



EUROPEAN COMMISSION

DIRECTORATE-GENERAL COMPETITION

Directorate D - Markets and cases III: Financial services
Unit D2

CALL FOR TENDERS

COMP/2015/028

Studies of issues pertaining to the insurance production process with regard to the application of the Insurance Block Exemption Regulation (IBER)

TENDER SPECIFICATIONS

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1. Context of the contract

On 24 March 2010, the European Commission adopted a new Insurance Block Exemption Regulation (IBER)¹ applying Article 101(3) TFEU to two categories of agreements in the insurance sector². The first category concerns the exchange of information, in particular for the purpose of creating joint compilations, tables and studies. The second category encompasses the common coverage of risks by so-called co-insurance and co-reinsurance pools that are exempted subject to certain conditions concerning their functioning and the market share held for the relevant insurance products, except for the category of risks classified as 'new,' with respect to which pooling arrangements are exempted without market share thresholds.

The Commission shall submit to the European Parliament and the Council a report on the functioning and future of the IBER no later than 31 March 2016. In order to evaluate the functioning of the IBER and examine potential options for its review, the Commission launched a public consultation³ in 2014, inviting all stakeholders to submit relevant information on the functioning of the IBER, any important developments in the insurance markets connected with the exemptions, as well as their views on whether the Commission should renew or adapt any of the IBER provisions in a new block exemption regulation.

Regarding the functioning of the IBER, stakeholders have reported, both in the public consultation and the subsequent fact-finding surveys carried out by the Commission, certain difficulties in the application of the provisions relating to the calculation of market shares. With respect to market shares, stakeholders report uncertainties and diverging standpoints from authorities and courts regarding the possibility from the insurance production viewpoint to group in the same category different insurance products with similar production characteristics⁴.

¹ Commission Regulation (EU) No 267/2010 of 24 March 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of agreements, decisions and concerted practices in the insurance sector, OJ L 83, p. 1

<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32010R0267&from=EN>

² Any reference in this document to the insurance sector shall be understood to concern all its segments including insurance, reinsurance and retrocession.

³ Consultation on the review of the Insurance Block Exemption Regulation
http://ec.europa.eu/competition/consultations/2014_iber_review/index_en.html

⁴ For reference see:

(1) B4 – 31/05 Bundeskartellamt, decision of 10 August 2007:
http://www.bundeskartellamt.de/SharedDocs/Entscheidung/DE/Entscheidungen/Kartellverbot/2007/B4-31-05.pdf?__blob=publicationFile&v=3;

VI-Kart 11/07 (V) Oberlandesgericht Düsseldorf, ruling of 17 September 2008 <http://openjur.de/u/134032>;

KVR 57/08 Bundesgerichtshof, ruling of 23 June 2009 <http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&sid=7944b06577a705f05c262986dbf8e52e&nr=49416&pos=0&anz=3>

(2) Dutch Commitments Decision, Report No 5998/56.M1018 of 13 August 2008
<https://www.acm.nl/en/publications/publication/6289/NMa-more-competition-among-insurers/>

In addition, stakeholders have stressed a perceived growing trend in insurance markets towards new forms of cooperation between (re)insurers in which intermediaries and alternative providers of insurance cover play an important role in compiling cover plans placed with different insurers. This new trend reduces dependency on any individual insurance provider, increases bargaining power and competition, and renders institutionalised forms of coinsurance, such as pools, less necessary.

2. General Objectives

The studies will assist the Commission in its thinking regarding the above-mentioned issues raised by stakeholders during the IBER public consultation process. The studies shall gather facts, analyse existing data and discuss current thinking to adequately address these problems. The work must be grounded in a thorough economic and legal analysis. This will include, but will not be limited to, considerations regarding relevant theory and empirical methods.

This tender has been divided into two lots:

LOT No 1: "Switching of tangible and intangible assets between different insurance products"

LOT No 2: "Different forms of cooperation between insurance companies and their respective impact on competition"

Potential tenderers are free to submit a tender for one or both Lots. However, if the tenderers decide to bid for both lots, a separate tender must be submitted for each Lot.

LOT 1: Switching of tangible and intangible assets between different insurance products

3. Description of the task

Objective: The study shall discuss in what cases, under what conditions and to what extent insurers can switch⁵ assets to produce different types of insurance products. Insurance products are normally defined by the covered contingencies. Depending on the characteristics of these contingencies, insurers must make strategic managerial decisions to invest their own assets in order to administer an optimal portfolio of underwriting and investment positions that are reflected in their business plan. Even if insurance products are not material goods, they are special types of services that require particular investments to generate them. Insurers have to invest resources to acquire an in-depth knowledge of the insured risks; they have to classify prospective policy-holders into appropriate categories and determine the proper rates to charge and the corresponding adequate levels of equity to use, actuarial reserves to keep and cash flows to reinvest; finally insurers have to maintain suitable marketing and claims-handling structures in order to sell their insurance products.

