

**TENDER SPECIFICATIOIS ATTACHED TO  
THE INVITATION TO TENDER**

**Ref. IMI.2017.OP.215**

**FINANCIAL AUDITS, OTHER ASSURANCE ENGAGEMENTS AND  
RELATED SERVICES**

## 1. INTRODUCTION

The present call for tenders may be used by the three following Joint Undertakings whose main function is to award grants to research and demonstration projects. IMI JU is to be the leading contractor responsible for the whole contract, representing all participating contracting authorities in this matter. Other contracting authorities will be responsible only for particular specific contracts they award. The three Joint Undertakings are:

- **Innovative Medicines Initiative 2 Joint Undertaking (IMI 2 JU)** At the Innovative Medicines Initiative (IMI), we are working to improve health by speeding up the development of, and patient access to, innovative medicines, particularly in areas where there is an unmet medical or social need. We do this by facilitating collaboration between the key players involved in healthcare research, including universities, research centres, the pharmaceutical and other industries, small and medium-sized enterprises (SMEs), patient organisations, and medicines regulators. IMI is the world's biggest public-private partnership (PPP) in the life sciences. It is a partnership between the European Union (represented by the European Commission) and the European pharmaceutical industry (represented by EFPIA, the European Federation of Pharmaceutical Industries and Associations). Through the IMI2 programme, we have a €3.3 billion budget for the period 2014-2020.

<http://www.imi.europa.eu>

- **Clean Sky 2 Joint Undertaking (CS2 JU)** is a European research projects with a budget estimated at €1.6 billion, equally shared between the European Commission and industry, over the period 2008 - 2013. This public-private partnership will speed up technological breakthrough developments and shorten the time to market for new solutions tested on Full Scale Demonstrators. Clean Sky will encourage the participation of SMEs to ensure their full involvement in the programme, therefore offering opportunities to the entire aeronautic supply chain from all EU Member States and Associated countries.

<http://www.cleansky.europa.eu>

- **The Fuel Cells and Hydrogen 2 Joint Undertaking (FCH 2 JU)** is a unique public private partnership supporting research, technological development and demonstration (RTD) activities in fuel cell and hydrogen energy technologies in Europe. Its aim is to accelerate the market introduction of these technologies, realising their potential as an instrument in achieving a carbon-lean energy system. Fuel cells, as an efficient conversion technology, and hydrogen, as a clean energy carrier, have a great potential to help fight carbon dioxide emissions, to reduce dependence on hydrocarbons and to contribute to economic growth. The objective of the FCH 2 JU is to bring these benefits to Europeans through a concentrated effort from all sectors.

The three members of the FCH 2 JU are the European Commission, fuel cell and hydrogen industries represented by the Industry Grouping (HYDROGEN EUROPE) and the research community represented by the Research Grouping (Hydrogen Europe Research).

The FCH JU was initially established by Council Regulation (EC) 521/2008 of 30.05.2008 for a period up to 31.12.2017 to implement part of the FP 7 programme. The FCH 2 JU was later established by Council Regulation (EU) 559/2014<sup>1</sup> of 6 May 2014 for a period up to 31.12.2024 taking over on-going tasks under FP 7 and implementing part of Horizon 2020 programme.

<http://www.fch.europa.eu>

The three organisations are also referred to for the purpose of this call for tender as "**the Joint Undertakings**" or "**the JUs**".

### **1.1. Context of the contract**

The Joint Undertakings are European Union bodies set up under Article 187 TFEU (ex Article 171 TEC) and implementing the Joint Technology Initiatives (JTIs) as a new way of realising public-private partnerships at European level in the field of industrial research where research and innovation are essential to European competitiveness.

JTIs were initially established under the EU's Seventh Framework Programme for Research, Technological Development and Demonstration Activities 2007 – 2013 (FP7), supporting large-scale multinational research activities. The legal basis for the JUs was renewed under the Horizon 2020 (H2020) programme for the period of 2014-2020. The scope of the current framework contract is the ex-post audits of projects that are running under the FP7 legal framework.

As legal entities JUs organise research call for proposals across Europe and fund projects in fields of key importance for industrial research, where there are clearly identified common technological and economic objectives.

The JUs provide funds through grants to named beneficiaries and/or to beneficiaries eligible to receive funds selected following open and competitive calls for proposals. The general and specific legal, technical and financial terms for the grant procedures are stipulated through Grant Agreements with beneficiaries, which follow to a large extent the model grant agreements of the European Commission for the execution of the relevant framework programme.

