work in order to ensure that the requirements which depend on the European Union classification system for chemicals continue to apply. Any such amendment should align the directives with the changes made to the classification and labelling system for chemicals by the CLP Regulation and, preferably, this should carried out before the end of the transition periods foreseen in the CLP Regulation.

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5 Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labeling of dangerous substances OJ 196 , 16/08/1967 P. 0001 - 0098

6 Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations OJ L 200, 30.7.1999, p. 1–68

7 Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC.

8 Analysis of the potential effects of the proposed GHS Regulation on its downstream EU legislation (DG Enterprise) and addendum.
http://ec.europa.eu/enterprise/sectors/chemicals/files/ghs/ghs_sc_study_final_and_addendum_101207_en.pdf

The adoption of the CLP Regulation results in running two classification and labelling systems for chemicals (the existing European Union system and the GHS system as implemented in the European Union by the CLP Regulation) side by side for a set period. The first transition period provided for in the CLP Regulation ends on 1 December 2010 and applies to individual substances. Thereafter a second transition period, lasting until the 1 June 2015, will apply to mixtures of individual substances.

On the 9th of December 2009, the European Commission decided to launch the first stage consultation of the social partners at Community level on the amendment of certain EU Health and Safety at Work Directives arising from the adoption of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures (CLP). The text of this consultation is relevant to this study[9].

For the purposes of this study, it should be also taken into account that, as mentioned in the text of the abovementioned consultation, the Commission intends to use this opportunity to make several minor amendments to the Annex of Directive 94/33/EC[10] (Young People at Work) in order to reflect changes to certain EU legal texts that are referenced in the Annex to this directive. In this respect, it must be observed that Section I point 2 (Biological agents) and Section II point 1 of the Annex refer respectively to Directive 90/679/EEC and Directive 90/394/EEC, which have been repealed respectively by Directive 2000/54/EC[11] and Directive 2004/37/EC[12]. At the same time, the above provisions of the Annex refer to certain provisions of the former Directives. Although the new Directives are accompanied by the correlation tables referring to the relevant provisions of the repealed Directives, it would be useful to further amend the Annex to the Directive 94/33 with the aim of clarifying its wording.

3. SUBJECT AND SCOPE OF THE CONTRACT

3.1. Subject of the study

3.1.1 This study will assess the health, social, economic and environmental impacts which are due to the introduction of the CLP Regulation on the five occupational safety and health directives which make use of classification and labelling criteria. The study shall report both on each of the five directives individually and collectively.

The study will address the situation in the EU Member States together with the countries which are not EU Member States but which form part of the European Economic Area.

3.1.2 The study will include the identification of the key changes to the chemical classification system at EU level which are relevant to each of the five directives listed in point 3.1.6. This information will be presented in the study report and will also be used when developing the guidance document and awareness raising information (task 3.1.5).

3.1.3 The assessment will take account of the fact that at the end of the transitional period set out in the CLP Regulation, Directives 67/548/EEC and 1999/45/EC will be repealed. In particular, this assessment will aim to clarify whether it is sufficient to replace the references to the current classification and labelling criteria as set out in Directives 67/548/EEC and 1999/45/EC by references to the CLP Regulation or whether other or additional actions should be taken.

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[9] First-stage consultation of the European social partners on amendment of certain EC directives on health and safety at work as a result of adoption of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures
http://ec.europa.eu/social/keyDocuments.jsp?type=50&policyArea=0&subCategory=0&country=0&year=0&advSearchKey=&mode=advancedSubmit&langId=en

[10] OJ L 216, 20.8.1994, p.12.

[11] OJ L 262, 17.10.2000 p.21

[12] OJ L 229, 29.6.2004, p.23

The earlier (i.e. pre-CLP Regulation) EU classification and labelling system was set out in Council Directive 67/548/EEC and Directive 1999/45/EC. These acts define hazard criteria for the classification and labelling of substances and preparations placed on the market. Many other Regulations and Directives addressing specific sectors or products refer to the classification criteria as conditions for obligations in these Community acts. Therefore, these acts are considered "downstream legislation". They either refer to the classification in general, or to selected hazards or Risk phrases.

