



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMPETITION
Directorate C
Information, Communication and Media

CALL FOR TENDERS
COMP/2016/014

Multiple Framework Contract for the provision of consultancy services on
technical, economic and legal matters in the context of ICT and media
competition cases

TENDER SPECIFICATIONS

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1. Purpose and context of the contract

In the context of competition investigations (antitrust, merger and state aid) and compliance enforcement in the information and communications technology (ICT) and media industries, the Commission is confronted with conflicting arguments that are sometimes highly technical. By the very nature of the industries concerned, such technical arguments/evidence can be crucial to the Commission's objective assessment of the facts in their correct economic and technological context.

In many competition cases, time is critical because of mandatory deadlines that may apply in proceedings or simply because of the need for the Commission as a competition authority to be able to intervene within a timeframe that is relevant for the market.

The purpose of this call for tender is to conclude a Multiple Framework Contract (the "Multiple FWC") with up to five contractors in order to provide the Commission (also referred to as the "contracting authority" in these specifications) with expert consultancy services and studies to support its competition enforcement activities (including antitrust, merger and state aid investigations and cases) and its contribution to EU legislative proposals and policies. Accordingly, following the conclusion of the Multiple FWC, the Commission may request services from the contractors for specific assignments under the "reopening of competition" or "cascade" procedures (see section I.4.3. of the framework contract).

The services should cover technical, economic and legal matters in the telecommunications, media, information technologies and Internet, consumer electronics, and related sectors (the "Sectors"). The services may be required at any stage of competition cases (e.g. during the investigative and assessment phase) or after the adoption of a Commission decision (e.g. before the European Union's courts or to monitor the application of a past decision).

2. Subject of the contract and task description

2.1. The Services

The subject of the Multiple FWC is expert consultancy services and studies¹:

¹

A study is defined as "a document resulting from intellectual services necessary to support the institution's own policies or activities. A study is financed through the EU budget. It may be produced inside the institution (e.g. JRC) or commissioned from external experts, generally through procurement procedures".

In most cases the subject of the study is the production of a scientific, technical, economic, legal or other analysis of a de facto or de jure situation in the form of a report. The focus of the study may vary depending on the sector of activities and on the specific objectives of the study (viewpoint, technical opinion, conceptual paper, case study, survey, literature review, overview or examination of a concept, technique or phenomenon, evaluation, design of equipment / IT applications / infrastructure, feasibility study, definition of technical specifications for a subsequent procurement contract, etc.).

- (a) on technical, economic and legal matters,
- (b) regarding the following Sectors: telecommunications, media, information technologies and Internet, consumer electronics, and related sectors, and
- (c) in connection with current and future antitrust, merger and state aid investigations and cases of the Commission; proceedings before the European Union's courts related to those investigations and cases and contributions to EU legislative proposals and policies.

The above-mentioned services will be referred to as the "Services" in these specifications.

The Services to be provided include the following tasks and any similar or related tasks:

- assessing the quality, correctness and completeness of technical, economic and legal data and information provided by undertakings, Member States, institutions or any other private or public bodies to the Commission;
- assessing the soundness of arguments based on technical or economic grounds, or based on national or non-competition related laws and regulations, and put forward by undertakings, Member States, institutions or any other private or public bodies in the relevant cases and investigations and identifying errors, omissions and possible weaknesses in these arguments;
- assessing the economic value of products or services and/or intellectual property rights embedded therein;
- collecting information and providing technical, economic and legal assessment regarding the development of products and services, as well as the implementation of European or national policies, interventions and regulations;
- providing support and advice to the Commission on technical, economic and legal issues, e.g. in drafting technical questions for the consultation of stakeholders or in assessing the effects of the application of Commission guidelines or intended actions and enforcement, by providing sector information necessary to assess the proposed remedies' or different policy options' impact on market players, business behaviours and competitive dynamics; and
- providing information on technological developments in the Sectors and their likely effects on competition, e.g. issues related to network implementation and management.

The Services may require intervening orally in the Union's courts or at the Commission's hearings and particularly may involve the preparation or the participation in the preparation of e.g. the following deliverables and documents. This list is not exhaustive:

- expert reports or studies;
- requests for information;
- consumer and other surveys;

- public consultations; and
- expertise before the European Union's courts.

Delivery of the Services may require travel, e.g. to the Union's courts in Luxembourg, to third parties' headquarters or to other locations for meetings. It may also require the purchase of databases which are necessary for the completion of the Services from external providers.

The Services shall be supplied in English.

2.2. Case scenarios – theoretical offers to be submitted

In order to assist the potential tenderers in understanding the type of Services that they can be expected to provide during the execution of the Multiple FWC and to provide a common basis for the evaluation of their offers, two case scenarios are described below.

It should be stressed that the tasks mentioned in the scenarios will not necessarily be the subject of specific assignments under the Multiple FWC. Moreover, the scenarios do not imply in any manner that the Commission may deem the cases under the scenario to be a priority regarding its competition enforcement activities nor even that the case scenarios entail an infringement of EU competition law.

