
Specifications - Open Invitation to tender No VT/2010/021

Study service contract on the analysis at EU-level of health, socioeconomic and environmental impact in connection with possible amendment to Directive 2004/37/EC¹ 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 to extend the scope of it in order to include category 1 and 2 reprotoxic substances.

1. TITLE OF THE CONTRACT

Study service contract on the analysis at EU-level of health, socio-economic and environmental impact in connection with possible amendment 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 to extend the scope of it in order to include category 1 and 2 reprotoxic substances.

2. BACKGROUND

2.1. PROGRESS Introduction

PROGRESS² 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 Agenda³. 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);
- The effective implementation of the principle of non-discrimination and promotion of its mainstreaming in all EU policies (section 4);

¹ OJ L.229, 29/6/2004, p.23

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 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 of the study

The purpose of this contract is to provide the European Commission with information on the health, socio-economic and environmental impact of a number of policy options related to a possible amendment of directive of Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work.

2.2.2 The general context

The objectives of the Community strategy for 2007- 2012 (COM (2007) 62 final)⁴ (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.

Furthermore, the Commission communication (COM(2002) 118 final)⁵ 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.

A significant number of workers in the EU are exposed to reproductive hazardous substances.

Reproductive health is a major aspect of human life and different types of reproductive failures are common. The exposure to reprotoxic substances may cause male and female reduction of fertility, miscarriages, birth defects, congenital malformation, low birth weight and childhood cancer (childhood leukemia, brain cancer). This acquires more added value due to the increasing participation of women in the labour force. The average percentage of participation of women aged 15-64 years was 57% in the 15-EU countries. The percentage is also high among pregnant women. The high and increasing participation of women in the labour force is one of the main reasons for the expansion of research to investigate on the possible adverse effects that reprotoxic substances have on the pregnant workers health.

For example, high exposure to solvents, some metals and pesticides and specific categories of highly hazardous chemicals as endocrine disruptors, is associated with serious adverse health effects. It increases the risk of miscarriage and decreases fertility.

Occupational exposure to reproductive hazards can affect the reproductive system of both men and women and they can induce adverse effects on the developing organism.

Exposure to reprotoxic substances could occur in a broad range of workplaces and one of the purposes of this study is to identify and investigate where these exposures occur.

Directive 98/24/EC⁶ provides a general regulatory framework for all hazardous chemical substances including reprotoxic substances category 1 and 2 and includes requirements for hazard identification, risk assessment, risk management and workers training with a view to protecting workers health and safety.

⁴ Communication from the Commission Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work, COM(2007) 62 final, 21.2.2007."

⁵ Communication from the Commission Adapting to change in work and society: a new Community strategy on health and safety at work 2002–2006, COM(2002) 118 final, 11.03.2002

⁶ OJ L131, 5/5/1998, p.11

Directive 2004/37/EC provides, beyond the general regulatory framework, a more detailed and more prescriptive requirements for the health and safety of workers. It recognises the fact that for certain substances it is not possible to identify threshold levels below which risks to the health and safety of workers cease to exist.

This study will evaluate the currently available evidence to justify whether there is a need to include reprotoxic substances in the scope of Directive 2004/37/EC on carcinogens and mutagens.

The inclusion of the reprotoxic substances would mean that exposure of workers to them would be prevented or reduced through the implementation of the specific requirements currently applied for category 1 and 2 carcinogens and mutagens.

3. SUBJECT AND SCOPE OF THE CONTRACT

3.1 Subject of the study

The subject of the study is to assess the impact of the various policy options included in point 3.3. In addition, the currently available evidence which support the possible inclusion of reprotoxic substances in Directive 2004/37/EC should be assessed. The consultant should provide up to date information, duly supported by references to published data, to enable the European Commission to initiate policy discussions regarding the possible future amendment of Directive 2004/37/EC in order to include in its scope category 1 and 2 reprotoxic substances.

The information provided shall also report on the consequences of not amending the Directive. In order to give a comprehensive view on the situation that could result from the amendment of the directive as described above, the submissioner will have to accomplish the different tasks specifically mentioned under point 5.

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.

