

**Rules for the submission, contents and presentation of a tender
for the
multiple framework service contract IP/C/LIBE/FWC/2018-086 in three
(3) lots
for the provision of external expertise on regulatory and policy issues in
the fields of
Horizontal issues on the area of freedom, security and justice,
fundamental rights and citizenship (Lot 1)
Policies on border checks, asylum and migration (Lot 2)
Judicial cooperation in criminal matters and police cooperation (Lot 3)**

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A. GENERAL PRINCIPLES

1. SUBMISSION OF A TENDER

If you are interested in taking part in this tender procedure, please submit a tender in one of the official languages of the European Union before the closing date indicated in section 2 below. However, it is hereby specified that the service contract will be concluded in English and contacts with the European Parliament in relation to this contract will also be in English. Please be aware, however, that purely administrative documents such as, for example, documents pertaining to national authorities, company accounts and articles of incorporation of your company, proof of status, etc., can be submitted in their original language regardless of the tender language.

In order to facilitate the best possible expertise on all topics of relevance, the multiple framework service contract consists of three lots:

Lot 1 - Horizontal issues on the area of freedom, security and justice, fundamental rights and citizenship

Lot 2 - Policies on border checks, asylum and migration

Lot 3 - Judicial cooperation in criminal matters and police cooperation.

The lots are presented in more detail in section 2 of Annex I to the Draft framework service contract (Global terms of reference).

Any individual tenderer may submit offers for one, several, or all of the lots. Any tenderer has to submit a separate tender for each lot he/she is tendering for. The lots are independent of each other and may be awarded to different tenderers. However, a tenderer may not submit more than one tender for a given lot, whether individually, or as a part of a group of economic operators.

Tenders must:

- be accompanied by the *Administrative offer*, the *Technical Offer*, as well as the *Financial Offer*, using the formats as specified in Annexes II, III, IV of the draft contract;
- be signed without fail by the tenderer or his/her duly authorised representative;
- be submitted for one or more lots under the contract; for each lot tendered, the tender must include a separate *Administrative Offer*, *Technical Offer* and *Financial Offer*;
- be expressed in euros.

Your tender must also include all the documents concerning economic, financial, professional and technical capacity related to the selection and award criteria listed below in part B of this document “Rules concerning the contents and presentation of the offer”. An electronic version of the signed tender documents shall also be submitted (USB stick or CD-ROM).

Please submit one **signed original (per lot) for which you want to tender** (including the Administrative, Technical and Financial Offer), accompanied by two copies of that same file, with each page being duly completed and perfectly legible so as to preclude any doubt whatsoever as to the wording and figures.

The European Parliament's Administration reserves the right to reject any incomplete or illegible tender.

2. TIME LIMITS AND PROCEDURES FOR THE SUBMISSION OF TENDERS

The closing date for the submission of tenders is **25 September 2018**.

Tenders may be submitted, at the choice of tenderers:

- (a) either by registered mail or by courier company, posted no later than the **closing date** indicated above (**evidence required**) to the following address:

EUROPEAN PARLIAMENT
Directorate-General Internal Policies of the Union
Directorate C - Citizens' Rights and Constitutional Affairs
For the attention of Director Michael Alexander Speiser

Invitation to tender IP/C/LIBE/FWC/2018-086 (LOT.....)

Building Square de Meeûs, Room 08Y067
Rue Wiertz
B - 1047 Brussels

- (b) or by being handed in to

European Parliament
Official Mail Unit
Altiero Spinelli Building, Office 00 F 256
Rue Wiertz 60
B - 1047 Brussels

no later than the closing date indicated above. Delivery of the tender shall be confirmed by a receipt, dated and signed in duplicate, issued by the European Parliament's Official Mail Service. The date indicated on the receipt shall serve as the reference date. **Tenderers should be aware that the standard opening hours of the Official Mail Service to which tenders must be handed in are Monday to Thursday 08.30 - 17.45 and on Fridays from 08.00 - 13.30.** It is closed on Saturdays and Sundays and on public holidays and office closing days for the European Parliament.

The European Parliament cannot guarantee receipt of tenders, regardless of how they are submitted, outside the Official Mail Unit's opening hours given above.

The European Parliament cannot be held liable for not having notified tenderers of any changes to the Official Mail Unit's opening hours which have come into effect since the documents relating to the invitation to tender were dispatched. Before handing in a tender, tenderers must themselves establish that the stated opening hours still apply. **Tenderers are therefore advised to check European Parliament's Official Mail Service opening days and hours to make sure tenders respect the submission deadline. Central telephone number: +32 2 284 4474.**

Tenders which do not comply with the time limits for submission indicated in points (a) and (b) above will be deemed inadmissible.

In order to maintain the confidentiality and integrity of tenders, they **must be sent under double cover**, meaning the entire tender must be placed in two envelopes. Both envelopes shall be sealed and bear the following inscriptions:

- the recipient department:

EUROPEAN PARLIAMENT
Directorate-General Internal Policies of the Union
Directorate C - Citizens' Rights and Constitutional Affairs
For the attention of Director Michael Alexander Speiser

Invitation to tender IP/C/LIBE/FWC/2018-086 (LOT.....)

