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## Specifications - Open Invitation to tender No VT/2011/042

### Proposal for a service contract to analyse and evaluate the effects of the practical application of national legislation related to safety and health at work in mineral extraction through drilling.

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#### 1. TITLE OF THE CONTRACT

Proposal for a service contract to analyse and evaluate the effects of the practical application of national legislation related to safety and health at work in mineral extraction through drilling.

#### 2. BACKGROUND

##### 2.1. PROGRESS Introduction

PROGRESS<sup>1</sup> is the EU 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<sup>2</sup> as well as to the objectives of the Europe 2020 Strategy. This new strategy, which has a strong social dimension, aims at turning the EU into a smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion. The European Union needs coherent and complementary contributions from different policy strands, methods and instruments, including the PROGRESS programme, to support the Member States in delivering on the Europe 2020's goals.

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 is 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);
- 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 2011 annual work plan which can be consulted at <http://ec.europa.eu/social/main.jsp?catId=658&langId=fr>

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1 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

2 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.

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

### **2.2.1 General context**

Enforcement of Union legislation on safety and health at work is the responsibility of the national authorities. This study will support Member States, employers and workers by analysing the effects of the practical application of the national legislation transposing the directive in undertakings and in public-sector bodies. The study will also provide guidance for Member States for the purposes of identifying and resolving difficulties encountered in connection with the practical application of national legislation.

With the accession of additional Member States to the European Union since the last review of this directive the national provisions transposing the directive need to be analysed and assessed with regard to the practical effectiveness of national legislation with respect to safety and health conditions in the extractive industries.

In addition following the Deepwater Horizon tragedy in the Macondo oilfield which killed 11 workers and created massive oil pollution in the Gulf of Mexico, a European Commission Communication – “Facing the challenge of the safety of the offshore oil and gas activities”. (COM (2010)560) was adopted.

The Communication identified five main areas where action is needed to maintain the safety and environmental credentials of the EU:

- thorough licensing procedures,
- improved controls by public authorities,
- addressing gaps in applicable legislation,
- reinforced EU disaster response, and
- international cooperation to promote offshore safety and response capabilities worldwide.

A Commission services working group was established to identify necessary actions in the above areas.

### **2.2.2 Current situation.**

An interservice steering group led by DG ENER was established in 2010 to follow up the above Communication, including the preparation of a proposal and the accompanying impact assessment. A public consultation exercise was held on the specific issue of offshore extraction as well as several meetings with industry and regulatory experts.

The principal areas under consideration are:

- Protection of marine environment
- Health and safety of workers
- Security and affordability of energy
- Internal market and product safety
- Emergency response.
- Maritime safety.

The European Parliament issued a report on the Commission communication. (see: <http://ec.europa.eu/social/main.jsp?catId=625&langId=en>).

### **2.2.3 Purpose of the study**

The purpose of this invitation to tender is to obtain bids to analyse and assess the effectiveness of specific aspects of national legislation on safety and health at work in the extractive industries in undertakings and public-sector bodies in each of the 27 Member States of the European Union (EU) and also including EEA countries

This study would update the information contained in the Commission Report on the practical implementation of Health and safety Directives 92/91/EEC (mineral extraction through drilling) and 92/104/EEC (surface and underground mineral extraction) (COM (2009) 449 final dated 3.9.2009).

It intends to review the provisions and the application of Directive 92/91/EEC, in particular the provisions related to activities related to offshore oil and gas activities following the Deepwater Horizon incident and the Communication from the Commission to the EP and the Council "Facing the challenge of the safety of offshore oil and gas activities" (COM (2010) 560 final). In doing so the study should indicate if changes are required related to extraction by drilling in the offshore industry. If changes are not required a detailed justification must be provided.

It will also analyse if other options (e.g. soft legislation) could be used to increase the effectiveness of implementation of the directives, e.g. if additional Good Practice Guides are required, whether peer to peer communication methods via regulator or industry forums can be widened or improved and will provide detailed information on the areas to be covered in this option. Other options such as the creation or extension of existing industry initiatives in the area of health and safety are to be examined (these could include but are not limited to well engineering, well operations, well containment in both normal and emergency situations, process engineering in oil and gas production, evacuation escape and rescue of workers following an incident, oil spill clean up including injecting dispersant at depth).

