

ANNEX I

PROVISION OF SERVICES OF TEMPORARY AGENCY WORK TO THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS

Multiple Framework Contracts in cascade

TENDER SPECIFICATIONS

OPEN CALL FOR TENDERS

ACER/OP/CS/02/2021

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1. TITLE OF THE INVITATION TO TENDER

Provision of services of temporary agency work to the European Union Agency for the Cooperation of Energy Regulators, invitation to tender no. ACER/OP/CS/02/2021.

This tender is not divided into lots.

2. BACKGROUND INFORMATION

The overall mission of the European Union Agency for the Cooperation of Energy Regulators ('the Agency') is to foster a fully integrated and well-functioning Internal Energy Market, where electricity and gas are traded and supplied according to the highest integrity and transparency standards, and EU consumers benefit from a wider choice, fair prices and greater protection. For this purpose, the Agency works with European Institutions, National Regulatory Authorities (NRAs) and stakeholders.

The Agency plays a central role in the development of EU-wide network and market rules with a view to enhancing competition. The Agency coordinates regional and cross-regional initiatives, which favour market integration. It monitors the work of European networks of transmission system operators (ENTSOs), and notably, the preparation and implementation of their EU-wide network development plans. Finally, the Agency monitors the functioning of gas and electricity markets in general, and of wholesale energy trading in particular.

The tasks of the Agency are defined by the Directives¹ and Regulations of the Third Energy Package² and the Clean Energy Package³ especially Regulation (EC) 713/2009 establishing the Agency in 2011, replaced in 2019 by Regulation (EU) 2019/942 (recast)⁴.

In 2011, the Agency received additional tasks under Regulation (EU) No 1227/2011⁵ on wholesale energy market integrity and transparency (REMIT). Additional tasks were also assigned to the Agency in 2013 under Regulation (EU) No 347/2013⁶ on guidelines for trans-European energy infrastructure and in 2019 under the acts of the 'Clean Energy for All Europeans'⁷ package.

More information about the Agency can be found on its website: <https://www.acer.europa.eu/>

¹ Directive 2009/72/EC OJ L211, 13.07.2009, p. 55–93, Directive 2009/73/EC OJ L211, 13.07.2009, p. 94–136.

² Regulation (EC) No 713/2009 OJ L 211, 14.08.2009, p. 1–14, Regulation (EC) No 714/2009 OJ L 211, 14.08.2009, p. 15–35, Regulation (EC) No 715/2009 OJ L 211, 14.08.2009, p. 36–54 .

³ https://www.acer.europa.eu/en/Electricity/CLEAN_ENERGY_PACKAGE

⁴ Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (OJ L 158, 14.6.2019, p. 22), which replaces Regulation (EC) 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators (OJ L 211, 14.8.2009, p. 1) establishing the Agency in 2011.

⁵ Regulation (EU) No 1227/2011 of the European Parliament and the Council on wholesale energy market integrity and transparency, OJ L 326, 08.12.2011, p.1

⁶ Regulation (EC) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009, OJ L 115, 25.04.2013, p.39.

⁷ https://www.acer.europa.eu/en/Electricity/CLEAN_ENERGY_PACKAGE

3. OBJECTIVE OF THE CONTRACT

The Agency intends to conclude a multiple FWC in cascade (hereinafter referred as the 'FWC') with maximum three (3) selected Contractors (hereinafter referred to as 'the Contractor') in order to provide the Agency with the necessary temporary agency workers in a timely fashion.

4. SUBJECT OF THE CONTRACT

The subject of the FWC is the provision of services of temporary agency work to the Agency.

4.1. Description of services

The Agency may request services of temporary agency work in order to facilitate its different Departments and/or teams in carrying out tasks of temporary nature and for different activities, namely administrative assistance, general secretarial support or general support in different areas, such as HRM, Press and Communications, Finance and Budget, IT, Legal, etc., but not limited to these only.

4.2. Minimum requirements

Temporary agency workers provided to the Agency shall meet the following minimum educational requirement:

- Secondary education attested by a diploma, giving access to post-secondary education and appropriate professional experience of at least three (3) years, or
- Post-secondary education attested by a diploma and appropriate professional experience of at least one (1) year.

In addition to the minimum educational requirement, temporary agency workers shall be required to have:

- A very good command of English (written and oral), corresponding to minimum C1 level of Common European Framework Reference for Languages⁸ (CERFL). For specific activities, the knowledge of other EU languages may also be required;
- Computer literacy and in particular a good knowledge of MS Office, MS Outlook and Internet (i.e. search tools, etc.);
- Ability to work in a multilingual and multicultural environment;
- Good administrative skills, ability to learn fast and work in a team.

The Agency may request the Contractor to provide temporary agency workers possessing additional qualifications. However, all the above minimum requirements shall be respected in all cases.

Temporary agency workers shall not be considered staff of the Agency, nor should it be by any means considered that the assignment to the Agency constitutes a contract of employment with the Agency.

⁸ <https://europa.eu/europass/en/common-european-framework-reference>

Throughout the duration of the FWC, the Contractor remains the employer of temporary agency workers and their relationship shall be subject to the Slovenian employment legislation⁹. It is understood that providing such services to the Agency can under no circumstances result in a direct employment relationship between temporary agency workers and the Agency.

The Contractor must apply the Slovenian employment legislation¹⁰ and regulations in force related to social security, labour law and tax.

