



EUROPEAN COMMISSION
JOINT RESEARCH CENTRE

JRC.R. – Support Services (Brussels)
JRC.R.8 – Budget Execution

European Commission

Call for tenders JRC/IPR/2019/OP/3796

Lease, Rent, and Hire Purchase of Instrumentation for Telecommunications Research, Development, and Demonstration Projects

Open procedure

TENDER SPECIFICATIONS

Part 1: Administrative specifications

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1. SCOPE AND DESCRIPTION OF THE PROCUREMENT

1.1. Contracting authority: who is the buyer?

This call for tenders is launched and managed by the European Commission, referred to as the *Contracting authority* for the purposes of this call for tender, assisted by Joint Research Centre, its Directorate General.

1.2. Subject: what is this call for tenders about?

The subject of this call for tenders is Lease, Rent, and Hire Purchase of Instrumentation for Telecommunications Research, Development, and Demonstration Projects.

1.3. Lots: is this call for tenders divided into lots?

This call for tenders is not divided into lots.

1.4. Description: what do we want to buy through this call for tenders?

The supplies that are the subject of this call for tender, including any minimum requirements, are described in detail in the document *Tender Specifications – Part 2: Technical specifications*, hereafter referred to as *Technical specifications*.

1.5. Place of performance: where will the contract be performed?

The supplies will be delivered to the location(s) indicated under Heading II.2.3 of the contract notice, namely **the JRC-Ispira**.

1.6. Nature of the contract: how will the contract be implemented?

The procedure will result in the conclusion of a single framework contract.

A framework contract establishes a mechanism for future repetitive purchases by the *Contracting authority* to be awarded in the form of specific contracts. The signature of a framework contract does not impose an obligation on the *Contracting authority* to conclude specific contracts with a framework contractor.

The framework contract will be concluded with one contractor. Specific contracts shall be awarded on the basis of the terms laid down in the framework contract, refined or, in duly justified circumstances, supplemented to reflect the particular circumstances of the specific contract. The details are set out in Article I.4.3 of the Draft contract.

🔔 Tenderers need to take full account of the provisions of the Draft contract as the latter will define and govern the contractual relationship to be established between the *Contracting authority* and the successful tenderer. Special attention is to be paid to the provisions specifying the rights and obligations of the contractor, in particular those on payments, performance of the contract, confidentiality, and checks and audits.

1.7. Volume and value of the contract: how much do we plan to buy?

An indicative estimate of the volumes to be ordered over the whole duration of the framework contract is given in the document Annex I Part 1.2 Assessment of bids and scenario. These volumes are estimates only and there is no commitment as to the exact quantities to be ordered. The actual volumes will depend on the quantities which the *Contracting authority* will order through specific contracts. In any case the *framework contract ceiling*, i.e. the maximum amount to be spent under the framework contract shall not be exceeded.

The *framework contract ceiling* is indicated in Heading II.2.6 of the contract notice.

1.8. Duration of the contract: how long do we plan to use the contract?

The contract resulting from the award of this call for tenders will be concluded for at most 48 months. The details of the initial contract duration and possible renewals are set out in Article I.3 of the Draft contract.

1.9. Electronic exchange system: can exchanges under the contract be automated?

For all exchanges with the contractor during the implementation of the contract as well as for future possible subsequent proceedings for the purposes of EDES ([European Union's Early Detection and Exclusion System](#)) the *Contracting authority* may use an electronic exchange system meeting the requirements of Article 148 of [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#)¹. At the request of the *Contracting authority* the use of such a system shall become mandatory for the contractor(s) at no additional cost for the *Contracting authority*. Details on specifications, access, terms and conditions of use will be provided in advance.

2. GENERAL INFORMATION ON TENDERING

2.1. Legal basis: what are the rules?

This call for tenders is governed by the provisions of [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#) (the Financial Regulation)¹.

The *Contracting authority* has chosen to award the contract resulting from this call for tenders through an open procedure pursuant to Article 164(1) (a) of the Financial Regulation. In an open procedure any interested economic operator (any natural or legal person who offers to supply products, provide services or execute works) may submit a tender.

2.2. Rules on access to procurement: who may submit a tender?

Participation in this call for tenders is open on equal terms to all natural and legal persons coming within the scope of the [Treaties](#), as well as to international organisations.

It is also open to all natural and legal persons established in a third country which has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. Where the Agreement on Government Procurement² concluded within the World Trade Organisation applies, the participation to this call for tenders is open to all natural and legal persons established in the countries that have ratified this Agreement, on the conditions laid down therein.