Participation in the projects funded through the JUs is made by a wide range of organisations: universities, research centres, multinational corporations and SMEs (small to medium-sized enterprises).

Funding schemes, model grant agreements and provisions for eligible costs applicable for the JUs are based on the FP7 rules and provisions but are not identical and deviate to a certain extent among the JUs. Information on the objectives, specific programmes and related funding schemes used by each JU can be found on their respective websites mentioned above.

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<sup>1</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2014\\_169\\_R\\_0007&from=FR](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2014_169_R_0007&from=FR)

According to the regulatory framework of the JUs, the Executive Directors are accountable for giving reasonable assurance to the Parliament, the Council and the European Court of Auditors, that resources "...have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions".

In conformity with this background the JUs intend to regularly carry out financial audits of the funds spent within the framework of their operational programmes.

In the framework of this tender the JUs are planning to conclude multiple framework contracts with a maximum of three Contractors to perform some 30-50 financial audits and related services per year<sup>2</sup> on the costs claimed by different participants in research grant agreements co-financed by the JUs<sup>3</sup>.

The distribution by country of contracts signed by the JUs can change over time but nevertheless one can estimate that approximately 85% of them may be signed with beneficiaries based in the EU while the remaining 15% of beneficiaries may be based in Associated Countries (Iceland, Norway, Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Turkey, Israel, Moldova, Switzerland, Faroe Islands, Ukraine, Tunisia, Georgia, Armenia, Liechtenstein).

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<sup>2</sup> This information does not constitute a commitment on the part of the JUs and cannot give rise to any right or legitimate expectation by the tenderers.

<sup>3</sup> Including cost claims of participants not receiving JU funding but providing only 'in-kind' contributions, that may also be subject to audit services. Therefore, for the purpose of these tender documents the words (1) '*participants*' and '*beneficiaries*' and (2) '*costs claimed*' and '*costs reported*' (but not claimed) are synonymous.

## 2. OVERVIEW OF THE TENDER

### 2.1. Timetable<sup>4</sup>

Summary timetable	Date	Comments
Launch Date	20 December 2017	
Deadline for request for clarifications from the JUs	13 February 2017	
Last date on which the JU issue clarifications	16 February 2018	
<b>Deadline for submission of tenders</b>	<b>23 February 2018</b>	Tenders delivered by hand shall be submitted not later than <b>16:00 h CET</b>
Public Opening of tenders received	6 March 2018	11.00 h CET White Atrium building, Avenue de la Toison d'Or 56-60, B-1060 Brussels, BELGIUM
Completion date for evaluation of tenders	End of March 2018	Estimate
Signature of contracts	April 2018	Estimate

### 2.2. Purpose of the contract

The Contractor shall undertake services on behalf of the JUs in respect of different participants in the JUs' research activities.

For the purposes of this contract, the objective of an audit is to verify whether the costs submitted for reimbursement are eligible costs according to the definition contained in the specific Grant Agreements of IMI, Clean Sky and FCH Joint Undertakings subject to

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<sup>4</sup> This information does not constitute a commitment on the part of the JUs and cannot give rise to any right or legitimate expectation by the tenderers.

audit and whether they have been claimed in compliance with the financial provisions as defined in those Grant Agreements.

### 2.3. Form of services provided

The execution of the service sought has two forms: Batch and Individual Assignments:

- **Batch Assignments** entail the performance of up to 30 audits on participants in the JUs programmes. The exact size of such batches is to be determined at the start of each assignment. The work will consist of audits on the premises of selected participants in research grant agreements within the 28 EU Member States or within the Associated Countries (see page 4 above for the list) and/or Third Countries.

The aim of grouping audits in Batch Assignments is to allow for a simplified planning and monitoring by the JUs and the service provider.

Batch Assignments can regroup audits on participants that have concluded grant agreements in different call for projects with different JUs.

- **Individual Assignments** consist of ad hoc requests for the provision of services for specific cases, ranging from a complete financial audit to particular questions such as compliance with contractual obligations, reliability of processes, integrity of data, information security, performance measurement, cost category controls, system-based reviews of personnel and overhead rates, follow up audits with respect to contractor's compliance regarding the implementation of audit findings. Forensic audits, involving individual or multiple participants in research grant agreements. Such auditing services may take place in locations as described for in batch assignments above.
- For information, JUs estimate that approximately 90% of the specific contracts concerned Batch Assignments and approximately 10% concerned Individual Assignments<sup>5</sup>.