4.3. Contractor's obligations concerning working conditions of temporary agency workers

The services shall be delivered at the Agency's premises in Ljubljana, Slovenia. In exceptional cases and solely in the interest of the service, the Contractor may be requested to provide temporary agency workers to participate in activities of the Agency outside its premises or travel on a mission to support an event outside the Agency's premises in Ljubljana (Slovenia). In such cases, travel orders and reimbursement of costs shall be prepared by the Contractor based on the Agency's request and in line with the relevant Slovene legislation¹¹ and Agency's internal rules (see Annex III – draft FWC)

4.4. Contractor's obligations concerning working hours and public holidays of the Agency

The Contractor shall ensure that temporary agency workers will be subject to the working hours and the working calendar in force at the Agency. Any changes in working hours and/or the working calendar of the Agency shall be communicated to the Contractor in due time, but in any case not later than one (1) month prior to the change entering into force.

Normal duration of a working week at the Agency is 40 hours, i.e. 8 hours per day from Monday to Friday, from 9 am to 5 pm. Core hours, applicable to statutory staff, shall also apply to temporary agency workers.

Lunch break of minimum 30 minutes shall be held at any time between 12 am and 2 pm (i.e. outside core hours) and is not paid by the Agency.

Working hours performed over and above 37.5 per week are not authorised, unless requested by the Agency and agreed in advance in writing. According to the needs of the service, on occasional basis, the Agency may require from the Contractor to use the services of temporary agency workers under special working hours arrangement.

The Contractor shall ensure that while being assigned to the Agency, temporary agency workers shall be present at the Agency's premises according to the schedule of public holidays of the Agency¹², which differs from the schedule of Slovenian public holidays to a certain extent. The Agency has between seventeen (17) to nineteen (19) public holidays per year. Public holidays of the Agency are updated yearly and are published on the Agency's website.

⁹ <https://zakonodaja.com/zakon/zdr-1/59-clen-splosno>

¹⁰ <https://zakonodaja.com/zakon/zdr-1>

¹¹ <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED1448>

¹² Public holidays of the Agency are published at: https://acer.europa.eu/Official_documents/Director.

The Contractor is required to pay temporary agency workers, assigned to the Agency, all public holidays which fall out of scope of public holidays of Slovenia, that is as long as temporary agency workers are in an assignment with the Agency at that time. Official Slovenian holidays must be considered as holidays and paid according to Slovenian employment legislation.

The Contractor shall enable temporary agency workers to work from home under exceptional circumstances as defined by the Agency.

4.5. Contractor's obligations concerning absences

In case of absence due to illness, the Contractor shall ensure that a temporary agency worker informs the Contractor and the Agency's HRM on the first day of the absence. The notification shall include information on the first day of absence and the estimated duration of absence. A temporary agency worker in a situation of temporary incapacity (e.g. injury outside work, third-party injury outside work, occupational injury, and occupational disease) shall continue to receive the salary as laid down in the relevant laws of the Republic of Slovenia. The Contractor shall be responsible for paying the salary without any repercussions on the invoicing to the Agency (i.e. the Contractor shall invoice the Agency only for the actual working hours delivered to the Agency).

The Contractor shall ensure that if a temporary agency worker would like to request an absence (i.e. annual leave) he/she must receive an approval from the Agency's supervisor and inform the Agency's HRM and the Contractor at least two (2) weeks before the planned absence.

Any unjustified absence of a temporary agency worker shall be considered by the Agency to be an interruption of the service provided by the Contractor and as a "fault" on the Contractor's part. In the event of such absence of more than five (5) consequent working days or in total five (5) working days during the implementation of a Specific Contract, the Agency reserves the right to request the Contractor to replace the temporary agency worker in question.

4.6. Contractor's obligations concerning replacement of temporary agency workers due to temporary incapacity

The Contractor shall ensure that a temporary agency worker falling in a situation of temporary incapacity due to illness shall notify both the Contractor and the Agency of his/her unavailability on the first day of absence. When it is estimated that the incapacity will last twenty (20) subsequent working days or more, the Contractor shall make a replacement available to the Agency.

From the moment the Contractor becomes aware of these circumstances, and if agreed with the Agency, the Contractor shall, within five (5) working days, submit to the Agency at least three (3) CVs of potential replacements with the required qualifications and experience.

For such replacements the same selection procedure and deadlines shall apply as described in point 9.3 below.

4.7. Contractor's obligations concerning replacement of temporary agency workers due to other reasons

Following a written request from the Agency, the Contractor shall replace within seven (7) working days a temporary agency worker. Any such replacement will not involve any additional cost to the Agency.

In case of replacement, the Contractor shall propose a minimum of three (3) CVs of potential replacement candidates with the required qualifications and experience.

For such replacements the same selection procedure and deadlines shall apply as described under point 9.3. 'Modus Operandi' below.

4.8. Contractor's obligations concerning security and confidentiality considerations

The Contractor shall ensure that temporary agency workers comply with the Agency's security rules (see Annex I.I) and Rules and regulations for office building at Trg republike 3 in Ljubljana (see Annex I.J).

The Contractor shall ensure that temporary agency workers assigned to the Agency present to the Contractor a certificate of good conduct or equivalent (e.g. police conduct certificate).

The Contractor shall ensure that all confidentiality aspects related to the work of the Agency are fully respected.

4.9. Remuneration of temporary agency workers

The following table indicates the gross remuneration, with the corresponding gross hourly remuneration, set to be paid to temporary agency workers for 2021:

BASIC YEARLY SALARY in EUR	TOTAL WORKING HOURS IN 2021	GROSS HOURLY REMUNERATION in EUR
28,700.02	1,815.00	15.813

The **gross hourly remuneration** set to be paid to temporary agency workers, **shall cover exclusively** the gross salary, which shall include net salary of the temporary agency worker and all employees' contributions (i.e. employees' social security contributions (contributions for pension and disability insurance, health insurance, employment, parenthood) and advance on income tax.

