



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL COMPETITION  
**Directorate A - Policy and Strategy**  
**Unit A3 - State aid strategy**

## **CALL FOR TENDERS**

COMP/2015/004

# **An overview of subsidy disclosure practices in EU's member states**

## **TENDER SPECIFICATIONS**

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## 1. Purpose and context of the contract

The notion of transparency has become a key concept in the European Union and represents a central requirement of legitimate governance in EU's member states. Transparency is a broad, multi-faceted concept that encompasses many dimensions, ranging from the openness and transparency of Governments regarding overall public expenditure and the various instruments used for disbursing such expenditure, to aspects of fiscal activities and policies, to decision making, to the right to know of citizens, etc. Transparency is necessary to increase Government accountability, to ensure public trust and to establish a system of public participation and collaboration. Transparency can also contribute to economic growth by promoting efficiency and effectiveness of public spending and equips policy-makers with evidence on the scope and effectiveness of policy interventions, bringing out insights for better policies.

In the field of State Aid, transparency represents the cornerstone of a major recent reform aiming to modernize the legal framework. Adopted in 2014, the State Aid Modernisation (SAM) initiative introduced new transparency requirements<sup>1</sup> concerning state aid granted by Member States to undertakings. These new requirements are viewed as a necessary counterpart to the considerable increase in the scope of exemptions from prior notification of state aid granted to companies proposed under the new General Block Exemption Regulation (GBER)<sup>2</sup>. State Aid transparency also has the potential to strengthen the enforcement of State aid discipline closer to where the aid is given, by making it easier for firms to verify whether the aid granted to competitors is legal. The State Aid transparency builds on the practice already existing under [European Structural and Investment Funds](#) or the [Common Agricultural Policy](#).

It is important to note that State Aid covers only a fraction of the subsidies given to firms in the European Union. Although the two terms are sometimes used interchangeably, the concepts of subsidies and state aid are not identical and only partially overlap. In fact, current estimations of the order of magnitude of the two in the EU point towards significant differences. This can lead to confusion and misunderstanding as to the real extent of support being provided by member states' governments to companies, and cloud the debate about the significance and effects of a subsidy or state aid scheme.

While the transparency of State Aid represents a legal obligation for EU's Member States, the field of subsidies suffers from the absence of an overall disclosure legislation and harmonized accounting standards. As a result, national disclosure practices are rather patchy, despite a growing need from policy makers and analysts to assess and benchmark various types of measures to support the economy. This is why one of the most fundamental types of reforms in this field is disclosure, i.e. the publication of which companies are receiving subsidies, through what type of instruments are these subsidies disbursed, what is the amount and impact of these subsidies and so on.

Accurate and easily available data on the costs and performance of subsidy programs could greatly improve decision-makers' ability to craft policies that deliver the strongest results at the lowest possible cost. Moreover, detailed subsidy data would allow the assessment of the economic distortions and inefficiencies created by these policies.

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<sup>1</sup> For each state aid award above €500,000, Member States will be required to publish the identity of the beneficiary, the amount and objective of the aid and the legal basis.

<sup>2</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1404295693570&uri=CELEX:32014R0651>

## 2. Subject of the contract and task description

### 2.1. Scope of the project and input by the contracting authority

The project must cover all of the 28 Member States of the European Union. For each Member State, data on the main subsidy programs for economic development over 2010-2014 need to be identified and collected.