3.1.4 The study will also develop a baseline scenario. This scenario will also help support an analysis of the effects generated by health and safety action, and as regards Directive 94/33/EC, the development of young people at work, prior to the entry into force of the CLP Regulation.. This is to provide an overview of the successes and challenges of the use of classification and labelling information by employers and workers when addressing the effective management of workplace chemical risks.

3.1.5 The study report will include a section on a model guidance document and supporting awareness raising information that can be used to inform employers and workers on the key changes, relevant for occupational safety and health, introduced by the adoption of the CLP Regulation. The model guidance should be presented in a style that will help employers with their obligations to ensure that chemical risks can be adequately controlled at the workplace. The potential use of this, and other, guidance is linked to the non-binding policy option that will be evaluated during this study.

This should be a free standing guidance document which has the objective of providing practical support to employers and workers at the workplace level. It will not form an integral part of the future Impact Assessment document.

3.1.6 The directives

The five directives on health and safety at work, and the relevant sections that refer to classification of chemicals, are:

1 **Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work[13] (fourteenth individual Directive within the meaning of Framework Directive 89/391/EEC[14]).**

Article 2 defines the scope of the directive by means of the term 'hazardous chemical agent', which, in turn, is defined by referring to the relevant EC directives on classification and labelling of chemicals.

2 **Directive 2004/37/EC of the European Parliament and of the Council on the protection of workers from the risks related to exposure to carcinogens or mutagens at work[15] (sixth individual Directive within the meaning of Framework Directive 89/391/EEC).**

Article 2 defines the scope of the directive by means of the terms 'carcinogen' and 'mutagen', which, in turn, are defined by referring to the relevant EC directives on classification and labelling of chemicals.

3 **Council Directive 92/58/EEC on the minimum requirements for the provision of safety and/or health signs at work[16] (ninth individual Directive within the meaning of Framework Directive 89/391/EEC).**

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13 OJ L 131, 5.5.1998, p. 11.
14 OJ L 183, 29.6.1989, p. 1.
15 OJ L 229, 29.6.2004, p. 23.
16 OJ L 245, 26.8.1992, p. 23.

Annex III, item 1 refers to the relevant EC directives on classification and labelling of chemicals.

4 Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding[17] (tenth individual Directive within the meaning of Framework Directive 89/391/EEC).

Annex I, item 3 on chemical agents refers to risk phrases in the relevant EC directives on classification and labelling of chemicals.

5 Council Directive 94/33/EC on the protection of young people at work[18]. This is an independent directive (i.e. it is not an individual Directive within the meaning of Directive 89/391/EEC).

Item 3 in section I of the Annex on chemical agents refers to the relevant EC directives on classification and labelling of chemicals.

3.2 The Objectives for the purposes of the Impact Assessment

For the purposes of this study the objectives to be addressed by the Impact Assessment are as outlined below:

The general objectives are the protection of workers' health and safety in accordance with the Article 153.1(a) of the Treaty on the Functioning of the European Union (FEU Treaty) (ex-Treaty on European Union Article 137.1(a)) whereby the Community shall support and complement the activities of the Member States in the improvement of the working environment. Under Article 153.2 FEU Treaty (ex-Article 137.2 TEU) the Commission may propose directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The specific objective is to ensure that, following the adoption of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures, an appropriate occupational safety and health legal and supporting framework is in place to enable workers health and safety to be protected from risks due to exposure to chemicals at the workplace.

The operational objective is to create the appropriate operational conditions for employers to take effective practical measures at individual workplace level to facilitate the protection of workers from risks to their health due to exposure to chemicals at the workplace.

3.3 The Policy options

The policy options to be evaluated concern the protection of the health of workers from risks arising from exposure to chemicals at the workplace. They are:

For each of the five directives the four policy options to be studied are:

1) Maintain the baseline scenario which would be based on taking no action at EU level to amend the five directives and to maintain the text of the current legislative framework as it currently exists.

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[17] OJ L 348, 28.11.1992, p. 1.
[18] OJ L 216, 20.8.1994, p. 12.

