

# Notice of call for expressions of interest

## 1. Contracting authority

European Commission  
Directorate-General for Energy  
ENER.B.4  
DM 24 06/67  
1040 Brussels  
E-Mail: ENER-B4-TENDERS@ec.europa.eu

## 2. Registration procedure

The objective of this call for expressions of interest is to set up a list of external experts.

Expressions of interest should be submitted in English by electronic means at the following address: [ENER-B4-TENDERS@ec.europa.eu](mailto:ENER-B4-TENDERS@ec.europa.eu).

The inclusion on the list of experts entails no obligation on the part of the contracting authority concerning the conclusion of contracts.

## 3. Information and documents to be provided

Interested parties should provide their full contact.

Experts shall provide a declaration on honour stating that they are not in one of the situations of exclusion listed at point 8 and that they fulfil the selection criteria listed at point 9. In case of doubt, they may be requested to provide supporting evidence of non-exclusion. Supporting evidence related to the selection criteria shall be provided with the declaration on honour.

## 4. General description of the procedure

Natural persons are invited to submit an expression of interest in accordance with the rules set out in this notice.

The contracting authority will draw up a list of experts who meet the criteria set out at point 9.

It will assign experts to the task on the basis of the skills, experience and knowledge necessary and in accordance with the principles of non-discrimination, equal treatment and absence of conflict of interests.

## 5. Protection of personal data

If processing your expression of interest involves the recording and processing of personal data (such as your name, address and CV), such data will be processed pursuant to Regulation (EC) No 45/2001 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. Unless indicated otherwise, your reply to this notice and any personal data requested are required for the purposes indicated above in point 4 and will be processed solely for those purposes by the contracting authority indicated in point 1, which is also acting as data controller. Details concerning the processing of your personal data are available on the privacy statement at:

[http://ec.europa.eu/budget/library/explained/management/protecting/privacy\\_statement\\_edes\\_en.pdf](http://ec.europa.eu/budget/library/explained/management/protecting/privacy_statement_edes_en.pdf)

Your personal data may be registered in the Early Detection and Exclusion System (EDES) by the responsible Authorizing Officer of the Commission, should you be in one of the situations mentioned

in Article 106 of the Financial Regulation (regulation EU/EURATOM 966/2012 of 25 October 2012 as amended).

## **6. Use of the list resulting from this notice**

Execution of the tasks within the fields described at point 7, below the threshold of €135.000 of total payments (including both remunerations and reimbursements) and the work to be carried out is estimated at about 200 to 250 working days.

The expert shall work exclusively on the report and review of the Offshore Safety Directive (2013/30/EU).

### **6.1 Background of the assignment**

The European Commission, specifically the Directorate-General for Energy, seeks support and advice from an external expert with in-depth knowledge of EU legislation, national legislation and the practical implementation of rules at industry level.

The Offshore Safety Directive (OSD), establishing minimum requirements for safety, environmental protection and emergency response across the EU, entered into force on 19 July 2013. Member States had to transpose the Directive into national rules and regulations by 19 July 2015; transitional periods for the industry apply.

All Member States, which are active in offshore oil and gas operations, have declared transposition of the Offshore Safety Directive into national legislation. The Commission has carried out a transposition check of the Member States' national legislative measures in place in order to assess the completeness of transposition of the Directive.

No later than 19 July 2019 (Offshore Safety Directive, Article 40), the Commission shall, taking due account of the efforts and experiences of competent authorities, assess the experience of implementing this Directive. The Commission shall assess whether the Offshore Safety Directive, as implemented by Member States, has achieved the objective to ensure safe operations and to avoid major accidents or an undue number of incidents. The Commission shall then submit a report to the European Parliament and to the Council with the result of the assessment.

### **6.2 Principles for the evaluation**

In assessing the effectiveness of the Offshore Safety Directive with regard to its objectives, namely the implementation of adequate levels of safety and environmental protection across the EU, the expert shall verify whether:

- the main objectives of the Directive have been achieved and if not, whether an amendment of the Directive or other legal initiatives is appropriate;
- any gaps in legislation exist which need to be covered for improving the level of safety in offshore oil and gas operations;
- certain provisions of the Directive impose undue burden on Member States or the industry and whether their removal should be considered;

- the Directive has adequately harmonised the regulatory structure and level of safety across the EU offshore operations, proportionate to the activity levels of the Member States;
- the Directive is effective and proportionate with regard to the objectives set.