To this effect the study will undertake to:

- a. Discuss under what circumstances insurers can switch assets between different insurance products in order to adapt their offer to changing prices and patterns of demand. The study shall in particular focus on the role that asset switching can play in providing cover for non-life, large and non-conventional risks.
- b. Discuss to what extent the managerial constraints or regulatory requirements that insurers face in their functional production areas (notably financial, actuarial, legal, underwriting, marketing and claims-handling) limit their ability to effect appreciable shifts of capacity in the short term between insurance products under commercially viable conditions.
- c. Discuss what sets of products would show similar production characteristics in the light of the conclusions under the above points, identify sources of available data for calculating the market shares of these sets, and discuss potential proxies for assessing the insurers' or reinsurers' market position in these segments.

The contractor will provide a survey of the relevant theoretical and empirical economic literature on how to assess switching of assets between different insurance products, as well as discuss, where appropriate, the most important relevant competition law cases in the EU and USA jurisdictions. The analysis will be supported by practical or illustrative examples.

3.1. Deliverables and meetings

1. A **kick-off meeting** shall take place within ten working days from the signature of the contract by the last party. The objectives of the kick-off meeting are, *inter alia*:

- to present the scope of the study and the methodology to be used;

⁵ For a definition of switching see Commission Notice on the definition of the relevant market for the purposes of Community competition law (97/C 372/03)

[http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31997Y1209\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31997Y1209(01)&from=EN)

- to present the Work Plan and the outline of the Final Report;
- to discuss practicalities of the liaison between the contractor and the Commission (the contracting authority).

2. The **Interim Report** shall be submitted by the contractor to the contracting authority within 2.5 months of the date on which the contract enters into force. The interim report shall include an overview of the status of the project, describing the overall work carried out and contain a comprehensive executive summary of the main findings. It shall also explain the main obstacles in the implementation of the project and propose appropriate measures.

The contracting authority will comment on the Interim Report within 10 working days of the date of its submission. If the contracting authority has not reacted within this period, the Interim Report shall be deemed to have been approved.

3. The **Draft Final Report** shall be submitted by the contractor to the Commission within 5 months of the date on which the contract enters into force. The Draft Final Report shall include at least all the elements specified in section 2.2. In addition to the Draft Final Report, the contractor will also provide a PowerPoint presentation highlighting the main findings of the study.

The contracting authority will comment on the Draft Final Report within 10 working days of its submission. If the contracting authority has not reacted within this period, the Draft Final Report shall be deemed to have been approved.

4. A **Final Meeting** shall take place after the submission of the Draft Final Report. The objective of the meeting will be for the contractor to explain the progress made in achieving the study objectives and present to the Commission the preliminary findings which will be further elaborated in the Final Report.

5. The **Final Report** shall be submitted by the contractor to the Commission within 6 months of the date on which the contract enters into force. The final report shall describe the overall work carried out, the methodology employed and the findings of the study in performance of the contract. It shall also contain a comprehensive executive summary of the main findings and an abstract (see section 3.1 for more details).

The contractor shall keep DG Competition regularly (at least once a month) informed of the progress made in the study by means of meetings or conference calls.

All services must be rendered in English and must be edited by a native English speaker to ensure publishable quality.

The reports must be submitted in writing (3 paper copies) and in the form of a CD-ROM and by email.

3.2. Indicative Methodology

Taking account of the above requirements, tenderers are free to propose their approach and methodology, which may entail desk reviews, surveys, interviews, analyses of economic data or any other way of collecting the requisite information.

When outlining their methodology, tenderers shall identify possible difficulties (such as, but not limited to, difficulties in collecting data) and propose ways of addressing them should they materialise. Tenderers shall also indicate in their methodology how they will ensure a balanced representation of stakeholders and a balanced representation of information derived from different sources.

Use of these tools depends to a large extent on the availability of the necessary data; the tenderer shall therefore make an offer according to the already available data, and those which the tenderer can feasibly gather. The tenderer shall identify potential data gaps that may prevent the use of quantitative methods for identifying the relevant market, and propose means to overcome these difficulties.

Frequent interaction with the Commission will need to be planned, including:

- scoping of the methodology and structure adapted to the requirements of the study;
- regular confirmation during the execution of the project that the chosen methodology will deliver the expected results.

It is essential that the study be based on evidence and on sound legal and economic analysis, and is supported by as much qualitative and quantitative evidence as possible.

