

CALL FOR TENDERS

N°ENER/A4/516/2014

**THE FRAMEWORK CONTRACT FOR
IMPACT ASSESSMENTS AND EVALUATIONS**

(EX-ANTE, INTERMEDIATE and EX-POST)

IN THE FIELD OF ENERGY

Contract notice in OJEU N° 2014/S 081-140674

TENDER SPECIFICATIONS

Open procedure

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I. INFORMATION ON TENDERING

1.1. Participation

Open procedure

Participation in this tender procedure is open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement. Where the Multilateral Agreement on Government Procurement¹ concluded within the WTO applies, the participation to the call for tender is also open to nationals of the countries that have ratified this Agreement, on the conditions it lays down.

1.2. The tenderer should bear in mind the provisions of the draft contract which specifies the rights and obligations of the contractor, particularly those on payments, performance of the contract, confidentiality, checks and

1.3. Joint tenders

A joint tender is a situation where a tender is submitted by a group of economic operators (consortium). Joint tenders may include subcontractors in addition to the joint tenderers.

In case of joint tender, all economic operators in a joint tender assume joint and several liability towards the Contracting Authority for the performance of the contract as a whole.

These economic operators shall designate one of them to act as leader with full authority to bind the grouping or the consortium and each of its members. It shall be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration and for coordination. The composition and constitution of the grouping or consortium, and the allocation of the scope of tasks amongst the members, shall not be altered without the prior written consent of the Commission.

The tenderers should indicate in their offer whether the partnership takes the form of:

a) a new or existing legal entity which will sign the contract with the Commission in case of award

or

b) a group of partners not constituting a new legal entity, who via a power of attorney, signed by an authorised representative of each partner (except the lead partner), designate one of the partners as lead partner, and mandate him as lead contractor to sign the contract with the Commission in case of award.

¹ See http://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm

Joint tenders are encouraged within the context of this Framework contract, as these would facilitate participation of universities, research centres and small consulting companies which on their own could not meet certain economic, financial, technical or professional capacity criteria as identified in chapter 2.

1.4. Subcontracting

Subcontracting is permitted in the tender but the contractor will retain full liability towards the Contracting Authority for performance of the contract as a whole.

Tenderers must give an indication of the part of the services and proportion of the contract that they intend to subcontract.

Tenderers are required to identify subcontractors whose share of the Specific Contract is above 20%.

During contract execution, the change of any subcontractor identified in the tender will be subject to prior written approval of the Contracting Authority.

1.5. Content of the tender

The tenders must be presented as follows:

Part A: Identification of the tenderer (see section 1.6)

Part B: Evidence for exclusion criteria (see section 2.2)

Part C: Evidence for selection criteria (see section 2.3)

Part D: Technical offer (see section 2.5)

Part E: Financial offer (see section 2.6)

Part F: Power of attorney (for consortia only)

1.6. Identification of the tenderer: legal capacity and status

- The tenderer's identification form in **Annex 1** shall be filled in and signed by:
 - The tenderer (including any member of a consortium or grouping)
 - subcontractor(s) whose share of the work represent more than 20% of the contract.
- In order to prove their legal capacity and their status, all tenderers (including any member of a consortium of grouping) must provide a signed **Legal Entity Form with its supporting evidence**. The form is available on:
http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

Tenderers that are already registered in the Contracting Authority's accounting system (i.e. they have already been direct contractors) must provide the form but are not obliged to provide the supporting evidence.

- If it has not been included with the Legal Entity Form, tenderers must provide the following information
 - a) For legal persons, a legible copy of the notice of appointment of the **persons authorised to represent the tenderer** in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.
 - b) For natural persons, where applicable, a proof of registration on a professional or trade register or any other official document showing the registration number.
- The tenderer (only the leader in case of joint tender) must provide a **Financial Identification Form and supporting** documents. The form is available on: http://ec.europa.eu/budget/contracts_grants/info_contracts/index_en.cfm

II EVALUATION AND AWARD

2.1. Evaluation steps

The evaluation is based on the information provided in the submitted tender. It takes place in three steps:

- (1) Verification of non-exclusion of tenderers on the basis of the exclusion criteria
- (2) Selection of tenderers on the basis of selection criteria
- (3) Evaluation of tenders on the basis of the award criteria (technical and financial evaluation)

Only tenders meeting the requirements of one step will pass on to the next step.

2.2. Exclusion criteria

All tenderers shall provide a declaration on their honour (see Annex 2), duly signed and dated by an authorised representative, stating that they are not in one of the situations of exclusion listed in the Annex 2.

The declaration on honour is also required for identified subcontractors whose intended share of the contract is above 20%.

The successful tenderer shall provide the documents mentioned as supporting evidence in Annex 2 before signature of the contract and within a deadline given by the contracting authority. This requirement applies to all members of the consortium in case of joint tender

In case of doubt on this declaration on the honour, the contracting authority may also request the evidence for subcontractors whose intended share of the contract is above 20%.

2.3. Selection criteria

Tenderers must prove their economic, financial, technical and professional capacity to carry out the work subject to this call for tender.

The tenderer may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the Contracting Authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

2.3.1. Economic and financial capacity criteria and evidence

- a. In order to prove their economic and financial capacity, the tenderer (in case of a joint tender the combined capacity of all tenderers and identified subcontractors) must comply with the following criteria:
- b. The annual turnover of each of each the last two financial years equal or above € 1.000.000
- c. The following evidence must be provided:
- d. Copy of the profit & loss account for the last two years for which accounts have been closed;
- e. Failing that, appropriate statements from banks.
- f. If, for some exceptional reason which the Contracting Authority considers justified, a tenderer is unable to provide one or other of the above documents, he or she may prove his or her economic and financial capacity by any other document which the Contracting Authority considers appropriate. In any case, the Contracting Authority must at least be notified of the exceptional reason and its justification in the tender. The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

2.3.2. Technical and professional capacity criteria and evidence

a. Criteria relating to tenderers

Tenderers (in case of a joint tender the combined capacity of all tenderers and identified subcontractors) must comply with all of the following criteria:

1 The tenderer must prove experience of working in impact assessment and evaluation studies, with at least 5 impact assessment support studies or evaluation studies (in any domain) completed in the last three years. The projects completed must demonstrate that the tenderer has experience in survey techniques, data collection, intervention logics models, evaluation tools (cost-benefit analysis, input/output analysis, impact evaluation, etc.), economic and quantitative analyses and drafting reports and recommendations.

2 The tenderer must prove experience in the field of energy with at least 10 projects **completed** in the field of energy in the last three years with a minimum value **for each project of € 100.000.**

3 The tenderer must prove specific and technical expertise in all of the following areas by having completed at least 5 technical projects, altogether covering all those fields:

- a) coal,
- b) oil
- c) gas/ electricity
- d) renewables,
- e) energy efficiency ,
- f) energy savings
- g) research and innovation (and CCS)
- h) Energy supply
- i) Energy infrastructures (transport/storage/ Network codes)
- j) Nuclear Energy technology (and decommissioning),
- k) Nuclear safety,
- l) Nuclear safeguards
- m) Nuclear waste
- n) Radiation protection
- o) Eco-Design and Eco Labelling

4 The tenderer must prove capacity to draft reports in English (with at least 10 projects completed in the last three years demonstrating the knowledge of English).

5 The tenderer must prove experience of working projects (in any domain) on at least 5 EU countries during the last three years. The overall combination of projects must show coverage of at least 25 EU countries.

6 The tenderer is entitled to refer to the same projects (altogether 10 in minimum) as to prove being compliant with the selection criteria 1-5 above.

b. Criteria relating to the team delivering the service:

1. The tenderer(in case of a consortium or grouping and/or subcontracting the combined capacity of all joint tenderers and subcontractors) must provide evidence of employing directly or being readily capable of constituting a team of experts capable of carrying out in a professional and timely manner the tasks requested under the Framework Contract.
1. The team delivering the service shall include, as a minimum, all the following profiles:
 2. Project Manager: At least 5 years' experience in project management, including overseeing project delivery, quality control of delivered services, client satisfaction and conflict resolution experience in project of a similar size (at least 100.000€) and coverage (EU 28) with experience in management of teams of at least 10 people
 3. Experts in the field of energy: relevant higher education degree and 3 years' professional experience in the field of energy and or technical areas related to the energy sector for which a technical offer (see above point 2.3.2 a) 3) is submitted.
 4. Experts in impact assessment and evaluation methodologies: Relevant higher education degree in economics or equivalent and 3 years' professional experience in the field of impact assessment and in evaluation.
 5. Data Collector and analyst: Relevant higher education degree showing that ability to apply data collection techniques and qualitative and quantitative analysis
 6. Other support staff: No specific education or experience required.
 7. Language quality check: at least 3 members of the team must have native-level language skills in English or equivalent.
 8. As a whole, the team for the Framework Contract must include, as a minimum the following competences:
 - well balanced composition of economic, legal and technical expertise (supported by higher education degree and/or minimum 3 years of experience in the field)
 - well proven expertise in Union policies in the sector of energy:
 - as detailed in page 7 in point 2.3.2 a)3;
 - in financing programmes
 - in environment, sustainable development and social aspects;
 - well proven experience in conducting evaluations and analyses supporting impact assessments;

- well proven technical expertise in data collection (surveys, interviews, desk research), economic, quantitative and qualitative analysis, modelling and capabilities to use state –of-the-art information technologies;
- excellent communication and drafting in English

c. Evidence:

The following evidence must be provided to fulfil the above criteria:

1 List of relevant services provided in the past three years, with sums, dates and recipients, public or private. The most important services shall be accompanied by certificates of satisfactory execution, specifying that they have been carried out in a professional manner and have been fully completed.

2 The educational and professional qualifications of all the team members who will provide the service under the Framework Contract (CVs) including the management staff. Each CV provided should indicate the intended function in the delivery of the service. The CVs shall be presented in accordance to the Commission recommendation on a common European format for curricula vitae, published in OJL79 of 22 March 2002, page 66.

3 A table summarising the competences of the team members who will provide the services under the Framework contract. Competences include those listed above in paragraph 2.3.2 (a,b,c) :

- background (economic, legal, technical, ect)
- specific expertise
- methodological expertise (data collection, qualitative/quantitative analysis, modelling ect)
- languages (Formal statement of native –level language skill in English or equivalent for at least 2 team members, signed by the legal representative and the team member.
- each team member must be classified according to the profiles provided above (project manager, expert in the field of energy, in impact assessment and evaluation methodologies, data collector and analyst, support staff ect),

2.4. Award criteria

The tender will be awarded according to the best-value-for -money procedure. The assessment will be done on the basis of the technical offer, which will, in minimum, contain:

- a. description of the current context in the sector of energy as described above in point 2.3.2 a) 3 points a-o, highlighting key issues, trends and challenges.

