



EUROPEAN COMMISSION
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Modernisation of the Single Market

CALL FOR TENDER

No 641/PP/GRO/IMA/17/1131/9610

**Evaluation of regulatory tools for enforcing
online gambling rules and channelling demand
towards controlled offers**

Open procedure

TENDER SPECIFICATIONS

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1. TECHNICAL SPECIFICATIONS

1.1. BACKGROUND

The emergence of the internet has resulted in unprecedentedly wide-spread availability of gambling offers prompting governments to fundamentally review their gambling policies to protect players, minors and other vulnerable groups, and to combat fraud, money laundering and tax evasion. Member States of the European Economic Area (EEA) have put in place laws defining the conditions subject to which online gambling services can be offered to their citizens. In the absence of European Union (EU) harmonisation, they have in principle been free to choose a regulatory model; these range from exclusive rights vested in a single operator to authorisations being granted to any online gambling operator whose website(s) meet the requirements of the relevant national regulator.

The Commission set out its policy towards online gambling in a 2012 Communication¹. The initiatives undertaken pursuant to this Communication so far - such as the 2014 Recommendation on consumer protection² or the extension of the EU anti-money laundering rules to cover the entire gambling sector³ - have been aimed at improving the regulation and supervision of the authorised websites and their operators.

However, other – unauthorised – websites have not ceased to reach potential players in the EEA. On the contrary, in some Member States they still appear to dominate the online gambling market. The operators of these websites often do not pay taxes and may not provide adequate consumer protection measures; some are linked to organised crime.

Enforcement tools

The prevailing regulatory approach to this problem in the EEA is to look for ways to channel consumer demand for gambling away from the unauthorised websites and towards the “safe harbour” of the nationally regulated offer where specific consumer protection measures and other safeguards are in place. This can be achieved by calibrating the authorised online gambling offer to compete with the unauthorised offer⁴, by taking steps to stop the unauthorised offer from reaching consumers or both.

¹ Communication from the Commission to the European Parliament, the Council, the Social and Economic Committee and the Committee of the Regions, “Towards a comprehensive European framework for online gambling”, COM/2012/0596 final. See also the Commission Staff Working Document “Online gambling in the Internal Market Accompanying the document Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions Towards a comprehensive framework for online gambling”. The Commission’s website contains information about initiatives undertaken to implement the actions set out in the Communication: http://ec.europa.eu/growth/sectors/gambling_en.

² Commission Recommendation of 14 July 2014 on principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online, OJ L 214, 19.7.2014, p. 38–46.

³ Directive 2015/849/EU (the “4th AML Directive”).

⁴ Of note, the Court of Justice of the EU (CJEU) has stated that in order to justify granting exclusive rights to a single operator, Member States must ensure that this operator will “be able to pursue, in a consistent and systematic manner, the objective [of the Member State’s gambling policy] by means of a supply that is quantitatively measured and qualitatively planned by reference to the said objective and subject to strict control by the public authorities” (C-316/07 *Stoss*, at 82). Although the Court was considering a monopoly, the ability to quantitatively measure and qualitatively plan the desirable (authorized) gambling offer will be valuable also to regulatory authorities in Member States which adopt other models.

Blocking access to websites whose operators are not authorised to provide gambling services

Making it impossible for citizens to access an unauthorised gambling website is the most direct form of intervention and potentially the most impactful, since its success is not predicated on persuading potential players to choose a website from among those authorised within the jurisdiction or to refrain from gambling altogether. Blocking measures can thus act as an incentive for operators to submit themselves to the regulation and supervision of the relevant authority (where multiple operators are allowed) and as a barrier between those operators who are unable or unwilling to meet the requirements of the recipient Member State and potential players in that Member State.

A number of Member States already place an obligation on Internet Service Providers (ISPs) to block access to gambling websites which are not authorised to offer their services in their territory. This is usually done with reference to a list of websites published by the relevant gambling regulatory authority. In some instances this is a “blacklist”, usually based on official administrative decisions or court judgments which may also have involved punitive measures, such as fines, and could entail future consequences, such as denial of authorisation. Alternatively, a “whitelist” of authorised websites can be maintained and those websites not on the list blocked, even if their operators have not necessarily been found to violate the gambling laws of the given Member State and have not been subject to any punitive measures.

However, blocking access to online content is sometimes criticised for violating internet freedom. There are also questions about the effectiveness of this type of measure, in particular with reference to the ability of the competent authority to detect all the unauthorised websites; the ability of operators of blocked websites to speedily create new domains; and the ability of players to circumvent the blocks.

Blocking access to advertising

Another approach is to stop consumers and especially minors from learning of or being directed to unauthorised gambling websites through online, television, radio or print advertising or through websites with affiliate links. In some jurisdictions there are restrictions on promoting any gambling, including the authorised offer (e.g. allowing gambling advertising only at later times when broadcasting audiences tend to be adults). The authorised operators may be required to take responsibility for compliance with these restrictions in relation to the promotion of their products, as part of licensing conditions. This option is not available in relation to unauthorised offer. Enforcement tools, such as blocking online ads, may be used instead.

Blocking financial transactions between unauthorised operators and players

Another possibility under some Member States’ legislation is to compel payment service providers to refuse execution of the financial transactions between players and unauthorised online gambling operators. This could arguably be more effective than blocking access to gambling websites, as it is not vulnerable to players’ ability to circumvent the blocks. On the other hand, the effectiveness of this enforcement tool might be undermined by the use of cryptocurrencies.

Administrative and criminal sanctions

Some Member States seek to enforce bans on unauthorised gambling activity by pursuing criminal or administrative procedures against the operators, the players, or both. Sanctions may also be

applied to the entities which facilitate unauthorised gambling through advertising, affiliate links, etc. This could serve as a deterrent. However, questions around privacy and fairness have been raised in relation to sanctions against players. There also appear to be difficulties in enforcing fines against operators established outside of the given jurisdiction.

The need for a study

Each EEA jurisdiction has its own specific policy objectives and legal frameworks in the area of gambling. There are also differences between Member States in the size and characteristics of their online gambling markets, which are shaped by various factors, such as traditional attitudes towards gambling or the degree of adoption of digital technologies among the population. However, legislators and regulators in all jurisdictions will benefit from relevant and reliable data which are essential to understanding the current situation, determining priorities and targets, monitoring progress and optimising the enforcement strategy over time.

In particular, there appears to be the need for understanding the specific effects various regulatory measures have on the market as a whole and on individual players, operators and facilitators, for example the respective likelihoods of players confronted with a given enforcement measure to refrain from gambling altogether, switch to an authorised website, switch to another unauthorised website, or continue gambling on the same website (bypassing blocking measures or ignoring/accepting fines). This will be facilitated through a study, underpinned by insights from IT and behavioural sciences, into the selection and collection of the most appropriate data to accurately and efficiently ascertain the effects of enforcement tools and enable their optimisation over time.

1.2. DESCRIPTION OF TASKS

Objectives

The study will look at the various solutions adopted to address the problem of proliferation of gambling websites which are accessed by millions of citizens but remain outside of the Member State authorities' control, the operators being unauthorised in the relevant Member State and many of them also located outside the EEA. It should assist regulators in choosing the enforcement tools which will help them accomplish the goals of their national gambling policies, primarily through identifying the data which should be collected in order to understand the baseline situation, set enforcement targets, monitor the effects of the chosen enforcement tools and optimise the enforcement strategy over time.