2) Binding legislative action at EU level: To propose a new legislative instrument taking the form of a Directive adopted on the basis of Article 153 of the Treaty on the Functioning of the European Union, laying down the necessary changes to the five directives to align those parts of the directives that refer to chemical classification issues to the current EU legal situation following to the adoption of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

3) Binding legislative action (as per policy option 2 above) combined with non-binding actions and campaigns which would be addressed to employers and workers.

4) Binding legislative action at EU level to remove the linkage between the EU chemical classification system and the requirements of the five directives. Instead the scope and other requirements should be referred to by the use of descriptor words such as "hazardous chemical agent", "carcinogen", "mutagen" without further qualification, together with other such suitable descriptors which may be necessary to align with the current requirements of the directives.

In order to give a comprehensive view on the situation that could result from the adoption of a specific new directive, and other policy options as described above, the contractor will have to accomplish the different tasks specifically mentioned under section 5 for each of the five directives.

Furthermore, the contractor will prepare a draft model guidance document and supporting information material, which could be used as the basis for an awareness raising campaign, as described in section 5.

3.4 Scope of the Impact Analysis

The results of this 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. The contractor should understand and comply with the requirements of the Impact Assessment Guidelines published by the European Commission. At the principle level this includes the three major steps of:

Step 1 The identification of health, social, economic, and environmental impacts.

Step 2 The qualitative assessment of the significant impacts.

Step 3 The in-depth qualitative and quantitative analysis of the most significant impacts.

The study should take account of scientific, technical, health, social, economic and environmental aspects of communicating and using chemical classification and labelling information and should identify and report on relevant sector specific issues.

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 Union 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.

5. TASKS TO BE CARRIED OUT BY THE CONTRACTOR

5.1 General tasks

5.1.1 The contractor shall carry out all of the tasks and present the results in a detailed way for each of the five directives on an individual basis together with an integrated summary of the collective analysis of the impacts. This work shall be carried out in accordance with the European Commission Guidelines on Impact Assessment[19].

5.1.2 The contractor shall address three key areas, namely:

1. Definition of problem

2. Baseline scenario

3. Analysis of impacts

5.1.3 The contractor shall clearly identify and assess the impacts arising from each of the policy options including their impact on employers, workers and competent national authorities at EU level and at the level of European Economic Area. Where a very specific situation may exist in an individual Member State, and which is relevant for this study, it should be mentioned in the report. In carrying out the study the contractor shall give emphasis to the legal and practical consequences of amending, or not amending, the directives to reflect changes in chemical classification and labelling requirements arising from the adoption of the CLP Regulation.

5.1.4 The contractor shall give emphasis to the practical implementation of the principle of using chemical classification and labelling information at the workplace for the purposes of contributing to the protection of the health and safety of workers. For example, the impact that classification and labelling information has on the ability of the employer to carry out a workplace risk assessment and to introduce proportionate and effective risk management measures.

5.1.5 The contractor shall identify successes and challenges regarding the use of chemical classification and labelling information by employers and workers for both the pre and post CLP Regulation scenarios. The contractor, in cases where he identifies challenges relating to the practical use of this information, may make suggestions on how these challenges could be overcome. Similarly, where successes are identified in one specific area, then suggestions on how to encourage a broader utilisation of these successful approaches should be included in the report.

5.1.6 The study report, including the model guidance document and supporting information, shall include examples of real situations, including case studies, to support the observations and remarks presented by the contractor. Where possible, the examples chosen should include an assessment, in broad terms, of the administrative and technical burden and costs of using classification and labelling information as part of an overall chemicals risk management approach at the workplace.

5.1.7 The study report shall include any suggestions and recommendations made, both by employers (including undertakings and bodies in the public sector), by workers and/or their representatives and occupational safety and health professionals which could improve the practical

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19 EC IA Guidelines
http://ec.europa.eu/governance/impact/commission_guidelines/docs/iag_2009_en.pdf

Annexes http://ec.europa.eu/governance/impact/commission_guidelines/docs/iag_2009_annex_en.pdf

use of chemical classification and labelling information in workplace health and safety risk management.

5.1.8 The report and draft guidance document must include and apply well justified responses to the tasks of this contract.