- b. 1 case study on impact assessment- an hypothetical one or based on real-life experience of the tenderer but linked to the purpose of this tender (please see p 3.3.2)
- c. 1 case study on evaluation study - an hypothetical one or based on real-life experience of the tenderer but linked to the purpose of this tender (please see p 3.3.2)

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

2.4.1 Understanding of the background (30 points – minimum threshold 60%)

- a. This criterion will assess the demonstration by the tenderer in its offer of its understanding of the key issues, trends and challenges in the EU energy sector. It assesses whether the tenderer is aware of the current context and the general aim of the recently adopted and forthcoming EU policy initiatives. It will also look at whether the tenderer links adequately the case studies to this background. The assessment will be based on both the description of the context and on the case studies.
- b. The points will be allocated on the basis of the following sections of the technical offer (see section 3.4)
 - description of the current context (10 points)
 - case study on impact assessment (10 points)
 - case study on evaluation (10 points)

2.4.2 Quality of the proposed methodology (30 points - – minimum threshold 60%)

- a. This criterion will assess how the tenderer proposes to mobilise adequate resources in the frame of the two cases studies in terms of language/member State coverage and specific expertise. It also assesses how the roles and responsibilities of the proposed team and of the economic operators (in case of joint tenders, including subcontractors if applicable) are distributed for each task and how coordination will be ensured. It also assesses the global allocation of time and resources to the project and to each task or deliverable, and whether this allocation is adequate for the work.
- b. The points will be allocated on the basis of the following sections of the technical offer (see section 3.4)
 - Case study on impact assessment : 15 points
 - Case study on evaluation : 15 points

2.4.3 Organisation of the work (20 points – minimum threshold 60%)

This criterion will assess how the roles and responsibilities of the proposed team and of the economic operators (in case of joint tenders, including subcontractors if applicable) are distributed for each task. It also assesses the global allocation of time and resources to the project and to each task or deliverable, and whether this allocation is adequate for the work. The tender must provide details on the allocation of time and resources and the rationale behind the choice of this allocation.

2.4.4 Quality control measures (10 points – minimum threshold 60%)

This criterion will assess the quality control system foreseen in this tender specification concerning the quality of the deliverables, the language quality check, and continuity of the service in case of absence of the member of the team. The quality system must be detailed in the tender and specific to the tasks at hand; a generic quality system will result in a low score.

2.4.5 Clarity and completeness of the offer (10 points – minimum threshold 60%)

This criterion will assess the quality of the presentation of the contents in terms of completeness, clarity and readability of the documents.

Tenders must score, as a minimum, 60% for each individual criterion and 70% in total. Tenders that do not reach the minimum quality thresholds will be rejected and will not be ranked.

The maximum points for quality is 100.

After evaluation of the quality of the tender, the tenders are ranked using the formula below to determine the tender offering best value for money.

A weight of 60/40 is given to the quality/price. The contract will be awarded to the tender who offers the best ratio quality/price X 10.000

2.5. Technical offer

The technical offer must cover all aspects and tasks required in the technical specification and provide all the information needed to apply the award criteria. Offers deviating from the requirements or not covering all requirements may be excluded on the basis of non-conformity with the tender specifications and will not be evaluated.

2.6. Financial offer

- a. The price for the tender must be quoted in euro. Tenderers from countries outside the euro zone have to quote their prices in euro. The price quoted may not be revised in line with exchange rate movements. It is for the tenderer to assume the risks or the benefits deriving from any variation.

- b. Prices must be fixed amounts.
- c. Prices must be quoted free of all duties, taxes and other charges, including VAT, as the European Union is exempt from such charges under Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union. The amount of VAT may be shown separately.
- d. Tenderers shall specify one price per person-day for each staff category. The price per person-day shall be valid of any services offered under a specific contract. This price must be a flat rate and include all administrative costs with the exception of travel and subsistence expenses indicated as a fixed lump sum amount (which will be added, where appropriate, when submitting an offer for a specific contract – section 2.7 below).
- e. The financial offer must be submitted using the table below. For a definition of staff categories, please refer to paragraph 2.3.2.b

Staff category	Price per person-day (in €)
Project manager	
Experts in the field of energy	
Experts in impact assessment and evaluation	
Data collector and analyst	
Support staff	

The table must be filled in by the tendering parties and will constitute the future contractual basis for the pricing for the Specific Contracts in case of contract award. In this regard, it will be an integral part of the Framework Contract (See Article I.3.1. of the Framework Contract in Annex 5). Accordingly, the financial proposal must be completed in full and signed by a person able to engage the bidder financially.

2.7 AWARD OF SPECIFIC CONTRACTS

2.7.1 after ranking

Once the Framework Contracts have been signed with the best ranked tenderers, the Commission, when the need arises, may send an invitation to submit offers for carrying out an individual impact assessment or evaluation. The Commission will select a contractor for a specific assignment on the basis of the submitted offers.

- a. All contractors concerned will be invited to submit an offer for the services described in the invitation. Within 5 working days, the contractors shall express in writing, by post or e-mail, their availability to carry out the services required. Within 15 (Commission) working days after the dated of sending the request for services, the contractors will provide the Commission with a written offer for the tasks required. The Commission services may allow a longer period for the submission of the offers in the request for services

- b. If the tenderer does not respond to three subsequent requests for services, the Commission reserves itself the right to exclude the contractor from forthcoming invitations for tenders in the frame of the current framework Contract.
- c. Offers for Specific contracts should be submitted in one original, two paper copies and one electronic on a CD, DVD or USB key
- d. Offers must contain :
 - a technical part, detailing the methodology, the composition and skills of the team and the responsible team leader for the specific assignment;
 - A financial part, detailing the number of person-day to be multiplied by the person-day price as defined in the Framework Contract, and the maximum budget for reimbursable expenses as a fixed lump sum amount, which will be reimbursed on the basis of the provisions defined in Annex 5 (Article II.7). While ranking the financial offers, the evaluation committee will take into account the offer in full – including also the maximum budget for reimbursable expenses.
- e. The Specific Contract will be awarded according to the criteria given below, on the basis of the most economically advantageous tender (quality/price ratio).
- f. Only bids that have reached a total score of a minimum of **70%** and a score of **60%** for each individual criterion will be taken into consideration for awarding the contract.

2.7.2: quality of the tender

The quality of the tender will be evaluated based on the following criteria. The maximum total quality score is 100 points.

- a. Understanding of the background: (30 points – minimum threshold 60%)

This criterion will assess the extent to which the offer demonstrates good understanding of the specific background of the study and of the need for a specific impact assessment or evaluation study in the particular context described in the specifications.
- b. Quality of the methodology (30 points - – minimum threshold 60%)

This criterion will assess the methodology proposed by the tenderer. It will assess whether the choice of analytical tools is suitable to address the topic. Methodologies shall respect the Commission’s impact assessment and evaluation requirements.
- c. Organisation of the work (30 points – minimum threshold 60%)

This criterion will assess how the roles and responsibilities of the proposed team and of the economic operators (in case of joint tenders, including subcontractors if applicable) are distributed for each task. It also assesses the global allocation of time and resources to the project and to each task or deliverable, and whether this allocation is adequate for the work. The tender

should provide details on the allocation of time and resources and the rationale behind the choice of this allocation.

d. Quality control measures (10 points – minimum threshold 60%)

This criterion will assess the quality control system foreseen in this tender specification concerning the quality of the deliverables, the language quality check, and continuity of the service in case of absence of the member of the team. The quality system must be detailed in the tender and specific to the tasks at hand; a generic quality system will result in a low score.

e. 2.7.3: Score

- a. Tenders must score above 60% for each criterion and reach a minimum of 70% in total. Tenders that do not reach the minimum quality thresholds will be rejected and will not be ranked.
- b. After evaluation of the quality of the tender, the tenders are ranked using the formula below to determine the tender offering best value for money.
- c. A weight of 60/40 is given to the quality/price. The contract will be awarded to the tender who offers the best ratio quality/price X 10.000
- d. The award of the Specific Contract will be conditioned by the availability of sufficient funds

For the Specific Contracts, changes or additions to the team initially proposed must be notified to the Commission in writing. The Commission will have the right to object to any changes of members of the team from those initially proposed. In case that the original team is no longer available, the Commission will have the right to cancel the Specific Contract.

The contractors shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the contract (Articles II.4.1 and II.4.2 of the Framework Contract in Annex 5). They must declare in the offer their contractual relations during the last five years with any stakeholders and/or companies directly involved in the programmes, projects and legislative activities, conducted or subcontracted by the Directorate-General for Energy or former Directorate-General for Energy and Transport to be evaluated under this Framework Contract.

During the validity period of the Framework Contract, tenderers must declare any changes in their situation regarding the contractual relations referred to in this paragraph.

Tenderers undertake to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to the performance of the assignments and they shall continue to be bound by this undertaking after completion of the tasks (see Article II.5.1. of the Framework Contract in Annex 5).

The attention of the tenderers is drawn on Article I.10.1 of the Framework Contract in Annex 5, on Penalties **in the event of inadequate quality of work or delays.**

In the event of rejection on grounds of the quality of the deliverables (inception, interim, draft final or final report) after presentation for the second time, the Commission may terminate the specific contract by a written notification.

III. TECHNICAL SPECIFICATIONS

3.1 INTRODUCTION

The Directorate-General Energy of the European Commission and, in particular, the Directorate responsible for support to impact assessments and evaluations, seeks external expertise to assist in carrying out impact assessments and ex-ante evaluations for the design and preparation of Union policy initiatives and legislative and programme proposals, and intermediate and ex-post evaluations of Union policies, regulatory measures and programmes in the field of energy as well as studies with evaluative information (integrating only parts of the Commission's evaluation and impact assessment methodology).

The «**Multiple Framework Contract with reopening of competition**» will be concluded with **a maximum of 5 of the best ranked tenderers**.

«Multiple Framework Contract with reopening of competition» means a situation whereby separate but identical framework contracts are concluded between the Commission and the selected tenderers, setting out the general contractual terms (legal, financial, technical, administrative, etc.) that apply during their period of validity and govern commercial relations between the Commission and the contractors. The award procedure for the framework contract is described in these Tender Specifications.

Following the conclusion of the framework contracts, the Commission may invite the selected contractors to submit a bid for a specific assignment. For each assignment a specific contract will be concluded, following the evaluation of the respective bids. More information about the **Specific Contracts** for carrying out an assignment can be found in chapter 2.7 and the award procedure is described in chapter 2.4.7

The duration of the Framework Contract is 24 months from the date on which the contract is signed. The Framework Contract may be renewed automatically up to three times under the same conditions, unless written notification to the contrary is sent by one of the contracting parties and received by the other before expiry of the one-year period.

The indicative maximum amount is EUR 4.000.000 (up to 4 years). All costs are included in this maximum amount.

The communication language between the Commission and the awarded contractors is English; therefore, tenderers must give evidence in their bids that they master English as communication language.

3.2 PURPOSE OF THE MULTIPLE FRAMEWORK CONTRACT

The purpose of the multiple Framework Contract is to provide the Directorate-General for Energy with highly qualified external expertise to ensure objectivity and high-level technical services to support the Directorate-General in the design and preparation of Union policy initiatives and legislative and programme proposals and intermediate and ex-post evaluations of Union policies and programmes in the field of energy. The required services are of intellectual nature in the areas of impact assessments and evaluations.