The outcomes of the study may also be referred to by the European Commission in possible further policy work, such as the follow-up to the 2014 Recommendation on consumer protection; the work on betting related to match-fixing and the development of standards for gambling.

Authorities in several Member States have undertaken or commissioned research into their own gambling markets and regulatory frameworks. The Commission will facilitate interactions between the Contractor and the representatives of those national authorities who are members of the Expert Group on Gambling Services to assist the Contractor in gathering data for the present study and identify any opportunities for research cooperation.

Tasks

The contractor will be expected to carry out an evidence-based analysis of enforcement measures aimed at preventing unauthorised online gambling. In particular:

1) Gather **quantitative data on:**

a) **blocking** from every EEA country that blocks:

- access to websites whose operators are not authorised to provide gambling services;
- websites of advertisers, affiliates etc.; and/or
- financial transactions between unauthorised operators and players

This should include collection of data on :

- *numbers of blocked websites, if possible expressed also as (an approximate) percentage of all unauthorised websites;*
- *numbers of blocked financial transactions;*
- *numbers of blocked advertisements of online gambling.*

b) **administrative and criminal sanctions** from every EEA country that imposes sanctions on:

- operators engaging in unauthorised gambling;
- players; and/or
- other entities which facilitate the unauthorized gambling activity, such as advertisers and affiliates

This should include collection of data on :

- *numbers of successfully executed fines, successfully appealed fines and fines pending execution due to difficulties in collecting them;*
- *sizes of the fines imposed on operators, players and any other entities, etc.*

With reference to Task 1, wherever it is possible to establish a credible causal link between the use of a particular enforcement tool and specific effects on the behaviour of operators or players, the Contractor will present any available quantitative data pertaining to these effects, for example what proportions of players unable to access a particular unauthorised website will try to bypass the blocking measure or access another unauthorised website as opposed to switching to an authorised website or deciding not to gamble at all.

2) **Describe and critically evaluate the existing approaches to gathering data on the gambling market as a basis for choosing and monitoring the effectiveness of the enforcement tools:** how it is done, by which entities, what data is prioritised.

As part of this evaluation, the contractor should identify any categories of data which are critical but appear to be missing and recommend how the data should be gathered and used.

If appropriate, the Contractor may make further recommendations relating to steps which would mitigate the challenges associated with the enforcement tools themselves (such as the possibility to bypass blocking measures or barriers to collecting cross-border fines) and thus improve their effectiveness.

Indicative methodology

The methodology will involve at least:

- a review of the relevant literature from authoritative sources;
- a survey of the relevant national authorities in the EEA Member States (the Commission will provide the contact details of the respondents and facilitate contacts with them, so the task of the Contractor will be centred on designing the questionnaire and analysis of the collected data; the survey can be conducted in English);

and

- at least ten in-depth interviews (conducted face-to-face or remotely) of experts representing a mix of relevant fields. These may involve academic or professional experts in the fields of IT, law, criminology, marketing, data and behavioural sciences; national gambling regulatory authorities; associations representing the gambling industry; organisations offering treatment or other assistance to persons suffering from gambling addiction; internet service providers and internet platform providers; organisations representing financial institutions; and law enforcement authorities.

Relevant insights from data science as well as marketing and behavioural research and practice will be key to the task, as will addressing the legal, practical and - where relevant - technological challenges (such as the ability and interest of players to circumvent blocking or difficulties in collecting cross-border fines, etc.). The evidence need not be limited to the gambling sector; tenderers should determine and set out in the tender what they consider to be the best sources of knowledge and data for the purpose at hand.

The methodology may, in addition to the above, involve:

- additional surveys;
- web scraping; or
- other innovative approaches.

If these alternative methods are capable of delivering more accurate and/or relevant information than interviews, so as to justify substituting the alternative method for the interviews, this should be clearly explained in the tender documentation.

The data on the current use of blocking measures should be gathered:

- in the first place, directly from the national authorities responsible for the enforcement activities; and, additionally
- other credible sources (including the tenderers' own data collection) to supplement and/or corroborate the information provided by the regulators.

While basic data should be obtained from all EEA jurisdictions where it is available, the tenderers may propose to carry out additional research in specific selected Member States in order to fulfil the objectives of the study.

The Commission will facilitate contacts with national gambling regulatory authorities. The contractors will have to be prepared to identify and approach other relevant interviewees.

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 the Directive 2014/24/EU.

1.3. REPORTS AND DOCUMENTS

The Contractor is to provide the required reports and documents in accordance with the conditions of the standard service contract appended in Annex 6.2.

The contractor will deliver an **interim report within three months** from the signature of the contract and a **final report within a maximum of 10 months**.

The **interim report** will contain the literature review and preliminary conclusions from desk research, questionnaires for surveys and interviews with a list of interviewees as well as a detailed schedule for the completion of the subsequent stages (in accordance with the methodology presented in the tender).

The interim report must be drafted in English and submitted electronically, in Microsoft Word format to enable the Commission to comment directly in the text.

The Commission will comment or approve the document within 30 days from its receipt.

The **final study report** must include:

- an abstract of no more than 200 words and an executive summary of maximum 6 pages, both in English and French;
- specific identifiers which must be incorporated on the cover page provided by the Contracting Authority;
- the following disclaimer:

“The information and views set out in this study are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission’s behalf may be held responsible for the use which may be made of the information contained therein.”

Requirements for publication on Internet

The Commission is committed to making online information as accessible as possible to the largest possible number of users including those with visual, auditory, cognitive or physical disabilities, and those not having the latest technologies. The Commission supports the Web Content Accessibility Guidelines 2.0 of the W3C.

For full details on the Commission policy on accessibility for information providers, see:

http://ec.europa.eu/ipg/standards/accessibility/index_en.htm

For the publishable versions of the study, abstract and executive summary, the contractor must respect the W3C guidelines for accessible pdf documents as provided at: <http://www.w3.org/WAI/>.

The Commission may take the decision not to disclose certain parts if there is reason to believe dissemination would be against public interest. The Commission will take into account advice of the contractor in this respect. The contractor will be required to provide a separate version of the

final report for publication with any sensitive information removed, in accordance with the Commission's instructions.

Content and structure

The **final report** will set out the quantitative data in an objective and meaningful manner, the results of the qualitative evaluation and recommendations regarding future collection of data and possible optimisation of the enforcement tools. It will also contain, in annex, the transcripts of interviews and other 'raw' evidence.

All findings presented in the report must be based on evidence from **clearly identified authoritative primary and secondary sources**. They must demonstrate advanced technical and legal expertise, the ability to conduct multidisciplinary research, and a sophisticated understanding of the gambling sector. They must be **laid out in a professional and user-friendly format**.

Graphic requirements

The contractor must deliver the study and all publishable deliverables in full compliance with the corporate visual identity of the European Commission, by applying the graphic rules set out in the European Commission's Visual Identity Manual, including its logo. The graphic rules, the Manual and further information are available at:

http://ec.europa.eu/dgs/communication/services/visual_identity/index_en.htm

A simple Word template will be provided to the contractor after contract signature. The contractor must fill in the cover page in accordance with the instructions provided in the template. The use of templates for studies is exclusive to European Commission's contractors. No template will be provided to tenderers while preparing their tenders.

The Commission will comment on or approve the draft final report within 30 days of its receipt.

The Commission will approve the final report in the definitive form or comment on it within 15 days of its reception.

