

1. TITLE OF THE CONTRACT

Evaluation of the practical implementation of EU Occupational Safety and Health (OSH) Directives in EU Member States with a view to assessing their relevance, effectiveness and coherence, and identifying possible improvements to the regulatory framework.

2. BACKGROUND

2.1. PROGRESS Introduction

This is a standard section about the PROGRESS programme within the framework of which this call for tender is published.

PROGRESS¹ 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 Agenda². 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);
- 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 2012 annual work plan which can be consulted at:

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

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

EU legislation on the protection of health and safety of workers at work is laid down in more than 20 Directives adopted on the basis of Article 153 of the Treaty on the Functioning of the European Union (TFEU). These directives contain minimum requirements and Member States are allowed to adopt or maintain more stringent protective measures compatible with the Treaties.

The main principles in this field are laid down in the Framework Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work³. In addition, a large number of other Directives have been adopted covering, for example, specific categories of workplaces, workers, specific risks, etc.

Under the provisions of Directive 89/391/EEC and 23 other Directives in the field of health and safety of workers at work, every five years, the Member States shall submit a single report to the Commission on the practical implementation of the Directives concerned. The first report shall cover the period from 2007 to 2012 and the Member States are required to transmit their reports by the end of 2013 at the latest. The structure and questionnaire for these national practical implementation reports - defined in a recent Commission Decision⁴ - contains a section with the principles and points common to all Directives concerned, and another that deals with particular aspects of each Directive, as well as a list of the Directives concerned (see Annex III).

Indeed, amendments in 2007 to the Framework Directive brought changes to the effect that a system of individual reports per Directive will now become a comprehensive evaluation of the relevant Directives in the area of Health and Safety at Work based on a single report from the Member States and the Commission.

Pursuant to Article 17a(4) of Directive 89/391/EEC, using these national reports as a basis, the European Commission is then required to:

"evaluate the implementation of the Directives concerned in terms of their relevance, of research and of new scientific knowledge in the various fields in question. It shall, within 36 months of the end of the five-year period, inform the European Parliament, the Council, the European Economic and Social Committee and the Advisory Committee on Safety and Health at Work of the results of this evaluation and, if necessary, of any initiatives to improve the operation of the regulatory framework".

The Commission report will be based, on the one hand, on the reports on the practical implementation of the 24 Directives concerned from all Member States (including the views of the social partners) and, on the other hand, on an independent external contractor's report for which the Commission services are publishing the present call for tenders. In addition, the Commission will use the experience it has gained from monitoring the transposition and application of the Directives in the Member States, including infringement procedures.

The obligations on the Member States to report on the practical implementation and on the Commission to draw up a report on the basis of the national reports are an important part of the legislative cycle, providing the opportunity to take stock of and evaluate the various aspects of the practical implementation of the Directives.

For the preparation of the independent external contractor's report, the Commission services are publishing the present call for tenders for a study to support the evaluation of the practical implementation of EU OSH Directives in EU Member States with a view to assessing effects and impacts and based on the identified strengths and weaknesses putting forward possible improvements to the regulatory framework.

³ OJ L 183, 29.6.1989, p. 1.

⁴ Commission Decision C/2011/9200 of 20 December 2011 notified to Member States on 21 December 2011 on defining the structure and questionnaire for the practical implementation report to be drawn up by the Member States regarding Directive 89/391/EEC, its individual Directives, and Directives 2009/148/EC, 91/383/EEC, 92/29/EEC and 94/33/EC. This document can be provided upon request.

Most Directives fall within the competence of Unit EMPL B/3 "Health, Safety and Hygiene at Work" of DG Employment, Social Affairs and Inclusion. Some Directives, however fall within the competence of Unit EMPL B/2 "Labour law" of that DG, and of Unit JUST D/1 "Equal treatment legislation" of DG Justice.

In the case of previous Commission reports which were established per Directive (see Annex IV), other institutions have adopted their opinion on the Commission reports.⁵

3. SUBJECT AND SCOPE OF THE CONTRACT

This invitation to tender invites bids for the evaluation of the implementation of 24 EU OSH Directives⁶ in the 27 EU Member States with a view to assessing their relevance, effectiveness and coherence, and identifying possible improvements to the regulatory framework. The evaluation covers the period 2007 – 2012.

The tasks to be carried out are described in more detail in point 5.

4. PARTICIPATION

Please note that:

The competition is open to any physical person or legal entity coming within the scope of the Treaties and any other physical person or legal entity from a third country which has concluded with the European Union a specific agreement in the area of public contracts, under the conditions provided for in that agreement.

Where the Multilateral Agreement on Public Contracts concluded within the framework of the WTO applies, the contracts are also open to nationals of States that have ratified this Agreement, under the conditions provided for therein. It should be noted that research and development services, which come under category 8 of Annex II A of Directive 2004/18/CE, are not covered by this Agreement.

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

5.1 General description of tasks

5.1.1 Subject matter to be covered by the study

As already briefly set out in point 3, the contractor shall carry out the tasks of evaluation through three principal tasks.

The first task concerns the analysis of practical implementation.

The second task concerns evaluation according to the criteria of relevance, effectiveness and coherence.

The third task concerns the making of recommendations on the basis of the evaluation.