4. Technical requirements of the final deliverable

All studies produced for the European Commission and Executive Agencies shall conform to the corporate visual identity of the European Commission by applying the graphic rules set out in the European Commission's Visual Identity Manual, including its logo⁶.

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

PDF versions of studies destined for online publication should respect W3C guidelines for accessible PDF documents. See: <http://www.w3.org/WAI/GL/WCAG20-TECHS/pdf.html>

⁶ The Visual Identity Manual of the European Commission is available upon request. Requests should be made to the following e-mail address: comm-visual-identity@ec.europa.eu

4.1. Content

4.1.1. Final study report

The final study report shall include:

- an abstract of no more than 200 words and an executive summary of at most 6 pages, both in English and French;
- the following standard disclaimer:

“The information and views set out in this study 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.”

- Specific identifiers which shall be incorporated on the cover page provided by the Commission.

4.1.2. Publishable executive summary

The publishable executive summary shall be provided in both English and French, and shall include:

- the following standard disclaimer:

“The information and views set out in this study 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.”

- specific identifiers which shall be incorporated on the cover page provided by the Contracting Authority.

4.2. Visual requirements

For visual requirements please refer to the template available in (annex IV to the invitation to tender). The cover page shall be filled in by the contractor in accordance with the instructions provided in the template. For further details you may also contact comm-visual-identity@ec.europa.eu.

5. Timetable

The total duration of the contract cannot exceed 6 (six) months. The implementation of the contract will start when both parties have signed the contract (T0).

The following indicative timetable is envisaged:

Deadline (from signature of contract by last party)	Task
[T0 + 10 working days max]	<i>Kick-off meeting</i>
[T0 + 2.5 months]	Submission of Interim Report
[T0 + 5 months]	Submission of Draft Final Report
[T0 + 6 months]	Submission of Final Report

6. Place of performance

The place of performance of the tasks shall be the Contractor's premises or any other place indicated in the tender, with the exception of the Commission's premises. Meetings will take place at the Commission's premises in Brussels.

7. Volume

The budget of Lot 1, including all costs, travel and incidental expenses, cannot exceed Euro 125 000 for its total duration.

The tenderer should however be aware that the contract will be awarded to the tender offering the best value for money.

8. Terms of payment

Payments shall be made in accordance with Articles I.4 and II.15 of the draft service contract (Annex II to the invitation to tender). This will include an interim payment of 30% of the contract amount. The interim payment will be paid following the approval of the Interim Report.

9. Evaluation of tenders and award

9.1. Evaluation steps

The evaluation is based on the information provided in the submitted tender. It takes place in three steps:

- (1) Verification of non-exclusion of tenderers on the basis of the exclusion criteria
- (2) Selection of tenderers on the basis of the selection criteria
- (3) Evaluation of tenders on the basis of the award criteria

Only tenders meeting the requirements of one step will pass on to the next step.

9.2. Exclusion criteria

All tenderers shall provide a declaration on their honour (see Annex III to the invitation to tender), duly signed and dated by an authorised representative, stating that they do not fall under any of the exclusion criteria listed in Annex III.

The declaration on honour is also required for identified subcontractors whose intended share of the contract is above 10%.

The successful tenderer shall provide the documents mentioned as supporting evidence in Annex III before signature of the contract and within a deadline given by the contracting authority. This requirement applies to all members of the consortium in case of a joint tender and to identified subcontractors whose intended share of the contract is above 10%.

9.3. Selection criteria

Tenderers must provide evidence of economic, financial, technical and professional capacity to carry out the work subject to this call for tender. Tenderers who do not provide the documentation specified, or who are judged, on the basis of the documentation provided, not to have fulfilled the criteria specified below, will be excluded.

The evidence requested shall be provided by each member of the group in case of joint tender and identified subcontractors whose intended share of the contract is above 10%. However, a consolidated assessment will be made to verify compliance with the minimum capacity levels.

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 Commission that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

9.3.1. Economic and financial capacity

To be eligible, the tenderer must have the economic and financial capacity to perform the tasks required under this call for tender. Tenderers (i.e. in case of joint tender, the combined capacity of all members of the consortium and identified subcontractors) must provide evidence that they have the economic and financial capacity to perform the tasks continuously and satisfactorily throughout the envisaged lifetime of the contract.

