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DIRECTORATE-GENERAL
ENVIRONMENT
Directorate F - Global Sustainable Development
ENV.F.3 – Multilateral Environmental Cooperation

CALL FOR TENDERS

ENV/F.3/SER/2016/0006

SERVICE CONTRACT FOR

Support services for implementing policy on access and benefit-sharing
(ABS) in the EU, in particular the EU ABS Regulation

TENDER SPECIFICATIONS

TABLE OF CONTENTS

1.	INFORMATION ON TENDERING	4
1.1.	Participation	4
1.2.	Contractual conditions	4
1.3.	Compliance with applicable law	4
1.4.	Joint tenders	4
1.5.	Subcontracting	5
1.6.	Structure and content of the tender	5
1.7.	Identification of the tenderer.....	5
2.	EVALUATION AND AWARD.....	6
2.1.	Evaluation steps	6
2.2.	Verification of non-exclusion	6
2.3.	Selection criteria	7
2.4.	Compliance with the minimum requirements.....	10
2.5.	Award criteria	11
2.6.	Financial offer	12
3.	TECHNICAL SPECIFICATIONS	12
	ANNEX 1 - ADMINISTRATIVE INFORMATION FORM	26
	ANNEX 2 – QUESTIONNAIRE FOR JOINT BIDS AND SUBCONTRACTING	27
	ANNEX 3 – FINANCIAL OFFER TEMPLATE.....	29
	ANNEX 5 - DECLARATION ON HONOUR ON EXCLUSION CRITERIA AND SELECTION CRITERIA.....	31
	I – SITUATION OF EXCLUSION CONCERNING THE PERSON.....	31
	II – SITUATIONS OF EXCLUSION CONCERNING NATURAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON	33

III – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE LEGAL PERSON	33
IV – GROUNDS FOR REJECTION FROM THIS PROCEDURE	33
V – REMEDIAL MEASURES	34
VI – EVIDENCE UPON REQUEST.....	34
VII – SELECTION CRITERIA	34
VII – EVIDENCE FOR SELECTION.....	35
ANNEX 6 - ACKNOWLEDGEMENT OF RECEIPT.....	36

1. INFORMATION ON TENDERING

1.1. Participation

Participation in this procurement procedure is open on equal terms to all natural and legal persons coming within the scope of the Treaties, as well as to international organisations.

It is also open to all natural and legal persons established in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement. Where the plurilateral Agreement on Government Procurement¹ concluded within the World Trade Organisation applies, the participation to this procedure is also open to all natural and legal persons established in the countries that have ratified this Agreement, on the conditions it lays down.

1.2. Contractual conditions

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

1.3. Compliance with applicable law

The tender must comply with applicable environmental, social and labour law obligations established by Union law, national legislation, collective agreements or the international environmental, social and labour conventions listed in Annex X to Directive 2014/24/EU².

1.4. Joint tenders

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

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

¹ See http://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm

² Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

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

1.5. Subcontracting

Subcontracting is permitted but the contractor will retain full liability towards the Contracting Authority for performance of the contract as a whole.

Tenderers are required to identify all subcontractors and provide an indication of the proportion of subcontracting. See Annex 2, questionnaire for joint bids and subcontracting.

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

1.6. Structure and content of the tender

The tenders must be presented as follows:

Part A: Identification of the tenderer (see section 1.7)

Part B: Non-exclusion (see section 2.2)

Part C: Selection (see section 2.3)

Part D: Technical offer (see section 3)

Part E: Financial offer (see section 2.6)

1.7. Identification of the tenderer

The tender must include a cover letter signed by an authorised representative presenting the name of the tenderer (including all entities in case of joint tender) and identified subcontractors if applicable, and the name of the single contact point (leader) in relation to this procedure. Coherence must be ensured between the information in the cover letter and in Annex 1.

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

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

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

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

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

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

2. EVALUATION AND AWARD

2.1.Evaluation steps

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

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

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

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

2.2.Verification of non-exclusion

All tenderers must provide a declaration on honour (see Annex 5), signed and dated by an authorised representative, stating that they are not in one of the situations of exclusion listed in that declaration on honour.

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

In case of subcontracting, subcontractors whose capacity is necessary to fulfil the selection criteria must provide a declaration on honour signed by an authorised representative.

The Contracting Authority reserves the right to verify whether the successful tenderer is in one of the situations of exclusion by requiring, at any point during the procedure, the supporting documents listed in the declaration on honour.

In any event, the successful tenderer must provide the documents mentioned in the declaration on honour before signature of the contract and within a deadline given by the contracting authority. This requirement applies to each member of the group in case of joint tender and to subcontractors whose capacity is necessary to fulfil the selection criteria.

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

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

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

2.3.Selection criteria

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

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

2.3.1. Declaration and evidence

The tenderers (and each member of the group in case of joint tender) and subcontractors whose capacity is necessary to fulfil the selection criteria must provide the declaration on honour (see Annex 5), signed and dated by an authorised representative, stating that they fulfil the selection criteria applicable to them. In case of joint tender or subcontracting, the criteria applicable to the tenderer as a whole will be verified by combining the various declarations for a consolidated assessment.

This declaration is part of the declaration used for exclusion criteria (see section 2.2) so only one declaration covering both aspects should be provided by each concerned entity.

The Contracting Authority will evaluate selection criteria on the basis of the declaration on honour and evidence submitted for the legal and regulatory, financial and economic and technical and professional capacity of the tenderers.

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

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

2.3.2. Legal and regulatory capacity criteria and evidence

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

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

2.3.3 Economic and financial capacity criteria and evidence

The tenderer must have the necessary economic and financial capacity to perform this contract until its end. The tenderer must comply with the following selection criteria:

Annual turnover of the last two financial years above EUR 400.000 (four hundred thousand euros); this criterion applies to the tenderer as a whole, i.e. the combined capacity of all members of a group in case of a joint tender.