5.1.9 Special attention must be given to SMEs and to micro-sized organisations.

5.1.10 The study must take account of any particularities relating to the age or sex of workers or other broad grouping of worker.

5.2 Specific tasks

The contractor shall also perform the following specific tasks in relation to the elements of the study.

5.2.1. Defining the problem

The five directives include requirements that are dependant on the EU system for the classification and labelling of chemicals. This system is in the process of changing as a result of the adoption of the CLP Regulation. As a consequence certain of the legal requirements of the five directives will be affected and this will have a potential impact on the protection of the health and safety of workers at the workplace.

It is necessary to assess this impact with a view to considering a range of possible actions that will ensure a continued appropriate level of protection of workers health and safety.

The contractor shall identify in detail the changes to the chemical classification and labelling system and present this information in so far as it is relevant for the five directives addressed by this study. This will include a summary of the main changes to chemical classification and labelling requirements with cross references between the pre-CLP and CLP situation for each of the chemical classification related requirements of the five directives. The document prepared by DG Enterprise on a general comparison between EU and GHS criteria provides background information relevant for this task[20]

The contractor shall present a broad outline of the potential consequences for worker protection arising from these changes.

5.2.2 Defining the baseline scenario

5.2.2.1 Identify the baseline scenario in both policy and practical terms at EU and EEA levels; together with an appraisal of likely future trends.

5.2.2.2 Carry out a thorough legal analysis describing the legal impact of the main changes introduced by the CLP Regulation on the EU legislation for the protection of worker's health and safety and taking into account that Directives 67/548/EEC and 1999/45/EC will be repealed. In particular, it should be clarified whether it could be sufficient to replace the references in the five Directives on the protection of workers to the current classification and labelling criteria as set out in Directives 67/548/EEC and 1999/45/EC by references to the CLP Regulation or whether other or additional legislative actions may be appropriate to ensure the continued high level of protection of workers health and safety from risks arising from exposure to chemicals at the workplace.

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[20] http://ec.europa.eu/enterprise/sectors/chemicals/files/ghs/ghs_comparison_classifications_dec07_en.pdf

5.2.2.3 The contractor shall present the baseline information on what currently occurs under the pre-CLP Regulation system so as to provide an understanding of the impact, in general terms, of those provisions of the existing five directives that refer to the EU system for chemical classification and labelling. This should identify and assess not only how this applies in the legal sense but also the practical reality in actual workplaces across the EU Member States and EEA.

5.2.2.4 The study report should present an evaluation of existing approaches to communicating and using chemical classification and labelling information in the EU Member States and EEA. It should identify incentives and barriers and the roles of the different stakeholders. This should identify and assess how chemical classification and labelling information is used to facilitate compliance with EU occupational safety and health requirements as outlined in the five directives. This should include the key principles of hazard identification, risk elimination, risk substitution, risk assessment and the introduction of prevention and protective measures to protect the health and safety of workers together with worker information and training requirements as outlined in the directives on hazardous chemicals and carcinogens and mutagens. In addition it will also address the very specific issues contained in the directives on safety signs, young persons and pregnant or breastfeeding workers directives.

5.2.3 Analysis of impacts

5.2.3.1 The contractor shall carry out a health, social, economic and environmental assessment of the impacts on the legal aspects and practical implementation of the requirements of the five occupational safety and health directives which make reference to EU chemical classification, labelling packing requirements and which may be affected by the adoption of the CLP regulation. This will be based on a very clear and specific analysis of the impacts of each of the policy options and should be addressed per directive and collectively.

5.2.3.2 The analysis shall:

- Identify who is affected by the impacts, including their effects on employers, workers, Member States and national competent authorities at EU and EEA levels.
- Include an evaluation of the foreseeable positive and negative impacts on the protection of workers health and safety and, as regards Directive 94/33/EC, the development of young people at work.
- Identify and evaluate the direct and indirect impacts and how they occur.
- Identify and assess the impact on the sectors of economic activity that will be affected.

  (a) Do the amendments have significant effects on certain sectors of economic activity?

