**INSTRUCTIONS TO TENDERERS**

PUBLICATION REF.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

In submitting a tender, the tenderer accepts in full and without restriction the special and general conditions governing the contract as the sole basis of this tendering procedure, whatever its own conditions of sale may be, which it hereby waives. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline will lead to rejection of the tender. No account can be taken of any reservation in the tender as regards the tender dossier; this may result in immediate rejection of the tender without further evaluation.

How to complete these standard instructions to tenderers.

Please insert information between the <> brackets as indicated for each tender procedure. Square brackets [ ] and parts shaded in grey indicate options to choose: they should be included when applicable, but should only be modified in exceptional cases, dictated by the requirements of a specific call for tenders.

All other parts of these standard instructions must be left unchanged. In the final version of the instructions to tenderers, please remember to delete this paragraph, any other text with yellow highlighting and to suppress all brackets.

# GENERAL PART

## GENERAL INSTRUCTIONS

### Tenderers must tender for the whole of the works required by the dossier. Tenders will not be accepted for incomplete lots.

### Timetable

|  |  |  |
| --- | --- | --- |
|  | **DATE** | **TIME** |
| **Clarification meeting (optional)** | [< Date>] [Not applicable] | [<Time> (time zone location site)] [Not applicable] |
| **Site visit (optional)** | [< Date>] [Not applicable] | [<Time> (time zone location site)] [Not applicable] |
| **Deadline for requesting any additional information from the contracting authority** | < Date 21 days before deadline for tenders indicated in the Contract notice > | -- |
| **Last date on which additional information are issued by the contracting authority** | < Date 8 days before deadline for submission of tenders indicated in the Contract notice > | - |
| **Deadline for submitting tenders** | As indicated in the Contract notice |  |
| **Tender opening session** | As indicated in the Contract notice |  |
| **Notification of award to the successful tenderer** | < Date at most 90 days after deadline for tenders > | - |
| **Signature of the contract** | < Date at most 150 days after deadline for tenders > | - |

## FINANCING

The project is co-financed by the Interreg programme <specify the programme >.

## PARTICIPATION

### The eligibility requirements detailed in the contract notice apply to all members of a joint venture/consortium and all subcontractors, as well as to all entities upon whose capacity the tenderer relies for the selection criteria. Every tenderer, member of a joint venture/consortium, every capacity-providing entity, every subcontractor and every supplier must certify that they meet these conditions. They must prove their eligibility by a document dated less than one year earlier than the deadline for submitting tenders, drawn up in accordance with their national law or practice or by copies of the original documents stating the constitution and/or legal status and the place of registration and/or statutory seat and, if it is different, the place of central administration. The contracting authority may accept other satisfactory evidence that these conditions are met.

### Natural persons, companies or undertakings falling into a situation set out in point 18 of Annex II of the Financing Agreement between the European Commission and the partner country are not entitled to participate in this tender procedure or be awarded a contract. Should they do so, their tender will be considered unsuitable or irregular respectively. Tenderers must provide declarations to the effect that they are not in any of the exclusion situations (form G3). The declarations must cover all the members of a joint venture/consortium and must also be submitted by any sub-contractor or capacity providing entity. Tenderers guilty of making false declarations may also incur financial penalties up to 10% of the total value of the contract and exclusion, in accordance with the Financial Regulation in force.

### The exclusion situations referred to in subclause 3.2 apply to all members of a joint venture/consortium, all subcontractors and all suppliers to tenderers, as well as to all entities upon whose capacity the tenderer relies for the selection criteria.

### Subcontracting is allowed but the contractor will retain full liability towards the contracting authority for performance of the contract as a whole. To be inserted only in case the contracting authority identifies certain critical activities that cannot be subcontracted [The contracting authority requires that the following critical tasks be performed directly by the tenderer itself or, where the tender is submitted by a group of economic operators, a participant in the group:

### 1 <Critical Task 1 (to be defined)>

### 2 <Critical task 2 (to be defined)>

### 3 …etc]

## ONLY ONE TENDER PER TENDERER

A company may not tender for a given contract both individually and as a member of a joint venture/consortium. Participation by a tenderer in more than one tender for a contract will result in the disqualification of all those tenders for that contract in which the party is involved. The same company may only participate as subcontractor in different tenders if that is justified by the specific nature of the market and cleared by the contracting authority.

## TENDER EXPENSES

### The tenderer will bear all costs associated with preparing and submitting the tender. The contracting authority will not be responsible or liable for such costs, whatever the conduct or outcome of the procedure.