Assignments under this Framework Contract will be implemented by Specific Contracts (see Annex 5).

3.3 DESCRIPTION OF SERVICES

3.3.1 Impact assessments and ex-ante evaluations

Within the framework of the Better Regulation package (COM (2005)97 final, COM(2010)543 final and COM(2012)746, the Commission has taken several concrete actions to improve the way it designs policy.

One of these is **impact assessment**, for which the Commission has recently updated the specific guidelines². All relevant documents are available at:

http://ec.europa.eu/smart-regulation/impact/commission_guidelines/commission_guidelines_en.htm

Impact assessment is a process aimed at restructuring and supporting the development of policies, which requires considering the economic, social and environmental of new proposals as well as their administrative costs.

In order to improve decision-making, the Commission shall also undertake **ex-ante evaluations** on all policies and programmes which entail significant spending.³

The Commission's evaluation guidelines are currently under revision. once in force, the changed guidelines will have to be applied for studies also under this Framework Contract.

² SEC(2009)92, 15.01.2009, http://ec.europa.eu/governance/impact/commission_guidelines/docs/iag_2009_en.pdf

³ Regulation (EU, EURATOM) N° 966/2012 of the EP and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, EURATOM) N° 1605/2002 of 25.06.2002 (O.J. L 298/1, 26/12/2012, Article 61 (1) and the Commission Delegated Regulation (EU) N° 128/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) N° 966/2012 of the EP and the Council on the financial rules applicable to the general budget of the Union (O.J.L 362 31/12/2012) Article 39.

The results of the impact assessments and the ex-ante evaluations are the basis for policy initiatives and proposals, and for reports which the Commission submits to the European Parliament, the Council, the European Economic and Social Council, the Committee of the Regions and the public. For this reason, a maximum of professionalism and stringency in the analytical process is required in carrying out these tasks.

Specific services which will be requested in this framework Contract are required to inform policy-makers with an objective and unbiased judgement of the likely impacts of different policy options. The services have to be carried out according to the procedural requirements stated in the special conditions of the Framework Contract in Annex 5, adaptations thereto in the course of the contract and any further guidance given by the Commission.

Assignments under this Framework Contract can be:

- **short (about 2-4 months)** for carrying out instrumental studies to support impact assessments or ex-ante evaluations;
- **medium (about 6-7 months)** for carrying out complex impact assessments, or ex-ante evaluation of policies and programmes with a Union budget of less than 100 Mio EUR;
- **long (about 9-10 months or longer)** for carrying out complex impact assessments or ex-ante evaluations of policies and programme of small policies and programmes with a Union budget of more than 100 Mio EUR;
- **Impact assessments:**

The purpose of the impact assessment process is to assess, in a systematic and organised way, possible policy options for public interventions and their likely economic, social and environmental impacts. It is an integral part of the Commission's policy design process and allows politicians to take their decisions in the light of the best available evidence. Impact assessment is thus an aid to decision making, not a substitute for political judgement. Impact Assessment guidelines are available at:

http://ec.europa.eu/smart-regulation/impact/commission_guidelines/commission_guidelines_en.htm

The services might entail one, several or all analytical steps as outlined in the following, indicating the main tasks hereunder:

- **Problem definition:** delineation of the extent of the problem identifying the key players, stakeholders and affected public; establishing the causes and basis of the EU's right to act.
- **Objectives:** set objectives at several levels that correspond to the problem and its root causes; elaboration of the intervention logic; ensuring consistency with other EU policies and strategies.

- Policy options: identification of policy options and most appropriate delivery mechanisms; measuring against criteria of effectiveness, efficiency and consistency.
- Consultation of interested party: establishment and implementation of a consultation plan covering the policy-making process; determining the objective of the consultation(s), relevant target groups; appropriate consultation tool(s); consultation time(s) and consultation document(s). The consultation(s) must be carried out according to the Commission's general principles and minimum standards for consultation.⁴
- Analysis of impacts: identification and qualitative and quantitative analysis of the most significant economic, social and environmental impacts; considering the risks and uncertainties in the policy choices including obstacles to compliance and administrative costs.
- Comparison of policy options: weigh-up positive and negative impacts and present in a clear and accessible manner aggregated and disaggregated results, presentation of comparisons between options by area.
- Monitoring and evaluation: identification of core progress indicators for key objectives; outline of possible monitoring and evaluation arrangements for policy proposals.

Ex-ante evaluations:

The contents of ex-ante evaluations are similar to the IA requirements and then the Impact Assessment guidelines apply. In addition, a cost-benefit (or cost-effectiveness) analysis needs to be carried out for the various options reviewed. Services shall be accomplished according to the requirements and the standards of the Commission in the evaluation field.⁵

A detailed rationale for each impact assessment or evaluation will be specified when the Commission make an invitation to submit offers for carrying out an impact assessment or an ex ante evaluation under this framework contract.

3.2.2 Intermediate and ex-post evaluations

The contents of Intermediate and Ex-post Evaluation is the main tool used by the Commission to assess the extent to which EU interventions reach the set policy objectives and how their performance can be improved in the future. Well-conducted

⁴ COM(2002) 704, of 11 December 2002

⁵ http://ec.europa.eu/dgs/secretariat_general/evaluation/documents_en.htm

evaluations can help improving the relevance, effectiveness, cost-effectiveness and sustainability of public interventions and evaluation can increase the transparency and accountability concerning EU expenditure (3).

Services to be provided will also evaluate the results and impacts of a policy, a regulatory measure or programme during its implementation and after its completion. The required tasks are related to the analysis of the outputs and the impacts in order to judge about effectiveness, efficiency, utility and sustainability of Union intervention in the field of energy. Services shall be accomplished according to the requirements and the standards of the Commission in the evaluation field

Evaluations are carried out in application of Regulation (EU, Euratom) N° 966/2012 Chapter 7 “Principle of sound financial management”, Art. 30, 31, 32 and 33 and of Commission Delegated Regulation (EU) N° 1268/2012, Art. 18 “Evaluation” and 19 “Financial Statement”

For legislation specifically, the Commission's [REFIT](#) regulatory fitness and performance program identifies opportunities for [simplifying existing legislation](#) and [reducing administrative burdens](#).

Most of specific Regulations regarding parts of policies, piece of legislation or multi-annual programmes managed by the Directorate-General Energy require intermediate and/or ex-post evaluations.

The results of the intermediate and ex-post evaluations are fed into reports which the Commission has to submit to the European Parliament, the Council, the European Economic and Social Council, the Committee of the Regions and to the public. For this reason, a maximum of professionalism and stringency in the analytical process is required in carrying out these tasks.

The Commission has also developed some guidelines for carrying out evaluations. They are available on the following website:

http://ec.europa.eu/dgs/secretariat_general/evaluation/docs/eval_activities_en.pdf

As mentioned before, revised evaluation guidelines will have to be applied as soon as they are in force.

Assignments under this Framework Contract can be:

- **short (about 2-4 months)** for carrying out intermediate and ex post evaluations of policies and programmes with a Union budget of less than 50 Mio EUR;
- **medium (about 6-7 months)** for carrying out intermediate and ex post evaluations of policies and programmes with a Union budget of less than 200 Mio EUR;
- **long (about 9-10 months or longer)** for carrying out intermediate and ex ante evaluations of policies and programme with a Union budget of more than 200 Mio EUR);

Intermediate evaluations

May be conducted towards the middle of the policy/regulatory measure/programme cycle to check that the intervention remains relevant to the needs it was supposed to address and that its implementation is proceeding as planned. The intermediate evaluations also examines the initial effects of a policy/regulatory measure/programme and provide the opportunity to verify that the monitoring and evaluation systems are functioning as planned; they may also propose re-adjustments to the policy/regulatory measure/programme where needed.

Ex-post evaluation

Could be performed after the policy or other regulatory measure is implemented or the programme has finished in order to make an overall assessment of an intervention, in particular by analysing the effects so far achieved and examining its efficiency. It strives to understand the factors of success or failure, as well as the sustainability of results and impacts. It also tries to draw conclusions that could be generalised to other interventions. Ex-post evaluations also assess net effects, results and longer-term impacts of policies/programmes.

Evaluations normally reply to the following key questions:

Relevance: To what extent are the objectives of a public intervention (policy, regulatory measure and programme) appropriate regarding the needs perceived and the problems the intervention is meant to solve?

Effectiveness: What effects (impacts) have been obtained by the intervention and, in particular, have these effects contributed to the achievement of the objectives of the intervention?

Efficiency: (cost-effectiveness) How economically have the various inputs been converted into outputs and results? Were the (expected) effects obtained at a reasonable cost?

Utility: Do the impacts achieved by an intervention correspond to the needs identified and the problems to be solved?

Sustainability: Will the effects achieved last in the medium or long term?

Other evaluation criteria may be covered in evaluations such as are EU added value, coherence, economy, complementarity, coordination, additionality.

3.3 Content of the technical offer

For the purpose of the award process of the framework Contract, the tenderer should provide the following:

Description of the current context, highlighting key issues and challenges

- Case study on impact assessment
- Case study on evaluation study

3.3.1 Description of Context

The tenderer should present his understanding of the European energy sector. He should highlight the key issues and challenges in the current context and for the future. He should also provide his view of the general aim of the recently adopted and forthcoming policy initiatives.

The objective of this task is to show that the tenderer has a good knowledge of the Energy sector in general, and of the specific areas described here below and for which he submits an offer, and that he understands the context in which the EU initiatives are taken.

The focus of this description should be on the following topics:

- a) coal,
- b) oil
- c) gas/ electricity
- d) renewables,
- e) energy efficiency ,
- f) energy savings
- g) research and innovation (and CCS)
- h) Energy supply
- i) Energy infrastructures (transport/storage/ Network codes)
- j) Nuclear Energy technology (and decommissioning),
- k) Nuclear safety,
- l) Nuclear safeguards
- m) Nuclear waste
- n) Radiation protection
- o) Eco-Design and Eco Labelling

The description should not be longer than 4 pages.

3.3.2 Case Studies

Two case studies (one on impact assessment and one on evaluation) should be presented for 5 areas (mandatorily including nuclear). These tasks are chosen as examples of specific pieces of work that could be asked under the Framework Contract.

IV Content, Structure and graphic requirements of the Deliverables under Specific contracts

All studies produced for the European Commission and Executive Agencies shall conform to the corporate visual identity of the European Commission by applying the graphic rules set out in the European Commission's Visual Identity Manual, including its logo⁶.

The Commission is committed to making online information as accessible as possible to the largest possible number of users including those with visual, auditory, cognitive or physical disabilities, and those not having the latest technologies. The Commission supports the [Web Content Accessibility Guidelines 2.0](#) of the W3C.

