



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR EDUCATION, YOUTH, SPORT AND CULTURE

Culture and Creativity
Creative Europe

European Commission

Call for tenders EAC/2020/OP/0007-

**Platform for the Cross-border Distribution of European
Performing Arts Works**

Open procedure

TENDER SPECIFICATIONS

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1. SCOPE AND DESCRIPTION OF THE PROCUREMENT

1.1. Contracting authority: who is the buyer?

This call for tenders is launched and managed by the European Commission, referred to as the *Contracting authority* for the purposes of this call for tender, assisted by its Directorate-General for Education, Youth, Sport and Culture.

1.2. Subject: what is this call for tenders about?

The subject of this call for tenders is Platform for the Cross-border Distribution of European Performing Arts Works.

1.3. Lots: is this call for tenders divided into lots?

This call for tenders is not divided into lots.

1.4. Description: what do we want to buy through this call for tenders?

The services that are the subject of this call for tender, including any minimum requirements, are described in detail below.

Variants (alternatives to the model solution described in the Tender Specifications) are not allowed. The *Contracting authority* will disregard any variants described in a tender.

1.4.1. Background and objectives

General background

Cross-border mobility of people and distribution of art works, as well as the free flow of ideas, are central to the European project. It contributes to the two overarching priorities of the Creative Europe programme¹ as it is a major driver of cultural diversity and it reinforces the competitiveness of the cultural and creative sectors by reaching out to new audiences and new markets.

As announced in the **New European Agenda for Culture**² “To increase [cultural] participation, greater circulation of European artworks and of professionals in the European cultural and creative sectors is required.” While a new mobility scheme for artists and culture professionals was launched in 2019 under Creative Europe following a successful initial

¹ Regulation (EU) No 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC.

² Adopted on 22 May 2018 https://ec.europa.eu/culture/sites/culture/files/commission_communication_-_a_new_european_agenda_for_culture_2018.pdf.

testing phase, this action planned under the 2020 Work Programme³ aims to test the cross-border distribution of European performing arts works (physical and digital).

In the ongoing Covid-19 crisis and the subsequent lockdowns, the free exchange of cultural works and professionals has been “virtually” brought to a halt. This has been particularly devastating, artistically and economically, for the live performance sector. Not only have all performances been cancelled for months, depriving the performers, the venues/festivals and the audience of real life encounters, but rehearsals, new creations and artists-in-residence programmes have been made impossible. The unique and collective experience of live performance cannot be matched by the online viewing of filmed performances, but digital has proved a useful tool during the containment period by bringing a variety of existing performances and even new creations to larger audiences.

In line with the sectorial approach adopted by the future Creative Europe programme and considering that the performing arts sector has been among the worst hit by the coronavirus pandemics the focus of this call is on performing arts works. Under this call, **performing arts** will include theatre, dance, performance, circus and street arts. It is complementary to the Music Moves Europe initiative that is entirely dedicated to music, therefore **live music performances** (including opera or musicals) **are not to be considered as such, except for musical theatre**.

While the rich diversity of the performing arts sector in Europe is a major asset for European societies, a number of critical **obstacles** prevent performing arts works from circulating beyond national borders: market and sector fragmentation, linguistic barriers for theatre, travel costs, logistics issues, insurance, copyright, etc. Beyond the negative impact on the performing arts companies and hosting venues, fragmented access and obstacles to cross-border distribution are hampering the potential of the sector to contribute to the EU's social, economic and integration ambitions, and to the building of a strong internal market and of a European society rooted in shared values and common cultural heritage.

Investing in assessing the future feasibility of a dedicated and flexible distribution scheme at EU level to help performing arts works cross borders (physically and digitally) could usefully supplement other existing distribution and support schemes. It would thereby sustain the resilience and the recovery of the sector in the aftermath of the Covid-19 crisis as well as reinforce its potential to contribute to the European project and values.

Definitions

Under this call the meaning of the following words is to be understood as follows:

Distribution:

- a) the cross-border travelling and physical presentation of performing arts works and
- b) as a complement, the livestreaming or presentation of performing arts works online

Distribution action: act of distributing one performing arts work in one eligible country outside the country of registration of the performing arts company

³ 2020 annual work programme for the implementation of the Creative Europe Programme, C(2019)6151 of 23 August 2019.

Performing arts works: works of (musical) theatre, dance, performance, circus and street arts.
Platform subcontractor: organisation testing distribution actions in the pilot phase (in this case performing arts company and/or venue/festival)

General description

The tender will first include a **mapping** of existing support schemes for the various costs entailed by the physical and digital distribution of performing arts works (including sub-titling for theatre productions, live recording and streaming). The mapping should cover all implementation levels: sectorial, regional, national, European and international. The second step will be the design of an **online platform** and the testing of a distribution scheme to contribute to the additional costs entailed by the transnational distribution of existing live performances in a digital and non-digital format. The distribution scheme should bring an EU added value, i.e. be complementary to existing support schemes - independently of the level where they are implemented - and take the relevant lessons learned from past experiments into account. The third step will be policy recommendations based on the outcomes of the testing phase.

A number of issues will also have to be addressed to make the scheme accessible/inclusive, balanced, sustainable and digital-friendly:

- Accessible and inclusive: the new scheme should integrate inclusion and (gender) equality as its guiding values, through a proactive reaching out to social groups with different backgrounds and considering the special needs of various audiences. Audience engagement and feedback should therefore be a key element of each distribution action. Accessibility for artists and cultural operators with disabilities should also be ensured across the programme.
- Balanced: the scheme should strike a balance among the different performing arts sectors (theatre, dance, circus...) as well as between emerging and confirmed players and smaller and bigger productions; it should as well ensure shared benefits between urban and rural/peripheral areas, and between performing arts companies and hosting venues/festivals.
- Sustainable: to mitigate its carbon footprint, the scheme should encourage networking among hosting festivals and programming venues in a given geographical area for optimized (ideally continuous) touring plans with subsequent performances (instead of several distinct return trips). Other environmental issues (linked to transportation, the potential re-use of the scenography...) should also be considered.
- Digital: Beyond the environmental impact, a sustainable approach should also include a forward-looking reflection on the longer-term effects the live experience may have - in terms of audience development/engagement, promotion of diversity and community-building among European citizens. In this context a particular attention should be paid to the potential of digital tools, upstream and downstream:
 - Based on a sectorial need analysis, the set-up of a digital platform connecting performing arts companies and presenters/programmers would allow the former to present their performances to the latter, thereby facilitating the selection of the works to be supported and creating an online repertoire of available performances for future distribution;
 - The live recording and streaming/broadcasting of the supported performances as well as any digital tool used to engage the audience, document its experience or build/valorise a repertoire of performing arts heritage. This would make the scheme more sustainable and ensure a broader outreach

through future viewing and/or participative experiences online, including for educational and research purposes.

General objective

The main objective of the tender will be to design a platform and to test a distribution scheme for performing arts works in view of possible further developments in the future Creative Europe programme.

Specific objectives

1. To map existing support schemes (including for the live recording and streaming of performances) and analyse the conditions for testing a new way to support the cross-border distribution of performing arts works (physical and digital)
2. Set up an online platform and test a support scheme for the physical and digital cross-border distribution of performing arts works
3. Provide conclusions and recommendations to the EC on the integration of a distribution support scheme for performing arts works in the future Creative Europe programme

1.4.2. Detailed characteristics of the purchase

Task I – Mapping

The tenderer will assess the state-of-the-art of the physical and digital distribution of performing arts works in countries participating in the Creative Europe programme as well as the terms and conditions for an effective distribution scheme. A literature review and desk research will be carried out to analyse and take into account what already exists at international, European, national and regional levels in this field.

Outputs

At the end of the first phase (i.e. mapping), the following outputs are expected:

- An overview of the current situation in terms of cross-border (physical and digital) distribution of performing arts works in the countries participating in Creative Europe
- A panorama of existing support forms for such distribution

Task II – Platform and testing phase

Creation of an online platform

The tenderer will set up a digital platform to communicate, manage the selection process and disseminate the results, but also to connect performing arts companies and presenters/programmers in such a way that the former could submit their performances/applications to the latter. Such a platform does not currently exist and therefore represents an innovative element with a clear European added value. It would also serve to facilitate the pre-selection stage of the pilot scheme and could lead to an online repertory of available performances for future distribution actions.

The deliverable of this stage is a newly created platform which should facilitate the following operations:

- provide access to information sources and distribution opportunities
- allow for an online application and selection process as well as close monitoring of the activities
- facilitate the matching of proposals made by performing arts companies with the demand of venue/festival programmers and enable longer term partnerships among them
- provide data and statistics on the distribution of performing arts works

The platform will become an innovative tool connecting performing arts companies, venues and festivals to facilitate the matching of offer and demand, thereby contributing to a wider distribution of works. The platform could also in the future contribute to the exploration of further Creative Europe support to the performing arts sector.

The platform (the website and all the data it encompasses) will be handed over to the European Commission at the end of the contract.

Testing phase

Distribution should not only be about crossing borders and performing. Under this pilot scheme, the distribution of works should strive to be sustainable, balanced and engage new audiences. It should also react to the current crisis, which proved the necessity to build resilience for the sector but also to engage it further in a digital environment.

The participants in the testing phase of the distribution scheme (performing arts companies and/or performing arts venues/festivals) will apply through the Platform and take part in it as Platform sub-contractors offering a service for the experimentation of the distribution scheme and delivering an activity report.

At operational level, the distribution actions implemented during the pilot phase should have the following minimum requirements:

- Be part of the distribution plan of at least one work in at least 3 EU Member States or countries participating in the Creative Europe programme (outside the country of registration of the main creative company).
- Be implemented in the sector of performing arts (as defined under 1.4.1) with a balanced geographical and sub-sectorial coverage.
- Include a sustainability plan to limit the carbon footprint of the distribution action. The development of a network of hosting venues and festivals in a given geographical area can, for instance, help optimize the touring plan.
- When relevant, include audience engagement activities as an added-value to the performance itself
- As a complement, make full use of digital tools to further enhance the value/impact of the distribution action (live recording and streaming, outreach activities, online interaction with/feedback from the audience...etc.)

- Be organised in a clear and transparent process with diversified, strong and relevant partnerships
- Include an activity report delivered by the Platform sub-contractor after each distribution action. In order to monitor the activity in an objective and harmonized manner, the future contractor will prepare a template and the conditions of this activity report.

In addition, the tenderer will make sure that the sample of distribution actions is representative of the diversity of the sector and constitutes a significant critical mass to meet the objectives of the task.

Implementation method

During the pilot phase, the tenderer shall organise and administrate a critical mass of distribution actions and strive to ensure a geographical balance among eligible countries. The tenderer will have to organise and administrate an indicative number of 50 distribution actions.