The tenderers must present, for both scenarios described below, a description of their understanding of the tasks and of the way in which they would carry out the work. As regards the theoretical time line for the preparation of the reports requested under the scenarios, please assume that (i) such reports would have to be prepared within a three-month period² and (ii) an interim and final report would be required. The requested description should include for each scenario:

a) a technical part, detailing the methodologies to be applied and approach which will be followed (including the kind of data that will be used and information sources), the project planning, the composition of the team and the responsible team leader for each scenario (including their CVs), as well as, as the case may be, any proposed solution and the structure of the report to be prepared, if applicable. This technical part, to be drafted in English, which should preferably not exceed 15 pages in total (CVs excluded), should also comprise:

a1) for scenario 1, a report addressing the three tasks 1) – 3) mentioned under 2.2.1.

a2) for scenario 2, a report addressing the three questions 4) – 6) asked under 2.2.2.

b) a financial part, detailing for each scenario the number of person-days to be multiplied by the "Expert Person Day" prices (see section 8.6. and Annex A). The "Expert Person Day" price shall be fixed and will be the same for all scenarios and will correspond to the maximum "Expert Person Day" price defined in section 8.6. of these specifications.

² Please note that this timeline applies to the theoretical scenarios. Services to be assigned under the Multiple FWC may be subject to shorter or longer deadlines.

2.2.1. Scenario 1- Antitrust

Customers can purchase different telecommunications services such as IP-TV, fixed internet, fixed telephony and mobile telephony as standalone products or in a bundle. A number of EU Member States have seen an increase in the popularity of bundles, which has led to an increase of fixed-mobile convergence at retail level, although the degree varies considerably in different Member States.

Fixed-mobile convergence may raise certain issues that competition authorities may have to investigate in the future. For example, if bundles become prevalent, mobile-only operators (i.e. operators without a fixed network) may be progressively forced out of the market unless they can have wholesale access to fixed services. Similarly, fixed-only operators may require wholesale access from a mobile operator to provide mobile services.

Operator A is one of the largest providers of fixed broadband in Member State X, with 30% of households covered. Operators B and C are providers of mobile broadband only, whereas operators D and E are providers of both fixed and mobile broadband. In the current context of the growing importance of fixed-mobile convergence, operator A would like to conclude an agreement with one of the operators B, C, D and E, allowing it to offer bundles of both mobile and fixed broadband services to its customers. However, all of the operators in questions refused starting negotiations with operator A, despite the existence of a strong business case at least for operators B and C, who do not own any fixed infrastructure.

The Services requested by the Commission under scenario 1 would consist of a report addressing the following three tasks:

- 1) Please provide an overview of the existing fixed-mobile bundles and operators providing such bundles, in a representative sample of EU Member States, explaining in particular: (i) what services are included in bundles, (ii) what is the price of the bundles in comparison with the price of the standalone products, (iii) whether these bundles are offered by integrated fixed-mobile operators or stem from agreements between mobile and fixed operators (iv) what is the share of bundles in the total number of subscriptions in each of the Member States considered, (v) what are the regulatory conditions in place (if any) and how difficult is it to conclude fixed-mobile commercial agreements at wholesale level in each Member State of the sample.
- 2) Please provide a short description of the competitive situation in each Member State of the representative sample at retail level for both fixed and mobile markets, focusing on the number and market shares of the existing operators, as well as on certain market outcomes relevant for end-users and businesses such as the level of prices, the quality and the take-up of broadband services offered in bundles. Please analyse any possible links between the competitive situation and the market outcomes referred to above in relation to bundles.
- 3) Please explain how you would assess the situation arising in Member State X referred to above, in terms of theory of harm, potential negative effects on competition and evidence you would base your assessment on. Please consider in particular two scenarios: (i) agreements contrary to Article 101 TFEU and (ii) abuse of a joint dominant position contrary to Article 102 TFEU.

2.2.2. Scenario 2 – State Aid

The aim of a big European city is to roll-out a "world class" broadband network (capable to provide 100 Mbps, symmetrical broadband services) in the whole city.

According to the plans of the city, the new network should be a citywide, passive, neutral, open fibre to the home network capable to provide broadband services from 100 Mbps up to 10 Gbps. The new network should provide access at all levels technologically possible (including access to ducts, dark fibre, co-location facilities and wavelength unbundling).

The authorities of the city justify the need for such a network arguing that the city is the home of many micro and small companies engaged in the "creative industry", such as film, media, audiovisual and other activities. These activities require especially high broadband needs, as large amount of data/video files are exchanged between different sites.

The city already has a wide and mixed coverage of existing broadband services:

- The incumbent operator announced to upgrade the central exchanges and committed to a full scale citywide roll-out of an FTTC/VDSL solution, the roll-out started in 2013 and will be completed by 2017. The city authorities argue that the FTTC/VDSL solution is not a future proof technology, not conducive for competition, and the planned full fibre solution is clearly superior – hence shall be considered as products on different markets.
- A cable operator has presence in most of the city districts, but does not have full coverage: as regards the homes passed, it covers almost 60% of the city, but has a presence in almost all city districts and its presence cannot be clearly delimited to one or two city districts. The cable operator has already upgraded its network to DOCSIS3.0 solution and it has committed itself to undertake further upgrades of their existing infrastructure. The city argues that cable is only adequate for residential users, hence it shall not be taken into account, because the planned new network targets business users, and in any case, cable is a closed networks hindering competition.
- Several alternative operators with infrastructures focusing on business users (for instance offering leased line services) are present in some of the city districts, but the city authorities argue that their prices are too high compared to what small and medium enterprises can afford, and also compared to benchmarks in other competitive cities elsewhere in Europe.
- The city is widely covered by mobile broadband services (3G) and by fourth generation mobile services (LTE). The city argues that mobile solutions shall always be regarded as complementary solutions to fixed networks, hence shall not be taken into account from this project's point of view.
- Additionally the city operates several wifi zones on public places, providing limited internet services to public websites, tourist information, bus schedules, etc.