3.2 Policy objectives

For the purpose of this study the objectives 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 investigate, analyse and evaluate the currently available evidence to justify whether there is a need to include category 1 and 2 reprotoxic substances in the scope of Directive 2004/37/EC on carcinogens and mutagens, in order to create an appropriate occupational safety and health legal and supporting framework to enable workers health and safety to be protected from risks due to exposure to reprotoxic substances at the workplace.

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

3.3 Policy options

The policy options to be evaluated concern the protection of the health of workers from risks arising from exposure to reprotoxic substances at the workplace.

The four policy options to be studied are:

1. No action at EU level to amend Directive 2004/37/EC (Baseline scenario).
This means that the scope of Directive 2004/37/EC will not be extended in order to include category 1 and 2 reprotoxic substances. In this case reprotoxic substances will continue to be covered by Directive 98/24/EEC on chemical agents.
2. Binding legislative action at EU level.
This means that Directive 2004/37/EC will be amended to extend its scope in order to include category 1 and 2 reprotoxic substances.
3. Non-binding action at EU level.
Preparation of a guidance document and supporting awareness raising information which would be addressed to employers and workers on the prevention of risks arising from workers exposure to category 1 and 2 reprotoxic substances.
4. Combination of binding and non-binding action at EU level (combination of options 2 and 3).
In order to give a comprehensive view on the situation that could result from the policy options as described above, the contractor will have to accomplish the different tasks specifically mentioned under 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, economic, social 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.

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.

5. STRUCTURE OF THE REPORT AND TASKS TO BE CARRIED OUT BY THE CONTRACTOR

5.1 Possible structure of the study report

The study shall cover all relevant areas for impact assessment and present the information in a clear and structured way, including the following five parts:

- Definition of the problem
- Baseline scenario
- Analysis of the impacts
- Comparing the policy options
- Monitoring evaluation

It has to be noted that the specific tasks to be carried out by the contractor are fit into the first three parts of the structure of the study report. Therefore there will be specific tasks in respect to the definition of the problem and of the base line scenario (point 5.3) and specific tasks in respect to the analysis of impacts (point 5.4).

5.1.1 Definition of problem

Identify the extent to which the policy options impact on the protection of the health and safety of workers at work by employment sector together with an appraisal of likely future trends.

Identify the extend to which the requirement on inclusion of reprotoxic substances in the scope of of the carcinogens and mutagens Directive or the non inclusions of them , impact on the protection of the health and safety of workers at work , together with an appraisal of likely future trends.

Identify whether thresholds of exposure exist for adverse health effects or if these effects are non-threshold based. The contractor should provide specific examples which can be supported by relevant scientific data.

This should be illustrated by including examples of exposure to specific reprotoxic chemicals.

5.1.2. Baseline scenario

Identify the baseline scenario in both legal and practical terms in the individual Member States and at EU level together with an appraisal of likely future trends.

Present the current policy legal situation and practices within the EU Member states.

Provide a thorough description of the policy context and challenges, and demonstrate clearly the necessity and added value of EU action on this issue.

5.1.3. Analysis of impacts

This part of the report should include the assessment of the following impacts on every policy option.

- 5.1.3.1** Identify and assess the health impact of the policy options on employers, workers, Member States and civil society.

- 5.1.3.2** Identify and assess the social impact of the policy options on employers, workers, Member states and civil society.
- 5.1.3.3** Identify and assess the economic impact of the policy options on employers, workers, Member states and civil society.
- 5.1.3.4** Identify and assess the environmental impact of the policy options on employers, workers, Member states and civil society.

5.1.4 Comparing the policy options

Present a comparative analysis of the policy options including an appraisal of their subsidiarity and proportionality aspects and impacts on health, socio-economic aspects and the environment.