Should the Commission still not consider the final report acceptable, the contractor will be invited to further amend it. In this event, the corresponding liquidated damages may be applicable, following the provisions of Article II.15 of the Contract.

The contractor will meet with the Commission's services in its premises in Brussels for a **kick-off meeting** within 15 working days from the signature of the contract and for a **second meeting** to discuss the draft final report.

Moreover, both the interim report and the final report will be presented to and discussed with the Commission's Expert Group on Gambling Services, the meetings of which may take place in Brussels or another location in the EU. The presence of the contractor is expected at 2 such meetings in order to present the reports and explore with experts the best ways for them to contribute to the study.

The travel expenses associated with those meetings should be included in the proposed budget for the study. They will not be reimbursed separately by the Commission.

1. Technical specifications

The contractor will also provide regular updates to the Commission on the progress of the study as well as signalling and difficulties and delays as they arise.

Time-line	Meetings ⁵	Reports	Approval of reports	Payments
Contract signature	Kick-off meeting (within 15 working days from the signature) EC premises			Pre-financing (30%)
3 months		Interim report		
4 months			Approval of interim report	Interim payment (20%)
Between 3 and 8 months following the meeting planning 2018	Presentation of the interim report during Expert group meeting on Gambling Services			
6 months		Draft final report		
7 months	Second meeting (timing may be subject to change) EC premises		Comments on the draft final report	
7.5 months		Final report	Approval of final report	
Before the end of the contract following the meeting planning (Q3/Q4/2018)	Presentation of the final report during Expert group meeting on Gambling Services			
10 months				Final payment (50%)

⁵ The interim report and the final report will be presented to and discussed with the Commission's **Expert Group on Gambling Services**. The presence of the contractor is expected at a total of 2 such meetings in order to present the reports.

2. CONTRACTUAL CONDITIONS

2.1. NATURE OF THE CONTRACT

Service contract - Evaluation of regulatory tools for enforcing online gambling rules and channelling demand towards controlled offers

2.2. STARTING DATE OF THE CONTRACT AND DURATION OF THE TASKS

The contract shall enter into force on the date on which it is signed by the last contracting party.

The duration of the tasks shall not exceed 10 months.

The execution of the tasks may not start before the contract has been signed. The period of execution of the tasks may be extended, only with the written agreement of the contracting parties, before the end of the period originally stated in the contract.

2.3. TERMS OF PAYMENT

Payments shall be made in accordance with Articles I.4, I.5 & II.21 of the draft service contract (Annex 6.2).

The payment scheme will consist of

- one pre-financing of 30 %,
- 1 interim payment of 20 %
- and the balance of 50 %.

The schedule and the procedure for the approval of payments and the documents to be submitted are described in Articles I.5, II.21, II.22 and II.23 and in Annex I to the draft contract referred to above.

2.4. GUARANTEES

The Contractor may be required to provide a guarantee for pre-financing of 30% of the amount specified under I.4.1 of the contract, in compliance with article II.21.5 of the draft contract. The Commission reserves the right to cancel the pre-financing foreseen, according to its management risk analysis or in the case the awarded tenderer refuses such pre-financing guarantee, and to modify the final version of the contract accordingly.

A model guarantee is provided in annex 6.3 of these tendering specifications.

2.5. PLACE OF PERFORMANCE

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

2.6. SUBCONTRACTING

Subcontracting is defined as the situation where a contract has been or is to be established between the Commission and a contractor and where the contractor, in order to carry out that contract, enters into legal commitments with other legal entities for performing part of the service. However, the **Commission has no direct legal commitment with the subcontractor(s).**

At the level of the liability towards the Commission, tasks provided for in the contract may be entrusted to subcontractors, but **the contractor retains full liability towards the Commission for performance of the contract as a whole.**

Accordingly:

- The Commission will treat all contractual matters (e.g. payments) exclusively with the contractor, whether or not the tasks are performed by a subcontractor;
- The Commission will privilege direct contacts with the contractor, who is responsible for executing the contract;
- Under no circumstances can the contractor avoid liability towards the Commission on the grounds that the subcontractor is at fault. The contractor remains notably fully responsible for timely execution.

A contract which includes subcontracting is subject to certain general conditions in particular the provisions on subcontracting, checks and audits, and confidentiality. Where justified by the subject matter of the contract, a statement of confidentiality may be required to be submitted to the Commission. **The subcontracting arrangement between the contractor and his subcontractor is supposed to render directly applicable all those contractual obligations with regard to the Commission to the subcontractor.**

Consequently, the bid must clearly identify the subcontractor(s) and document their willingness to accept the tasks and their acceptance of the terms and conditions set out in paragraph 3.3, in particular article II.24 of the standard service contract by returning the form in annex 6.5, filled in and signed.

Tenderers must inform the subcontractor(s) and include in their sub-contracting documents that Article II.24 of the standard service contract (Annex 6.2) may be applied to sub-contractors.

Once the contract has been signed, Article II.10 of the above-mentioned service contract shall govern the subcontracting.

Special attention of tenderers is brought to Article II.10.4, according to which the contracting authority may request the contractor to replace a subcontractor found to be in a situation provided for in points (d) and (e) of Article II.18.1.

2.7. JOINT OFFERS

A joint offer is a situation where an offer is submitted by a group of tenderers. If awarded the contract, the tenderers of the group will have an equal standing towards the Commission in executing a supply, service or works contract.

The Commission will not request consortia to have a given legal form in order to be allowed to submit a tender, but reserves the right to require a grouping to adopt a given legal form **before the**

contract is signed if this change is necessary for proper performance of the contract. This can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

The documents required and listed in the present specifications must be supplied by every member of the grouping; the checklist in annex 6.7 will help verifying the level of information to be provided according to the role of each entity in the tender.

Each member of the grouping assumes a joint and several liability towards the Commission.

To this end all members of the grouping should sign a **power of attorney** (see models in annex 6.6). This document must be scanned and included in the offer. For groupings not having formed a common legal entity, model 1 should be used, and for groupings with a legal entity in place model 2.

The expression "joint tender leader" in the e-Submission application is equivalent to "Group Leader" or "Group Manager" in the document of power of attorney.

The offer (Tender Preparation Report) has to be signed by the joint tender leader (hand or electronic signature, as explained in point 1.2 of the Annex to Invitation to Tender: e-Submission application guide).

Partners in a joint offer assume joint and several liability towards the Commission for the performance of the contract as a whole.

Statements, saying for instance: "that one of the partners of the joint offer 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 Commission will disregard any such statement contained in a joint offer, and reserves the right to reject such offers without further evaluation, on the grounds that they do not comply with the tendering specifications.

<p>An economic operator can only participate once as a tenderer, whether as sole tenderer, leader in a joint tender or partner in a joint tender. The economic operator may however agree to act as a subcontractor in a distinct bid from which it is participating as either of the aforementioned options. However, such a situation is not advisable for the high potential of conflicts of interest it may generate.</p>

3. ADMINISTRATIVE INFORMATION CONCERNING THE INVITATION TO TENDER

These specifications follow the publication of a contract notice in OJ S.

