



EUROPEAN COMMISSION  
Directorate-General for Communications Networks, Content and Technology  
Media Policy  
Copyright

## **Call for tenders CNECT/2020/OP/0009**

**SMART 2019/0038 – Study on Copyright and New technologies: copyright data management and Artificial Intelligence**

**Open procedure**

# **TENDER SPECIFICATIONS**

## **Part 1: Administrative 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 Communications Networks, Content and Technology.

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

The subject of this call for tenders is SMART 2019/0038 - Study on Copyright and New technologies: copyright data management and Artificial Intelligence.

## **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 in the document [\*Tender Specifications – part 2: Technical specifications\*](#), hereafter referred to as *Technical specifications*.

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.

## **1.5. 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?**

This 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 services to be purchased over the total duration of the

contract are specified in the Technical specifications document (Tender specifications – part 2).

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](#)<sup>1</sup> 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 following conditions: Same award conditions as for the initial contract.

#### **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 9 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](#)<sup>1</sup>. 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)<sup>1</sup>.

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 Procurement<sup>2</sup> 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**.

🔗 For UK tenderers: *Please be aware that following the entry into force of the EU-UK Withdrawal Agreement\* 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.*

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<sup>1</sup> 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).

<sup>2</sup> [https://www.wto.org/english/tratop\\_e/gp\\_gpa\\_e.htm](https://www.wto.org/english/tratop_e/gp_gpa_e.htm).

*\* Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*

### **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 whose capacities the tenderer relies to fulfil the selection criteria<sup>3</sup>. This applies also where the *involved entities* belong to the same economic group.

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<sup>3</sup> Such an entity is not considered a subcontractor, see Section 2.4.3.

### 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 tenderer<sup>4</sup>.

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.

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,

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<sup>4</sup> 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.



- (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 10%.

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 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 Honour<sup>5</sup> in the model available in *Annex 2*.<sup>6</sup> The declaration must be signed by an authorised representative of the entity providing the declaration.

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<sup>5</sup> The European Single Procurement Document (ESPD) may not be used yet in European Commission's calls for tenders.

<sup>6</sup> 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 authority<sup>7</sup>.

*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 procedure<sup>8</sup>. In any case, to the extent that there is no ground for a waiver, the evidence must be provided, upon request

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<sup>7</sup> 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.

<sup>8</sup> 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:

- Proof of enrolment in a relevant trade or professional register
- Proof of authorisation that the tenderer is authorised to perform the contract in its country of establishment.

The evidence is to be provided on request by all partners in case of 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.

Criterion F1	
<b>Minimum level of capacity</b>	Average yearly turnover of the last two financial years above EUR 600,000.00.
<b>Basis for assessment</b>	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.
<b>Evidence</b>	Copy of the profit and loss accounts and balance sheet for the last two years for which accounts have been closed from each concerned <i>involved entity</i> . The most recent year must have been closed within the last 18 months.

👉 The evidence of economic and financial capacity does need not be provided with the tender but may be requested by the *Contracting authority* at any time during the procedure. **Please note that a request for evidence in no way implies that the tenderer has been successful.**

### 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.

#### Criterion T1

The tenderer must prove experience in the field of law and economics in relation to copyright and related rights as well as in legal analysis, interview techniques, questionnaires, data collection, drafting reports and recommendations. The tender must also have expertise on technology.

<b>Minimum level of capacity</b>	At least 2 contracts or relevant services completed in the last three years preceding the tender submission deadline, with a minimum value for each of them € 100,000.00.
<b>Basis for assessment</b>	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
<b>Evidence</b>	<p>A list of contracts or services 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 capacity to work at least in 2 EU official languages, i.e., English and French.

<b>Minimum level of capacity</b>	3 contracts or relevant services delivered in the last three years showing the necessary language coverage.
<b>Basis for assessment</b>	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
<b>Evidence</b>	A list of contracts or services meeting the minimum level of capacity.

#### Criterion T3

Drafting capacity

<b>Minimum level of capacity</b>	The tenderer must prove capacity to draft reports in English.
<b>Basis for assessment</b>	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
<b>Evidence</b>	One document of at least 10 pages (report, study, etc.) in this language drafted and published or delivered by the tenderer to a client in the last two years. The verification will be carried out on 5 pages of the document.

Criterion T4	
The tenderer must prove its capacity to work in 15 EU countries.	
<b>Minimum level of capacity</b>	2 projects delivered in the last three years. The combination of projects must cover the required geographical scope.
<b>Basis for assessment</b>	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
<b>Evidence</b>	A list of contracts or services meeting the minimum level of capacity.