The **gross hourly remuneration shall NOT include** any cost related to food- and travel-allowance, holiday bonus, seniority bonus, employer's contributions, any risk related to absences (illness, holidays, maternity leave, etc.), etc. It shall also NOT cover any other expenses such as the cost of the pre-employment medical exam, annual medical check, the exam for safety and health at work etc.; thus such payments are not the responsibility of the Agency.

The gross remuneration, with the corresponding gross hourly remuneration, is subject to update upwards or downwards each year.

The Agency shall inform the Contractor concerning the update of the gross hourly remuneration in the beginning of December of year N (e.g. 2021). The update shall apply for the specific contracts which shall enter into force in the year N+1 (e.g. 2022).

The Contractor shall employ and pay temporary agency workers assigned to the Agency in line with the Slovenian employment legislation and any applicable collective labour agreement(s). The assignment of temporary agency workers to the Agency shall in no way lead to an employment relationship between temporary agency workers and the Agency as indicated in point 4.2 above.

Throughout the duration of the FWC, the Contractor remains the employer of temporary agency workers. To that end, the Contractor shall comply with the relevant Slovenian legislation on employment, taxes, social and pension contributions, etc. The Contractor shall ensure the fulfilment of all legal and financial obligations towards temporary agency workers. Any irregularities shall be the sole responsibility of the Contractor, who will assume the consequences vis-à-vis the Slovenian authorities. If such irregularities appear, this may lead to the termination of the FWC as well as the Specific Contract(s) between the Agency and the Contractor.

4.10. Responsibilities of the Contractor

The Contractor shall appoint a contract manager within its organisation, who shall handle communication with the Agency, supervise and manage Agency's request(s) and liaise with the Agency's contact person.

The Contractor shall:

- Implement the FWC with high level of professionalism.
- Ensure that temporary agency workers assigned to the Agency under Specific Contracts fulfil the minimum requirements as defined in Section 4 above.
- Comply with the relevant Slovenian legislation on employment, taxes, health insurance, social and pension contributions and provide the Agency with updates on any relevant changes in Slovenian employment legislation.
- Update the Agency on the situation regarding the length of employment or other circumstances that may give rise to claims on the part of temporary agency workers.
- Inform the Agency in writing in case of any change in the law affecting the way the salaries are taxed or calculated and/or any new legal obligations affecting the Contractor or the Agency.
- Keep the CV database of temporary agency workers updated.
- Deliver induction and other professional trainings and an information package to temporary agency workers before starting their assignment at the Agency, including a job description as provided by the Agency at the time of the signature of the respective Specific Contract.
- Be able to communicate in a timely manner and possess a very good command of the English language (at least C1 level of CEFR).
- Give at least one (1) month notice to the Agency of any change in the Contractor's team, e.g. contact person, responsible person for signature of the FWC etc.
- Perform any other task of an administrative nature that may arise in connection with the implementation of the FWC.

4.11. Contractor's obligations concerning occupational risk prevention

Before any temporary agency worker is assigned to the Agency, the Contractor shall provide him/her with a training on health and safety at work. If requested by the Agency, certificate(s) providing evidence of such a training, duly signed by the Contractor, shall be provided to the Agency when a temporary agency worker starts the assignment at the Agency.

For the duration of the FWC the Contractor shall undertake to comply with the relevant laws of the Republic of Slovenia on health and safety of workers in the workplace and any rules established by the Agency on health and safety at work. The Agency reserves the right to terminate the FWC and/or Specific Contract unilaterally if it becomes aware that the Contractor is not complying with the obligations imposed by the relevant laws of the Republic of Slovenia on health and safety of workers in the workplace and also any rules established by the Agency on health and safety at work that apply to its own staff.

The Contractor undertakes to inform the Agency in writing, as quickly as possible, of any occupational accident suffered by temporary agency workers during the performance of the services covered by the Specific Contract (e.g. accident during work commute or at place of work). It shall enclose a report stating the causes of the accident and explaining whether the measures laid down in the applicable law¹³ on the subject were adopted to avoid it.

5. PARTICIPATION IN THE CALL FOR TENDER

5.1. Legal basis

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)¹⁴.

The Agency 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.

5.2. Rules on access to procurement

Pursuant to Article 176 of the Financial Regulation¹⁵, *“participation in procurement procedures shall be open on equal terms to all natural and legal persons within the scope of the Treaties and to all natural and legal persons established in a third country which has a special agreement with the Union in the field of procurement under the conditions laid down in such an agreement”*.

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 (the Agency) 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.

¹³ <https://zakonodaja.com/zakon/zpiz-2/66-clen-poskodba-pri-delu>

¹⁴ 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).

¹⁵ OJ L 193, 30.7.2018, p. 1–222.

The Agency can therefore accept offers from and sign contracts with tenderers from 36 countries, namely: the 27 EU Member States, 3 European Economic Area (EEA) countries (Lichtenstein, Norway, Iceland) and 6 Stabilisation and Associations Agreements (SAA) countries (North Macedonia, Albania, Montenegro, Serbia, Bosnia and Herzegovina and Kosovo). The Agency's procurement procedures are not open to tenderers from countries covered by the Agreement on Government Procurement (GPA).

6. VARIANTS

Variants are not allowed.

7. DURATION AND SIZE OF THE CONTRACT

The FWC shall have an initial duration of one (1) year as from date of signature and may be renewed up to three (3) times, each time for an additional period of one (1) year. The total duration of the FWC shall not exceed four (4) years. The Agency reserves the right to cancel the FWC with the Contractor whose services are deemed to be of a quality below the required standards and procedures.

The total maximum value of the services for the total duration of the FWC (up to four (4) years) is EUR 2,500,000.00 excluding VAT. However, this does not bind the Agency to consume up to that ceiling. Specific contracts will not be signed once the budget is consumed.

The estimated date for signature of the FWC is September 2021.