In order to prove their capacity, the tenderer must submit with its tender the following evidence:

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

If, for some exceptional reason which the Contracting Authority considers justified, a tenderer is unable to provide one or other of the above documents, it may prove its economic and financial capacity by any other documents which the Contracting Authority considers

appropriate. In any case, the Contracting Authority must at least be notified of the exceptional reason and its justification. The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

2.3.4 Technical and professional capacity criteria and evidence

a. Criteria and evidence relating to tenderers

Tenderers (in case of a joint tender the combined capacity of all members of the group and identified subcontractors) must comply with the criteria listed below:

- **Criterion A1:** The tenderer must prove knowledge and experience in the field of policies on access and benefit-sharing (ABS) in relation to genetic resources, including thorough knowledge of the Nagoya Protocol. The tenderer should have an in-depth understanding of EU policy concerning ABS compliance measures for users (in particular the EU ABS Regulation, the Implementing Regulation, the Horizontal Guidance Document), and should be able to provide solid legal advice related to ABS as well as scientific advice related to genetic resources more broadly. The tenderer should also demonstrate capacity for collecting and analysing data on legal frameworks and policies for ABS, including in third countries. The tenderer must prove experience in survey techniques, data collection, training as well as drafting reports and recommendations.

Evidence A1: The tenderer must provide references for at least 1 project delivered in each of these fields (ABS, genetic resources, legal/policy analysis – separately or jointly) in the last four years.

- **Criterion A2:** The tenderer must prove capacity to work and draft reports in English.

Evidence A2: The tenderer must provide references and evidence (reports, studies, etc.) for at least three projects or other services delivered in the last three years showing the necessary language capacities.

- **Criterion A3:** The tenderer must prove its capacity to work in at least 6 EU countries.

Evidence A3: The tenderer must provide references for two projects delivered in the EU, covering a range of different Member States, in the last three years. The combination of projects must cover at least 6 EU countries.

In order to prove their capacity, the tenderer must submit with its tender the evidence listed above. In particular, the tenderer should submit a list of relevant services provided in the past, with the sums, dates and clients, public or private, accompanied by statements issued by the clients.

b. Criteria and evidence relating to the team delivering the service:

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

Criterion B1 - Project Manager: At least 5 years' experience in project management, including overseeing project delivery, quality control of delivered service, client orientation and conflict resolution experience in project of a comparable size (at least 500.000 EUR) and

coverage (at least 5 countries covered), with experience in the management of a team of at least 4 people.

Evidence B1: CV

Criterion B2 - Language quality check: at least 3 members of the team should have at least C1 level in the Common European Framework for Reference for Languages³ in English.

Evidence B2: Language certificate or relevant past experience.

Criterion B3 – Expert in legal analysis in the fields relevant to ABS⁴: At least 5 years of professional experience. Relevant higher education degree or equivalent professional experience and at least 5 years' professional experience in the field.

Evidence B3: CV

Criterion B4 - Expert in scientific analysis in the fields relevant to ABS⁵: At least 5 years of professional experience. Relevant higher education degree or equivalent professional experience and at least 5 years' professional experience in the field.

Evidence B4: CV

Criterion B5 - Team for data collection: Collectively the team of at least 2 people should have knowledge of the following EU languages: English and one more EU language and proven experience of 5 years in data collection techniques in relevant fields and ability to mobilise experts that can work in all EU official languages, when needed.

Evidence B5: CV and a language certificate or past relevant experience.

In order to prove their capacity, the tenderer must submit with its tender the evidence listed above.

2.4. Compliance with the minimum requirements

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

³ See http://www.coe.int/t/dg4/linguistic/Cadre1_en.asp

⁴ As described under criterion A1

⁵ As described under criterion A1

2.5. Award criteria

The contract will be awarded to the most economically advantageous tender, according to the 'best price-quality ratio' award method. The quality of the tender will be evaluated based on the following criteria. The maximum total quality score is 100 points.

A maximum of 40 points will be attributed to criterion 1, a maximum of 40 points will be attributed to criterion 2, and a maximum of 20 points will be attributed to criterion 3. In addition a minimum threshold will be set up under this system of points:

- Technical sufficiency levels: Selected companies will have to score a minimum of 24, 24 and 12 points under criteria 1, 2 and 3 respectively, with a minimum total of 65 points.

Assessment of the tenders will focus on the quality of the proposed services therefore tenderers should elaborate on all points addressed by these specifications in order to score as many points as possible. The mere repetition of mandatory requirements set out in these specifications, without going into details or without giving any added value, will only result in a very low score. In addition, if certain essential points of these specifications are not expressly covered by the tender, the Commission may decide to give a zero mark for the relevant qualitative award criteria.

1 Quality of the proposed methodology (40 points – minimum points 24)

The degree to which the methodology shows the capacity to analyse, review and evaluate documents and figures, in accordance with the needs of the contracting authority.

It will also assess whether the tenderer has understood all of the issues involved, as well as the nature of the work to be undertaken and the content of the final products to be delivered.

2 Organisation of the work and allocation of resources (40 points – minimum points 24)

This criterion will assess how the roles and responsibilities of the proposed team and of the economic operators (in case of joint tenders, including subcontractors if applicable) are distributed for each task. It also assesses the global allocation of time and resources to the project and to each task or deliverable, and whether this allocation is adequate for the work. The tender should provide details on the allocation of time and resources and the rationale behind the choice of this allocation. Details should be provided as part of the technical offer and not simply as part of the financial offer.

3 Quality control measures (20 points – minimum points 12)

This criterion will assess the quality control system applied to the service foreseen in these tender specifications concerning the quality of the deliverables, the language quality check, and continuity of the service in case of absence of a member of the team. The quality control system should be detailed in the tender and specific to the tasks at hand; a generic quality control system will result in a low score.