The rules on access to procurement do not apply to subcontractors. Subcontracting may not be used with the intent to circumvent the rules on access to procurement.

To enable the *Contracting authority* to verify the access, each tenderer must indicate its country of establishment (and in case of joint tender – the country of establishment of each group member) and must present the supporting evidence normally acceptable under the law of that country/-ies. The same document(s) could be used to prove country/-ies of establishment and the delegation(s) of the authorisation to sign as described in **Section 4.3**.

✎ *For tenderers established in the United Kingdom:*

Please be aware that after the UK's withdrawal from the EU, the rules of access to EU procurement procedures of economic operators established in third countries will apply to tenderers from the UK depending on the terms of any Withdrawal Agreement. In case such

¹ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193 of 30.07.2018, p.1).

² https://www.wto.org/english/tratop_e/gp_gpa_e.htm.

access is not provided by legal provisions in force tenderers from the UK could be rejected from the procurement procedure.

2.3. Registration in the Participant Register: why register?

Any economic operator willing to submit a tender for this call for tenders must be registered in the [Participant Register](#) - an online register of organisations and natural persons participating in European Commission's calls for tenders or proposals (participants).

On registering each participant obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the Participant Register. A participant needs to register only once – the information provided can be further updated or re-used by the participant in other European Commission's calls for tenders or calls for proposals.

At any moment during the procurement procedure the Research Executive Agency Validation Services (hereafter *the EU Validation Services*) may contact the participant and ask for supporting documents on legal existence and status. The requests will be made through the register's messaging system to the e-mail address of the participant's contact person indicated in the register. It is the responsibility of the participant to provide a valid e-mail address and to check it regularly.

The documents that may be requested by *the EU Validation Services* are listed in the [EU Grants and Tenders Rules on Legal Entity Validation, LEAR appointment and Financial Capacity assessment](#).

👉 Please note that a request for supporting documents by the *EU Validation Services* in no way implies that the tenderer has been successful.

2.4. Ways to submit a tender: how can economic operators organise themselves to submit a tender?

Economic operators can submit a tender either as a sole tenderer or as a group of tenderers. In either case subcontracting is permitted.

In order to fulfil the selection criteria set out in **Section 3.2** the tenderer can rely on the capacities of subcontractors or other entities (not subcontractors).

The role of each entity involved in a tender (hereafter referred to as *involved entity*) must be clearly specified: sole tenderer, member of a group or Group leader, subcontractor or an entity on whose capacities the tenderer relies to fulfil the selection criteria³. This applies also where the *involved entities* belong to the same economic group.

³ Such an entity is not considered a subcontractor, see Section 2.4.3.

2.4.1. Joint tenders

A joint tender is a situation where a tender is submitted by a group (with or without legal form) of economic operators regardless of the link they have between them. The group as a whole is considered a tenderer⁴.

All members of the group assume joint and several liability towards the *Contracting authority* for the performance of the contract as a whole.

Group members must appoint a *Group leader* and a single point of contact authorised to act on their behalf in connection with the submission of the tender and all relevant questions, clarification requests, notifications, etc., that may be received during the evaluation, award and until the contract signature. The model power of attorney attached in **Annex 3** is to be used.

The joint tender must clearly indicate the role and tasks of each member and of the *Group leader* who will act as the *Contracting authority's* contact point for the contract's administrative or financial aspects and operational management. The *Group leader* will have full authority to bind the group and each of its members during contract execution. If the joint tender is successful, the *Contracting authority* shall sign the contract with the Group leader, authorised by the other members to sign the contract on their behalf via power of attorney drawn up in the model attached in **Annex 3**.

Changes in the composition of the group during the procurement procedure (after the submission deadline and before contract signature) shall lead to rejection of the tender except in case of a merger or takeover of a member of the group (universal succession), provided that the new entity has access to procurement (see **Section 2.2**) and is not in an exclusion situation, (see **Section 3.1**).

In any case the selection criteria must be still fulfilled by the group and the terms of the originally submitted tender may not be altered substantially, i.e. all the tasks assigned to the former entity must be taken over by the new entity member of the group, the change must not make the tender non-compliant with the Tender specifications, and the evaluation of award criteria of the originally submitted tender may not be modified.

2.4.2. Subcontracting

Subcontracting is the situation where the contractor enters into legal commitments with other economic operators which will perform part of the contract on its behalf. The contractor retains full liability towards the *Contracting authority* for performance of the contract as a whole.