The city authorities argue that these current broadband infrastructures are not able to satisfy the needs of the enterprises located in the city, in particular because the existing infrastructure provides only asymmetric bandwidth services - and there are no credible investment plans of private operators to roll-out a world class, fibre to the home infrastructure in the near future.

The city authorities argue that the new infrastructure will support competition, and none of the existing operators will be crowded out by this initiative. On the contrary, they argue that the new network can be used by all existing operators, they can extend their existing coverage without (significant) additional investment, and therefore the new network will guarantee long term competition and sustainable competition in the city that is a key for the modern and vibrant economies.

According to an expert report prepared on behalf of the city, the planned project is not viable on commercial terms, thus State aid would be necessary to support the implementation of the city broadband project. Due to the economic and financial situation in the country, there is no available funding in the national budget, thus the city authorities plan to apply for funding from the EU funds (structural funds, Connecting Europe Facility (CEF)) and to seek a loan from EIB or any other funding offered by the EU bodies.

The Services requested by the Commission under scenario 2 would consist of a report addressing the following three questions:

- 4) Please provide a technical overview of the existing and planned infrastructures.
- 5) What further information would be necessary to understand the effects of the project on competition?
- 6) Please explain how you would assess the effects on competition (both positive and negative aspects) from an economic and technical point of view arising from the planned aid measure.

3. Implementation of the contract

3.1. Multiple Framework Contracts

Under the Multiple FWC, separate contracts in identical terms will be concluded between the contracting authority and each contractor, setting out the legal, financial, technical and administrative terms that will apply and govern the commercial relations between the Commission and the contractors. The draft Multiple FWC is attached to the Invitation to Tender. In drawing up their tenders, tenderers should bear in mind the provisions of this draft Multiple FWC, as it will be proposed to the successful tenderers. By submitting a tender, tenderers accept the conditions of this draft Multiple FWC.

Following the conclusion of the Multiple FWC, the contracting authority may invite the contractors to submit a tender for a specific assignment. For each assignment, a specific contract or an order form will be concluded (the "Specific Contract") under the applicable procedure (i.e. the reopening of competition or the cascade procedures, as explained in section I.4.3 in the Multiple FWC).

Signature of the Multiple FWC does not commit the Commission to placing orders and does not give the contractors any exclusive rights regarding the Services covered by the Multiple FWC. The contracting authority reserves the right to contract Services described in this call for tender outside the framework contracts.

4. Duration

The Multiple FWC will be concluded for an initial period of one year starting on the day when it is signed by both parties. It shall be automatically renewed up to three times for a further year, under the same conditions, unless written notification to the contrary is sent by one of the parties at the latest three months before the expiry of the Multiple FWC. The maximum total duration of each Multiple FWC is four years.

The Commission reserves the right not to renew the Multiple FWC.

5. Technical requirements of the final deliverables

The contractor must deliver the final deliverable in the format indicated below, unless defined otherwise in the Specific Contract.

5.1.1. Final report

The final report must include:

- an abstract of no more than 200 words and an executive summary of maximum 6 pages, in English and French;
- specific identifiers which must be incorporated on the cover page provided by the Contracting Authority;
- the following disclaimer:

“The information and views set out in this [report/study/article/publication...] are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission’s behalf may be held responsible for the use which may be made of the information contained therein.”

5.1.2. Publishable executive summary

The publishable executive summary must be provided in English and French and must include:

- specific identifiers which must be incorporated on the cover page provided by the Contracting Authority;
- the following disclaimer:

“The information and views set out in this [report/study/article/publication...] are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission’s behalf may be held responsible for the use which may be made of the information contained therein.”

5.1.3. Requirements for publication on Internet

The Commission is committed to making online information as accessible as possible to the largest possible number of users including those with visual, auditory, cognitive or physical disabilities, and those not having the latest technologies. The Commission supports the Web Content Accessibility Guidelines 2.0 of the W3C.

For full details on the Commission policy on accessibility for information providers, see: http://ec.europa.eu/ipg/standards/accessibility/index_en.htm.

For the publishable versions of the study, abstract and executive summary, the contractor must respect the W3C guidelines for accessible pdf documents as provided at: <http://www.w3.org/WAI/>.

5.2. Structure

The Commission may impose a particular structure for the presentation of the study final report, which will be defined in the Specific Contract.

5.3. Graphic requirements

The contractor must deliver the study and all publishable deliverables in full compliance with the corporate visual identity of the Commission, by applying the graphic rules set out in the Commission's Visual Identity Manual, including its logo. The graphic rules, the Manual and further information are available at:

http://ec.europa.eu/dgs/communication/services/visual_identity/index_en.htm

A simple Word template will be provided to the contractor after contract signature. The contractor must fill in the cover page in accordance with the instructions provided in the template. The use of templates for studies is exclusive to Commission's contractors. No template will be provided to tenderers while preparing their tenders.