The tenderer will have to propose a balanced and substantiated breakdown between physical and digital distribution actions. While the core of the testing phase should remain physical, the tenderer will also need to propose a fall-back scenario in case a second wave of Covid-19 (or any other situation of force majeure) puts physical distribution to a halt.

The tenderer will propose a methodology and criteria for the selection of the distribution actions, which must respect the principles and rules of EU public procurement, namely regarding equal treatment, integrity and transparency. The Commission will assess and discuss with the contractor the proposed implementation details of the distribution actions (such as the selection criteria and the template of the compulsory activity report). The Commission will give its approval before final operational arrangements can be made. The contractor will then be responsible for the evaluation and selection of the distribution actions submitted.

The participants (the Platform sub-contractors) will receive a fee to cover the costs of the physical and digital distribution of the works. The contractor will be responsible for developing and implementing the fee scheme.

The contractor should determine the amount of the fee on the basis of:

- costs linked to the live recording and cross-border digital distribution (streaming, broadcasting etc.) of supported performances.
- travel/accommodation/subsistence costs of artistic, technical and management teams participating in the distribution action;
- transport of equipment (stage sets, costumes...), including insurance and permits;
- if relevant, copyright for the author of the text, translation fees and sub-titling.
- the distribution plan of the performing arts work, including the travel distances, the number of performances and the number of team members involved in the distribution action

Once the distribution action has been selected on the basis of the criteria agreed with the Commission in the full respect of EU public procurement rules the contractor will be responsible for transferring the fee directly to the Platform sub-contractor. Upon the start of

the distribution testing phase 75% of the total fee will be paid to each Platform sub-contractor to ensure the proper implementation of the distribution actions. The remaining 25% will be paid upon completion of their task and after the evaluation and approval of the compulsory activity report delivered by the Platform sub-contractor. All activity reports must be delivered to the Commission as an annex to the final report.

Design and implementation of a communication and information strategy as well as a methodology for the dissemination and valorisation of results

The tenderer will conceive and implement a strategic communication and information plan as well as a methodology for the valorisation and dissemination of results. The methodology should follow and fit the pilot life cycle as well as the target groups. In this regard, the tenderer will notably include the production of short video clips on supported performances and make the most of digital tools, including social media.

Outputs

At the end of the second phase, the following outputs are expected:

- a better matching of performances presented by performing arts companies with the demand of venue/festival programmers
- a wider, more diverse and sustainable cross-border distribution of performing arts works in the countries participating in Creative Europe

Task III - Recommendations

Based on the results of the implementation of tasks I and II, the tenderer will have to formulate policy recommendations to the European Commission, the European Parliament and the Member States to pave the way for the possible integration of a distribution scheme for performing arts works in the future Creative Europe programme. Whenever relevant, the recommendations should be specific to each performing arts sector (theatre, dance, , circus or street arts).

Outputs

At the end of the third phase, the following outputs are expected:

- lessons learnt and policy insights to help the contracting authority develop adequate support for the distribution of performing arts under the next Creative Europe programme (2021-2027).

1.4.3. Deliverables

Inception report

Within 8 weeks after the signature of the contract and following a kick-off meeting with the Commission (which will take place 3 to 4 weeks after the signature of the contract), the contractor shall supply the Commission with an inception report in English, including:

- a draft mapping of the existing distribution support schemes and relevant digital tools

- a detailed outline of the proposed methodology to design the platform and pilot scheme
- an outline of the information and communication strategy

The approval of the inception report will allow for the first interim payment (20% of the total contract value).

Interim report

An interim report in English shall be provided within 6 months following the signature of the contract. The report shall include the result of the mapping exercise and an analysis of the data collected in the field. The mapping should consist of:

- An analysis of the physical and digital distribution of performing arts works: the characteristics of such distribution in the post-covid cultural landscape, its benefits and the obstacles
- An updated mapping of existing funding opportunities for the physical and digital distribution of performing arts works at sectorial, regional/national, European and international levels; in particular, the identification of best practice and the risks of overlapping with existing schemes
- A review of existing digital tools for the sub-titling, live recording and streaming/broadcasting of performing arts works as well as for audience-engaging activities around them
- Identification of synergies and analysis of complementarity with EU actions supporting the distribution of performing arts works, notably the current Creative Europe programme's cultural cooperation projects, networks and platforms; in particular, the tenderer will appreciate the added-value of a specific support for the distribution of performing arts works at EU level

The contractor shall provide information about the implementation of the operational infrastructure and the launch of the online platform and pilot scheme.

The communication and information strategy shall also be delivered with the interim report.

The Commission Decision of 12 December 2011 on the reuse of Commission documents applies to the results of this contract.⁴

This Decision determines the conditions for the reuse of documents held by the Commission or on its behalf by the Publications Office of the European Union (the Publications Office) with the aim of facilitating a wider reuse of information, enhancing the image of openness of

⁴ COMMISSION DECISION of 12 December 2011 on the reuse of Commission documents (2011/833/EU) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:330:0039:0042:EN:PDF>

the Commission, and avoiding unnecessary administrative burdens for re-users and the Commission services alike.

The approval of the interim report will allow for the second interim payment (60% of the total contract value).

Final report

The final report must include:

- an abstract of no more than 200 words and an executive summary of maximum 6 pages in English, French and German
- the full description and evidence on the fulfilment of the expected outputs as mentioned under Tasks I, II and III
- problems encountered, solutions found and their impact on the outcomes achieved
- key recommendations for the European Commission, national, regional and local authorities, including
 - o an analysis of the best way to combine (support to) physical distribution with (support to) digital distribution in the future scheme
 - o an analysis of the need (or not) to focus on a specific type of works, sub-sector or groups of beneficiaries in the future scheme
 - o recommendations for a fairer digital distribution of performing arts works in terms of copyright/royalties and intellectual property
- the products of the information and dissemination strategy (including video clips and other promotional material)
- a glossary of key terms and a bibliography
- 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 [report/study/article/publication...] 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.”

Digital platform

The hand-over of the digital platform (website and content) to the Commission will also be considered as a deliverable of the action. Together with the approval of the final report, it will allow for the final payment (20% of the total contract value).

Publishable executive summary

The executive summary to be published must be provided in English, French and German. It must include:

- a presentation of the scheme (objectives, methodology) and of the managing organisation/consortium
- consolidated data and figures on the types of activities implemented and their results
- lessons learnt and policy recommendations
- 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 [report/study/article/publication...] 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.”

1.5. Place of performance: where will the contract be performed?

The services will be performed at the following locations:

- the contractor's premises

1.6. Nature of the contract: how will the contract be implemented?

The procedure will result in the conclusion of a direct contract.

In direct contracts all the terms governing the provision of the services, supplies or works are defined at the outset. Once signed, they can be implemented directly without any further contract procedures.

👉 Tenderers need to take full account of the provisions of the Draft contract as the latter will define and govern the contractual relationship(s) to be established between the *Contracting authority* and the successful tenderer(s). Special attention is to be paid to the provisions specifying the rights and obligations of the contractor, in particular those on payments, performance of the contract, confidentiality, and checks and audits.

1.7. Volume and value of the contract: how much do we plan to buy?

The estimated total amount of all purchases under this contract is indicated under Heading II.1.5 of the contract notice. The quantities to be purchased over the total duration of the contract are specified in Section 1.4 of these specifications.

The quoted price must be a fixed amount which includes all expenses (including travel and subsistence). Travel and subsistence expenses will not be reimbursed separately.

Breakdown

- The amount allocated to Task I – Mapping shall not exceed 7% of the total price.

- The amount allocated to Task II – Platform and testing phase shall be broken down as follows:
 - Administration: shall not exceed 15% of the total cost of Task II
 - Creation and management of the online platform
 - Testing support for distribution actions
- The amount allocated to Task III – Policy recommendations shall not exceed 2% of the total price.

Within three years following the signature of the contract resulting from the current call for tenders, the *Contracting authority* may use the negotiated procedure under point 11.1.e of Annex 1 to [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#)⁵ to procure new services from the contractor(s) up to a maximum of 50 % of the initial contract value. These services will consist in the repetition of similar services entrusted to the contractor(s) and will be awarded under the conditions mentioned in section 3.4.

1.8. Duration of the contract: how long do we plan to use the contract?

The contract resulting from the award of this call for tenders will be concluded for at most 18 months. The details of the initial contract duration and possible renewals are set out in Article I.3 of the Draft contract.

1.9. Electronic exchange system: can exchanges under the contract be automated?

For all exchanges with the contractor during the implementation of the contract as well as for future possible subsequent proceedings for the purposes of EDES ([European Union's Early Detection and Exclusion System](#)) the *Contracting authority* may use an electronic exchange system meeting the requirements of Article 148 of [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#)⁵. At the request of the *Contracting authority* the use of such a system shall become mandatory for the contractor(s) at no additional cost for the *Contracting authority*. Details on specifications, access, terms and conditions of use will be provided in advance.

2. GENERAL INFORMATION ON TENDERING

2.1. Legal basis: what are the rules?

This call for tenders is governed by the provisions of [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#) (the Financial Regulation)⁵.

The *Contracting authority* has chosen to award the contract resulting from this call for tenders through an open procedure pursuant to Article 164(1) (a) of the Financial Regulation. In an open procedure any interested economic operator (any natural or legal person who offers to supply products, provide services or execute works) may submit a tender.

2.2. Rules on access to procurement: who may submit a tender?

Participation in this call for tenders is open on equal terms to all natural and legal persons coming within the scope of the [Treaties](#), as well as to international organisations.

It is also open to all natural and legal persons established in a third country that has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. Where the Agreement on Government Procurement⁶ concluded within the World Trade Organisation applies, the participation to this call for tenders is open to all natural and legal persons established in the countries that have ratified this Agreement, on the conditions laid down therein.

The rules on access to procurement do not apply to subcontractors. Subcontracting may not be used with the intent to circumvent the rules on access to procurement.

To enable the *Contracting authority* to verify the access, each tenderer must indicate its country of establishment (and in case of joint tender – the country of establishment of each group member) and must present the supporting evidence normally acceptable under the law of that country/-ies. The same document(s) could be used to prove country/-ies of establishment and the delegation(s) of the authorisation to sign as described in **Section 4.3**.

⁵ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193 of 30.07.2018, p.1).

⁶ https://www.wto.org/english/tratop_e/gp_gpa_e.htm.

🔔 *For tenderers established in the United Kingdom:*

Please be aware that following the entry into force of the EU-UK Withdrawal Agreement⁷ on 1 February 2020 and in particular Articles 127(6), 137 and 138, the references to natural or legal persons residing or established in a Member State of the European Union are to be understood as including natural or legal persons residing or established in the United Kingdom. UK residents and entities are therefore eligible to participate under this call.