### The contracting authority will neither be responsible for, nor cover, any expenses or losses incurred by the tenderer through site visits and inspections or any other aspect of its tender.

## SITE VISIT AND CLARIFICATION MEETING

### The tenderer is [strongly advised] [obliged] to visit and inspect the site of the works and its surroundings for the purpose of assessing, at its own responsibility, expense and risk, the factors necessary for preparing its tender and signing the contract for the works (date, time and place, see the additional information about the contract notice.)

### A clarification meeting and/or a site visit [will] [will not] be held by the contracting authority (date, time and place, see the additional information about the contract notice).

### Open procedure: [The minutes of the [clarification meeting and the site visit] [site visit] will be published on [TED eTendering website][national eplatform] . As proof of participation, tenderers will receive a certificate of their site visit.].

### Local open procedure: [The minutes of the [clarification meeting and the site visit] [site visit] will be <published on TED eTendering website>, <national eplatform> or <enter other media, as applicable> or <communicated to the attendees> . As proof of participation, tenderers will receive a certificate of their site visit.]

## CONTENT OF TENDER DOCUMENTS

The set of tender documents comprises the documents specified in the invitation letter.

Tenderers bear sole liability for examining with appropriate care the tender documents, including design documents available for inspection and any modification to the tender documents issued during the tendering period, and for obtaining reliable information on any conditions and obligations that may in any way affect the amount or nature of the tender or the execution of the works. In the event that the tenderer is successful, no claim for altering the tender amount will be entertained on the grounds of errors or omissions in the obligations of the tenderer described above.

## EXPLANATIONS CONCERNING TENDER DOCUMENTS

### [Open procedure: Any request for additional information must be made in writing through the <TED eTendering website> or <national epltaform>. Tenderers may to request for additional information at the latest 21 days before the deadline for submission of tenders stated in the contract notice. The contracting authority has no obligation to provide clarification on questions received after this date.]

[Local open procedure: Tenderers may submit questions in writing to the following address up to 21 day before the deadline for submission of tenders, specifying the publication reference and the contract title:

<Contact name  
Address  
[E-mail:……>]

The contracting authority must reply to all tenderers’ questions at least 8 days before the deadline for receipt of tenders.

### The questions and answers will be published on <TED eTendering> <national eplatform> or <enter other media, as applicable>. The website will be updated regularly and it is the tenderer’s responsibility to check for updates and modifications during the submission period.

## MODIFICATIONS OF TENDER DOCUMENTS

### The contracting authority may amend the tender documents by publishing modifications up to 8 days before the deadline for submitting tenders.

### Each modification published will constitute a part of the tender documents and will be published on <TED eTendering website> <national eplatform> [and <enter other media, as applicable>].

### The contracting authority may, as necessary and in accordance with Clause 18, extend the deadline for submitting tenders to give tenderers sufficient time to take modifications into account when preparing their tenders.

# TENDER PREPARATION

## LANGUAGE OF TENDERS

### The tender and all correspondence and documents related to the tender exchanged by the tenderer and the contracting authority must be written in the language of the procedure, which is [English][national language]. All correspondence relating to payments, including invoices and interim and final payment certificates, must also be sent to the contracting authority in [English][national language].

### If supporting documents are not written in [one of the official languages of the European Union][national language], a translation into the language of the call for tender must be attached. Where the documents are in an official language of the European Union other than English, it is strongly recommended to provide a translation into the language of the call for tenders, in order to facilitate the evaluation of the documents.

## CONTENT AND PRESENTATION OF TENDER

### Tenders must satisfy the following conditions:

#### Tenders must comprise the documents and information in Clause 12 below.

#### The tender must be signed on behalf of the tenderer/joint venture/consortium by a person or persons duly authorised to do so, empowered by power of attorney.

#### The relevant pages of the documents specified in Clause 12 must be signed as indicated.

#### The tenderer must provide all documents required by the tender dossier. All such documents, without exception, must comply strictly with these conditions and provisions and contain no amendments made by the tenderer. Tenders which do not comply with the requirements of the tender dossier may be rejected.

### Either[The works are not divided into lots. Tenders must be for all the quantities indicated.]

#### Or [Where works have been divided into lots: The tenderer may submit a tender for [one lot only] [several or all of the lots].

#### Each lot will form a separate contract and the quantities indicated for different lots will be indivisible. The tenderer must offer the entire quantity or quantities indicated for each lot. Under no circumstances will tenders for part of the quantities required be taken into consideration.