8. DOCUMENTS AVAILABLE TO THE TENDERER

- Contract notice published in the Official Journal of the European Union (OJ EU).
- Call for Tender documents and annexes.
- Other documents, as mentioned in these tender specifications

9. CONTRACTUAL FRAMEWORK

9.1. Type of contract

The services described above will be a subject of multiple Framework Contract (FWC) in cascade.

The FWC will lay down the legal, financial, administrative and technical conditions applicable throughout its period of validity, including price indexation.

Any limitation, amendment or denial of any of the terms and conditions set in these tender specifications and/or in the draft FWC (Annex III to the invitation to tender) shall lead to automatic exclusion from the procurement procedure.

FWC does not constitute orders. Orders shall be placed through requests for services (see point 9.3 below for the modus operandi of the FWC), resulting in Specific Contract(s).

The draft FWC is attached as Annex III to the invitation to tender. Signature of the FWC does not commit the Agency to placing orders and does not give the Contractor any exclusive rights regarding the services covered by the FWC. In any case, the Agency reserves the right, at any time during the validity of the FWC, to cease placing orders, without the Contractor having the right to any compensation.

9.2. Number of selection procedures for temporary agency workers

A request for services for temporary agency workers can occur at any given time throughout the implementation of the FWC(s). The estimated indicative number of selection procedures, which the Contractor(s) will need to carry out during the contract period, not taking into account replacements due to temporary incapacity of a temporary agency worker and/or case(s) of 'force majeure' or other reasons for the replacement request(s) from the Agency, is up to ten (10) selection procedures per every twelve (12) months of FWC(s) duration.

9.3. Modus Operandi

The FWC(s) shall be awarded to a maximum of three (3) tenderers provided that a sufficient number of tenderers satisfy the exclusion and selection criteria and enough tenders satisfy the award criteria. These operators will be ranked in priority based on the ratio offering the best value for money on the basis of the award criteria.

In the event of failure to observe any of the below mentioned deadlines or disagreement related to the interpretation and/or execution of the FWC and/or Specific Contract(s), the Contractor shall be considered unavailable.

If a Contractor fails to notify the Agency in writing, by post or e-mail, whether he/she intends to submit an offer and/or if a Contractor is found to have executed the services inadequately and/or if the total gross hourly remuneration paid throughout the Specific Contract to a temporary agency worker is not consistent with the remuneration rate for a temporary agency worker in question, the Agency may automatically suspend, by registered letter, the award of any specific contract to the Contractor in question for a period of up to six (6) months.

In case of violation of the remuneration rights (including payments, allowances and other benefits and social security contributions listed in point 14. f) of the present tender specifications) of any temporary agency worker, the Agency may terminate by registered letter, without applying notice period, the Specific Contract in question and send the request for services to the next Contractor in cascade. In case such violation of the remuneration rights of temporary agency workers is done to at least three (3) temporary agency workers regardless of the number of Specific Contract(s) a temporary agency worker in question is a part of, this may lead to the automatic termination of the FWC.

The Contractor must work in close and regular cooperation with the Agency's HRM. The Contractor works under his own capacity and responsibility and does not represent the Agency. The Contractor's staff works under the instructions of the Contractor.

a) Request for services

The Agency shall send, by email, the request for services for temporary agency workers to the first ranking Contractor, to the e-mail address as specified in Article I.8 of the FWC.

The request shall include the job requirements for the temporary agency work, estimated duration, experience, activities to be performed by a temporary agency worker, etc. The request shall also indicate the time limit for the submission of documents for each temporary agency worker proposed.

As a minimum requirement, the Contractor shall, for each temporary agency worker proposed, submit the Curriculum Vitae (CV) using the EUROPASS CV format¹⁶.

Within one (1) working week of a written request for services sent by the Agency to the Contractor, the Contractor shall inform the Agency whether he/she intends to submit the requested CVs.

In case of no reply or negative reply from the Contractor, the Agency shall send the request for services to the second ranking Contractor in cascade. In case of no reply or negative reply from the second ranking Contractor, the Agency shall send the request for services to the third ranking Contractor in cascade.

On receipt of a positive Contractor's reply to submit the requested CVs, the Contractor shall identify suitable candidates. The Contractor may advertise the requested temporary agency work, using media adverts, newspapers, websites, and/or online job portals.

The Contractor must present candidates that match the requested description of services. The Contractor must ensure that temporary agency workers meet the minimum requirements as set in point 4.2 above and possess the necessary professional qualifications for the services to be carried out.

Within the deadline laid down in the request for services, the Contractor shall submit a minimum of five (5) candidates.

Unsolicited applications by the Contractor are not permitted. The Contractor(s) must refrain from submitting candidates unless they have received a request from the Agency.

b) Selection of temporary agency workers

The Agency shall notify the Contractor of the names of the candidates for temporary agency work that the Agency wishes to interview and the dates and times of the interviews. The candidates must be available for interviews at the Agency premises within a short notice, to be agreed between the Agency and the Contractor, but with at least four (4) working days' prior notice. In exceptional cases, the interviews may also take place remotely (online).

The Agency shall assess the quality of the interviewed candidates for temporary agency work based on the CVs, performance at the interview, suitability of the candidate and requirements set out in the request for services.

Candidates proposed must be available at the start of the assignment, as defined by the Agency, and be able to work at the Agency's premises for the required period.

The Agency will inform to the Contractor by e-mail of its choice of the candidate(s) for the assignment within five (5) working days after the interviews took place.

If no suitable candidate is considered after the interviews, the Agency may decide to run the selection procedure again. If this is again unsuccessful, the Agency may decide to send a request for services to the second ranking Contractor. In that case, the Agency needs to inform the Contractor in question.