The following shall not be considered subcontracting:

- a) Use of workers posted to the contractor by another company owned by the same group and established in a Member State (“intra-group posting” as defined by Article 1, 3,

⁴ References to *tenderer* or *tenderers* in this document shall be understood as covering both sole tenderers and groups of economic operators submitting a joint tender.

- (b) of [Directive 96/71/EC concerning the posting of workers in the framework of the provision of services](#)).
- b) Use of workers hired out to the contractor by a temporary employment undertaking or placement agency established in a Member State (“hiring out of workers” as defined by Article 1, 3, (c) of [Directive 96/71/EC concerning the posting of workers in the framework of the provision of services](#)).
 - c) Use of workers temporarily transferred to the contractor from an undertaking established outside the territory of a Member State and that belongs to the same group (“intra-corporate transfer” as defined by Article 3, (b) of [Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer](#)) .
 - d) Use of staff without employment contract (“self-employed persons working for the contractor”) to perform substantially the same tasks as the staff with employment contract (“employees”), without the tasks of the self-employed persons being particular well-defined parts of the contract.
 - e) Use of suppliers and/or transporters by the contractor, in order to perform the contract at the place of performance, unless the economic activities of the suppliers and/or the transporting services are within the subject of this call for tender (see **Section 1.4**).
 - f) Performance of part of the contract by members of an EEIG (European Economic Interest Grouping), when the EEIG is itself a contractor or a group member.

The persons mentioned in points a), b), c) and d) above will be considered as “personnel” of the contractor as defined in the contract.

All contractual tasks may be subcontracted unless the *Technical specifications* expressly reserve the execution of certain critical tasks to the sole tenderer itself, or in case of a joint tender, to a member of the group.

By filling in the form available in **Annex 4**, tenderers are required to give an indication of the proportion of the contract that they intend to subcontract, as well as to identify and describe briefly the envisaged contractual roles/tasks of subcontractors meeting any of these conditions (hereafter referred to as *identified subcontractors*):

- on whose capacities the tenderer relies upon to fulfil the selection criteria as described under **Section 3.2**;
- whose individual share of the contract, known at the time of submission, is **above 10%**.

Any such subcontractor must provide the tenderer with a commitment letter drawn up in the model attached in **Annex 5.1** and signed by its authorised representative.

Changes concerning subcontractors identified in the tender (withdrawal/replacement of a subcontractor, additional subcontracting) during the procurement procedure (after the submission deadline and before contract signature) require the prior written approval of the *Contracting authority* subject to the following verifications:

- any new subcontractor is not in an exclusion situation;
- the tenderer still fulfils the selection criteria and the new subcontractor fulfils the selection criteria applicable to it individually, if any;
- the terms of the originally submitted tender are not altered substantially, i.e. all the tasks assigned to the former subcontractor are taken over by another involved entity,

the change does not make the tender non-compliant with the Tender specifications, and the evaluation of award criteria of the originally submitted tender is not modified.

Subcontracting to subcontractors identified in a tender that was accepted by the *Contracting authority* and resulted in a signed contract, is considered authorised.

2.4.3. Entities on whose capacities the tenderer relies to fulfil the selection criteria

In order to fulfil the selection criteria a tenderer may also rely on the capacities of other entities, regardless of the legal nature of the links it has with them. It must in that case prove that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment letter in the model attached in **Annex 5.2**, signed by the authorised representative of such an entity, and the supporting evidence that those other entities have the respective resources.

If the contract is awarded to a tenderer intending to rely on another entity to meet the minimum levels of economic and financial capacity, the *Contracting authority* may require the entity to sign the contract or, alternatively, to provide a joint and several first-call financial guarantee for the performance of the contract.

With regard to technical and professional selection criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required (i.e. the latter will assume the role of subcontractors).

👉 Relying on the capacities of other entities is only necessary when the capacity of the tenderer is not sufficient to fulfil the required minimum levels of capacity. Abstract commitments that other entities will put resources at the disposal of the tenderer will be disregarded.

3. EVALUATION AND AWARD

The evaluation of the tenders that comply with the submission conditions will consist of the following elements:

- Check if the tenderer has access to procurement (see *Section 2.22*);
- Verification of administrative compliance (if the tender is drawn up in one of the official EU languages and signed by duly authorised representative(-s) of the tenderer);
- Verification of non-exclusion of tenderers on the basis of the exclusion criteria;
- Selection of tenderers on the basis of selection criteria;
- Verification of compliance with the minimum requirements defined in the Tender specifications;
- Evaluation of tenders on the basis of the award criteria.