The following evidence shall be provided:

- Copy of the profit & loss account and balance sheet for the last two years for which accounts have been closed,
- Failing that, appropriate statements from banks,
- If applicable, evidence of professional risk indemnity insurance;

If, for some exceptional reason which the Commission considers justified, a tenderer is unable to provide one or other of the above documents, he or she may prove his or her economic and financial capacity by any other document which the Commission considers appropriate. In any case, the Commission must at least be notified of the exceptional reason and its

justification in the tender. The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

9.3.2. Technical and professional capacity

a. Criteria relating to the tenderer

The tenderer (in case of a joint tender the combined capacity of all members of the consortium and identified subcontractors) must comply with the following criteria:

- The tenderer must prove no less than five years of experience in the economic analysis of insurance sector and competition policy. Evidence of this can be provided through academic qualifications, extensive publications in academic/ trade journals and/or relevant professional work experience accumulated in a field relevant to the subject of this study.
- The tenderer must have the appropriate study and research facilities in order to be able to perform the tasks described in these tender specifications.
- The tenderer must prove experience in survey techniques, data collection, statistical analyses and the drafting of reports and recommendations.

b. Criteria relating to the team delivering the service

The team delivering the service shall include, as a minimum, the following profiles:

Project Manager: At least one person with five years of experience in project management, including overseeing project delivery and quality control of delivered service.

Language quality check: Interim report and final report must be reviewed by a native speaker.

Experts in the subject matter covered by the tender: The team must include at least one expert with no less than three years of experience in the insurance economics, one lawyer with no less than three years' professional experience in the field of insurance and competition law, and an economist with no less than three years' professional experience in the field of industrial economics.

c. Evidence

The following evidence of the technical and professional capacity shall be provided to fulfil the criteria under a. and b. above:

- List of relevant services provided in the past five years, with sums, dates and recipients, public or private. The most important services shall be accompanied by certificates of satisfactory execution, specifying that they have been carried out in a professional manner and have been fully completed;
- Detailed description of the resources available to perform the contract: infrastructure, equipment, personnel etc.
- The educational and professional qualifications of the persons who will provide the service for this tender (CVs) including management staff. The documents providing evidence of the

qualifications of the tenderer shall explain how they fit in and allow the tenderer to address the requirements of the study in question.

9.4. Award criteria

The contract will be awarded based on the best value for money and the selected tenders will be evaluated according to the following criteria (points will be scored against each quality criterion). The total number of points is one hundred.

No	Quality criteria	Quality points
1.	Conceptual approach to resolve the issues raised in the study The tenderer should demonstrate their understanding of issues identified in the study by setting out a detailed Work Plan that ensures coherence with the specification of the assignment and explains how the preliminary analysis included in the tender specifications will be taken forward.	30 points - minimum threshold 50%
2.	Quality of the proposed methodology This criterion will assess the quality and relevance of the proposed methodology with respect of the specification of the assignment (see section 2).	40 points - minimum threshold 50%
3.	Composition of the team and organisation of the work This criterion will assess the composition of the team, including the involvement of the senior team members, and how the roles and responsibilities of the proposed team and of the 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 shall provide details on the allocation of time and resources and the rationale behind the choice of this allocation.	20 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 members of the team. The quality system shall 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%
Total number of points:		100

Tenders must score at least 50% for each criterion, and at least 60% in total. Tenders that do not reach the minimum quality thresholds will be rejected.

After evaluation of the quality of the tender, the tenders are ranked using the formula below to determine the tender offering best value for money.

The tender offering the best value for money will be determined on the basis of the price and quality of the tender, by calculating the final score according to the following formula, in which the quality of the tender has a weighting of 70 %, and a 30 % weighting is given for price:

$$\text{Score for tender x} = \frac{\text{lowest price}}{\text{price of tender x}} * 100 * 30 \% + \frac{\text{Total quality score (out of 100) for all award criteria of tender x}}{100} * 70 \%$$

9.5. Technical offer

The technical offer must cover all aspects and tasks required in the technical specification and provide all the information needed to apply the award criteria. Offers deviating from the requirements or not covering all requirements may be excluded on the basis of non-conformity with the tender specifications, and will not be evaluated.

9.6. Financial offer

The price for the tender must be quoted in Euros. Tenderers from countries outside the Euro Zone must also quote their prices in Euros. The price quoted may not be revised in line with exchange rate movements. It is for the tenderer to assume the risks or benefits resulting from any variation.

Prices must be quoted free of all duties, taxes and other charges, i.e. also 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.

The quoted price must be a fixed amount which includes all charges (including travel and subsistence).

In order to facilitate the assessment of the price, the tenderer shall 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; other categories of costs, indicating the nature of the cost, the total amount, the unit price and the quantity.

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

10. Information on tendering

10.1. Participation

Participation in this tender procedure is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in any third country that has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. Where the Multilateral Agreement on

Government Procurement⁷ concluded within the WTO applies, participation to the call for tender is also open to nationals of those countries that have ratified this Agreement, on the conditions it lays down.

10.2. 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. By submitting an offer the tenderer accepts the conditions of this contract.

10.3. Joint tenders

A joint tender is a situation where a tender is submitted by a group of economic operators (consortium). Joint tenders may include subcontractors in addition to the joint tenderers.

