# 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?** |
| Group leader | Member of the group |
| **Declaration on Honour on Exclusion and Selection Criteria** (see Section 3.1)model in Annex 2. Declaration on Honour on exclusion and selection criteria | ☒ | **☒** | **☒** | **☒** | **☒** | With the tender  |
| **Evidenc**e that the person signing the documents is **an authorised representative** of the entity[[1]](#footnote-1) | ☒ | **☒** | **☒** |  |  | With the tender  |
| **Power of attorney** (see Section 2.3.1)model in annex 3. Power of attorney |  |  | ☒ |  |  | With the tender  |
| **Commitment letter** (see Section 2.3.2 and 2.3.3) |  |  |  | **☒**(model in Annex 5.1) | **☒**(model in Annex 5.2) | With the tender  |
| **Evidence of non-exclusion** (see Section 3.1) | ☒ | **☒** | ☒ | **[☒]** | [☒] | Only upon request by *the Contracting authority* At any time during the procedure  |
| **Evidence of legal existence and status** | ☒ | **☒** | ☒ |  |  | Legal Entity Form and supporting documentsWith the tender |
| **Evidence of economic and financial capacity**(see Section 3.2.2) | **The documents must be provided****only by the *involved* *entities*** **who contribute to reaching the minimum capacity level**  | With the tender (financial statements) |
| **Evidence of technical and professional capacity**(see Section 3.2.3) | **The documents must be provided****only by the *involved* *entities*** **who contribute to reaching the minimum capacity level**  | With the tender  |
| Financial offer (see Section 4.2) - Annex 6  | ☒ | ☒ |  |  |  | With the tender |
| Organisation & Methodology (see Section 4.2) - Annex 7 | ☒ | ☒ |  |  |  | With the tender |

## Annex 2. Declaration on Honour on exclusion and selection criteria

**Declaration on honour on
exclusion criteria and selection criteria**

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

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

The person is not required to submit the declaration on exclusion criteria if the same declaration has already been submitted for the purposes of another award procedure of the same contracting authority[[2]](#footnote-2), 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 |
| 1. 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 EU or national laws or regulations;
 | [ ]  | [ ]  |
| 1. 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;
 | [ ]  | [ ]  |
| 1. 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 credibity 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 selection criteria or in the performance of a contract or an agreement; | [ ]  | [ ]  |
| (ii) entering into agreement with other persons with the aim of distorting competition; | [ ]  | [ ]  |
| (iii) violating intellectual property rights; | [ ]  | [ ]  |
| (iv) attempting to influence the decision-making process of the contracting authority during the award procedure; | [ ]  | [ ]  |
| (v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure*;*  | [ ]  | [ ]  |
| 1. it has been established by a final judgement that the person is guilty 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; | [ ]  | [ ]  |
| (ii) corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 and 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, and conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the applicable law; | [ ]  | [ ]  |
| (iii) conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA; | [ ]  | [ ]  |
| (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; | [ ]  | [ ]  |
| (v) terrorist-related 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; | [ ]  | [ ]  |
| (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; | [ ]  | [ ]  |
| 1. 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, 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;
 | [ ]  | [ ]  |
| 1. 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;
 | [ ]  | [ ]  |
| 1. 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.
 | [ ]  | [ ]  |
| 1. (*only for legal persons*) 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).
 | [ ]  | [ ]  |
| 1. for the situations referred to in points (c) to (h) above the person is subject to:
2. 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;
3. 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;
4. facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks;
5. information transmitted by Member States implementing Union funds;
6. 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
7. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.
 | [ ]  | [ ]  |

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***

|  |  |  |  |
| --- | --- | --- | --- |
| 1. The signatory declares that a natural or legal person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers e.g. company directors, members of management or supervisory bodies, and cases where one natural or legal person holds a majority of shares), or a beneficial owner of the person (as referred to in point 6 of article 3 of Directive (EU) No 2015/849) is in one of the following situations:
 | YES | NO | N/A |
| Situation (c) above (grave professional misconduct) | [ ]  | [ ]  | [ ]  |
| Situation (d) above (fraud, corruption or other criminal offence) | [ ]  | [ ]  | [ ]  |
| Situation (e) above (significant deficiencies in performance of a contract ) | [ ]  | [ ]  | [ ]  |
| Situation (f) above (irregularity) | [ ]  | [ ]  | [ ]  |
| Situation (g) above (creation of an entity with the intent to circumvent legal obligations) | [ ]  | [ ]  | [ ]  |
| Situation (h) above (person created with the intent to circumvent legal obligations) | [ ]  | [ ]  | [ ]  |

III – Situations of exclusion concerning natural or legal persons assuming unlimited liability for the debts of the legal person

|  |  |  |  |
| --- | --- | --- | --- |
| 1. 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) | [ ]  | [ ]  | [ ]  |
| Situation (b) above (breach in payment of taxes or social security contributions) | [ ]  | [ ]  | [ ]  |