2.5.1 Ranking and Award

Having examined the tenders from a technical point of view, the evaluation committee will proceed considering which is the economically most advantageous offer taking into account **only those tenders that have obtained at least 65 out of the 100 points that are available for the technical quality of the bid**. The evaluation committee will then proceed with the financial comparison of the tenders retained for further consideration according to the ranking procedure below.

The bid offering the best value for money will be chosen, provided that the minimum number of points cited above is achieved. The ranking of the tenders will be calculated as follows:

- All bids that do not reach the stated technical sufficiency levels for each individual award criteria will not be considered for contract award.
- All bids that have passed the individual levels and score 65 or higher are deemed to be technically sufficient. Then the price is divided by the total number of points awarded to obtain the price-quality ratio. The award of the contract will be made in accordance with the lowest ratio.

The Commission reserves the right not to select any tender if the amounts tendered exceed the budget envisaged for this project.

2.6. Financial offer

The maximum budget allocated to this contract is fixed at **600.000 EUR** (six hundred thousand Euros) excluding VAT (including fees, travel and all other costs. **Travel and subsistence expenses should be part of the lump sum and will not be refunded separately**). Any offers received that do not respect this maximum budget will be automatically excluded from the evaluation procedure. For guidance purposes see Annex 3.

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

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

3. TECHNICAL SPECIFICATIONS

- General background and reference documents

International context: CBD and Nagoya Protocol

Access and benefit sharing is an important element of the Convention on Biological Diversity (CBD). The third objective of the CBD, which entered into force in 1993, is "the fair and

equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding" (Article 1 CBD).

The Nagoya Protocol was adopted in October 2010 (<http://www.cbd.int/abs/>) as a result of negotiations following a mandate given at World Summit on Sustainable Development in 2002 to negotiate an international regime to promote fair and equitable sharing of benefits arising out of utilisation of genetic resources. The Protocol implements and further specifies Article 15 of the CBD, while also expanding its scope to traditional knowledge associated with genetic resources.

The basic rules derived from the Nagoya Protocol are that users may only utilise genetic resources and associated traditional knowledge, if the genetic resources they intend to utilise have been accessed with the prior informed consent (PIC) of the provider country, i.e. a decision by a competent authority to grant such access, and that utilisation is based on mutually agreed terms (MAT), i.e. a contract between the provider and the user which also includes benefit sharing.

The Nagoya Protocol encompasses three types of measures: access, benefit-sharing and compliance. All Parties to the Protocol may establish access measures in the exercise of their sovereign rights over genetic resources while they need to be mindful of the Protocol's requirements for such measures (clarity, transparency, fair and non-arbitrary procedures for access etc.). Benefit-sharing is covered by contractual agreements (MAT) between users and the providers. The important added value of the Protocol is the duty on the Parties to establish compliance measures, i.e. checkpoints to monitor utilisation of genetic resources obtained from countries of origin. The role of the checkpoints is to verify whether appropriate permits (PIC) were obtained and contractual agreements, (MAT) were established, where appropriate.

The Protocol establishes also a mechanism which allows parties to easily find ABS-related information: the ABS Clearing House (ABS CH). Parties are expected to place all relevant measures, such as access laws on this IT platform; also permits issued by the provider country should be placed on the ABS CH (they become then internationally recognized certificate of compliance). The Parties are also obliged to put on the ABS CH information concerning monitoring of the utilisation of genetic resources (so called checkpoint communiques). The Protocol is still however in the early days of its implementation and not all Parties with access measures uploaded them on the ABS CH. Even when the legislation is uploaded on the ABS Clearing House, it may not necessarily be available in a language eligible to users in the EU whereas knowledge and good understanding of such measures is of utmost importance for the EU users.

Implementation of the Nagoya Protocol in the EU

The EU implements compliance measures of the Nagoya Protocol by means of the Regulation on compliance measures for users from the Nagoya Protocol on Access to Genetic

Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (Regulation (EU) No 511/2014)⁶.

The cornerstone of the EU ABS Regulation is the concept of due diligence. In line with Article 4 of the Regulation the user (a natural or legal person that utilises genetic resources or traditional knowledge associated with genetic resources) is under the obligation to ascertain that genetic resources and the associated traditional knowledge which they utilise have been accessed in accordance with applicable access and benefit-sharing legislation or regulatory requirements, and that benefits are fairly and equitably shared on mutually agreed terms.

The users in the EU tend to change along the value chain. To address this, Article 4(3) of the Regulation puts an obligation on the users to seek, keep and transfer to subsequent users either the internationally-recognized certificate of compliance, or equivalent information (details provided for in Article 4(3)(b) of the EU ABS Regulation).

The EU ABS Regulation establishes two checkpoints, i.e. one at the stage of receiving research funding (Article 7(1) of the Regulation) and the other one at the stage of final development of the product (Article 7(2) of the Regulation). In both situations the user is expected to declare either that they exercise due diligence in accordance with Article 4, or that they have fulfilled the obligations under Article 4. Additional detailed requirements for the application of the EU ABS Regulation, including on due diligence declarations, are laid down in the Commission Implementing Regulation (EU) 2015/1866⁷.

Currently, the Commission is in the process of developing an EU-wide IT tool to allow the users to submit the declarations electronically (DECLARE). The system will also assist the EU competent authorities in submission of the checkpoints communicate to the ABS Clearing House.

Regulation (EU) No 511/2014 establishes also a number of requirements on Member States, inter alia, to:

- designate one or more competent national authorities (CNAs) responsible for the application of this Regulation (Article 6);
- lay down the rules on penalties applicable to infringements of Articles 4 and 7 and shall take all measures necessary to ensure that they are applied (Article 11);
- carry out checks to verify if whether users comply with the obligations under Article 4 and 7 of the Regulation, while taking into account the implementation by a user of a best practice under Article 8(2) of the Regulation (or Article 20(2) of the Protocol), in accordance with a periodically reviewed plan following a risk-based approach (Article 9);

⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014R0511>

⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015R1866>

- keep records of the checks (Article 10);
- cooperate with each other, with the Commission, and with the competent authorities of third countries in order to ensure that users comply with the Regulation (Article 12);
- submit to the Commission, every five years a report on the application of the Regulation (first reporting is due by 1 November, in line with Nagoya Protocol reporting) (Article 16).