Building Square de Meeûs, Room 08Y067
Rue Wiertz
B - 1047 Brussels

- as well as the name and address of the tenderer
- and the following statement:

NOT TO BE OPENED BY THE MAIL SERVICE OR BY ANY UNAUTHORISED PERSON

In every case, and irrespective of the type of package used, tenderers are invited to pay attention to the quality of the envelopes used for submitting their tenders, in order to ensure that they do not arrive torn, thereby no longer ensuring the confidentiality or integrity of their contents.

If self-adhesive envelopes are used, they must be sealed with adhesive tape bearing the signature of the sender. The signature of the sender shall be deemed to comprise either the hand-written signature, or the signature and the company stamp.

For your convenience, you can use the labels for the envelope attached to this document.

Any tender whose contents have not remained confidential until the tender opening session will be rejected automatically.

3. TERMS AND CONDITIONS GOVERNING THE INVITATION TO TENDER

Submission of a tender implies acceptance by the tenderer of the terms and conditions laid down in the documents making up this invitation to tender:

- **Rules for the submission, contents and presentation of a tender for the multiple framework service contract IP/C/LIBE/FWC/2018-086**

This document specifies practical guidance on the tender procedure and instructions to tenderers.

- **Draft framework service contract and its annexes** (listed below are the components of the multiple framework service contract to be concluded: Annex I, V and VI are already available. You, as a tenderer, must fill in Annexes II, III and IV (in bold below)).
- Draft framework service contract.

Annex I: Global terms of reference for the multiple framework service contract
IP/C/LIBE/FWC/2018-086

Annex II: Administrative offer, submitted by the tenderer

Annex III: Technical offer, submitted by the tenderer

Annex IV: Financial offer, submitted by the tenderer

Annex V: Template order form for specific contracts

Annex VI: EMAS Environmental Policy

The above documents lay down the terms and conditions governing this invitation to tender and complement each other. In the event of contradictions between them, each document shall take precedence over the others in the order indicated in the 'Final Provisions', (Article I.18.2 of the draft multiple framework service contract).

Submission of a tender entails the waiver by tenderers of their own conditions of sale or service. Submission of a tender shall bind the tenderer during performance of the contract, should it be awarded to him/her.

Before submitting a tender, tenderers must take all the steps required to gain a proper understanding of the scale and nature of the subject of the invitation to tender and of any potential difficulties. By the fact of submitting a tender, tenderers shall acknowledge that they are aware of the risks and problems linked to the performance of the contract.

The period of validity of tenders, during which tenderers are required to maintain all the terms and conditions in their tenders, is **12 months** from the closing date for the submission of tenders.

This invitation to tender does not entail any obligation on the part of the European Parliament; this shall arise only when the contract is signed with the successful tenderer. Likewise, submission of a tender shall in no way entitle a firm to the award of the contract or a part thereof. Until the contract is signed, the European Parliament may either withdraw from the contract or cancel the procurement procedure, without candidates or tenderers being able to claim any compensation for any expenses incurred, including any travel costs. Where applicable, the reasons for that decision will be stated and communicated to all the candidates or tenderers.

You will be informed in writing of the decision taken on your tender.

Expenses incurred in connection with preparing and submitting tenders shall be borne by tenderers and shall not be reimbursed.

Tenders will remain the property of the European Parliament.

European Union law will apply to the framework service contract resulting from this invitation to tender, complemented, where necessary, by Belgian law.

The follow-up to your response to the invitation to submit a tender will entail the registration and processing of personal data (e.g. name, address, CV) according to Article I.14 – ‘Data Protection’ of the draft framework service contract.

4. CONTACTS DURING THE TENDER PROCEDURE

Any contact between tenderers and the European Parliament is prohibited throughout the procedure, save in the following circumstances:

(a) prior to the closing date for the submission of tenders:

- *on the initiative of tenderers*, in order to receive additional information for the sole purpose of clarifying the nature of the contract. Tenderers who wish to obtain additional information on the documents making up the invitation to tender should submit their questions solely **in writing by email** to the following address:

poldepc-finance@ep.europa.eu

Any request in writing for additional information must bear the following:

Invitation to tender IP/C/LIBE/FWC/2018-086

Due to the summer recess of the European Parliament, any questions submitted between 15 July and 17 August will at the earliest be answered from 20 August. No response will be given to any request for additional information received **after 18 September 2018**.

The European Parliament will not respond to oral questions, questions submitted after this deadline or questions which are incorrectly worded or addressed.

Answers to requests for clarifications will be communicated by email to the requesting tenderer and published at the following address:

<http://www.europarl.europa.eu/tenders/invitations.htm>

- *on the European Parliament's initiative*, if its departments discover an error, an inaccuracy, an omission or any other material shortcoming in the wording of the tender documents.