¹⁶ <https://europa.eu/europass/eportfolio/screen/profile-wizard?lang=en>

If no suitable candidate is considered after the interviews, the Agency may decide to run the selection procedure again. If this is again unsuccessful, the Agency may decide to send a request for services to the third ranking Contractor. In that case, the Agency needs to inform the Contractor in question.

The Agency is not obligated to select a candidate and reserves the right to reject all proposed candidates if he/she does not meet the requirements, based on a written justification sent to the Contractor in question.

c) Signature of a Specific Contract

Once a candidate for temporary agency work has been selected, the Agency shall inform the Contractor by e-mail.

The Agency will then prepare a Specific Contract based on the model form (Annex III of the FWC) and send it to the Contractor for signature.

The Contractor shall, within three (3) working days, return to the Agency a duly signed and dated Specific Contract. In the event of failure to observe this deadline, the Contractor shall be considered unavailable.

A temporary agency worker cannot start with the activities in the execution of the Specific Contract and/or at the Agency's premises until the Specific Contract between the Agency and the Contractor has been signed by both parties.

9.4. Joint tender

A joint tender is a situation where a tender is submitted by a group of economic operators (natural or legal persons).

The FWC shall be signed by all legal entities, or by one of them which has been duly authorised by the others (in this case a power of attorney (see Annex I.F to these tender specifications) shall be attached to the FWC). Each legal entity of the group shall assume joint and several liability towards the contracting authority for the fulfilment of the terms and conditions of the FWC.

Any change in the composition of the group during the procurement procedure may lead to the rejection of the tender. Any change in the composition of the group after the signature of the FWC may lead to the termination of the FWC.

The group shall nominate one legal entity ('the leader') who will have full authority to bind the group and each of its members, and will be responsible for the administrative management of the FWC (invoicing, receiving payments, etc.) on behalf of all other entities.

9.5. 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.

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 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 tender 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.

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 18;
- whose individual share of the contract, known at the time of submission, is above 10%.

Any such subcontractor must provide the tenderer with a commitment letter drawn up in the model attached in Annex I.H 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.

In case of subcontracting the Contractor shall retain full liability towards the Agency for the implementation of the FWC.

Any change in subcontracting after the signature of the FWC is permitted only with the prior written consent of the Agency.

10. CONTRACTOR'S OBLIGATIONS

10.1. Compliance with applicable law

The tenderers must comply with applicable environmental, social and labour law obligations established by Union law, national legislation, collective agreements or the international environmental, social and labour conventions listed in Annex X to Directive 2014/24/EU of the European Parliament and Council of 26 February 2014 on public procurement and repealing Directive 2014/18/EC¹⁷.

Further, the tenderers are reminded that their offer must be established in conformity with the applicable national and European employment legislation regarding the transfer of undertakings, and specifically Directive 2001/23/EC¹⁸ and its national implementing measures. In particular, the Contractor should take note of the provisions on safeguarding employees' rights in the event of a change of employer as a result of a legal transfer.

10.2. Copyright and other intellectual property rights

Copyright and other intellectual or industrial property rights and any other right of ownership related to the products provided and services performed by the Contractor will be vested in the Agency, except where one or more of these rights already exists.

The Contractor must specify any parts of the products provided and services performed that are covered by copyright or any other rights of ownership prior to the execution of each Specific Contract. The Contractor must confirm that it has obtained the authorisation of the holder of these rights to use these parts. Any costs arising from obtaining this authorisation will be borne by the Contractor and clearly identified on his invoice.

Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the FWC and Specific Contracts, shall be owned solely by the Agency, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where industrial or intellectual property rights exist prior to the FWC being entered into force.

Should the title of the copyright or intellectual property rights belong to a third party, the Contractor shall guarantee that it has requested and obtained those third parties' written authorisation to grant a license or assign to the Agency their copyright or intellectual property rights to the extent necessary for performing the services under the FWC and the Specific Contracts, and to the extent where the results/works obtained under the FWC are to be re-used in the context of another Agency's project with another Contractor(s) working under a FWC or Specific Contracts. Costs will be covered by the Contractor.

This applies to all products, documentation, distribution media and methods.

If subcontractors are used, the Contractor will be required to obtain a guarantee from them on this point.

¹⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024&from=EN>

¹⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0023&from=EN>

10.3. Confidentiality – personal data

While implementing the services, and especially when data is electronically processed, the Contractor shall respect the applicable legislation concerning data protection as stated in Regulation (EU) No 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data¹⁹.

11.PLACE OF PERFORMANCE OF THE SERVICES

11.1. Place of work

The principle place of performance of the FWC shall be at the Agency premises.

The principal place of performance of Specific Contract(s) shall depend on each Specific Contract and shall be indicated in the relevant request for services.

11.2. Meetings

Meetings between the Agency and the Contractor shall take place at the Agency's premises in Ljubljana, Slovenia, and only exceptionally and with the agreement of the Agency, at the Contractor's premises.

If deemed appropriate and at the sole discretion of the Agency, meetings between the Agency and the Contractor could be organised using a video conference systems, telephone conferences and/or any other communication means.

Any expenses incurred by the Contractor within the framework of these meetings (i.e. travel costs, subsistence allowance or any other related costs) shall not be reimbursed separately by the Agency.

Within twenty (20) calendar days following the entry into force of the FWC a kick-off meeting with the Agency shall take place at the Agency's premises.

12.LANGUAGE

The working language of the Agency is English. All communication, all the required services and all documentation must be provided in English. All meetings shall be held in English.

All documentation (e.g. reports, presentation, etc.) must be provided in English in the highest drafting quality.

13.PAYMENT METHODS

Except where the Specific Contract provides for otherwise, provisions related to payment are laid down in the draft FWC (Annex III to the invitation to tender).