⁵ See e.g. *European Parliament Resolution of 24 February 2005 on promoting health and safety at the workplace (2004/2205(INI))*.

⁶ *Listed in Annex III.*

The Contractor will be called upon to use their knowledge and experience to interpret and break down these questions and, where appropriate, propose others to the Commission with the aim of improving the focus of this evaluation. The contractor should note that the questions proposed below do not necessarily cover the entire matter/area concerned. In fact, they deal with issues the Commission is particularly interested in and which the contractor should therefore address in addition to any other issues which the evaluator may see as requiring attention.

Task 1: Mapping of the practical implementation

The contractor shall map practical implementation at national level in all Member States. One aspect of mapping is to establish a general overview of the national frameworks that Member States establish to put the Directives into practice. A second aspect is to establish an overview of how the organisations that are affected by these frameworks put them into practice 'on the ground'.

The mapping will provide the basic information about how and where the Directives operate and generate effects, and much of the material gathered under the first task will be re-used as one of the foundations for building answers to the second task. Mapping will also be part of the work associated with developing 'intervention logics' which will be of central importance to addressing each of the evaluation criteria in the second task.

The contractor is required to present an overview of the labour market to which the Directives apply (e.g. the relative size and trends of the employment sectors in all Member States), and key statistics of certain third countries (e.g. Japan, USA, Canada, Australia) to facilitate comparison of the levels of protection of workers with the EU.

The sources of information that should be used in order to carry out the mapping are described in point 5.1.4 (use and collection of data).

Question 1 (structural components of health and safety Directives)

Across the Member States, how are the different 'common processes' and 'mechanisms' foreseen by the Directives put in place and how do they operate and interact with each other?

The question should address:

- risk assessment and the resulting protection measures and preventive actions
- internal/external protective and preventive services
- information, consultation and training of workers
- health surveillance.

Question 2 (gaps in content or time)

What derogations and transitional periods are applied or have been used under national law under several of the Directives concerned? (e.g. Directives 94/33/EC, 2002/44/EC and 2003/10/EC; Directive 2002/44/EC, and Directive 2003/10/EC in relation to national codes of conduct).

Question 3 (levels of compliance by different stakeholders)

What are the differences in approach to and degree of fulfilment of the requirements of the EU OSH Directives in private undertakings and public-sector bodies, across different sectors of economic activity and across different sizes of companies, especially for SMEs, microenterprises and self-employed?

Question 3a

How do workers / workers' representatives / experts / public authorities view the degree of fulfilment of legal obligations by employers?

Question 4 (accompanying actions that support respect of the rules)

What accompanying actions to OSH legislation have been undertaken by different actors (the Commission, the national authorities, social partners, EU-OSHA, Eurofound, etc.) to improve the level of protection of health and safety at work and to what extent are they actually used by companies and establishments to pursue the objective of protecting health and safety of workers? Are there any information needs that are not met?

Question 5 (enforcement)

What are the enforcement (including sanctions) and other related activities of the competent authorities at national level and how are the priorities set among the subjects covered by the Directives?

Question 6 (specific groups of workers)

What are the differences of approach across Member States and across establishments with regard to potentially vulnerable groups of workers depending on gender, age, disability, employment status, migration status, etc., and to what extent are their specificities, resulting in particular from their greater unfamiliarity, lack of experience, absence of awareness of existing or potential dangers or their immaturity, addressed by the arrangements under question?

Question 7 (SMEs and micro enterprises)

What measures have been undertaken by the Member States to support SMEs and microenterprises (e.g. lighter regimes, exemptions, incentives, guidance, etc.)?

Task 2: Evaluation according to the criteria of relevance, effectiveness and coherence

1. Relevance

The contractor shall examine the extent to which the aims of the Directives are up to date in addressing needs and issues related to the health and safety of workers.

This theme requires the ability to relate the objectives of the Directives to (i) research and scientific knowledge in relation to worker health and safety and (ii) how the economy and the labour market have evolved since the Directives were adopted. The analysis must also consider new and emerging risks (e.g. nanomaterials, psychosocial risks); and changes in the labour force and sectoral composition (tertiarization, aging workforce, globalisation, increasing worker diversity, increasing use of subcontracting, mobile workplaces, non-standard working times, increase in driving for work, etc.).

Question 1 (current relevance)

To what extent do the Directives adequately address current occupational risk factors and protect the safety and health of workers?

Question 2 (future relevance based on known trends)

Based on known trends (e.g. new and emerging risks and changes in the labour force and sectoral composition), how might the relevance of the Directives evolve in the future, and stay adapted to the workplaces of the future in light of the horizon of 2020? Does the need for EU level action persist?

2. Effectiveness

The contractor is expected analyse if the Directives are achieving what they set out to; how significant these achievements are; and consider the distribution of benefits and costs associated with those achievements.

Consequently, this theme will require a very good understanding of what the Directives are supposed to achieve at general and operational levels. It also requires knowledge of the spectrum of effects that the Directives generate at different levels. Some of these effects are 'immediate' and will already be suggested by information gathered when mapping practical implementation questions (new processes, rules, supporting actions ...). However, such immediate effects also induce further 'knock on' effects, both intended and unintended. For this reason, the contractor shall develop 'intervention logics' to clarify the paths by which each Directive generates effects at different levels. In order to develop a convincing methodology, these intervention logics will be developed and discussed in depth with the Commission services during the early phases of the contractor's work.