#### [A tenderer may include in its tender the overall discount it would grant in the event of some or all of the lots for which it has submitted a tender being awarded to it. The discount should be clearly indicated in such a way that it can be announced at the public tender opening session].

#### Contracts will be awarded lot by lot, but the contracting authority must choose the most favourable overall solution taking account of the discounts offered.]

## INFORMATION/DOCUMENTS TO BE SUPPLIED BY THE TENDERER

To be customised to the requirements of the tender dossier.

[Electronic submission

Tenderers are invited to consult at the end of these Instructions the ‘List of documents to be submitted with the tender and during the procedure’ which will provide guidance where the different documents have to be uploaded in eSubmission.]

### All tenders must comprise the following information and duly completed documents:

#### Tender form, together with a signed Annex 1 "Declaration on honour on exclusion criteria and selection criteria" (form G3)

[in case of open procedures: A copy of the signed original Declaration shall be submitted. The original shall be kept by the tenderer and might be requested by the Contracting Authority.]

[in case of local open procedures: Signed originals of the Declaration on honour shall be submitted.]

#### The following documents should be provided:

[for lump-sum contracts:

- Summary;

- Breakdown of the lump-sum price;

if applicable: - Daily work schedule;]

* Detailed breakdown of prices.

The breakdown of the lump-sum price and the detailed breakdown of prices do not derogate in any way to the clause stating that, in a lump-sum contract, the total contract price remains fixed irrespective of the quantity of work actually carried out. ]

[for unit price contracts:

* Bill of quantities;
* Price schedule;

if applicable: - Daily work schedule;]

* Detailed breakdown of Prices.]

##### The prices are deemed to have been set on the basis of the conditions in force 30 days prior to the deadline for submitting tenders.

The detailed breakdown of prices must be used when required for any purpose under the contract, notably to provide the coefficients for applying the price revision formula. The tenderer must provide clear arithmetical calculations for the proposed coefficients. For tenders below the international threshold (EUR 5 000 000) it is not compulsory for the contracting authority to request tenderers to provide the information required in the detailed breakdown of prices. However, if that the price revision formula uses the coefficients provided by the detailed breakdown of prices, the decision not to ask for the detailed breakdown of prices implies that the contracting authority will use its own established price revision formula.

#### Copies of the most recent documents showing the organisation chart, legal status and place of registration of the tenderer's headquarters, a power of attorney empowering the person signing the tender and all related documentation. These documents must be included in the tender dossier:

* general information about the tenderer [including organisation chart]
* power of attorney (Form 4.3).

#### Evidence showing that the liquid assets and access to credit facilities are adequate for this contract, confirmed by a financial statement for the last three years verified by a chartered accountant.

#### Financial projections for the two years ahead.

#### Financial identification form (form G4) and legal entity file (form G5). If the tenderer has already signed another contract with the contracting authority, it may provide instead of the forms and supporting documents either the file numbers received or copies of the forms provided on that occasion, unless a change occurred in the meantime.

#### Information about the tenderer’s technical qualifications. This information must be included in the tender dossier:

* a presentation of the tenderer’s organisation, including the total number of personnel employed,
* a list of the personnel proposed for execution of the contract, with the CVs of key personnel,
* a list of plant for execution of the contract. The descriptions must demonstrate the tenderer’s ability to complete the works and should includeamongst others, the following elements:
* < Trenching machines
* Dewatering plant
* Concrete mixing and placing plant
* Cranes and lifting equipment *…>*

The tenderer must indicate whether this equipment is owned, hired or used by a subcontractor. Manufacturer’s documents fully describing the equipment must be submitted with the tender;

* a list of materials and any supplies intended for use in the works;
* a work plan with brief descriptions of the main tasks, showing the sequence and proposed timetable for implementing the tasks. In particular, the proposal must detail the temporary and permanent works to be constructed. The tenderer must take account of weather conditions and the requirement to prepare designs and obtain building permits prior to carrying out construction works. The tenderer must also submit a comprehensive method statement, with drawings if necessary, showing the methods by which it proposes to carry out the works. In particular, the tenderer must indicate the numbers, types and capacities of the plant and personnel it proposes to use on the main areas of work;
* a critical milestone bar chart showing times and duties allocated for employees for this contract;
* data on subcontractors and the percentage of works to be subcontracted;
* evidence of relevant experience in carrying out works of a similar nature, including the nature and value of the contracts, works in hand and contractually committed. The evidence must include successful experience as the prime contractor in construction of at least <X> projects of the same nature and complexity comparable to the works concerned by the tender during the last five years;
* information regarding the proposed main site office;
* an outline of the quality assurance system(s) to be used;
* if applicable, information on tenderers involved in a joint venture/consortium;
* details of their litigation history over the last <X> years;
* details of the accommodation and facilities to be provided for the Supervisor;
* any other information.