In this case, the information will also be published at the same address:

<http://www.europarl.europa.eu/tenders/invitations.htm>.

Therefore, tenderers are strongly advised to check this site regularly for updates.

(b) after the tenders have been opened and on the European Parliament's initiative:

- if the tender gives rise to requests for explanations, or with a view to correcting material errors in the wording of the tender, the European Parliament may contact the tenderer. Any such contact may not result in the terms of the tender being modified.

5. OPENING OF TENDERS

Tenders will be opened at the European Parliament's premises (Brussels) on **11 October 2018 at 09h30**.

Tenderers who wish to attend the opening of the tenders are asked to notify the department responsible for managing this procurement procedure by email to the following address: poldepc-finance@ep.europa.eu

no later than **25 September 2018**. Only one (1) representative per tenderer may attend.

6. PARTICIPATION IN THE TENDER PROCEDURE

Participation in this competitive tendering procedure is open on the same terms to all natural or legal persons and public entities in a European Union Member State and to all natural and legal persons and public entities of a third country which has concluded a specific public procurement agreement with the European Union giving them access to the contract which is the subject of this invitation to tender and on the terms laid down by that agreement.

If a potential tenderer is not eligible pursuant to the aforementioned agreements, they may exceptionally be permitted by the European Parliament to participate in the tender procedure on an ad hoc basis, without this creating any precedent or obligation for the future. Although the tender documents may be sent on request to a tenderer who does not come under these agreements, this does not presuppose that tenders submitted will subsequently be accepted by the European Parliament.

In order to ascertain the eligibility of tenderers, they must indicate in their tenders the country in which they have their registered office (for legal persons) or in which they are domiciled (for natural persons). They must also submit the evidence required under their national law or other, equivalent proof enabling the European Parliament to check where they come from.

7. GROUPS OF ECONOMIC OPERATORS

Groups of economic operators may submit a tender.

The group of economic operators shall furnish proof of its legal form in the tender. The group may take one of the following forms:

- an entity with legal personality recognised by a Member State;

- an entity without legal personality but offering sufficient protection of the European Parliament's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association);
- the signature by all the partners of a 'power of attorney', memorandum of understanding or equivalent document, confirming a form of cooperation.

The document supplied must prove the group's official status. The form of those documents or agreements may exceptionally be modified and the submission of this documentation may exceptionally be done after the time limit for submission of a tender, but under no circumstances after the outcome of the invitation to tender has been communicated to the tenderers concerned. The European Parliament reserves the right to reject a tender if the terms of agreements between the members of a group are modified during the procedure, if those terms make no provision for the joint and several liability of the group's members or if no agreement with legal force has been submitted with the tender.

The European Parliament may accept other legal forms not referred to above, provided that they ensure the parties' joint and several liability and are compatible with performance of the contract. In any event, it should be noted that, in the contract to be signed with the group of economic operators, the European Parliament will refer expressly to the existence of such joint and several liability. In addition, it requires the appointment of an authorised representative to represent the members of the group in all dealings with the European Parliament.

Tenders from groups of economic operators must specify the role, qualifications and experience of each of the members of the group. The tender shall be submitted jointly by the economic operators, who shall assume joint and several liability for the tender submission and during performance of the contract.

In the case of a group of economic operators, each member shall furnish proof of the right of access to the contract (see point 6 above), as well as proof concerning compliance with the exclusion and selection criteria. With regard to the selection criteria, the European Parliament may rely on the capacity of the other members of the group in order to establish whether the tenderer will have the resources needed to perform the contract. In this case an undertaking will be required from those members stating that they will make available to the other members the resources needed to perform the contract.

8. SUBCONTRACTING

Subcontracting is permitted, provided that critical tasks are handled by the European Parliament's contractor.

The tender must give details of that part of the contract that the tenderer proposes to subcontract and the identity of the subcontractors. During the contract award procedure or performance of the contract the European Parliament reserves the right to require tenderers to supply information about the financial, economic, technical and professional capacity of the proposed subcontractor(s). Likewise, the European Parliament may demand the requisite proof to establish whether the subcontractors comply with the requisite exclusion criteria.

The tenderers must provide a document for each subcontractor confirming their willingness to accept the tasks and giving their consent to the terms and conditions set out in the invitation to tender and in the annexes thereto (for example: a letter of intent, an email, a memorandum of understanding etc.).

Tenderers are hereby informed that proposed subcontractors may not be in one of the situations described in Articles 106 and 107 of the Financial Regulation, which entail exclusion from participation in a contract issued by the European Union.

The European Parliament is entitled to reject any subcontractor who does not comply with the exclusion and selection criteria (see section 13 below).

Furthermore, the European Parliament must be informed by the contractor of any subsequent use of subcontracting not mentioned in the tender. The relevant authorising officer reserves the right to accept or reject the proposed subcontractor. In order to do so he/she may demand the requisite proof to establish whether the subcontractor(s) complies/comply with the requisite criteria. The European Parliament's authorisation will always be granted in writing.