Question 1

To what extent have the Directives influenced workers' health and safety (harmonisation of levels of protection; exposure to occupational risk factors; the rate of accidents at work and work-related health problems), the activities of workers' representatives, and the behaviour of establishments?

For workers, to the extent possible, these effects should be broken down by sex, age, occupation, employment status and by different groups of workers, e.g. migrant, disabled, pregnant workers, etc.

For establishments, to the extent possible, these effects should be broken down by sector (public/private), economic sectors of activity, and size of enterprise, especially for SME and microenterprises.

Question 2

What are the effects on the protection of workers' health and safety of the various derogations and transitional periods foreseen in several of the Directives concerned? (Derogations e.g. in Directives 94/33/EC, 2002/44/EC and 2003/10/EC; and transitional periods e.g. in Directive 2002/44/EC, and in Directive 2003/10/EC in relation to national codes of conduct)

Question 3

How and to what extent do the different mechanisms and processes that were mapped under task 1 contribute to the effectiveness of the Directives?

The answer must consider the following fields:

- risk assessment processes;*
- training, consultation, participation and information of workers;*
- internal / external preventive and protective services;*
- health surveillance.*

Question 4

To what extent do sanctions and other related enforcement activities contribute to the effectiveness of the Directives?

Question 5

What benefits (e.g. reduction in working days lost due to work related accidents or health problems; reductions in number or severity of work related accidents or health problems) and costs arise for society and employers (including compliance costs and administrative burden) as a result of fulfilling the requirements of the Directives, such as carrying out risk assessment, risk management measures, providing training and information, consultation of workers, protective and preventive services, health surveillance?

These aspects should be analysed by size of enterprise, especially for SMEs and microenterprises. Identify, if possible, good practices in terms of cost-effective implementation of the Directives in the Member States.

Question 6

To what extent do the Directives generate broader effects (including side effects) in society and the economy?

The answer should cover as a minimum 'agenda setting', 'learning', influencing national priorities, motivation of workers, innovation (e.g. new production methods), higher productivity, quality of production / services, employment (access of different groups to the labour market), competitiveness and economic growth.

Question 7

To what extent are the Directives achieving their aims and, if they are not, what causes could play a role? What factors have particularly contributed to the achievement of the objectives?

3. Coherence / complementarity

Question 1

What, if any, inconsistencies, overlaps, or synergies can be identified across and between the Directives (for example, any positive interactions improving health and safety outcomes, or negative impact on the burdens of regulation)?

Question 2

How is the interrelation of the Directives with other measures and/or policies at European level also covering aspects related to health and safety at work, such as EU legislation in other policy areas (e.g. legislation: REACH, Cosmetics Directive, Machinery Directive, policy: Road Transport Safety, Public Health, Environment Protection), European Social Partners Agreements or ILO Conventions?

Task 3: Make recommendations

Following the evaluation and the identification of strengths, obsolete provisions, gaps and weaknesses, suggest if there should be any changes in, *inter alia*:

- the legal provisions of the Directives (such changes could relate to the appropriateness of the legal instrument and/or its contents, as well as its goal- or target-oriented character),
- practical implementation at national level (facilitate more cost-effective implementation of the Directives),
- enforcement strategies of national authorities,
- other accompanying measures for improving health and safety at work (e.g. economic incentives, awareness raising, advice, practical tools),
- sector specific approaches,

in order to improve the operation of the regulatory framework.

In addition, put forward suggestions if necessary to improve the coherence or synergies of the different measures and/or policies at European level with a view to improve the level of protection of workers.

5.1.2 Methodology

Tenderers will indicate the methodology they intend to use and explain how it is suitable for carrying out the tasks. The rigour of the proposed approach and its suitability for correctly reflecting the actual situation form part of the elements governing the award of the contract.

The methodology should describe in detail how tenderers intend to identify, analyse and evaluate the different elements mentioned in section 5.1.1.

During the inception phase, the contractor should investigate the extent to which these specific questions can be answered on the basis of the information which is available or foreseeable. The inception report should contain a description of this work, and in cases where there are doubts about evaluability, the contractor should make proposals for appropriate reformulation, adjustment or reduction of questions that can be discussed with the Commission services.

The contractor has to undertake contacts (e.g. visits, interviews, surveys, etc.) with private enterprises and establishments in the public sector that are representative for the specific sectors concerned of each Member State, as well as with the representatives of employers and workers at national level and where relevant at sectorial level in order to obtain a nuanced picture of the reality. Special attention has to be given to SME, including microenterprises, self-employed and specific groups of vulnerable workers or workers with special needs. The methods to validate the data and information collected should be proposed at different levels (e.g. national, sectorial) (see also point 5.1.4).

The approach to the use of data and information from various sources (e.g. the practical implementation reports from Member States – which will probably not be available in the first year of the contract, literature review, field work etc.) and the role of qualitative and quantitative analysis should be presented.