#### Proof documents, declarations and undertakings according to Clauses 3.1-3.4 above. These documents should cover all members of a joint venture/consortium and all subcontractors as specified.

#### All supplies under this contract may originate in any country.

#### [Modifications (if any);]

#### [Tender guarantee is always optional: Tender guarantee (form WK4)]

#### [If obligatory site visit: Site visit certificate.]

### In order to be eligible for the award of the contract, tenderers must provide evidence that they meet the selection criteria. This must be provided by tenderers using the forms described in 12.1 above and any additional forms tenderers may wish to use.

If a tender is submitted by a consortium, unless specified, the selection criteria will be applied to the consortium as a whole.

[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 tenderer are as follows:]

[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:]

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. Concerning the professional and technical capacity and in order to verify the corresponding selection criteria, the contracting authority may request one or more of the following:

(a) information on the educational and professional qualifications, skills, experience and expertise of the persons responsible for performance;

(b) a list of the works carried out in the last five years, accompanied by certificates of satisfactory execution for the most important works. However, where necessary in order to ensure an adequate level of competition, the contracting authority may indicate that evidence of relevant works delivered or performed more than five years before will be taken into account.

(c) a statement of the technical equipment, tools or the plant available to the economic operator for performing the works contract;

(d) a description of the technical facilities and means available to the economic operator for ensuring quality, and a description of available study and research facilities;

(e) a reference to the technicians or technical bodies available to the economic operator, whether or not belonging directly to it, especially those responsible for quality control;

(g) a statement of the average annual manpower and the number of managerial personnel of the economic operator for the last three years;

(h) an indication of the supply chain management and tracking systems that the economic operator will be able to apply when performing the contract;

(i) an indication of the environmental management measures that the economic operator will be able to apply when performing the contract.

Consider which proof documents should be requested for each selection criteria. See Section 2.6.11. of the practical guide.

***Economic and financial capacity of candidate:***

The objective of this criterion is to examine whether or not the candidate (i.e. the consortium as a whole, for applications from consortia):

* will not be economically dependent on the contracting authority if the contract is awarded to it; and
* has sufficient financial stability to take on the proposed contract.

**Examples of financial criteria:**

* the average annual turnover of the tenderer in the past 3 years must be at least [EUR] [<ISO code of national currency> only for indirect management] (minimum yearly turnover requested may not exceed 2 times the estimated annual contract value, except in duly justified cases motivated in the tender dossier)<…..>
* if it is the sole tenderer, 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] <……>

1. <insert reference criterion>
2. <insert reference criterion>

<etc.>

***Technical and professional capacity of candidate:***

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

* has sufficient on-going personnel resources, expertise and experience to be able to take on the proposed contract;
* is not a so-called ‘body shop’, i.e. 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 as the works concerned by the tender and implemented during the following period: 5 years from the submission deadline, please specify the dates>. The contracting authority reserves the right to ask for copies of certificates of final acceptance signed by the supervisors/contracting authority of the projects concerned.

(This means that the project the tenderer 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.)

* 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.

1. <insert reference criterion>
2. <insert reference criterion>

<etc.>

#### [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): ….]

#### [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

<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): ….]

#### 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. 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 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 relying on them and must comply with the selection criteria for which the economic operator relies on them. Furthermore, the tender should include a separate document providing data on this third entity for the relevant selection criterion. Proof of capacity must be provided 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.

#### [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)]

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

* The tender must include all the information required in 12.1 above for each member of the joint venture/consortium and summary data for execution of works by the tenderer.
* The tender 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 members. See Form 4.6.5 in Volume 1 and the tender form.
* 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.

[For tenders below EUR 5 000 000:

Documentary evidence of financial and economic standing and technical and professional capacity, referred to in 12.2 of these instructions to tenderers, is not obligatory for tenders below EUR 5 000 000. However, it is obligatory if a pre-financing payment is requested]

## TENDER PRICES

### The currency of the tender is the [EUR] [<ISO code of national currency>.

### The tenderer must provide [for unit-price contracts: a bill of quantities and price schedule] [for lump-sum contracts: breakdown of the lump-sum price] in [euro] [<national currency> only for indirect management]. The tender price must cover all works as described in the tender documents. All sums in [for unit-price contracts: the bill of quantities and price schedule] [for lump-sum contracts: breakdown of the lump-sum price], the questionnaire and other documents must also be expressed in this currency, with the exception of originals of bank and annual financial statements.