3.1. DATE AND PLACE OF OPENING OF THE TENDERS

The received electronic tenders will be opened at *14:00* on *14/09/2017*

at the following location:

Office address:

DG GROWTH
Avenue de Nerviens, 105 (meeting room 02/080)
1049 Brussels, Belgium

An **authorised representative** of each tenderer may attend the opening of the bids. Companies wishing to attend are requested to notify their intention by sending an e-mail to GROW-GAMBLING@ec.europa.eu at least 48 hours in advance. This notification must be signed by an authorised officer of the tenderer and specify the name of the person who will attend the opening of the bids on the tenderer's behalf. **On the day of opening the representatives of tenderers should present the tender receipt confirmation sent by e-Submission application in order to be allowed to the opening meeting.**

The economic operators who submitted an offer and whose representative was not present at the opening meeting may send an information request to GROW-GAMBLING@ec.europa.eu will be informed per e-mail if their offer was admissible as well as of the identity of the other tenderers

3.2. CONTACT BETWEEN THE TENDERER AND THE COMMISSION

Contacts between the Commission and the tenderers may take place only in **exceptional circumstances** and under the following conditions only:

Before the final date for submission of tenders:

- Upon request, the contracting authority may provide additional information solely for the purpose of clarifying the procurement documents.
- Any request for additional information must be made in writing only through the e-Tendering website at <https://etendering.ted.europa.eu/cft/cft-display.html?cftId=2594> in the "questions and answers" tab, by clicking "create a question".
- The contracting authority is not bound to reply to requests for additional information received less than six working days before the final date for submission of tenders.

3. Administrative information concerning the invitation to tender

- The contracting authority may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other type of clerical error in the text of the procurement documents.
- Any additional information including that referred to above will be posted on the e-Tendering website indicated above. The website will be updated regularly. It is the responsibility of the tenderer to check regularly for updates and modifications during the submission period.

After the opening of tenders :

- The Commission shall contact the tenderer in order to correct obvious clerical errors or to require confirmation of a specific or technical element, except in duly justified cases. This shall not lead to changes in the procurement documents or substantial changes to the terms of the submitted tender.

3.3. GENERAL TERMS AND CONDITIONS FOR THE SUBMISSION OF TENDERS

The present procurement documents are drawn up in respect of the Financial Regulation applicable to the general budget of the European Union (Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union, as amended by Regulation (EU, Euratom) No 2015/1929 of the European Parliament and the Council of 28 October 2015., as well as its Rules of Application (Commission Delegated Regulation (EU, Euratom) No 1268/2012 of 29 October 2012, amended by Commission Delegated Regulation (EU) C(2015)7555 of 30 October 2015.

Participation in procurement procedures is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in a third country which has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. It is also open to international organisations.

Where the Plurilateral Agreement on Government Procurement (GPA) concluded within the WTO applies, the contracts are also open to nationals of the countries that have ratified this Agreement, on the conditions laid down therein.

The parties to the GPA can be consulted on the following web page:
https://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm.

Operators in third countries which have signed a bilateral or multilateral agreement with the European Union in the field of public procurement must be allowed to take part in the tendering procedure on the conditions laid down in this agreement. The Commission refuses tenders submitted by operators in third countries which have not signed such agreements for the present call for tender.

Submission of a tender implies acceptance of the terms and conditions set out in the procurement documents and, where appropriate, waiver of the tenderer's own general or specific terms and conditions. It is binding on the tenderer to whom the contract is awarded for the duration of the contract.

Once the Commission has accepted the tender, it shall become the property of the Commission and the Commission shall treat it confidentially.

3. Administrative information concerning the invitation to tender

The Commission shall not reimburse expenses incurred in preparing and submitting tenders.

The Protocol on the Privileges and Immunities or, where appropriate, the Vienna Convention of 24 April 1963 on Consular Relations shall apply to this invitation to tender.

Variants are not allowed.

3.4. NO OBLIGATION TO AWARD THE CONTRACT

This invitation to tender is in no way binding on the Commission. The Commission's contractual obligation commences only upon signature of the contract with the successful tenderer.

Up to the point of signature, the contracting authority may cancel the award procedure. This decision must be substantiated and the tenderers notified.

No compensation may be claimed by tenderers whose tender has not been accepted, including when the Commission decides not to award the contract.

3.5. DATA PROTECTION

If processing your reply to the invitation to tender involves the recording and processing of personal data (such as your name, address and CV), such data will be processed pursuant to Regulation (EC) No 45/2001 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. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate your tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by the European Commission, Grow E2. Details concerning processing of your personal data are available on the privacy statement at the page http://ec.europa.eu/dataprotectionofficer/privacystatement_publicprocurement_en.pdf.

You are informed that for the purposes of safeguarding the financial interest of the Union, your personal data may be transferred to internal audit services, to the Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF).

Your personal data may be registered in the Early Detection and Exclusion System (EDES) if you are in one of the situations mentioned in Article 106 of the Financial Regulation. For more information, see the Privacy Statement on http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm)

3.6. OPPORTUNITIES FOR SMALL AND MEDIUM SIZED ENTERPRISES

The Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs has the task to promote opportunities for Small and Medium sized Enterprises (SMEs) and is aiming in its activities to facilitate the activities of SMEs. In this context, **SMEs are particularly encouraged to submit tenders** either on its own if feasible or by constituting a bid using either of the options mentioned in paragraphs 2.6 and 2.7.

3. Administrative information concerning the invitation to tender

The **Enterprise Europe Network** provides advice on tender opportunities and training in relation to procurement, which may be of assistance to newly initiated tenderers. Please refer to the following web-site for further details:

<http://een.ec.europa.eu/content/advice-eu-law-and-standards>

The Commission has further published a brochure on "Doing business with the European Commission – Tips for potential contractors":

http://ec.europa.eu/budget/library/biblio/publications/business/doing_business_en.pdf

4. FORM AND CONTENT OF THE TENDER

4.1. HOW TO SUBMIT A TENDER

Tenderers shall observe precisely the indications in point 1 and 2 of the invitation to tender, as well as in the Annex to Invitation to tender: "e-Submission application guide" in order to ensure their tenders are admissible. **Only electronic submission through e-Submission application is allowed for this call.**

Offers sent on paper, by e-mail or by fax will be non-admissible.

Evidence of timely receipt will be constituted by the timestamp in the tender receipt confirmation which will be sent to your e-Submission mailbox.

Receipt after the deadline will lead to the non-admissibility of the tender and its rejection from the award procedure for this contract.

4.2. STRUCTURE OF THE TENDER

- Tenders shall be perfectly legible so there can be no doubt as to words and figures.
- Tenders shall be clear and concise.
- Tenders shall be written in one of the official languages of the European Union.
- Tenders shall include the information and documents requested by the Commission in order to assess the tender. In order to help tenderers presenting a complete tender, a checklist of the documents to be submitted is provided in annex 6.7. This checklist does not need to be included in the tender, but it is encouraged to use it in order to ease the assessment of the tenders;
- Prices shall be established in euros.

All tenders must be submitted using the eSubmission application and shall contain all the following information:

4.2.1. Administrative information

Tenderers may choose between presenting a **joint bid** (see 2.7) and introducing a bid as a **sole economic operator**, in both cases with the possibility of having one or several subcontractors (see 2.6).

Whichever type of bid is chosen, the tender shall stipulate the legal status and role of each legal entity in the tender proposed and the monitoring arrangements that exist between them and, failing this, the arrangement they foresee to establish if they are awarded the contract (see 2.6 and 2.7).

A. In the e-Submission application, the tenderers should fill out the required information (Identification info, Registration info, Fiscal info, Contact info, Powers of representation), according to the type of bid. The information has to be completed for all entities participating in the bid, including subcontractor.

In addition, to identify himself the tenderer must fill in a Legal Entity Form and a Financial Identification Form:

B. **The Legal Entity Form** shall be duly filled in and signed by a representative of the tenderer authorised to sign contracts with third parties.