### 6.3 Methodology and expected results

Main tasks are:

- Continuous support and legal advice to prepare a review of the OSD.
- Develop and apply criteria for assessing the effectiveness of the Offshore Safety Directive.
- Assessment of the OSD's effectiveness, determine areas subject for a potential review.
- Collect available information in Member States on the OSD's effectiveness and determine areas, which may require an amendment of the Directive.
- Based on information from Competent Authorities and publicly available sources, report on Member States' experience with the OSD, as implemented by national rules and regulations.
- Present proposals to review the OSD (e.g. clarification by re-drafting, additional issues to be included, deletions if necessary, examine need for delegated acts and provide proposals, review in detail annexes of the OSD).

### 6.4 Foreseeable areas for the analysis (non-exhaustive list, examples)

Further to the overall assessment of the Directive's effectiveness, the work plan of the expert would specifically focus on the following areas (non-exhaustive list):

- Liability, financial security and compensation claims

Member States had to implement certain provisions on liability, handling of compensation claims and financial security of offshore oil and gas operations. The expert shall contribute to assessing the effectiveness of these provisions in national rules and legislation and collect information on practical experience in this area.

Taking into account the Commission's and the European Parliament's reports on liability, compensation claims and financial security, and above mentioned assessment, the expert shall outline legal approaches and proposals to deal with these issues in the framework of a potential review of the OSD.

- National measures on access to knowledge, assets and expert resources; adequacy of resources to comply with regulatory functions

The expert shall assess the effectiveness of Member States' competent authorities to deal with tasks pursuant to the OSD and if appropriate propose amendments for strengthening the OSD in this context.

- External emergency plans

Taking into account existing reports (JRC, EMSA), the expert shall assess whether additional regulatory initiatives are necessary to ensure the adequate effectiveness of these plans.

- Criminal law

The expert shall contribute to assess whether bringing certain conduct leading to offshore accidents under criminal law is appropriate and prepare first steps for a regulatory follow-up, if required.

- Delegated acts

The Commission is empowered to adopt delegated acts to adapt certain annexes (e.g. annex I, information in the context of major hazard reports) of the OSD. In the light of technical progress, additional information in these annexes may improve their effectiveness. The expert shall contribute to a potential revision of these annexes.

- Further areas for an in-depth assessment (non-exhaustive list, examples)

In light of practical experience and a first exchange of views with Member States and stakeholders, it is planned to assess in depth the following provisions linked to the safety of offshore oil and gas installations:

- decommissioning,
- protection against sabotage and cyber security,
- independent verification,
- compliance of Mobile Offshore Drilling Units with rules and legislation within various Member States' jurisdictions (mutual recognition of authorisations)

#### 6.5 Stocktaking of efforts and experiences of Member States' Competent Authorities (non-exhaustive list, examples)

Further to a systematic check of the effectiveness of general provisions, the Commission's assessment will focus on the effectiveness of the OSD. In this context the expert will gather information and provide an initial analysis on the following areas:

- Licensing: The licensing authority in the Member States has to make sure that only operators, which can demonstrate technical and financial capacities necessary to ensure the safety of offshore activities and environmental protection are allowed to explore and produce oil and gas in EU waters.
- Set-up and resourcing of national competent authorities: Further to their global responsibility for safe operations Competent Authorities shall inspect the installations and shall ensure the preparedness for emergencies at rigs and platforms.

- Obligatory ex ante risk assessments: Operators are required to prepare a report on major hazards for their installation, containing an extensive risk assessment, risk control measures and an emergency response plan before exploration or production begins. These plans shall be submitted to national competent authorities for approval before offshore activities may start.
- Transparency: Information shall be available for citizens allowing them to compare the performance of the industry and the activities of the national competent authorities.
- Emergency Response: Operators or owners shall prepare adequate emergency response plans based on their rig or platform risk assessments and keep resources at hand to be able to put them into operation when necessary.
- Liabilities: Oil and gas licensed companies shall become fully liable for environmental damages caused to the protected marine species and natural habitats.
- European Offshore Authorities Group (EUOAG): Member States work together to ensure effective sharing of best practices and contribute to developing and improving safety standards.

#### 6.6 Additional information on liability, compensation claims and financial security

According to Article 39 of the OSD the Commission was requested to draft reports to the European Parliament and the Council on liability, compensation of claims after accidents, financial security of licensees operating offshore and the usefulness of applying criminal law. The request indicates that the Directive did not fully address these areas when approved in 2013. In 2015, the Commission submitted these reports accompanied by a staff working document, which included an in-depth analysis in line with the requirements specified in the OSD. Due to the lack of knowledge on how far Member States would address these areas when implementing the Directive into national rules and legislation, at this stage, the Commission did not propose new legislation.