In case of joint tender, all economic operators in a joint tender assume joint and several liabilities towards the Commission for the performance of the contract as a whole. Nevertheless, tenderers must designate a single point of contact for the Commission.

After the award, the Commission will sign the contract either with all members of the group, or with the member duly authorised by the other members via a power of attorney.

10.4. Subcontracting

Subcontracting is permitted in the tender but the contractor will retain full liability towards the Commission for performance of the contract as a whole.

Tenderers must give an indication of the proportion of the contract that they intend to subcontract.

Tenderers are required to identify subcontractors whose share of the contract is above 10%.

During contract execution, the change of any subcontractor identified in the tender will be subject to prior written approval of the Commission.

10.5. Content of the tender

The tenders must be presented as follows:

Part A: Identification of the tenderer (see section 10.6 below)

Part B: Evidence for exclusion criteria (see section 9.2)

Part C: Evidence for selection criteria (see section 9.3)

Part D: Technical offer (see section 9.5)

⁷ See http://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm

Part E: Financial offer (see section 9.6)

10.6. Identification of the tenderer: legal capacity and status

The tender must include a cover letter signed by an authorised representative of the tenderer containing:

- the name of the tenderer (including all entities in case of a joint offer),
- identified subcontractors if applicable, and
- the name of the single contact person in relation to this tender.

If applicable, the cover letter must indicate the proportion of the contract to be subcontracted.

In case of a joint tender, the cover letter must be signed by a duly authorised representative of each tenderer, or by a single tenderer duly authorised by the other tenderers (with power of attorney).

Subcontractors must provide a letter of intent stating their willingness to provide the service foreseen in the offer and in line with the present tender specification.

In order to prove their legal capacity and their status, all tenderers must provide a signed Legal Entity Form with their supporting evidence. The form is available at:

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. that have already been direct contractors) must provide the form but are not obliged to provide the supporting evidence.

The tenderer (or the single point of contact in case of a joint tender) must provide a Financial Identification Form and supporting documents. Only one form per offer should be submitted (no form is needed for subcontractors and other joint tenderers). The form is available at:

http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

Tenderers must provide the following information if it has not been included 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 which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.
- For natural persons, where applicable, a proof of registration on a professional or trade register or any other official document showing the registration number.

LOT 2: Different forms of cooperation between insurance companies and their respective impact on competition

11. Description of the tasks

Objective: Insurers resort to different types of coinsurance and pooling systems to be able – among others – to generate sufficient capacity for certain risks. However, these different agglomeration forms have different effects on the competition dynamics prevalent in individual markets. Building on the results of the sector inquiry into business insurance⁸ concluded by the Commission in 2007 as well as on the study on co(re)insurance⁹ carried out for the Commission by Ernst and Young in 2012, the study shall analyse the different existing or possible (within the current market context) alternative forms of insurance cooperation, discuss the advantages and disadvantages of these various forms of cooperation for both insurers and consumers, and analyse their impact on pricing and capacity.

Therefore the study will undertake to:

- a. Discuss the range of benefits and disadvantages deriving from each existing or possible alternative insurance cooperation scheme based on empirical findings and theoretic considerations.
- b. Analyse the different potential effects on market structure and market dynamics deriving from each existing or possible insurance cooperation scheme and discuss potential means of rendering each of those schemes as less restrictive of competition as possible by identifying all non-essential features of those schemes.
- c. Make an overall comparison among the different forms of cooperation by focusing on the above findings.
- d. Identify and analyse viable alternative instruments to (re)insurance markets for undertakings to cover risks.

The contractor will provide a survey of the relevant theoretical and empirical economic literature, as well as discuss, where appropriate, the most important relevant competition law cases in the EU and USA jurisdictions. The analysis will be supported by practical or illustrative examples.

11.1. Deliverables and meetings

1. A **kick-off meeting** shall take place within ten working days from the signature of the contract by the last party. The objectives of the kick-off meeting are, *inter alia*:

- to present the scope of the study and the methodology to be used;
- to present the Work Plan and the outline of the Final Report;
- to discuss practicalities of the liaison between the contractor and the Commission (the contracting authority).

⁸ See <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52007DC0556&from=EN>

⁹ See http://ec.europa.eu/competition/sectors/financial_services/KD0414707ENN.pdf

2. The **Interim Report** shall be submitted by the contractor to the contracting authority within 2.5 months of the date on which the contract enters into force. The interim report shall include an overview of the status of the project, describing the overall work carried out and contain a comprehensive executive summary of the main findings. It shall also explain the main obstacles in the implementation of the project and propose appropriate measures.