Under the Regulation the Commission also has a number of tasks to fulfil, inter alia:

- recognition of best practices (Article 8);
- promote and encourage information, awareness-raising and training activities to help stakeholders and interested parties to understand their obligations arising from implementation of the Regulation (Article 13);
- provide technical and other guidance to users, taking into account the situation of academic, university and non-commercial researchers and of small and medium-sized enterprises (Article 13);
- establishment and maintaining of register of best practices and registered collection (Article 5 and 8);
- organization and running of Consultation Forum (Article 15);
- review the functioning and effectiveness of the Regulation (Article 16).

In addition, as part of its role as guardian of the Treaties, the Commission is required to monitor the implementation and enforcement of the Regulations in the Member States.

In order to assist the users in implementation of the EU ABS Regulation, the Commission elaborated, in close collaboration with the Member States, a *Guidance document on the scope of application and core obligations of the Regulation (EU) No 511/2014*⁸. The Commission is currently also in the process of developing sector specific guidance documents (available already in the form produced by the consultant) as well as guidance documents for upstream users with assistance of a consultant (under development, expected by end 2017).

Broader context of the EU implementation

ABS is a relatively new topic globally. Also in the EU there is limited experience in its implementation; users of genetic resources raise many questions related to the scope of application of the Protocol and the Regulation. There also remains a degree of uncertainty and various interpretations are pursued of the terms used by the Protocol and the EU ABS Regulation. The horizontal guidance document addressed many of these issues, whereas many others are likely to be tackled by the on-going work on the sectorial guidance documents⁹ and subsequently also on "upstream" users (ex-situ collections, public research

⁸http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2016.313.01.0001.01.ENG&toc=OJ:C:2016:313:TOC

⁹ Covering the cosmetic, food and beverage, pharmaceutical, plant breeding and seeds, animal breeding, horticulture, bio-control and biotechnology industries.

institutions), all of which are focused on the term "utilisation". Still, given the relative novelty of the topic, questions and issues concerning interpretation are likely to arise and both Member States and stakeholders need assistance in ensuring the EU ABS Regulation is implemented in a harmonious and coherent way across the EU.

Effective implementation of the EU ABS Regulation requires a uniform level of technical assistance to the relevant authorities. The ABS Expert Group gathers Member States' relevant authorities and is chaired by the Commission. To make well-informed policy choices, this Expert Group requires technical assistance and analysis of technical issues.

The framework created by the EU ABS Regulation is expected to contribute to maintaining and increasing trust between Parties to the Nagoya Protocol. In order to implement ABS policy in the EU appropriately, it is important to be aware of the ABS developments in third countries but also expectations and perception of the EU ABS policy in those countries. In this context new and emerging phenomena such as use of digital sequence information might play a role and also need to be considered.

Furthermore, for effective implementation of the EU ABS policy in the EU, it is useful to consider work of other international organizations which relates to ABS, such as the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), the Food and Agriculture Organisation (FAO), the World Health Organization (WHO), the World Intellectual Property Organization (WIPO) and the World Trade Organisation (WTO), and to analyse implications of discussions taking place in these fora for the implementation of the Nagoya Protocol in the EU.

The ITPGRFA¹⁰ is a multilateral system aimed at guaranteeing food security through the conservation, exchange and sustainable use of the world's plant genetic resources for food and agriculture (PGRFA), as well as the fair and equitable benefit sharing arising from its use. It is widely agreed that ITPGRFA constitutes a specialised ABS framework in the meaning of Article 4(4) of the Nagoya Protocol.

The so-called PIP Framework (Pandemic Influenza Preparedness Framework)¹¹ established by the WHO is considered in the EU to be also a specialised ABS agreement in the meaning of Article 4(4) of the Nagoya Protocol.

The Commission on Genetic Resources for Food and Agriculture (CGRFA) under FAO auspices considers also elements related to access and benefit-sharing, whereas the discussions under the WIPO are directly relevant to traditional knowledge (and hence inter-link with the Protocol's traditional knowledge associated with genetic resources). WIPO discusses also possible disclosure of place of origin in patent applications. During Protocol's

¹⁰ www.fao.org/plant-treaty/en/

¹¹ www.wjpp.int/influenza/pip/en/

negotiations this disclosure was a demand of the providing countries, and although not finally reflected in the Protocol, it is important to follow these developments.

Most importantly, the new and emerging phenomena (such as digital sequence information) is subject to discussion in many of these fora (ITGPFRA, CGRFA, WHO) and it is important for the EU implementation to be fully aware of these discussions.

- General and specific objectives

The purpose of the contract is to provide support to the Commission:

1. In carrying out some of the tasks required of it by the Regulations as detailed above; (analysis and providing recommendations, drafting press releases, drafting information notes and publications);
2. In monitoring the implementation and enforcement of the EU ABS Regulation, (compilation of information on legislative frameworks, analysis and recommendations; compilation of reports and analysis of the reports; preparation of non-technical summary version for public release, survey development, interpretation of data);
3. On specific technical matter and scientific questions related to the file and more general policy aspects; provide technical expertise to the Member States' competent authorities gathered in ABS expert group (providing recommendations for answers to specific technical questions from users & MS, trainings on IT database, review of existing assistance and recommendations, survey development and interpretation of data);
4. In monitoring international developments related to ABS which are relevant for the implementation of the EU ABS Regulation and the EU ABS policy internationally (compilation and analysis of legislative framework, providing non-technical summary version; analysis of relevant international developments; providing reports analysis and recommendations).