### Tenderers must quote all components of [for unit-price contracts: the bill of quantities and price schedule] [for lump-sum contracts: breakdown of the lump-sum price]. No payment will be made for items which have not been costed; such items will be deemed to be covered by other items on the [for unit-price contracts: bill of quantities and price schedule] [for lump-sum contracts: breakdown of the lump-sum price].

### If a discount is offered by the tenderer, it must be clearly specified in [for unit-price contracts: the bill of quantities and price schedule] [for lump-sum contracts: breakdown of the lump-sum price] in Volume 4 and indicated in the tender form in Volume 1, Section 1.2. The discount must be quoted for all works.

### If the tenderer offers a discount, the discount must be included on each interim payment certificate and calculated on the same basis as in the tender.

## PERIOD OF VALIDITY OF TENDERS

### Tenders must remain valid for a period of 90 days after the deadline for submitting tenders indicated in the contract notice, the invitation to tender or as amended in accordance with Clauses 9 and/or 18.

### In exceptional circumstances, the contracting authority may, before the validity period expires, request that tenderers extend the validity of tenders for a specific period, which may not exceed 40 days. Such requests and the responses to them must be made in writing. A tenderer may refuse to comply with such a request without forfeiting its tender guarantee. If the tenderer decides to accept the request, it may not amend its tender and it is bound to extend the validity of its tender guarantee for the revised period of validity of the tender.

### The successful tenderer must maintain its tender for a further 60 days. This period is in addition to the validity period, irrespective of the date of notification.

## TENDER GUARANTEE

EITHER:

### [The tenderer must provide, as a part of its tender, a tender guarantee in the form set out in form WK4, or in another form acceptable to the contracting authority that meets the essential requirements set out therein. The tender guarantee must be for an amount of < amount to be specified within the range 1% - 2% of the budget available for the contract>. The original guarantee must be included in the original tender.

### It may be provided in the form of a bank guarantee, a banker’s draft, a certified cheque, a guarantee provided by an insurance and/or guarantee company or an irrevocable letter of credit made out to the contracting authority.

### The tender guarantee must remain valid for 45 days beyond the period of validity of the tender, including any extensions, and be issued to the contracting authority for the requisite amount.

### The tender guarantees of unsuccessful tenderers will be returned together with the information letter that the tenderer has been unsuccessful.

### The tender guarantee of the successful tenderer must be released when the tenderer has signed the contract and provided the requisite performance guarantee.]

OR: [No tender guarantee is required.]

## VARIANT SOLUTIONS

Variant solutions will not be taken into consideration.

# SUBMISSION OF TENDERS

## 17. SUBMITTING TENDERS

### [Electronic submission:

Tenders must be submitted exclusively via the electronic submission system [eSubmission in TED] [national eplatform]. Tenders submitted in any other way (e.g. e-mail or by letter) will be disregarded.

Tenders must be submitted before the deadline set in the contract notice.

A tender received after the time-limit for receipt of tenders will be rejected. The submission receipt provided by eSubmission with the official date and time of receipt of the submission (timestamp) constitutes proof of compliance with the time-limit for receipt of tenders.

Tenderers must ensure that their submitted tenders contain all the information and documents required by the contracting authority at the time of submission as set out in the procurement documents.

### [Paper submission: The complete tender must be submitted in one original, clearly marked ‘original’ and < insert number (for environmental reasons, request as few copies as possible)> copies, clearly marked ‘copy’. In the event of any discrepancy between them, the original will prevail. [<add other specifications regarding the submission of tenders>]]

### The technical and financial offers must be placed together in a sealed envelope. The envelopes should then be placed in another sealed envelope/package, unless their volume requires a separate submission for each lot.