¹⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1725&from=EN>

Payments will be made exclusive of VAT, as the Agency is exempt from all duties and taxes, including value added tax (VAT) under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union. Invoice(s) presented by the Contractor must specify the amount(s) exclusive of VAT.

The services will be invoiced on the basis of the services provided and approved monthly time sheets, in line with the payment schedule described in the draft FWC (Annex III) to the invitation to tender.

The timesheets will be approved by the Agency and sent to the Contractor at the beginning of the month for the previous month.

Each invoice shall be based on the number of actual hours worked during the relevant month and shall include as a minimum the following information:

- The name and surname of the temporary agency worker;
- The title of the description of services;
- The invoicing period;
- Total number of hours worked per temporary agency worker;
- The unit price and the total amount per temporary agency worker;
- The number of the applicable Specific Contract.

14. PRICES

a) The prices should be quoted in euro.

b) The unit price consists of the gross hourly remuneration, multiplied by the Contractor's fee expressed as a coefficient (hereinafter referred to as 'the fee').

UNIT PRICE in EUR =	Gross hourly remuneration	x	Contractor's fee expressed in a coefficient
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c) The fee shall be fixed throughout the duration of the FWC and any possible renewals up to the maximum possible term of four (4) years.

d) At the beginning of each calendar year, the gross hourly remuneration may be revised upwards or downwards as explained in point 4.9 which may result in the revision of the unit price.

e) The **fee** payable to the Contractor **shall cover all Contractor's expenses**, including:

- Material cost, namely reimbursement for food shall be set at the 6.12 EUR per working day. The same level of reimbursement for food shall apply to all temporary agency workers. Should the reimbursement for food change in the course of the duration of the FWC, this amount shall to be updated accordingly at no additional cost to the Agency.
- Material cost, namely reimbursements for transport shall be set at 100% of the cost for the cheapest public transport.
- Holiday bonus which shall amount to 70% of the average gross salary in Slovenia for the month of March and shall be paid to temporary agency workers entitled to the holiday bonus in June of the corresponding year. It shall be aligned with the relevant Slovene labour law.
- Seniority bonus.
- Employer's contributions (e.g. all social security contributions, which need to be paid by the employer).

- Any other contributions and payments established by the law.
 - Pre-employment medical check.
 - Annual medical exam as applicable by the law.
 - The exam for safety and health at work.
 - Annual leave, illness absences, maternity leave, etc.
 - Selection of temporary agency workers.
- f) The prices quoted shall be all inclusive and shall include all charges and all administrative costs (such as but not limited to backstopping and administrative costs, insurance, reports, communication costs, etc.).
- g) Under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union the Agency is exempt from all duties and taxes, including value added tax (VAT).

No expense incurred in relation to the preparation of the offer will be reimbursed.

15. SUBMISSION OF TENDERS

The tenderer's offer should include:

- A. A dated cover letter signed by the tenderer.**
- B. A duly filled in, signed and dated declaration on honour on exclusion criteria** listed in Section 16 of these tender specifications (form provided in Annex I.C to these tender specifications) fully completed.
- C. All the documents related to the selection criteria** listed in Section 17 of these tender specifications.
- D. The technical tender**, as described in Section 18 of these tender specifications.
- E. The financial offer** based on the model in Annex II to the invitation to tender, signed and dated by the tenderer.

Tenders may be drafted in any of the official languages of the European Union.

The working language of the Agency is English.

In case the offer involves subcontracting or the tender is submitted by a consortium or grouping of service providers, the tender must contain additional information as specified in Sections 16 and 17 of these tender specifications.

16. EXCLUSION CRITERIA

Tenderers must prove that they are not in one of the situations giving rise to exclusion as defined in Annex I.C (situation of exclusion concerning the legal person, situations of exclusion concerning natural persons with power of representation, decision-making or control over the legal person and situations of exclusion concerning natural or legal persons assuming unlimited liability for the debts of the legal person).

16.1. Exclusion from participation

The tenderer must prove that he/she is not in one of the situations giving ground to rejection from this procedure as listed in Annex I.C – Declaration on honour.

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.

16.2. Exclusion from award of contracts

The FWC shall not be awarded to tenderers who, during the procurement procedure for this FWC:

- a) Have misrepresented the information required as a condition for participating in the procedure or have failed to supply that information;
- b) Were previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise.

Evidence:

1. Tenderers shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations referred to in points 16.1 and 16.2 of the present tender specifications using the form provided in Annex I.C – Declaration on honour.to these tender specifications.
2. The tenderer to whom the FWC is to be awarded shall provide, within a time-limit specified by the Contracting Authority and prior to the signature of the FWC, the following evidence in support of their declarations:

The contracting authority shall accept as satisfactory evidence that the tenderer to whom the contract is to be awarded is not in one of the situations described in (a), (c), (d) or (f) of Annex I.C – Declaration on honour on exclusion criteria, a **recent extract from the judicial record** or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment showing that those requirements are satisfied. The contracting authority shall accept, as satisfactory evidence that the tenderer is not in the situation described in point (a) or (d) of Annex I.C – Declaration on honour on exclusion criteria a **recent certificate issued by the competent authority of the State concerned**.

The extract from the judicial record and administrative certificates can be regarded as recent if they are not more than one (1) year old starting from their issuing date and are still valid at the date of their request by the contracting authority.

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

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

3. Depending on the national legislation of the country in which the tenderer is established, the documents referred to in the paragraph above shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the tenderer.

The Agency reserves the right to check the information provided by tenderers.

16.3. Tenders submitted by consortia or groups of service providers – tenders involving subcontracting

In the case of tenders submitted by consortia or groups of service providers, each of the economic operators involved in the tender must provide a dated and signed declaration on honour, based on the form provided in Annex I.C (Declaration on honour on exclusion criteria) to these tender specifications, confirming that none of the exclusion criteria for participation in or award of the FWC apply to them.