The Commission services with the ACSHW Working Party on Evaluation of OSH directives worked on the elaboration of a common evaluation methodology for evaluation of EU OSH directives with the help of an external contractor. The final study report will be made available upon request. In their proposals, tenderers should indicate how their methodology would draw on the conclusions of the study on the development of a common methodology for the evaluation of OSH Directives and provide indication of further improvements and adjustments. The contractor shall take account of any formal opinion adopted by the ACSHW.

The evaluation should aim at quantification whenever this is reasonable (e.g. the number of Member States having introduced specific derogations or extended the scope of a certain regulation) or explain why quantification is not adequate or actually not possible. Sound qualitative (e.g. causality analysis, expert opinions) approaches shall be used where appropriate.

The methodology should also foresee the design of overview tables and matrix approach aimed at visualising the findings with respect to the different evaluation questions by country and Directive.

It is important for the contractor to ensure that recommendations are based on the analysis and findings. They must also be feasible and operational.

The recommendations may concern the different evaluation criteria, subjects addressed by specific questions, and findings.

5.1.3. Operational aspects of the evaluation

To come to workable conclusions, the possibility of grouping the Directives and sectors involved for the operational aspects of evaluation work should be explored, for example along the following lines:

- Framework Directive 89/391/EEC
- Workplaces (e.g. Workplaces Directive 89/654/EEC, Construction Sites Directive 92/57/EEC, Extractive Industries Directives 92/91/EEC and 92/104/EEC, Fishing Vessels 93/103/EEC;
- Different agents (e.g. Biological Agents Directive 2000/54/EC, Carcinogens Directive 2004/37/EC, physical agents Directives on Noise 2003/10/EC, Vibrations 2002/44/EC, Electromagnetic Fields 2004/40/EC, Optical Radiation 2006/25/EC, Chemical Agents Directive 98/24/EC)
- Types of workers (Young Workers Directive 94/33/EC, Pregnant Workers Directive 92/85/EEC, Fixed-Duration and Temporary Workers Directive 91/383/EEC).

Tenderers may propose different groupings of Directives explaining the rationale and the advantages and weaknesses for the operational aspects of the work such as for example interviews and enterprise visits. The grouping should be with no prejudice to the capacity to gather the relevant information specific for each Directive and country.

5.1.4 Use and collection of data

The contractor is requested to make use of the following sources of information:

- Legislation in each Member State. This is primarily to provide an overview and identify e.g. where the Member States went beyond the requirements of the Directives. The present study does not aim to carry out an analysis of the conformity of the individual provisions of each national regulation transposing the EU Directives covered by this study.
- Publicly available data: analysis of the available data at the international, European and national levels. Such sources can be official statistics, primary research as well as any other relevant and reliable sources of information, for example national pre-legislative impact assessment and evaluation reports. Information can, in addition to the national authorities, for example, also be obtained from the EU's statistical office Eurostat⁷ and the European Agency for Safety and Health at Work (OSHA)⁸, Eurofound (European Foundation for the Improvement of Living and Working Conditions) and its network of correspondents for the European Working Conditions Observatory.
- Own surveys and expert opinions and advice: the contractor shall also make its own investigations by taking up contacts with the actors "in the field", i.e. workers, workers' organisations, employers, employers' organisations, scientists and other OSH experts, professional bodies, public authorities, national OSH research institutes, insurance companies, etc. For this data collection, qualitative interviews with these actors conducted by telephone or face-to-face should be preferred over online interviews and mail questionnaires, in order to guarantee the quality and reliability of the information.
- The practical implementation reports that the Member States will have to transmit to the Commission by the end of 2013 at the latest. These reports will be made available in their original languages to the contractor as soon as the Commission services receive them. Such reports may arrive before the deadline, but it cannot be excluded that certain

⁷ <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home>.

⁸ <http://osha.europa.eu/en>.

reports arrive well after the deadline. It is important that the contractor take this timing issue into account when developing the methodology and proposing field work.

- The results from the evaluation of the European Strategy on health and safety at work 2007 – 2012.

Furthermore, the questions raised in the questionnaire for the drawing up of the practical implementation reports by the Member States laid down in Commission Decision C/2011/9200 shall be a source of inspiration for the contractor in addressing the tasks.⁹

As regards the Extraction through Drilling Directive 92/91/EEC, the contractor shall take into account the outcome of the 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. The final report of this study should become available early 2013 and will be made available to the contractor.

Also, the results of previous Commission reports on practical implementation¹⁰ and studies on the practical implementation carried out for some of the Directives (e.g. study on the practical implementation of Directive 98/24/EC on Chemical Agents) and studies on the new occupational risk factors (e.g. study on the use of portable devices, study on nanotechnologies) will be made available to the contractor.

5.1.5 Organisation of work

The lead service / contact point in the European Commission is DG Employment, Social Affairs and Inclusion, Unit EMPL B/3 "Health, Safety and Hygiene at Work".

A steering group composed of officials from other relevant and interested services within the European Commission and EU agencies (EU OSHA and Eurofound) will oversee the conduct of the evaluation.

The contractor will carry out the work in close collaboration with the ACSH Working Party "Evaluation of OSH Directives" as foreseen under point 7.1 below.

The contractor will: take part in six (6) meetings with the Commission services and five (5) with the ACSH Working Party. The latter will take place the day after each meeting with the Commission services. These meetings will be organised by the Commission (Unit EMPL B/3) and held in the Commission premises in Luxembourg.