5.1.5 Monitoring and evaluation

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

5.2 General Tasks

- 5.2.1** The contractor should clearly identify and assess the health, social, economic and environmental impact arising from each of the policy options including their impact on employers, workers, public authorities and civil society. This task includes also the assessment of the baseline scenario.
- 5.2.2** 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.
- 5.2.3** The tenderer must submit a methodology that will demonstrate how he will carry out this work, including the way he will make contact and gather information from a number of key players both at company and individual level. This should include, for example, 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 employees and their representatives such as trade unions.
- 5.2.4.** Confirm by documented evidence the appropriateness of the envisaged policy options including an assessment of their appropriateness in terms of potential effectiveness, proportionality, subsidiarity together with an assessment of the ability to monitor and evaluate their implementation.
- 5.2.5** The contractor should identify potential successes and challenges regarding the inclusion of reprotoxic substances in the scope of Directive 2004/37/EC. The contractor, in cases where he identifies challenges relating to this issue, 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 study report.
- 5.2.6** The contractor shall prepare a study report, including a model guidance document and supporting information, which should include examples of real situations, including case studies, to support the observations and remarks presented by the contractor. Detailed information is provided in point 5.5.
- 5.2.7** The study report shall include any suggestions and recommendations made, both by employers (including undertakings and bodies in the public sector), occupational safety and health professionals, and by workers and/or their representatives.

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

5.2.9 In all cases, special attention must be given to SMEs and to micro-sized organisations.

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

5.3 Specific Tasks in respect to the definition of the problem and the baseline scenario

5.3.1. Provide an overview at EU level of occupational exposure to reprotoxic 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.

5.3.2. Specify the typical adverse health effects that result from this exposure including:

- (a) The extent to which occupational exposure to reprotoxic substances affects the health and safety of workers.
- (b) Identification of the main adverse effects from the workers' exposure to these substances.
- (c) Prepare list of reprotoxic substances classified as category 1 and 2.
- (d) Identify to which degree the extension of the scope of the Directive to cover reprotoxic substances will increase or decrease the likelihood of health risks in the working environment.

5.3.3. Identify and assess the impact on existing national policies in both cases first when comprehensive legislation does exist to protect workers from the identified risks arising from their exposure to reprotoxic substances and second when it does not exist.

In carrying out the tasks 5.3.1 to 5.3.3, account should be taken of the existing requirements contained in 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 (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC).

5.4 Specific Tasks in respect to the analysis of the impacts

5.4.1 Identify and assess the foreseeable positive and negative impacts on the protection of workers health, of a Community binding or combination of binding and non-binding initiatives.

5.4.2 Assess the possible benefits of the proposed amendments of the Directive in terms of preventing or reducing adverse health effects.

5.4.3 Identify particular groups of workers affected by exposure to reprotoxic substances 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 reprotoxic substances.

5.4.4 Identify and assess the costs and benefits for employers, workers, Member States and civil society for each of the policy options.

5.4.5 Identify and assess the administrative burden and costs for the present situation and scenarios based on the policy options.

The contractor should provide a socio-economic analysis corresponding to the questions listed below in relation to extending the scope of the Directive to reprotoxic substances, as well as for keeping the status quo (no policy option)

The foreseen impacts have to be quantified to the extent possible and if this is not possible quantitative examples should be provided.

In particular the contractor should identify and assess the impact on:

- Operating costs and conduct of business
 - a) What kind of compliance costs will the amendments impose on business?
 - b) Will they entail stricter regulation of the conduct of a particular business?
 - c) Will they lead to the closing down of businesses?
 - d) Are some products or businesses (for example SMEs) treated differently from others in a comparable situation?
- 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?
- Specific sectors
 - a) Do the amendments have significant effects on certain sectors?
 - b) Do they have specific consequences for SMEs?
- The macroeconomic environment

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

- Employment and labour markets
 - a) Do the amendments have specific negative consequences for particular professions, specific groups of workers (e.g. pregnant workers) or self-employed persons?
 - b) Do they affect access to the labour market?

The contractor shall provide answers to the questions above separately for each policy option. The answers shall be provided at EU-level, if appropriate, significant disparities at national level shall be identified.

Other specific aspects to be considered in respect to the analysis of impacts

The contractor, in carrying out the analysis on the impacts, should take into account the following considerations:

1. The advantages and disadvantages for each policy option should be examined to support the legislator in making the most appropriate evidence-based decisions on how best to ensure that workers are effectively protected from risks to their health and safety.