In order to ensure the optimum efficiency of such services, an Audit Co-ordinator, as defined in the Working Practice (see Annex A-I, section 1.1), must be appointed by the Contractor with the dedicated task to manage the Contractor's internal organisation and to monitor the different assignments, as well as to liaise regularly with the JU for reporting and information procedures. The Audit Co-ordinator is responsible for all administrative and financial matters, as well as the technical co-ordination and the quality control of the services provided.

### 2.4. Working Language

English will be the working language.

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<sup>5</sup> This information does not constitute a commitment on the part of the JUs and cannot give rise to any right or legitimate expectation by the tenderer.

## **2.5 Working Practice**

Audits and related services should be provided according to the "Working Practice" annexed to these specifications (Annex A-I). They are mandatory and thus, it is important that each tenderer has read the Working Practice and its annexes very carefully.

## **3. NATURE OF THE CONTRACT**

- 3.1.** The model framework service contract (further referred as framework contract) applicable is provided in Annex A. Tenderers should bear in mind the provisions of this framework contract and its annexes when drawing up their tender (see section 6 below).
- 3.2.** Tenderers' attention is drawn to the fact that the framework contract does not constitute the placement of an order but is merely designed to set the legal, financial, technical and administrative terms governing relations between the contracting parties during the contract term.
- 3.3.** Signature of the framework contract does not commit the Joint Undertakings to place orders and does not give the Contractor any exclusive rights to the services covered by the framework contract. In any case, the Joint Undertakings reserve the right, at any time during the duration of the framework contract, to cease placing orders without the Contractor thereby having the right to any compensation.
- 3.4.** The JUs will conclude multiple framework contracts which are contracts with identical terms concluded separately between the JUs and a number of Contractors to ensure that the contracts can be performed successively by one or other of the Contractors, should the one who is first on the list be "unavailable" (see Working Practice, Annex A-I, point 3.1.4).
- 3.5.** The JUs will conclude a framework contract with a maximum of three tenderers.
- 3.6.** Each assignment will be subject to a specific contract, a specimen of which is attached as Annex IV to the framework contract (see Annex A-IV). The specific contract will detail *inter alia* the service to be procured, the time during which the service shall be performed, the respective documents and reports to be delivered within the specified time frame and the price. The Contractor shall indicate his approval to carry out the service requested by the Joint Undertakings by signing and returning the specific contract to the JUs without delay and not later than within the time frame stipulated in the Working Practice (see Annex A-I).
- 3.7.** In case of Batch Assignments which regroup participants that have concluded research grant agreements with different JUs, the specific contract shall be signed by all the JUs concerned and the Contractor may be required to invoice each JU separately. The proportion shall be determined by the JUs.

## **4. DURATION AND VOLUME OF THE CONTRACT**

- 4.1.** The duration of the framework contract will be 3 (three) years from the date of signature by the last of the contracting parties, with the option of extending it by one year on one

occasion (3+1), in accordance with the provisions set out in the model framework contract attached in Annex A.

**4.2.** The JUs explicitly reserve the right not to renew the framework contract.

**4.3.** The volume of the contract for its entire duration is estimated at 1,400,000 EUR.<sup>6</sup>

## **5. TIMETABLE AND REPORTING PROCEDURES**

**5.1.** The timetable for the performance of the services shall be laid down in each specific contract. Batch Assignments will either have to be completed in 5, 7 or 9 months according to the JUs' needs.

**5.2.** The Contractor shall forward to the JUs at the end of each calendar month a written Monthly Audit Status Report (M.A.S.R.), as defined in the Working Practice (see Annex A-I), indicating the actual status of completion for each audit assignment.

**5.3.** Full details on the reporting procedures can be found in the Working Practice (see Annex A-I).

## **6. CONTRACTUAL ISSUES**

**6.1.** When preparing their tender, the tenderers' attention is particularly drawn to the provisions of the framework contract in Annex A applicable to this procedure and which forms part of these tender specifications, especially those on prices (Art. I.3), payment periods (Art. I.5), conflict of interests (Art. I.11.3.3 and II.3), implementation of liquidated damages (Art. I.11.1) and confidentiality (Art. II.9).

**6.2.** The Contractor shall be bound by the provisions of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data,<sup>7</sup> and any legal instrument repealing and replacing it.

**6.3.** The Contractor must perform the framework contract and each specific contract to the highest professional standards.

**6.4.** The Contractor will have sole responsibility for complying with all legal obligations incumbent on him, notably those arising from employment law, tax law and social legislation.