2.3. Registration in the Participant Register: why register?

Any economic operator willing to submit a tender for this call for tenders must be registered in the [Participant Register](#) - an online register of organisations and natural persons participating in European Commission's calls for tenders or proposals (participants).

On registering each participant obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the Participant Register. A participant needs to register only once – the information provided can be further updated or re-used by the participant in other European Commission's calls for tenders or calls for proposals.

At any moment during the procurement procedure the Research Executive Agency Validation Services (hereafter *the EU Validation Services*) may contact the participant and ask for supporting documents on legal existence and status. The requests will be made through the register's messaging system to the e-mail address of the participant's contact person indicated in the register. It is the responsibility of the participant to provide a valid e-mail address and to check it regularly.

The documents that may be requested by *the EU Validation Services* are listed in the [EU Grants and Tenders Rules on Legal Entity Validation, LEAR appointment and Financial Capacity assessment](#).

🔔 **Please note that a request for supporting documents by the *EU Validation Services* in no way implies that the tenderer has been successful.**

2.4. Ways to submit a tender: how can economic operators organise themselves to submit a tender?

Economic operators can submit a tender either as a sole tenderer or as a group of tenderers. In either case subcontracting is permitted.

In order to fulfil the selection criteria set out in **Section 3.2** the tenderer can rely on the capacities of subcontractors or other entities (not subcontractors).

The role of each entity involved in a tender (hereafter referred to as *involved entity*) must be clearly specified: sole tenderer, member of a group or Group leader, subcontractor or an entity on

⁷ Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

whose capacities the tenderer relies to fulfil the selection criteria⁸. This applies also where the *involved entities* belong to the same economic group.

2.4.1. Joint tenders

A joint tender is a situation where a tender is submitted by a group (with or without legal form) of economic operators regardless of the link they have between them. The group as a whole is considered a tenderer⁹.

All members of the group assume joint and several liability towards the *Contracting authority* for the performance of the contract as a whole.

Group members must appoint a *Group leader* and a single point of contact authorised to act on their behalf in connection with the submission of the tender and all relevant questions, clarification requests, notifications, etc., that may be received during the evaluation, award and until the contract signature. The model power of attorney attached in **Annex 3** is to be used.

The joint tender must clearly indicate the role and tasks of each member and of the *Group leader* who will act as the *Contracting authority's* contact point for the contract's administrative or financial aspects and operational management. The *Group leader* will have full authority to bind the group and each of its members during contract execution. If the joint tender is successful, the *Contracting authority* shall sign the contract with the Group leader, authorised by the other members to sign the contract on their behalf via power of attorney drawn up in the model attached in **Annex 3**.

Changes in the composition of the group during the procurement procedure (after the submission deadline and before contract signature) shall lead to rejection of the tender except in case of a merger or takeover of a member of the group (universal succession), provided that the new entity has access to procurement (see **Section 2.2**) and is not in an exclusion situation, (see **Section 3.1**).

In any case the selection criteria must be still fulfilled by the group and the terms of the originally submitted tender may not be altered substantially, i.e. all the tasks assigned to the former entity must be taken over by the new entity member of the group, the change must not make the tender non-compliant with the Tender specifications, and the evaluation of award criteria of the originally submitted tender may not be modified.

2.4.2. Subcontracting

Subcontracting is the situation where the contractor enters into legal commitments with other economic operators which will perform part of the contract on its behalf. The contractor retains full liability towards the *Contracting authority* for performance of the contract as a whole.

⁸ Such an entity is not considered a subcontractor, see Section 2.4.3.

⁹ References to *tenderer* or *tenderers* in this document shall be understood as covering both sole tenderers and groups of economic operators submitting a joint tender.

The following shall not be considered subcontracting:

- a) Use of workers posted to the contractor by another company owned by the same group and established in a Member State (“intra-group posting” as defined by Article 1, 3, (b) of [Directive 96/71/EC concerning the posting of workers in the framework of the provision of services](#)).
- b) Use of workers hired out to the contractor by a temporary employment undertaking or placement agency established in a Member State (“hiring out of workers” as defined by Article 1, 3, (c) of [Directive 96/71/EC concerning the posting of workers in the framework of the provision of services](#)).
- c) Use of workers temporarily transferred to the contractor from an undertaking established outside the territory of a Member State and that belongs to the same group (“intra-corporate transfer” as defined by Article 3, (b) of [Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer](#)) .
- d) Use of staff without employment contract (“self-employed persons working for the contractor”), without the tasks of the self-employed persons being particular well-defined parts of the contract.
- e) Use of suppliers and/or transporters by the contractor, in order to perform the contract at the place of performance, unless the economic activities of the suppliers and/or the transporting services are within the subject of this call for tender (see **Section 1.4**).
- f) Performance of part of the contract by members of an EEIG (European Economic Interest Grouping), when the EEIG is itself a contractor or a group member.

The persons mentioned in points a), b), c) and d) above will be considered as “personnel” of the contractor as defined in the contract.

All contractual tasks may be subcontracted unless the *Technical specifications* expressly reserve the execution of certain critical tasks to the sole tenderer itself, or in case of a joint tender, to a member of the group.

By filling in the form available in **Annex 4**, tenderers are required to give an indication of the proportion of the contract that they intend to subcontract, as well as to identify and describe briefly the envisaged contractual roles/tasks of subcontractors meeting any of these conditions (hereafter referred to as *identified subcontractors*):

- on whose capacities the tenderer relies upon to fulfil the selection criteria as described under **Section 3.2**;
- whose individual share of the contract, known at the time of submission, is above 15 % .

Any such subcontractor must provide the tenderer with a commitment letter drawn up in the model attached in **Annex 5.1** and signed by its authorised representative.

Changes concerning subcontractors identified in the tender (withdrawal/replacement of a subcontractor, additional subcontracting) during the procurement procedure (after the submission deadline and before contract signature) require the prior written approval of the *Contracting authority* subject to the following verifications:

- any new subcontractor is not in an exclusion situation;

- the tenderer still fulfils the selection criteria and the new subcontractor fulfils the selection criteria applicable to it individually, if any;
- the terms of the originally submitted tender are not altered substantially, i.e. all the tasks assigned to the former subcontractor are taken over by another involved entity, the change does not make the tender non-compliant with the Tender specifications, and the evaluation of award criteria of the originally submitted tender is not modified.

Subcontracting to subcontractors identified in a tender that was accepted by the *Contracting authority* and resulted in a signed contract, is considered authorised.

2.4.3. Entities on whose capacities the tenderer relies to fulfil the selection criteria

In order to fulfil the selection criteria a tenderer may also rely on the capacities of other entities, regardless of the legal nature of the links it has with them. It must in that case prove that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment letter in the model attached in ***Annex 5.2***, signed by the authorised representative of such an entity, and the supporting evidence that those other entities have the respective resources.

If the contract is awarded to a tenderer intending to rely on another entity to meet the minimum levels of economic and financial capacity, the *Contracting authority* may require the entity to sign the contract or, alternatively, to provide a joint and several first-call financial guarantee for the performance of the contract.

With regard to technical and professional selection criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required (i.e. the latter will assume the role of subcontractors).

👉 Relying on the capacities of other entities is only necessary when the capacity of the tenderer is not sufficient to fulfil the required minimum levels of capacity. Abstract commitments that other entities will put resources at the disposal of the tenderer will be disregarded.

3. EVALUATION AND AWARD

The evaluation of the tenders that comply with the submission conditions will consist of the following elements:

- Check if the tenderer has access to procurement (see *Section 2.2*);
- Verification of administrative compliance (if the tender is drawn up in one of the official EU languages and signed by duly authorised representative(-s) of the tenderer);
- Verification of non-exclusion of tenderers on the basis of the exclusion criteria;
- Selection of tenderers on the basis of selection criteria;
- Verification of compliance with the minimum requirements defined in the Tender specifications;
- Evaluation of tenders on the basis of the award criteria.

The *Contracting authority* will evaluate the abovementioned elements in the order that it considers to be the most appropriate. If the evaluation of one or more elements demonstrates that there are grounds for rejection, the tender will be rejected and will not be subjected to further full evaluation. The unsuccessful tenderers will be informed of the ground for rejection without being given feedback on the non-assessed content of their tenders. Only tenderer(s) for whom the verification of all elements did not reveal grounds for rejection can be awarded the contract.

The evaluation will be based on the information and evidence contained in the tenders and, if applicable, on additional information and evidence provided at the request of the *Contracting authority* during the procedure. If any of the declarations or information provided proves to be false, the *Contracting authority* may impose administrative sanctions (exclusion or financial penalties) on the entity providing the false declarations/information.

For the purposes of the evaluation related to exclusion and selection criteria the *Contracting authority* may also refer to publicly available information, in particular evidence that it can access on a national database free of charge.

3.1. Exclusion criteria

The objective of the exclusion criteria is to assess whether the tenderer is in any of the exclusion situations listed in Article 136(1) of the Financial Regulation.

As evidence of non-exclusion each tenderer needs to submit with its tender a Declaration on Honour¹⁰ in the model available in *Annex 2*.¹¹ The declaration must be signed by an authorised representative of the entity providing the declaration.

¹⁰ The European Single Procurement Document (ESPD) may not be used yet in European Commission's calls for tenders.

¹¹ Unless the same declaration has already been submitted for the purposes of another award procedure of the European Commission, the situation has not changed, and the time elapsed since the issuing date of the declaration does not exceed one year.

The initial verification of non-exclusion of tenderers will be done on the basis of the submitted declarations and consultation of the [European Union's Early Detection and Exclusion System](#). The documents mentioned as supporting evidence in the Declaration on Honour need to be provided whenever requested and where this is necessary to ensure the proper conduct of the procedure within a deadline given by the Contracting authority¹².

Annex 1 specifies which of the *involved entities* participating in a tender need to provide the Declaration on Honour and, when requested by *the Contracting authority*, the supporting evidence.

Please note that a request for evidence in no way implies that the tenderer has been successful.

3.2. Selection criteria

The objective of the selection criteria is to assess whether the tenderer has the legal, regulatory, economic, financial, technical and professional capacity to perform the contract.

The selection criteria for this call for tenders, including the minimum levels of capacity, the basis for assessment and the evidence required, are specified in the following subsections.

Tenders submitted by tenderers not meeting the minimum levels of capacity will be rejected.

When submitting its tender each tenderer shall declare on honour that it fulfils the selection criteria for the call for tender. The model Declaration on Honour available in *Annex 2* shall be used.

The initial assessment of whether a tenderer fulfils the selection criteria will be done on the basis of the submitted declaration(s).