For full details on Commission policy on accessibility for information providers, see: http://ec.europa.eu/ipg/standards/accessibility/index_en.htm

Pdf versions of studies destined for online publication should respect WC3 guidelines for accessible pdf documents. See: <http://www.w3.org/WAI/GL/WCAG20-TECHS/pdf.html>

4.1 REPORTS AND DOCUMENTS TO BE SUBMITTED

For Specific Contracts under this Framework Contract the contractor is requested to present the following deliverables, unless specified otherwise in the specific request:

- 1) an inception report;
- 2) an interim report (including an executive summary) produced and disclosed at least every two months (when applicable, as specified in the Specific Contracts);
- 3) a draft final report (including an executive summary) one month before the contractual end of the task (different timing might be agreed in the Specific Contracts);
- 4) a final report (including an executive summary) in accordance with the format established by the Commission rules.

For the four steps, each report should be delivered in an electronic version in MS Word format and/or Excel format (if figures). Additionally, the final report shall be delivered in hard copy version. The number of hard copies of the final report to be delivered will be defined in the Specific Contract. It shall not exceed 4. Each Specific Contract may establish other reports to be delivered. The reports are addressed to policy-makers as an aid to decision-making. They have to be drafted in a proper English, literate manner and must be fully comprehensible in terms of grammatical structure (complete sentences, punctuation, explanation of abbreviations, etc.), using

⁶ The Visual Identity Manual of the European Commission is available upon request. Requests should be made to the following e-mail address: comm-visual-identity@ec.europa.eu

simple and non-technical language for non-specialised audience. Technical explanations shall be given in annexes.

The draft final report and the final report shall always include a "written sample", and when requested a "presentation sample". In addition, a separate publishable executive summary shall be provided.

- The written sample is defined as the reference version of the final report, containing all exhaustive qualitative and quantitative information about the evaluation*impact assessment. Its aim is to provide an in-depth comprehension of each assignment.
- The presentation sample is defined as the supportive version of the final report, containing all relevant information describing the evaluation/impact assessment. Its aim is to provide a visual summary of the evaluation/impact assessment.
- The executive summary shall be of maximum 10 pages, and shall be drafted both in English and French.

The reports (inception, interim, draft final and final) shall be sent to the Commission by the date fixed in the specific requests. The Commission should be informed of any delay in meeting these deadlines. The contractor is deemed solely responsible for the delays occasioned by subcontractors and other third parties(except for rare cases of force majeure); Adequate resources and appropriate organisation of the work including management of potential delays should be put in place in order to observe the timetable specified in the request for services.

The Commission is entitled to make comments and to suggest any kind of amendments to the (draft) reports.

On receipt of the Commission's comments, the contractor will revise the reports and the amended version (revised interim report or final report) will be sent to the Commission within 20 days.

The copyright of the services undertaken under this multiple Framework Contract will reside with the Commission (see Articles I.8 and II.10. of the draft Framework Contract in Annex 5).

4.2. STRUCTURE OF THE DRAFT FINAL REPORT

4.2.1. Written sample

The written sample shall be drafted in the text format. The text will have to be written in English. The "written sample" of the final report shall include the format and content as suggested below:

Title page:

- title and nature of evaluation/impact assessment
- title of policy/regulatory measure/programme/activity, generation, duration
- identification of the author, date of submission, commissioning service
- disclaimer

The following disclaimer will be used: "The information and views set out in this report are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission behalf may be held responsible for the use which may be made of the information contained therein."

Specific identifiers

Abstract (Not more than 200 words)

Table of contents:

- main heading and sub-headings
- index of tables of figures and graphs

Executive summary (not more than 10 pages):

- summary of findings
- summary of conclusions
- summary of recommendations

Core of the study report:

Services for impact assessments have to be written according to the reporting format given by the terms of reference of Specific Contract.

The core of the evaluation studies' report has to contain the following:

- Introduction:
 - description of the programme in terms of needs, objectives, delivery systems, etc.
 - context in which the programme operates
 - means
 - purpose of the evaluation in terms of scope and main evaluation questions
 - evaluation criteria
 - description of other similar studies which have been done
- Methodology:
 - design
 - implementation and collection of data
 - analysis of data
- Evaluation results:
 - analytical findings
 - analytical conclusions
 - analytical recommendations

Annexes:

- terms of reference
- references and sources
- financial overview of the programme/project (if relevant)
- list of stakeholders interviewed (organisations)
- transcripts of interviews
- glossary of terms
- technical annexes (if applicable)

- additional tables (if applicable)

4.2.2 Presentation sample

If requested in the specific request, the tenderer may need to provide a presentation sample. The format shall be based on a slides presentation and the content shall be informative enough to offer to any audience an overview of the impact assessment/evaluation work carried out the main results of the analysis.

4.2.3 Publishable executive summary

The publishable executive summary shall be provided in both in English and French and shall include:

- the following standard disclaimer:

"The information and views set out in this executive summary are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included I this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein."

- specific identifiers which shall be incorporated on the cover page provided by the Contracting Authority.

4.3 Graphic requirements

For graphic requirements please refer to the template available in Annex 4. The cover page shall be filled in by the contractor in accordance with the instructions provided in the template. For further details you may contact comm-visual-identity@ec.europa.eu.

5. ANNEXES

1. Tenderer 's Identification Form
2. Declaration related to the exclusion criteria and absence of conflict of interest
3. Power of Attorney (mandate in case of joint tender)
4. Standard Word template for studies
5. Draft Contract

ANNEX 1

IDENTIFICATION OF THE TENDERER

(Each service provider , including any member of a consortium or grouping and subcontractor(s) whose share of the work is more than 20% of the contract must complete and sign this identification form)

Call for tender ENER/A4/SRD/516/2014

Identity	
Name of the tenderer	
Legal status of the tenderer	
Date of registration	
Country of registration	
Registration number	
VAT number	
Description of statutory social security cover (at the level of the Member State of origin) and non-statutory cover (supplementary professional indemnity insurance) ⁷	
Address	
Address of registered office of tenderer	
Where appropriate, administrative address of tenderer for the purposes of this invitation to tender	
Contact Person	
Surname:	
First name:	
Title (e.g. Dr, Mr, Ms) :	
Position (e.g. manager):	

⁷ For natural persons

Telephone number: Fax number: E-mail address:	
Legal Representatives	
Names and function of legal representatives and of other representatives of the tenderer who are authorised to sign contracts with third parties	
Declaration by an authorised representative of the organisation⁸	
I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	
Surname: First name:	Signature:

⁸ This person must be included in the list of legal representatives; otherwise the signature on the tender will be invalidated.

ANNEX 2

Declaration of honour on exclusion criteria and absence of conflict of interest

(Complete or delete the parts in grey italics in parentheses)

[Choose options for parts in grey between square brackets]

The undersigned (*insert name of the signatory of this form*):

in [his][her] own name (*for a natural person*)

or

representing the following legal person: (*only if the economic operator is a legal person*)

full official name:

official legal form:

full official address:

VAT registration number:

➤ declares that [the above-mentioned legal person][he][she] is not in one of the following situations:

- a) is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has been convicted of an offence concerning professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;
- c) has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the European Investment Bank and international organisations;
- d) is not in compliance with all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be performed;
- e) has been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such activity is detrimental to the Union's financial interests;
- f) is a subject of an administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a procurement procedure or failing to supply this information, or having been declared to be in serious breach of its obligations under contracts covered by the Union's budget.

➤ (*Only for legal persons other than Member States and local authorities, otherwise delete*) declares that the natural persons with power of representation, decision-

making or control⁹ over the above-mentioned legal entity are not in the situations referred to in b) and e) above;

- declares that [the above-mentioned legal person][he][she]:
- g) has no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinity, family, emotional life or any other shared interest;
 - h) will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
 - i) has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to award of the contract;
 - j) provided accurate, sincere and complete information to the contracting authority within the context of this procurement procedure ;
- acknowledges that [the above-mentioned legal person][he][she] may be subject to administrative and financial penalties¹⁰ if any of the declarations or information provided prove to be false.

In case of award of contract, the following evidence shall be provided upon request and within the time limit set by the contracting authority:

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the tenderer is a legal person and the national legislation of the country in which the tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the tenderer.

For the situation described in point (d) above, recent certificates or letters 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 tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

⁹ This covers the company directors, members of the management or supervisory bodies, and cases where one natural person holds a majority of shares.

¹⁰ As provided for in Article 109 of the Financial Regulation (EU, Euratom) 966/2012 and Article 145 of the Rules of Application of the Financial Regulation

If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

Full name

Date

Signature

ANNEX 3

POWER OF ATTORNEY

mandating one of the partners in a joint tender as lead partner and lead contractor

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 tender as a partner in the group of partners constituted by Company 1, Company 2, Company N, and led by Company X, 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 European Commission awards the Contract to the group of partners constituted by Company 1, Company 2, Company N, and led by Company X on the basis of the joint tender to which this power of attorney is attached, all the partners shall be co-signatories of the Contract in accordance with the following conditions:
 - (a) All partners shall be jointly and severally liable towards the European Commission for the performance of the Contract.
 - (b) All partners 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.
- 1) Payments by the European Commission related to the services and/or supplies subject to the Contract shall be made through the lead partner's bank account: [Provide details on bank, address, account number].
- 2) The partners grant to the lead partner all the necessary powers to act on their behalf in the submission of the tender and conclusion of the Contract, including:
 - (a) The lead partner shall submit the tender on behalf of the group of partners.
 - (b) The lead partner shall sign any contractual documents — including the Contract, and Amendments thereto — and issue any invoices related to the Services on behalf of the group of partners.
 - (c) The lead partner shall act as a single contact point with the European Commission 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 of partners to the European Commission, and shall see to a proper administration of the Contract.

Any modification to the present power of attorney shall be subject to the European Commission's express approval. This power of attorney shall expire when all the contractual obligations of the group of partners towards the European Commission for the delivery of the services and/or supplies subject to the Contract have ceased to exist. The parties cannot terminate it before that date without the Commission's consent.

Signed in on [dd/mm/yyyy]

Place and date:

Name (in capital letters), function, company and signature:

ANNEX 4

Standard Word template for studies

<Template can be found in the Library or the Models section.>

ANNEX 5



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR ENERGY

Directorate A - Energy policy
The Director

DRAFT

FRAMEWORK SERVICE CONTRACT

FRAMEWORK CONTRACT NUMBER – ENER/A4/516/2014

The European Union (hereinafter referred to as "the Union"), represented by the European Commission (hereinafter referred to as "the contracting authority"), represented for the purposes of the signature of this framework contract by Mrs MECHTILD WÖRSDÖRFER, Director in the Directorate-General for Energy, Directorate A

on the one part, and

[*full official name*]¹¹

[*official legal form*]¹²

[*statutory registration number*]¹³

[*full official address*]

[*VAT registration number*]

[(hereinafter referred to as 'the contractor'),][represented for the purposes of the signature of this framework contract by [*forename, surname and function,*]]¹⁴

[The parties identified above and hereinafter collectively referred to as the 'the contractor' shall be jointly and severally liable vis-à-vis the contracting authority for the performance of this framework contract.]¹⁵

¹¹ When the designated winning bidder is known, in case of consortium, please indicate this information for each of the consortium partners.

¹² Delete if contractor is a natural person or a body governed by public law.