If the contract is awarded to a tenderer who proposes a subcontractor in his/her tender, this implies that the European Parliament is giving consent for the subcontracting.

9. VARIANTS

Variants are not permitted.

10. ENVIRONMENTAL ASPECTS

Tenderers shall undertake to comply with the environmental legislation in force in the field of the contract, should they be awarded the contract. In this context, it should be noted that the European Parliament applies the EMAS¹ environmental management system in accordance with Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009. The successful tenderer will be required to ensure that the information supplied by the European Parliament concerning the EMAS programme in general, and more particularly on the implementation of environmental measures in practice, is known by his/her staff working for the European Parliament.

11. POLICY ON THE PROMOTION OF EQUAL OPPORTUNITIES

Tenderers shall undertake to observe a policy on the promotion of equality and diversity in the performance of the contract, should it be awarded to them, by applying the principles of non-discrimination and equality set out in the European Union Treaties in full and in their entirety. More particularly, the tenderer awarded the contract shall undertake to establish, maintain and

¹ EMAS = Eco-Management and Audit Scheme, see http://ec.europa.eu/environment/emas/index_en.htm

promote an open and inclusive working environment which respects human dignity and the principles of equal opportunities, based on three main elements:

- equality between men and women;
- employment and integration of disabled persons;
- the removal of all obstacles to recruitment and all potential discrimination based on sex, race or ethnic origin, religion or convictions, disability, age or sexual orientation.

12. TIMETABLE OF THE TENDERING PROCEDURE

Deadline for receiving questions	18 September 2018
Closing date for the submission of tenders	25 September 2018
Deadline for sending the notifications to attend the opening of the tender	25 September 2018
Opening of tenders	11 October 2018
Probable date of award of the contract	First quarter 2019

B. RULES CONCERNING THE CONTENTS AND PRESENTATION OF THE OFFER

In order to facilitate the preparation of tenders, as well as their subsequent evaluation by the services of the European Parliament, templates are provided for Annexes II, III and IV of the draft framework service contract which the tenderers have to fill in and complement with the relevant documents.

The *Administrative Offer* (Annex II) shall contain the details of the tenderer and his/her declarations regarding:

- groups of economic operators (see section 7 above),
- subcontracting (see section 8 above),
- the non-applicability of the exclusion criteria (see section 13.1 and 13.2 below),

as well as further information to be provided by the tenderer on the selection criteria (see section 13.3 and 13.4 below). It has to be dated and signed by the tenderer.

The *Technical Offer* (Annex III) contains a checklist for the documents on the award criteria (quality of the tender, see section 14.1 below) to be included by the tenderer. The completed offer has to be dated and signed by the tenderer.

The *Financial Offer* (Annex IV) shall contain the prices the tenderer offers for his/her services (see section 14.2 below). All tables have to be filled in and the document has to be dated and signed.

13. ADMINISTRATIVE OFFER (EXCLUSION AND SELECTION CRITERIA)

13.1 Statement of the exclusion criteria

Extract of Article 106 of the Financial Regulation: only sections 1, 4, 7 and 8 are reproduced hereafter.²

Exclusion criteria and administrative sanctions

1. The contracting authority shall exclude an economic operator from participating in procurement procedures governed by this Regulation where:

- a) the economic operator is bankrupt, subject to insolvency or winding-up procedures, where its assets are being administered by a liquidator or by a court, where it is in an arrangement with creditors, where its business activities are suspended, or where it is in any analogous situation arising from a similar procedure provided for under national laws or regulations;

² For the full text of the Financial Regulation, please check the consolidated version of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 here: http://ec.europa.eu/budget/biblio/documents/regulations/regulations_en.cfm#financial_regulation

- b) it has been established by a final judgment or a final administrative decision that the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;
- c) it has been established by a final judgment or a final administrative decision that the economic operator is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the economic operator belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:
 - i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;
 - ii) entering into agreement with other economic operators with the aim of distorting competition;
 - iii) violating intellectual property rights;
 - iv) attempting to influence the decision-making process of the contracting authority during the procurement procedure;
 - v) attempting to obtain confidential information that may confer upon it undue advantages in the procurement procedure;

- d) it has been established by a final judgment that the economic operator is guilty of any of the following:
- i) fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995³;
 - ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997⁴, and in Article 2(1) of Council Framework Decision 2003/568/JHA⁵, as well as corruption as defined in the law of the country where the contracting authority is located, the country in which the economic operator is established or the country of the performance of the contract;
 - iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA⁶;
 - iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council⁷;
 - v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA⁸, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;
 - vi) child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council⁹;
- e) the economic operator has shown significant deficiencies in complying with main obligations in the performance of a contract financed by the budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an authorising officer, OLAF or the Court of Auditors;
- f) it has been established by a final judgment or final administrative decision that the economic operator has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95¹⁰.