The subsections below specify which selection criteria evidence must be provided with the tender or may be requested later, at any time during the procurement procedure¹³. In any case, to the extent that there is no ground for a waiver, the evidence must be provided, upon request

¹² The obligation to provide the supporting evidence will be waived in the following situations:

- if the same documents have already been provided in a previous award procedure of the European Commission, have been issued no more than one year before the date of their request by the *Contracting authority* and are still valid at that date;
- if such evidence can be accessed by the *Contracting Authority* on a national database free of charge, in which case the economic operator shall provide the *Contracting authority* with the internet address of the database and, if needed, the necessary identification data to retrieve the document;
- if there is a material impossibility to provide such evidence.

¹³ The obligation to provide the supporting evidence will be waived in the following situations:

- if the same documents have already been provided in a previous award procedure of the European Commission, have been issued no more than one year before the date of their request by the *Contracting authority* and are still valid at that date;
- if such evidence can be accessed by the *Contracting Authority* on a national database free of charge, in which case the economic operator shall provide the *Contracting authority* with the internet address of the database and, if needed, the necessary identification data to retrieve the document.

and within a deadline given by the Contracting authority. The evidence must be provided in accordance with the applicable basis for assessment of each criterion: in case of a consolidated assessment – only by the *involved entities* who contribute to the fulfilment of the criterion, and in case of individual assessment – by each *involved entity* to whom the criterion applies individually.

3.2.1. Legal and regulatory capacity

Tenderers must prove that they have legal capacity to perform the contract and the regulatory capacity to pursue the professional activity necessary to carry out the work subject to this call for tenders.

The legal and regulatory capacity shall be proven by the evidence listed below:

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

In both cases, the evidence of legal and regulatory capacity must be submitted with the tender.

This requirement applies to each member of the group in case of a joint tender.

3.2.2. Economic and financial capacity

Tenderers must comply with the following selection criteria in order to prove that they have the necessary economic and financial capacity to perform the contract. The methodology is described in the Annex 7a.

Criterion F1	
Minimum level of capacity	Average yearly turnover of the last two financial years above EUR 1 000 000 (one million).
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all <i>involved entities</i> will be carried out.
Evidence	<p><i>Contracts worth more than EUR 260 000</i></p> <p>For contracts worth more than EUR 260 000, proof of economic and financial capacity is provided by the following documents:</p> <ul style="list-style-type: none"> • the declaration on the honour in Annex 2. • the economic and financial capacity analysis form showing the financial data of the economic operator, completed and signed by the operator (see Annex 7b,

	<p>'Economic & financial capacity form');</p> <ul style="list-style-type: none"> • for economic operators required under national law to keep a complete set of accounts: the annual accounts (balance sheet, income statement and annexes) for the last two years for which accounts have been closed; • for economic operators required under national law to keep a simplified set of accounts: the statement of expenditure and revenue and the annex showing assets and liabilities for the last two financial years for which accounts have been closed; <p>in all cases, a statement of overall turnover and turnover specifically related to the supplies or services covered by the contract for the last two financial years for which accounts have been closed.</p>
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Criterion F2	
Minimum level of capacity	Satisfactory results following the analysis of the financial capacity which will be performed by the Contracting Authority based on the methodology provided in Annex 7a.
Basis for assessment	The ratio will be checked against each member of the group in case of joint tender.
Evidence	Same evidence as indicated above for the criterion F1.

☞ All of the above specified evidence of economic and financial capacity must be provided with the tender.

3.2.3. Technical and professional capacity

Tenderers must comply with the following selection criteria in order to prove that they have the necessary technical and professional capacity to perform the contract.

Criteria relating to the tenderers

Criterion T1	
<p>The tenderer must prove experience in providing the following services in the field of performing arts:</p> <ul style="list-style-type: none"> • preparation of reports, mappings and recommendations; • data collection and database management; • communication and outreach to stakeholders. 	
Minimum level of capacity	At least 2 similar projects completed in the last three years

	preceding the tender submission deadline, with a minimum value for each of them € 250.000.
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
Evidence	<p>A list of projects meeting the minimum level of capacity. The list shall include details of their start and end date, total project amount and scope, role and amount invoiced. In case of projects still on-going only the portion completed during the reference period will be taken into consideration.</p> <p>As supporting documents for each project reference the <i>Contracting authority</i> may request statements issued by the clients and take contact with them.</p>

Criterion T2	
The tenderer must prove experience in the field of providing IT services through web and database development and maintenance. The tenderer shall also demonstrate the infrastructural IT capacity in terms of hardware to meet the needs of the contract.	
Minimum level of capacity	At least one similar (in scope and complexity) project completed in the last four years preceding the tender submission deadline, with a minimum value of EUR 300 000 (three hundred thousand).
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all involved entities.
Evidence	A list of projects meeting the minimum level of capacity. The list shall include details of their start and end date, total project amount and scope, role and amount invoiced. In case of projects still on-going only the portion completed during the reference period will be taken into consideration.

Criteria relating to the team delivering the service

The tenderers shall propose a project team tailored to the needs of this call for tenders.

The contractor shall maintain the team for the entire duration of the service contract. If not possible, the contractor shall ensure appropriate and equivalent replacement of the team member concerned.

Criterion T3
<p>The team delivering the service must have, as a whole, the following minimum expertise:</p> <ul style="list-style-type: none"> - knowledge of European policies and programmes in the field of culture; - experience in project management and in working in the field of performing arts; - experience in communication, data collection and surveying; - work experience in multicultural environment, including participation in projects/associations/initiatives at European and international levels;

- proficiency in English and one other EU official language.	
Minimum level of capacity	<p>Manager of the project team: At least 5 years of experience in the management of trans-national projects in the field of culture, including overseeing project delivery, quality control of delivered service and conflict resolution experience in projects of a similar size and coverage (at least 10 countries covered), with experience in team management of at least 5 people.</p> <p>Administrator: at least 3 years' experience in providing administrative, secretarial and financial support.</p> <p>Languages: the Manager of the project team and the Administrator must be proficient in English and one other EU official language (level C1 in the CEFR¹⁴).</p>
Basis for assessment	This criterion applies to the team as a whole.
Evidence	Educational and professional qualifications of the members of the team delivering the service, including management staff (CVs). Each CV provided shall indicate the intended functions in the delivery of the service and the language skills of the team member.

Criterion T4	
The team delivering the services must include at least one IT expert with knowledge of project management.	
Minimum level of capacity	<p>At least 5 years' experience in providing IT support, web development and database management.</p> <p>At least 2 years' project management experience</p>
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
Evidence	Academic qualifications and work experience of IT expert based on CVs.

☞ All of the above specified evidence of technical and professional capacity must be provided with the tender.

☞ Involved entities must not be subject to conflicting interests which may negatively affect the contract performance. Where the *Contracting authority* has established such conflicting

¹⁴ <https://europass.cedefop.europa.eu/resources/european-language-levels-cefr>

interests, it may conclude that the tenderer or an involved entity does not possess the required professional capacity to perform the contract to an appropriate quality standard.

The presence of conflicting interests shall be examined during the evaluation phase based on the statements made through the Declarations on Honour and, where applicable, the commitment letters (*Annex 5.1 and Annex 5.2*).

3.3. Compliance with the minimum requirements of the Tender specifications

By submitting a tender a tenderer commits to perform the contract in full compliance with the terms and conditions of the procurement documents for this call for tender. Particular attention is drawn to the minimum requirements specified in Section 1.4 of these specifications and to the fact that tenders must comply with applicable data protection, environmental, social and labour law obligations established by Union law, national legislation, collective agreements or the international environmental, social and labour conventions listed in Annex X to Directive 2014/24/EU.

The minimum requirements shall be observed throughout the entire duration of the contract. Compliance with these requirements is mandatory and cannot be subject to any assumptions, limitations, conditions, or reservations on the part of a tenderer.

🔥 Tenders that are not compliant with the applicable minimum requirements shall be rejected.

3.4. Award criteria

The objective of the award criteria is to evaluate the tenders with a view to choosing the most economically advantageous tender, according to the 'best price-quality ratio' award method.

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

1. Price - 30%

The price considered for evaluation will be the total price of the tender, covering all the requirements set out in the Tender Specifications.

2. Quality - 70%

The maximum total quality score is 100 points. The quality of the tender will be evaluated based on the following criteria:

- **Quality of the proposed methodology** (55 points – minimum score 50%)

This criterion will assess the relevance and quality of the methodology with which the proposal addresses the 3 tasks of the action (as described under **section 1.4.2.**) and contributes to their implementation through the planned activities and objectives.

Task I (mapping/feasibility study): the quality of the methodology will be evaluated on the basis of the extent of its capacity to

- assess the state-of-the art of the physical and digital distribution of performing arts works in countries participating in the Creative Europe programme (5)
- map and analyse relevant distribution support schemes at all levels to ensure complementarity and avoid overlaps (5)
- define the most effective operational framework to design an online platform and test a pilot distribution scheme (5)

Task II (platform and testing): the quality of the methodology will be evaluated on the basis of the extent of its capacity to

- design an online platform allowing for the online application, matching and selection of distribution actions (10)
- organise the testing of a critical mass of distribution actions while ensuring a geographical and sub-sectorial (theatre, dance, circus and street arts) balance(10)
- define adequate criteria for the evaluation of distribution actions as well as develop a fee scheme to allow for their testing (10)

Task III (recommendations): the quality of the methodology will be evaluated on the basis of the extent of its capacity to

- exploit the data provided by the platform to produce statistics and analyse the results of the testing phase (5)
- produce practical and actionable policy recommendations to further explore support to the performing arts sector, in particular through the possible integration of the pilot distribution scheme in the next Creative Europe programme (5)

- **Organisation of the work and resources** (35 points – minimum score 50%)

This criterion will assess

- how the roles and responsibilities of the proposed team and of the different operators (in case of joint tenders, including subcontractors) are distributed for each task (15)
- the global allocation of time and resources to the project and to each task in particular, and whether this allocation is adequate for the requested work (20)

The tender should provide details on the allocation of time and human resources and the rationale behind the choice of this allocation. Details should be provided as part of the technical offer, which is different from the budget requested as part of the financial offer.

- **Quality of the proposed communication strategy** (10 points – minimum score 50%)
 - This criterion will assess the quality and relevance of the communication strategy proposed at every stage of the implementation (mapping study, testing phase, recommendations). The tender will in particular need to provide details on a strategic plan for the communication and valorisation of results.

Tenders must score minimum 50% for each criterion and sub-criterion, and minimum 70 % in total. Tenders that do not reach the minimum quality levels will be rejected and will not be ranked.