  (b) Do they have specific consequences for SMEs?
- Identify and assess the impact on employment and labour markets including the macroeconomic impact.
- Identify overall consequences of the policy options for economic growth and employment.
- Identify and assess the costs and benefits for each of the policy options.
- Confirm by documented evidence the appropriateness of the envisaged policy options including an assessment of their appropriateness in terms of potential effectiveness, proportionality, subsidiary together with an assessment of the ability to monitor and evaluate their implementation.

- Identify and assess the administrative burden and costs for the present situation and future scenarios based on the policy options 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". [21]

- Identify and assess the impact on existing national occupational safety and health polices at Member State, EU and EEA levels.

- Identify whether the initiative presents any specific challenges for particular EU Member States or EEA Members.

- Assess the transposition and compliance aspects of the policy options to determine the feasibility of implementation, management and enforcement.

5.2.3.3 The analysis of the impact of the various policy options should take into consideration the criteria of effectiveness and efficiency including practicability. This will include an evaluation of the advantages and disadvantages which 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 and, as regards Directive 94/33/EC, the development of young people at work.

5.2.3.4 Where possible the study for assessing impacts should be supported by examples of actual situations that exist at EU and EEA levels.

5.2.3.5 The study should report on the strengths and weaknesses of the existing requirements based on criteria, including suitability, comprehensiveness and effectiveness.

5.2.4. Comparing the policy options

Present a comparative analysis of the policy options including an appraisal of their subsidiary and proportionality aspects, objectiveness, and impacts on health, social, economics aspects and the environment.

The detailed information should be complemented by a summary text that facilitates the ease of comparison between and within the various policy options and by means of a "scoreboard".

5.2.5. Monitoring and evaluation

Identify suitable indicators for monitoring and evaluating compliance with each of the policy options.

5.2.6 Other specific aspects

The study should distinguish between documented evidence and matters of opinion that are not necessarily supported by documented evidence.

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[21] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0518:EN:NOT

For more information, see IA Guidelines SEC(2009)92 page 41 and Annex 10

The study should take account of the content of the consultation documents used by the Commission when consulting the Social Partners at EU level on the worker protection issues arising from the Regulation on CLP. The first stage consultation document was adopted by the Commission on 9 December 2009 and communicated to the social partners at EU level[22].

The work shall be carried out in full knowledge of and in accordance with the Commission guidelines on Impact Assessment.

5.2.7. Model guidance and supporting information material

A proposal for a model guidance document and supporting awareness raising information should be drafted. This model guidance document and supporting information should be appropriate to be used during campaigns and at individual workplace level to inform employers and workers on the key elements of the pre-CLP Regulation and CLP Regulation systems and the key changes introduced by the adoption of the CLP Regulation. The guidance should be presented in a style that will help employers, who may not have an in-depth technical understanding of chemicals and their associated hazards and risks, with their obligations to ensure that chemical risks can be adequately controlled at the workplace. The model guidance document and supporting information should also take into account the particularities of the directives concerned. It is difficult to predict the length of such a guidance document. However, an indicative length could be approximately 20 to 30 pages. The potential use of this, and other, guidance is linked to the policy option that refers to non-binding actions to be evaluated during this study.

5.3. Methodological remarks

The tenderer must submit a methodology that will demonstrate how he will carry out this work.

The tenderer will indicate the methodology he intends to use, the approach envisaged and how suitable it is for carrying out the tasks. The quality and consistency 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 tenderer will also indicate how and which types of persons and entities () will be contacted in the process of the study with a view to gathering information from a number of key players. This should include, for example, social partners, national, regional and local authorities in the Member States, enterprises or non-governmental organisations contacting/surveying small and medium-sized enterprises (SMEs) but also large enterprises and enterprises from a broad range of industry sectors, trade associations, occupational safety and health professionals, individual workers and their representatives such as trade unions.

The tenderer will indicate how the information provided by them will be used in this analysis.

The tenderer should describe how they shall ensure that they engage all affected stakeholders in the carrying out of this study.