The *Contracting authority* will evaluate the abovementioned elements in the order that it considers to be the most appropriate. If the evaluation of one or more elements demonstrates that there are grounds for rejection, the tender will be rejected and will not be subjected to further full evaluation. The unsuccessful tenderers will be informed of the ground for rejection without being given feedback on the non-assessed content of their tenders. Only tenderer(s) for whom the verification of all elements did not reveal grounds for rejection can be awarded the contract.

The evaluation will be based on the information and evidence contained in the tenders and, if applicable, on additional information and evidence provided at the request of the *Contracting authority* during the procedure. If any of the declarations or information provided proves to be false, the *Contracting authority* may impose administrative sanctions (exclusion or financial penalties) on the entity providing the false declarations/information.

For the purposes of the evaluation related to exclusion and selection criteria the *Contracting authority* may also refer to publicly available information, in particular evidence that it can access on a national database free of charge.

3.1. Exclusion criteria

The objective of the exclusion criteria is to assess whether the tenderer is in any of the exclusion situations listed in Article 136(1) of the Financial Regulation.

As evidence of non-exclusion each tenderer needs to submit with its tender a Declaration on Honour⁵ in the model available in the document Annex I Part 1.1 – Declaration on honour on

⁵ The European Single Procurement Document (ESPD) may not be used yet in European Commission's calls for tenders.

exclusion and selection criteria.⁶ The declaration must be signed by an authorised representative of the entity providing the declaration.

The initial verification of non-exclusion of tenderers will be done on the basis of the submitted declarations and consultation of the [European Union's Early Detection and Exclusion System](#). The documents mentioned as supporting evidence in the Declaration on Honour need to be provided whenever requested and where this is necessary to ensure the proper conduct of the procedure within a deadline given by the Contracting authority⁷.

Annex I specifies which of the *involved entities* participating in a tender need to provide the Declaration on Honour and, when requested by *the Contracting authority*, the supporting evidence.

Please note that a request for evidence in no way implies that the tenderer has been successful.

3.2. Selection criteria

The objective of the selection criteria is to assess whether the tenderer has the legal, regulatory, economic, financial, technical and professional capacity to perform the contract.

The selection criteria for this call for tenders, including the minimum levels of capacity, the basis for assessment and the evidence required, are specified in the following subsections.

Tenders submitted by tenderers not meeting the minimum levels of capacity will be rejected.

When submitting its tender each tenderer shall declare on honour that it fulfils the selection criteria for the call for tender. The model Declaration on Honour available in the document Annex I Part 1.1 – Declaration on honour on exclusion and selection criteria, shall be used.

The initial assessment of whether a tenderer fulfils the selection criteria will be done on the basis of the submitted declaration(s).

The subsections below specify which selection criteria evidence must be provided with the tender or may be requested later, at any time during the procurement procedure⁸. In any case,

⁶ Unless the same declaration has already been submitted for the purposes of another award procedure of the European Commission, the situation has not changed, and the time elapsed since the issuing date of the declaration does not exceed one year.

⁷ The obligation to provide the supporting evidence will be waived in the following situations:

- if the same documents have already been provided in a previous award procedure of the European Commission, have been issued no more than one year before the date of their request by the *Contracting authority* and are still valid at that date;
- if such evidence can be accessed by the *Contracting Authority* on a national database free of charge, in which case the economic operator shall provide *the Contracting authority* with the internet address of the database and, if needed, the necessary identification data to retrieve the document;
- if there is a material impossibility to provide such evidence.

⁸ The obligation to provide the supporting evidence will be waived in the following situations:

to the extent that there is no ground for a waiver, the evidence must be provided, upon request and within a deadline given by the Contracting authority. The evidence must be provided in accordance with the applicable basis for assessment of each criterion: in case of a consolidated assessment – only by the *involved entities* who contribute to the fulfilment of the criterion, and in case of individual assessment – by each *involved entity* to whom the criterion applies individually.

3.2.1. Legal and regulatory capacity

Tenderers must prove that they have legal capacity to perform the contract and the regulatory capacity to pursue the professional activity necessary to carry out the work subject to this call for tenders.

The legal and regulatory capacity shall be proven by the evidence listed below:

- Proof of enrolment in a relevant trade or professional register

3.2.2. Economic and financial capacity

Tenderers must comply with the following selection criteria in order to prove that they have the necessary economic and financial capacity to perform the contract.

👉 The evidence of economic and financial capacity does need not be provided with the tender but may be requested by the *Contracting authority* at any time during the procedure. **Please note that a request for evidence in no way implies that the tenderer has been successful.**

Criterion F1	
Minimum level of capacity	Average yearly turnover of the last two financial years above EUR 600,000.00.
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all <i>involved entities</i> will be carried out.
Evidence	Copy of the profit and loss accounts and balance sheet for the last two years for which accounts have been closed from each concerned <i>involved entity</i> , or, failing that, appropriate statements from banks. The most recent year must have been closed within the last 18 months.