¹³ Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card or, failing that, of their passport or equivalent.

¹⁴ In case of consortium, name of the authorised representative of the leader, function and company name.

On the other part,

HAVE AGREED

to the **special conditions**, the **general conditions for service framework contracts**, the [model order form] [and] [model specific contract] and the following annexes:

Annex I – Tender specifications (reference No ENER/A4/516//2014 of [insert date])

Annex II – Contractor's tender (reference No [complete] of [insert date])

which form an integral part of this framework contract (hereinafter referred to as “the FWC”).

- The terms set out in the special conditions shall take precedence over those in the other parts of the FWC.
- The terms set out in the general conditions shall take precedence over those in the model order form and model specific contract
- The terms set out in the model order form and model specific contract shall take precedence over those in the other annexes.
- The terms set out in the tender specifications (Annex I) shall take precedence over those in the tender (Annex II).
- The terms set out in the framework contract shall take precedence over those in the order forms and specific contracts.
- [The terms set out in the specific contracts shall take precedence over those in the requests for services.
- The terms set out in the requests for services shall take precedence over those in the specific tenders.]

¹⁵ For consortium

I – SPECIAL CONDITIONS

Article I.1 – Subject matter

I.1.1 The subject matter of the framework contract are the impact assessments and evaluations (ex-ante, intermediate and ex-post) in the field of energy.

I.1.2 Signature of the FWC imposes no obligation on the contracting authority to purchase. Only performance of the FWC through order forms or specific contracts is binding on the contracting authority.

I.1.3 Multiple framework contract

The contractor is selected for a multiple FWC with reopening of competition between [*complete*] contractors.

Article I.2 – Entry into force and duration

I.2.1 The FWC shall enter into force on the date on which it is signed by the last party (the Commission).

I.2.2 Under no circumstances may performance commence before the date on which the FWC enters into force. Execution of the tasks may under no circumstances begin before the date on which the order form or specific contract enters into force.

I.2.3 The FWC is concluded for a **period of 12 months** with effect from the date on which it enters into force. Unless otherwise specified, all periods specified in the FWC are calculated in calendar days.

I.2.4 The order forms or specific contracts shall be signed by both parties before the FWC expires.

The FWC shall continue to apply to such order forms and specific contracts after its expiry. They shall be executed no later than six months after its expiry.

I.2.5 FWC renewal

The FWC shall be renewed automatically **up to 3 times** under the same conditions, unless written notification to the contrary is sent by one of the parties and received by the other three months before expiry of the period indicated in Article I.2.3 Renewal does not imply any modification or deferment of existing obligations.

Article I.3 –Prices

I.3.1 The maximum amount of the FWC shall be EUR 4 000 000 (four millions of euros). However, this must in no way be construed as a commitment on the contracting authority to purchase for the maximum amount.

I.3.2 The maximum prices of the services shall be:

Staff category	Price per person-day (in €)
Project manager	
Experts in the field of energy	
Experts in impact assessment and evaluation	
Data collector and analyst	
Support staff	

I.3.3 In addition to the maximum total price estimated according to the staff categories, travel, subsistence and accommodation expenses shall be reimbursed in accordance with Article II.16. up to a maximum amount as specified in specific contract.

Article I.4 – Payment arrangements and performance of the framework contract¹⁶

I.4.1 Multiple framework contract with reopening of competition

Within 15 working days (of the contracting authority) of a request for services being sent by the contracting authority to the contractors, the contracting authority shall receive the specific tender back, duly signed and dated. In the event of failure to observe these conditions the contractor shall be considered unavailable.

I.4.2 Interim payment

The contractor shall submit invoice for an interim payment equal to 40% of the total price referred to in the relevant order form or specific contract.

Invoice for interim payment shall be accompanied by an interim report or any other document in accordance with the relevant specific contract. The contracting authority shall make the payment within 60 days from receipt of the invoice. The contractor shall have 20 days in which to submit additional information or corrections, a new progress report or other documents if it is required by the contracting authority.

I.4 Payment of the balance

The contractor shall submit an invoice for payment of the balance.

The invoice shall be accompanied by the final progress report or any other document in accordance with the relevant specific contract. The contracting authority shall make the payment within 60 days from receipt of the invoice. The contractor shall have 20 days in which to submit additional information or corrections, a new final progress report or other documents if it is required by the contracting authority.

¹⁶ The insertion of pre-financing and interim payment clauses is optional but there must always be provision for payment of the balance.

Article I.5 – Bank account

Payments shall be made to the contractor's bank account denominated in [euro][*insert local currency where the receiving country does not allow transactions in EUR*], identified as follows:

Name of bank:

Full address of branch:

Exact designation of account holder:

Full account number including [bank] codes:

[IBAN¹⁷ code:]

Article I.6 – Communication details and data controller

For the purpose of Article II.6, the data controller shall be the Director of the Shared Resources Directorate MOVE-ENER.

Communications shall be sent to the following addresses:

Contracting authority:

European Commission

Directorate-General [*complete*]

[Directorate [*complete*]]

[Unit [*complete*]]

[*Postcode and city*]

Email: [*insert functional mailbox*]

Contractor:

[*Ms/Mr/Mrs*]

[*Function*]

[*Company name*]

[*Full official address*]

Email: [*complete*]

¹⁷ BIC or SWIFT code for countries with no IBAN code.

Article I.7 – Applicable law and settlement of disputes

I.7.1 The FWC shall be governed by Union law, complemented, where necessary, by the law of *Belgium*.

I.7.2 Any dispute between the parties in relation to the interpretation, application or validity of the FWC which cannot be settled amicably shall be brought before the courts of *Brussels*.

Article I.8.- exploitation of the results of the contract

I.8.1 Modes of exploitation

In accordance with Article II.10.2 whereby the Union acquires ownership of the results as defined in the tender specifications (Annex I), these results may be used for any of the following purposes:

- [(a) use for its own purposes:
 - (i) making available to the staff of the contracting authority
 - (ii) making available to the persons and entities working for the contracting authority or cooperating with it, including contractors, subcontractors whether legal or natural persons, Union institutions, agencies and bodies, Member States' institutions
 - (iii) installing, uploading, processing
 - (iv) arranging, compiling, combining, retrieving
 - (v) copying, reproducing in whole or in part and in unlimited number of copies
- (b) distribution to the public:
 - (i) publishing in hard copies
 - (ii) publishing in electronic or digital format
 - (iii) publishing on the internet as a downloadable/non-downloadable file
 - (iv) broadcasting by any kind of technique of transmission
 - (v) public presentation or display
 - (vi) communication through press information services
 - (vii) inclusion in widely accessible databases or indexes
 - (viii) otherwise in any form and by any method
- (c) modifications by the contracting authority or by a third party in the name of the contracting authority:
 - (i) shortening

- (ii) summarizing
- (iii) modifying of the content
- (iv) making technical changes to the content:
 - necessary correction of technical errors
 - adding new parts
 - providing third parties with additional information concerning the result with a view of making modifications
- (v) addition of new elements, paragraphs titles, leads, bolds, legend, table of content, summary, graphics, subtitles, sound, etc.
- (vi) preparation in audio form, preparation as a presentation, animation, pictograms story, slide-show, public presentation etc.
- (vii) extracting a part or dividing into parts
- (viii) use of a concept or preparation of a derivate work
- (ix) digitisation or converting the format for storage or usage purposes
- (x) modifying dimensions
- (xi) translating, inserting subtitles, dubbing in different language versions:
 - English, French, German
 - all official languages of EU
 - languages used within EU
 - languages of candidate countries
 - *[list other languages]*
- (d) the modes of exploitation listed in article II.10.4
- (e) rights to authorise, license, or sub-license in case of licensed pre-existing rights, the modes of exploitation set out in any of the points (a) to (c) to third parties.

Where the contracting authority becomes aware that the scope of modifications exceeds that envisaged in the contract the contracting authority shall consult the contractor. Where necessary, the contractor shall in turn seek the agreement of any creator or other right holder. The contractor shall reply to the contracting authority within one month and shall provide its agreement, including any suggestions of modifications, free of charge. The creator may refuse the intended modification only when it may harm his honour, reputation or distort integrity of the work.

I.8.2 Pre-existing rights and transmission of rights

All pre-existing rights shall be licensed to the Union in accordance with Article II.10.3. The contractor shall provide to the contracting authority a list of pre-existing rights and third

parties' rights including its personnel, creators or other right holders as provided for in Article II.10.5.

Article I.9 – Termination by either party

Either party may, unilaterally and without being required to pay compensation, terminate either the FWC or the FWC and order forms or specific contracts by formally notifying the other party and by giving one month's notice. Should the contracting authority terminate the FWC, order forms or specific contracts, the contractor shall only be entitled to payment corresponding to the part-performance of the services ordered before the termination date. The first paragraph of Article II.14.3 shall apply.

SIGNATURES

For the contractor,

For the contracting authority,

[*Company name/forename/surname/function*]

[*forename/surname/function*]

signature[s]: _____

signature[s]: _____

Done at [Brussels], [date]

Done at [Brussels], [date]

In duplicate in English.

II – GENERAL CONDITIONS FOR SERVICE FRAMEWORK CONTRACTS

Article II. 1 – Performance of the FWC

- II.1.1** The contractor shall perform the FWC to the highest professional standards.
- II.1.2** The contractor shall be solely responsible for taking the necessary steps to obtain any permit or licence required for performance of the FWC under the laws and regulations in force at the place where the tasks assigned to him are to be executed.
- II.1.3** Without prejudice to Article II.4 any reference made to the contractor's personnel in the FWC shall relate exclusively to individuals involved in the performance of the FWC.
- II.1.4** The contractor must ensure that the personnel performing the FWC possesses the professional qualifications and experience required for the execution of the tasks assigned to it.
- II.1.5** The contractor shall neither represent the contracting authority nor behave in any way that would give such an impression. The contractor shall inform third parties that it does not belong to the European public service.
- II.1.6** The contractor shall be solely responsible for the personnel who executes the tasks assigned to him.

The contractor shall stipulate the following employment or service relationships with its personnel:

- (a) personnel executing the tasks assigned to the contractor may not be given orders directly by the contracting authority;
 - (b) the contracting authority may not under any circumstances be considered to be the employer of the personnel referred to in point (a) and the personnel shall undertake not to invoke against the contracting authority any right arising from the contractual relationship between the contracting authority and the contractor.
- II.1.7** In the event of disruption resulting from the action of one of the contractor's personnel working on the contracting authority's premises or in the event that the expertise of one of the contractor's personnel fails to correspond to the profile required by the FWC, the contractor shall replace him without delay. The contracting authority shall have the right to make a reasoned request for the replacement of any such personnel. The replacement personnel must have the necessary qualifications and be capable of performing the FWC under the same contractual conditions. The contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of personnel.
- II.1.8** Should the execution of the tasks be directly or indirectly hampered, either partially or totally, by any unforeseen event, action or omission, the contractor shall immediately and on its own initiative record it and report it to the contracting

authority. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the contractor to ensure full compliance with its obligations under this FWC. In such an event the contractor shall give priority to solving the problem rather than determining liability.

