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## WORKS CONTRACT NOTICE

< **Contract title** >

< **Location - Area/region and country/countries** >

### **[Only in case of suspension clause]**

Please note that the awarding of the contract is subject to the condition of:

**EITHER** [the prior adoption of a financing decision and the prior conclusion of a financing agreement,]

**OR** [the prior adoption of a financing decision,]

**OR** [the prior conclusion of a financing agreement,]

which does not modify the elements of the procurement procedure (this will be the case, for instance, if the budget initially foreseen is different or if the timeframe, the nature or the condition of the implementation are altered).

If the precedent condition is not met, the Contracting Authority will either abandon the procurement or cancel the award procedure without the candidates or tenderers being entitled to claim any compensation.]

### **1. Publication reference**

< **Publication reference of the corresponding prior information notice** >

### **2. Procedure**

Restricted

### **3. Programme title**

< **Please specify the programme title mentioned in the applicable financing agreement/ financing decision** >

### **4. Financing**

< **Budget line / Financing agreement / Other** >

### **5. Contracting Authority**

[For direct management: European Commission, on behalf of and for the account of < **the partner country/countries** >]

[For indirect management: < **The partner country** >]

< **Address** >

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## CONTRACT SPECIFICATIONS

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## 6. Description of the contract

< Recommended maximum: 10 lines >

## 7. Number and titles of lots

[One lot only]

[If more than one lot: (min =2 max=20) < number> lots

Lots Titles:

01 <title>

02 <title>

<no. and title>]

## CONDITIONS OF PARTICIPATION

## 8. Eligibility and rules of origin

### [Budget:

Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium - of candidates/tenderers) which are effectively established in a Member State of the European Union or in a eligible country or territory as defined under the Regulation (EU) N°236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable Instrument under which the contract is financed (see also heading 27, below). Participation is also open to international organisations. All supplies under this contract must originate in one or more of these countries. However, they may originate from any country when the amount of the supplies to be purchased is below 100,000 euros. ]

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### [EDF:

Participation in tendering is open on equal terms to all natural and legal persons (participating either individually or in a grouping – consortium - of candidates/tenderers) which are established in one of the Member States of the European Union, ACP States or in a country or territory authorised by the ACP-EC Partnership Agreement under which the contract is financed (see also heading 27, below). Participation is also open to international organisations. All supplies and materials under this contract shall originate from one or more of those eligible countries. However, they may originate from any country when the amount value of the supplies and materials to be purchased is below 100,000 euros]

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[Other (including 9<sup>th</sup> EDF which may have different eligibility): <.....>]

## 9. Candidature

All eligible natural and legal persons (as per item 8 above) or groupings of such persons (consortia) may apply.

A consortium may be a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure. All partners of a consortium (i.e., the leader and all other partners) are jointly and severally liable to the Contracting Authority.

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The participation of an ineligible natural or legal person (as per item 8) will result in the automatic exclusion of that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

#### 10. Number of Applications

No more than one application can be submitted by a natural or legal person whatever the form of participation (as an individual legal entity or as leader or partner of a consortium submitting an application). In the event that a natural or legal person submits more than one application, all applications in which that person has participated will be excluded.

[In case of lots:

The candidates may submit an application for one lot only, several lots or all of the lots, but only one application per lot. Contracts will be awarded lot by lot and each lot will form a separate contract. No restrictions may be made in the number of lots a tenderer can be awarded.]

#### 11. Shortlist alliances prohibited

Any applications received from Applicants having a different composition than the ones on the application forms will be excluded from this restricted tender procedure, unless prior approval from the Contracting Authority has been obtained – see PRAG 2.4.3. Short-listed Applicants may not form alliances or subcontract to each other for the contract in question.

#### 12. Grounds for exclusion

Candidates, including every consortium member, as well as each capacity-providing entity and (if already identified at this stage) each subcontractor providing more than 10% of the works, must submit a signed declaration, included in the Application Form for works contract, to the effect that they are not in any of the situations listed in point 2.3.3 of the **Practical Guide**.

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#### 13. Sub-contracting

Sub-contracting is allowed and the maximum percentage of the contract value which may be sub-contracted is 30%.

#### 14. Number of Candidates to be short-listed

On the basis of the applications received, at least 4 and at most 6 Candidates will be invited to submit detailed tenders for this contract. If the number of eligible Applicants meeting the selection criteria is less than the minimum of 4, the Contracting Authority may invite the Candidates who satisfy the criteria to submit a tender. If the number of eligible Candidates meeting the selection criteria is more than the maximum of 6, the Contracting Authority will rank them using the re-examination criteria stated under point 18 below.