6. Volume

The estimated maximum amount of the Services commissioned under the Multiple FWC cannot exceed EUR 2 800 000 (two million eight hundred thousand) for its complete duration, including its renewals. This includes all costs, travel and incidental expenses, for the implementation of the Specific Contracts. The total maximum value of the Services commissioned under the Multiple FWC will not exceed, in principle, EUR 700 000 (seven hundred thousand) for the initial one-year period and each of any additional one-year period. However, this maximum value is only indicative and not mandatory.

However, given the characteristics of the Multiple FWC, no assurance can be given on the volume, value and frequency of the assignments to be executed.

The Commission reserves the right to use the negotiated procedure for similar services; in accordance with Article 134 (1) (e) of the Rules of Application of the Financial Regulation³.

³ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities in its latest version.

7. Evaluation of tenders and award

The evaluation is based solely on the information provided in the submitted tender. It involves the following:

- Verification of non-exclusion of tenderers on the basis of the exclusion criteria
- Selection of tenderers on the basis of selection criteria
- Verification of compliance with the minimum requirements set out in these tender specifications
- Evaluation of tenders on the basis of the award criteria

The contracting authority may reject abnormally low tenders, in particular if it established that the tenderer or a subcontractor does not comply with applicable obligations in the fields of environmental, social and labour law.

The tenders will be assessed in the order indicated above. Only tenders meeting the requirements of one step will pass on to the next step.

7.1. Verification of non-exclusion

All tenderers must provide a declaration of honour (see Annex B), signed and dated by an authorised representative, stating that they are not in one of the situations of exclusion listed in that declaration of honour.

In case of a joint tender, each member of the group must provide a declaration of honour signed by an authorised representative.

In case of subcontracting, all subcontractors must provide a declaration of honour signed by an authorised representative.

The contracting authority reserves the right to verify whether the successful tenderer is in one of the situations of exclusion by requiring the supporting documents listed in the declaration of honour.

The successful tenderer must provide the documents mentioned as supporting evidence in the declaration of honour before signature of the contract and within a deadline given by the contracting authority. This requirement applies to each member of the group in case of joint tender and to all subcontractors.

The obligation to submit supporting evidence does not apply to international organisations.

A tenderer (or a member of the group in case of joint tender, or a subcontractor) is not required to submit the documentary evidence if it has already been submitted for another procurement procedure and provided the documents were issued not more than one year before the date of their request by the contracting authority and are still valid at that date. In such cases, the tenderer must declare on its honour that the documentary evidence has already been provided in a previous procurement procedure, indicate the reference of the procedure and confirm that there has been no change in its situation.

A tenderer (or a member of the group in case of joint tender, or a subcontractor) is not required to submit a specific document if the contracting authority can access the document in question on a national database free of charge.

7.2. Selection criteria

Tenderers must prove their legal, regulatory, economic, financial, technical and professional capacity to carry out the work subject to this procurement procedure.

The tenderer may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the contracting authority that it will have at its disposal the resources necessary for the performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

The tender must include the proportion of the contract that the tenderer intends to subcontract.

7.2.1. Declaration of evidence

The tenderers (and each member of the group in case of joint tender) and subcontractors whose capacity is necessary to fulfil the selection criteria must provide the declaration of honour (see Annex B), signed and dated by an authorised representative, stating that they fulfil the selection criteria applicable to them. In case of a joint tender or subcontracting, the criteria applicable to the tenderer as a whole will be verified by combining the various declarations for a consolidated assessment.

This declaration is part of the declaration used for the exclusion criteria (see section 7.1.), so only one declaration covering both aspects should be provided by each concerned entity.

The contracting authority will evaluate the selection criteria on the basis of the declarations of honour. Nevertheless, it reserves the right to require evidence of the legal and regulatory, financial and economic and technical and professional capacity of the tenderers at any time during the procurement procedure and contract performance. In such case the tenderer must provide the requested evidence without delay.

After the contract award, the successful tenderer will be required to provide the evidence mentioned below before signature of the contract and within a deadline given by the contracting authority. This requirement applies to each member of the group in case of a joint tender and to subcontractors whose capacity is necessary to fulfil the selection criteria.

A tenderer (or a member of the group in case of joint tender, or a subcontractor) is not required to submit the documentary evidence if it has already been submitted for another procurement procedure and provided the documents were issued not more than one year before the date of their request by the contracting authority and are still valid at that date. In such cases, the tenderer must declare on its honour that the documentary evidence has already been provided in a previous procurement procedure, indicate the reference of the procedure and confirm that there has been no change in its situation.

A tenderer (or a member of the group in case of joint tender, or a subcontractor) is not required to submit a specific document if the contracting authority can access the document in question on a national database free of charge.

7.2.2. Legal and regulatory capacity

Tenderers must prove that they are allowed to pursue the professional activity necessary to carry out the work subject to this call for tenders. The tenderer (including each member of the group in case of a joint tender) must provide the following information if it has not been provided with the Legal Entity Form:

- For legal persons, a legible copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation applicable to the legal person requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.
- For natural persons, if required under applicable law, a proof of registration on a professional or trade register or any other official document showing the registration number.