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- if the same documents have already been provided in a previous award procedure of the European Commission, have been issued no more than one year before the date of their request by the *Contracting authority* and are still valid at that date;
 - if such evidence can be accessed by the *Contracting Authority* on a national database free of charge, in which case the economic operator shall provide the *Contracting authority* with the internet address of the database and, if needed, the necessary identification data to retrieve the document.

Criterion F2	
Minimum level of capacity	Ownership of an inventory of RF and microwave test equipment whose value exceeds EUR 100,000,000.00.
Basis for assessment	The criteria apply to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out.
Evidence	Copy of the profit and loss accounts and balance sheet for the last two years for which accounts have been closed from each concerned involved entity, or, failing that, appropriate statements from banks. The most recent year must have been closed within the last 18 months

3.2.3. Technical and professional capacity

Tenderers must comply with the following selection criteria in order to prove that they have the necessary technical and professional capacity to perform the contract.

👉 The evidence of technical and professional capacity does need not be provided with the tender but may be requested by the *Contracting authority* at any time during the procedure. **Please note that a request for evidence in no way implies that the tenderer has been successful.**

Criterion T1	
The tenderer must prove experience in the field of test equipment leasing to customers operating in the aerospace, automotive, or telecommunications industries.	
Minimum level of capacity	At least three similar contracts/projects completed in the last three years preceding the tender submission deadline.
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
Evidence	<p>A list of contracts/projects meeting the minimum level of capacity. The list shall include details of their start and end date, total contract/project amount and scope, role and amount invoiced. In case of contracts/projects still on-going only the portion completed during the reference period will be taken into consideration.</p> <p>As supporting documents for each project reference the Contracting authority may request an evidence of the contracts/projects performed, like for example contracts signed, invoices, statements issued by the clients and may take contact with them.</p>

Criterion T2	
The tenderer must prove experience in the field of test equipment maintenance and calibration.	
Minimum level of capacity	Identify at least one ISO 17025 accredited calibration service used to provide traceable calibration certificates for leased equipment in the last three years preceding the tender submission deadline.
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all involved entities.
Evidence	Copy of the Scope of Accreditation of the identified calibration service(s).

☞ Involved entities must not be subject to conflicting interests which may negatively affect the contract performance. Where the *Contracting authority* has established such conflicting interests, it may conclude that the tenderer or an involved entity does not possess the required professional capacity to perform the contract to an appropriate quality standard.

The presence of conflicting interests shall be examined during the evaluation phase based on the statements made through the Declarations on Honour and, where applicable, the commitment letters (*Annex 5.1 and Annex 5.2*).]

3.3. Compliance with the minimum requirements of the Tender specifications

By submitting a tender, a tenderer commits to perform the contract in full compliance with the terms and conditions of the procurement documents for this call for tender. Particular attention is drawn to the minimum requirements specified in the Technical specifications document (Annex I - Part 2 - Technical Specifications) and to the fact that tenders must comply with applicable data protection, environmental, social and labour law obligations established by Union law, national legislation, collective agreements or the international environmental, social and labour conventions listed in Annex X to Directive 2014/24/EU.

The minimum requirements shall be observed throughout the entire duration of the contract. Compliance with these requirements is mandatory and cannot be subject to any assumptions, limitations, conditions, or reservations on the part of a tenderer.

👉 Tenders that are not compliant with the applicable minimum requirements shall be rejected.

3.4. Award criteria

The objective of the award criteria is to evaluate the tenders with a view to choosing the most economically advantageous tender.

Tenders will be evaluated on the basis of the best price-quality ratio by applying the criteria set out in the document Annex I Part 1.2 Assessment of bids and scenario.

The price must include all charges (all-inclusive price).

3.5. Award (ranking of tenders)

Tenders shall be ranked according to the best price-quality ratio in accordance with the formula set out in the document Annex I Part 1.2 Assessment of bids and scenario.

The contract shall be awarded to the tender ranked first, which complies with the Tender Specifications and is submitted by a tenderer having access to procurement, not in an exclusion situation and fulfilling with the selection criteria.

4. FORM AND CONTENT OF THE TENDER

4.1. Form of the tender: how to submit the tender?

Tenders are to be submitted via the e-Submission application according to the instructions laid down in the Invitation to tender letter and the [e-Submission Quick Guide](#).