More background information for the study:

- The text of the Communication on State Aid Modernization:  
[http://ec.europa.eu/competition/state\\_aid/modernisation/index\\_en.html#](http://ec.europa.eu/competition/state_aid/modernisation/index_en.html#)
- Transparency requirements are also already part of certain state aid rules, such as the Broadband Guidelines (see [IP/12/424](#)), the Regional Aid Guidelines (see [IP/13/569](#)), the Cinema Communication (see [IP/13/1074](#)), the Risk Finance Guidelines (see [IP/14/21](#)) and the Aviation Guidelines (see [IP/14/172](#)).
- The Energy and Environment Guidelines (see [IP/14/400](#)) are already in line with the Communication's requirements. The same requirements will also apply to aid awarded under the GBER (see [IP/14/587](#)) and R&D&I framework (see [IP/14/586](#)).
- See also the [Policy brief](#), for more details on state aid transparency.
- A useful example of the analysis of disclosure practices in the US:  
<http://www.goodjobsfirst.org/sites/default/files/docs/pdf/showusthesubsidizedjobs.pdf>

### 2.2. Objectives of the contract

The overall aim of the study is to provide a comprehensive snapshot of current practice of subsidies disclosure in EU Member States. The study will focus on the degree and quality of disclosure of subsidies for economic development, which can be defined as forms of financial assistance given to companies by the government to encourage the growth of the business activity and job creation/safeguarding, regardless of the instrument used to provide this assistance.

By way of example, subsidy programs for economic development include (but are not limited to) corporate income tax exemptions, start-up and SMEs programs, aid for regional development, aid for rescuing and/or restructuring firms in difficulty, reimbursements for worker training expenses, financial incentives to locate in special economic zones, subsidies for energy efficiency, programs to promote research and development, etc.

The study is expected to cover all types of instruments used to offer subsidies to firms including grants or direct payments, tax advantages, loans and government guarantees, debt write-off, etc. Subsidies to the primary sector, e.g. agriculture and fisheries, are not under the scope of the study.

Specific objectives:

- the study is to identify and analyse existing subsidy disclosure practices in all 28 EU Member States and provide an objective and comparative overview of the degree and quality of subsidy disclosure from the point of view of the citizens' access to information and transparency of public spending; the study will also identify and propose best practices as regards the disclosure of information on subsidies;

— the study is to provide insights into the main parameters relevant for analysis of disclosure practices regarding subsidies and will identify ways to increase subsidy transparency in the EU in general given existing practices in Member States.

### **2.3. Tasks and general guidance on methodology**

In order to achieve the above-mentioned objectives, the contractor will be required to perform, at a minimum, the following tasks:

*- Identify, assess and benchmark subsidy disclosure practices in EU's member states*

The contractor will be required to undertake the in-depth subsidy disclosure research according to the methodology proposed in the tender. This task will be essential for the overall content and quality of the report, and the contractor is expected to devote an appropriate amount of time and man power for its execution.

As a first step, based on publicly available information, the contractor will assemble a list of subsidy programs for economic development across all EU Member States given at the level of General Government in 2010-2014. Information on the type of subsidy program, its objectives, target groups, and overall estimated annual spending will be collected, where available.

Based on the extensive list of subsidy programs, the contractor will propose, for each Member State, a sample of 10 to 15 programs for which in-depth research of disclosure practices will be pursued. These subsidy programs will be selected based on their economic significance, which can be determined on the basis of their cost, but also taking into account certain types of instruments or sectors that would merit increased public scrutiny. The sample of subsidy programs for each country will need to be approved by the Commission.

For each of the selected subsidy programs, the contractor will assess and benchmark the degree and quality of disclosure in line with the methodology proposed in the tender, more specifically:

- The availability of information on:

(1) identifying data on the beneficiaries, e.g. full name, unique identification code, the sector of activity, the address/ region where the subsidized activity takes place, etc.;

(2) the subsidy amount, e.g. the amount of the subsidy granted, paid off or recovered, the financing intensity, etc.;

(3) the outcomes of the subsidy, e.g. number of jobs created or safeguarded, the capital investment, etc.;

- The coverage, timeliness, and depth of the above-mentioned data;

- The accessibility of the above-mentioned data, e.g. the form in which data are published, the way in which information is disclosed (searchable public websites, government reports), ease of obtaining relevant data on subsidies.

These assessments will then be aggregated with a view to producing a comprehensive and comparative overview of each country's performance as regards subsidy disclosure. The transparency performance will then be compared to overall current economic performance and various other economic indicators to be defined by the contractor and approved by the Commission.