A standard template in each EU language is available at http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

The Legal Entity Form **shall be accompanied** with **the information** indicated in the form. When neither this form nor the evidence to be attached to them includes the following information, the tender must include:

For private and public entities:

- 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, where the legislation which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.

For Individuals:

- Where applicable, a proof of registration, as prescribed in the country of residence, on one of the professional or trade registers or any other official document showing the registration number.

In case of a joint bid, all tenderers part of a joint tender must provide their legal entity files as well as the necessary evidence. For subcontractors a legal entity file shall be submitted, without evidence.

C. **The Financial identification form** shall be duly filled in and signed by an authorised representative of the tenderer and his or her banking institution, where the references account is held.

The form needs to be printed, filled in, signed and then scanned and uploaded in the eSubmission application.

The form is available on:

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

In case of a joint bid or a bid presenting subcontracting, only the leader is obliged to return the financial identification form (i.e. for a joint tender only one financial identification from the leading tenderer is required).

Economic operators already registered as a legal entity in the Commission (i.e. they are or have been contractors of the Commission) may refer to evidence provided for other procedures. In that end, the tender should indicate the references of the procedure concerned and the Commission department to which this evidence was provided.

4.2.2. The Exclusion and Selection Criteria Form

Tenderers or their representatives shall provide a declaration on their honour, duly signed and dated in which they:

1. state whether or not they are in one or more of the situations referred to in Articles 106 and 107 of the Financial Regulation and detailed in the form;
2. state whether they fulfil the selection criteria
3. undertake to submit to the Commission any additional document relating to the exclusion/selection criteria, that the Commission considers necessary to perform its checks, within fifteen calendar days following the receipt of the Commission's request.

To this end, tenderers must fill in and sign the form in Annex 6.1 to these specifications.

The declaration(s) shall be signed by an authorised representative either with advanced electronic signature based on qualified certificates or by scanning and uploading a hand signed copy.

If the declaration on honour is signed by hand, the original declaration must also be sent by post immediately after electronic submission of the tender.

Where the bid involves more than one legal entity (including subcontractors), each entity must provide the form.

4.2.3. Evidence relating to the selection criteria

Tenderers shall provide proof of their economic and financial capacity by submitting the documents stated under paragraph 5.2.2 below. In case of a joint tender/tender with subcontractors, the documents concerning each economic operator shall be submitted under the respective party name.

Tenderers shall equally provide the proof of their capacity to pursue professional activity and their professional and technical capacity by submitting the documents required under paragraph 5.2.3 below.

If evidence has already been provided for another procurement procedure and if the documents are up to date, reference can be made to the earlier procedure. The declaration on honour stating the reference of the procedure and the confirmation that there has been no change in the situation must be uploaded in the eSubmission application.

4.2.4. Technical proposal

The technical proposal needs to be uploaded in the step "Tender Data" of the wizard of the e-Submission application.

The tenderer must select the "Technical Tender" from the dropdown box ("Financial Tender or Technical Tender"). The e-Submission application allows attachment of as many documents as necessary.

Tenderers shall include in their bids a **technical proposal addressing the aspects detailed in the technical specifications** in section 1.1.

The technical proposal shall comply with the technical specifications and provide, as a minimum, the information specifically requested.

The following aspects should in particular be taken into consideration when drafting the tender:

- (a) methodology for implementation;
- (b) reasons for the proposed methodology;
- (c) where applicable, the link with previous activities and how they relate to the present tender;
- (d) project management and procedures for internal evaluation;
- (e) level of involvement and activity of other stakeholders;
- (f) role of each partner in case of a joint bid and/or use of subcontractors, the role of each partner and subcontractor in the implementation of the contract;
- (g) team proposed for implementation of the contract. The composition of the team, which will be implementing the project must be properly described. Team staff should be singled out by function (E.g. project managers, administrator, secretary, expert, technical assistant);
- (h) a plan of action with description of activities and their timing.

Due consideration should be given to the award criteria and method as stipulated under section 5.3 in this document.

Please note that, to grant equal treatment of all tenders, **it is not possible to modify offers after their submission in relation to the technical and financial proposals.**

Please note that incomplete financial or technical proposals may have a considerable negative impact the evaluation on award criteria. Proposals deviating from the technical specifications risk to be considered as non-conform to the specifications.

The technical specifications and the tenderer's bid shall be integral parts of the contract and will constitute annexes to the contract.

4.2.5. Financial proposal

A complete financial proposal, including the breakdown of the price, to be provided per category, as indicated in the tender specifications needs to be uploaded in the eSubmission application.

The total price (including any options and renewals) needs also to be encoded directly in the e-Submission application.

Tenderers must use the following format to formulate their financial proposal

<i>Price component</i>	<i>Unit price</i>	<i>Quantity</i>	<i>Total</i>
Human resources			
Person X (role)			
Person Y (role)			
.....			
Subtotal (1)			
Other			
Item X			
Item Y			
.....			
Subtotal (2)			
TOTAL (1+2)			

The tenderer's attention is drawn to the following points:

- (1) prices must be expressed in euros;
- (2) **prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT.** The European Union Institutions are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union of 8 April 1965 (OJ 152 of 13 July 1967). Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption.

For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT is to be shown separately. In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Union is exempt from VAT;

- (3) Prices shall not be conditional and be directly applicable by following the technical specifications.
- (4) **Prices shall be** fixed and not subject to revision
- (5) The reference price for the award of the contract shall consist of the amount in payment of the tasks executed, as stated in Article I.4.1 of the contract.

For each category of staff to be involved in the project, the tenderer must specify:

- the total labour costs;
- the **daily rates** and **total number of days** (man-days) each member of staff will contribute to the project;
 - other categories of costs, indicating the nature of the cost, the total amount, the unit price and the quantity. Flat-rate amounts should be avoided. If, exceptionally, they are used, specimen quotations for the flat-rate amounts must be provided;
- Meetings with the Commission:

The Contractor will be required to attend 4 meetings:

- a kick-off meeting and a second meeting in the Commission premises. The Contractor will be required to draft the minutes of the meeting and send them to the Commission for approval.
- representation during 2 Expert Group on Gambling Services meetings The Contractor will be able to clarify any point linked to the project that could be raised by the Commission.

All meetings and meeting reports will be in English.

Travel and subsistence expenses to participate to all meetings are to be included in the global amount of the tender (fixed price). No reimbursable expenses are foreseen under this contract.

Bids involving more than one legal entity must specify the amounts for each legal entity.

The Commission will reject tenders where no technical offers or financial offers are proposed. Non-compliance with the minimum requirements in section 1.1 will also result in rejection from award.

The Commission reserves the right, however, to request clarification of the tender after the opening. It may furthermore require (additional) evidence in relation to the administrative information, exclusion and selection criteria. The information required shall be provided within a time-limit stipulated in its request and under the conditions explained in section 3.3.

5. ASSESSMENT AND AWARD OF CONTRACT

The assessment will be based on the information provided in the tender. The Commission reserves the right to use any other information from public or specialist sources. This assessment will be performed by applying the criteria set out in these specifications. To award the contract, the assessment of admissible bids (see paragraph 1 of the Invitation to tender) will be carried out under exclusion, selection and award criteria in no particular order.