The tenderers proposed for award of the FWC must furnish, within the time-limit specified by the Agency and prior to the signature of the FWC, the evidence listed above, corroborating the declaration on their honour, in respect of each economic operator forming part of their consortium or group of service providers.

In the case of tenders involving subcontracting, the tenderer proposed for award of the FWC must furnish, within the time-limit specified by the Agency and prior to the signature of the FWC, the declaration on their honour and/or the evidence listed above regarding exclusion criteria for participation in or award of the FWC, in respect of each of the subcontractors in respect of whom the Agency requests such evidence.

The Agency reserves the right to check the information provided by tenderers.

17. SELECTION CRITERIA

Tenderers must demonstrate that they have the necessary economic, financial, technical and professional capacity to perform the tasks described in these tender specifications in accordance with the payment schedule specified in the draft FWC at Annex III to the Invitation to Tender.

If any selection criterion is fulfilled by relying on the capacity of a third party (regardless of the link it has with the tenderer), the tenderer must prove to the contracting authority that it will have at its disposal the resources necessary for performance of the FWC by producing a commitment on the part of those entities to this effect.

If the tenderer relies on the capacity of a third party for economic and financial capacity, the contracting authority may require that the third party be jointly liable for performance of the FWC.

If the tenderer relies on the capacity of a third party for technical and professional capacity, it can only do so for the tasks for which this particular capacity is required, for example by providing a document stating clearly the allocation of tasks between entities.

Tenderers must provide proof of their legal, economic and financial and technical and professional capacity by enclosing with their tender the information and documents as defined below.

17.1. Legal capacity

- Duly completed and signed identification form (see Annex I.B to these tender specifications).

This applies to each member of the group in case of a joint tender and to each sub-contractor.

- Duly completed and signed financial identification form (see Annex I.D to these tender specifications) – the form can be downloaded from: https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/forms-contracts_en

This applies to the leader of the group in case of a joint tender.

- Duly completed and signed legal entity form (see Annex I.E to these tender specifications) – the form can be downloaded from: https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/forms-contracts_en

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

- Certificate of enrolment on the professional or trade register in accordance with the legislation of the Member State in which the tenderer is established proving that the contractor is authorised to perform the temporary agency work required in the tender under the Slovenian law.

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

- Valid certificate for the performance of the temporary employment agency (according to Article 167 of the Labour Market Regulation Act²⁰) issued by the Slovenian Ministry of Labour, Family, Social Affairs and Equal Opportunities.

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

17.2. Economic and financial capacity

The turnover concerning the services covered by the FWC should amount to at least EUR 1,000,000.00 for each of the years 2019 and 2020.

Basis for assessment: This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out.

Evidence to be provided: A statement of turnover concerning the services covered by the FWC for the last two (2) years (i.e. for each of the years 2019 and 2020).

²⁰ <https://zakonodaja.com/zakon/zutd>

17.3. Technical and professional capacity

17.3.1. Provision of services of the type as requested in this tender for a total invoiced amount (i.e. provision of services of temporary agency work) of at least EUR 1,000,000.00 for each of the years 2019 and 2020.

Basis for assessment: This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out.

Evidence to be provided: The name(s) of customer(s), a brief description of services undertaken and the total financial volume of the contract(s) effectively delivered (i.e. the total amount effectively invoiced to the customers) for the last two (2) years (i.e. for each of the years 2019 and 2020).

17.3.2. At least three (3) references of international institutions and/or companies with operations in Slovenia to which the tenderers are/have provided the provision of services of temporary agency work during the last two (2) years.

Basis for assessment: This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out.

Evidence to be provided: The references duly signed by the customer(s) indicating the start and end date of the contract(s), detailing the provision of services of temporary agency work provided for each of the years 2019 and 2020.

17.4. Subcontracting

For those tenders including subcontracting, the tenderer must submit:

- Duly filled in Annex I.G of the tenderer, stating clearly the identity and the envisaged contractual roles/tasks to be carried out by (each of) the subcontractor(s).
- A commitment letter by (each of) the subcontractor(s) (Annex I.H), duly filled in, signed and dated, stating the unambiguous undertaking to collaborate with the tenderer if the latter wins the FWC and the extent of the resources that it will put at the tenderer's disposal for the performance of the FWC.

In the absence of subcontracting:

- A declaration of the tenderer, duly signed and dated, stating he does not intend to subcontract and that he will inform the Agency about any change in this situation. The Agency reserves the right to judge if such change would be acceptable.

Offers involving subcontracting will be assessed as follows:

- Where the tenderer relies on the economic, financial, technical and professional capacity of the subcontractor(s) to meet the selection criteria, subcontractors shall be treated as if they were partners in a consortium or a group of companies for the purposes of the evaluation of the selection criteria, and therefore, they shall provide proof of economic, financial, technical and professional capacity as well.

17.5. Tenders submitted by a consortium or grouping of service providers

For those tenders submitted by a consortium or grouping of service providers, the tender must contain:

- A document stating clearly the composition and constitution of the grouping or similar entity (company/temporary association/...), or the legal form their cooperation will take, should they be awarded the FWC.
- A letter **dated and signed** by each member stating its commitment to execute the services in the tender clearly indicating its role, qualifications and experience.
- A document **dated and signed** by all members specifying the lead of the consortium or grouping of service providers and authorising the appointed lead of the consortium or grouping of service providers to submit the offer.