👉 Make sure you prepare and submit your electronic tender in e-Submission early enough to ensure it is received within the deadline specified under Heading IV.2.2 of the contract notice. A tender received after this deadline will be rejected.

4.2. Content of the tender: what documents to submit with the tender?

The documents to be submitted with the tender in e-Submission are listed in *Annex I*.

The following requirements apply to the technical and financial offer (to be uploaded as Technical tender and Financial tender in e-Submission):

- *Technical offer*

1) The tenderers have to provide confirmation that they are able to perform the tasks required and described in the technical specifications by **filling in the tables as specified in the document Annex I - Part 2 - Technical Specifications**.

2) The tenderers have to **fill in the tables as specified in the document Annex I Part 1.2 Assessment of bids and scenario**.

Tenders deviating from the minimum requirements or not covering all the requirements may be rejected on the basis of non-compliance and not evaluated further.

- *Financial offer*

A complete financial offer including a breakdown of the price as detailed at document Annex I Part 1.2 Assessment of bids and scenario, needs to be uploaded.

It is the responsibility of each tenderer to ensure that the total amount of the tender inserted in the relevant field of the e-Submission application corresponds to the amount indicated in the uploaded financial offer. In case of discrepancies, only the amount indicated in the financial offer will be taken into account.

The financial offer shall be:

- expressed in euros. 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 bear the risks or the benefits deriving from any variation.
- quoted free of all duties, taxes and other charges, i.e. also free of VAT. The tenderer may indicate the amount of VAT but it must be shown separately.
- all-inclusive (covering all requirements of the Tender Specifications).

☞ The European Union Institutions are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union of 8 April 1965 annexed to the Treaty on the Functioning of the European Union. Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption.

For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT must be shown separately. In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Union is exempt from VAT.

4.3. Signature policy: how can documents be signed?

Where a document needs to be signed, the signature must be either hand-written, a qualified electronic signature or an advanced electronic signature based on a qualified certificate as defined in [Regulation \(EU\) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market \(the eIDAS Regulation\)](#).

For hand-written signatures see Section 1 of the Invitation to tender.

For electronic signatures see: <https://ec.europa.eu/docsroom/documents/32342>

All documents must be signed by the signatories (when they are individuals) or by their duly authorised representatives.

For the following documents, when signed by representatives, tenderers must provide evidence for the delegation of the authorisation to sign:

- The Tender report;
- The Declaration on Honour of the tenderer (in case of joint tender, the Declarations on Honour of each group member; in case of subcontracting, the Declarations on Honour of each identified subcontractor);
- (If applicable – in the case of joint tender) the power(s) of attorney drawn up using the model attached in **Annex 3**).

The delegation of the authorisation to sign on behalf of the signatories (including, in the case of proxy(-ies), the chain of authorisations) must be evidenced by appropriate written evidence (copy of the notice of appointment of the persons authorised to represent the legal entity in signing contracts (together or alone), or a copy of the publication of such appointment if the legislation which applies to signatory requires such publication or a power of attorney). A document that the Contracting authority can access on a national database free of charge does not need to be submitted if the Contracting authority is provided with the exact internet link and, if applicable, the necessary identification data to retrieve the document.

4.4. Confidentiality of tenders: what information and under what conditions can be disclosed?

Once the *Contracting authority* has opened a tender, it becomes its property and shall be treated confidentially, subject to the following:

- For the purposes of evaluating the tender and, if applicable, implementing the contract, performing audits, benchmarking, etc., the *Contracting authority* is entitled to make available (any part of) the tender to its staff and the staff of other Union institutions, agencies and bodies, as well to other persons and entities working for the *Contracting authority* or cooperating with it, including contractors or subcontractors and their staff provided that they are bound by an obligation of confidentiality.
- After the signature of the award decision tenderers whose tenders were received in accordance with the submission modalities, who have access to procurement, who are not found to be in an exclusion situation referred to in Article 136(1) of the FR, who are not rejected under Article 141 of the FR, whose tenders are not found to be incompliant with the procurement documents, and who make a request in writing will be notified of the name of the tenderer to whom the contract is awarded, the characteristics and relative advantages of the successful tender and the price of the offer and/or contract value. The *Contracting authority* may decide to withhold certain information that it assesses as being confidential, in particular where its release would prejudice the legitimate commercial interests of economic operators or might distort fair competition between them. Such information may include, without being limited to, confidential aspects of tenders such as unit prices included in the financial offer, technical or trade secrets⁹.
- The *Contracting authority* may disclose the submitted tender in the context of a request for public access to documents, or in other cases where the applicable law requires its disclosure. Unless there is an overriding public interest in disclosure¹⁰, the *Contracting authority* may refuse to provide full access to the submitted tender, redacting the parts (if any) that contain confidential information, the disclosure of which would undermine the protection of commercial interests of the tenderer, including intellectual property.