**6.5.** The Contractor must inform third parties that it does not belong to the European public service, nor is entrusted with any delegated tasks, affiliation or mandate, but is exercising the tasks on behalf of the JUs.

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<sup>6</sup> This information does not constitute a commitment on the part of the JUs and cannot give rise to any right or legitimate expectation by the tenderer.

<sup>7</sup> OJ L 8, 12.1.2001, p. 1–22



- 6.6. The Contractor will be solely responsible for the staff carrying out the work, the latter may not be placed in a position of dependency in relation to the JUs.

## 7. CONTENT OF THE TENDERS

Tenders must be delivered following the modalities as described in the letter of invitation to submit a tender.

**It is recommended to structure information and documents with clearly marked references to each sub-point they refer to.**

### 7.1. Administrative part - Part A - containing:

- (1) A covering letter for the submission of the offer signed by the tenderer or his duly authorised representative confirming the validity of his offer during 12 months from the deadline for the submission of the offer;
- (2) The completed and signed general information sheet (see Annex D);
- (3) Declaration (see Annex E) concerning the exclusion criteria (see point 11.1);
- (4) Documents needed to prove that the tenderer meets the selection criteria (see point 11.2);
- (5) Commitment to undertake the described tasks if the framework contract is awarded to the tenderer, signed by the tenderer or his authorised representative (join a copy of the notice of appointment of this authorised representative).
- (6) The completed and signed Legal Entity File (see Annex G)
- (7) The completed and signed Bank Account File (see Annex H)

**In case of a joint tender and/or tender with subcontractor(s), tenders will first provide required documents under point 7.1.1 Part A (2) to (5) for each of the joint partners, followed by all required documents presented below for each of the subcontractors.**

**Please note that if a joint tender is submitted and/or subcontracting is proposed, the declarations relating to the exclusion criteria (points 11.1.1 to 11.1.8) and the documents relating to the selection criteria (points 11.2.1 to 11.2.7) must be provided by each of the joint partners and subcontractors.**

### 7.2. Technical part – Part B - containing:

- (1) A detailed description on how the tenderers will organise themselves in order to achieve the expected results. If a joint tender or/and subcontracting is proposed, they should describe the cooperation between the partner(s) and

with the subcontractor(s) in order to cover all EU Member States, Associated Countries and/or Third Countries. This organisation must cover both technical aspects and administrative/financial issues (see point 10).

Therefore, it is recommended to present a detailed description of the proposed internal organisation structure (including the role and responsibilities of the Audit Co-ordinator) to assure that adequate standards in audit execution and reporting are attained. Furthermore, it is the responsibility of the Audit Co-ordinator to ensure consistency in the audit approach and consistency in the interpretation of the financial provisions of the contract. The Audit Co-ordinator will be the single access point to the entire organisation.

His/her name, his/her professional background and experience and the location where the Audit Co-ordinator will be based should be mentioned.

The role, responsibilities and division of tasks between all actors who will be involved in the execution of the contract should be clearly described.

- (2) A description of how the tenderer has organised themselves to identify conflicts of interests (for the whole entity) easily and to report conflicts of interest to the JUs within the time frame as stipulated in the Working Practice (see Annex I-A).

### **7.3. Financial offer – Part C - containing:**

- (1) The signed and completed form supplied in Annex B.

Prices proposed should be differentiated for the two types of assignments as listed below:

For Batch Assignments: fixed all-inclusive prices for an audit which needs to be completed within 5 months (this being an audit in a Batch of 5 months duration), as well as for audits which need to be completed within 7 or 9 months respectively (these being audits in a Batch of 7 or 9 months duration), - **table 1 of Annex B.**

Daily tariffs for the Individual Assignments should be listed per country, as specified in **table 2 of Annex B.**

***NB: The form must be completed in full. Any incomplete tender will be excluded from the evaluation procedure. In particular, the lack of prices for one of the assignment types will invalidate the offer.***

A checklist of the minimum number of documents to submit is provided in **Annex F.**

### **7.4. Other conditions:**

- Variants are not allowed.

- Fulfilment of the conditions of the call for tenders imposes no obligation on the Joint Undertakings to award the contract.
- Initiation of a tendering procedure imposes no obligation on the Joint Undertakings to award the contract.
- Expenditure on preparing and submitting tenders is non-refundable.
- The Joint Undertakings are not liable for any compensation to tenderers whose tenders have not been accepted. Nor is it so liable if it decides not to award the contract.
- All the documents submitted by tenderers become the property of the Joint Undertakings. These documents will be considered confidential.