³ OJ C 316, 27.11.1995, p. 48

⁴ OJ C 195, 25.6.1997, p. 1

⁵ Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54).

⁶ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

⁷ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).

⁸ Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

⁹ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

¹⁰ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1)

4. The contracting authority shall also exclude the economic operator where a person who is a member of the administrative, management or supervisory body of that economic operator, or who has powers of representation, decision or control with regard to that economic operator, is in one or more of the situations referred to in points (c) to (f) of paragraph 1. The contracting authority shall also exclude the economic operator where a natural or legal person that assumes unlimited liability for the debts of that economic operator is in one or more of the situations referred to in point (a) or (b) of paragraph 1.

7. The contracting authority, (..), shall not exclude an economic operator from participating in a procurement procedure where:

- a) the economic operator has taken remedial measures specified in paragraph 8 of this Article, thus demonstrating its reliability. This point shall not apply in the case referred to in point (d) of paragraph 1 of this Article;
- b) it is indispensable to ensure the continuity of service, for a limited duration and pending the adoption of remedial measures specified in paragraph 8 of Article 106;
- c) such an exclusion would be disproportionate (...).

In addition, point (a) of paragraph 1 of this Article shall not apply in the case of the purchase of supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities or the liquidators in an insolvency procedure, an arrangement with creditors, or a similar procedure under national law.

(...)

8. The measures referred to in paragraph 7, which remedy the exclusion situation may include, in particular:

- a) measures to identify the origin of the situations giving rise to exclusion and concrete technical, organisational and personnel measures within the relevant business area of the economic operator, appropriate to correct the conduct and prevent its further occurrence;
- b) proof that the economic operator has undertaken measures to compensate or redress the damage or harm caused to the Union's financial interests by the underlying facts giving rise to the exclusion situation;
- c) proof that the economic operator has paid or secured the payment of any fine imposed by the competent authority or of any taxes or social security contributions referred to in point (b) of paragraph 1.

Extract of Article 107 of the Financial Regulation: only sections 1 and 2 are reproduced hereafter.

Rejection from a given procurement procedure

1. The contracting authority shall not award a contract for a given procurement procedure to an economic operator who:

- a) is in an exclusion situation established in accordance with Article 106;

- b) has misrepresented the information required as a condition for participating in the procedure or has failed to supply that information;
 - c) was previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise.
2. Before taking a decision to reject an economic operator from a given procurement procedure, the contracting authority shall give the economic operator the opportunity to submit its observations, unless the rejection has been justified in accordance with point (a) of paragraph 1 by an exclusion decision taken with regard to the economic operator, following an examination of its observations.

Extract of Article 141 of the Rules of Application: only section 3 is reproduced hereafter¹¹.

Declaration and evidence of absence of situation of exclusion

3. The contracting authority shall accept as satisfactory evidence that an economic operator is not in one of the situations described in points (a), (c), (d) or (f) of Article 106(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in its country of establishment showing that those requirements are satisfied.

The contracting authority shall accept, as satisfactory evidence that an economic operator is not in the situation described in point (a) or (b) of Article 106(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State concerned.

Where the certificate is not issued in the country concerned the economic operator may provide a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

13.2 Evaluation of the exclusion criteria

During the tender procedure, an attestation on the tenderer's honour, duly dated and signed, in which he/she declares that he/she is not in one of the situations referred to in Article 106 of the Financial Regulation, is sufficient (see Annex II of the framework contract – Administrative offer, section 4, which the tenderer is invited to complete) However, the tenderer to whom the contract is to be awarded will be required, within 20 calendar days of the date of notification of the provisional award of the contract and before the contract is signed, to supply the following documentary evidence:

- **For proof of non-bankruptcy, absence of grave professional misconduct, absence of convictions for the criminal offences listed in Art. 106 (1) (d) of the Financial regulation, and for proof that no irregularities have been committed, a recent extract from the judicial record of the tenderer or, failing an extract from the judicial record, a recent equivalent document issued by a judicial or administrative authority in the country**

¹¹ For the full text of the Rules of application, please check the consolidated version of Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union, see http://ec.europa.eu/budget/biblio/documents/regulations/regulations_en.cfm#rules_application

of establishment showing that those requirements are satisfied is acceptable. For the cases of grave professional misconduct, convictions for the criminal offences listed in Art. 106 (1) (d) of the Financial regulation, deficiencies in contract performance and irregularity, the tenderer is also to be excluded if a person who is a member of the administrative, management or supervisory body of that tenderer, or who has powers of representation, decision or control with regard to that tenderer is in one of the situations mentioned.

- For **proof of non-bankruptcy and for compliance with the obligations relating to the payment of social security contributions and the payment of taxes**, a recent certificate issued by the competent authority of the State concerned. The tenderer is also to be excluded if a natural or legal person that assumes unlimited liability for the debts of the tenderer is in one of those situations.
- Where the documents or certificates referred to above are not issued in the country concerned, and in respect of the other exclusion situations referred to in Article 106 of the Financial Regulation, they may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of establishment.