Finally the data provided will support the preparation of the required Analytical Document accompanying a potential 2nd stage Social Partner consultation. A 2<sup>nd</sup> stage Social Partner consultation will be needed if changes to the directive(s) are envisaged.

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

The contractor will analyse and evaluate the effects of the practical application of national legislation related to safety and health at work in mineral extraction through drilling. (Directive 92/91) The contractor should use as a starting point the information contained in the Commission Report on the practical implementation of Health and safety Directives 92/91/EEC (mineral extraction through drilling) and 92/104/EEC (surface and underground mineral extraction) COM (2009) 449 final dated 3.9.2009.

In relation to the offshore extractive industry the contractor should take into account recent developments (including suggested changes to the Directive and their potential effects) undertaken by Regulators, Employers and Commission services since the Deepwater Horizon disaster. Sources of information will include the European Commission Communication –“Facing the challenge of the safety of the offshore oil and gas activities”. (COM (2010) 560 final), including the Public Consultation whose publication was initiated in March 2011 by DG ENER, ([http://ec.europa.eu/energy/oil/consultations/2011\\_05\\_11\\_oil\\_gas\\_offshore\\_safety\\_en.htm](http://ec.europa.eu/energy/oil/consultations/2011_05_11_oil_gas_offshore_safety_en.htm)), and the consolidated report of the consultation exercise, the European Commission Impact Assessment, published by DG ENER as a result of the Communication and reply to the Commission Communication by the European Parliament as well as any additional sources of information from regional regulatory fora (e.g. NSOAF); individual reports from member states (including EFTA members) and from industry and workers representative associations. A number of these documents are currently under development, the Commission services will assist the contractor to identify relevant sources of information for Commission derived documentation.

In addition, the US Presidential report into the Deepwater Horizon disaster should be evaluated to see if lessons learnt can and need to be applied to the European context. Any other relevant information from other global accidents should also be analysed (in particular well control issues) and compared to the practices employed in European waters.

In the offshore industry, relating to the area of Health and Safety of workers some key areas of concern and potential for improvement have been identified: e.g. improved peer to peer communication by both regulators and operators, independent verification of safety systems and controls etc.. In particular the Macondo incident revealed weaknesses in the control measures that are necessary to avoid a major accident involving multiple casualties and/or major damage to the environment. It will be important to not overshadow the more complex areas of major hazards prevention by concentrating solely on more occupational safety and health matters.

The above issues may be addressed by the production of technical guidance notes or other such documentation.

The contractor should make suggestions as to the scope and which legal entity (e.g. employer or regulator) should produce such documents and by what mechanism, with appropriate justification of the option(s).

It is noted that extraction through drilling has started, or will start in the near future in the Mediterranean Sea and Black Sea in Member States which joined the EU since the previous report (e.g. Bulgaria, Cyprus, Malta and Romania). The study will update existing information to include these areas.

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

The tasks covered by this invitation to tender involve the identification, analysis and assessment of:

- a. the specific prevention approaches adopted by Member States and by undertakings and public-sector bodies, e.g. organisational measures;
- b. the balance of regulatory attention given to major hazard control measures<sup>3</sup> compared to conventional occupational health and safety systems<sup>4</sup>.

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<sup>3</sup> For example in the maintenance of safety integrity levels that depend on the interaction of a number of independent factors; and in the management of change where original design intent of safety systems may be infringed. Inspection will require multidisciplinary experts and is usually based on a systematic audit approach. Specific measures are referred in Arts. 4 & 5, and Part C/Annex s.1 – 7 of 92/91

<sup>4</sup> For example in the degree of automation of manual handling operations, washroom hygiene, wearing of suitable personal protective equipment, and prevention of slips, trips and falls from height

- c. the impact of these specific prevention approaches on all levels of safety and health protection at work;
- d. the difficulties and the positive effects encountered by undertakings and public-sector bodies in connection with the practical application of legislation on safety and health at work.
- e. any unexpected negative or positive side effects resulting from the practical application of legislation on safety and health at work.