## **8. PRICES**

- 8.1.** 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.
- 8.2.** Prices should be fixed amounts.
- 8.3.** The prices for Batch Assignments (as described under point 2.2.1.) should be fixed and expressed as fixed all-inclusive prices to fulfil an audit within a batch assignment including travel and subsistence expenses and all other costs (hereinafter “Fixed-charge”) (see Annex B - Price Tables).
- 8.4.** For the Individual Assignments, prices must be expressed as a daily tariff per country (as described under point 2.2.2) (hereinafter “Daily Tariff”). The Daily Tariff should cover all direct salary expenses as well as overheads. All costs related to the preparation phase of the audit, translation and issue of reports must be included. Only travel and subsistence expenses will be reimbursed on the basis of the provisions of Article II.7 of the framework contract. Travel and subsistence expenses, to be reimbursable, must be actual, directly related to, and strictly necessary for, the carrying out of a particular Individual Assignment (see Annex B - Price Tables).
- 8.5.** Prices should be quoted free of all duties, taxes and other charges, including VAT, as the JUs are exempt from such charges under Articles 3 and 4 of the Protocol on the privileges and immunities of the EC; the amount of VAT should be shown separately.

## **9. PRICES INDEXING**

See framework contract article I.3.

## **10. COLLABORATING WITH OTHERS: JOINT TENDER OR/AND SUBCONTRACTING**

Tenderers can consider two ways of collaborating in an offer: either as joint partners in the offer or through subcontracting. Both joint tender and subcontracting are allowed in response to this call for tenders. Tenders may even combine both approaches.

Please note that Article II.15 of the framework contract (see Annex A) is also applicable if the termination grounds relate to any of the partners or any of the subcontractors.

In any case, the file must specify very clearly whether each company involved in the tender is acting as a partner in a joint tender or as a subcontractor (this also applies where the various companies involved belong to the same group, or even where one is the parent company of the others). The tenderers must describe how their cooperation will be organised in order to timely achieve the expected results. This organisation must cover both technical aspects and administrative/financial issues.

In any event, such tenders will be treated in the same way as any other type of tender, each being assessed on their own merits in relation to the criteria and the evaluation procedure set out in these Tender Specifications.

### **10.1. Joint tenders**

Partners in a joint tender assume **joint and several liability** towards the Joint Undertakings for the performance of the contract as a whole.

Statements saying, for instance:

- that one of the partners of the joint tender will be responsible for part of the contract and another one for the rest, or
- that more than one contract should be signed if the joint offer is successful,

are thus incompatible with the principle of joint and several liability. The JUs will disregard any such statement contained in a joint tender, and reserves the right to reject such offers without further evaluation on the grounds that they do not comply with the tendering specifications.

If a joint tender is proposed with one or several partners and the organisation has already set up a consortium or similar entity to that end, this fact should be mentioned in the tender, together with any other relevant information in this connection. If this step is not yet taken, the entity should be aware that, if the contract is awarded to this entity, the JUs will require it to give a formal status to its collaboration before the contract is signed. This can take the form of:

- an entity with legal personality recognised by a Member State;
- an entity without legal personality but offering sufficient protection of the JUs' financial interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association);
- or the signature by all the partners of a "power of attorney" (see Annex C).

### **10.2. Subcontracting**

Certain tasks provided for in the contract may be entrusted to subcontractors, but the main contractor retains full responsibility and liability towards the JUs for the performance of the contract as a whole. Accordingly, the JUs will treat all contractual matters (e.g. payment) exclusively with the main contractor, whether or not the tasks are performed by a subcontractor. Under no circumstances can the main contractor avoid liability towards the JUs on the grounds that the subcontractor is at fault.

If subcontracting is proposed, the file must include a document mentioning the reasons why subcontracting is proposed; stating clearly the roles, activities and responsibilities of subcontractor(s) and a letter of intent by each subcontractor stating their intention to collaborate with the tenderer if he wins the contract.

During execution of the contract, the contractor will need the JUs' express authorisation to replace a subcontractor with another and/or to subcontract tasks for which subcontracting was not envisaged in the original tender.