#### 15. Provisional date of Invitation to tender

< Date >

#### 16. Provisional commencement date of the contract

< Date >

#### 17. Period of implementation of tasks

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< To be specified >

## SELECTION AND AWARD CRITERIA

### 18. Selection criteria

In order to be considered eligible for the award of the contract, Candidates must provide evidence that they meet the selection criteria. This evidence must be provided by Candidates in the form of the information and documents described in the application forms and in whatever additional form Candidates may wish to utilise.

In the case of a tender submitted by a consortium, unless specified, these selection criteria will be applied to the consortium as a whole:

a) ~~In case of either a contract with no Lots, or a contract divided into Lots whereby no different minimum levels of capacity are set for each Lot:~~ The selection criteria for each Candidate are as follows: ...]

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b) ~~In case of contracts divided into Lots whereby different minimum levels of capacity are set for each Lot: Lot n° ... (for example Lot 1) The selection criteria for tenderers to Lot n° ... (for example Lot 1) are as follows:]~~

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The selection criteria should be clear and non-discriminatory and may not go beyond the scope of the contract. The reference period for financial capacity may not go beyond the last 3 years for which accounts have been closed. The reference period for professional and technical capacity may not go beyond 5 years counting from the submission deadline. Consideration has to be made regarding which proof documents should be requested for the relevant selection criteria. See point 2.4.11 of the Practical Guide.

#### Economic and financial capacity of Candidate:

The objective of this criterion is to examine whether or not the Candidate (ie, the consortium as a whole, in the case of an application from a consortium):

- will not be economically dependent on the Contracting Authority in the event that the contract is awarded to it; and
- has sufficient financial stability to handle the proposed contract.

#### Examples of economic and financial criteria:

- the average annual turnover of the Candidate in the past 3 years must be at least [EUR] [<ISO code of national currency> only for indirect management] <.....>
- if it is the sole Candidate it must have access to sufficient credit and other financial facilities to cover the required cash-flow for the duration of the contract. In any case, the amount of credit available must exceed the equivalent of [EUR] [<ISO code of national currency> only for indirect management] <.....>

(a) <reference criterion>

(b) <reference criterion>

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<etc.>

#### Technical and professional capacity of Candidate:

The objective of this criterion is to examine whether or not the Candidate:

- has sufficient ongoing staff resources, expertise and experience to be able to handle the proposed contract
- is not a so-called 'body shop', ie, a Candidate with no real expertise in fields related to the contract but which simply identifies and proposes experts to fit the project description

#### Examples of professional and technical criteria:

- it must have completed at least <X> projects of the same nature/amount/complexity comparable to the works concerned by the tender which were implemented during the following period: < 8 years (5 years, for economic sectors subject to rapid evolution) from the submission deadline, please specify the dates> The Contracting Authority reserves the right to ask for copies of the respective certificates of final acceptance signed by the supervisors/contracting authorities of the projects concerned.

(This means that the project the Candidate refers to could have been started/implemented/completed at any time during the indicated period but it does not necessarily have to be started and completed during that period, nor implemented during the entire period.)

- it must carry out at least 70% of the contract works by own resources, which means that it must have the equipment, materials, human and financial resources necessary to enable it to carry out that percentage of the contract.
- if it is the lead member of a joint venture/consortium, it must have the ability to carry out at least 50% of the contract works by its own means.
- if it is a partner of a joint venture/consortium (i.e. not the lead member) it must have the ability to carry out at least 10% of the contract works by its own means.
- all its key personnel must have at least <X> years' appropriate experience and proven qualifications relevant to works of a similar nature to this project.

(a) <reference criterion>

(b) <reference criterion>

<etc.>

c) [In case of contracts divided into Lots whereby different minimum levels of capacity are set for each Lot: Lot n° ... (for example Lot 2)

The selection criteria for tenderers to Lot n° ... (for example Lot 2) are as follows:]

Idem as above

Economic and financial capacity of candidate (to be detailed as above): ....

Technical and professional capacity of candidate (to be detailed as above): .....

d) [In case of contracts divided into Lots whereby additional levels of capacity are added for the case several Lots are awarded to the same tenderer: for example

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<In case a tenderer applies to (for example, both Lot n° 1 and Lot n° 2, ...), the tenderer must comply with the following selection criteria:

Economic and financial capacity of candidate (to be detailed as above):....

Technical and professional capacity of candidate (to be detailed as above): ....]

e) Capacity-providing entities:

An economic operator may, where appropriate and for a particular contract, rely on the capacity of other entities, regardless of the legal nature of the links which it has with them. Some examples of when it may *not* be considered appropriate by the Contracting Authority are when the tenderer relies mostly on the capacity of other entities or when it relies on key criteria. If the tenderer relies on other entities, it must prove to the Contracting Authority that it will have at its disposal the resources necessary to perform the contract, for example by producing a commitment on the part of those entities to place resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality, as the economic operator. Furthermore, the tender should include a separate document providing data on this third entity for the relevant selection criterion. Proof of capacity must be furnished at the request of the Contracting Authority.