Joint tenders will be assessed as follows:

- The exclusion criteria will be assessed in relation to each company individually. The declaration on honour on exclusion criteria included in Annex I.C, duly signed and dated, stating that the tenderer is not in one of the exclusion situations, must be provided by each member of the consortium or the group.
- The selection criteria for economic and financial capacity will be assessed in relation to each company individually. However, economic and financial criteria that shall be achieved above a certain minimum threshold (i.e. annual turnover) will be assessed in relation to the consortium or group of companies as a whole.
- The selection criteria for technical and professional capacity will be assessed in relation to the consortium or group of companies as a whole.

Tenderers who do not meet the exclusion criteria will not be considered.

Tenderers who do not provide the documents required in these tender specifications with regard to the exclusion and/or selection criteria may be excluded.

The Agency will decide whether the substantiating documents provided constitute compliance with the exclusion and/or selection criteria.

17.6. 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 4 of these specifications and to the fact that tenderers 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 FWC. Compliance with these requirements is mandatory and cannot be subject to any assumptions, limitations, conditions, or reservations on the part of a tenderer.

18. TECHNICAL TENDER

Tenderers shall include in their offer a technical tender detailing how they intend to perform services covered by the FWC. Tenders that fail to comply with this requirement will be rejected.

The technical tender should not include any of the documents referred to under the exclusion and/or selection criteria, nor should it refer to matters already covered by the exclusion and/or selection criteria.

The technical tender, in line with the requirements of services as described in these tender specifications, must include:

- A.** A description of the methodology for the selection of temporary agency workers relevant for these tender specifications (i.e. for activities defined under point 4.2 of these tender specifications), including:
 - (a) an assessment of the minimum requirements of candidates for temporary agency work relevant for these tender specifications;
 - (b) a range of the potential candidate search area, by means of a specific description of methods applied (i.e. a description of the database the tenderer uses to keep record of interested candidates, how often is the database updated, how the search is set (e.g. structure, type, format, etc.) etc.) relevant for these tender specifications.
- B.** A list of CVs currently available in the tenderer's database relevant for these tender specifications, indicating the activity(-ies) as listed in point 4.2 of these tender specifications, and the language skills.
- C.** A description of the implementation of the FWC and specific contracts, including steps relevant to the start of the assignment to the Agency (e.g. administrative formalities, etc.), management of temporary agency workers during the implementation of a specific contract (i.e. management of absences, conditions of employment, employment contracts, etc.), replacement and exit procedures of temporary agency workers with a detailed timeframe for each step.

19. AWARD CRITERIA

The FWC will be awarded to the tender(s) offering the best value for money on the basis of the criteria specified below.

19.1. Technical quality, with 60% weighting

- A.** Relevance and comprehensiveness of the proposed methodology for the selection of temporary agency workers relevant for these tender specifications (i.e. for activities defined under point 4.2 of these tender specifications), including:
 - (a) an assessment of minimum requirements of candidates relevant for these tender specifications;
 - (b) a range of the potential candidate search area, by means of a specific description of methods applied (i.e. a description of the database the tenderer uses to keep record of interested candidates, how often is the database updated, how the search is set (e.g. structure, type, format, etc.) etc.) relevant for these tender specifications;
 - (c) presenting the candidates for temporary agency work for interviews, including the minimum number of candidates per one selection procedure.*A maximum of 40 points will be assigned for this criterion.*
- B.** Relevance of CVs currently available in the tenderer's database, indicating the activities as described in point 4.2 of these tender specifications, and the language skills.
A maximum of 30 points will be assigned for this criterion.

- C.** Relevance and completeness of the proposed implementation of the FWC and specific contracts, including timeframes, steps relevant to the start of the assignment to the Agency, management of temporary agency workers during the implementation of a FWC and specific contracts, replacement and exit procedures of temporary agency workers.
A maximum of 30 points will be assigned for this criterion.

Tenders scoring less than 60 overall points will be excluded from further evaluation. Tenders scoring less than 60% of the points awarded for each of the single criterion will be excluded from further evaluation.

19.2. Financial offer - price, with 40 %weighting

The financial offer must be drawn up using the financial offer model form (Annex II to the invitation to tender).

The financial offer must be constituted by the Contractor's fee expressed as a coefficient – 'the fee' - as explained in Section 14.

The tenderers must indicate the fee with maximum three (3) decimal digits (i.e. X.XXX).

In order to evaluate the financial offers, the Agency shall use the fee, as defined in the financial offer submitted by the tenderer (see Annex II to the invitation to tender).

19.3. Final evaluation

The FWC will be awarded to the tenderer(s) who submitted the economically most advantageous offer(s), according to the following formula:

$$\text{Final score for tender X} = \frac{\text{Lowest fee}}{\text{Fee of tenderer X}} \times 40 + \frac{\text{Total technical quality of tenderer X}}{100} \times 60$$

Tenderers will be ranked according to the criterion of the economically most advantageous tender, i.e. starting from the tender achieving the highest technical quality/price combination, obtained on the basis of the formula indicated above.

Provided that there is a sufficient number of admissible tenders (those that satisfy the exclusion and selection criteria) that satisfy the award criteria, the FWCs will be awarded to a maximum of three (3) tenderers who have obtained the highest scores.

When the number of admissible tenders is lower than two (2), the Agency reserves the right to assess the risk linked to the security of supply, and may decide to cancel the procedure or sign a single FWC instead of a cascade.

Tenders will be ranked in priority according to the criterion of the economically most advantageous tender that is with the highest technical quality/financial offer (i.e. the fee) combination, obtained on the basis of the formula indicated above, and will thus thereafter be entitled to be consulted for each specific request for services, via the cascade (see point 9.3) (the tenderer with the highest mark for the final score will be proposed as the FIRST Contractor in the cascade; the tenderer with the second highest mark for the final score will be proposed as the SECOND Contractor in the cascade and the tenderer with the third highest mark for the final score will be proposed as the THIRD Contractor in the cascade).