The aim of this assessment is:

- (1) to verify compliance with the exclusion criteria as defined in article 106 and 107 of the Financial Regulation, in order to determine whether the tenderer can take part in the procedure and, where applicable, be awarded the contract;
- (2) to verify compliance with the selection criteria, technical and professional capacity and economic and financial capacity required by these specifications;
- (3) to verify compliance with the minimum requirements specified in the tender documents and to assess the technical and financial offer in relation to the award criteria, including compliance with the quality thresholds set in these specifications.

5.1. APPLICATION OF EXCLUSION CRITERIA AND EXCLUSION OF TENDERERS

5.1.1. Declaration

As mentioned above under paragraph 4.2.2, tenderers or their representatives shall provide the form in Annex 6.1 duly signed and dated in which they declare:

1. not to be in one or more of the situations referred to in Articles 106 and 107 of the Financial Regulation and detailed in the form;
2. to undertake to submit to the Commission any additional document relating to the exclusion criteria, that the Commission considers necessary to perform its checks, within 15 days following the receipt of the Commission's request.

5.1.2. Grounds for disqualification

In accordance with Article 107 of the Financial Regulation, a contract for a given procedure may not be awarded to an economic operator who:

- is in an exclusion situation established in accordance with Article 106;
- has misrepresented the information required as a condition for participating in the procedure or has failed to supply that information;
- was previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise.

5.1.3. Evidence

The Commission may decide to check information in relation to one or several exclusion criteria indicated in the declaration on oath, after the time limit to submit tenders. The tenderer may be

required to provide the evidence listed below in a time limit the Commission will specify in its request:

The Commission may waive the obligation of a tenderer to submit the documentary evidence referred to above 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. In such a case, the tenderer shall declare on his honour that the documentary evidence has already been provided to the Commission in a previous procurement procedure and confirm that no changes in his situation have occurred. He shall indicate in its tender all the references necessary to allow the Commission services to check this evidence.

You may refer to the e-Certis web-site listing the certificates available in EU Member States:

<http://ec.europa.eu/markt/ecertis/login.do>

5.2. APPLICATION OF SELECTION CRITERIA (SELECTION OF TENDERERS)

This part of the tender concerns the criteria and evidence relating to the technical and professional capacity and economic and financial capacity of the service provider(s) involved in the bid. It should also contain any other document that the tenderer(s) wish(es) to include by way of clarification.

An economic operator may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. In that case, evidence must be provided that it will have at its disposal the resources necessary for performance of the contract, for example by producing a clear undertaking on the part of those entities to place those resources at its disposal.

If the economic and financial selection criteria are fulfilled by relying on a third party, the contracting authority may demand, if that tender wins the contract, that this third party signs the contract (becomes a contractor) or, alternatively, provides a joint and several first-call guarantee.

If the third party chooses to sign the contract, the contracting authority should ensure that it is not in exclusion situation and it has access to the market.

If several service providers are involved in the bid, each of them must have the professional and technical capacity to perform the tasks assigned to them in the tender and have the necessary economic and financial capacity.

This rule applies to all legal entities once they have chosen to be tenderers. If the tender includes subcontractors, the Commission reserves the right to request evidence of their economic and financial capacity, where the tasks subcontracted represent a substantial part of the contract.

5.2.1. Selection criteria

<u>SELECTION CRITERIA</u>
1. FINANCIAL AND ECONOMIC CAPACITY
<p>1.1 Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract.</p> <p>1.2 Sufficient financial capacity in relation to the pre-financing foreseen under the contract.</p> <p>1.3 Reliability of the mitigating measures presented to cover possible deficiencies in the evidence presented for the above criteria.</p>
2. TECHNICAL AND PROFESSIONAL CAPACITY
<p>The team proposed by the tenderer shall meet all of the following criteria as a whole, each member of the team fulfilling at least one of the following:</p> <p>2.1 Have a minimum 3 years' specific professional and/or academic experience indicative of a nuanced understanding of the online gambling market and its regulation, including the differences between various jurisdictions [Expert in online gambling]</p> <p>2.2 Have a minimum 3 years' specific professional and/or academic experience leading to sophisticated knowledge of relevant information technologies, with the capacity of advising and designing procedures for non-experts [IT expert].</p> <p>2.3 Hold a university degree or equivalent in law or criminology with experience in legal practice and/or research in the area of criminal enforcement on international scale [Legal expert].</p> <p>2.4 Have a minimum 2 years' experience in managing projects of comparable scale and scope of the present one [Project Manager].</p> <p>All the criteria must be verifiable.</p>

These criteria will be assessed on the basis of the documents referred to in 5.2.2 and 5.2.3.

5.2.2. Evidence of the economic and financial capacity of the service provider(s)

All tenderers shall provide proof of their economic and financial capacity by submitting the following documents:

- a) A full copy of the concerned legal entities' annual accounts (balance sheet, profit and loss account, notes on the accounts and auditors' remarks when applicable) of the last two years, as approved by the general assembly of the company and, where applicable, audited and/or published. These documents must be signed by the authorised representative of the tenderer;
- b) Alternatively to a), by filling Annex 6.4, consisting of an extract of the concerned legal entities' annual accounts (balance sheet, profit and loss account, notes on the accounts and auditors' remarks when applicable) of the last two years, as approved by the general assembly of the company and, where applicable, audited and/or published. These documents must be signed by an authorised representative of the tenderer.
- c) a statement of overall turnover and turnover concerning the tasks, supplies or services covered by this contract for the last three financial years;
- d) Appropriate statements from banks or evidence of professional risk indemnity insurance, for legal entities facing the impossibility to fully present evidence a).

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

The Commission may waive the obligation of a tenderer to submit the documentary evidence referred to in paragraph 1 if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that it complies with the requirements of the present call for tenders. In such a case, the tenderer shall indicate in the tender reference to the contract and Commission service for which the evidence has been provided, in order to allow the Commission services to check this evidence.

5.2.3. Evidence of the technical and professional capacity of the service provider(s)

The ability of service providers to perform services will be assessed in particular with regard to their know-how, efficiency, experience and reliability as specified in paragraph 5.2.1.

Evidence of the technical and professional capacity of the providers involved in the tender may be furnished on the basis of the curriculum vitae detailing the educational and professional qualifications of each member of the proposed team. Each proposed team member should fill in and sign the Europass curriculum vitae format (<http://europass.cedefop.europa.eu/en/documents/curriculum-vitae>). The precise contractual link with the tenderer will also be described. Each CV should indicate the intended function in the delivery of the service.

This evidence refers to selection criteria 2.1 to 2.4.

With reference to selection criterion 2.4, the contractor shall provide a list of the services carried out in the last three years, with the sums, dates and place. The list of the most important services shall be accompanied by certificates of satisfactory execution;

By submitting a tender, each legal entity involved therein accepts the possibility of a check being carried out by the Commission on its technical capacities and, if necessary, on its research facilities and quality control measures.

In addition, all tenderers are informed that they may be asked to prove that they are authorised to perform the contract under national law, as evidenced by inclusion in a professional or trade register, by a sworn declaration or certificate, by membership of a specific organisation, by express authorisation, or by entry in the VAT register.