Tenderers are strongly encouraged to initiate the procedure to obtain such evidence in good time as national systems vary substantially.

The following link: <http://ec.europa.eu/markt/ecertis/login.do> may serve as a guide for specific accepted documents for each Member State.

The tenderer to whom the contract is to be awarded shall be exempt from the requirement to submit the documentary evidence referred to above in case of international organisations acting as tenderer, if the contracting authority can access documentary evidence on a national database free of charge or if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that the issuing date of the documents does not exceed one year and they are still valid. In such cases, the tenderer shall attest on his/her honour that the supporting documents have already been provided in a previous procurement procedure, that he/she shall identify, and that no changes in his/her situation have occurred.

13.3 Financial and economic capacity (selection criteria)

Tenderers shall have sufficient economic and financial capacity to enable them to perform the contract in compliance with the contractual provisions. If, in the light of the information supplied, the European Parliament has doubts about a tenderer's financial resources, or if these are insufficient for performance of the contract, the tender may be rejected without the tenderer being able to claim any financial compensation.

In respect of the contract which is the subject of this invitation to tender, the European Parliament requires tenderers to have a minimum financial and economic capacity:

- | |
|---|
| <ul style="list-style-type: none">• Minimum turnover of 80.000 EUR/year over the last two financial years |
|---|

Financial and economic capacity will be assessed on the basis of the information included in the following documents, to be supplied by tenderers:

- Income declaration for at least the two most recent financial years. For legal persons, this can be done through a statement of overall turnover; for tenderers who are natural persons, gross income will be deemed to represent turnover.

If the tenderer is unable to provide the references requested, he may prove his economic and financial capacity by any other document which the European Parliament considers appropriate.

The tenderer may also rely on the capacity of other entities, irrespective of the legal nature of the links between himself/herself and those entities (see sections 7 and 8 above on groups of economic operators and sub-contracting). In that case he/she must prove to the European Parliament that he/she will have the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to make them available to him. In that case the European Parliament is entitled to refuse the application or the tender submitted if it has doubts about the undertaking by the third party or about that party's financial capacity. Parliament may, where applicable, require the tenderer and those other entities to be jointly and severally liable for the performance of the contract.

On the same basis, a group of economic operators may rely on the capacity of members of the group or of other entities.

13.4 Technical and professional capacity (selection criteria)

13.4.1 Proof of status

In relation to this procedure the European Parliament does not request a proof of status and legal capacity at this stage of the procedure but reserves the right to do so at a later stage, if it deems it necessary.

13.4.2 Minimum requirements

Tenderers must have sufficient technical and professional capacity to enable them to perform the contract in compliance with the contractual provisions. If, in the light of the information supplied, the European Parliament has doubts about a tenderer's technical and professional capacity, or if this is clearly insufficient for performance of the contract, the tender may be rejected without the tenderer being able to claim any financial compensation.

In respect of the contract which is the subject of this invitation to tender **the European Parliament requires tenderers**, including the persons responsible for carrying out the services, **to have the following technical and professional capacity**:

- Minimum structure of team:
 - At least three (3) persons of the core team need to qualify as **researchers**, meaning they need to have a professional and/or post-graduate academic experience of a minimum of three (3) years, of which at least two (2) years in the area covered by each lot the tenderer is applying for;
 - at least one (1) person of the core team needs to qualify as a **senior researcher**, meaning a professional and/or post-graduate academic experience of a minimum of five (5) years is required, of which at least two (2) years in the area covered by each lot the tenderer is applying for;
 - at least one (1) person of the core team needs to qualify as **project leader**, meaning a professional and/or post-graduate academic experience of a minimum of seven (7) years is required, of which at least two (2) years in the area covered by each lot the tenderer is applying for;
- The successful completion of at least four (4) research contracts supporting policy development at international or national level as proof of previous experience;
- A publishing record in the field of the lot tendered for;
- Scientific/academic distinction clearly relating to research in the fields relevant for the lot tendered for;
- Knowledge of the EU institutional framework and decision-making process.

Technical and professional capacity **will be assessed** on the basis of the information included in the following documents, to be supplied by tenderers:

- The educational and professional qualifications of the staff planned for the execution of the services, including the ones of any sub-service providers or sub-contractors, if relevant (CVs). For each CV (**maximum 3 pages**) the contractor will indicate if it corresponds to a researcher, senior researcher or project leader profile (please refer to the corresponding definitions used here above for additional information).
- A list of research contracts completed (minimum four (4) contracts to be mentioned).
- A compilation of publications of the staff planned for the execution of the services on relevant issues in the academic press carried out in the past five (5) years.
- Proof of membership in academic research networks or think-tanks or other indications for scientific excellence such as awards, grants for research projects and similar.
- Proof of relevant articles touching on issues of the EU institutional framework, experience in working in an area related to EU issues, participation in conferences, courses etc. on matters related to the European Union.