The contractor will also organise a one-day validation seminar in Luxembourg with the European Commission services involved in the evaluation. The purpose of the Seminar will be to test the results and preliminary conclusions contained in the draft 3rd Interim Report. To this purpose key stakeholders will be invited such as the ACSH WG on Evaluation of OSH Directives, the Bureau of ACSH, EU-OSHA, SLIC, Eurofound, professional bodies etc. The contractor will be fully responsible for the practical arrangements of the seminar (organisation, transport and accommodation of participants, interpretation, audio-visual, etc.), which shall not exceed a limited amount - for example 7.5 % - of the total budget.

Any problem that is likely to result in a departure from the agreed project schedule must be notified to the Commission services as soon as possible. Provisions must be in place to ensure that any unforeseen absence of key staff does not put the project objectives at risk or result in an unreasonable delay.

5.1.6 Deliverables

⁹ The Commission Decision can be provided upon request.

¹⁰ See Annex IV.

A number of different deliverables are required.

The overall outcome of this evaluation shall be a final report drawn up in English which should present the information obtained, the reasoned conclusions, and based on the identified strengths and weaknesses put forward possible improvements to the operation of the regulatory framework. Two sets of annexes shall be provided:

- A full report by Directive drawn up in English that covers the situation in all the Member States and provides the conclusions relevant for all Member States (not more than 50 pages per Directive);
- A summary evaluation report drawn up in English on the practical implementation of the EU OSH Directives presenting the situation for each Member State (maximum 100 pages).

A synthesis report covering all Directives, of maximum 100 pages drawn up in English, shall also be presented as well as an executive summary of 10 pages in English, French and German.

A "press-release" style summary of the essential points of the evaluation and outcome on two pages shall be provided. This summary must be concise, clear and easily understandable and provided in English, French and German.

The information must be comprehensive, up to date, accurate, relevant to the specified topic, and at a level suitable for the specified target audience. All deliverables must be in high quality English in a style suitable for the specified target audience and have a clear, logical and easy to follow structure.

The contractor shall provide references to all sources used during the work. Data that has been collected in the course of the project shall be made accessible, while respecting the principles of data protection.

The final report, together with the various reports, summaries and key points referred to in this section, must be submitted to the European Commission (Unit EMPL B/3) both on paper (two copies) and in a widely-used word-processing 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 final report. The pictograms, pictures, graphics and other illustrations must also be presented in a widely-used electronic format.

5.2. 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 disability.

The Contractor will be required to detail in its final activity report the steps and achievements made towards meeting these contractual requirements. The contractor should be aware that the steering group may request progress reports in addition to the formal deliverables, if it is felt necessary for the effective completion of the evaluation.

6. SKILLS AND PROFESSIONAL QUALIFICATIONS REQUIRED

See also Annex IV of the model contract, experts' CVs.

Additional requirements:

Tenderers must have at their disposal a team with a proven capability to carry out the tasks related to the evaluation of the practical implementation of EU legislation in the field of occupational safety and health. Expertise and confirmed experience in the specific field of health and safety at work is required, especially also related to the technical issues involved. This should be based on a multi-disciplinary staff and/or access to external experts on a wide range of relevant disciplines, for example, law, economics, statistics, engineering, occupational health and safety, occupational hygiene, occupational medicine, epidemiology, practical side of workplace risk assessment and management. The tenderer must provide an organogram and information on the distribution of responsibilities and resources.

The team also has to have the expertise and experience in applying methods and techniques for analysis of the practical implementation, ex-post evaluation and collecting information with respect to EU legislation. The experts must be familiar with the existing evaluation tools and with EU legislation in the field of health and safety at work and have the capacities to deal with all Member States (e.g. in terms of language coverage).

Tenderers must demonstrate experience of carrying out qualitative research and in depth or semi-structured interviews as well as quantitative analysis.

The team must also have the ability to communicate with undertakings and bodies in the public sector and with SMEs and microenterprises and their workers in all the Member States concerned by this invitation to tender.

7. TIME SCHEDULE AND REPORTING

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

7.1. Specific deadlines for the performance of the tasks

The work must be completed within a maximum of **twenty-three (23) months** from the date on which the contract is signed. It will include the following stages:

- 7.1.1. As soon as practicable, and **at the latest six (6) weeks** after the signature of the contract, the contractor shall participate in a **kick-off meeting** in Luxembourg in English with the Commission services to discuss the offer, the expectations and any questions.
- 7.1.2. **Four (4) months** after signature of the contract, the contractor shall submit to Unit EMPL B/3, an **inception report**, clarifying the approach, organisation and methodology of the work, including a calendar of the tasks and a detailed description of how the team will organise and manage the different tasks and events. Subsequently, the Commission services will organise a meeting in Luxembourg with the contractor, Unit EMPL B/3 and the

steering group to discuss the inception report with the contractor as well as the most appropriate way to carry out the tasks, coordinate the dates of the meetings, explain the role of the ACSH Working Party and exchange other useful information. The day after, the contractor will present the inception report at a **first (1st) meeting with the ACSH Working Party**.