5.4. Indicative structure of the study report

The study report shall cover all relevant areas for impact assessment and present the information in a clear and structured way for each of the five individual directives together with an overall assessment, including, *inter alia*, section on:

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22 http://ec.europa.eu/social/keyDocuments.jsp?type=50&policyArea=0&subCategory=0&country=0&year=2009&advSearchKey=&mode=advancedSubmit&langId=en

- Introduction
- Executive summary
- Definition of problem
- Definition of the baseline scenario
- Analysis of impacts
- Comparison of the policy options
- Monitoring and evaluation
- Model guidance and supporting information material
- Conclusions

5.5. Guide on how the activities will be carried out

The PROGRESS Programme aims to promote 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 by paying attention to the situation and needs of women and men;
- Implementation of the requested tasks/proposed activities includes a gender perspective by considering systematically the 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/implementing the proposed activities. This will ensure in particular that where the Contractor organises training sessions and conferences, issues publications or develops dedicated websites, people with disabilities will 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 is encouraged to foster an appropriate mix of people, whatever their ethnic origin, religion, age, and ability.

The Contractor will be required to detail in its final activity report the steps and achievements made towards meeting these contractual requirements.

6. SKILLS AND PROFESSIONAL QUALIFICATIONS REQUIRED

See Annex IV to the draft contract, experts' CVs.

Additional requirements:

In order to carry out the required analyses and assessments properly the contractor and their teams must be familiar with the relevant European and national legislations and the European Commission Guidelines on Impact Assessment. They should have a proven capability to carry out the tasks related to health, social, economic and environmental impact assessments 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, occupational health and safety, toxicology, chemistry, workplace chemical risk assessment and management, risk communication, economics and legal skills.

7. TIME SCHEDULE AND REPORTING

See Article I.2. of the draft contract.

7.1. Specific deadlines for the performance of tasks:

The work must be completed within a maximum of **twelve (12) months** from the date on which the contract is signed. It will include the following stages:

(1) Not later than **one (1) month** after signature of the contract, the contractor must submit to the European Commission (Unit EMPL F/4) a detailed document relating to the methodology and approach presented in the bid, together with the work schedule. The Commission will organise a **first** meeting in Luxembourg after the signature of the contract to define what the Commission is expecting from this study and to discuss with the contractor the most appropriate way to carry out the tasks.

(2) No more than **seven (7)** months after signature of the contract, the contractor must submit an interim report in English to the European Commission (Unit EMPL F/4), describing the progress of the work in relation to the envisaged timetable. This report must contain a summary of the results to date and a copy of the draft guidance document as it stands.

Following the reception of the interim report the Commission will organise a **second** meeting with the contractor in Luxembourg to discuss the content of the interim report and to provide guidance on the preparation of the final report and the guidelines.

(3) **Ten (10) months** after signature of the contract, the contractor must submit a draft final report in English to the European Commission (Unit EMPL F/4). This draft final report will contain the final draft of the guidance document. Following to the reception of the draft final report, the Commission will organise a **third** meeting within 2 weeks with the contractor in Luxembourg to discuss the content of the final draft report and to define the degree of its compliance with the contract requirements.

(4) **Twelve (12) months** after signature of the contract, the contractor must submit the final report containing the final version of the guidance document in English.

The contractor must present the final report containing the various elements referred to in sections 5 and 7 of these specifications.

NB:

The draft final report and the final report must include a brief summary in English of the main results obtained. A one-page presentation of the key points of the results must accompany the summary. These key points should be concise, clear and easy to understand. They must be drafted in English, French and German. Other Community languages will be appreciated, but are not compulsory.

The detailed methodology and work plan, together with the various reports, including model guidance document, and draft reports referred to in this section, must be submitted to the European Commission (Unit EMPL F/4) both on paper (in triplicate) and in a widely-used electronic format (CD-ROM or DVD). The contractor must also supply a copy of the information collected as mentioned in sections 5 and 7 and used in preparing the guidance document and the final report. The pictograms, pictures, graphics and other illustrations must also be presented in a widely-used electronic format.

7.2. Publicity and information requirements

In accordance with the General conditions, all contractors are under the obligation to acknowledge that the present service has received funding from the Union in all documents and media produced, in particular final delivered outputs, related reports, brochures, press releases, videos, software, etc, including at conferences or seminars. In the context of the Community Programme for Employment and Social Solidarity – PROGRESS, the following formulation shall be used:

> *This (publication, conference, training session etc) is supported by the Community Programme for Employment and Social Solidarity - PROGRESS (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' commitment. 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/progress*

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 activity, the contractor will insert the European Union logo and mention the European Commission as the Contracting Authority in every publication or related material developed under the present contract.