2. The 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".
3. Where possible the study for assessing impacts should be supported by examples of actual situations that exist in the Member States or elsewhere.
4. Identify whether there are specific challenges for particular Member States.
5. Assess the transposition and compliance aspects of the policy options to determine the feasibility of implementation, management and enforcement.
6. Take account of the content of the consultation documents used by the Commission when consulting the Social Partners at EU level on the protection of workers from risks arising from their exposure to carcinogens, mutagens and toxic for reproduction.
7. The second stage consultation document was adopted by the Commission on September 2006 and communicated to the social partners at EU level.
8. The work shall be carried out in full knowledge of and in accordance with the Commission guidelines on Impact Assessment.
9. 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".⁷

5.5. Model guidance and supporting information material

The contractor will prepare the outline of a model guidance document and supporting information material for an awareness raising campaign.

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 to inform employers and workers on the major prevention and protective measures that should be taken to protect workers exposed to reprotoxic substances.

The guidance should be presented in a style that will help employers, who may not have an in-depth technical understanding of reprotoxic chemicals and their associated hazards and risks, with their obligations to ensure that chemical risks can be adequately controlled at the workplace.

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 or to the combined action option.

5.6. Methodological remarks

The tenderer will indicate the methodology he intends to use, the 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 indicate which persons and entities (social partners, national, regional and local authorities in the Member States, enterprises or non-governmental organisations) have been

⁷ <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

contacted in the process of the study and how the information provided by them was used in this analysis.

5.7. Requirements on how the tasks shall be carried out

The PROGRESS Programme aims to promote gender mainstreaming in all its five policy sections and commissioned activities. Consequently, the Contractor shall 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 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 respect the gender balance at all levels.

Equally, needs of disabled people shall be duly acknowledged and met while executing the requested service. 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 also Annex IV of the draft contract, experts' CVs.

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 and economics.

7. TIME SCHEDULE AND REPORTING

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

7.1. Specific deadlines for the performance of the tasks:

The work must be completed within a maximum of **fourteen (14) months** from the date on which the contract is signed. It will include the following stages:

7.1.1 Not later than **one (1) month** after signature of the contract, the contractor must submit to the European Commission (Unit Health, Safety and Hygiene at Work, named Unit EMPL F/4 hereafter in the document) 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.

7.1.2 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 consultant in Luxembourg to discuss the content of the interim report and to provide guidance on the preparation of the final report and the guidelines.

7.1.3 **Eleven (11) 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 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.

7.1.4 The European Commission (Unit EMPL F/4) may transmit objections and comments to the contractor within **sixty (60) days of receipt** of the draft final report.

7.1.5 **Fourteen (14) 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.

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 commissioned 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

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

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

Under the terms of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, 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: 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 (please specify).

■ 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 300.000 €**

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 contracts. However, a grouping of economic operators must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the following points 11 and 12 must be supplied by every member of the grouping.

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*

⁸ 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.

- 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)⁹.*

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 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.

⁹ 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.

(...)"

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. € 600 000 -)
- 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 field referred to in section 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 members;
- a list of work and/or publications of last 3 years demonstrating the tenderer's practical experience in the fields referred to in section 6 of these specifications
- 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) <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 regulations¹⁰;</i>	- 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) <i>they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata¹¹;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
1.3. (subparagraph c) <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	
1.4. (subparagraph d) <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 performed¹²;</i>	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) <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 interests¹³;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
1.6. (subparagraph f) <i>they are currently subject of an administrative penalty referred to in Article 96(1)¹⁴. »</i>	Declaration by the candidate or tenderer that he is not in the situation described	

¹⁰ 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.

¹¹ Cf. footnote n° 10.

¹² Cf. footnote n°10.

¹³ Cf. footnote n° 10.

¹⁴ 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 : « <i>Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:</i>		
2.1. (subparagraph a) <i>are subject to a conflict of interest;</i>	atement 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) <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»¹⁵.</i>	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 ¹⁶ and to identify any misrepresentation	

¹⁵ 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. »

¹⁶ Cf. footnote n°15

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 operator¹⁷*)
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.

¹⁷ 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).

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 upon request 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