☞ The *Contracting authority* will disregard general statements that the whole tender or substantial parts of it contain confidential information. Tenderers need to mark clearly the information they consider confidential and explain why it may not be disclosed. The *Contracting authority* reserves the right to make its own assessment of the confidential nature of any information contained in the tender.

⁹ For the definition of trade secrets please see Article 2 (1) of DIRECTIVE (EU) 2016/943 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure.

¹⁰ See Article 4 (2) of the REGULATION (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

APPENDIX: LIST OF REFERENCES

<i>Award criteria</i>	See Section 3.4
<i>Contracting authority</i>	See Section 1.1
<i>Entities on whose capacities the tenderer relies to fulfil the selection criteria</i>	See Section 2.4.3
<i>EU Validation services</i>	See Section 2.3 EU Grants and Tenders Rules on Legal Entity Validation, LEAR appointment and Financial Capacity assessment
<i>Exclusion criteria</i>	See Section 3.1
<i>Financial Regulation</i>	Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union
<i>Framework contract</i>	See Section 1.6
<i>Framework contract ceiling</i>	See Section 1.6
<i>Group leader</i>	See Section 2.4.1
<i>Identified subcontractors</i>	See Section 2.4.2
<i>Involved entities</i>	See Section 2.4
<i>Joint tender</i>	See Section 2.4.1
<i>Participant Register</i>	See Section 2.3 https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/participant-register
<i>Selection criteria</i>	See Section 3.2
<i>Sole tenderer</i>	See Section 2.4
<i>Subcontracting/subcontractor</i>	See Section 2.4.2
<i>Treaties</i>	The EU Treaties: https://europa.eu/european-union/law/treaties_en

ANNEXES

Annex 1. List of documents to be submitted with the tender or during the procedure

The purpose of this table is to help tenderers prepare their tenders and set out clearly what documents must be submitted, by which involved entities, when (with the tender or later on request of the Contracting authority) and where (e-Submission, Participant register, etc.).

If you request also other evidence of economic & financial or technical & professional capacity, insert a new line for each criterion, designate it clearly (e.g. Evidence of technical and professional capacity T2), specify who must provide the evidence and when.

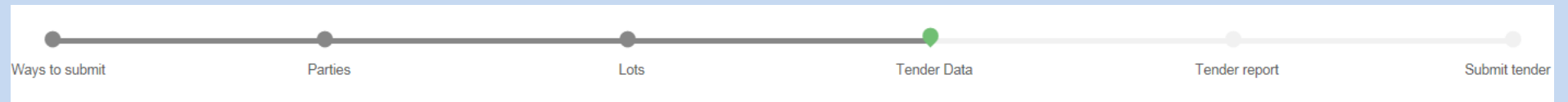
Description	Sole tenderer	Joint tender		Identified Subcontractor	Entity on whose capacity is being relied	When and where to submit the document?	Instructions for uploading in eSubmission (if applicable)	
		Group leader	Member of the group				How to name the file?	Where to upload?
1. Identification and information about the tenderer.								
<i>eSubmission view</i>								
Declaration on Honour on Exclusion and Selection Criteria (see Section 3.1) model in document Annex I Part 1.1 – Declaration on honour on exclusion and selection criteria	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	With the tender in e-Submission	'Declaration on Honour'	With the concerned entity under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Declaration on Honour'.
Evidence that the person signing the documents is	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			With the tender	'Authorisation to sign' documents'.	With the concerned entity under 'Parties'

an authorised representative of the entity ¹¹						in e-Submission		→'Identification tenderer' →'Attachments'→'Other documents'.
Power of attorney (see Section 2.4.1) model in Annex 3. Power of attorney			<input checked="" type="checkbox"/>			With the tender in e-Submission	'Power of attorney'	In the Group leader's section under 'Parties' →'Identification tenderer' →'Attachments'→'Other documents'.
Commitment letter (see Section 2.4.2 and 2.4.3)				<input checked="" type="checkbox"/> (model in Annex 5.1)	<input checked="" type="checkbox"/> (model in Annex 5.2)	With the tender in e-Submission	'Commitment letter'	With the concerned entity under 'Parties' →'Identification tenderer' →'Attachments'→'Other documents'.
Evidence of non-exclusion (see Section 3.1)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Only upon request by <i>the Contracting authority</i> At any time during the procedure	n.a.	n.a.
Evidence of legal existence and status	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			Only upon request by <i>the EU Validation services</i> At any time during the procedure In the Participant Register	n.a.	n.a.