### 17.3 All tenders must be sent to the contracting authority before the deadline set in the contract notice.

Participants may choose to submit their tender :

(a) either by post or by courier service, in which case the evidence shall be constituted by the postmark or the date of the deposit slip[[1]](#footnote-1)**.** In such case**,** the tender must be sent to the following address:

<Address of contracting authority>]

(b) or by hand-delivery to the premises of the contracting authority by the participant in person or by an agent, in which case the evidence shall be constituted by acknowledgment of receipt. If tenders are hand delivered they should be delivered to the following address:

<Address of contracting authority including opening hours >]

The contracting authority may, for reasons of administrative efficiency, reject any application or tender submitted on time to the postal service but received, for any reason beyond the contracting authority's control, after the effective date of approval of the evaluation report, if accepting tenders that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise decisions already taken and notified.

### 17.4 Tenders, including annexes and all supporting documents, must be submitted in a sealed envelope bearing only:

1. the above address;
2. the reference code of this tender procedure, (i.e., <publication reference>);
3. where applicable, the number of the lot(s) tendered for;
4. the words ‘Not to be opened before the tender opening session’ in the language of the tender dossier and <equivalent phrase in the local language>.
5. the name of the tenderer.]

## 18. EXTENSION OF THE DEADLINE FOR SUBMITTING TENDERS

The contracting authority may, on its own discretion, extend the deadline for submitting tenders by issuing an amendment in accordance with Clause 9. In such cases, all rights and obligations of the contracting authority and the tenderer regarding the original date specified in the contract notice will be subject to the new date.

## 19. LATE TENDERS

### 19.1 All tenders submitted after the deadline for submission specified in the contract notice or these instructions will be kept by the contracting authority. The guarantees will be returned to the tenderers.

### 19.2 No liability can be accepted for late delivery of tenders. Late tenders will be rejected and will not be evaluated.

## 20. ALTERING AND WITHDRAWING TENDERS

### 20.1 [Electronic submission: After submitting a tender, but before the deadline for receipt of tenders, a tenderer may definitively withdraw its tender, or withdraw it and replace it with a new one. A withdrawal receipt will be provided by eSubmission as proof of withdrawal.]

### [Paper submission: Tenderers may alter or withdraw their tenders by written notification prior to the above deadline. No tender may be altered after the deadline for submission. Withdrawals must be unconditional and will end all participation in the tender procedure.

### 20.2 Any notification of alteration or withdrawal must be prepared and submitted in accordance with Clause 17, and the envelope must be marked ‘alteration’ or ‘withdrawal’, as appropriate.]

### 20.3 Withdrawal of a tender in the period between the deadline for submission and the date of expiry of the validity of the tender will result in forfeiture of the tender guarantee.

# OPENING AND EVALUATING TENDERS

## 21. OPENING TENDERS

### 21.1 The purpose of opening and examining tenders is to check whether the tenders have been submitted in accordance with the submission requirements of the call for tenders.

### 21.2 [Paper submission: The opening session should be held at least one week after the deadline for submission of tenders.]

### Tenders will be opened in public session by the appointed committee on the date and time and at the address specified in the contract notice. The committee will draw up minutes of the meeting, which must be available to tenderers on request.

[Paper submission: In the case that at the date of the opening session some tenders have not been delivered to the contracting authority but their representatives can show evidence that they have been sent on time, the contracting authority will allow them to participate in the first opening session and inform all representatives of the tenderers that a second opening session will be organised.]

### 21.3 At the tender opening session, the tenderers’ names, the tender prices, any discounts offered, written notifications of alteration and withdrawal, the presence of the tender guarantee (if required) and such other information the contracting authority may consider appropriate may be announced.

### 21.4 After the public opening of the tenders, no information relating to the examination, clarification, evaluation or comparison of tenders or recommendations concerning the award of contract can be disclosed until after the contract has been awarded.

Any attempt by a tenderer to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the contracting authority in its decision concerning the award of the contract will result in the immediate rejection of its tender.

## 22. EVALUATING TENDERS

The contracting authority reserves the right to ask a tenderer to clarify any part of its tender that the evaluation committee considers necessary to evaluate it. Such requests and the responses to them must be made in writing. They may in no circumstances alter or try to change the price or content of the tender, except to correct arithmetical errors discovered by the evaluation committee when analysing tenders.

The contracting authority reserves the right to check information submitted by the tenderer if the evaluation committee considers it necessary.

### 22.1 Examination of the administrative compliance of tenders

The aim at this stage is to check that tenders comply with the requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.

Substantial departures or restrictions are those which affect the scope, quality or execution of the contract, differ widely from the terms of the tender dossier, limit the rights of the contracting authority or the tenderer’s obligations under the contract or distort competition for tenderers whose tenders do comply. Decisions to the effect that a tender is not administratively compliant must be duly justified in the evaluation minutes.