The tenderer or candidate may also rely on the capacity of other entities, irrespective of the legal nature of the links between himself and those entities (see sections 7 and 8 above on groups of economic operators and sub-contracting). In that case he/she must prove to the European Parliament that he/she will have the resources needed to perform the contract, for instance by providing a commitment by those entities to that effect. The European Parliament is entitled to refuse the application or the tender submitted if it has doubts about the undertaking by the third party.

For a group of economic operators and in case of sub-contracting, it is the global technical and professional capacity of all the members that is taken into account in the evaluation.

14. TECHNICAL AND FINANCIAL OFFER (AWARD CRITERIA)

A maximum number of 5 separate framework service contracts per lot may be awarded to the tenderers offering the best value for money. Tenders will be evaluated on the basis of the criteria for quality and price described below. The total number of points a tender will receive for a given lot will be calculated by adding the price points to the quality points, using weighting factors of 70 % for the quality and 30 % for the price.

14.1 Quality

For evaluating the **quality of the tender** (weighting factor: 70 %), the following criteria will apply (points for each quality criterion in parentheses, maximum points: 100):

- **Composition of the core team and pool of experts:** Multidisciplinary, coherence, variety and range of skills at the tenderer's disposal (30 points)
- **Understanding of the lot tendered for:** Description of current challenges in the lot tendered for (20 points)
- **Methodology:** Strategy and means employed for performance of service, quality and relevance of information and data sources with ready access (15 points)
- **Work organisation:** Allocation of tasks within the team, management of team, workflow, quality control, ensuring proof-reading by an English native speaker, attention to deadlines, risk management (35 points)

The quality of the tender will be assessed on the basis of the information included in Annex III of the draft contract (technical offer), to be submitted by tenderer:

- **Composition of the core team and pool of experts:** the tenderer shall describe the coherence, variety and range of academic skills at its disposal on no more than 5 pages. **The team's composition should enable it to deal with a wide range of potential requests falling under the respective lot.** Contractors are therefore expected to be able to operate across the relevant academic disciplines (e.g. social sciences, economics, (EU) law, statistics, etc.) as well as providing varied professional experience, preferably including people from different professional backgrounds (e.g. industry, academia, public sector, etc.) relevant to this lot. They should also be able to offer a good geographical coverage of the EU. It is acknowledged that the range of potential requests for each lot is very broad.

Therefore, tenderers should be able to propose a team structure in which a permanent core team would be able to cover the main tasks and skills while complementary and particularly specialised team members from a pool of experts can be recruited on a case by case basis depending on the nature of the requested expertise. In the case a tenderer does not hold all of the necessary expertise to fully cover the research requirements of the respective lot, he/she is invited to explore the possibilities of subcontracting or making a joint tender. In such cases, sections 7 and 8 of this document and Article I.15 and II.6 of the Draft framework service contract have to be taken into account.

- **Understanding of the lot tendered for:** On no more than 5 pages, tenderers must write an essay on the current issues and future challenges, at a European level, in the lot tendered for.
- **Methodology:** On no more than 3 pages, tenderers must describe the means employed for the performance of services, notably how they will approach a future request for services. They must provide a qualitative description of relevant information and data sources with proven ready access and how they intend to conduct interviews, gather further information and draft the note/study.
- **Work organisation:** Tenderers must explain on no more than 6 pages how they intend to cater for the organisation, management and coordination of the work to be performed under the framework service contract. This covers not only a detailed explanation of their approach for effective quality control and risk management, but also how they intend to ensure effective and continuous cooperation with the responsible EP services, proofreading by an English native speaker and the attention to deadlines.

A tender which does not score at least 50 % on each quality criterion does not meet the quality requirements and will not be evaluated financially.

In exceptional circumstances, notably to safeguard competition, the Authorizing Officer by sub-delegation may decide to retain an offer, even if the quality scores less than 50 %.

14.2 Price

Prices shall be firm and not open to revision.

The price quoted must be expressed in Euro, including for countries which are not part of the Euro area. For tenderers in those countries, the amount of the tender may not be revised in line with exchange rate movements. It is for the tenderer to select an exchange rate and accept the risks or the benefits deriving from any variation.

Pursuant to Article 3 of the Protocol on the privileges and immunities of the European Union, the price quotation shall be submitted excluding VAT and other equivalent indirect taxes.

In case a service is ordered from a country outside the European Union, the price shall include all taxes.

The price offer shall be drawn up by the Tenderer on the basis of the tables in Annex IV of the Draft Framework Contract.

Expertise has to be priced on the basis of transparent fees. The tenderer is requested to submit per lot the price elements stated below as part of the tender by filling in Annex IV of the Draft Framework Contract and including it in their tender.

Tenderers are reminded that a framework service contract does not constitute an obligation on the European Parliament to use any part of the budget allocated to the framework service contract.