- 7.1.3. No more than **eight (8) months** after signature of the contract, the contractor must submit a **first (1st) interim report** in English to the European Commission (Unit EMPL B/3), describing the progress of the work in relation to the envisaged timetable. This report must contain a summary of the results to date, and in any case address and provide the interview and survey questions, as well as the approach for the selection of interviewees. The interim report must also indicate whether any methodological adjustments have been or need to be made. Subsequently, the first interim report must be presented and discussed at a meeting in Luxembourg with Unit EMPL B/3 and the steering group to discuss its contents and to provide guidance on the preparation of the further reporting. The day after, the contractor will present the report at a **second (2nd) meeting with the ACSH Working Party**.
- 7.1.4. No more than **twelve (12) months** after signature of the contract, the contractor must submit a **second (2nd) interim report** in English to the European Commission (Unit EMPL B/3), describing the progress of the work in relation to the envisaged timetable. This report must contain a summary of the results to date, the results of the visits and interviews conducted by the contractor, and in any case provide an outline for the so-called validation seminar to be held 16 months after the signature of the contract and a first analysis of the national implementation reports received so far. Subsequently, the second interim report must be presented and discussed at a meeting in Luxembourg with Unit EMPL B/3 and the steering group. The day after the contractor will present the report at a **third (3rd) meeting with the ACSH Working Party**. These meetings will also address the preparations of the validation seminar and a possible discussion of the first analysis of the national implementation reports.
- 7.1.5. **Sixteen (16) months** after signature of the contract, the contractor will organise the **validation seminar** for testing the results and preliminary conclusions of the draft third interim report in Luxembourg. The seminar will be on an invitation basis for members of the ACSH Working Party and of the Bureau of the ACSH, the Commission services (including the members of the steering group), relevant EU agencies, as well as key stakeholders at EU level involved in occupational safety and health. In addition to the practical arrangements of the seminar (see point 5.1.5), the contractor will be responsible for:
- a. Drafting the draft agenda for approval by the Commission;
 - b. Preparing the working documents or supporting materials for the seminar (preferably PowerPoint presentations) and submitting them for approval to the Commission at least 15 working days ahead of the seminar;
 - c. Steering the discussion and the debate.
- 7.1.6. **Seventeen (17) months** after signature of the contract, the contractor must submit the **third (3rd) interim report** in English to the European Commission (Unit EMPL B/3), describing the progress of the work in relation to the envisaged timetable. This report must contain a summary of the results to date, and in any case provide a report on the results of the validation seminar, and the analysis of the national implementation reports. Subsequently, the third interim report must be presented and discussed at a meeting in Luxembourg with Unit EMPL B/3 and the steering group. The day after the contractor will present the report at a **fourth (4th) meeting with the ACSH Working Party**.
- 7.1.7. Not later than **twenty (20) months** after signature of the contract, the contractor must submit the **draft final report** in English to the European Commission (Unit EMPL B/3). Subsequently, the draft final report must be presented and discussed at a meeting in

Luxembourg with Unit EMPL B/3 and the steering group. The day after the contractor will present the report at a **fifth (5th) meeting with the ACSH Working Party**.

7.1.8. Not later than twenty-three (23) months after signature of the contract, the contractor must submit a **final report** in English. The European Commission (unit EMPL B/3) may transmit comments to the contractor within sixty (60) days of receipt. The contractor will then have 30 days to present a revised final report. When submitting the final report, the contractor may obtain written confirmation of acceptance.

The various reports/documents referred to in this section must be submitted to the European Commission (unit EMPL B/3) both on paper (in triplicate) and in a widely-used electronic format enabling word processing (CD-ROM or DVD)

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 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. 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 10% of the total referred to in Article 1.3.1 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 3 interim payments. To be acceptable, each request must be accompanied by:

- an interim report in accordance with the instructions laid down in section 7;
- the relevant invoice;

The report must have been approved by the Commission. The Commission has 60 days from receipt of the report to approve, provide comments, 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 invoice, up to a maximum of 20% of the total amount referred to in Article 1.3.1 of the draft contract shall be made for each one.

8.3 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 invoice;

The said report must have been approved by the Commission. The quality of the final deliverable will be assessed by the Commission, *inter alia*, on the basis of the grid "Quality assessment of the evaluation report" (Annex n° V). After receiving the report, the Commission has 60 days in which to accept, provide comments, 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.

■ 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.
- Translation costs, where applicable.
- Other direct costs, in particular all costs related to the validation seminar (see point 5.1.5), including organisation, transport and accommodation of participants, interpretation, audio-visual, etc.

Maximum amount for this contract: **2.000.000 €**

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 contract¹¹. 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.

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

11. EXCLUSION CRITERIA AND SUPPORTING DOCUMENTS

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

Those articles are as follows :

"Article 93 :

Applicants or tenderers shall be excluded if:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;*
- b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;*

¹¹ 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.

- 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)12.*

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.

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

¹² 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.

(...)"

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. € 4.000,000 -)
- 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: | 30% |
| - quality and consistency of the technical and methodological approach | 35% |
| - 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. Bids must also achieve at least 50% for each criterion in order to be considered for award. For the purposes of award, total points will then be divided by the price, with the highest-scoring bid being chosen.