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.  | [ ]  | [ ]  |

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[[3]](#footnote-3). 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** |
| *Insert as many lines as necessary.* |  |

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 |
| 1. It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section 3.2 and 3.2.1 of the tender specifications;
 | [ ]  | [ ]  | [ ]  |
| 1. It fulfills the applicable economic and financial criteria indicated in section 3.2.2 of the tender specifications;
 | [ ]  | [ ]  | [ ]  |
| 1. It fulfills the applicable technical and professional criteria indicated in section 3.2.3 of the tender specifications.
 | [ ]  | [ ]  | [ ]  |

|  |  |  |  |
| --- | --- | --- | --- |
| 1. if the above-mentioned person is the **sole tenderer** or the **leader in case of joint tender**, declares that:
 | YES | NO | N/A |
| 1. 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 asseessment will be made as provided in the tender specifications.
 | [ ]  | [ ]  | [ ]  |

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[[4]](#footnote-4). 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** |
| *Insert as many lines as necessary.* |  |

***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

## annex 3. Power of attorney

|  |
| --- |
| Call for tenders EDPS/2019/02 - **Studies on the implication of several GDPR provisions, case laws and other laws having an impact on data protection** **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:
3. All *Group members* shall be jointly and severally liable towards the Contracting authority for the performance of the contract.
4. 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.
5. 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].
6. 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:
7. 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.
8. 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*.
9. The *Group leader* shall act as a single contact point with the Contracting authority in the delivery of the services and/or supplies subject to the contract. It shall co-ordinate the delivery of the services and/or supplies by the *Group* to the Contracting authority, and shall see to a proper administration of the contract.

Any modification to the present Power of attorney shall be subject to the Contracting authority’s express approval. This Power of attorney shall expire when all the contractual obligations of the *Group* have ceased to exist. The parties cannot terminate it before that date without the Contracting authority’s consent.Place and date:Name (in capital letters), function, company and signature: |

## Annex 4. List of identified subcontractors

|  |  |  |
| --- | --- | --- |
| Identification details | Roles/tasks during contract execution | Proportion of subcontracting (% of contract volume) |
| *[Full official nameRegistered addressStatutory registration numberVAT registration number]* |  |  |
| *[Full official nameRegistered addressStatutory registration numberVAT registration number]* |  |  |
| *[REPEAT AS MANY TIMES AS THE NUMBER OF IDENTIFIED SUBCONTRACTORS]* |  |  |
| Other subcontractors that do not need to be identified under Section 2.3.2 |  |  |
|  | **TOTAL % of subcontracting** | 0,00% |

## Annex 5.1. Commitment letter by an identified subcontractor

[Letterhead, if any]

EUROPEAN COMMISSION

Call for tenders Ref. [reference number]

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 *EDPS/2019/02*.

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. EDPS/2019/02

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 EDPS/2019/02.

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

Done at:

Name:

Position:

Signature:

## Annex 6. Financial offer form

The scenario on the basis of which the evaluation of the financial offer will be done, does not constitute a commitment as to the number of studies or the repartition between types A and B, that will be effectively ordered if the contract will be awarded.

Only he “TOTAL” will be taken into consideration for the evaluation of the financial offer.

Deviation from this template will lead to the rejection of the tender.



ANNEX 7: Organisation & Methodology

**To be completed by the tenderer**

Please provide the following information, when possible, to illustrate your organisation’s capacity to fulfil

the award criteria and comply with the characteristics of the procurement:

|  |  |
| --- | --- |
| Criteria / characteristics | Type of information that can be provided |
| * Quality and relevance of the methodology set out in the tender.
 | * A description of the methodology you propose to apply to achieve the objectives and expected results, thus demonstrating the degree of understanding of the contract.
* Description of possible structures of final study reports.
 |
| * Management and coordination of the future contract: This includes the administrative support (flexible reactions to last-minute changes, personal consultation etc.) as well as team management, all in order to ensure maximum efficiency in terms, speed, flexibility and quality requested).
 | * An outline of the approach proposed for contract implementation.
* A list of the proposed tasks you consider necessary to achieve the contract objectives relating to the management and coordination of the future contract.
 |
| * Balance of profiles of experts carrying out the studies.
 | * Capacity of team intervening as experts and team composition.
* A work plan indicating the envisaged resources to be mobilised, including the review methods that will be applied to ensure a high level of quality.
* A description of any possible subcontracting arrangements with capacity providers with a clear indication of the type of tasks that will be entrusted to subcontractors.
 |

1. 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. [↑](#footnote-ref-1)
2. The same EU institution, agency, body or office. [↑](#footnote-ref-2)
3. The same institution or agency. [↑](#footnote-ref-3)
4. The same institution of agency. [↑](#footnote-ref-4)