Criterion T5	
Project Manager	
<b>Minimum level of capacity</b>	At least 5 years of experience in project management, including overseeing project delivery, quality control of delivered service, client orientation and conflict resolution experience in project of a similar size (EUR 300,000.00) and coverage (at least 10 countries covered), with experience in management of team of at least 10 people.
<b>Basis for assessment</b>	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
<b>Evidence</b>	Concise but informative curricula vitae, with the educational and professional qualifications. The Europass curriculum vitae template (available at <a href="https://europass.cedefop.europa.eu/documents/curriculum-vitae">https://europass.cedefop.europa.eu/documents/curriculum-vitae</a> ) shall be filled in by each person involved in the execution of the tasks foreseen in the tender. Please make sure the precise contractual link with the tenderer is clearly indicated.

Criterion T6	
Team members	
<b>Minimum level of capacity</b>	At least 5 members of the team should have at least C1 level in the Common European Framework for Reference for Languages <sup>9</sup> in English and/or French.
<b>Basis for assessment</b>	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
<b>Evidence</b>	Concise but informative curricula vitae, with the educational and professional qualifications. The Europass curriculum

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<sup>9</sup> See [http://www.coe.int/t/dg4/linguistic/Cadre1\\_en.asp](http://www.coe.int/t/dg4/linguistic/Cadre1_en.asp)

	<p>vitae template (available at <a href="https://europass.cedefop.europa.eu/documents/curriculum-vitae">https://europass.cedefop.europa.eu/documents/curriculum-vitae</a>) shall be filled in by each person involved in the execution of the tasks foreseen in the tender. Please make sure the precise contractual link with the tenderer is clearly indicated.</p>
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Criterion T7	
Experts in law	
<b>Minimum level of capacity</b>	At least 2 members of the team should have relevant higher education degree or equivalent professional experience and at least 5 years of professional experience in the field.
<b>Basis for assessment</b>	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
<b>Evidence</b>	Concise but informative curricula vitae, with the educational and professional qualifications. The Europass curriculum vitae template (available at <a href="https://europass.cedefop.europa.eu/documents/curriculum-vitae">https://europass.cedefop.europa.eu/documents/curriculum-vitae</a> ) shall be filled in by each person involved in the execution of the tasks foreseen in the tender. Please make sure the precise contractual link with the tenderer is clearly indicated.

Criterion T8	
Experts in economics	
<b>Minimum level of capacity</b>	At least 2 members of the team should have relevant higher education degree or equivalent professional experience and at least 5 years of professional experience in the field.
<b>Basis for assessment</b>	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
<b>Evidence</b>	Concise but informative curricula vitae, with the educational and professional qualifications. The Europass curriculum vitae template (available at <a href="https://europass.cedefop.europa.eu/documents/curriculum-vitae">https://europass.cedefop.europa.eu/documents/curriculum-vitae</a> ) shall be filled in by each person involved in the execution of the tasks foreseen in the tender. Please make sure the precise contractual link with the tenderer is clearly indicated.

Criterion T9	
Team for data collection	
<b>Minimum level of capacity</b>	Collectively the team of at least 5 people should have



	knowledge of 4 EU languages and proven experience of 5 years in data collection techniques.
<b>Basis for assessment</b>	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
<b>Evidence</b>	Concise but informative curricula vitae, with the educational and professional qualifications, and a language certificate or past relevant experience. The Europass curriculum vitae template (available at <a href="https://europass.cedefop.europa.eu/documents/curriculum-vitae">https://europass.cedefop.europa.eu/documents/curriculum-vitae</a> ) shall be filled in by each person involved in the execution of the tasks foreseen in the tender. Please make sure the precise contractual link with the tenderer is clearly indicated.

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

### 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 the Technical specifications document (Tender specifications – part 2) 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.

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

1. Price – 40%

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 – 60%

The quality of the tender will be evaluated based on the following criteria:

**1. Quality of the proposed methodology and tools for performing the tasks** (maximum score: 60 points)

Under this criterion the quality and appropriateness of the methodology and tools as described in the tender and the specific methodology envisaged for each task will be assessed. The quality and appropriateness will be assessed against the completeness, clarity and relevance of the proposed approach as regards the tasks set out in the technical specifications.

Sub-criterion 1.1: Clarity, credibility, quality and feasibility of the tender (i.e. project description, and functionality of the approach):

Sub-criterion 1.2: Soundness of the proposed analytical basis

Sub-criterion 1.3: Soundness and appropriateness of the proposed analysis tools and evidence gathering techniques

Tenderers should provide a description of the methodologies and multidisciplinary approaches proposed for undertaking the tasks. They should list in particular the tools and methods envisaged. This description must be as precise as possible. Methods and tools should relate particularly to the quantification of the issues related to the first part of the study (copyright data management in European creative industries). The description must be as precise as possible. To this purpose, they could also mention the tools used in the past by them or by members of the consortium and present the concepts or theories followed.