From the undertaken research, examples of best practices as regards subsidy disclosure will be identified and discussed in detail including how possible obstacles have been addressed.

On the basis of the information obtained, the contractor shall provide a full-fledged analysis of subsidy disclosure practices. The study shall provide answers to the following study questions:

- What is the degree and quality of the subsidy disclosure practices in EU's Member States? What can be learnt from different disclosure practices, regarding best ways to obtain comparable, high-quality information on subsidies to firms?
- What are the best examples of subsidy disclosure practices and instruments?
- What are the ways for increasing subsidy transparency in the EU's Member States?
- What is the role of technology and e-Government applications as a means to provide information regarding subsidies and improve transparency?

The results of the research will be presented in a user friendly and accessible way with clear graphs and figures.

The tenderer is required to include in its tender a detailed description of the methodology appropriate to the purpose of the study and that will allow answering the study questions described below in the best possible way in the given timeframe and with the likely access to data. The tenderer is expected to motivate its methodological choices and to discuss potential biases arising from each of the methods applied, the expected direction in which these biases may distort the results and their likely magnitude. While the tenderer has the freedom to include in the methodological proposal the most appropriate techniques for collecting and analysing data, at the minimum the following elements need to be addressed:

- Definition of a comprehensive framework for the assessment and benchmarking of subsidy disclosure based on existing practices in each of the EU's Member States, as well as international practice and the needs of citizens, businesses and other actors that have a use for subsidy data;
- Proposal of methods to collect information on subsidy disclosure practices and the different sources that will be scanned for each country, including alternative methods in the event that such data is not immediately available online;
- Criteria for the selection of best practices in subsidy transparency.

#### *- Presentation of the results of the study*

The contractor will be expected to make a presentation of the final report at the end of the study at a working group/workshop organized by the European Commission in Brussels.

The contractor should be prepared to respond in full to any request concerning the methodology used in the preparation of this report. The European Commission and any third parties should be able to replicate the results based on the methodological description and the underlying dataset. The accuracy of the data produced will be the full responsibility of the contractor.

For all of the areas of analysis listed above it is crucial to not only observe and describe the actual situation (what), but to also provide relevant and succinct explanations (why). The final

report should be short and concise, communicating in a clear and straightforward way the main insights. The report must adhere to the highest standards in policy research but should be also drafted in a way that is easily accessible to the general public. The final report will follow a structure proposed by the contractor and approved by the European Commission. Tenderers are invited to propose a preliminary annotated table of contents in their technical offer.

The final report is expected to be of the highest quality not only from the content point of view but also as regards its format and appearance. This includes that the final report has been professionally edited and copy-edited. The contractor is invited to explore and propose in its technical offer attractive/innovative ways to present the information in electronic form as well as interactive methods to exploit the data set behind the report. The report should maximise transparency and seek to introduce user interactions. Findings are expected to be presented in a user-friendly way with clear graphs and figures. The report should also feature best-practice examples.

## 2.4. Deliverables and meetings

Any physical material that must be delivered by the contractor to the European Commission should be sent to the address indicated in the service contract. Each report (except the final version of the Final Report) must have an introductory page providing an overview and orientation of the report. It must describe what parts of the document have, on the one hand, been carried over from previous reports or have been recycled from other documents, and on the other hand, which parts represent progress of the study work in comparison to the work plan.

The contractor will be expected to provide the following deliverables in the English language:

- A **kick-off meeting** will be organized in Brussels. The contractor will be required to submit an updated work plan, at the latest, five working days before the meeting takes place;
- **Interim report**, which must as a minimum provide:
  - An overview of the status of the study project, a description of problems encountered and solutions found, a conclusion whether any changes are required to the work plan, or any other solutions must be sought in order to ensure that the required results of the study are achieved;
  - A proposal for the sample of subsidy programs to be researched in-depth for each Member State;
  - An assessment of the appropriateness of the assessment framework for subsidy disclosure based on its preliminary application on a sample of minimum 3 subsidy programs per country in 5 different countries (e.g. how suitable the assessment framework is given the existing practices of various granting authorities);
  - A proposal for the final structure of the Final Report.