7.3 Reporting requirements

PROGRESS is 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 these results, including setting out clearly the 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.

The Strategic Framework, developed in collaboration with Member States and civil society organisations, sets out the intervention logic for Progress-related expenditure and defines PROGRESS' mandate and its long-term and immediate outcomes. It is supplemented by performance measures which serve to determine the extent to which PROGRESS has delivered the expected results. See in Annex the overview of PROGRESS performance measurement framework. For more information on the strategic framework, please visit PROGRESS website:

http://ec.europa.eu/social/main.jsp?catId=659&langId=en

The Commission regularly monitors the effect of PROGRESS-supported or commissioned initiatives and considers how they contribute to PROGRESS outcomes as defined in the Strategic Framework. In this context, the Contractor will be asked to dedicatedly work in close cooperation

with the Commission and/or persons authorised by it to define the expected contribution and the set of performance measures which this contribution will be assessed against. The Contractor will be asked to collect and report on its own performance to the Commission and/or persons authorised by it against a template which will be annexed to the contract. 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 necessary rights of access.

8. PAYMENTS AND STANDARD CONTRACT

When preparing their bids, tenderers must take account of the provisions of the model contract, which includes the "general conditions applicable to service contracts".

8.1. Pre-financing

Following signature of the contract by the last contracting party, a pre-financing payment equal to 30% of the total referred to in Article I.3.1 of the model contract will be paid within 30 days of the date of receipt of a request for pre-financing, accompanied by a corresponding invoice.

8.2. Interim payment

The contractor can request an interim payment. To be acceptable, such request must be accompanied by:

- an interim technical report in accordance with the instructions laid down in section 7,
- the relevant invoices
- statements of reimbursable expenditure in accordance with Article II.7 of the draft contract.

The report must have been approved by the Commission.

The Commission has 60 days from receipt of the report to approve or reject it, and the contractor has 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 a maximum of 40% of the total amount referred to in Article I.3.1 of the draft contract shall be made.

8.3. Payment of the balance

To be acceptable, the contractor's request for payment of the balance must be accompanied by:

- a final technical report in accordance with the instructions laid down in section 7,
- the relevant invoices,
- statements of reimbursable expenditure in accordance with Article II.7 of the draft contract.

The said report must have been approved by the Commission.

After receiving the report, the Commission has 60 days in which to accept or reject it, and the contractor has 30 days in which to submit new documents.

The balance corresponding to the relevant invoices will be paid within 30 days following the date of approval of the report by the Commission.

9. PRICES

As, pursuant to Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities annexed to the Treaty, the Communities are exempt from all taxes and dues, including value-added tax (VAT), these should not be included in the price tendered. Therefore these charges should not be included when calculating the price. The amount of VAT must be shown separately.

The price must be stated in euro (€) 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 the invitation to tender was issued), and broken down according to the model in Annex III included in the attached standard contract.

- Part A: Fees and direct costs

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

- Part B: Reimbursable expenses

– Travel expenses (not including local transport)
– Subsistence expenses of the contractor and his personnel (covering expenditure incurred by experts on short trips away from their normal place of work) — see Annex III to the model contract
– Expenses for the shipment of equipment or unaccompanied luggage, directly connected with performance of the tasks specified in Article I.1 of the draft contract
– Contingencies.

Total price = Part A + Part B, with a maximum of **€ 280,000**

10. GROUPINGS OF ECONOMIC OPERATORS OR CONSORTIA

Bids may be submitted by groups of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but the group 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[23]. However, a grouping of economic operators must nominate one party to be responsible for receiving and processing payments for its members, for the administrative management of the service, and for coordination. The documents required and listed in sections 11 and 12 below must be supplied by every member of the grouping.