In all cases, attention must be paid to the extent to which self employed workers and small and medium-sized enterprises (SMEs) are affected in these circumstances.

The analyses must highlight the main differences among the 27 Member States and examine the potential consequences on the safety of offshore operations across Europe.

These analyses and assessments must also identify and draw attention to any features presenting particular difficulties. They must also take account of particularities relating to the age and sex of workers and the turnover and recruitment difficulties in key skills areas (process control operators, drilling specialists, and maintenance engineers). The results of these analyses and assessments will be used, in particular, to describe the existing situation and provide objective information allowing Member States to identify any areas in which it is necessary to enforce the national provisions more effectively. Where appropriate, they must also provide indications towards any further legislative or non-legislative measures needed to reduce the number of work accidents and occupational diseases.

A final report must be produced, setting out the results of the above-mentioned tasks and listing the suggestions and recommendations made, both by undertakings and public-sector bodies and by workers and/or their representatives, which could improve the practical application or contribute to the adaptation of the legislation. In all cases the supporting information used in the report must be referenced or supplied as an annex(es).

## **5.2. Methodological remarks**

The methods used must make it possible to identify, analyse and assess the various aspects referred to in section 5.1, by each Member State and the EEA countries.

The methods used must not be limited to identification, analysis and documentary assessment covering the aspects referred to in section 3.

Contacts must also be established (through questionnaires, interviews or visits etc.) with undertakings and public-sector bodies which are representative of the specific sectors concerned in each Member State and each sector of activity in order to verify and add to the information collected from employers' and workers' representatives.

The contractor is expected to use all sources of publically available information, in addition the use of questionnaires towards specific stakeholders (e.g. social partner representatives) and other selected experts will be essential to complement the available information. The data should be collated in such a way that a clear balanced understanding of the issues and scope of the problem is presented.

The contractor must also consult employers' and workers' representatives at national level or, where appropriate, at sectoral level in order to obtain a balanced picture of the situation. Special attention must be paid to SMEs, self-employed workers and workers who are particularly vulnerable or have specific problems, such as pregnant workers, disabled workers, young workers, etc.

Tenderers must describe the data collection and evaluation methods they intend to use. The rigour of the proposed approach and its ability to provide an accurate reflection of the real situation will constitute one of the criteria for the award of the contract. Tenderers may choose not to provide full details of their methods unless they are awarded the contract; if so, they must state this intention in their bids and include a brief description of their methods. The methods will be subject to appraisal and validation by a Monitoring Committee.

### **5.3 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 proposed activities includes a perspective informed by a systematic consideration of the gender 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 must have significant experience in working with complex technical issues related to the off shore extractive industry. (This should be demonstrated in the experts CV. (Typically >5 years per individual)).

## **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 **14 (fourteen) months** from the date on which the contract is signed. It will include the following stages:

(Work will be monitored by experts nominated by the tripartite Advisory Committee on Safety and Health, whose role is to advise the Commission on the quality, content and completeness of the contractors submissions).

- 7.1.1 Not later than **4 (four) weeks** after signature of the contract, the contractor must attend a **meeting** at the European Commission, DG Employment Unit Health, Safety and Hygiene at Work (Unit EMPL B/3) in Luxembourg, to discuss the plan of the work, the methodology and detailed approach to data collection and evaluation and the timetable of deliverables.
- 7.1.2 No more than **6 (six) months** after signature of the contract, the contractor must submit an interim report in English to the European Commission. This report will contain details of the information collected from the sources defined in section 5.1 as well as full details of the evaluation process and the scope of the final report. The report should be provided in one paper copy and an electronic version (e-mail)
- Following the reception of the interim report the Commission will organise a **second meeting** with the contractor to discuss the content of the interim report and to provide guidance on the preparation of the final report.
- 7.1.3 **10 (ten) months** after signature of the contract, the contractor must submit a draft final report in English to the European Commission, DG EMPL Unit B/3. This draft final report shall contain the elements specified in section 5.1. of these specifications. The report shall be provided in one paper copy and an electronic version (CD). In addition the contractor will provide an executive summary of the report translated into the 3 working languages ( EN, GER, FR)
- 7.1.4 The European Commission, DG EMPL Unit B 3 will examine the draft final report and notify the contractor of possible changes to be made within **sixty (60) days of receipt** of the draft final report.
- 7.1.5 Not later than **14 (fourteen)** months after signature of the contract, the contractor must provide the final report taking into account, where appropriate, the comments made by the European Commission. Once the Commission has approved the report, the contractor will provide the final report in 2 paper copies and an electronic version (CD).