- Tasks

In order to achieve the objectives set out above the contractor will be required to carry out the following tasks.

3.1. Assistance to the Commission in assessment of applications for recognition as best practice

- 3.1.1 Assess information and documents submitted by the applicants to assist the Commission in determining whether the applications fulfil the criteria for **recognition of best practices** set up by the EU ABS Regulation and Commission Implementing Regulation, while taking into account views expressed by Member States;

Specific outputs:

Assessment of up to 5 applications per year; the assessment is to be submitted to the Commission two months after application documents are transferred to the contractor.

3.1.2 Keep the **assessment template** up to date (in co-operation with the Commission¹²);

3.2. Assistance to the Commission in monitoring of the implementation and enforcement measures

3.2.1. Undertake research and collect updated **information** on **each Member State's national legislation** relevant to the implementation of the Regulations (both applicable legislation and proposals to amend or complement existing legislation), where necessary in the national language. This compilation should be subdivided by country and, where appropriate by subject (e.g. enforcement-related legislation, administrative measures etc.); an up-to-date version of this compilation should be submitted to the Commission within six months from the signature of the contract.

Specific outputs:

Compilation of each Member State's national legislation in digital format to be submitted within six months from the signature of the contract, including summary of main provisions of Member States' legislation;

3.2.2. **Analyse** Member States' **national legislation** relevant to the implementation of the Regulations based on the information compiled under 3.2.1, produce an analysis and identify possible areas for improvement, shortcomings or potential loopholes. This includes an assessment on whether the penalties applicable to infringements of the provisions of the Regulations laid down by the Member States are effective, proportionate and dissuasive. The analysis should also cover implementation of duties stemming from Article 7(1) of the Regulation. Submit this information to the Commission in the form of a report within the first year from the signature of the contract.

Specific outputs:

- 1 report to be submitted to the Commission (within the first year from the signature of the contract);
- 2 updates of the report (by the end of the second and third year);
- Preparation of country fiches for the Member States (within the first year from the signature of the contract); keeping the fiches regularly updated.

3.2.3. Compile information on **plans for checks** developed by the Member States under Article 9 the EU ABS Regulation. Prepare updates every six months on checks performed and penalties and enforcement measures applied in the Member States based on information provided by the Member States and publicly available information, including substantiated concerns presented to the Member States Competent Authorities and follow up actions.

¹² Current template available upon request

Specific outputs:

- 1 report compiling information gathered to be submitted to the Commission within the first year of signing the contract;
- 4 updates (every 6 months following the first report) to be submitted to the Commission.

- 3.2.4. Develop a report on the application of the EU ABS Regulation, based on **surveying users** representing different sectors in a balanced way, in 5 different Member States 2 times a year (all Member States should be covered after 6 reports), identifying best practices, challenges and shortcomings, including with regard to the cost-effectiveness of applying the "due diligence" concept; the survey design will be agreed with the Commission.

Specific outputs:

- 6 reports to be submitted to the Commission (2 per year).

- 3.2.5. Compile and analyse **information** on cases where **specific attention** of the Commission or the Member States' competent national authorities might be required based on the publicly available information and specific reports both in EU and in third countries (available via ABS specialised newsletters), including cases of application of legislation aiming at ensuring that the genetic resources are accessed in line with the requirements set up by providing country. Submit this information to the Commission in the form of written briefing notes every six months (or more frequently, depending on the sensitivity of the issue, e.g. cases where the issue is getting media attention and/or where the Commission will be asked for a reaction);

Specific outputs:

- Up to 15 written briefing notes of 1-2 pages to be submitted to the Commission during the period of the contract.

3.3. Assistance to the Commission in assessment of the Member States' reports on implementation of the EU ABS Regulation and evaluation of the effectiveness of the Regulation

- 3.3.1. Produce a **report on the implementation** of the EU ABS Regulation (in the context of Art. 16 of the Regulation) based on national reports¹³ submitted to the Commission and input from stakeholders. The report should contain a detailed analysis of the Member States' implementation reports with a view to assessing the state of play of implementation and enforcement of the Regulation in the Member States, including checks performed and penalties applied and requests made based on Article 7(1); and it should identify any shortcomings in implementation of the requirements set out in the

¹³ Current reporting format available upon request

Regulation. The analysis should also address the level of cooperation between Competent National Authorities (CNAs) (from different MS) and cooperation between CNAs in EU MS and third country authorities. The report should include *initial* analysis of the costs of implementation of the EU ABS Regulation. The report needs to also include analysis of the input provided by stakeholders as referred to in point 3.3.4. Finally, the report should propose ways of addressing the implementation problems identified and recommendations for potential further actions to ensure that the EU ABS Regulation achieves its intended objectives.

Specific outputs:

- 1 report to be submitted within three months after submission of the national reports (expected from Member States in November 2017)
- 1 additional report to be submitted within three months after submission of national reports by Member States in line with decision by the Meeting of the Parties based on Art. 29 of the Protocol.

3.3.2. Update **templates**/formats for Member States' reporting in close collaboration with the Commission and Member States;

Specific outputs:

- Minimum 1 update of the reporting format, taking into account feedback from Member States based on the first reporting exercise.

3.3.3. Comprehensive analysis of the positive and negative **consequences**, including administrative and other costs, **of compliance** with the EU ABS Regulation for public research institutions and for industry, particularly for small and medium-sized enterprises (SMEs), taking into account specific sectors (as defined in sectorial guidance documents). The analysis should include an assessment of already existing guidance and assistance, the needs of SMEs representing the different sectors in different Member States as well as recommendations on options for future guidance and assistance focused on SMEs. The analysis should build on the results of the task 3.2.4. and input of stakeholders gathered as referred to in task 3.3.1.

Specific outputs:

- 1 report to be submitted to the Commission at the end of the second year of the contract.