14. Content and presentation of bids

14.1 Content of bids

Tenders must include:

- all information and documents necessary to enable the Commission to appraise the bid on the basis of the selection and award criteria (see points 12 and 13 above);
- a bank ID form duly completed and signed by the bank;
- a "legal entity" form duly completed;
- the price;
- the detailed CVs of the proposed experts;
- the name and function of the contractor's legal representative (i.e. the person authorised to act on behalf of the contractor in any legal dealings with third parties);
- proof of eligibility: tenderers must indicate the State in which they have their registered office or are established, providing the necessary supporting documents in accordance with their national law.

14.2 Presentation of bids

- Bids must be submitted in triplicate (i.e. one original and two copies).
- They must include all the information required by the Commission (see points 9, 10, 11 and 12 above).
- They must be clear and concise.
- They must be signed by the legal representative.
- They must be submitted in accordance with the specific requirements of the invitation to tender, within the deadlines laid down.

Annex I

Exclusion criteria (Article 93(1) FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded	
	Procurement (Article 93(2) FR; Article 134 IR)	
1. Exclusion from a procurement procedure, Article 93(1) FR : « Candidates or tenderers shall be excluded from participation in a procurement procedure if:		
1.1. (subparagraph a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations ¹³ ;	- Recent extract from the judicial record or recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance or - Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	
1.2. (subparagraph b) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata ¹⁴ ;	Cf. supporting documents for Article 93(1)(a) FR above	
1.3. (subparagraph c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;	Declaration by the candidate or tenderer that he is not in the situation described	
1.4. (subparagraph d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed ¹⁵ ;	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described or Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	
1.5. (subparagraph e) they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests ¹⁶ ;	Cf. supporting documents for Article 93(1)(a) FR above	
1.6. (subparagraph f) they are currently subject of an administrative penalty referred to in Article 96(1) ¹⁷ . »	Declaration by the candidate or tenderer that he is not in the situation described	

¹³ 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.

¹⁴ Cf. footnote n° 13

¹⁵ Cf. footnote n°13

¹⁶ Cf. footnote n° 13

¹⁷ Article 96(1) FR: The contracting authority may impose administrative or financial penalties on the following:

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

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

Exclusion criteria (Article 94 FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded		
	Procurement	Grants	
2. Exclusion from a procurement or grant award procedure Article 94 FR : « Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:			
2.1. (subparagraph a) are subject to a conflict of interest;	statement by the applicant, tenderer or bidder confirming the absence of conflict of interests, to be submitted with the application, bid or proposal		
2.2. (subparagraph b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information» ¹⁸ .	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 ¹⁹ and to identify any misrepresentation		

¹⁸ 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. »

¹⁹ Cf. footnote n°18

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 operator²⁰)
or
- representing (if the economic operator is a legal person)

official name in full (only for legal person):

official legal form (only for legal person):

official address in full:

VAT registration number:

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

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

In addition, the undersigned declares on their honour:

- 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;

²⁰ 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).

- 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.

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

Annex III

<p style="text-align: center;">EU Directives in the field of health and safety at work the implementation of which is to be evaluated according to Directive 89/391/EEC</p>
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- **Directive 89/391/EEC**²¹ of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, as amended by:
- **Council Directive 89/654/EEC**²² of 30 November 1989 concerning the minimum safety and health requirements for the **workplace** (first individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2009/104/EC**²³ of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of **work equipment** by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC – Codification of Directive 89/655/EEC, as amended by Directives 95/63/EC and 2001/45/EC);
- **Council Directive 89/656/EEC**²⁴ of 30 November 1989 on the minimum health and safety requirements for the use by workers of **personal protective equipment** at the workplace (third individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 90/269/EEC**²⁵ of 29 May 1990 on the minimum health and safety requirements for the manual handling of **loads** where there is a risk particularly of back injury to workers (fourth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 90/270/EEC**²⁶ of 29 May 1990 on the minimum safety and health requirements for work with **display screen equipment** (fifth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2004/37/EC**²⁷ 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 (sixth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC - Codification of Directive 90/394/EEC);
- **Directive 2000/54/EC**²⁸ of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to **biological agents** at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) - Codification of Directive 90/679/EEC);
- **Council Directive 92/57/EEC**²⁹ of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile **construction sites** (eight individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 92/58/EEC**³⁰ of 24 June 1992 on the minimum requirements for the provision of safety and/or health **signs** at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 92/85/EEC**³¹ of 19 October 1992 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) ;

²¹ OJ L 183, 29.6.1989, p. 1.

²² OJ L 393, 30.12.1989, p. 1.

²³ OJ L 260, 3.10.2009, p. 5.

²⁴ OJ L 393, 30.12.1989, p. 18.

²⁵ OJ L 156, 21.6.1990, p. 9.

²⁶ OJ L 156, 21.6.1990, p. 14.

²⁷ OJ L 229, 29.6.2004, p. 23.

²⁸ OJ L 262, 17.10.2000, p. 21.

²⁹ OJ L 245, 26.8.1992, p. 6.

³⁰ OJ L 245, 26.8.1992, p. 23.

³¹ OJ L 348, 28.11.1992, p. 1.