The evaluation committee will check that each tender:

* has been properly signed;
* includes a correct tender guarantee (if required);
* meets the requirements as set out in the administrative compliance grid;
* has complete documentation and information;
* substantially complies with the requirements of these tender documents.

If a tender does not meet the requirements set out in the administrative compliance grid, it may be rejected by the evaluation committee when checking admissibility.

### 22.2 Technical evaluation

The evaluation committee must evaluate only those tenders considered substantially compliant in accordance with Clause 22.1.

At this step of the evaluation procedure, the committee will analyse the tenders' technical conformity in relation to the technical specifications, classifying them technically compliant or non-compliant.

[Only very exceptionally, subject to derogation, the technical requirements for the works will limit themselves to minima above which the tenderers can propose own solutions: only in such cases, the offers which comply with those minimum quality levels, should be technically scored. If so, add the following sentence:

Subsequently, the committee will evaluate the technically compliant offers in accordance with the technical evaluation grid (setting out the technical criteria, subcriteria and weightings) attached to the tender dossier.]

### 22.3 Financial evaluation

Once the technical evaluation has been completed, the evaluation committee checks that the financial offers contain no arithmetical errors. If the tender procedure contains several lots, financial offers are compared for each lot. The financial evaluation will have to identify the best financial offer for each lot, taking due account of any discounts offered.

When analysing the tender, the evaluation committee will calculate the final tender price after adjusting it on the basis of Clause 23.

### 22.4 Documentary evidence for exclusion and selection criteria

[For tenders below EUR 5 000 000, the contracting authority may, if it has doubts about whether the tenderer to whom the contract is to be awarded is in one of the situations leading to exclusion, require the tenderer to provide the evidence on **exclusion criteria**: At any time during the procurement procedure and before the award of the contract, the contracting authority may request documentary evidence on compliance with the exclusion criteria set out in these instructions.]

[For tenders below EUR 5 000 000, the contracting authority may, depending on its assessment of the risks, decide not to require proof for **selection criteria**, but then no pre-financing must be made, see Section 2.6.11. of the practical guide ]: No documentary evidence of the selection criteria shall be submitted but no pre-financing will be granted.

[For tenders above EUR 5 000 000 and for tenders below EUR 5 000 000 when the Contracting Authority decided to request documentary evidence for exclusion and selection criteria:

At any time during the procurement procedure and before the award of the contract, the contracting authority may request documentary evidence on compliance with the exclusion criteria and selection criteria set out in these instructions. Please note that a request for evidence in no way implies that the tenderer has been successful. **All tenderers are invited to prepare in advance the documents related to the evidence, since they may be requested to provide such evidence within a short deadline**. In any event, the tenderer proposed by the evaluation committee for the award of the contract, will be requested to provide such evidence at short notice.

When requested, regarding the exclusion criteria, the tenderers should be able to provide the **documentary proof** or statements required under the law of the country in which the company (or, for consortia, each of the companies) is established, to show that it does not fall into any of the exclusion situations listed in point 18 of Annex II of the Financing Agreement between the European Commission and the partner country.

This evidence, documents or statements must be dated, no more than one year before the date of submission of the tender.

The above-mentioned documents must be submitted for every member of a joint venture/consortium, all subcontractors and every capacity providing entity.

The contracting authority may waive the obligation of any tenderer to submit the documentary evidence referred to above if such evidence has already been submitted for the purposes of another procurement procedure, provided that the issue date of the documents does not exceed one year and that they are still valid. In this case, the tenderer must declare on his/her honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that his/her situation has not changed.

Where the documentary evidence submitted is in an official language of the European Union other than the one of the procedure, it is strongly recommended to provide a translation into the language of the procedure, in order to facilitate the evaluation of the documents.

Failure to provide valid documentary evidence at the request and within the deadline set by the Contracting Authority shall lead to the rejection of the tender for the award of the contract, unless the tenderer can justify the failure on the grounds of material impossibility.]

## 23 CORRECTING ERRORS

### 23.1 Possible errors in the financial offer will be corrected by the evaluation committee as follows:

* where there is a discrepancy between amounts in figures and in words, the amount in words will prevail;
* except for lump-sum contracts, where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will prevail.

### 23.2 The amount stated in the tender will be adjusted by the evaluation committee in the event of error, and the tenderer will be bound by that adjusted amount. If the tenderer does not accept the adjustment, its tender will be rejected and its tender guarantee forfeited.