The interim report shall not exceed 50 pages, annexes excluded.

- **Draft final report** including the results of a majority of the tasks covered by this tender specification.

The structure of the report should follow a broad classification into the following parts:

- **Main report:** The main report must be limited to 70 pages and present the results of the analysis and the conclusions arising from the study. It must also contain a very short description of the subject of the study, the context of the study, and the methodology used.
- **Annexes:** These must collate the technical details of the study, and must include the detailed description of the methodology, questionnaire templates, interview guides, (if relevant) and any additional tables or graphics, and references and sources.
- **Second meeting** to discuss the results of the draft final report
- **Final report**, which follows the same format as the draft Final Report, and will need to address all the comments made by the European Commission on the draft final report. It needs to be edited by a native English speaker to ensure publishable quality.
- **Final presentation/workshop**, including a Powerpoint presentation prepared by the contractor

The Contractor will also be required to send by email Progress Reports every two weeks, summarising on one page the progress of the study work made with reference to the work plan. The Contractor will report particularly on difficulties encountered and mitigation measures taken or suggestions for changes in the work plan to ensure that the required results of the study are achieved. The Commission might call for a conference call if a Progress Report raises concerns about progress of the work.

### 3. 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 logo<sup>3</sup>.

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](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>

#### 3.1. Content

##### 3.1.1. Final study report

The final study report shall include:

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

<sup>3</sup> 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](mailto: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.

The report will be made available in English and provided in a format compatible with MS Word to the European Commission. The dataset collected and produced will be provided to the European Commission and published electronically in the MS Excel spreadsheet format.

The contractor will be required to develop, maintain, and at the end of the project deliver a set of background documents, including:

- an updated, complete, and fully documented dataset (including sources and calculations) used for producing the report;
- a fully documented note describing the methodology used for collecting and assessing the subsidy disclosure practices, annexed to the text of the final report.

### **3.1.2. Publishable executive summary**

The publishable executive summary shall be provided in both in 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 Commission.

## **3.2. Visual requirements**

Graphic design of both, the cover page and the internal pages of the study, shall apply rules set out in the Visual Identity Manual. The professional font (EC Square Sans Pro) will be made available to the contractor free of charge upon acceptance of the terms and conditions of its use. Please contact [comm-visual-identity@ec.europa.eu](mailto:comm-visual-identity@ec.europa.eu) for further details.

## **4. Timetable**

The indicative starting date is November-December 2015. The implementation of the contract will start when both parties have signed the contract. The total duration of the contract cannot exceed 10 months.

The following indicative timetable is envisaged:

<b><u>Month</u></b>	<b><u>Tasks and deliverables</u></b>
N	Signing of contract by last signing party
N + 15 days max	Kick-off meeting
N + 2 months	Submission of the Interim Report
N + 5 months	Submission of the Draft Final Report and second meeting
N + 9 months	Submission of the Final report, Executive Summary and Abstract
N + 10 months max	Final presentation/workshop in Brussels

The contractor's attention is drawn to the fact that we have a strict policy that contract extensions will in principle not be granted. Rare exceptions to this rule can only be based on unforeseeable circumstances beyond the control of the contractor that prevented the contractor from fulfilling the obligations under the contract.

## **5. 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.

## **6. Volume**

The budget of the contract, including all costs, travel and incidental expenses, cannot exceed Euro 200 000 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.

## **7. 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).

## **8. Evaluation of tenders and award**

### **8.1. 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 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.

## **8.2. 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 are not in one of the situations of exclusion listed in the Annex III.

The declaration on honour is also required for identified subcontractors whose intended share of the contract is above 20%.

The successful tenderer shall provide the documents mentioned as supporting evidence in the 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 joint tender and to identified subcontractors whose intended share of the contract is above 20%.