## 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 European Union's Programme for Employment and Social Solidarity – PROGRESS, the following formulation shall be used:

*This (publication, conference, training session etc) is commissioned by the European Union Programme for Employment and Social Solidarity - PROGRESS (2007-2013).*

*This programme is implemented by the European Commission. It was established to financially support the implementation of the objectives of the European Union in the employment, social affairs and equal opportunities area, and thereby contribute to the achievement of the Europe 2020 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.*

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). The Strategic Framework, developed in collaboration with the Member States, social partners 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/service order/. 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 Interim payment**

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

- an interim 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.

### **8.2 Payment of the balance**

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

- the final 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 contract<sup>5</sup>. However, a grouping of economic operators must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the following points 11 and 12 must be supplied by every member of the grouping.

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<sup>5</sup> These entities can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

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

## 11. EXCLUSION CRITERIA AND SUPPORTING DOCUMENTS

1) Bidders must provide a declaration on their honour, duly signed and dated, that they are not in one of the situation referred to in Articles 93 and 94 a) of the Financial Regulation.

Those articles are as follows :

### **"Article 93 :**

Applicants or tenderers shall be excluded if:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of *res judicata*;
- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- d) they have not fulfilled their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) they have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- f) they are currently subject to an administrative penalty referred to in Article 96(1)<sup>6</sup>.

### **Article 94 :**

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

- a) are subject to a conflict of interest;
- b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the 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.

<sup>6</sup> 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.

(...)"

§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.***

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)	
<b>1. Exclusion from a procurement procedure, Article 93(1) FR :</b> « Candidates or tenderers shall be excluded from participation in a procurement procedure if:		
<b>1.1. (subparagraph a)</b> <i>they are bankrupt or being wound up,</i>  <i>are having their affairs administered by the courts,</i>  <i>have entered into an arrangement with creditors have suspended business activities, are the subject of proceedings concerning those matters,</i>  <i>or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations<sup>7</sup>;</i>	- Recent extract from the judicial record <b>or</b> recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance <b>or</b> - Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	
<b>1.2. (subparagraph b)</b> <i>they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata<sup>8</sup>;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
<b>1.3. (subparagraph c)</b> <i>they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;</i>	Declaration by the candidate or tenderer that he is not in the situation described	
<b>1.4. (subparagraph d)</b> <i>they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed<sup>9</sup>;</i>	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described <b>or</b> Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	
<b>1.5. (subparagraph e)</b> <i>they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests<sup>10</sup>;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
<b>1.6. (subparagraph f)</b> <i>they are currently subject of an administrative penalty referred to in Article 96(1)<sup>11</sup>. »</i>	Declaration by the candidate or tenderer that he is not in the situation described	

<sup>7</sup> See also Article 134(3) IR : Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to in paragraphs 1 and 2 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

<sup>8</sup> Cf. footnote n° 7

<sup>9</sup> Cf. footnote n°7

<sup>10</sup> Cf. footnote n°7

<sup>11</sup> Article 96(1) FR: The contracting authority may impose administrative or financial penalties on the following:

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

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

Exclusion criteria (Article 94 FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded	
	Procurement	Grants
<b>2. Exclusion from a procurement or grant award procedure Article 94 FR :</b> « <i>Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:</i>		
<b>2.1. (subparagraph a)</b>  <i>are subject to a conflict of interest;</i>	atement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal	
<b>2.2. (subparagraph b)</b> <i>are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information»<sup>12</sup>.</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 <sup>13</sup> and to identify any misrepresentation	

12 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. »

13 Cf. footnote n°12

## **Annex II**

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

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

- in his/her own name (*if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator<sup>14</sup>*)  
or
- representing (*if the economic operator is a legal person*)

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

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

official address in full:

VAT registration number:

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

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

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<sup>14</sup> To be used depending on the national legislation of the country in which the candidate or tenderer is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).