14.2.1. Pricelist with daily rates

(See Annex I of the Draft framework service contract: Global terms of reference, section 6.1.2)

Please state your daily rates under Annex IV of the Draft framework contract by filling in table 1. Daily rate in the tables means the price per man/day deployed in EUR. Figures with up to two decimals may be used.

Please indicate daily rates in EUR for **all four** categories of experts. Any row not filled in will result in no points being allotted for this specific category of staff.

Tables 2-5 provide a model price calculation of different research products. However, the number of days and total cost are only estimates at this point: the tenderer is required to describe, as part of the methodology, the foreseen realistic combination of staffing and number of working days for each type of service; though the information is indicative, it will be taken into account for the quality assessment of the methodology.

For comparison of the tender **price** (weighting factor: 30 %), the following rates will be taken into consideration (maximum points: 100).

The financial evaluation shall be carried out on the basis of the table below:

<i>Price offer</i>	<i>Maximum points: 100</i>
Daily rates for	
project leader	20
senior researcher	40
researcher	30
support staff	10

14.2.2. Travel expenses to meetings in Brussels or Strasbourg

(See Annex I of the draft framework service contract: Global terms of reference, section 7)

Any travel of the contractor's personnel in connection with specific requests to the Brussels or Strasbourg premises of the European Parliament will be reimbursed according to the rules laid out in Annex I of the draft framework service contract: Global Terms of Reference, section 7. Working time in case of meetings/presentations will have to be covered through the daily rates and days calculated for the specific services.

14.3 Calculation of scores

14.3.1 Calculation of the financial scores (price points)

The financial scores for each category of staff will be calculated according to the following formula:

$$\text{Price points} = \frac{(\text{Lowest price offer}) * (\text{maximum price points})}{(\text{Price of the respective tender})}$$

The maximum number of points per category are awarded to the lowest bidder and the points for the other bidders are calculated according to the formula above.

The points for the four categories of staff are then added up to get total price points.

14.3.2 Calculation of final score

The overall score (total number of points of a tender) for a given lot will be calculated by adding up the price points and the quality points as follows:

$$\text{Total points} = \text{Quality points} * 70 \% + \text{Price points} * 30 \%$$

15. NOTIFICATION OF RESULTS

The European Parliament will inform all unsuccessful tenderers, simultaneously and individually, by mail, fax or e-mail, that their tender has not been accepted. In each case the European Parliament will indicate the reasons for the rejection of the tender, and possible means of appeal.

Simultaneously with the notifications of rejection the European Parliament will communicate the award decision to the successful tenderers, stating that this does not constitute an obligation on the part of the institution. The contract may not be signed until a **standstill period of 15 calendar days**, commencing the day after the date of simultaneous notification of the rejection and award decisions, has elapsed. In any event the award decision will become definitive only when the selected tenderer has submitted the requisite documentary evidence concerning the exclusion criteria referred to in section 13 above and when this has been accepted by the European Parliament. Such acceptance shall always be communicated in writing, and will enable the selected tenderer to sign the contract if the period of 15 calendar days has elapsed.

Any contract which is signed before the period of 15 calendar days has elapsed is null and void.

Any unsuccessful tenderer may obtain additional information about the grounds for the rejection of his/her tender by requesting this in writing, by letter, fax or e-mail. Only tenderers who have submitted an admissible tender may obtain information about the characteristics and relative advantages of the tenders chosen, together with the name of the tenderers awarded the contract. Tenders are deemed admissible if tenderers are not excluded and comply with the selection criteria. However, some information will not be communicated if it would hinder application of

the law, would be contrary to the public interest or would harm the legitimate business interests of public or private undertakings or could distort fair competition between them.

16. SUSPENSION OF THE PROCEDURE

If necessary, after the results have been notified and before the contract is signed, the European Parliament may suspend the signing of the contract for additional examination if this is justified by the requests or comments made by unsuccessful or aggrieved tenderers or by any other relevant information received. The requests, comments or information concerned must be received during the 14 calendar days commencing the day after the date of simultaneous notification of the rejection and award decisions or, where applicable, the publication of a contract award notice. In the case of suspension, all the tenderers shall be informed within three working days of the suspension decision.

Following the additional examination arising from the suspension of the procedure, the European Parliament may confirm its award decision, modify it or, where applicable, cancel the procedure. The reasons for any further decision shall be stated and communicated in writing to all the tenderers in contention.

For tenderers' convenience: Labels to be affixed to the outer and inner envelopes when a tender is sent

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EUROPEAN PARLIAMENT
Directorate-General Internal Policies of the Union
Directorate C - Citizens' Rights and Constitutional Affairs
For the attention of Director Michael Alexander Speiser

Invitation to tender IP/C/LIBE/FWC/2018-086 (LOT.....)

Building Square de Meeûs, Room 08Y067
Rue Wiertz
B - 1047 BRUSSELS

✂

name and address of the tenderer

NOT TO BE OPENED BY THE MAIL SERVICE
OR ANY UNAUTHORISED PERSON

✂

In the case of several packages or envelopes: make copies of the label and repeat the operation