The contracting authority will comment on the Interim Report within 10 working days of the date of its submission. If the contracting authority has not reacted within this period, the Interim Report shall be deemed to have been approved.

3. The **Draft Final Report** shall be submitted by the contractor to the Commission within 5 months of the date on which the contract enters into force. The Draft Final Report shall include at least all the elements specified in section 2.2. In addition to the Draft Final Report, the contractor will also provide a PowerPoint presentation highlighting the main findings of the study.

The contracting authority will comment on the Draft Final Report within 10 working days of its submission. If the contracting authority has not reacted within this period, the Draft Final Report shall be deemed to have been approved.

4. A **Final Meeting** shall take place after the submission of the Draft Final Report. The objective of the meeting will be for the contractor to explain the progress made in achieving the study objectives and present to the Commission the preliminary findings which will be further elaborated in the Final Report.

5. The **Final Report** shall be submitted by the contractor to the Commission within 6 months of the date on which the contract enters into force. The final report shall describe the overall work carried out, the methodology employed and the findings of the study in performance of the contract. It shall also contain a comprehensive executive summary of the main findings and an abstract (see section 3.1 for more details).

The contractor shall keep DG Competition regularly (at least once a month) informed of the progress made in the study by means of meetings or conference calls.

All services must be rendered in English and must be edited by a native English speaker to ensure publishable quality.

The reports must be submitted in writing (3 paper copies) and in the form of a CD-ROM and by email.

11.2. Indicative Methodology

Taking account of the above requirements, tenderers are free to propose their approach and methodology, which may entail desk reviews, surveys, interviews, analyses of economic data or any other way of collecting the requisite information.

When outlining their methodology, tenderers shall identify possible difficulties (such as, but not limited to, difficulties in collecting data) and propose ways of addressing them should they materialise. Tenderers shall also indicate in their methodology how they will ensure a

balanced representation of stakeholders and a balanced representation of information derived from different sources.

Use of these tools depends to a large extent on the availability of the necessary data; the tenderer shall therefore make an offer according to the already available data, and those which the tenderer can feasibly gather. The tenderer shall identify potential data gaps that may prevent the use of quantitative methods for identifying the relevant market, and propose means to overcome these difficulties.

Frequent interaction with the Commission will need to be planned, including:

- scoping of the methodology and structure adapted to the requirements of the study;
- regular confirmation during the execution of the project that the chosen methodology will deliver the expected results.

It is essential that the study be based on evidence and on sound legal and economic analysis, and is supported by as much qualitative and quantitative evidence as possible.

12. Technical requirements of the final deliverable

All studies produced for the European Commission and Executive Agencies shall conform to the corporate visual identity of the European Commission by applying the graphic rules set out in the European Commission's Visual Identity Manual, including its logo¹⁰.

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

PDF versions of studies destined for online publication should respect W3C guidelines for accessible PDF documents. See: <http://www.w3.org/WAI/GL/WCAG20-TECHS/pdf.html>

12.1. Content

12.1.1. Final study report

The final study report shall include:

- an abstract of no more than 200 words and an executive summary of at most 6 pages, both in English and French;
- the following standard disclaimer:

¹⁰ The Visual Identity Manual of the European Commission is available upon request. Requests should be made to the following e-mail address: comm-visual-identity@ec.europa.eu

“The information and views set out in this study 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.”

- Specific identifiers which shall be incorporated on the cover page provided by the Commission.

12.1.2. Publishable executive summary

The publishable executive summary shall be provided in both English and French, and shall include:

- the following standard disclaimer:

“The information and views set out in this study 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.”

- specific identifiers which shall be incorporated on the cover page provided by the Contracting Authority.

12.2. Visual requirements

For visual requirements please refer to the template available in (annex IV to the invitation to tender). The cover page shall be filled in by the contractor in accordance with the instructions provided in the template. For further details you may also contact comm-visual-identity@ec.europa.eu.

13. Timetable

The total duration of the contract cannot exceed 6 (six) months. The implementation of the contract will start when both parties have signed the contract (T0).

The following indicative timetable is envisaged:

Deadline (from signature of contract by last party)	Task
[T0 + 10 working days max]	<i>Kick-off meeting</i>
[T0 + 2.5 months]	Submission of Interim Report
[T0 + 5 months]	Submission of Draft Final Report
[T0 + 6 months]	Submission of Final Report

14. Place of performance

The place of performance of the tasks shall be the Contractor's premises or any other place indicated in the tender, with the exception of the Commission's premises. Meetings will take place at the Commission's premises in Brussels.

15. Volume

The budget of Lot 2, including all costs, travel and incidental expenses, cannot exceed Euro 125 000 for its total duration.

The tenderer should however be aware that the contract will be awarded to the tender offering the best value for money.