3.5. Award (ranking of tenders)

Tenders shall be ranked according to the best price-quality ratio in accordance with the formula below:

score for tender X	=	$\frac{\text{cheapest price}}{\text{price of tender X}}$	*	100	*	price weighting (in %)	+	total quality score (out of 100) for all award criteria of tender X	*	quality criteria weighting (in %)
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☝ The contract shall be awarded to the tender ranked first, which complies with the Tender Specifications and is submitted by a tenderer having access to procurement, not in an exclusion situation and fulfilling with the selection criteria.

4. FORM AND CONTENT OF THE TENDER

4.1. Form of the tender: how to submit the tender?

Tenders are to be submitted via the e-Submission application according to the instructions laid down in the Invitation to tender letter and the [e-Submission Quick Guide](#).

👉 Make sure you prepare and submit your electronic tender in e-Submission early enough to ensure it is received within the deadline specified under Heading IV.2.2 of the contract notice. A tender received after this deadline will be rejected.

4.2. Content of the tender: what documents to submit with the tender?

The documents to be submitted with the tender in e-Submission are listed in *Annex 1*.

The following requirements apply to the technical and financial offer (to be uploaded as Technical tender and Financial tender in e-Submission):

- *Technical offer.*

The technical offer must provide all the information needed to assess the compliance with Section 1.4 of these specifications and the award criteria. Tenders deviating from the minimum requirements or not covering all the requirements may be rejected on the basis of non-compliance and not evaluated further.

- *Financial offer.*

A complete financial offer, including the breakdown of the price needs to be uploaded. For this purpose, the Financial Model in *Annex 6* shall be completed, duly signed and uploaded in e-Submission.

It is the responsibility of each tenderer to ensure that the total amount of the tender inserted in the relevant field of the e-Submission application corresponds to the amount indicated in the uploaded financial offer. In case of discrepancies, only the amount indicated in the financial offer will be taken into account.

The financial offer shall be:

- expressed in euros. Tenderers from countries outside the euro zone have to quote their prices in euro. The price quoted may not be revised in line with exchange rate movements. It is for the tenderer to bear the risks or the benefits deriving from any variation.
- quoted free of all duties, taxes and other charges, i.e. also free of VAT. The tenderer may indicate the amount of VAT but it must be shown separately.

👉 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 annexed to the Treaty on the Functioning of the European Union. 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 must 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.

4.3. Signature policy: how can documents be signed?

Where a document needs to be signed, the signature must be either hand-written, a qualified electronic signature or an advanced electronic signature based on a qualified certificate as defined in [Regulation \(EU\) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market \(the eIDAS Regulation\)](#).

For hand-written signatures see Section 1 of the Invitation to tender.

For electronic signatures see: <https://webgate.ec.europa.eu/fpfis/wikis/x/iwX4Dg>

All documents must be signed by the signatories (when they are individuals) or by their duly authorised representatives.

For the following documents, when signed by representatives, tenderers must provide evidence for the delegation of the authorisation to sign:

- The Tender report;
- The Declaration on Honour of the tenderer (in case of joint tender – the Declarations on Honour of all group members);
- (If applicable – in the case of joint tender) the power(s) of attorney drawn up using the model attached in **Annex 3**).

The delegation of the authorisation to sign on behalf of the signatories (including, in the case of proxy(-ies), the chain of authorisations) must be evidenced by appropriate written evidence (copy of the notice of appointment of the persons authorised to represent the legal entity in signing contracts (together or alone), or a copy of the publication of such appointment if the legislation which applies to signatory requires such publication or a power of attorney). A document that the Contracting authority can access on a national database free of charge does not need to be submitted if the Contracting authority is provided with the exact internet link and, if applicable, the necessary identification data to retrieve the document.

4.4. Confidentiality of tenders: what information and under what conditions can be disclosed?

Once the *Contracting authority* has opened a tender, it becomes its property and shall be treated confidentially, subject to the following:

- For the purposes of evaluating the tender and, if applicable, implementing the contract, performing audits, benchmarking, etc., the *Contracting authority* is entitled to make available (any part of) the tender to its staff and the staff of other Union institutions, agencies and bodies, as well to other persons and entities working for the *Contracting authority* or cooperating with it, including contractors or subcontractors and their staff provided that they are bound by an obligation of confidentiality.

- After the signature of the award decision tenderers whose tenders were received in accordance with the submission modalities, who have access to procurement, who are not found to be in an exclusion situation referred to in Article 136(1) of the FR, who are not rejected under Article 141 of the FR, whose tenders are not found to be incompliant with the procurement documents, and who make a request in writing will be notified of the name of the tenderer to whom the contract is awarded, the characteristics and relative advantages of the successful tender and the price of the offer and/or contract value. The *Contracting authority* may decide to withhold certain information that it assesses as being confidential, in particular where its release would prejudice the legitimate commercial interests of economic operators or might distort fair competition between them. Such information may include, without being limited to, confidential aspects of tenders such as unit prices included in the financial offer, technical or trade secrets¹⁵.
- The *Contracting authority* may disclose the submitted tender in the context of a request for public access to documents, or in other cases where the applicable law requires its disclosure. Unless there is an overriding public interest in disclosure¹⁶, the *Contracting authority* may refuse to provide full access to the submitted tender, redacting the parts (if any) that contain confidential information, the disclosure of which would undermine the protection of commercial interests of the tenderer, including intellectual property.

☞ The *Contracting authority* will disregard general statements that the whole tender or substantial parts of it contain confidential information. Tenderers need to mark clearly the information they consider confidential and explain why it may not be disclosed. The *Contracting authority* reserves the right to make its own assessment of the confidential nature of any information contained in the tender.

¹⁵ For the definition of trade secrets please see Article 2 (1) of DIRECTIVE (EU) 2016/943 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure.

¹⁶ See Article 4 (2) of the REGULATION (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

APPENDIX: LIST OF REFERENCES

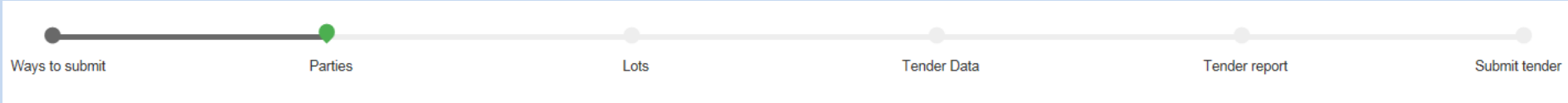
<i>Award criteria</i>	See Section 3.4
<i>Contracting authority</i>	See Section 1.1
<i>Entities on whose capacities the tenderer relies to fulfil the selection criteria</i>	See Section 2.4.3
<i>EU Validation services</i>	See Section 2.3 EU Grants and Tenders Rules on Legal Entity Validation, LEAR appointment and Financial Capacity assessment
<i>Exclusion criteria</i>	See Section 3.1
<i>Financial Regulation</i>	Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union
<i>Group leader</i>	See Section 2.4.1
<i>Identified subcontractors</i>	See Section 2.4.2
<i>Involved entities</i>	See Section 2.4
<i>Joint tender</i>	See Section 2.4.1
<i>Participating entities</i>	See Section 1.1
<i>Participant Register</i>	See Section 2.3 https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/participant-register
<i>Selection criteria</i>	See Section 3.2
<i>Sole tenderer</i>	See Section 2.4
<i>Subcontracting/subcontractor</i>	See Section 2.4.2
<i>Treaties</i>	The EU Treaties: https://europa.eu/european-union/law/treaties_en

ANNEXES

The following documents are annexed to these Tender Specifications and form an integral part of them:

- Annex 1 : List of documents to be submitted with the tender or during the procedure
- Annex 2 : Declaration on Honour
- Annex 3 : Power of attorney
- Annex 4 : List of identified subcontractors
- Annex 5.1 : Commitment letter by an identified subcontractor
- Annex 5.2 : Commitment letter by an entity on whose capacities is being relied
- Annex 6 : Financial offer
- Annex 7a : Methodology for evaluating the financial capacity
- Annex 7b : Economic and financial analysis form

Annex 1. List of documents to be submitted with the tender or during the procedure

Description	Sole tenderer	Joint tender		Identified Subcontractor	Entity on whose capacity is being relied	When and where to submit the document?	Instructions for uploading in eSubmission (if applicable)	
		Group leader	Member of the group				How to name the file?	Where to upload?
1. Identification and information about the tenderer.								
<i>eSubmission view</i>								
								
Declaration on Honour on Exclusion and Selection Criteria (see Section 3.1) model in Annex 2. Declaration on Honour on exclusion and selection criteria	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	With the tender in e-Submission	'Declaration on Honour'	With the concerned entity under 'Parties' →'Identification tenderer' →'Attachments'→'Declaration on Honour'.
Evidence that the person signing the documents is an authorised	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			With the tender in e-Submission	'Authorisation to sign' documents'.	With the concerned entity under 'Parties' →'Identification tenderer'

representative of the entity ¹⁷								→'Attachments'→'Other documents'.
Power of attorney (see Section 2.4.1) model in Annex 3. Power of attorney			☒			With the tender in e-Submission	'Power of attorney'	In the Group leader's section under 'Parties' →'Identification tenderer' →'Attachments'→'Other documents'.
Commitment letter (see Section 2.4.2 and 2.4.3)				☒ (model in Annex 5.1)	☒ (model in Annex 5.2)	With the tender in e-Submission	'Commitment letter'	With the concerned entity under 'Parties' →'Identification tenderer' →'Attachments'→'Other documents'.
Evidence of non-exclusion (see Section 3.1)	☒	☒	☒			Only upon request by the Contracting authority At any time during the procedure	n.a.	n.a.
Evidence of legal existence and status	☒	☒	☒			Only upon request by <i>the EU Validation services</i> At any time during the procedure In the Participant Register	n.a.	n.a.

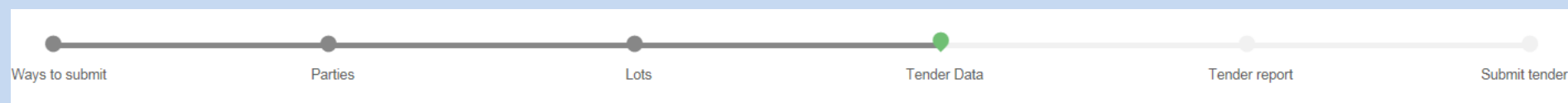
¹⁷ A document that the Contracting authority can access on a national database free of charge does not need to be submitted if the Contracting authority is provided with the exact internet link and, if applicable, the necessary identification data to retrieve the document.