- II.1.9** Should the contractor fail to perform its obligations under the FWC or order form or specific contract, the contracting authority may - without prejudice to its right to terminate the FWC order form or specific contract or - reduce or recover payments in proportion to the scale of the unperformed obligations. In addition, the contracting authority may claim compensation or impose liquidated damages in accordance with Article II.12.

Article II.2 – Means of communication

- II.2.1** Any communication relating to the FWC or to its performance shall be made in writing and shall bear the FWC number, and if applicable the order form or specific contract number. Any communication is deemed to have been made when it is received by the receiving party unless otherwise provided for in this FWC.

- II.2.2** Electronic communication shall be deemed to have been received by the parties on the day of dispatch of that communication provided it is sent to the addressees listed in Article I.6. Without prejudice to the preceding, if the sending party receives a message of non-delivery to or of absence of the addressee, it shall make every effort to ensure the actual receipt of such communication by the other party.

Electronic communication shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

- II.2.3** Mail sent using the postal services is deemed to have been received by the contracting authority on the date on which it is registered by the department responsible referred to in Article I.6.

Any formal notification shall be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

Article II. 3 – Liability

- II.3.1** The contractor shall be solely responsible for complying with any legal obligations incumbent on it.

- II.3.2** The contracting authority shall not be held liable for any damage caused or sustained by the contractor, including any damage caused by the contractor to third parties during or as a consequence of performance of the FWC, except in the event of wilful misconduct or gross negligence on the part of the contracting authority.

- II.3.3** The contractor shall be held liable for any loss or damage sustained by the contracting authority in performance of the FWC, including in the event of subcontracting, and for any claim by a third party, but only to an amount not

exceeding three times the total amount of the relevant order form or specific contract. Nevertheless, if the damage or loss is caused by the gross negligence or wilful misconduct of the contractor or of its personnel or subcontractors, the contractor shall have unlimited liability for the amount of the damage or loss.

- II.3.4** The contractor shall indemnify and hold the Union harmless for all damages and costs incurred due to any claim. The contractor shall provide compensation in the event of any action, claim or proceeding brought against the contracting authority by a third party as a result of damage caused by the contractor during the performance of the FWC. In the event of any action brought by a third party against the contracting authority in connection with the performance of the FWC including any alleged breach of intellectual property rights, the contractor shall assist the contracting authority. Such expenditure incurred by the contractor may be borne by the contracting authority.
- II.3.5** The contractor shall take out an insurance policy against risks and damage relating to the performance of the FWC if required by the relevant applicable legislation. It shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the contracting authority should it so request.

Article II. 4 - Conflict of interests

- II.4.1** The contractor shall take all the necessary measures to prevent any situation of conflict of interest. Such situation arises where the impartial and objective performance of the FWC is compromised for reasons involving economic interest, political or national affinity, family or emotional ties, or any other shared interest.
- II.4.2** Any situation constituting or likely to lead to a conflict of interest during the performance of the FWC shall be notified to the contracting authority in writing without delay. The contractor shall immediately take all the necessary steps to rectify the situation. The contracting authority reserves the right to verify that the steps taken are appropriate and may require that additional steps be taken within a specified deadline.
- II.4.3** The contractor declares that it has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, when such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, in so far as it serves as an incentive or reward relating to the performance of the FWC.
- II.4.4** The contractor shall pass on all the relevant obligations in writing to its personnel and to any natural person with the power to represent it or take decisions on its behalf and ensure that it is not placed in a situation which could give rise to conflicts of interest. The contractor shall also pass on all the relevant obligations in writing to third parties involved in the performance of the FWC including subcontractors.

Article II.5 – Confidentiality

II.5.1. The contracting authority and the contractor shall treat with confidentiality any information and documents, in any form, disclosed in writing or orally in relation to the performance of the FWC and identified in writing as confidential.

The contractor shall:

- (a) not use confidential information and documents for any purpose other than fulfilling its obligations under the FWC, order form or specific contract without prior written agreement of the contracting authority;
- (b) ensure the protection of such confidential information and documents with the same level of protection it uses to protect its own confidential information, but in no case any less than reasonable care;
- (c) not disclose directly or indirectly confidential information and documents to third parties without prior written agreement of the contracting authority.

II.5.2 The confidentiality obligation set out in Article II.5.1 shall be binding on the contracting authority and the contractor during the performance of the FWC and for five years starting from the date of the payment of the balance unless:

- (a) the disclosing party agrees to release the other party from the confidentiality obligation earlier;
- (b) the confidential information becomes public through other means than in breach of the confidentiality obligation, through disclosure by the party bound by that obligation;
- (c) the disclosure of the confidential information is required by law.

II.5.3 The contractor shall obtain from any natural person with the power to represent it or take decisions on its behalf, as well as from third parties involved in the performance of the FWC, order form or specific contract an undertaking that they will comply with the confidentiality obligation set out in Article II.5.1.

Article II.6– Processing of personal data

II.6.1 Any personal data included in the FWC shall be processed pursuant to Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Such data shall be processed by the data controller solely for the purposes of the performance, management and monitoring of the FWC without prejudice to its possible transmission to the bodies charged with monitoring or inspection tasks in application of Union law.

II.6.2 The contractor shall have the right to access its personal data and the right to rectify any such data. The contractor should address any queries concerning the processing of its personal data to the data controller.

- II.6.3** The contractor shall have right of recourse at any time to the European Data Protection Supervisor.
- II.6.4** Where the FWC requires the processing of personal data by the contractor, the contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data and the means by which the data subject may exercise his rights.
- II.6.5** The contractor shall grant personnel access to the data to the extent strictly necessary for the performance, management and monitoring of the FWC.
- II.6.6** The contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:
- (a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:
 - (i) unauthorised reading, copying, alteration or removal of storage media;
 - (ii) unauthorised data input, as well as any unauthorised disclosure, alteration or erasure of stored personal data;
 - (iii) unauthorised use of data-processing systems by means of data transmission facilities;
 - (b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
 - (c) record which personal data have been communicated, when and to whom;
 - (d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting authority;
 - (e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
 - (f) design its organisational structure in such a way that it meets data protection requirements.

Article II. 7 – Subcontracting

- II.7.1** The contractor shall not subcontract without prior written authorisation from the contracting authority nor cause the FWC to be de facto performed by third parties.
- II.7.2** Even where the contracting authority authorises the contractor to subcontract to third parties, it shall nevertheless remain bound by its contractual obligations and shall be solely responsible for the proper performance of this FWC.
- II.7.3** The contractor shall make sure that the subcontract does not affect rights and guarantees granted to the contracting authority by virtue of this FWC, notably by Article II.18.

Article II. 8 – Amendments

- II.8.1** Any amendment to the FWC or order form or specific contract shall be made in writing before fulfilment of all contractual obligations. An order form or a specific contract may not be deemed to constitute an amendment to the FWC.
- II.8.2** The amendment may not have the purpose or the effect of making changes to the FWC or to order forms or specific contracts which might call into question the decision awarding the FWC, order form or specific contract or result in unequal treatment of tenderers or contractors.

Article II. 9 – Assignment

- II.9.1** The contractor shall not assign the rights, including claims for payments, and obligations arising from the FWC, in whole or in part, without prior written authorisation from the contracting authority.
- II.9.2** In the absence of such authorisation, or in the event of failure to observe the terms thereof, the assignment of rights or obligations by the contractor shall not be enforceable against the contracting authority and shall have no effect on it.

Article II. 10 – Ownership of the results - Intellectual and industrial property rights

II.10.1 Definitions

In this FWC the following definitions apply:

- (1) 'results' means any intended outcome of the performance of the FWC which is delivered and finally accepted by the contracting authority.
- (2) 'creator' means any natural person who contributed to the production of the result and includes personnel of the contracting authority or a third party.
- (3) 'pre-existing rights' means any industrial and intellectual property rights, including background technology, which exist prior to the contracting authority or the contractor ordering them for the purpose of the FWC performance and include rights of ownership and use by the contractor, the creator, the contracting authority and any other third parties.

II.10.2 Ownership of the results

The ownership of the results shall be fully and irrevocably acquired by the Union under the FWC including any rights in any of the results listed in the FWC and order forms or specific contracts, including copyright and other intellectual or industrial property rights, and all technological solutions and information contained therein, produced in performance of the FWC. The contracting authority may exploit them as stipulated in this FWC or order forms or specific contracts. All the rights shall be acquired by the Union from the moment the results are delivered by the contractor and accepted by the contracting authority. Such delivery and acceptance are deemed to constitute an effective assignment of rights from the contractor to the Union.

The payment of the price as set out in the order forms or specific contracts is deemed to include any fees payable to the contractor in relation to the acquisition of ownership of rights by the Union including all forms of use of the results.

The acquisition of ownership of rights by the Union under this FWC covers all territories worldwide.

Any intermediary sub-result, raw data, intermediary analysis made available by the contractor cannot be used by the contracting authority without the written consent of the contractor, unless the FWC or specific contract or order form explicitly provides for it to be treated as a self-contained result.

II.10.3 Licensing of pre-existing rights

The Union shall not acquire ownership of the pre-existing rights.

The contractor shall license the pre-existing rights on a royalty-free, non-exclusive and irrevocable basis to the Union which may use the pre-existing right as foreseen in Article I.8.1 or in order forms or specific contracts. All the pre-existing rights shall be licensed to the Union from the moment the results were delivered and accepted by the contracting authority.

The licensing of pre-existing rights to the Union under this FWC covers all territories worldwide and is valid for the whole duration of intellectual property rights protection.

II.10.4 Modes of exploitation

The Union shall acquire ownership of each of the results produced as an outcome of the FWC which may be used for any of the following purposes:

- (a) giving access upon individual requests without the right to reproduce or exploit, as provided for by Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;
- (b) storage of the original and copies made in accordance with this FWC or specific contract or order form;
- (c) archiving in line with the document management rules applicable to the contracting authority.

II.10.5 Identification and evidence of granting of pre-existing rights and rights of third parties

When delivering the results, the contractor shall warrant that they are free of rights or claims from creators and third parties including in relation to pre-existing rights, for any use envisaged by the contracting authority. This does not concern the moral rights of natural persons.

The contractor shall establish to that effect a list of all pre-existing rights and rights of creators and third parties on the results of this FWC or parts thereof. This list shall be provided no later than the date of delivery of the final results.

In the result the contractor shall clearly point out all quotations of existing textual works. The complete reference should include as appropriate: name of the author, title of the work, date and place of publication, date of creation, address of publication on internet, number, volume and other information which allows the origin to be easily identified.

Upon request by the contracting authority, the contractor shall provide evidence of ownership or rights to use all the listed pre-existing rights and rights of third parties except for the rights owned by the Union.

This evidence may refer, inter alia, to rights to: parts of other documents, images, graphs, tables, data, software, technical inventions, know-how etc. (delivered in paper, electronic or other form), IT development tools, routines, subroutines and/or other programs ("background technology"), concepts, designs, installations or pieces of art, data, source or background materials or any other parts of external origin.