16. Terms of payment

Payments shall be made in accordance with Articles I.4 and II.15 of the draft service contract (Annex II to the invitation to tender). This will include an interim payment of 30% of the contract amount. The interim payment will be paid following the approval of the Interim Report.

17. Evaluation of tenders and award

17.1. Evaluation steps

The evaluation is based on the information provided in the submitted tender. It takes place in three steps:

- (1) Verification of non-exclusion of tenderers on the basis of the exclusion criteria
- (2) Selection of tenderers on the basis of the selection criteria
- (3) Evaluation of tenders on the basis of the award criteria

Only tenders meeting the requirements of one step will pass on to the next step.

17.2. Exclusion criteria

All tenderers shall provide a declaration on their honour (see Annex III to the invitation to tender), duly signed and dated by an authorised representative, stating that they do not fall under any of the exclusion criteria listed in Annex III.

The declaration on honour is also required for identified subcontractors whose intended share of the contract is above 10%.

The successful tenderer shall provide the documents mentioned as supporting evidence in Annex III before signature of the contract and within a deadline given by the contracting

authority. This requirement applies to all members of the consortium in case of a joint tender and to identified subcontractors whose intended share of the contract is above 10%.

17.3. Selection criteria

Tenderers must provide evidence of economic, financial, technical and professional capacity to carry out the work subject to this call for tender. Tenderers who do not provide the documentation specified, or who are judged, on the basis of the documentation provided, not to have fulfilled the criteria specified below, will be excluded.

The evidence requested shall be provided by each member of the group in case of joint tender and identified subcontractors whose intended share of the contract is above 10%. However, a consolidated assessment will be made to verify compliance with the minimum capacity levels.

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 Commission that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

17.3.1. Economic and financial capacity

To be eligible, the tenderer must have the economic and financial capacity to perform the tasks required under this call for tender. Tenderers (i.e. in case of joint tender, the combined capacity of all members of the consortium and identified subcontractors) must provide evidence that they have the economic and financial capacity to perform the tasks continuously and satisfactorily throughout the envisaged lifetime of the contract.

The following evidence shall be provided:

- Copy of the profit & loss account and balance sheet for the last two years for which accounts have been closed,
- Failing that, appropriate statements from banks,
- If applicable, evidence of professional risk indemnity insurance;

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

17.3.2. Technical and professional capacity

d. Criteria relating to the tenderer

The tenderer (in case of a joint tender the combined capacity of all members of the consortium and identified subcontractors) must comply with the following criteria:

- The tenderer must prove no less than five years of experience in the economic analysis of insurance sector and competition policy. Evidence of this can be provided through academic qualifications, extensive publications in academic/ trade journals and/or relevant professional work experience accumulated in a field relevant to the subject of this study.
- The tenderer must have the appropriate study and research facilities in order to be able to perform the tasks described in these tender specifications.
- The tenderer must prove experience in survey techniques, data collection, statistical analyses and the drafting of reports and recommendations.

e. Criteria relating to the team delivering the service

The team delivering the service shall include, as a minimum, the following profiles:

Project Manager: At least one person with five years of experience in project management, including overseeing project delivery and quality control of delivered service.

Language quality check: Interim report and final report must be reviewed by a native speaker.

Experts in the subject matter covered by the tender: The team must include at least one expert with no less than three years of experience in the insurance economics, one lawyer with no less than three years' professional experience in the field of insurance and competition law, and an economist with no less than three years' professional experience in the field of industrial economics.

f. Evidence

The following evidence of the technical and professional capacity shall be provided to fulfil the criteria under a. and b. above:

- List of relevant services provided in the past five years, with sums, dates and recipients, public or private. The most important services shall be accompanied by certificates of satisfactory execution, specifying that they have been carried out in a professional manner and have been fully completed;
- Detailed description of the resources available to perform the contract: infrastructure, equipment, personnel etc.
- The educational and professional qualifications of the persons who will provide the service for this tender (CVs) including management staff. The documents providing evidence of the qualifications of the tenderer shall explain how they fit in and allow the tenderer to address the requirements of the study in question.

17.4. Award criteria

The contract will be awarded based on the best value for money and the selected tenders will be evaluated according to the following criteria (points will be scored against each quality criterion). The total number of points is one hundred.