***NB: If a joint tender is submitted or if subcontractors are proposed, the declaration relating to the exclusion criteria and the documents relating to the selection criteria referred to in points 11.1 and 11.2 below must be provided by each of them. Lack of documents may lead to the exclusion and/or to the non selection of the tenderer.***

***However, the selection criteria referred to in point 11.2 will be assessed in relation to the combined capacities of the economic operators in respect of the other clauses of these tender specifications, esp. point 11.2.4***

## **11. ASSESSMENT OF TENDERERS AND TENDERS**

The assessment of tenderers and tenders will proceed in the following steps:

Exclusion of tenderers on the basis of the exclusion criteria (see point 11.1 below)

Selection of tenderers on the basis of the selection criteria (see point 11.2 below)

- 11.2.1                      General information;
- 11.2.2 to 11.2.4        Economic and financial capacity;
- 11.2.5 to 11.2.7        Technical and professional capacity.

Evaluation of tenders on the basis of the award criteria (see point 11.3 below)

- 11.3.1                      Technical evaluation of the tender;
- 11.3.2                      Financial evaluation of the tender.

Award of the contract (see point 11.4 below)

NB: Tenders must meet the requirements of each step in order to be admitted to the next step of the evaluation procedure.

### **11.1. Exclusion of tenderers on the basis of the exclusion criteria:**

Exclusion of tenderers on the basis of the exclusion criteria refers to each JUs Financial Rules.

According to those rules, tenderers shall be excluded from participation in the procurement procedure if they:

- 11.1.1.** are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or

are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

- 11.1.2. have been convicted of an offence concerning professional conduct by a judgement which has the force of *res judicata*;
- 11.1.3. have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- 11.1.4. have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- 11.1.5. have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the JU' financial interests;
- 11.1.6. are currently subject to an administrative penalty imposed by the Community institutions as referred to in the general Financial Regulation.

Tenderers are also excluded from the award if, during the procurement procedure, they:

- 11.1.7. are subject to a conflict of interests;
- 11.1.8. are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

In their tenders, tenderers shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations listed above (see Annex E). The tenderer to whom the contract is to be awarded shall provide the documents mentioned below before signature of the contract.

The Joint Undertakings may waive the obligation of the winning tenderer to submit the documentary evidence referred to below 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 that they are still valid.

**Evidence:**

The following documents will be accepted as proof that the tenderer is not in any of the situations mentioned under points 11.1.1 to 11.1.8

- i) for points 11.1.1, 11.1.2 and 11.1.5, the production of an extract (delivered less than 90 days to the final date for receipt of offers) from the judicial record or, failing this, an equivalent (delivered less than 90 days to the final date for receipt of offers) document issued by a competent judicial or administrative authority in the country of origin or provenance, showing that the described situations do not apply;
- ii) in the cases mentioned under point 11.1.4, a certificate delivered (delivered less than 90 days to the final date for receipt of offers) by the competent authority of the country concerned.

Only where the country concerned does not issue the documents or certificates referred to in i) and ii) above, they may be replaced by a sworn, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin or provenance.

- (iii) in the cases mentioned under points 11.1.3, 11.1.6, 11.1.7, and 11.1.8 tenderers must include in their tender sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance, based on the model (see declaration in Annex E).

Depending on the national legislation of the country in which the tenderer is established, the documents listed above must relate to legal persons and/or natural persons including company directors, principal partners or any person with powers of representation, decision-making or control in relation to the tenderer.

## **11.2. Selection of tenderers on the basis of the selection criteria**

The selection of the tenderers will assess their technical, professional, financial and economic capacity.

To this end, all tenders submitted must include the following information on the tenderers:

### **General information:**

- 11.2.1.** General information on the tenderer. Please complete, date and sign the general information sheet in Annex D.

Commercial undertakings must provide a transcript or a certificate, issued by the competent body – namely the commercial registrar – in their country of provenance or the country of their main office, of their incorporation as commercial undertakings, as well as a copy of their act of incorporation. Non-commercial undertakings must provide a copy of their act of incorporation only, if, under the law of their country of provenance or the country of their main office, they are not subject to public registry. Non-commercial physical persons must provide a copy of their passport or other equivalent identification document.

### **Economic and financial capacity:**

- 11.2.2.** Appropriate statements from banks or evidence of professional risk indemnity insurance (e.g. relevant page(s) of the insurance policy, indicating the subject area covered and the amount of the coverage);
- 11.2.3.** The presentation of balance sheets or extracts from balance sheets and the profit and loss statements (copy of the audited annual accounts) for at least the last two years for which accounts have been closed and audited, where publication of the balance sheet is required under the company law of the country in which the economic operator is established or equivalent documentation if it is not the case.
- 11.2.4.** A statement of overall turnover and its turnover in respect of the services to which the contract relates during the last three financial years.

Commercial undertakings established less than three years on the date of publication of the present call for tenders must give evidence of their financial capacity by providing equivalent documents.