7.2.3. Economic and financial capacity criteria

The tenderer must have the necessary economic and financial capacity to perform this contract until its end. In order to prove their capacity, the tenderer must comply with the following selection criteria.

- Criterion F1: Total turnover of the last three financial years above EUR 170 000 per year; this criterion applies to the tenderer as a whole, i.e. the combined capacity of all members of a group in case of a joint tender.

Criterion F2: The tenderer must have a professional risk indemnity insurance; this criterion applies to the leader in case of a joint tender.

Evidence (to be provided on request):

- Copy of the profit and loss accounts and balance sheet for the last three years for which accounts have been closed from each concerned legal entity;
- Failing that, appropriate statements from banks;
- Evidence of professional risk indemnity insurance.

If, for some exceptional reason which the contracting authority considers justified, a tenderer is unable to provide one or other of the above documents, it may prove its economic and financial capacity by any other document which the contracting authority considers appropriate. In any case, the contracting authority must at least be notified of the exceptional reason and its justification. The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

7.2.4. Technical and professional capacity criteria and evidence

A. Criteria relating to tenderers

Tenderers (in case of a joint tender the combined capacity of all members of the group and identified subcontractors) must comply with the criteria listed below. Evidence relating to 7.2.4. A. must be submitted with the tender.

The tenderers must provide evidence of employing directly or being readily capable of constituting a team of experts capable of carrying out in a professional and timely manner the tasks that may be requested under the Multiple FWC (i.e. Services in all areas – technical, economic and legal - and all Sectors) and with a balanced composition of relevant education and professional experience in the Sectors and areas of expertise of the Services.

Tenderers must therefore have a sound professional experience in all areas (technical, economic and legal) and all Sectors. They shall have a proven professional track record in providing results to the highest standards of industry/research.

For the above purposes, the tenderers who do not fulfil the following criteria will not be selected:

Criterion A1: Tenderers shall have provided Services in each of the three areas of expertise (i.e. technical, economic and legal) to at least one customer in the past three years and relevant to each of the four Sectors (i.e. telecommunications, media, information technologies and Internet, consumer electronics);

Evidence A1: A list and description of the projects and Services provided in the past three years and relevant to this tender, with the identification of the customers. This list should identify at minimum Services provided in each of the three areas of expertise (i.e. technical, economic and legal) to at least one customer in the past three years and relevant to each of the four Sectors (i.e. telecommunications, media, information technologies and Internet, consumer electronics).

Criterion A2: The experts constituting the team delivering the Services in connection with the case scenarios mentioned under 2.2.1. and 2.2.2. must meet the following requirements:

- The team shall cover a mix of the following categories of experts:
 - Category I expert: Highly qualified expert with at least 10 years of professional experience connected with one of the Sectors and any of the areas of expertise concerned by the Services.
 - Category II expert: Qualified member of personnel with at least 5 years of professional experience connected with one of the Sectors and any of the areas of expertise concerned by the Services.
 - Category III expert: Other members of the personnel than Categories I and II and, in particular, junior members.
- The experts shall cover all areas of expertise (technical, economic and legal) and all Sectors (i.e. telecommunications, media, information technologies and Internet, consumer electronics) defined in section 2.1. A same person can be counted for two or more Sectors and/or areas of expertise, provided that he/she has the required experience in connection with the Sectors and/or areas of expertise concerned.

Evidence A2: A report of the average annual manpower in the last three years and of the number of experts/consultants who have worked for the tenderers (by means of employment or otherwise) in the last three years, broken down by categories (as defined above), area of expertise (technical, economic and legal) and Sector; an indication of the proportion or areas of the Multiple FWC, which the service provider intends to subcontract.

Criterion A3: Tenderers shall currently employ or be capable of making available, as a minimum, one expert staff belonging to Category I for each of the four Sectors (i.e. telecommunications, media, information technologies and Internet, consumer electronics). Among the expert staff belonging to Category I, there should be staff belonging to each of the three areas of expertise (i.e., technical, economic and legal). A same person can be counted for two or more Sectors and/or areas of expertise, provided that he/she has the required experience in connection with the Sectors and/or areas of expertise concerned.

Evidence A3: Curricula vitae (the "CVs") of a representative sample of the members proposed for the provision of the Services, containing details of educational background, professional experience, research work, publications and linguistic skills. The CVs shall include at least the minimum expert staff mentioned under criterion A3 and shall be presented, preferably, in accordance with the Commission Recommendation on a common European format for curricula vitae, published in OJ L79 of 22 March 2002, p. 66: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:079:0066:0072:EN:PDF>.

Criterion A4: Finally, tenderers shall have in place effective and sufficient measures in order to ensure the quality of the Services, or shall implement these measures in the context of the performance of the Multiple FWC. These measures shall ensure (i) the quality in the provision of the Services and compliance with technical standards if applicable, (ii) the confidentiality of any information made available in the context of the rendering of the Services and (iii) the avoidance of conflicts of interest. In the event of absence of these measures or in the event that they are insufficient or inadequate to ensure their purpose, the tenderer will not be selected.

Evidence A4: A description of existing measures or measures that will be implemented by the tenderer in relation to the implementation of the Multiple FWC in order to: (i) ensure the quality of the Services, (ii) guarantee the confidentiality of any information made available in relation to the performance of the Services and (iii) avoid conflicts of interest.