No	Quality criteria	Quality points
1.	Conceptual approach to resolve the issues raised in the study The tenderer should demonstrate their understanding of issues identified in the study by setting out a detailed Work Plan that ensures coherence with the specification of the assignment and explains how the preliminary analysis included in the tender specifications will be taken forward.	30 points - minimum threshold 50%
2.	Quality of the proposed methodology This criterion will assess the quality and relevance of the proposed methodology with respect of the specification of the assignment (see section 2).	40 points - minimum threshold 50%
3.	Composition of the team and organisation of the work This criterion will assess the composition of the team, including the involvement of the senior team members, and how the roles and responsibilities of the proposed team and of the 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 shall provide details on the allocation of time and resources and the rationale behind the choice of this allocation.	20 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 members of the team. The quality system shall 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%
Total number of points:		100

Tenders must score at least 50% for each criterion, and at least 60% in total. Tenders that do not reach the minimum quality thresholds will be rejected.

After evaluation of the quality of the tender, the tenders are ranked using the formula below to determine the tender offering best value for money.

The tender offering the best value for money will be determined on the basis of the price and quality of the tender, by calculating the final score according to the following formula, in which the quality of the tender has a weighting of 70 %, and a 30 % weighting is given for price:

$$\text{Score for tender x} \times \frac{\text{lowest price}}{\text{price of tender x}} * 100 * 30 \% + \frac{\text{Total quality score (out of 100) for all award criteria of tender x}}{100} * 70 \%$$

17.5. Technical offer

The technical offer must cover all aspects and tasks required in the technical specification and provide all the information needed to apply the award criteria. Offers deviating from the requirements or not covering all requirements may be excluded on the basis of non-conformity with the tender specifications, and will not be evaluated.

17.6. Financial offer

The price for the tender must be quoted in Euros. Tenderers from countries outside the Euro Zone must also quote their prices in Euros. The price quoted may not be revised in line with exchange rate movements. It is for the tenderer to assume the risks or benefits resulting from any variation.

Prices must be quoted free of all duties, taxes and other charges, i.e. also 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.

The quoted price must be a fixed amount which includes all charges (including travel and subsistence).

In order to facilitate the assessment of the price, the tenderer shall 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; other categories of costs, indicating the nature of the cost, the total amount, the unit price and the quantity.

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

18. Information on tendering

18.1. Participation

Participation in this tender procedure is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in any third country that has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. Where the Multilateral Agreement on

Government Procurement¹¹ concluded within the WTO applies, participation to the call for tender is also open to nationals of those countries that have ratified this Agreement, on the conditions it lays down.

18.2. 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. By submitting an offer the tenderer accepts the conditions of this contract.

18.3. Joint tenders

A joint tender is a situation where a tender is submitted by a group of economic operators (consortium). Joint tenders may include subcontractors in addition to the joint tenderers.

In case of joint tender, all economic operators in a joint tender assume joint and several liabilities towards the Commission for the performance of the contract as a whole. Nevertheless, tenderers must designate a single point of contact for the Commission.

After the award, the Commission will sign the contract either with all members of the group, or with the member duly authorised by the other members via a power of attorney.

18.4. Subcontracting

Subcontracting is permitted in the tender but the contractor will retain full liability towards the Commission for performance of the contract as a whole.

Tenderers must give an indication of the proportion of the contract that they intend to subcontract.

Tenderers are required to identify subcontractors whose share of the contract is above 10%.

During contract execution, the change of any subcontractor identified in the tender will be subject to prior written approval of the Commission.

18.5. Content of the tender

The tenders must be presented as follows:

Part A: Identification of the tenderer (see section 18.6 below)

Part B: Evidence for exclusion criteria (see section 17.2)

¹¹ See http://www.wto.org/english/tratop E/gproc e/gp_gpa e.htm

Part C: Evidence for selection criteria (see section 17.3)

Part D: Technical offer (see section 17.5)

Part E: Financial offer (see section 17.6)

18.6. Identification of the tenderer: legal capacity and status

The tender must include a cover letter signed by an authorised representative of the tenderer containing:

- the name of the tenderer (including all entities in case of a joint offer),
- identified subcontractors if applicable, and
- the name of the single contact person in relation to this tender.

If applicable, the cover letter must indicate the proportion of the contract to be subcontracted.

In case of a joint tender, the cover letter must be signed by a duly authorised representative of each tenderer, or by a single tenderer duly authorised by the other tenderers (with power of attorney).

Subcontractors must provide a letter of intent stating their willingness to provide the service foreseen in the offer and in line with the present tender specification.

In order to prove their legal capacity and their status, all tenderers must provide a signed Legal Entity Form with their supporting evidence. The form is available at:
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. that have already been direct contractors) must provide the form but are not obliged to provide the supporting evidence.

The tenderer (or the single point of contact in case of a joint tender) must provide a Financial Identification Form and supporting documents. Only one form per offer should be submitted (no form is needed for subcontractors and other joint tenderers). The form is available at:
http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

Tenderers must provide the following information if it has not been included 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 which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.

- For natural persons, where applicable, a proof of registration on a professional or trade register or any other official document showing the registration number.