If, for some exceptional reason which the contracting authority considers justified, the tenderer is unable to provide the references requested under points 11.2.2 to 11.2.4, he may prove his economic and financial capacity by any other means which the contracting authority considers appropriate.

### **Technical and professional capacity:**

**11.2.5.** A list of the principal services provided during the last three years (detailed description of work), with the amounts, dates and recipients, whether public or private, of the services provided (in particular, tenderers must provide proof of at least 3 years of professional experience in the field of audits):

11.2.5.1. where provided to contracting authorities, evidence to be in the form of certificates issued or countersigned by the competent authority;

11.2.5.2. where provided to private purchasers, provision of services to be certified by the purchaser or, failing this, simply declared by the tenderer to have been provided;

11.2.5.3. the services which are directly relevant to the tender being made should be listed separately.

**11.2.6.** The names, affiliation, relevant professional qualifications, and experience of key management staff responsible for the performance of the service (i.e. the lead audit partner, the designated audit partners for each of the 28 EU Member States and Associated Countries, and, where appropriate, senior managers in charge) need to be indicated. In particular, evidence (a detailed curriculum vitae) of professional experience of at least 5 (five) years in the field of audits for the Audit Co-ordinator (who might act in dual role as lead audit partner).

**11.2.7.** Proof of approval by the competent authorities of each of the 28 of the EU Member States and Associated countries to carry out statutory audits and verifications of the annual and/or consolidated accounts of companies and/or bodies of undertakings in accordance with the applicable national legislation, in compliance with the Directive 2006/43/EC of the European Parliament and of the Council on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC;

### **11.3. Evaluation of tenders on the basis of the award criteria**

#### **11.3.1. Technical evaluation of the tenders:**

Tenders will be evaluated on the basis of the following award criteria:

11.3.1.1. (50 points)

- The proposed organisational structure, including the network which has been established in order to cover all 28 EU Member States and Associated countries (20 points);



- compliance of the offer with the Working Practice, including in particular the role and responsibilities of the Audit Co-ordinator to assure that adequate standards in audit execution and reporting are attained (20 points);
- the proposed working methods to identify and report conflicts of interest to the Joint Undertakings within the time frame as indicated in the Working Practice. Therefore, each tender should clearly describe how the tenderer has organised itself in order to identify conflicts of interest easily and to report conflicts of interest to the Joint Undertakings within the time frame stipulated in the Working Practice (10 points).

11.3.1.2. (50 points)

Technical quality of the tender and understanding of all the Tender Specifications in respect of the specified subject-matter, the objectives to be attained and the constraints to be considered. The tender should clearly describe how the tenderer intends to carry out the audits. This can be done, for example, by depicting a representative audit team (the composition of the team should constitute a fair balance of different levels of staff – junior, senior, supervisor, manager, senior manager and partner – and should assure the accomplishment of the contractual obligations to the highest professional standards), and by outlining the approach or technique used for the selection of documents to be examined, for the definition of sample sizes (related to items indicated in the Indicative Model of Audit Programme (Annex A-I.1)), for the assessment of compliance with the certified methodology.

The figures in brackets indicate the maximum score that can be attributed to each individual criterion.

**Tenders who do not obtain at least 50% of the maximum score in each award criterion and at least 60% of the overall score will not be admitted to the next stage (point 11.3.2) of the evaluation procedure**

**11.3.2. Financial evaluation of the tender:**

The value of the tender (P) taken into account in order to determine the most economically advantageous tender will be the total value of the evaluation scenario based on unit prices specified in Annex B.

**NB. The lack of prices for any of the assignment types mentioned in Annex B will invalidate the offer.**

**Tenderers' attention is drawn to the fact that the sole objective of the evaluation scenario is to provide a fair, non-discriminatory basis for comparing the financial tenders.**

**Consequently, the evaluation scenario cannot under any circumstances be considered to constitute a commitment on the part of the Joint Undertakings to conclude orders for the related services and quantities, and cannot give rise to any right or legitimate expectation on the part of the Contractor.**

## **Value of the tender**

The value of the tender (P) taken into account in order to determine the most economically advantageous tender will be calculated according to the following formula:

**Value of the tender (P):** total value of table 1 (P1) + total value of table 2 (P2).

## **Total value of table 1 of Annex B (P1): Batch Assignments**

**Total value of table 1 (P1):** Average price x estimated average number of Batch audits per year (36)

The average price is calculated as follows:

Audit of up to 3 cost claims,

which needs to be completed within 5 months

Price 1

which needs to be completed within 7 months

Price 2

which needs to be completed within 9 months

Price 3

Audit of 4 to 9 cost claims,

which needs to be completed within 5 months

Price 4

which needs to be completed within 7 months

Price 5

which needs to be completed within 9 months

Price 6

**Sum of the prices (p1+p2+p3+p4+p5+p6)**

**Average price (sum of the prices divided by 6)**

## **Total value of table 2 of Annex B (P2): Individual Assignments**

Considering that the scope of each Individual Assignment depends on each particular case, travel and subsistence expenses cannot be determined beforehand<sup>8</sup>.