*(All the sub-criteria above are of equal relative importance)*

**2. Organisation of the work and resources** (maximum score: 30 points)

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

Sub-criterion 2.1: Feasibility to meet the objectives specified in the tender specifications outlined by a work plan or timetable.

Sub-criterion 2.2: Adequacy and appropriateness of the overall allocation of time and resources to the study and to each task or deliverable, as well as the level of direct participation of senior staff in performance of the tasks required under these tender specifications and specifying clearly the identity, roles, activities and responsibilities of subcontractor(s)

Sub-criterion 2.3: Mechanisms for continuous service and coordination within the team

*(All the sub-criteria above are of equal relative importance)*

### 3. Quality control measures (maximum score: 10 points)

Tenderers should provide a quality plan, to specify how they intend to control and ensure high quality and effective monitoring of the services and works they may be required to supply to the Commission in execution of the contract. This criterion will assess the quality control system applied to the service foreseen in this tender specification concerning the quality of the deliverables, the language quality check, and continuity of the service in case of absence of the member of the team. The quality system should be detailed in the tender and specific to the tasks at hand; a generic quality system will result in a low score.

Sub-criterion 3.1: Adequacy of the quality control system applied to the service foreseen in the tender specifications (the quality of all information supplied to the contracting authority, the deliverables, the language quality check, and continuity of the service in case of absence of a member of the team).

Tenders must score minimum 50% for each criterion, and minimum 60% 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	*	40%	+	total quality score (out of 100) for all award criteria of tender X	*	60%
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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 the Technical specifications document (Tender specifications – part 2) 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 secrets<sup>10</sup>.
- 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 disclosure<sup>11</sup>, 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.

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<sup>10</sup> 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.

<sup>11</sup> See Article 4 (2) of the REGULATION (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

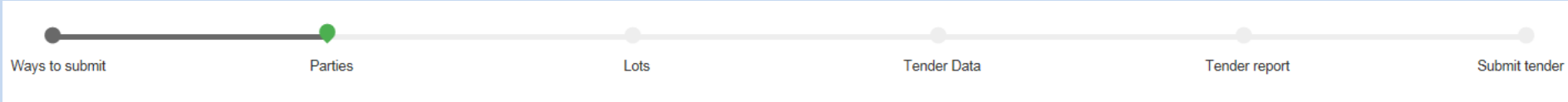
## **APPENDIX: LIST OF REFERENCES**

<b><i>Award criteria</i></b>	See Section 3.4
<b><i>Contracting authority</i></b>	See Section 1.1
<b><i>Entities on whose capacities the tenderer relies to fulfil the selection criteria</i></b>	See Section 2.4.3
<b><i>EU Validation services</i></b>	See Section 2.3 <a href="#">EU Grants and Tenders Rules on Legal Entity Validation, LEAR appointment and Financial Capacity assessment</a>
<b><i>Exclusion criteria</i></b>	See Section 3.1
<b><i>Financial Regulation</i></b>	<a href="#">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</a>
<b><i>Group leader</i></b>	See Section 2.4.1
<b><i>Identified subcontractors</i></b>	See Section 2.4.2
<b><i>Involved entities</i></b>	See Section 2.4
<b><i>Joint tender</i></b>	See Section 2.4.1
<b><i>Participating entities</i></b>	See Section 1.1
<b><i>Participant Register</i></b>	See Section 2.3 <a href="https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/participant-register">https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/participant-register</a>
<b><i>Selection criteria</i></b>	See Section 3.2
<b><i>Sole tenderer</i></b>	See Section 2.4
<b><i>Subcontracting/subcontractor</i></b>	See Section 2.4.2
<b><i>Treaties</i></b>	The EU Treaties: <a href="https://europa.eu/european-union/law/treaties_en">https://europa.eu/european-union/law/treaties_en</a>

# **ANNEXES**



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

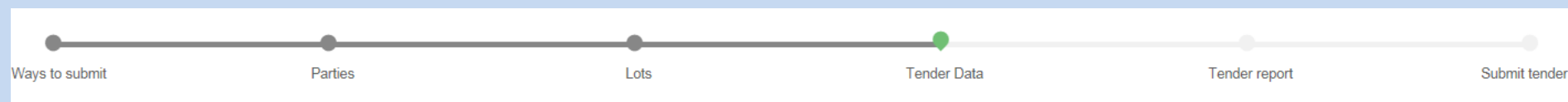
Description	Sole tenderer	Joint tender		Identified Subcontractor	Entity on whose capacity is being relied	When and where to submit the document?	Instructions for uploading in eSubmission (if applicable)	
		Group leader	Member of the group				How to name the file?	Where to upload?
1. Identification and information about the tenderer.								
<i>eSubmission view</i>								
								