# CONTRACT AWARD

## 24. 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 a technical scoring is given to the offers: The most economically advantageous tender is the technically compliant tender with the best price-quality ratio. The best price-quality ratio is established by weighing technical quality against price on an (to be assessed on a case by case basis, for example 80/20, 70/30, 60/40, etc. : <… >basis.

## 25. NOTIFICATION OF AWARD, CONTRACT CLARIFICATIONS

Prior to the expiry of the validity period of tenders, the contracting authority will notify the successful tenderer, in writing, that its tender has been selected and draw its attention to any arithmetical errors corrected during the evaluation process. This notification may take the form of an invitation to clarify certain contractual questions raised therein, to which the tenderer must be prepared to reply. This clarification will be confined to issues that had no direct bearing on the choice of the successful tender. The outcome of such clarification will be set out in a memorandum of clarification, to be signed by both parties and incorporated into the contract.

The contracting authority will inform all tenderers simultaneously and individually of the award decision. The tender guarantee of the unsuccessful tenderers will be released once the contract is signed.

By submitting a tender, each tenderer 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 offer.

## 26. CONTRACT SIGNING AND PERFORMANCE GUARANTEE

### 26.1 Within 30 days of receipt of the contract already signed by the contracting authority, the selected tenderer must sign and date the contract and return it, with the performance guarantee (if applicable) to the contracting authority. On signing the contract, the successful tenderer will become the contractor and the contract will enter into force.

### 26.2 If it fails to sign and return the contract and any financial guarantee required within 30 days after receipt of notification, the contracting authority may consider the acceptance of the tender to be cancelled, without prejudice to the contracting authority’s right to invoke the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the contracting authority.

### 26.3 The performance guarantee referred to in the general conditions is set at <insert percentage between 5 and 10> % of the amount of the contract and must be presented in the form specified in the annex to the tender dossier, except where it takes the form of a certified cheque or a cash deposit. It will be released in accordance with the special conditions.

## 27. CANCELLATION OF THE TENDER PROCEDURE

In the event of cancellation of a tender procedure, tenderers will be notified by the contracting authority. In case of paper submission and, if the tender procedure is cancelled before the tender opening session, the sealed envelopes will be returned, unopened, to the tenderers.

Cancellation may occur, for example, where:

* the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no valid response at all;
* the economic or technical parameters of the project have been fundamentally altered;
* exceptional circumstances or force majeure render normal execution of the project impossible;
* all technically compliant tenders exceed the financial resources available;
* there have been irregularities in the procedure, in particular where these have prevented fair competition;
* the award is not in compliance with sound financial management, i.e. does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market.

In no event will the contracting authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure, even if the contracting authority has been informed of the possibility of damage. Publication of a contract notice does not commit the contracting authority to implement the programme or project announced.

## 28. ETHICS CLAUSES AND CODE OF CONDUCT

### 28.1 Absence of conflict of interest

The tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other tenderers or parties involved in the project. Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or the contracting authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties according to the Financial Regulation in force.

### 28.2 Respect for human rights as well as environmental legislation and core labour standards

The tenderer and its personnel must comply with human rights and applicable data protection rules. In particular and in accordance with the applicable basic act, tenderers and applicants who have been awarded contracts must comply with the environmental legislation including multilateral environmental agreements, and with the core labour standards as applicable and as defined in the relevant International Labour Organisation conventions (such as the conventions on freedom of association and collective bargaining; elimination of forced and compulsory labour; abolition of child labour).

**Zero tolerance for sexual exploitation, abuse and harassment:**

The contracting authority applies a policy of 'zero tolerance' in relation to all wrongful conduct which has an impact on the professional credibility of the tenderer.

Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited.

### 28.3 Anti-corruption and anti-bribery

The tenderer shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption. The Managing Authority reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the execution of a contract and if the contracting authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, ‘corrupt practices’ are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or execution of a contract already concluded with the contracting authority.

### 28.4 Unusual commercial expenses

Tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a payee who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

Contractors found to have paid unusual commercial expenses on projects funded by the European Union are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving EU funds.

### 28.5 Breach of obligations, irregularities or fraud

The contracting authority reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to breach of obligations, irregularities or fraud. If breach of obligations, irregularities or fraud are discovered after the award of the contract, the contracting authority may refrain from concluding the contract.

## 29. APPEALS

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See Section 2.12. of the practical guide.

1. It is recommended to use registered mail in case the postmark would not be readable. [↑](#footnote-ref-1)