5.3. APPLICATION OF AWARD CRITERIA (ASSESSMENT OF TENDERS)

The contract will be awarded to the tender offering the **best price-quality ratio**. The following award criteria will be applied:

5. Assessment and award of contract

No	Qualitative award criteria	Weighting (maximum points)
1.	Pertinence, innovativeness and rigour of the proposed methodology for gathering the quantitative and qualitative data relevant to this project	60 points
2.	Quality of the work programme with respect to: - allocation of tasks within the team; - a realistic timetable based on a balanced and consistent method of work, including identification of risks of delay and a robust strategy for responding to them; and - ensuring on-going contact with the Commission.	20 points
3.	Quality control measures to ensure: - the accuracy of the information contained in the final report, as well as - its professional presentation, including in particular with respect to the language quality check. The quality system should be detailed in the tender and specific to the tasks at hand; a generic quality system will result in a low score.	20 points
Total number of points		100

The selected tender is assessed according to the above qualitative award criteria and the weighting applicable to each criterion.

Tenders scoring

**** less than 70 % in the overall points total or***

**** less than 50% in the points awarded for a single criterion***

will be excluded from the rest of the assessment procedure.

Price Award criterion

Total price

Tenders presenting a total price superior to the maximum amount of 150 000 € will be excluded from the rest of the assessment procedure.

Final Evaluation
Final score for tender X = (technical quality score [x70%]) + (financial score [x30%]) <i>Where the "Financial score" = (lowest total price of the tenders having passed the quality threshold/total price of the tender being considered)x100</i>

Tenders 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, may result in a significantly lower score. Where essential elements of these specifications are not expressively covered by the tender, the Commission may decide to give a zero mark for the relevant qualitative award criteria.

The tender may be rejected as non-compliant, when the minimum requirements set in the specifications are not met.

5.4. INFORMATION FOR TENDERERS

The Commission will notify all tenderers of decisions reached concerning the outcome of the procedure, indicating the grounds on which the decision was taken. This also applies to a decision not to award a contract or to cancel the procedure.

The Commission will inform the rejected tenderers of the reasons for their rejection. Each tenderer who is not in an exclusion situation and whose tender is compliant with the procurement documents and who makes a request in writing, shall be informed of the characteristics and relative advantages of the selected tender, of the name of the successful tenderer and of the price or contract value.

However, certain information may be withheld where its release would impede law enforcement or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

5.5. AWARD OF THE CONTRACT

The procurement procedure is concluded by a contract signed by the parties. In this case, the General Terms and Conditions applicable to service contracts referred to above shall apply.

After the period of validity of the tender has expired, conclusion of the contract shall be subject to the tenderer's agreement in writing.

6. ANNEXES

ANNEXES

6.1. Exclusion and selection criteria form (Invitation to tender No 641/PP/GRO/IMA/17/1131/9610)

[This form is mandatory]

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

**Declaration on honour on
exclusion criteria and selection criteria**

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

(1) 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 irregularity, the applicant is subject to: <ul style="list-style-type: none"> 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; ii. non-final administrative decisions which may include disciplinary 	<input type="checkbox"/>	<input type="checkbox"/>

measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;		
iii. decisions of the ECB, the EIB, the European Investment Fund or international organisations;		
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		
v. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.		

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

(2) 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

(3) 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

(4) 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

(5) declares that the above-mentioned person complies with the selection criteria applicable to it individually as provided in the tender specifications:	YES	NO	N/A
(a) It fulfills the applicable economic and financial criteria indicated in section 5.2.1 of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable technical and professional criteria indicated in section 5.2.1 of the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(6) if the above-mentioned person is the sole tenderer or the leader in case of joint tender , declares that:	YES	NO	N/A
(c) 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

6.2. DRAFT SERVICE CONTRACT

Please see document annexed

6.3. MODEL GUARANTEE

[MODEL] LETTER FOR PRE-FINANCING FIRST DEMAND GUARANTEE⁶

[Financial institution/Bank (Letterhead)]
[Place/Date]

European Community
Represented by the European Commission
Directorate-General for Internal Market, Industry,
Entrepreneurship and SMEs – [Unit]
B – 1049 Belgium

Reference: Contract [N° and exact title]

ARTICLE 1 – DECLARATION ON GUARANTEE, AMOUNT AND PURPOSE

We, the undersigned [name and address of the financial institution or bank] (hereinafter referred to as "the Guarantor") hereby confirm that we give the European Union, represented by the European Commission (hereinafter referred to as "the Commission"), an unconditional, irrevocable and independent first-demand guarantee consisting in the undertaking to pay to the Commission a sum equivalent to the amount of:

EUR [in figures: ...] (in words: ... EUR)

upon simple demand, for guarantee of the pre-financing(s) stipulated in the contract (N°/exact title, hereinafter referred to as the "contract") concluded between the Commission and [name and address], (hereinafter referred to as "the Contractor").

ARTICLE 2 – EXECUTION OF GUARANTEE

If the Commission gives notice that the Contractor has for any reason failed to reimburse pre-financings paid by the Commission, we, acting by order and for account of the Contractor, shall undertake to immediately pay up to the above amount, in EUR, without exception or objection, into [Option 1: *a bank account designated by the Commission*] [Option 2: *the following bank account: (...)*], on receipt of the first written request from the Commission sent by registered letter or by courier with acknowledgement of receipt. We shall inform the Commission in writing as soon as the payment has been made.

ARTICLE 3 – OBLIGATIONS OF THE GUARANTOR

1. We waive the right to require exhaustion of remedies against the Contractor, any right to withhold performance, any right of retention, any right of avoidance, any right to offset, and the right to assert any other claims which the Contractor may have against the Commission under the contract or in connection with it or on any other grounds.
2. Our obligations under this guarantee shall not be affected by any arrangements or agreements made by the Commission with the Contractor which may concern his obligations under the contract.

⁶ The footnotes are internal instructions for the authorising officers only and must be deleted before the guarantee is signed.
[Plain text]: items to be filled in. [*Text in italics*]: these items are optional and may be deleted depending on the context of the guarantee.

3. We shall undertake to immediately inform the Commission in writing, by registered letter or by courier with acknowledgement of receipt, in the event of a change of our legal status, ownership or address.

ARTICLE 4 – DATE OF ENTRY INTO FORCE

This guarantee shall come into force upon its signature. If, on the date of its signature, the [first] pre-financing has not been paid to the Contractor, this guarantee shall enter into force on the date on which the Contractor receives the [first] pre-financing.

ARTICLE 5 – END DATE AND CONDITIONS OF RELEASE

1. We may be released from this guarantee only with the Commission's written consent.
2. This guarantee shall expire on return of this original document by the Commission to our offices by registered letter or by courier with acknowledgement of receipt.
3. [Option 1: *This must occur at the latest one month after the payment of the balance under the contract has been made or three months after the issuance of the corresponding recovery order.*⁷]

[Option 2: *This must occur at the latest during the month after the pre-financing under the contract has been cleared through interim payment[s].*]

[Option 3: *This must occur in any case, at the latest, on (indicate a precise date*⁸*).*]

4. After expiry, this guarantee shall become automatically null and void and no claim relating thereto shall be receivable for any reason whatsoever.

ARTICLE 6 – APPLICABLE LAW AND COMPETENT JURISDICTION

Option 1

1. *This guarantee shall be governed by and construed in accordance with the law applicable to the contract.*
2. *The courts having jurisdiction for matters relating to the contract shall have sole jurisdiction in respect of matters relating to this guarantee.*

Option 2

Any dispute concerning this guarantee shall be governed by and construed in accordance with the Law [of the country of establishment of the [Contractor][Bank]] and fall within the sole competence of the [corresponding national] Courts.

ARTICLE 7 - ASSIGNMENT

The rights arising from this guarantee may not be assigned [*without our written consent*].