With regard to technical and professional criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the works for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the tenderer relies, become jointly and severally liable for the performance of the contract.

f) [Optional: Critical tasks

The Contracting Authority requires that the following critical tasks be performed directly by the tenderer itself, or where the tender is submitted by a joint venture/consortium, by one of its participating members: .... (to be defined)]

Applications submitted by companies in partnerships forming a joint venture/consortium must also fulfil the following requirements:

- The application must include all the information required by the application form for each member of the joint venture/consortium and the summary data for execution of works by the tenderer.
- The application must be signed in a way that legally binds all members. One member must be appointed lead member and that appointment confirmed by submission of powers of attorney signed by legally empowered signatories representing all the individual members.
- All members of the joint venture/consortium are bound to remain in the joint venture/consortium for the whole execution period of the contract. See the declaration in the tender form.

If more than 6 eligible candidates meet the above selection criteria, the relative strengths and weaknesses of the applications of these candidates must be re-examined to identify the 6 best applications for the tender procedure. The only factors which will be taken into consideration during this re-examination are:

**[Examples:**

- the highest number of projects in criteria 3.1

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- the highest value of the project in criteria 3.1
- Preference will be given to experience in <x> country/region

- 1) <comparative criterion 1>
- 2) <comparative criterion 2>
- <etc>

## 19. Award criteria

[Where no technical scoring is given to the offers: The most economically advantageous tender is the technically compliant tender with the lowest price].

[Where very exceptionally a technical scoring is given to the offers: The most economically advantageous tender is the technically compliant tender with the best price-quality ratio.]

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## APPLICATION

## 20. Deadline for receipt of Applications

< Time and date to be specified - must be a working day at least 30 calendar days after the date of publication of this contract notice > (e.g., 10:00 Central European Time on <date>).

Any application received after this deadline will not be considered.

## 21. Applications format and details to be provided

Applications must be submitted using the standard application form and its annexes (available on our webpage), the format and instructions of which must be strictly observed.

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Any documentation (brochure, letter, etc) sent with an application in addition to what has been requested will not be taken into consideration.

By submitting an application, the candidate accepts to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the contracting authority sends it to the electronic address referred to in the application.

## 22. How applications may be submitted

Applications must be submitted in English exclusively to the Contracting Authority in English in a sealed envelope.

- Either by recorded delivery (official postal service) to:

in case of indirect management  
<Name of contact person  
Address of Contracting Authority>

OR in case of direct management

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<Address of European Commission>

In this case, the delivery record makes proof of compliance with the time-limit for receipt.

- OR hand delivered (including courier services) directly to the Contracting Authority in return for a signed dated receipt to:

in case of indirect management  
<Name and telephone number of contact person  
Address of Contracting Authority>

OR in case of direct management  
<Name and telephone number of contact person  
Address of European Commission>

In this case, the acknowledgment of receipt makes proof of compliance with the time-limit for receipt.

Contact points: <Specify Name>

Opening hours: <Specify opening hours>

The Contract title and Publication reference (see item 1 above) must be clearly marked on the envelope containing the application and must always be mentioned in all subsequent correspondence with the Contracting Authority. Applications submitted by any other means will not be considered.

### 23. Alteration or withdrawal of Applications

Applicants may alter or withdraw their applications by written notification prior to the deadline for submission of applications. No applications may be altered after this deadline.

Any such notification of alteration or withdrawal shall be prepared and submitted in accordance with item 21. The outer envelope (and the relevant inner envelope if used) must be marked 'Alteration' or 'Withdrawal' as appropriate.

### 24. Language of the procedure

All written communications for this tender procedure and contract must be in English.

### 25. Date of publication of prior information Notice

< Date - must have been at least 30 calendar days before the publication of this contract notice >

### 26. Repetition of similar work

Subsequent to the initial contract resulting from the current tender procedure, new works consisting in the repetition of similar works, up to the estimated amount of <amount>, may be entrusted to the initial contractor by negotiated procedure without prior publication of a contract notice, provided the new works are in conformity with the same basic project.

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## 27. Legal basis<sup>1</sup>

[BUDGET: for calls where the CIR applies: Regulation (EU) N°236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and <please introduce here the reference of the Regulation or other instrument under which this contract is to be financed (e.g. DCI, ENPI, ENI, Ifs)> - See Annex A2 of the Practical Guide]

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[BUDGET: for calls where the CIR does not apply (e.g. for IPA I), -< Regulation or other instrument under which this contract is to be financed> - See Annex A2 of the Practical Guide]

[EDF: Annex IV to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as amended in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010. Reference is made to Annex IV as revised by Decision 1/2014 of the ACP-EU Council of Ministers of 20 June 2014.]

## 28. Additional Information

<As appropriate, as for example the cost charged for the tender dossier >.

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<sup>1</sup> Please state any specificity that might have an impact on rules on participation (such as geographic or thematic or long/short term).

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