## **8.3. 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 should be provided by each member of the group in case of joint tender and identified subcontractors whose intended share of the contract is above 20%. 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.

### **8.3.1. Economic and financial capacity**

To be eligible, the tenderer must have the economic and financial capacity to perform the tasks required in 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 should 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.

### **8.3.2. Technical and professional capacity**

#### **a. Criteria relating to the tenderer**

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

- The tenderer must prove experience in the field of subsidy data systems, subsidy measurement, state aid, or the politics of subsidy reform with at least 2 projects delivered in this field in the last three years with a minimum value for each project of € 50 000.
- The tenderer must prove experience of working in at least 2/3 of all official languages of EU's member states with at least 2 projects delivered in the last three years showing the necessary language coverage.
- The tenderer must prove experience in survey techniques, data collection, statistical analyses and drafting reports and recommendations, with at least 2 projects using such methods in the last three years.

#### **b. Criteria relating to the team delivering the service**

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

Project Manager: At least 3 years' experience in project management, including overseeing project delivery, quality control of delivered service, experience in project of a similar size and coverage (geographical scope at least half of the one subject to this call for tender), with experience in management of team of at least 5 people.

Expert in subsidies: Relevant higher education degree and / or 3 years' professional experience in the field of subsidies disclosure and measurements, subsidies data systems or the politics of subsidy reform.

Professional editor with proven experience in editing at least two similar publications.

Team for data collection: collectively the team should have knowledge of all EU languages and proven experience of 5 years in data collection techniques.

#### **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 three 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 the management staff.

#### 8.4. 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 and points will be scored against each quality criterion. The total number of points is one hundred.

No	Quality criteria	Quality points
1.	<p><b>Quality and relevance of the methodology set out in the tender</b></p> <p>This criterion will assess the quality and relevance of the proposed methodology as well as the reasons behind its selection. The contractor is invited to expand the presented required minima based on their knowledge and expertise, with a view to improving the final outcome of the project.</p>	<p><b>50 points – minimum threshold 50%</b></p>
2.	<p><b>Organization of the work and composition of the team in relation to the tasks</b></p> <p>This criterion will assess 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. A detailed calendar for each team member is required. Team staff should be singled out by function (E.g. project managers, administrator, country expert, research assistant, etc.).</p>	<p><b>30 points – minimum threshold 50%</b></p>
3.	<p><b>Overall quality of project management, including quality control and risk management measures.</b></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>	<p><b>20 points – minimum threshold 50%</b></p>
<b>Total number of points:</b>		<b>100</b>

Tenders must score minimum 50% for each criterion or sub-criterion, and minimum 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 30 % weighting is given for price:

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

### **8.5. 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.

### **8.6. 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 assume the risks or the benefits deriving 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 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; 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.

## **9. Information on tendering**

### **9.1. 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 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 Multilateral Agreement on Government Procurement<sup>4</sup> concluded within the WTO applies, the participation to the call for tender is also open to nationals of the countries that have ratified this Agreement, on the conditions it lays down.

### **9.2. 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.

### **9.3. Joint tenders**

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<sup>4</sup> See [http://www.wto.org/english/tratop\\_e/gproc\\_e/gp\\_gpa\\_e.htm](http://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm)

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.

#### **9.4. 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 20%.

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

#### **9.5. Content of the tender**

The tenders must be presented as follows:

Part A: Identification of the tenderer (see below)

Part B: Evidence for exclusion criteria (see section 8.2)

Part C: Evidence for selection criteria (see section 8.3)

Part D: Technical offer (see section 8.5)

Part E: Financial offer (see section 8.6)

#### **9.6. Identification of the tenderer: legal capacity and status**

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

- the name of the tenderer (including all entities in case of 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 joint tender, the cover letter must be signed by a duly authorised representative for each tenderer, or by a single tenderer duly authorised by 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 its supporting evidence. The form is available on:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](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 single point of contact in case of 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 on:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/index\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/index_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.