End of 2016, taking into account the Commission's report, the European Parliament (EP) approved a resolution dealing with these subjects. By requesting an additional in-depth analysis and considering new legislation the EP took the initiative, following the Commission's report, for addressing several areas in the context of liability, which seems not being consistently regulated on a European level.

The European Parliament asked the Commission to consider its proposals and suggestions when drafting the report on the implementation of the Directive and when dealing with a potential review by complying with the requirements of Article 40 OSD. The Commission will include these subjects in the forthcoming report.

Background documents:

- REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on liability, compensation and financial security for offshore oil and gas operations pursuant to Article 39 of Directive 2013/30/EU {SWD(2015) 167 final}  
<https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-422-EN-F1-1.PDF>
- COMMISSION STAFF WORKING DOCUMENT on Liability, Compensation and Financial Security for Offshore Accidents in the European Economic Area

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015SC0167&from=EN>

- European Parliament resolution of 1 December 2016 on liability, compensation and financial security for offshore oil and gas operations (2015/2352(INI))  
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2016-0478+0+DOC+PDF+V0//EN>

## **7. Place of delivery**

The expert should work from his usual office (home or business) but should be available to work in the premises of DG Energy in Brussels for up to two working days per month.

## **8. Exclusion criteria**

Experts shall be excluded from participation if:

(a) the economic operator is bankrupt, subject to insolvency or winding-up procedures, where its assets are being administered by a liquidator or by a court, where it is in an arrangement with creditors, where its business activities are suspended, or where it is in any analogous situation arising from a similar procedure provided for under national laws or regulations;

(b) it has been established by a final judgment or a final administrative decision that the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;

(c) it has been established by a final judgment or a final administrative decision that the economic operator is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the economic operator belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:

(i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;

(ii) entering into agreement with other economic operators with the aim of distorting competition;

(iii) violating intellectual property rights;

(iv) attempting to influence the decision-making process of the contracting authority during the procurement procedure;

(v) attempting to obtain confidential information that may confer upon it undue advantages in the procurement procedure;

(d) it has been established by a final judgment that the economic operator is guilty of any of the following:

(i) fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the [Council Act of 26 July 1995](#);

(ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the [Council Act of 26 May 1997](#), and in Article 2(1) of [Council Framework Decision 2003/568/JHA](#), as well as corruption as defined in the law of the country where the contracting authority is located, the country in which the economic operator is established or the country of the performance of the contract;

(iii) participation in a criminal organization, as defined in Article 2 of [Council Framework Decision 2008/841/JHA](#);

(iv) money laundering or terrorist financing, as defined in Article 1 of [Directive 2005/60/EC of the European Parliament and of the Council](#);

(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of [Council Framework Decision 2002/475/JHA](#), respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;

(vi) child labour or other forms of trafficking in human beings as defined in Article 2 of [Directive 2011/36/EU of the European Parliament and of the Council](#);

(e) the economic operator has shown significant deficiencies in complying with main obligations in the performance of a contract financed by the budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an authorizing officer, OLAF or the Court of Auditors;

(f) it has been established by a final judgment or final administrative decision that the economic operator has committed an irregularity within the meaning of Article 1(2) of [Council Regulation \(EC, Euratom\) No 2988/95](#).

## **9. Selection criteria**

### **Criteria relating to technical and professional capacity:**

- Duration and variety of assignments in offshore safety (e.g. industry, national and international administrations)
- analytical competence in offshore safety
- organisational competence in dealing with complex legal and technical questions
- skills for drafting analytical documents and reports in English

Supporting evidence:

- CV and list of documents drafted in the context of former assignments (the candidate may delete confidential elements)
- Upon request, the tenderer must provide one document of at least 10 pages (e.g. report, study) in English that he/she has drafted and published or delivered to a client in the last two years. The tenderer may delete confidential elements in this document.

## **10. Conditions of remuneration and reimbursement of experts**

Experts shall be remunerated at a fixed price of 450 euros/day worked. The travel and subsistence expenses will be reimbursed under the conditions set out in the contract.

## **11. Ex-post transparency**

The name, the locality (region of origin), amount, and subject of the contract shall be published on the website of the contracting authority no later than 30 June of the year following contract award. The information shall be removed two years after the year of contract award.