Each member of the grouping assumes 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** :*

[23] This may be an entity with or without legal personality, but must offer sufficient protection of the Commission's contractual interests (depending on the Member State concerned it may be, for example, a consortium or a temporary association).
The contract must be signed by all the members of the grouping or by one of them, duly authorised by the others (a proxy or other appropriate authorisation will be appended to the contract), in cases where the tenderers have not formed a legal entity.

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)*[24]*.*

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 procurement procedure or fail to supply this information (…)"*

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 Implementing Rules – Evidence

§3. The contracting authority shall accept as satisfactory evidence that the candidate or tenderer to whom the contract is to be awarded is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. 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(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State concerned.

Where the document or certificate 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.

§4. Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraph 3 shall relate to legal persons and/or natural

[24] Cf .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.
(…)"

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.

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.

12. SELECTION CRITERIA

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

12.1. Financial and economic capacity (on the basis of the following documents

- turnover during the previous financial year (statement of overall turnover – at least twice the value of the contract, i.e. € 560 000 -)
- balance sheets and profit and loss accounts for the last 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 tender notice was published, if the full accounts for the previous financial year are not yet available.

If, for some exceptional reason which the contracting authority considers justified, the tenderer or candidate is unable to provide the references requested by the contracting authority, he may prove his economic and financial capacity by any other means which the contracting authority considers appropriate

12.2. Tenderer's technical capability

- a description of the tenderer's technical capability and practical experience in the specific topics to be addressed by this study. Namely, capability and experience in health, social, economic and environmental impact assessments in the field of occupational safety and health at EU level and, in particular, covering chemicals. For consortia of companies or groups of service providers, this description must relate specifically to the tasks to be performed by each of their members;
- a list of work and/or publications covering the last 3 years demonstrating the tenderer's practical experience in the fields referred to above.
- the tenderer must provide the names and CVs (maximum of three pages each) of the persons responsible for the specific tasks described in section 5 of these specifications, with a view to demonstrating their practical experience and their capability to prepare practical guidelines.
- 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

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

-	Understanding of the objectives and tasks:	25%
-	Quality and consistency of the methodological approach	40%
-	Quality of the work plan proposed:	20%
-	Organisation of the work and management of the project:	15%

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

Bids must include:

- a presentation letter duly signed by the legal representative;
- all the information and documents necessary to enable the Commission to appraise the bid on the basis of the selection and award criteria (see sections 12 and 13 above);
- a bank 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.

14.2. Presentation of bids

- Bids must be submitted in triplicate (i.e. one original and two copies).
- They must include all the information required by the Commission (see points 9,10,11 and 12 above).
- 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 deadlines 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)		
1. Exclusion from a procurement procedure, Article 93(1) FR : *« Candidates or tenderers shall be excluded from participation in a procurement procedure if:*			
1.1. (subparagraph 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[25];*	- Recent extract from the judicial record **or** recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance **or** - 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		
1.2. (subparagraph b) *they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata[26];*	Cf. supporting documents for Article 93(1)(a) FR above		
1.3. (subparagraph c) *they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;*	Declaration by the candidate or tenderer that he is not in the situation described		
1.4. (subparagraph d) *they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed[27];*	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described **or** 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		
1.5. (subparagraph e) *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[28];*	Cf. supporting documents for Article 93(1)(a) FR above		
1.6. (subparagraph f) *they are currently subject ot an administrative penalty referred to in Article 96(1)[29]. »*	Declaration by the candidate or tenderer that he is not in the situation described		

[25] 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.

[26] Cf. footnote n° 19.

[27] Cf. footnote n°19.

[28] Cf. footnote n° 19.

[29] 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**	
2. Exclusion from a procurement or grant award procedure Article 94 FR : *« Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:*			
2.1. (subparagraph a) *are subject to a conflict of interest;*	Statement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal		
2.2. (subparagraph 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»*[30]*.*	– No specific supporting documents to be supplied by the applicant, tenderer or bidder – It is the responsibility of the authorising officer, represented by the evaluation committee, to check that the information submitted is complete[31] and to identify any misrepresentation		

[30] 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 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. »

[31] Cf. footnote n°24

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[32])

  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;

[32] 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).

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:

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.

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

Annex III : Overview of PROGRESS performance measurement framework