Evidence of legal capacity (see Section 3.2.1)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			With the tender in e-Submission		n.a.
Evidence of economic and financial capacity F1 (see Section 3.2.2)	<p>The documents must be provided</p> <p>only by the <i>involved entities</i></p> <p>who contribute to reaching the minimum capacity level</p> <p>for criterion F1</p>					With the tender in e-Submission	'Balance_sheet_entity_year" Profit_Loss_Account_entity_year"	With the Group leader or the sole tenderer under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Economic and financial capacity'.
Evidence of economic and financial capacity F2 (see Section 3.2.2)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			With the tender in e-Submission	'Balance_sheet_entity_year" Profit_Loss_Account_entity_year"	With the Group leader or the sole tenderer under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Economic and financial capacity'.
Evidence of technical and professional capacity T1 (see Section 3.2.3)	<p>The documents must be provided</p>					With the tender in e-Submission	'Project_reference_No.1" 'Project_	With the Group leader or the sole tenderer under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Tech-

	<p>only by the <i>involved entities</i></p> <p>who contribute to reaching the minimum capacity level</p> <p>for criterion T1</p>		<p>reference_No.2"</p> <p>....</p>	<p>nical and professional capacity'.</p>
<p>Evidence of technical and professional capacity T2</p> <p>(see Section 3.2.3)</p>	<p>The documents must be provided</p> <p>only by the <i>involved entities</i></p> <p>who contribute to reaching the minimum capacity level</p> <p>for criterion T2</p>	<p>With the tender</p> <p>in e-Submission</p>	<p>'Project_ reference_No.1"</p> <p>'Project_ reference_No.2"</p> <p>....</p>	<p>With the Group leader or the sole tenderer under 'Parties' →'Identification tenderer' →'Attachments'→'Technical and professional capacity'.</p>
<p>Evidence of technical and professional capacity T3</p> <p>(see Section 3.2.3)</p>	<p>The documents must be provided</p> <p>only by the <i>involved entities</i></p> <p>who contribute to reaching the minimum capacity level</p> <p>for criterion T3</p>	<p>With the tender</p> <p>in e-Submission</p>	<p>'CV of the Manager of the Team"</p> <p>'CV of the Administrator"</p> <p>....</p>	<p>With the Group leader or the sole tenderer under 'Parties' →'Identification tenderer' →'Attachments'→'Technical and professional capacity'.</p>

Evidence of technical and professional capacity T4 (see Section 3.2.3)	<p style="text-align: center;">The documents must be provided</p> <p style="text-align: center;">only by the <i>involved entities</i></p> <p style="text-align: center;">who contribute to reaching the minimum capacity level</p> <p style="text-align: center;">for criterion T4</p>	With the tender in e-Submission	'CV of the IT expert' 	With the Group leader or the sole tenderer under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Technical and professional capacity'.
--	--	------------------------------------	-----------------------------------	---

2. Tender data.



Failure to upload the following documents in eSubmission will lead to rejection of the tender.

Technical offer (see Section 4.2)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				With the tender in e-Submission	'Technical tender'	Under section 'Tender Data' → 'Technical Tender'
Financial offer (see Section 4.2)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				With the tender in e-Submission	'Financial tender'	Under 'Tender Data' → 'Financial Tender'

3. Tender report.

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 the [eSubmission Quick Guide](#).

Tender report	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				With the tender in e-Submission	"Tender report"	Under report'	section 'Tender

Annex 2. Declaration on Honour on exclusion and selection criteria

Declaration on honour on exclusion criteria and selection criteria

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

(only for natural persons) himself or herself	(only for legal persons) 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’)

The person is not required to submit the declaration on exclusion criteria if the same declaration has already been submitted for the purposes of another award procedure of the same contracting authority¹⁸, provided the situation has not changed, and that the time that has elapsed since the issuing date of the declaration does not exceed one year.

In this case, the signatory declares that the person has already provided the same declaration on exclusion criteria for a previous procedure and confirms that there has been no change in its situation:

Date of the declaration	Full reference to previous procedure

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 Union or national law;	<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 applicable law;	<input type="checkbox"/>	<input type="checkbox"/>

¹⁸ The same EU institution, agency, body or office.

(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 eligibility or selection criteria or in the performance of a contract or an agreement;	<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 any of the following:		
(i) fraud, within the meaning of Article 3 of Directive (EU) 2017/1371 and 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 4(2) of Directive (EU) 2017/1371 or active corruption within the meaning of Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997, or conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in other applicable laws;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) money laundering or terrorist financing, within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist 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 offences concerning trafficking in human beings as referred to in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(e) it has shown significant deficiencies in complying with the main obligations in the performance of a contract or an agreement financed by the Union's budget,	<input type="checkbox"/>	<input type="checkbox"/>

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 a contracting authority, the European Anti-Fraud Office (OLAF) or the Court of Auditors;		
(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) it has been established by a final judgment or final administrative decision that the person has created an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business.	<input type="checkbox"/>	<input type="checkbox"/>
(h) (<i>only for legal persons</i>) it has been established by a final judgment or final administrative decision that the person has been created with the intent provided for in point (g).	<input type="checkbox"/>	<input type="checkbox"/>
(i) for the situations referred to in points (c) to (h) above the person is subject to: <ul style="list-style-type: none"> i. facts established in the context of audits or investigations carried out by the European Public Prosecutor's Office after its establishment, the Court of Auditors, the European Anti-Fraud Office (OLAF) or the internal auditor, 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 judgments or non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics; iii. facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks; iv. information transmitted by Member States implementing Union funds; v. decisions of the Commission relating to the infringement of Union competition law or of a national competent authority relating to the infringement of Union or national competition law; or vi. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body. 	<input type="checkbox"/>	<input type="checkbox"/>

II – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON AND BENEFICIAL OWNERS

Not applicable to natural persons, Member States and local authorities

(2) declares that a natural or legal 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 e.g. company directors, members of management or supervisory bodies, and cases where one natural or legal person holds a majority of shares), or a beneficial owner of the person (as referred to in point 6 of article 3 of Directive (EU) No 2015/849) is in one of the following situations:	YES	NO	N/A
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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"/>
Situation (g) above (creation of an entity with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (h) above (person created with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (i) above	<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
Was previously involved in the preparation of the procurement documents used in this award procedure, where this entailed a breach of the principle of equality of treatment including distortion of competition that cannot be remedied otherwise.	<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 or of any taxes or social security contributions. 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 natural or legal persons that are members of the administrative, management or

supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners.

It must also provide the following evidence concerning the person itself and the natural or legal persons on whose capacity the person intends to rely, or a subcontractor and concerning the natural or legal persons which assume unlimited liability for the debts of the person:

For situations described in (a), (c), (d), (f), (g) and (h), 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 (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 award procedure of the same contracting authority¹⁹. 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

(1) 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 has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section 3.2.1 of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable economic and financial criteria indicated in section 3.2.2 of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) It fulfills the applicable technical and professional criteria indicated in section 3.2.3 of the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) if the above-mentioned person is the sole tenderer or the leader in	YES	NO	N/A

¹⁹ The same institution or agency.

case of joint tender , declares that:			
(d) the tenderer, including all members of the group in case of joint tender and including subcontractors if applicable, complies with all the selection criteria for which a consolidated assessment will be made as provided in the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VIII – 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 of the same contracting authority²⁰. 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 must immediately inform the contracting authority of any changes in the situations as declared.

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

²⁰ The same institution of agency.

Annex 3. Power of attorney

Call for tenders EAC/2020/OP/0007-

Platform for the Cross-border Distribution of European Performing Arts Works

POWER OF ATTORNEY

The undersigned:

– Signatory (Name, Function, Company, Registered address, VAT Number)

having the legal capacity required to act on behalf of his/her company,

HEREBY AGREES TO THE FOLLOWING:

- 1) To submit a joint tender as a member of a group of tenderers (the Group), constituted by Company 1, Company 2, Company N (Group members), and led by Company 1 (Group leader), in accordance with the conditions specified in the Tender specifications and the terms specified in the tender to which this Power of attorney is attached.
- 2) If the Contracting authority awards the contract resulting from this call for tenders to the *Group* on the basis of the joint tender to which this power of attorney is attached, all *Group members* shall be considered parties to the contract in accordance with the following conditions:
 - (a) All *Group members* shall be jointly and severally liable towards the Contracting authority for the performance of the contract.
 - (b) All *Group members* shall comply with the terms and conditions of the contract and ensure the proper delivery of their respective share of the services and/or supplies subject to the contract.
- 3) Payments by the Contracting authority related to the services and/or supplies subject to the Contract shall be made through the bank account of the *Group leader*: [Provide details on bank, address, account number].
- 4) The *Group members* grant to the *Group leader* all the necessary powers to act on their behalf in the submission of the tender and the conclusion of the contract, including:
 - (a) The *Group leader* shall submit the tender on behalf of all *Group members* and indicate in the "Tender Contact Info" section in e-Submission the name and e-mail address of an individual - single point of contact authorised to communicate officially with the Contracting authority in connection with the submitted tender on behalf of all *Group members*, including in connection with all relevant questions, clarification requests, notifications, etc., that may be received during the evaluation, award and until the contract signature.
 - (b) The *Group leader* shall sign any contractual documents — including the contract, and amendments thereto — and issue any invoices related to the performance of the contract on behalf of all *Group members*.
 - (c) The *Group leader* shall act as a single contact point with the Contracting authority in the

delivery of the services and/or supplies subject to the contract. It shall co-ordinate the delivery of the services and/or supplies by the *Group* to the Contracting authority, and shall see to a proper administration of the contract.

Any modification to the present Power of attorney shall be subject to the Contracting authority's express approval. This Power of attorney shall expire when all the contractual obligations of the *Group* have ceased to exist. The parties cannot terminate it before that date without the Contracting authority's consent.

Place and date:

Name (in capital letters), function, company and signature:

Annex 4. List of identified subcontractors

Identification details	Roles/tasks during contract execution	Proportion of subcontracting (% of contract volume)
[Full official name Registered address Statutory registration number VAT registration number]		
[Full official name Registered address Statutory registration number VAT registration number]		
[REPEAT AS MANY TIMES AS THE NUMBER OF IDENTIFIED SUBCONTRACTORS]		
Other subcontractors that do not need to be identified under Section 2.4.2		
	TOTAL % of subcontracting	0,00%

Annex 5.1. Commitment letter by an identified subcontractor

[Letterhead, if any]

EUROPEAN COMMISSION

Call for tenders Ref. EAC/2020/OP/0007

Attn:

[Insert date]

Commitment letter by identified subcontractor

I, the undersigned,

Name:

Function:

Company:

Registered address:

VAT Number:

having the legal capacity required to act on behalf of the company *[insert name of the entity]* hereby confirm that our company agrees to participate as subcontractor in the offer of *[insert name of the tenderer]* for the Call for Tenders EAC/2020/OP/0007-Platform for the Cross-border Distribution of European Performing Arts Works.