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



## Overview of PROGRESS Performance Measurement Framework

**PROGRESS Ultimate Outcome**  
*Member States implement laws, policies and practices in a manner that contributes to the desired outcomes of the Social Agenda*

PROGRESS works towards its ultimate outcome by helping strengthen the EU’s support for Member States' efforts to create more and better jobs and to build a more cohesive society. PROGRESS seeks to contribute to (i) an **effective legal regime** in the EU in relation to the Social Agenda; (ii) **shared understanding** across the EU with regard to Social Agenda objectives; and (iii) **strong partnerships** working towards Social Agenda objectives.

In operational terms, support provided by PROGRESS facilitates (i) provision of analysis and policy advice; (ii) monitoring and reporting on the implementation of EU legislation and policies; (iii) policy transfer, learning and support among Member States; and (iv) relaying to decision-makers the views of the stakeholders and society at large.

<b>Legal Regime Outcome:</b> <i>Compliance in Member States with EU law related to PROGRESS areas.</i> <b>Performance Indicators</b>	<b>Shared Understanding Outcome:</b> <i>Shared understanding and ownership among policy/decision-makers and stakeholders in Member States, and the Commission, of objectives related to PROGRESS policy areas.</i> <b>Performance Indicators</b>	<b>Strong Partnerships Outcome:</b> <i>Effective partnerships with national and pan-European stakeholders in support of outcomes related to PROGRESS policy areas.</i> <b>Performance Indicators</b>
<ol style="list-style-type: none"> <li>1. Transposition rate of EU law on matters related to PROGRESS policy areas</li> <li>2. Effectiveness of application in Member States of EU law on matters related to PROGRESS policy areas.</li> <li>3. EU policies and legislation are grounded in thorough analysis of situation and responsive to conditions, needs and expectations in Member States in PROGRESS areas</li> <li>4. Extent to which PROGRESS-supported policy advice feeds into the development and implementation of EU legislation and policies</li> <li>5. Cross-cutting issues are addressed in PROGRESS policy sections</li> <li>6. EU policies and legislation display a common underlying logic of intervention in relation to PROGRESS issues</li> <li>7. Gender mainstreaming is systematically promoted in PROGRESS</li> </ol>	<ol style="list-style-type: none"> <li>1. Attitudes of decision-makers, key stakeholders and general public regarding EU objectives in PROGRESS policy areas</li> <li>2. Extent to which national policy discourses or priorities reflect EU objectives</li> <li>3. Extent to which principles of good governance (including minimum standards on consultation) are respected in policy debate</li> <li>4. Extent to which the outcomes of policy debates feed into the development of EU law and policy.</li> <li>5. Greater awareness of policy-and decision-makers, social partners, NGOs, networks regarding their rights/obligations in relation to PROGRESS policy areas</li> <li>6. Greater awareness of policy-and decision-makers, social partners, NGOs, networks regarding EU objectives and policies in relation to PROGRESS policy areas</li> </ol>	<ol style="list-style-type: none"> <li>1. Existence of common ground/consensus among policy and decision-makers and stakeholders on EU objectives and policies</li> <li>2. Identification and involvement by the EU of key actors in a position to exert influence or change at EU and national levels</li> <li>3. Effectiveness of partnerships in relation to outcomes related to PROGRESS policy areas.</li> <li>4. Number of individuals served or reached by networks supported by PROGRESS.</li> <li>5. Extent to which advocacy skills of PROGRESS-supported networks have improved</li> <li>6. Satisfaction of EU and national authorities with the contribution of networks</li> <li>7. Extent to which PROGRESS-supported networks take a cross-cutting approach</li> </ol>