For the Specific Contracts, changes or additions to the members of the team proposed in the specific tender (both under the reopening of competition and cascade procedures) must be notified to the Commission in writing. The Commission will have the right to object to any changes of members of the team from those proposed in the specific tender, provided that those changes would have a negative impact on the quality of the team with regard to the selection criteria under 7.2.4. A. or the award criteria under 7.5. In case that the original team is no longer available, the Commission will have the right to cancel the Specific Contract.

7.3. Award criteria for the Multiple FWC

The Multiple FWC will be awarded to maximum five tenderers offering the best value for money as described below. If the list established under the tender procedure for the Multiple FWC does include only two, three or four tenderers (because, for instance, only these tenderers reach the thresholds of 65% and 50% announced below in this section), the Multiple FWC will be awarded only to the two, three or four tenderers, respectively, offering the best value for money (quality/price ratio) as described below. If there is only one acceptable offer, the procedure must be cancelled.

In order to allow for the evaluation of the tenders, tenderers shall consider the theoretical scenarios indicated above under 2.2.1 and 2.2.2.

The selected tenders will be evaluated according to the following criteria and points will be scored against each quality criterion. The total number of points is one hundred.

No	Quality criteria	Quality points
1.	<i>Scenario 1</i>	50 points – minimum threshold 50%
1.1.	<p>Quality of the proposed methodology</p> <p>This criterion will assess the quality of the proposed approach, methodologies and preliminary solution.</p> <p>This criterion evaluates the tenderers' understanding of what is required under the scenario and the appropriateness and completeness of the methodologies and of the preliminary solution envisaged, as well as of the suggested structure of the report (if applicable).</p>	20 points – minimum threshold 50%
1.2.	<p>Quality and selection of the data</p> <p>This criterion will assess the reliability, the completeness and the appropriateness of the data sources that the tenderer intends to use. The tenderer will also have to indicate any limitations of its approach in terms of data and which implications they may have for the report.</p>	10 points – minimum threshold 50%
1.3.	<p>Organisation of the work</p> <p>This criterion will assess how the roles and responsibilities of the proposed team and of the different economic operators (in case of joint tenders, including subcontractors if applicable) are distributed for each task. It also assesses the global allocation of time and resources to the project and to each task or deliverable, and whether this allocation is adequate for the work. The tender should provide details on the allocation of time and human resources and the rationale behind the choice of this allocation. Details should be provided as part of the technical offer. It is not a budget requested as part of the financial offer.</p>	10 points – minimum threshold 50%
1.4.	<p>Quality control measures</p> <p>This criterion will assess the quality control system applied to the service foreseen in this tender specification concerning the quality of the deliverables, the language quality check, and continuity of the service in case of absence of the member of the team. The quality system should be detailed in the tender and specific to the tasks at hand; a generic quality system will result in a low score.</p>	10 points – minimum threshold 50%

Tenders must score a minimum of 50% for each criterion and sub-criterion, and a minimum of 65% in total. Tenders that do not reach the minimum quality levels will be rejected and will not be ranked.		
2.	Scenario 2	50 points – minimum threshold 50%
2.1.	Quality of the proposed methodology This criterion will assess the quality of the proposed approach, methodologies and preliminary solution. This criterion evaluates the tenderers' understanding of what is required under the scenario and the appropriateness and completeness of the methodologies and of the preliminary solution envisaged, as well as of the suggested structure of the report (if applicable).	20 points – minimum threshold 50%
2.2.	Quality and selection of the data This criterion will assess the reliability, the completeness and the appropriateness of the data sources that the tenderer intends to use. The tenderer will also have to indicate any limitations of its approach in terms of data and which implications they may have for the report.	10 points – minimum threshold 50%
2.3.	Organisation of the work This criterion will assess how the roles and responsibilities of the proposed team and of the different economic operators (in case of joint tenders, including subcontractors if applicable) are distributed for each task. It also assesses the global allocation of time and resources to the project and to each task or deliverable, and whether this allocation is adequate for the work. The tender should provide details on the allocation of time and human resources and the rationale behind the choice of this allocation. Details should be provided as part of the technical offer. It is not a budget requested as part of the financial offer.	10 points – minimum threshold 50%
2.4.	Quality control measures This criterion will assess the quality control system applied to the service foreseen in this tender specification concerning the quality of the deliverables, the language quality check, and continuity of the service in case of absence of the member of the team. The quality system should be detailed in the tender and specific to the tasks at hand; a generic quality system will result in a low score.	10 points – minimum threshold 50%

Tenders must score a minimum of 50% for each criterion and sub-criterion, and a minimum of 65 % in total. Tenders that do not reach the minimum quality levels will be rejected and will not be ranked.	
Total number of points:	100

7.4. Ranking of tenders

The contract will be awarded to the most economically advantageous tender, i.e. the tender offering the best price-quality ratio determined in accordance with the formula below. A weight of 50/50 is given to quality and price.

score for tender X	=	$\frac{\text{cheapest price}}{\text{price of tender X}}$	*	100	*	50%	+	total quality score (out of 100) for all award criteria of tender X	*	50%
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The Multiple FWC will be awarded to maximum five tenderers who offer the best value for money. This will correspond to the highest final scores according to the above formula.