The evidence shall include, as appropriate:

- (a) the name and version number of a software product;
- (b) the full identification of the work and its author, developer, creator, translator, data entry person, graphic designer, publisher, editor, photographer, producer;
- (c) a copy of the licence to use the product or of the agreement granting the relevant rights to the contractor or a reference to this licence;
- (d) a copy of the agreement or extract from the employment contract granting the relevant rights to the contractor where parts of the results were created by its personnel;
- (e) the text of the disclaimer notice if any.

Provision of evidence does not release the contractor from its responsibilities in case it is found that it does not hold the necessary rights, regardless of when and by whom this fact was revealed.

The contractor also warrants that it possesses the relevant rights or powers to execute the transfer and that it has paid or has verified payment of all due fees including fees due to collecting societies, related to the final results.

II.10.6 Creators

By delivering the results the contractor warrants that the creators undertake not to oppose that their names be recalled when the results are presented to the public and confirms that the results can be divulged. Names of authors shall be recalled on request in the manner communicated by the contractor to the contracting authority.

The contractor shall obtain the consent of creators regarding the granting of the relevant rights and be ready to provide documentary evidence upon request.

II.10.7 Persons appearing in photographs or films

If natural, recognisable persons appear in a result or their voice is recorded the contractor shall submit a statement of these persons (or of the persons exercising parental authority in case of minors) where they give their permission for the described use of their image or voice on request by the contracting authority. This does not apply to persons whose

permission is not required in line with the law of the country where photographs were taken, films shot or audio records made.

II.10.8 Copyright for pre-existing rights

When the contractor retains pre-existing rights on parts of the results, reference shall be inserted to that effect when the result is used as set out in Article I.8.1 with the following disclaimer: © - year – European Union. All rights reserved. Certain parts are licensed under conditions to the EU.

II.10.9 Visibility of Union funding and disclaimer

When making use of the results, the contractor shall declare that they have been produced within a contract with the Union and that the opinions expressed are those of the contractor only and do not represent the contracting authority's official position. The contracting authority may waive this obligation in writing.

Article II. 11 – Force majeure

II.11.1 'Force majeure' means any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations under the FWC, which was not attributable to error or negligence on their part or on the part of subcontractors and which proves to be inevitable in spite of exercising due diligence. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties, cannot be invoked as force majeure.

II.11.2 A party faced with force majeure shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.

II.11.3 The party faced with force majeure shall not be held in breach of its contractual obligations if it has been prevented from fulfilling them by force majeure. Where the contractor is unable to fulfil its contractual obligations owing to force majeure, it shall have the right to remuneration only for the tasks actually executed.

II.11.4 The parties shall take all the necessary measures to limit any damage due to force majeure.

Article II. 12 – Liquidated damages

The contracting authority may impose liquidated damages should the contractor fail to complete its contractual obligations, also with regard to the required quality level, according to the tender specifications.

Should the contractor fail to perform its contractual obligations within the time limits set by the FWC or the relevant order form or specific contract, then, without prejudice to the contractor's actual or potential liability or to the contracting authority's right to terminate the FWC or the relevant order form or specific contract, the contracting authority may impose liquidated damages for each and every calendar day of delay according to the following formula:

$0.3 \times (V/d)$

V is the price of the relevant purchase;

d is the duration specified in the relevant order form or specific contract or, failing that, the period between the date specified in Article I.4.1 and the date of delivery or performance specified in the relevant order form or specific contract, expressed in calendar days

The contractor may submit arguments against this decision within 30 days of receipt of the formal notification. In the absence of a reaction on its part or of written withdrawal by the contracting authority within 30 days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable.

The parties expressly acknowledge and agree that any sums payable under this article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses incurred due to failure to fulfil obligations which may be reasonably anticipated.

Article II. 13 – Suspension of the performance of the FWC

II.13.1 Suspension by the contractor

The contractor may suspend the performance of the FWC or order form or specific contract or any part thereof if a case of force majeure makes such performance impossible or excessively difficult. The contractor shall inform the contracting authority about the suspension without delay, giving all the necessary reasons and details and the envisaged date for resuming the performance of the FWC, order form or specific contract.

Once the circumstances allow resuming performance, the contractor shall inform the contracting authority immediately, unless the contracting authority has already terminated the FWC, order form or specific contract.

II.13.2 Suspension by the contracting authority

The contracting authority may suspend the performance of the FWC or order form or specific contract or any part thereof:

- (a) if the FWC or order form or specific contract award procedure or the performance of the FWC prove to have been subject to substantial errors, irregularities or fraud;
- (b) in order to verify whether presumed substantial errors, irregularities or fraud have actually occurred.

Suspension shall take effect on the day the contractor receives formal notification, or at a later date where the notification so provides. The contracting authority shall as soon as possible give notice to the contractor to resume the service suspended or inform the contractor that it is proceeding with termination of the FWC or order form or specific contract. The contractor shall not be entitled to claim compensation on account of suspension of the FWC or order form or specific contract or of part thereof.

Article II. 14 – Termination of the FWC

II.14.1 Grounds for termination

The contracting authority may terminate the FWC, an order form or a specific contract respectively in the following circumstances:

- (a) if a change to the contractor's legal, financial, technical or organisational or ownership situation is likely to affect the performance of the FWC or order form or specific contract substantially or call into question the decision to award the FWC;
- (b) if execution of the tasks under a pending order form or a specific contract has not actually commenced within 15 days of the date foreseen, and the new date proposed, if any, is considered unacceptable by the contracting authority, taking into account article II.8.2;
- (c) if the contractor does not perform the FWC or an order form or specific contract as established in the tender specifications or request for service or fails to fulfil another substantial contractual obligation; termination of three or more order forms or specific contracts on this ground shall constitute ground for termination of the FWC;
- (d) in the event of force majeure notified in accordance with article II.11 or if the performance of the FWC or order form or specific contract has been suspended by the contractor as a result of force majeure, notified in accordance with article II.13, where either resuming performance is impossible or the modifications to the FWC or order form or specific contract might call into question the decision awarding the FWC or order form or specific contract, or result in unequal treatment of tenderers or contractors;
- (e) if the contractor is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (f) if the contractor or any natural person with the power to represent it or take decisions on its behalf has been found guilty of professional misconduct proven by any means;
- (g) if the contractor is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of the country of the applicable law of this FWC or those of the country where the FWC is to be performed;
- (h) if the contracting authority has evidence that the contractor or any natural persons with the power to represent it or take decisions on its behalf have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;
- (i) if the contracting authority has evidence that the contractor or any natural persons with the power to represent it or take decisions on its behalf have committed

substantial errors, irregularities or fraud in the award procedure or the performance of the FWC, including in the event of submission of false information;

- (j) if the contractor is unable, through its own fault, to obtain any permit or licence required for performance of the FWC or order form or specific contract;
- (k) if the needs of the contracting authority change and it no longer requires new services under the FWC;
- (l) when due to the termination of the FWC with one or more of the contractors there is no minimum required competition within the multiple framework contract with reopening of competition.

II.14.2 Procedure for termination

When the contracting authority intends to terminate the FWC or order form or specific contract it shall formally notify the contractor of its intention specifying the grounds thereof. The contracting authority shall invite the contractor to make any observations and, in the case of point (c) of Article II.14.1, to inform the contracting authority about the measures taken to continue the fulfilment of its contractual obligations, within 30 days from receipt of the notification.

If the contracting authority does not confirm acceptance of these observations by giving written approval within 30 days of receipt, the termination procedure shall proceed. In any case of termination the contracting authority shall formally notify the contractor about its decision to terminate the FWC or order form or specific contract. In the cases referred to in points (a), (b), (c), (e), (g), (j), (k) and (l) of Article II.14.1 the formal notification shall specify the date on which the termination takes effect. In the cases referred to in points (d), (f), (h), and (i) of Article II.14.1 the termination shall take effect on the day following the date on which notification of termination is received by the contractor.

II.14.3 Effects of termination

In the event of termination, the contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the notification of termination, the contractor shall take all the appropriate measures to minimise costs, prevent damages, and cancel or reduce its commitments. The contractor shall have 60 days from the date of termination to draw up the documents required by the special conditions or order forms or specific contracts for the tasks already executed on the date of termination and produce an invoice if necessary. The contracting authority may recover any amounts paid under the FWC.

The contracting authority may claim compensation for any damage suffered in the event of termination.

On termination the contracting authority may engage any other contractor to execute or complete the services. The contracting authority shall be entitled to claim from the contractor all extra costs incurred in this regard, without prejudice to any other rights or guarantees it may have under the FWC.

Article II. 15 – Reporting and payments

II.15.1 Date of payment

Payments shall be deemed to be effected on the date when they are debited to the contracting authority's account.

II.15.2 Currency

The FWC shall be in euros.

Payments shall be executed in euros or in the local currency as provided for in Article I.5.

Conversion between the euro and another currency shall be made according to the daily euro exchange rate published in the *Official Journal of the European Union* or, failing that, at the monthly accounting exchange rate established by the European Commission and published on its website, applicable on the day on which the payment order is issued by the contracting authority.

II.15.3 Costs of transfer

The costs of the transfer shall be borne in the following way:

- (a) costs of dispatch charged by the bank of the contracting authority shall be borne by the contracting authority,
- (b) cost of receipt charged by the bank of the contractor shall be borne by the contractor,
- (c) costs for repeated transfer caused by one of the parties shall be borne by the party causing repetition of the transfer.

II.15.4 Invoices and Value Added Tax

Invoices shall contain the contractor's identification, the amount, the currency and the date, as well as the FWC reference and reference to the order form or specific contract.

Invoices shall indicate the place of taxation of the contractor for value added tax (VAT) purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

The contracting authority is, as a rule, exempt from all taxes and duties, including VAT, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

The contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the supplies and services required for performance of the FWC are exempt from taxes and duties, including VAT exemption.

II.15.5 Pre-financing and performance guarantees

Pre-financing guarantees shall remain in force until the pre-financing is cleared against interim payments or payment of the balance and, in case the latter takes the form of a debit note, three months after the debit note is notified to the contractor. The contracting authority shall release the guarantee within the following month.

Performance guarantees shall cover performance of the service in accordance with the terms set out in the request for services until its final acceptance by the contracting

authority. The amount of the performance guarantee shall not exceed the total price of the order form or specific contract. The guarantee shall provide that it remains in force until final acceptance. The contracting authority shall release the guarantee within a month following the date of final acceptance.

Where, in accordance with Article I.4, a financial guarantee is required for the payment of pre-financing, or as performance guarantee, it shall fulfil the following conditions:

- (a) the financial guarantee is provided by a bank or an approved financial institution or, at the request of the contractor and agreement by the contracting authority, by a third party;
- (b) the guarantor stands as first-call guarantor and does not require the contracting authority to have recourse against the principal debtor (the contractor).

The cost of providing such guarantee shall be borne by the contractor.