Therefore, in order to evaluate the total value of table 2, Daily Tariffs per country for Individual Assignments should be quoted excluding travel and subsistence expenses.

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<sup>8</sup> Travel and subsistence expenses will be reimbursed on the basis of the provisions of Article II.7 of the framework contract

In particular, in order to calculate the global value of table 2, the average Daily Tariff (i.e.  $\sum$  tariffs / 46) will be multiplied by the average duration of one Individual Assignment (i.e. how many days of work) and by the estimated annual workload (average number of individual assignments per year) for Individual Assignments based on the past experience (10% of 40 = 4).

<b>Total value of table 2 (P2):</b> Average Daily Tariff x 15 (person-day) x 4.
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#### **11.4. Contract award**

The tenderers will be placed into a ranked list. The framework contracts will be awarded to the 3 (maximum) best ranked tenders.

Ranking will be established on the basis of economically advantageous.

Tenders are required to reach a technical score of at least 50% of the maximum score in each award criterion and at least 60% of the maximum overall score to be awarded a framework contract.

The best-value-for-money offer is determined by weighting the technical proposal 60% and the financial proposal 40% using the following method:

In order to reflect the 60% weighting to be given to the technical proposal, the best technical tender is awarded the maximum 60 points. Other tenders who in the technical evaluation received the minimum overall score of 60% and the minimum 50% of the score in each award criterion, receive points calculated according to the following equation:

**Points T** = (initial score of the bid in question/initial score of the best technical bid) x 60

In order to reflect the 40% weighting to be given to the financial proposal the lowest financial offer is awarded the maximum 40 points. Other tenders who in the technical evaluation received the minimum overall score of 60% and the minimum 50% of the score in each award criterion, receive points calculated according to the following equation:

**Points P:** (least expensive price/price of the tender in question) x 40

<b>Final score: Points T + Points P</b>
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The highest scoring firm is deemed to have made the best-value-for money offer and will be awarded the contract.

In order to guarantee security of supply, multiple framework contracts (with identical terms) will be concluded. A maximum of three tenderers may thus be selected. In particular, after evaluating the tenders selected, the JUs may draw up a list, in descending order, containing a maximum of three tenders, in order to determine the order in which to call on tenders when a specific contract is to be placed.

## **12. CLAIMS AGAINST THE JOINT UNDERTAKINGS ARE NOT TRANSFERABLE**

## **13. APPLICABLE LAW AND JURISDICTION**

- 13.1.** Any contract arising from this call for tenders will be governed by the national substantive law of the Kingdom of Belgium complemented, where necessary, by EU law.
- 13.2.** Any conflict between the parties resulting from the interpretation or application of the contract which cannot be settled amicably will be brought before the Brussels courts.

## **ANNEXES**

ANNEX A	MODEL FRAMEWORK CONTRACT I- TENDER SPECIFICATIONS INCLUDING THE WORKING PRACTICE II- CONTRACTOR'S TENDER* III- CONTRACTOR'S PRICES TABLES* IV- MODEL SPECIFIC CONTRACT V- DAILY SUBSISTENCE ALLOWANCES
ANNEX B	PRICE TABLES TO FILL IN FOR THE FINANCIAL EVALUATION OF THE TENDER.
ANNEX C	MODEL POWER OF ATTORNEY
ANNEX D	GENERAL INFORMATION SHEET
ANNEX E	DECLARATION THAT MUST BE INCLUDED IN THE TENDER BY THE TENDERER CONCERNING THE EXCLUSION CRITERIA AND CONFLICT OF INTEREST
ANNEX F	CHECK LIST CONCERNING THE DOCUMENTS TO SUBMIT
ANNEX G	LEGAL ENTITY FILE TO BE COMPLETED AND ANNEXED TO THE TENDER
ANNEX H	BANK ACCOUNT FILE TO BE COMPLETED AND ANNEXED TO THE TENDER

\* These documents will be added when the contract will be signed with the awarded tenderers.