The Commission will draw up a list of maximum five tenderers that offer the best value for money in descending order, which will determine the cascading sequence of the contractors. This order will only apply to the cases where the cascade procedure is used (see section I.4.3. in the Multiple FWC). When the procedure with reopening of competition is used, all contractors on the list will be invited to submit a specific tender, and the ranking order will have no effect in the context of that procedure.

7.5. Award criteria for the Specific Contracts under the procedure with reopening of competition

Once the Multiple FWC has been signed with the best ranked tenderers, the Commission, when the need arises, may send a Request for Services for an individual assignment under the procedure with reopening of competition (see section I.4.3. in the Multiple FWC regarding the cases where the reopening of competition applies). The Commission will select a contractor for a specific assignment on the basis of the submitted tenders (following the procedure explained in section I.4.3. in the Multiple FWC).

Specific tenders must contain the technical and financial part indicated in section 8.6. of these specifications, which will refer to the specific subject-matter of the Request for Services instead of the scenarios indicated in these specifications. For each category of expert staff, the price shall not exceed the maximum "Expert Person Day" price of the tenderer under its Multiple FWC.

The following criteria will be applied regarding the award of the Specific Contracts:

	<i>Qualitative award criteria for the Specific Contracts</i>	
1.	Quality of the proposed methodology Quality of the proposed approach, methodologies, preliminary solution and information sources to be used.	40 points – minimum threshold 50%

	This criterion evaluates the tenderers' understanding of what is required under the scenario and the appropriateness and completeness of the methodologies, preliminary solution and information sources to be used, as well as of the suggested structure of the deliverable (if applicable).	
2.	Quality and selection of the data This criterion will assess the reliability, the completeness and the appropriateness of the data sources that the tenderer intends to use. The tenderer will also have to indicate any limitations of its approach in terms of data and which implications they may have for the deliverable. Furthermore, it will also have to describe how the limitation will be managed to avoid any negative impact on the deliverable.	30 points – minimum threshold 50%
3.	Organisation of the work This criterion will assess how the roles and responsibilities of the proposed team and of the different economic operators (in case of joint tenders, including subcontractors if applicable) are distributed for each task. It also assesses the global allocation of time and resources to the project and to each task or deliverable, and whether this allocation is adequate for the work. The tender should provide details on the allocation of time and human resources and the rationale behind the choice of this allocation. Details should be provided as part of the technical offer. It is not a budget requested as part of the financial offer.	15 points – minimum threshold 50%
4.	Quality control measures This criterion will assess the quality control system applied to the service foreseen in this tender specification concerning the quality of the deliverables, the language quality check, and continuity of the service in case of absence of the member of the team. The quality system should be detailed in the tender and specific to the tasks at hand; a generic quality system will result in a low score.	15 points – minimum threshold 50%
Tenders must score a minimum of 50% for each criterion and sub-criterion, and a minimum of 65 % in total. Tenders that do not reach the minimum quality levels will be rejected and will not be ranked.		
Total number of points:		100

The contract will be awarded to the most economically advantageous tender, i.e. the tender offering the best price-quality ratio determined in accordance with the formula below. A weight of 60/40 is given to price and quality.

score for tender X	=	$\frac{\text{cheapest price}}{\text{price of tender X}}$	*	100	*	60%	+	total quality score (out of 100) for all award criteria of tender X	*	40%
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A Specific Contract will be awarded to the tenderer who offers the best value for money. This will correspond to the highest final score according to the above formula.

8. Information on tendering

8.1. Participation

Participation in this procurement procedure is open on equal terms to all natural and legal persons coming from one of the EU Member States, as well as to international organisations.

It is also open to all natural and legal persons established in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement. Where the plurilateral Agreement on Government Procurement⁴ concluded within the World Trade Organisation applies, the participation to this procedure is also open to all natural and legal persons established in the countries that have ratified this Agreement, on the conditions it lays down.

8.2. Contractual conditions

The tenderer should bear in mind the provisions of the draft contract which specifies the rights and obligations of the contractor, particularly those on payments, performance of the contract, confidentiality, and checks and audits.

8.3. Compliance with applicable law

The tender must comply with applicable environmental, social and labour law obligations established by Union law, national legislation, collective agreements or the international environmental, social and labour conventions listed in Annex X to Directive 2014/24/EU⁵.

8.4. Joint tenders

A joint tender is a situation where a tender is submitted by a group of economic operators (natural or legal persons). Joint tenders may include subcontractors in addition to the members of the group.

In case of a joint tender, all members of the group assume joint and several liability towards the Contracting Authority for the performance of the contract as a whole, i.e. both financial and operational liability. Nevertheless, tenderers must designate one of the economic operators as a single point of contact (the leader) for the contracting authority for administrative and financial aspects as well as operational management of the contract.

⁴ See http://www.wto.org/english/tratop_e/gp_gpa_e.htm

⁵ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

After the award, the contracting authority will sign the contract either with all members of the group, or with the leader on behalf of all members of the group, authorised by the other members via powers of attorney.

8.5. Subcontracting

Subcontracting is permitted, but the contractor will retain full liability towards the contracting authority for the performance of the contract as a whole.

Tenderers are required to identify all subcontractors.

During contract performance, the change of any subcontractor identified in the tender or additional subcontracting will be subject to prior written approval of the contracting authority.