II.15.6 Interim payments and payment of the balance

The contractor shall submit an invoice for interim payment upon delivery of intermediary results, accompanied by a progress report or any other documents, as provided for in Article I.4 or in the tender specifications or in the order form or specific contract.

The contractor shall submit an invoice for payment of the balance within 60 days following the end of the period referred to in Article III.2.2, accompanied by a final progress report or any other documents provided for in Article I.4 or in the tender specifications or in the order form or specific contract.

Upon receipt, the contracting authority shall pay the amount due as interim or final payment, within the periods specified in Article I.4, provided the invoice and documents have been approved and without prejudice to Article II.15.7. Approval of the invoice and documents shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information they contain.

Payment of the balance may take the form of recovery.

II.15.7 Suspension of the time allowed for payment

The contracting authority may suspend the payment periods specified in Article I.4 at any time by notifying the contractor that its invoice cannot be processed, either because it does not comply with the provisions of the FWC, or because the appropriate documents have not been produced.

The contracting authority shall inform the contractor in writing as soon as possible of any such suspension, giving the reasons for it.

Suspension shall take effect on the date the notification is sent by the contracting authority. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out. Where the suspension period exceeds two months, the contractor may request the contracting authority to justify the continued suspension.

Where the payment periods have been suspended following rejection of a document referred to in the first paragraph and the new document produced is also rejected, the contracting authority reserves the right to terminate the order form or specific contract in accordance with Article II.14.1(c).

II.15.8 Interest on late payment

On expiry of the payment periods specified in Article I.4, and without prejudice to Article II.15.7, the contractor is entitled to interest on late payment at the rate applied by the European Central Bank for its main refinancing operations in Euros (the reference rate) plus eight points. The reference rate shall be the rate in force on the first day of the month in which the payment period ends, as published in the C series of the *Official Journal of the European Union*.

The suspension of the payment period in accordance with Article II.15.7 may not be considered as a late payment.

Interest on late payment shall cover the period running from the day following the due date for payment up to and including the date of actual payment as defined in Article II.15.1.

However, when the calculated interest is lower than or equal to EUR 200, it shall be paid to the contractor only upon request submitted within two months of receiving late payment.

Article II. 16 - Reimbursements

II.16.1 Where provided by the special conditions or by the tender specifications, the contracting authority shall reimburse the expenses that are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets, or failing that, on production of copies or scanned originals, or on the basis of flat rates.

II.16.2 Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary and the minimum number of nights necessary for overnight stay at the destination.

II.16.3 Travel expenses shall be reimbursed as follows:

- (a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
- (b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
- (c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;

In addition, travel outside Union territory shall be reimbursed provided the contracting authority has given its prior written consent.

II.16.4 Subsistence expenses shall be reimbursed on the basis of a daily subsistence allowance as follows:

- (a) for journeys of less than 200 km for a return trip, no subsistence allowance shall be payable;
- (b) daily subsistence allowance shall be payable only on receipt of supporting documents proving that the person concerned was present at the destination;
- (c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including meals, local transport which includes transport to and from the airport or station, insurance and sundries;
- (d) daily subsistence allowance shall be reimbursed at the flat rates specified in Article I.3;
- (e) accommodation shall be reimbursed on receipt of supporting documents proving the necessary overnight stay at the destination, up to the flat-rate ceilings specified in Article I.3.

II.16.5 The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the contracting authority has given prior written authorisation.

II.16.6. Conversion between the euro and another currency shall be made as specified in Article II.15.2.

Article II. 17 – Recovery

II.17.1 If an amount is to be recovered under the terms of the FWC, the contractor shall repay the contracting authority the amount in question according to the terms and by the date specified in the debit note.

II.17.2 If the obligation to pay the amount due is not honoured by the date set by the contracting authority in the debit note, the amount due shall bear interest at the rate indicated in Article II.15.8. Interest on late payments shall cover the period from the day following the due date for payment up to and including the date when the contracting authority receives the full amount owed.

Any partial payment shall first be entered against charges and interest on late payment and then against the principal amount.

II.17.3 If payment has not been made by the due date, the contracting authority may, after informing the contractor in writing, recover the amounts due by offsetting them against any amounts owed to the contractor by the Union or by the European Atomic Energy Community or by calling in the financial guarantee, where provided for in Article I.4 or in the specific contract.

Article II. 18 – Checks and audits

II.18.1 The contracting authority and the European Anti-Fraud Office may check or have an audit on the performance of the FWC. It may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

Such checks and audits may be initiated during the performance of the FWC and during a period of five years which starts running from the date of expiry of the FWC.

The audit procedure shall be deemed to be initiated on the date of receipt of the relevant letter sent by the contracting authority. Audits shall be carried out on a confidential basis.

II.18.2 The contractor shall keep all original documents stored on any appropriate medium, including digitised originals when they are authorised by national law and under the conditions laid down therein, for a period of five years which starts running from the date of expiry of the FWC.

II.18.3 The contractor shall allow the contracting authority's staff and outside personnel authorised by the contracting authority the appropriate right of access to sites and premises where the FWC is performed and to all the information, including information in electronic format, needed in order to conduct such checks and audits. The contractor shall ensure that the information is readily available at the moment of the check or audit and, if so requested, that information be handed over in an appropriate form.

II.18.4 On the basis of the findings made during the audit, a provisional report shall be drawn up. It shall be sent to the contractor, which shall have 30 days following the date of receipt to submit observations. The final report shall be sent to the contractor within 60 days following the expiry of that deadline.

On the basis of the final audit findings, the contracting authority may recover all or part of the payments made and may take any other measures which it considers necessary.

II.18.5 By virtue of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspection carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities and Regulation (EC) No 1073/1999 of the European Parliament and the Council of 25 May 1999 concerning investigation conducted by the European Anti-Fraud Office (OLAF), the OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities. Where appropriate, the findings may lead to recovery by the contracting authority.

II.18.6 The Court of Auditors shall have the same rights as the contracting authority, notably right of access, for the purpose of checks and audits.

SPECIFIC CONTRACT No [complete]

implementing Framework contract No ENER/A4/516/2014

The European Union (hereinafter referred to as "the Union"), represented by the [European Commission] (hereinafter referred to as "the contracting authority"), represented for the purposes of the signature of this specific contract by [*forename, surname, function, department*]¹⁸,

on the one part,

and

[*full official name*]

[*official legal form*]¹⁹

[*statutory registration number*]²⁰

[*full official address*]

[*VAT registration number*]

(hereinafter referred to as "the contractor"), [represented for the purposes of the signature of this specific contract by [*forename, surname and function,*]]

[The parties identified above and hereinafter collectively referred to as 'the contractor' shall be jointly and severally liable vis-à-vis the contracting authority for the performance of this specific contract.]

on the other part,

¹⁸ The signatory must be an authorising officer (by delegation or subdelegation) designated in accordance with Note No 60008 of 22 February 2001 "Mise en place de la Charte des ordonnateurs".

¹⁹ Delete if contractor is a natural person or a body governed by public law.

²⁰ Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card or, failing that, of their passport or equivalent.

HAVE AGREED

Article III.1: Subject matter

III.1.1 This specific contract implements Framework Contract (FWC) No [complete] signed by the contracting authority and the contractor on [complete date].

III.1.2 The subject matter of this specific contract is [short description of subject]. [This specific contract relates to lot [complete] of the FWC.]

III.1.3 The contractor undertakes, in accordance with the terms set out in the FWC and in this specific contract and the annex[es] thereto, which form an integral part thereof, to perform the [following tasks:] [tasks specified in Annex [complete].]

Article III.2: Entry into force and duration

III.2.1 This specific contract shall enter into force [on the date on which it is signed by the last party] [on [insert date] if it has already been signed by both parties].

III.2.2 The duration of the execution of the tasks shall not exceed [complete] [days][months]. Execution of the tasks shall start from [the date of entry into force of this specific contract] [insert date].

The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

Article III.3: Price

III.3.1 The maximum total price to be paid under this specific contract shall be EUR [amount in figures and in words] covering all tasks executed.

III.3.2 In addition to the maximum total price expenses up to the amount of EUR [amount in figures and in words] shall be reimbursed according to the provisions of the FWC].

[Option: for contractors for which VAT is due in Belgium]

[Where VAT is due in Belgium, the provisions of this specific contract constitute a request for VAT exemption No 450, Article 42, paragraph 3.3 of the VAT code (circular 2/1978), provided the contractor includes the following statement in the invoice(s): “Exonération de la TVA, Article 42, paragraphe 3.3 du code de la TVA (circulaire 2/1978)” or an equivalent statement in the Dutch or German language.]

[Option: for contractors for which VAT is due in Luxembourg]

[Where VAT is due in Luxembourg, the contractor shall include the following statement in the invoices: "Commande destinée à l'usage officiel de l'Union européenne. Exonération de la TVA Article 43 § 1 k 2ième tiret de la loi modifiée du 12.02.79." In case of intra-Community purchases, the statement to be included in the invoices is: "For the official use of the European Union. VAT Exemption / European Union/ Article 151 of Council Directive 2006/112/EC."]

ARTICLE III.5: EXPLOITATION OF THE RESULTS

[Insert details on the intended use of results linked to the specific request for service supplementing or replacing clause I.8 of the special conditions]

ANNEXES

Request for service

Contractor's specific tender (No [complete]²¹ of [insert date])

SIGNATURES

For the contractor,

For the contracting authority,

[Company name/forename/surname/function]

[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done at [Brussels], [date]

Done at [Brussels], [date]

In duplicate in English.

²¹ Number to be inserted in case of competitive multiple framework contract.

[Optional]

Annex A Statement of contractor concerning right to delivered result

I, [*insert name of the authorised representative of the contractor*] representing [*insert name of the contractor*], party to the specific contract [*insert title and/or number*] warrant that the contractor holds all transferred rights to the delivered [*insert title and/or description of result*] which [is][are] free of any claims of third parties.

The above-mentioned results were prepared by [*insert names of creators*]. The creators transferred all their relevant rights to the results to [*insert name of the entity that received rights from the creators*] [through a contract of [*insert date*]] [a relevant extract of which is] herewith attached.

The creators [received all their remuneration on [*insert date*]] [will receive all their remuneration as agreed within [*complete*] weeks from [delivery of this statement.] [receipt of confirmation of acceptance of the work]. [The statement of the creators confirming payment is attached].

Date, place, signature

Annex B Statement of creator / intermediary in delivery

of the [*title of the result*]
within the framework contract No [*complete*]
[Specific contract No [*complete*]]
concluded between the contracting authority and [*name of the contractor(s)*]

I, [*insert name of the authorised representative of the intermediary*] representing [*insert name of the intermediary*] state that I am the right holder of: [*identify the relevant parts of the result*] [which I created] [for which I received rights from [*insert name*]].

I am aware of the above framework contract, especially Articles I.8, II.10 and I confirm that I transferred all the relevant rights to [*insert name*].

I declare that [I received full remuneration] [I agreed to receive remuneration by [*insert date*]].

[As creator, I also confirm that I do not oppose my name being recalled when the results are presented to the public and confirm that the results can be divulged.]

Date, place, signature

Date, place, signature