⁷ In any case, this period should never be reduced.

⁸ This mention has to be inserted where the law applicable to the guarantee imposes a precise expiry date.

Done at [insert place], on [insert date]

[Signature/
Function at the Financial Institution/Bank]

[_____]
[Signature/
Function at the Financial Institution/Bank]

**6.4. FINANCIAL AND ECONOMIC CAPACITY OVERVIEW FORM (INVITATION TO TENDER
No 641/PP/GRO/IMA/17/1131/9610)**

Financial and Economic Capacity Overview			
Currency : <i>EURO</i>		Figures (000)	
	N* (* most recent figures available)	N-1	N-2
Total Balance Sheet			
TRADE DEBTORS <i>Amounts due by commercial customers</i>			
CAPITAL and RESERVES (Equity) <i>Amounts owned by the company</i>			
TRADE CREDITORS <i>Amounts due to commercial suppliers</i>			
SHORT TERM DEBT			
LONG TERM DEBT			
LIQUIDITY <i>Bank accounts, cash at hand</i>			
<u>About PROFIT & LOSS</u>			
TURNOVER			
ORDINARY RESULT			
EXTRAORDINARY RESULT			
INCOME TAX			
NET RESULT			

You may add any data that you would consider of vital relevance for your organisation and for the understanding of the above figures.

Comments: Please explain BRIEFLY important variations from one year to another if appropriate. In case of negative equity or repeated losses, please explain how the future of the organisation will be ensured.

6.5. SUBCONTRACTOR / LETTER OF INTENT 641/PP/GRO/IMA/17/1131/9610

Evaluation of regulatory tools for enforcing online gambling rules and channelling demand towards controlled offers

The undersigned:

Name of the company/organisation:

Address:

Declares hereby the intention to collaborate in the execution of the tasks subject to the above call for tender, in accordance with the terms of the offer to which the present form is annexed, if the contract is awarded to *(name of the tenderer)*.

Declares hereby accepting the general conditions attached to the tendering specifications for this call for tender, and in particular art. II.24 in relation with checks and audits.

Full name	Date	Signature
.....		

6.6. POWER OF ATTORNEY

POWER OF ATTORNEY – MODEL 1

Agreement / Power of Attorney

(DESIGNATING ONE OF THE COMPANIES OF THE GROUP AS LEADER AND GIVING A MANDATE TO IT)

We the undersigned:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
-
- Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY AGREE AS FOLLOWS:

In case the European Commission awards Contract (« **the Contract** ») to Company 1, Company 2, ..., Company N (« **the Group Members** »), based on the joint offer submitted by them on for the supply of and/or the provision of services for ... (« **the Supplies and/or the Services** »).

(1) As co-signatories of the Contract, all the Group Members:

- (a) Shall be jointly and severally liable towards the European Commission for the performance of the Contract.
- (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.

(2) To this effect, the Group Members designate Company X as **Group Leader**. *[N.B.: The Group Leader has to be one of the Group Members]*

(3) Payments by the European Commission related to the Supplies or the Services shall be made through the Group Leader's bank account .*[Provide details on bank, address, account number, etc.].*

(4) The Group Members grant to the Group Leader all the necessary powers to act on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks:

- (a) The Group Leader shall sign any contractual documents—including the Contract, **[Specific Agreements]** and Amendments thereto—and issue any invoices related to the Supplies or the Services on behalf of the Group Members.
- (b) The Group Leader shall act as single point of contact for the European Commission in connection with the Supplies and/or the Services to be provided under the Contract. It shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the European Commission's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the European Commission in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in on

Name

Function

Company

Name

Function

Company

Name

Function

Company

Name

Function

Company

POWER OF ATTORNEY – MODEL 2

Agreement / Power of Attorney

(CREATING THE GROUP AS SEPARATE ENTITY, APPOINTING A GROUP MANAGER AND GIVING A MANDATE TO HIM/HER)

We the undersigned:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
-
- Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY AGREE AS FOLLOWS:

In case the European Commission awards Contract (« **the Contract** ») to Company 1, Company 2, ..., Company N (« **the Group Members** »), based on the joint offer submitted by them on for the supply of and/or the provision of services for ... (« **the Supplies and/or the Services** »).

(1) As co-signatories of the Contract, all the Group Members:

- (a) Shall be jointly and severally liable towards the European Commission for the performance of the Contract.
- (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.

(2) To this effect, the Group Members have set up under the laws of the Group (« **the Group** »). The Group has the legal form of a [*Provide details on registration of the Group: VAT Number, Trade Register, etc.*].

(3) Payments by the European Commission related to the Supplies or the Services shall be made through the Group's bank account . [*Provide details on bank, address, account number, etc.*].

(4) The Group Members appoint Mr/Ms as **Group Manager**.

(5) The Group Members grant to the Group Manager all the necessary powers to act alone on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks :

- (a) The Group Manager shall sign any contractual documents—including the Contract, **[Specific Agreements]** and Amendments thereto—and issue any invoices related to the Supplies or the Services on behalf of the Group Members.
- (b) The Group Manager shall act as single point of contact for the European Commission in connection with the Supplies and/or the Services to be provided under the Contract. He/she shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the European Commission's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the European Commission in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in on

Name

Function

Company

Name

Function

Company

Name

Function

Company

Name

Function

Company

6.7. CHECKLIST OF DOCUMENTS TO BE SUBMITTED IN THE E-SUBMISSION APPLICATION

The purpose of the table below is to facilitate the preparation of the tender by providing an overview of the documents that must be included (marked by ■) depending on the role of each economic operator in the tender (joint tender leader in joint bid, partner in joint bid, sole tenderer, subcontractor).

Some of the documents are only relevant in cases of joint bids or when subcontractors are involved. Additional documents might be necessary depending on the specific characteristics of each tender.

Description	Joint tender leader in joint bid	Partners in joint bid	Sole tenderer	Sub-contractor(s)
Power of attorney of partners in joint bid indicating the group leader (see annex 6.6)		■		
Letter of intent of subcontractor (see annex 6.5)				■
Legal Entity Form (see section 4.2.1)	■	■	■	■
Supporting documents for the Legal Entity File Form	■	■	■	
Financial Identification form (see section 4.2.1)	■		■	
Exclusion and selection Criteria form (see section 5.1.1 and annex 6.1)	■	■	■	■
Evidence of Economic and financial capacity (see section 5.2.2 and annex 6.4)	■	■	■	
Evidence of Technical and professional capacity (see section 5.2.3) Go to the following page to fill in the CV: http://europass.cedefop.europa.eu/en/documents/curriculum-vitae	■	■	■	■
<i>Evidence of capacity to pursue the professional activity (see section 5.2.4)</i>	■	■	■	■

The following sections must be provided in the bid, their absence would mean rejection of the bid for incompleteness:

Description	Joint tender leader or sole tenderer
Technical Offer (see section 4.2.4 and 1.)	■

Financial Offer (see section 4.2.5)	■
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Once all information and documents have been encoded and uploaded in the e-Submission application and you consider that the tender is complete, the application will require you to download the Tender Report generated by the e-Submission application. It will have to be signed (hand signature or electronic signature) and uploaded, as explained in point 1.2 of the Annex: e-Submission application guide.

Description	Joint tender leader in joint bid	Partners in joint bid	Sole tenderer	Sub-contractor	Where to upload a document in e-Submission
Tender Preparation Report	■		■		In Step "Tender Report" of the e-Submission wizard