In the event that the tender of the aforementioned tenderer is successful, *[insert name of the subcontractor]* commits itself to make available the resources necessary for performance of the contract as a subcontractor and to carry out the services that will be subcontracted to it in compliance with the terms of the contract. It further declares that it is not subject to conflicting interests which may negatively affect the contract performance and that it accepts the general conditions attached to the Tender Specifications for the above call for tender, in particular the contractual provisions related to checks and audits.

Done at:

Name:

Position:

Signature:

Annex 5.2. Commitment letter by an entity on whose capacities is being relied

[Letterhead, if any]

EUROPEAN COMMISSION

Call for tenders Ref. EAC/2020/OP/0007

Attn:

[Insert date]

Commitment letter by an entity on whose capacity is being relied

I, the undersigned,

Name:

Function:

Company:

Registered address:

VAT Number:

having the legal capacity required to act on behalf of the company *[insert name of the entity]* hereby confirm that our company **authorises the** *[insert name of the tenderer]* **to rely on its financial and economic capacity in order to meet the minimum levels** required for the Call for Tenders EAC/2020/OP/0007- Platform for the Cross-border Distribution of European Performing Arts Works.

In the event that the tender of the aforementioned tenderer is successful, *[insert name of the entity]* commits itself to make available the resources necessary for performance of the contract. It further declares that it is not subject to conflicting interests which may negatively affect the contract performance, and that it accepts the general conditions attached to the Tender Specifications for the above call for tender, in particular the contractual provisions related to checks and audits.

Done at:

Name:

Position:

Signature:

Annex 6. Financial offer form

	Unit cost EURO (x)	Number of Days (y)	Total cost In EURO (x)* (y)
A. Personnel			Indicate sub-total for Personnel
<i>[- specify names and position in the contract]</i>	<i>[indicate cost per day]</i>		<i>[indicate total per person]</i>
B. Travel and subsistence			Indicate sub-total for Travel & subsistence
<i>[- specify each trip, including number of people and duration in days]</i>	<i>[indicate cost per person]</i>		<i>[indicate total per trip]</i>
	Unit cost EURO	Number of Units	
[C. <Other foreseen large items of expenditure, apart from A & B, eg Organisation of peer-learning visits>]²¹			<i>[Indicate sub-total for eg Organisation of peer-learning visits]</i>
<i>[- specify each sub-item, eg rent of venue, interpretation]</i>	<i>[indicate unit cost]</i>		<i>[indicate total per item]</i>
[C][D]. Other			Indicate sub-total for Other
<i>[- specify any other costs]</i>	<i>[indicate unit cost]</i>		<i>[indicate total per item]</i>
<u>[D][E]. Price</u> <i>[- total of the above]</i>			<u>Indicate grand total (binding offer)</u>

²¹ Delete if not applicable & correct labelling of subsequent paragraphs. You may have more than one additional heading, if necessary.

.....
Signature of the Tenderer or their duly authorised representative

.....
Name of the person signing above

.....
Name of the Tenderer, if different from the above

NB

1. Items should be specified in units of less than € 10,000, wherever possible
2. Where any item is proposed to be delivered by a sub-contractor, the name of the sub-contractor should be indicated. Where no sub-contractor is given, the work will be assumed to be carried out directly by the bidder.
3. The above breakdown of prices shows the bidder's intentions at the time of submission of the offer. Only the Grand Total is binding. In the event that the bidder is awarded the contract, the actual expenditure may be modified as circumstances require and as permitted by the contract. The Contracting Authority will however pay only the Price tendered, regardless of actual expenditure by the Contractor, which need not be reported to the Contracting Authority.

Annex 7a. Methodology for evaluating the financial capacity



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR EDUCATION, YOUTH, SPORT AND CULTURE
Directorate R - Resources

Unit R3 – Accounting and finance

METHODOLOGY FOR EVALUATING THE FINANCIAL CAPACITY OF TENDERERS/CANDIDATES FOR PUBLIC CONTRACTS

Like all the other Directorates-General of the Commission, the Directorate-General for Education, Youth, Sport and Culture (DG EAC) uses public contracts to purchase the goods and services it needs to pursue its objectives: research, technical assistance, advice, conferences, advertising services, documentation, IT equipment, etc.

In principle, public contracts are awarded following invitations to tender published in the Official Journal.

Once tenders from the candidates or tenderers have been submitted, they are subjected among other things to an assessment on the basis of the selection criteria, including verification of financial capacity.

In order to perform this assessment of financial capacity, DG EAC established a methodology in accordance with Article 167 of the Financial Regulation (FR²²), and points 18 and 19 of Annex 1 to FR.

This methodology describes the scope, the documents required of the tenderers and candidates and, where an actual analysis is performed, the financial ratios used as well as the interpretation of the results obtained.

The financial analysis is based on the general guidelines (liquidity, solvency, profitability) of the Directorate-General for Budget (DG BUDG). The selected ratios and the thresholds applied are also those proposed by the same DG.

1. SCOPE

Evaluation of financial capacity as selection criteria applies to all tender procedures.

²² • [Regulation \(EU, Euratom\) 2018/1046 on the financial rules applicable to the general budget of the Union, repealing Regulation \(EU, Euratom\) No 966/2012 \(2012 Financial Regulation\), OJ L 193, 30/07/2018, page 1](#)

In accordance with point 18.5 of Annex 1 to FR, proof of financial capacity cannot be required for contracts worth EUR 144 000 or less.

It was decided at DG EAC that a financial capacity analysis (based on financial ratios) would be carried out when the value of the contract exceeds EUR 260 000. For values above this threshold, proof of financial capacity will be required on a case-by-case basis according to the hypothetical cases presented in points 3.3, 3.4 and 3.5 below, and the financial analysis will be performed as described in point 4.

2. ENTITIES SUBJECT TO THE EXAMINATION OF FINANCIAL CAPACITY

- All the economic operators, including natural persons, involved in the tender procedure.
- For a consortium, the leader and all the members of the consortium.
- In the case of sub-contracting, all the subcontractors, provided that the subcontracting value is 10 % or more of the value of the contract.

3. DOCUMENTS DEMONSTRATING THE FINANCIAL CAPACITY OF THE TENDERERS/CANDIDATES

3.1. Contracts worth EUR 144 000 or less

For contracts of this type, proof of financial capacity consists of a solemn declaration by the economic operator (see Annex 2 of the Call for Tenders, "Declaration on honour on exclusion criteria and selection criteria").

3.2. Contracts worth more than EUR 144 000 but equal to or less than EUR 260 000

For this category of contracts, in addition to the solemn declaration mentioned at the point 3.1, proof of financial capacity is also provided by a statement of overall turnover and turnover specifically related to the supplies or services covered by the contract for the last two financial years for which accounts have been closed.

However, in case of doubt, the assessment committee reserves the right to request supporting documents and to carry out a financial analysis as described in point 4 below.

Along similar lines, entities falling into one of the following high-risk categories must provide proof of their financial capacity (see points 3.3, 3.4 and 3.5 below) and are required to undergo the financial analysis provided for in point 4 below:

- newly-established entities which have existed for less than a year and for which no financial history is available;
- new entities which have existed for between one and three years;

- entities against which one or more expired and unpaid recovery orders have been issued by DG EAC;
- entities that are the subject of suspicions of or findings relating to serious administrative errors or fraud;
- entities against which legal proceedings have been brought for serious administrative errors or fraud.

3.3. *Contracts worth more than EUR 260 000*

For contracts worth more than EUR 260 000, proof of economic and financial capacity is provided by the following documents:

- the solemn declaration requested at point 3.1.
- the economic and financial capacity analysis form showing the financial data of the economic operator, completed and signed by the operator (see Annex 7b "Economic and Financial Analysis);
- for economic operators required under national law to keep a complete set of accounts: the annual accounts (balance sheet, income statement and annexes) for the last two years for which accounts have been closed;
- for economic operators required under national law to keep a simplified set of accounts: the statement of expenditure and revenue and the annex showing assets and liabilities for the last two financial years for which accounts have been closed;
- in all cases, a statement of overall turnover and turnover specifically related to the supplies or services covered by the contract for the last two financial years for which accounts have been closed.

3.4. *Exceptional cases referred to in point 19.3 paragraph 2 of Annex 1 to FR*

If, for some exceptional reason which the contracting authority considers justified, the operator is unable to provide the documents required, it may prove its economic and financial capacity by any other means deemed appropriate.

3.5. *Special cases*

Natural persons

Natural persons, in spite of the form in which they participate in a market (eg sole tenderer, consortium member or subcontractor) do not have to provide proof of their financial capacity other than by the solemn declaration attached in Annex 2 of the Call for Tenders, "Declaration on honour on exclusion criteria and selection criteria". This applies to all cases described at point 3

Recently established entities (in existence for less than two years)

In the case of recently established entities which have not yet closed accounts for two financial years and which are therefore considered high-risk, the annual accounts for a single year (if available) will be required, together with interim accounts, the solemn declaration, the economic and financial analysis form and statement of turnover provided for in point 3.3. These interim accounts must cover the period between the date of establishment of the entity and the publication date of the tender. This applies to contracts worth more than EUR 260 000 but also to those worth between EUR 144 000 and EUR 260 000, given that new entities are considered to be risky.

For low and middle value contracts (up to EUR 144 000 for service and supply contracts), the solemn declaration provided for in point 3.1 is sufficient.

Recent acquisition, merger and incorporation

The annual accounts for the last two years for which accounts have been closed will be required for **all** the entities involved in these incorporation, acquisition and merger operations (except recent entities, see above) in accordance with the scenarios set out in point 3 ('Documents').

Consortia and subcontractors

In the case of consortia, both the leader and all members of the group are required to submit the documents proving their financial capacity in accordance with the scenarios set out in point 3 ('Documents').

The sub-contractors referred to in point 2 above ('Entities subject...') must also submit documents to prove their financial capacity, in accordance with the scenarios set out in point 3 ('Documents').

N.B. The various headings in point 3 concerning documents apply to all the entities referred to in point 2.

4. FINANCIAL ANALYSIS AND INTERPRETATION OF THE RESULTS

The financial analysis involves calculating a series of financial ratios based on the financial data declared in Annex 7b "Economic and Financial Analysis" and verified on the basis of the financial documents required.

4.1. Financial ratios

Two types of calculation are used by type of economic operator, differentiated by the requirement to keep either a complete or a simplified set of accounts.

a. Economic operators keeping full accounts

Financial independence = own funds/total liabilities

Financial independence makes it possible to determine the proportion of own funds in total liabilities and therefore to measure the economic operator's degree of

independence in relation to third-party funds. A ratio of less than 20 % is considered to be negative.