3.3.4. Assist the Commission in organising **stakeholder consultations**, by preparing written questionnaires or materials for meetings with stakeholders and compiling and analysing inputs from stakeholders and by producing corresponding reports. The timing of development and report to be agreed with the Commission, in any case the results should be available for incorporation into report referred under 3.3.3

Specific outputs:

- Develop questionnaire;
- 1 report analysing the stakeholders' input.

- 3.3.5. Engage in reflection on broad concepts for (potential) application in EU ABS policy (due diligence, prohibition, types of supply chains, and other frequent challenges, as informed by the Commission), including identification and analysis of concepts to be further developed or reviewed and/or issues related to application of the EU ABS Regulation, and prepare recommendations.

Specific outputs:

- 1 comprehensive report to be submitted to the Commission at the end of the contract.

3.4. Assistance in policy development

- 3.4.1. Assist in further development of specific concepts currently applied under the EU ABS Regulation, by identifying and analysing issues related to application of the Regulation and/or and preparing recommendations, including as inputs for the potential **update of** (horizontal and/or sectorial) **guidance documents**, in close collaboration with the Commission and Member States;

Specific outputs:

- Carrying out regular review if there is a need to revise guidance document(s); proposal for elements for revision to be provided to EC each year with the interim reports and final report.
- 3.4.2. Providing expert advice to the Commission, on an ad-hoc basis, on scientific (genetics, chemistry, etc.) and technical questions related to genetic resources;

Specific outputs:

- Up to 10 questions per year; 1 page answers to be prepared within 3 working days.
- 3.4.3. Assist the Commission in drafting of **sectorial guidance documents** based on the outcome of the previous consultancy (see above, p. 15); the main focus should be on unresolved issues that remained unresolved under the previous consultancy, taking into account the discussions on the topic with the Member States; particular attention also needs to be paid to the interpretations developed during these discussions and the impact they might have on previous versions of the documents; implementation of necessary adjustments to ensure integrity and harmonized interpretation across the sectors;

Specific outputs:

- Draft chapters on “unresolved issues” in seven sectorial guidance documents and two for upstream users (timing of the delivery to be agreed with the Commission) (most likely during the first year of the contract);

3.5. Assistance to the Commission in providing technical support to users, Member States experts and raising awareness about ABS

- 3.5.1. Provide short answers to specific (technical) questions as asked by users and Member States' experts on **interpretation** of the EU ABS Regulation and the Implementing Regulation, including in the context of using the DECLARE IT system (IT-specific questions related to that system are to be handled by the Commission);

Specific outputs:

- Answers to up to 25 questions per month (depending on the demand) during the 1st six months of the contract;
- Answers to up to 15 questions per month (depending on demand) during the 2nd half of the first year
- Answers to up to 5 questions per month during the remaining two years.

- 3.5.2. Assist the Commission in preparing **communication materials** as necessary, including updating the dedicated webpage¹⁴ and the DECLARE manual (indicative percentage of the budget for this task together with the task 3.5.1 is below 5%);

Specific outputs:

- The content of the dedicated Commission ABS website updated;
- Question & answer manual on DECLARE IT tool updated;
- Up to 5 short notifications (similar in style to press releases) per year on ABS related activities in the EU disseminated to the target audience.

- 3.5.3. Preparation of **articles on EU ABS policy** with a view to having them disseminated directly to target audiences (researchers, academia, and representatives of 3rd countries' administration, ABS Clearing House etc.) and/or published in relevant journals, newsletters or other media;

Specific outputs:

- Up to 4 articles during the contracting period (of about 5-10 pages each) submitted to the Commission, including at least one on duties of researchers under the EU ABS Regulation.

- 3.5.4. Assist the Commission in responses to questions – most typically from third-country analysts or consultants – emerging in the context of studies on the EU ABS system;

Specific outputs:

- Revision of or comments on up to 6 studies during the contracting period.

¹⁴ http://ec.europa.eu/environment/nature/biodiversity/international/abs/legislation_en.htm

3.6. Assistance to the Commission concerning relevant international developments

3.6.1. Compile and analyse information concerning developments relevant for the implementation of the EU ABS Regulation and the Nagoya Protocol in **other international fora**, including the Commission on Genetic Resources for Food and Agriculture, International Treaty on Plant Genetic Resources for Food and Agriculture, World Health Organization, World Intellectual Property Organization and World Trade Organization.

Specific outputs:

- 1 report presenting the main points discussed in the context of the international fora relevant to ABS, presenting a short analysis of the developments; the analysis should focus on implications of the international developments for the implementation of the EU ABS Regulation and the Nagoya Protocol in the EU; to be submitted to the Commission within five months of signing of the contract.
- 1 update in the 1st year, to be submitted to the Commission 9 months after signing of the contract;
- 2 updates per year in 2nd and 3rd year.

3.6.2. Compile and analyse information concerning ABS developments and legal frameworks in major **providing countries**; list of up to 15 countries, representing the diversity of providing countries, to be defined together with the Commission;

Specific outputs:

- Template for country information fiches to be developed for approval by the Commission within 4 months of signing of the contract;
- 1 analysis paper to be presented to the Commission one year after signing the contract, presenting an overview of the ABS legislative frameworks of a first set of 8 countries, (max. 20 pages); to be accompanied by a summary version for each country (e.g. flowcharts);
- 1 analysis paper to be presented to the Commission within two years after signing the contract presenting an overview of the ABS legislative framework of the remaining 7 countries (max. 20 pages); to be accompanied by a summary version for each country;
- 15 country information fiches (of max. 4 pages) to be submitted to the Commission together with the respective analysis papers
- Update of the analysis papers to be presented three years after signing the contract.

3.7. Assistance to the Commission in ensuring harmonized implementation of Article 5 (register of collections)

3.7.1. Analysis of potential **interest by collections** in their registration, including reasons for (currently) limited interest in registration, based on a survey of at least 25 collections (questionnaire to be agreed with the Commission); the analysis should also include recommendations on what can be done to address any issues identified;

Specific outcomes:

- Report to be submitted to the Commission within 1 year of signing of the contract.