- **Council Directive 92/91/EEC³²** of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in **the mineral-extracting industries through drilling** (eleventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 92/104/EEC³³** of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in **surface and underground mineral-extracting industries** (twelfth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 93/103/EC³⁴** of 23 November 1993 concerning the minimum safety and health requirements for work on board **fishing vessels** (thirteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 98/24/EC³⁵** of 7 April 1998 on the protection of the health and safety of workers from the risks related to **chemical agents** at work (fourteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 1999/92/EC³⁶** of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from **explosive atmospheres** (fifteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2002/44/EC³⁷** of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from **physical agents (vibration)** (sixteenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2003/10/EC³⁸** of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from **physical agents (noise)** (seventeenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Directive 2004/40/EC³⁹** of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from **physical agents (electromagnetic fields)** (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC),); **as amended by Directive 2008/46/EC⁴⁰**
- **Directive 2006/25/EC⁴¹** of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from **physical agents (artificial optical radiation)** (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC);
- **Council Directive 91/383/EEC⁴²** of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a **fixed-duration employment relationship or a temporary employment relationship**;
- **Council Directive 92/29/EEC⁴³** of 31 March 1992 on the minimum safety and health requirements for improved **medical treatment on board vessels**;
- **Council Directive 94/33/EC⁴⁴** of 22 June 1994 on the protection of **young people** at work;
- **Directive 2009/148/EC⁴⁵** of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to **asbestos** at work.

³² OJ L 348, 28.11.1992, p.9.

³³ OJ L 404, 31.12.1992, p.10.

³⁴ OJ L 307, 13.12.1993, p.1.

³⁵ OJ L131, 5.5.1998, p.11.

³⁶ OJ L 23, 28.1.2000, p.57.

³⁷ OJ L 177, 6.7.2002, p.13.

³⁸ OJ L 42, 15.2.2003, p.38.

³⁹ OJ L 184, 24.5.2004, p.1.

⁴⁰ OJ L 114, 26.4.2008, p. 88

⁴¹ OJ L 114, 27.4.2006, p.38.

⁴² OJ L 206, 29.7.1991, p. 19.

⁴³ OJ L 113, 30.4.1992, p.19.

⁴⁴ OJ L 216, 20.8.1994, p. 12.

⁴⁵ OJ L 330, 16.12.2009, p. 28.

Annex IV

Communications from the Commission on the practical implementation of EU Directives in the field of health and safety at work
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Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on the practical implementation of the provisions of the Health and Safety at Work Directives 89/391 (Framework), 89/654 (Workplaces), 89/655 (Work Equipment), 89/656 (Personal Protective Equipment), 90/269 (Manual Handling of Loads) and 90/270 (Display Screen Equipment) COM/2004/0062 final

http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2004&nu_doc=62

Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the practical implementation of Health and Safety at Work Directives 92/57/EEC (temporary and mobile sites) and 92/58/EEC (safety signs at work) COM/2008/0698 final

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008DC0698:EN:NOT>

Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the practical implementation of Health and Safety at Work Directives 92/91/EEC (mineral extraction through drilling) and 92/104/EEC (surface and underground mineral extraction) COM/2009/0449 final

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0449:EN:NOT>

Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the practical implementation of Health and Safety at Work Directives 93/103/EC (fishing vessels) and 92/29/EEC (medical treatment on board vessels) COM/2009/0599 final

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0599:EN:NOT>

Commission Staff Working Paper on the implementation of Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixedduration employment relationship or a temporary employment relationship SEC(2004)635

Commission Staff Working Paper Implementation by Member States of Council Directive 91/383/EC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship SEC(2011)982

<http://ec.europa.eu/social/main.jsp?catId=706&langId=en&intPageId=200>

Commission Staff Working Paper Document on the application of Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work SEC(2010)1339

<http://ec.europa.eu/social/main.jsp?catId=706&langId=en&intPageId=209>

Commission Report of 15 March 1999 on the implementation of Council Directive 92/85/EEC of 19 October 1992 on the implementation of measures to encourage improvements in the health and safety of pregnant workers and workers who have recently given birth or are breastfeeding [COM(1999) 100 final

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:1999:0100:FIN:EN:PDF>

Annex V

QUALITY ASSESSMENT OF THE FINAL EVALUATION REPORT

	Poor	Satisfactory	Good	Very good	Excellent
<p>1) Relevance</p> <p>Does the evaluation respond to the information needs, in particular as expressed in the terms of reference?</p>					
<p>2) Appropriate design</p> <p>Is the design of the evaluation adequate for obtaining the results needed to answer the evaluation questions?</p>					
<p>3) Reliable data</p> <p>Are the data collected adequate for their intended use and has their reliability been ascertained?</p>					
<p>4) Sound analysis</p> <p>Are data systematically analysed to answer the evaluation questions and to cover other information needs in a valid manner?</p>					
<p>5) Credible findings</p> <p>Do findings follow logically from and are justified by, the data/information analysis and interpretations based on pre-established criteria and rational?</p>					
<p>6) Valid conclusions</p> <p>Are conclusions non-biased and fully based on findings?</p>					
<p>7) Helpful recommendations</p> <p>Are the areas which need improvements identified in coherence with the conclusions? Are the suggested options realistic and impartial?</p>					
<p>8) Clarity</p> <p>Is the report well structured, balanced and written in an understandable manner?</p>					