Debt ratio = own funds/medium- and long-term debts

This ratio measures the solvency and independence of the operator, by analysing the composition of the liabilities on the balance sheet. A ratio of less than 30 % will be considered to be negative.

Profitability = Gross operating surplus/turnover

This ratio measures the proportion of economic surplus generated by the operation, once operating expenses have been deducted.

These are the funds really generated by the operation. They must be positive and sufficient to cover:

- depreciation;
- financial charges;
- any exceptional charges;
- the need for a business to make a profit.

There must therefore actually be a surplus (the ratio must be positive). A ratio of less than 10 % will be considered to be negative.

Liquidity = (available funds + claims)/current liabilities

This ratio measures whether total current assets actually cover current liabilities and therefore indicates whether the economic operator will be able to meet its current liabilities.

The value of this ratio must be equal to or higher than 1. Otherwise, current assets do not suffice to cover current liabilities, and the economic operator may not be able to meet its liabilities in the very near future (in less than a year).

Coverage ratio of third-party funds by self-financing capacity = self-financing capacity/medium- and long-term debts

This coverage ratio measures the proportion of medium- and long-term debts which could be reimbursed by the self-financing capacity of the financial year. It therefore measures the reimbursement capacity.

A value of 25 % means that four times the self-financing capacity of the last financial year is needed to reimburse medium- and long-term liabilities. Since this can be done only if the business does not invest and does not incur other medium- and long-term debts (and if profitability stays at the same level), a ratio of less than 25 % will be considered to be negative.

Activity index = (Total amount of tender/duration)/self-financing capacity

This ratio measures the weight between the annual value of the tender and the annual turnover of the tenderer.

b. Economic operators keeping simplified accounts

Financial independence = own funds/total liabilities

Financial independence makes it possible to determine the proportion of own funds in total liabilities. Sound financial autonomy is demonstrated by values above 20 %.

Liquidity = (available funds + claims)/current liabilities

This ratio measures whether total current assets actually cover current liabilities and therefore indicates whether the entity will be able to meet its current liabilities.

The value of this ratio must be equal to or higher than 1. Otherwise, current assets do not suffice to cover current liabilities, and the entity may not be able to meet its liabilities in the very near future (in less than a year).

Debt ratio = own funds/medium- and long-term debts

This ratio measures the solvency and independence of the operator. For sound financial autonomy, this ratio must be above 30 %.

Adequacy of own funds = own funds/total revenue

This is the ratio of stable resources to total revenue, and measures the number of periods available to the entity to maintain its activity using own funds. A high value is therefore an indication of the entity's "survival" capacity. A ratio of less than 25 % is considered to be negative.

Activity index = (Total amount of tender/duration)/Total operating income

This ratio measures the weight between the annual value of the tender and the annual turnover of the tenderer.

4.2. Analysis of the results

The points awarded on the basis of the calculated value of each ratio range between 0 and 2. Adding the points awarded for each of the financial years analysed results in a three-level classification of financial capacity: INSUFFICIENT, SATISFACTORY and GOOD.

Where ratios are insufficient, an in-depth financial analysis will be performed. The following ratios will be used:

- for economic operators keeping a complete set of accounts:

Ratio	Formula
"Trade receivables" turnaround time	=Clients/turnover*360
"Supplier credit" turnaround time	=Suppliers/net purchases*360
Working capital	=Permanent capital-net fixed assets
Working capital requirements	=Current assets (non-financial)-current liabilities (non-financial)

Trade receivables turnaround time = clients/turnover*360

This is a financial ratio which indicates the speed at which a company covers its trade receivables. In other words, it expresses in number of days the average credit which a company grants to its clients (or the average time it takes for them to pay).

Supplier credit turnaround time = suppliers/net purchases*360

This ratio can be used to measure the degree of payability of supplier debts. It expresses in numbers of days the average payment periods granted by the suppliers of the entity.

The trade receivables turnover time must be shorter than the supplier credit turnover time in order to avoid any deficit in financial resources and therefore inability to pay.

Working capital = permanent capital-net fixed assets

Working capital is the part of permanent capital (own funds, provisions for risks and charges and debts due in over one year) which exceeds the amount of intangible assets. The working capital will be used to finance the operating cycle of the economic operator.

It should cover the vast majority of working capital requirements. Working capital thus prevents the entity from having to rely more heavily on short-term banking finance which can generate substantial financial charges.

Working capital requirements = current assets (non-financial)-current liabilities (non-financial)

Working capital requirements (WCR) represent the funding discrepancy stemming from the daily business of the entity (the undertaking).

Working capital in excess of working capital requirements is a positive situation in which financial balance is achieved.

- for economic operators keeping a simplified set of accounts:

Ratio	Formula
Own funds (net assets)	=Assets-liabilities
Cash flow	=Revenue-expenditure

Own funds (net assets) = assets-liabilities

Own funds are the difference between total assets and liabilities. Positive net assets are essential to ensure a certain level of growth.

Cash flow = revenue-expenditure

Cash flow measures the flows of liquidity which the entity generates from its activities, and must be positive.

Following this in-depth analysis, the results will be classified into two categories:

- "unfavourable": if the cumulative results at the time of the in-depth analysis appear to be unfavourable, a decision is made to exclude the economic operator;
- "favourable": results which appear to be favourable could lead to the authorising officer responsible deciding to retain the economic operator while providing for safeguard measures.

4.3. Assessment of the financial situation of the special cases provided for in point 3.4, 'Exceptional cases referred to in point 19.3 paragraph 2 of Annex 1 to FR'

For the exceptional cases provided for in point 3.4, the economic operators concerned are authorised to prove their economic and financial capacity by any means considered appropriate. These documents will be analysed on a case-by-case basis in order to determine whether the economic and financial capacity is assured.

4.4. Assessment of the financial situation of the special cases provided for in point 3.5, 'Special cases'

Recently established entities

The analysis is carried out on the basis of the documents referred to in point 3.5 above.

Recent acquisition, merger and incorporation

The analysis is carried out for each operator involved in these incorporation, acquisition and merger operations on the basis of the documents required in accordance with the scenarios set out in point 3.

Consortia and subcontractors

For consortia, the analysis is carried out for the leader and all the members of the consortium on the basis of the documents required in accordance with the scenarios set out in point 3.

In the case of sub-contracting, the analysis is carried out for all sub-contractors for which the sub-contracting value is 10 % or more of the value of the contract on the basis of the documents required in accordance with the scenarios set out in point 3.

If analysis of the financial capacity reveals that one or more members of the consortium/one or more sub-contractors do not have the financial capacity to perform the contract, the authorising officer may decide to apply the following approaches:

- reject the member(s)/sub-contractor(s) in question and continue with the other members/sub-contractors of the group. In this case they must prove that they have the financial and operational capacity to perform the contract. Furthermore, the change in the composition of the group may not substantially change the tender;
- require that the member(s)/sub-contractor(s) in question be replaced by another entity/other entities which are able to provide the same services while fulfilling the following conditions:
 - the new candidate is not excluded (a statement of non-exclusion will be required);
 - the new candidate still meets the selection criteria with respect to the request to participate/tender originally submitted;
 - the change in the composition of the group does not require a substantial change to the tender. This condition is met if:
 - all the tasks assigned to the former member/sub-contractor are taken over by the new entity;
 - the change does not make the tender non-compliant with the specifications;
 - the change does not amend the assessment of the tender originally submitted according to the award criteria.

It should be noted that there may be a combination of all the hypothetical cases covered by this methodology.

In all cases included in the methodology, the authorizing officer reserves the right to use the joint and several liability clause in the contract.

Annex 7b. Economic and financial analysis form

ECONOMIC AND FINANCIAL ANALYSIS (to be completed and signed by the tenderer/applicant) <i>- form to be completed by economic operators keeping a complete set of accounts -</i>			
Invitation to tender No	EAC/...../.....	Last two years for which the accounts have been closed:	
Name of tenderer / applicant	.....	201x	Start date of accounting year/...../.....
	.....		End date of accounting year/...../.....
Amount of the tender (EUR)	.....	201x(-1)	Start date of accounting year/...../.....
	.....		End date of accounting year/...../.....
		Currency in which the annual accounts have been recorded (EUR, PLN ..) 	
BALANCE SHEET			
	201x	201x(-1)	
FIXED ASSETS	0,00	0,00	
Intangible fixed assets			
Tangible fixed assets			
Financial assets			
CURRENT ASSETS	0,00	0,00	
Stocks			
Claims due after one year			
Claims due in less than a year	0,00	0,00	
- <i>advances and deposits paid on orders</i>			
- <i>client claims and related accounts</i>			
- <i>subscribed capital called but not paid</i>			
- <i>other claims</i>			
Marketable securities			
Cash instruments			
Cash in hand and bank funds			
OTHER ¹			
TOTAL ASSETS	0,00	0,00	
OWN CAPITAL	0,00	0,00	
Share capital			
Premiums			
Revaluation surplus			
Reserves			
Result for the year			
Result carried over			
Grants			
Regulated provisions			
Other own funds			
PROVISIONS FOR RISKS AND CHARGES			
LIABILITIES	0,00	0,00	
Medium- and long-term liabilities			
Short-term financial liabilities			
Short-term operational liabilities	0,00	0,00	
- <i>suppliers</i>			
- <i>advances and deposits received on current orders</i>			
- <i>taxes and social security contributions²</i>			
- <i>other operational liabilities</i>			
Various liabilities ³			
OTHER ⁴			
TOTAL LIABILITIES	0,00	0,00	
PROFIT AND LOSS			
	201x	201x(-1)	
OPERATING INCOME including:			
Turnover ⁵			
Withdrawals from provisions			
OPERATING CHARGES including:			
Purchases of raw materials, goods and other supplies			
Wages and salaries			
Social charges			
Depreciation allowance and depreciation			
OPERATIONAL RESULT	0,00	0,00	
FINANCIAL PRODUCTS			
FINANCIAL CHARGES			
FINANCIAL RESULT	0,00	0,00	
EXTRAORDINARY INCOME			
EXTRAORDINARY CHARGES			
EXTRAORDINARY RESULT	0,00	0,00	
Tax on profits			
NET RESULT FOR THE ACCOUNTING YEAR	0,00	0,00	
Done at, on/...../..... Name Signature			
¹ accruals and deferred income (charges to be distributed over several years, charges recorded in advance), loan redemption premiums, asset conversion differences ² salaries, social security contributions, taxes ³ tax debts (capital gains tax, debts on fixed assets and accounts receivable) ⁴ income collected in advance, exchange rate differences ⁵ sales of goods + production sold (goods and services)			