3.7.2. Assistance to the Commission in helping Member States to **exchange information**, to ensure that the criteria for registration of collections are applied in harmonised and coherent way in the EU;

Specific outcomes:

- Provide assistance in harmonized application of criteria set up in the EU ABS Regulation; up to 5 notes per year.

3.8. Support to the Commission in communication; participation in meetings

3.8.1 Assist the Commission in preparation and running of the **EU ABS expert group** meetings:

- Provide timely input to the Commission for the agenda;
- Participation in the meetings (max. 4 per year) and presentation to the expert group of reports or other outcomes of activities carried out in the context of this contract (if required);
- Assisting the Commission in drafting the meeting summary reports and minutes of the meeting, preparing follow-up notes / letters as appropriate (e.g. requests for further information), in agreement with the Commission.

3.8.2. Assist the Commission in organization of the **Consultation Forum**

- Provide input for the agenda; participation in the meeting (1 per year), presentation of reports or outcomes of activities carried out in the context of this contract (if required); and assisting the Commission in drafting meeting summary reports and follow up notes.

3.8.3. Participate in **meetings of the competent national authorities**

- Participate in some meetings of competent national authorities (3-4 per year, back to back with the ABS expert group meetings); presentation of reports or outcomes of activities carried out in the context of this contract (if required); assistance in drafting meeting reports and follow up notes.

3.8.4. Attend **meetings with the Commission** staff, starting within one month from the date of signature of the contract and on a twice-yearly basis thereafter, in order to discuss the state of play of activities and/or exchange views on specific tasks; be available for regular tele- or video-conferences to discuss implementation of the contract.

- Input by the Contracting Authority

The Contracting Authority will provide any relevant information and meeting documents as necessary to the successful contractor. The needs will be discussed on a regular basis (during coordination meetings (cf. point 3.8.4) or by phone.

- Intermediate outputs and deliverables

A detailed work plan should be submitted with the offer;

Two **interim reports**, containing information on activities carried out during the first year and the second year of the contract and on the state of play of other activities, should be submitted within 13 months and 25 months of the start of implementation date of the contract. [Other deliverables are specified above under each task when they coincide with the interim reports' deadline should be integrated into the reports.]

- Final output and deliverable

A final report, containing information on all activities carried out during the contract period should be submitted 36 months after signature of the contract.

- Details on deliverables

The duration of the contract (implementation period) is 36 months from signature of the contract. Where no timetable is yet available for the deliverables as listed under the description of tasks, this shall be either determined in agreement with the Commission at the beginning of the contract or will be determined in accordance with the timetable for meetings, e.g. of the EU ABS expert group meetings or ABS Consultation Forum meetings.

- General guidance on methodology

Some deliverables depend on submission of the relevant information or reports from Member States. This will influence the timelines for expected output.

- Performance and quality requirements

The contractor is requested to ensure flexibility in the execution of the contract. The contractor shall ensure timely delivery of required outputs as agreed with the Contracting Authority.

Duration of the tasks

The tasks should be completed within 36 months of the signature of the contract. The execution of the tasks may not start before the contract has been signed.

Place of performance

The place of performance of the tasks shall be the contractor's premises or any other place indicated in the tender, with the exception of the Commission's premises.

ANNEX 1 - ADMINISTRATIVE INFORMATION FORM

(To be signed by the tenderer only or the lead tenderer in the case of joint bids)

Organisation or individual:

NAME:

ADDRESS:

Address where contract should be sent to (if different from above):

.....

PERSON AUTHORISED TO SIGN CONTRACT:

Name and position:

PERSON FOR ROUTINE CONTACT:

Name and position:

ADDRESS:

Telephone and E-mail:

Signature of Tenderer

ANNEX 2 – QUESTIONNAIRE FOR JOINT BIDS AND SUBCONTRACTING

(To be completed and signed by the lead tenderer)

Joint bid (refer to paragraph 1.4)

1. Does your bid involve more than one tenderer? Yes ☐ No ☐

Questions 2 - 4 shall be answered only if you have answered yes to question 1.

2. Please fill in the name of the company having power of attorney for the group of tenderers and acting as a co-ordinator:

3. Please fill in the names of the other companies taking part in the joint offer:

4. If a consortium or similar entity exists, please fill in the name and the legal status of the entity:

Subcontracting (refer to paragraph 1.5)

5. Does your bid involve subcontracting? Yes ☐ No ☐

If the answer is yes, please complete question 6, and the next page per sub-contractor.

6.

List of sub-contractors:

Percentage of subcontracting:

.....

.....

.....

.....

Reasons, roles, activities and responsibilities of sub-contractors.

Please complete this page for each sub-contractor (one page per sub-contractor):

Name of the sub-contractor:

.....

Official legal form:

.....

Country of registration:

.....

Statutory registration number:

.....

(Internet address, if applicable):

.....

Official address in full:

.....

.....

Contact person:

.....

Telephone number:

.....

Reasons for subcontracting:

.....

Role, activities and responsibilities of the sub-contractor:

.....

The volume or the proportion of the sub-contracting:

.....

Do you intend to rely on capacities from the sub-contractor in order to fulfil the selection criteria? If yes, specify which selection criterion - financial and economic capacity or technical and professional capacity - and be aware that the tenderer must provide the documents which make it possible to assess the selection criteria.

.....

Tenderer:

Date:

Signature:

ANNEX 3 – FINANCIAL OFFER TEMPLATE

(To be completed and signed by the tenderer only or the lead tenderer in the case of joint bids)

(for guidance purposes only)

Price and Estimated budget breakdown

Calculation of the costs (incl. travel, overheads, consumables and any other related costs)

Type of service provider	Position within the project team	Number of working days	Allocation of tasks	Proportion of the contract in %	Costs in €
Lead contractor					

	<i>Sub-total</i>	.....		.....	.....
Sub-contractor 1					

	<i>Sub-total</i>	.....		.....	.....
Sub-contractor 2					

	<i>Sub-total</i>	.....		.....	.....
Sub-contractor 3					

	<i>Sub-total</i>	.....		.....	.....
Travel/other costs¹ (if applicable)					
	Total	.....		.....	.....