<b>Declaration on Honour on Exclusion and Selection Criteria</b> (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'.
<b>Evidence</b> that the person signing the documents is <b>an authorised</b>	<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'

<b>representative</b> of the entity <sup>12</sup>								→'Attachments'→'Other documents'.
<b>Power of attorney</b>  (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'.
<b>Commitment letter</b>  (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'.
<b>Evidence of non-exclusion</b> (see Section 3.1)	☒	☒	☒			Only upon request by <i>the Contracting authority</i>  At any time during the procedure	n.a.	n.a.
<b>Evidence of legal existence and status</b>	☒	☒	☒			Only upon request by <i>the EU Validation services</i>  At any time during the procedure  In the Participant Register	n.a.	n.a.

<sup>12</sup> 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.

<b>Evidence of legal capacity</b> (see Section 3.2.1)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			Only upon request by <i>the Contracting authority</i>  At any time during the procedure		n.a.
<b>Evidence of economic and financial capacity F1</b> (see Section 3.2.2)	<b>The documents must be provided</b>  <b>only by the <i>involved entities</i></b>  <b>who contribute to reaching the minimum capacity level</b>  <b>for criterion F1</b>					Only upon request by <i>the Contracting authority</i>  At any time during the procedure	n.a.	With the Group leader or the sole tenderer under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Economic and financial capacity'.
<b>Evidence of technical and professional capacity T1 – T9</b> (see Section 0)	<b>The documents must be provided</b>  <b>only by the <i>involved entities</i></b>  <b>who contribute to reaching the minimum capacity level</b>  <b>for criterion T1</b>					With the tender  in e-Submission	T1 Evidence; T2 Evidence...	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.**

<b>Technical offer</b> (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'
<b>Financial offer</b>  <b>Annex 6</b> (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
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## Annex 2. Declaration on Honour on exclusion and selection criteria

CNECT/2020/OP/0009 - Study on Copyright and New technologies: copyright data management and Artificial Intelligence - SMART 2019/0038

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

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

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 authority<sup>13</sup>, 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"/>

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<sup>13</sup> 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: 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	YES	NO	N/A
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Directive (EU) No 2015/849) is in one of the following situations:			
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 authority<sup>14</sup>. 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"/>

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<sup>14</sup> The same institution or agency.

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

## 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 authority<sup>15</sup>. 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

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<sup>15</sup> The same institution of agency.

### Annex 3. Power of attorney

Call for tenders CNECT/2020/OP/0009 - Study on Copyright and New technologies: copyright data management and Artificial Intelligence - SMART 2019/0038

#### 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

CNECT/2020/OP/0009 - Study on Copyright and New technologies: copyright data management and Artificial Intelligence - SMART 2019/0038

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

## Annex 5.1. Commitment letter by an identified subcontractor

[Letterhead, if any]

EUROPEAN COMMISSION

Call for tenders Ref. CNECT/2020/OP/0009

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 CNECT/2020/OP/0009 - Study on Copyright and New technologies: copyright data management and Artificial Intelligence - SMART 2019/0038.

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. CNECT/2020/OP/0009

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 CNECT/2020/OP/0009 - Study on Copyright and New technologies: copyright data management and Artificial Intelligence - SMART 2019/0038.

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 form

CNECT/2020/OP/0009 - Study on Copyright and New technologies: copyright data management and Artificial Intelligence - SMART 2019/0038

RESOURCES	Service providers: Name of tenderer and, where applicable, names of partners or subcontractors which will perform this task	Level of expertise of Senior or junior (unit price per day)	Task. E.g. Project management	Task (complete)	Task (complete)	Task (complete)	Task (complete)	Task (complete)	Task (complete)	Add as many columns as necessary for your methodology	TOTAL	
											Number of days	Estimated breakdown of price, as a guide (€)
1 2, etc.												
TOTAL SENIOR STAFF (persons/days)												
1 2, etc.												
TOTAL JUNIOR STAFF (persons/days)												
A. OVERALL STAFF TOTAL (PERSONS/DAYS)												
B. TRAVEL AND SUBSISTENCE											-	
C. OTHER COSTS											-	
Financial offer: FIXED PRICE NOT SUBJECT TO REVISION AND INCLUSIVE OF ALL EXPENSES (A+B+C)												
Subcontracting amount: estimated subcontracting amount as percentage of total amount (%)												