8.6. Structure and content of the tender

The tenders must be submitted in one of the official languages of the European Union (with the exception of the technical offer, which has to be drafted in English), and presented as follows:

Part A: Identification of the tenderer (see section 8.7.)

Part B: Non-exclusion (see section 7.1.)

Part C: Selection (see section 7.2.)

Part D: Technical offer

The technical offer, to be submitted in English, must cover all aspects and tasks as described under 2.2. and provide all the information needed to apply the award criteria. Offers deviating from the requirements or not covering all requirements may be rejected on the basis of non-compliance with the tender specifications and will not be evaluated.

Part E: Financial offer

The price for the tender must be quoted in euro. Tenderers from countries outside the euro zone have to quote their prices in euro. The price quoted may not be revised in line with exchange rate movements. It is for the tenderer to bear the effects deriving from any variation.

Prices must be quoted free of all duties, taxes and other charges, including VAT, as the European Union is exempt from such charges under Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union.

Prices may be subject to revision under the terms and conditions of Article I.5.2. of the Multiple FWC, after the first year of duration of the Multiple FWC.

A table of unit prices, as provided in Annex A of these specifications and expressed in "Expert Person Days"⁶ for the following categories of personnel, will be the basis for the pricing of the Specific Contracts and is an integral part of the Multiple FWC:

- (1) Category I: Highly qualified member of personnel with at least 10 years of professional experience connected with one of the Sectors and any of the areas of expertise concerned by the Services.
- (2) Category II: Qualified member of personnel with at least 5 years of professional experience connected with one of the Sectors and any of the areas of expertise concerned by the Services.
- (3) Category III: Other members of the personnel than Categories I and II and, in particular, junior members.

These fees must be fixed and include all costs (project management, quality control, training of the contractor's staff, support resources, etc.) and all expenditure (management of the firm, secretariat, social security, salaries, etc.) incurred directly and indirectly by the contractor, including costs for travel and subsistence, in performance of the Services which may be entrusted to him. Travel and subsistence expenses are not refundable separately.

Other expenses directly connected with the tasks defined, e.g. database purchase, may be specified separately, if required by the Tender specifications for the Specific Contract.

In order to facilitate the assessment of the price, the tenderer should specify for each category of staff to be involved in the project: the total labour costs; the daily rates and total number of days (man-days) each member of staff will contribute to the project.

Costs incurred in preparing and submitting tenders are borne by the tenderers and cannot be reimbursed.

The tenders for a Specific Contract must comprise the technical and financial parts as indicated above as well as a declaration stating that the contractor is not in a conflict of interest situation. The technical part will include the content as defined in the specific Request for Services in the event that the reopening of competition procedure is followed for a specific assignment. The technical part of the specific tender could be limited to the composition of the team and the CVs of its members in the event that the cascade procedure is followed for a specific assignment.

⁶ One "Expert Person Day" consists of 8 working hours.

8.7. Identification of the tenderer

The tender must include a cover letter signed by an authorised representative presenting the name of the tenderer (including all entities in case of joint tender) and identified subcontractors if applicable, and the name of the single contact point (leader) in relation to this procedure.

In case of a joint tender, the cover letter must be signed either by an authorised representative for each member, or by the leader authorised by the other members with powers of attorney. The signed powers of attorney must be included in the tender as well. Subcontractors that are identified in the tender must provide a letter of intent signed by an authorised representative stating their willingness to provide the Services presented in the tender and in line with the present tender specifications.

All tenderers (including all members of the group in case of joint tender) must provide a signed Legal Entity Form with its supporting evidence. The form is available on:

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

Tenderers that are already registered in the contracting authority's accounting system (i.e. they have already been direct contractors) must provide the form, but are not obliged to provide the supporting evidence.

The tenderer (or the leader in case of joint tender) must provide a Financial Identification Form with its supporting documents. Only one form per tender should be submitted. No form is needed for subcontractors and other members of the group in case of joint tender. The form is available on: http://ec.europa.eu/budget/contracts_grants/info_contracts/index_en.cfm

The tenderer (and each member of the group in case of joint tender) must declare whether it is a Small or Medium Size Enterprise in accordance with [Commission Recommendation 2003/361/EC](#). This information is used for statistical purposes only.

ANNEX A- Price proposal (Expert Person Day) (*)

Name of tenderer:

1.- Price (Expert Person Day)

The price table below will become an annex to the Framework Contract and shall be the basis for the calculation of the prices for the Specific Contracts. These specific unit prices shall also be applied to the theoretical scenarios 1 and 2 (in this event, not as maximum prices but as fixed ones).

EUR

Category	Category 1	Category 2	Category 3
Maximum price (Expert Person Day)			

2.- Scenarios*Scenario 1*

EUR

1. Staff cost	Category 1	Category 2	Category 3	Total
Number of working days				
Total fee / category				

Total price for Scenario 1	
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Scenario 2

EUR

1. Staff cost	Category 1	Category 2	Category 3	Total
Number of working days				
Total fee / category				

Total price for Scenario 2	
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TOTAL PRICE FOR SCENARIOS 1 + 2:

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Signature of authorized person

(*)Prices must be quoted free of all duties, taxes and other charges, including VAT, as the European Union is exempt from such charges under Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union.