Signature of Tenderer

.....

Date

.....

¹ Will be reimbursed on a lump-sum basis.

ANNEX 4 - LEGAL ENTITY AND FINANCIAL IDENTIFICATION FORMS

These forms can be downloaded from

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm
m (Legal entity form)

(To be signed by the tenderer and all members of the group in the case of joint tender (not necessary for subcontractors))

http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm
(financial identification form)

(One form per offer to be signed by the tenderer or lead tender in the case the of joint tender)

ANNEX 5 - DECLARATION ON HONOUR ON EXCLUSION CRITERIA AND SELECTION CRITERIA

(To be completed by the tenderer, all members of a joint tender and any subcontractor whose capacity is necessary to fulfil the selection criteria)

Comments [*in grey italics in square brackets*] are to be deleted and/or replaced by appropriate data.

The undersigned [*insert name of the signatory of this form*], representing:

<i>(only for natural persons)</i> himself or herself	<i>(only for legal persons)</i> the following legal person:
ID or passport number: ('the person')	Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number: ('the person')

I – SITUATION OF EXCLUSION CONCERNING THE PERSON

➤ declares that the above-mentioned person is in one of the following situations:	YES	NO
a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations;	<input type="checkbox"/>	<input type="checkbox"/>
b) it has been established by a final judgement or a final administrative decision that the person 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;	<input type="checkbox"/>	<input type="checkbox"/>
c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person 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;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) entering into agreement with other persons with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) violating intellectual property rights;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) attempting to influence the decision-making process of the contracting authority during the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
d) it has been established by a final judgement that the person is guilty 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 1995;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of EU Member States, drawn up by the Council Act of 26 May 1997, and in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the legal provisions of the country where the contracting authority is located, the country in which the person is established or the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;	<input type="checkbox"/>	<input type="checkbox"/>
(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 Council;	<input type="checkbox"/>	<input type="checkbox"/>
e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract financed by the Union's 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;	<input type="checkbox"/>	<input type="checkbox"/>
f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;	<input type="checkbox"/>	<input type="checkbox"/>
g) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or	<input type="checkbox"/>	<input type="checkbox"/>

<p>irregularity, the applicant is subject to:</p> <p>i.facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;</p> <p>ii.non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;</p> <p>iii.decisions of the ECB, the EIB, the European Investment Fund or international organisations;</p> <p>iv.decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or</p> <p>v.decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.</p>		
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II – SITUATIONS OF EXCLUSION CONCERNING NATURAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON

Not applicable to natural persons, Member States and local authorities

➤ declares that a natural person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers company directors, members of management or supervisory bodies, and cases where one natural person holds a majority of shares) is in one of the following situations:	YES	NO	N/A
Situation (c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (e) above (significant deficiencies in performance of a contract)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (f) above (irregularity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

III – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE LEGAL PERSON

➤ declares that a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations:	YES	NO	N/A
Situation (a) above (bankruptcy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (b) above (breach in payment of taxes or social security contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IV – GROUNDS FOR REJECTION FROM THIS PROCEDURE

➤ declares that the above-mentioned person:	YES	NO
h) has distorted competition by being previously involved in the preparation of procurement documents for this procurement procedure.	<input type="checkbox"/>	<input type="checkbox"/>

V – REMEDIAL MEASURES

If the person declares one of the situations of exclusion listed above, it must indicate measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (d) of this declaration.

VI – EVIDENCE UPON REQUEST

Upon request and within the time limit set by the contracting authority the person must provide information on the persons that are members of the administrative, management or supervisory body. It must also provide the following evidence concerning the person itself and concerning the natural or legal persons which assume unlimited liability for the debt of the person:

For situations described in (a), (c), (d) or (f), production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the person showing that those requirements are satisfied.

For the situation described in point (a) or (b), production of recent certificates issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the person is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by 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.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

VII – SELECTION CRITERIA

➤ declares that the above-mentioned person complies with the	YES	NO	N/A
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selection criteria applicable to it individually as provided in the tender specifications:			
(a) It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section 2.3.2 of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable economic and financial criteria indicated in section 2.3.3 of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) It fulfills the applicable technical and professional criteria indicated in section 2.3.4 of the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

➤ if the above-mentioned person is the sole tenderer or the leader in case of joint tender , declares that:	YES	NO	N/A
(d) the tenderer, including all members of the group in case of joint tender and including subcontractors if applicable, complies with all the selection criteria for which a consolidated assessment will be made as provided in the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VII – EVIDENCE FOR SELECTION

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents listed in the relevant sections of the tender specifications and which are not available electronically upon request and without delay.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

The above-mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.

Full name

Date

Signature

ANNEX 6 - ACKNOWLEDGEMENT OF RECEIPT



EUROPEAN COMMISSION

DIRECTORATES-GENERAL

ENVIRONMENT AND CLIMATE ACTION

(Please fill in your address)

ACKNOWLEDGEMENT OF YOUR TENDER

Our reference: ENV/F.3/SER/2016/0006

Your reference:

We wish to confirm the receipt and opening of your offer¹. Your offer will now be evaluated by the Commission and its experts. You will be informed of the result in due course.

We thank you for your interest.

MarketsTeam
SRD.2

¹ Your personal contact data has been recorded in a database used by the Markets Team of unit SRD.2 for the administrative management of offers. The Commission is bound by Regulation 45/2001 on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies. For more information, and to exercise your rights to access and eventually correct data concerning you, please don't hesitate to contact us.