¹¹ A document that the Contracting authority can access on a national database free of charge does not need to be submitted if the Contracting authority is provided with the exact internet link and, if applicable, the necessary identification data to retrieve the document.

Evidence of legal capacity (see Section 3.2.1)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Only upon request by <i>the Contracting authority</i> At any time during the procedure		n.a.
Evidence of economic and financial capacity F1 (see Section 3.2.2)	The documents must be provided only by the <i>involved entities</i> who contribute to reaching the minimum capacity level for criterion F1					Only upon request by <i>the Contracting authority</i> At any time during the procedure	n.a.	With the Group leader or the sole tenderer under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Economic and financial capacity'.
Evidence of economic and financial capacity F2 (see Section 3.2.2)	The documents must be provided only by the <i>involved entities</i> who contribute to reaching the minimum capacity level for criterion F2					Only upon request by <i>the Contracting authority</i> At any time during the procedure By e-mail or letter	n.a.	With the Group leader or the sole tenderer under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Economic and financial capacity'.
Evidence of technical and professional capacity T1 (see Section 3.2.3)	The documents must be provided only by the <i>involved entities</i> who contribute to reaching the minimum capacity level for criterion T1					Only upon request by <i>the Contracting authority</i> At any time during the procedure	n.a.	With the Group leader or the sole tenderer under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Technical and professional capacity'.
Evidence of technical and professional capacity T2 (see Section 3.2.3)	The documents must be provided only by the <i>involved entities</i> who contribute to reaching the minimum capacity level for criterion T2					Only upon request by <i>the Contracting authority</i> At any time during the procedure	n.a.	With the Group leader or the sole tenderer under 'Parties' → 'Identification tenderer' → 'Attachments' → 'Technical and professional capacity'.

2. Tender data.

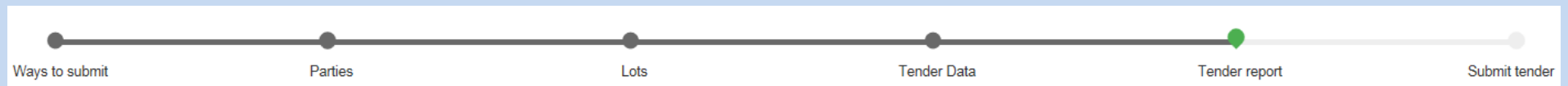


Failure to upload the following documents in eSubmission will lead to rejection of the tender.

Technical offer (see Section 4.2)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				With the tender in e-Submission	'Technical tender'	Under section 'Tender Data' → 'Technical Tender'
Financial offer (see Section 4.2)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				With the tender in e-Submission	'Financial tender'	Under 'Tender Data' → 'Financial Tender'

3. Tender report.

Once all information and documents have been encoded and uploaded in the e-Submission application and you consider that the tender is complete, the application will require you to download the Tender Report generated by the e-Submission application. It will have to be signed (hand signature or electronic signature) and uploaded, as explained in the [eSubmission Quick Guide](#).



Tender report	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				With the tender in e-Submission	'Tender report'	Under section 'Tender report'
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Annex 2. Declaration on Honour on exclusion and selection criteria

Please see the document Annex I Part 1.1 – Declaration on honour on exclusion and selection criteria.

Annex 3. Power of attorney

Call for tenders **XXX/XX/XX/20XY/XYZ** -

[TITLE OF THE PROCEDURE]

POWER OF ATTORNEY

The undersigned:

– Signatory (Name, Function, Company, Registered address, VAT Number)

having the legal capacity required to act on behalf of his/her company,

HEREBY AGREES TO THE FOLLOWING:

- 1) To submit a joint tender as a member of a group of tenderers (the Group), constituted by Company 1, Company 2, Company N (Group members), and led by Company 1 (Group leader), in accordance with the conditions specified in the Tender specifications and the terms specified in the tender to which this Power of attorney is attached.
- 2) If the Contracting authority awards the contract resulting from this call for tenders to the *Group* on the basis of the joint tender to which this power of attorney is attached, all *Group members* shall be considered parties to the contract in accordance with the following conditions:
 - (a) All *Group members* shall be jointly and severally liable towards the Contracting authority for the performance of the contract.
 - (b) All *Group members* shall comply with the terms and conditions of the contract and ensure the proper delivery of their respective share of the services and/or supplies subject to the contract.
- 3) Payments by the Contracting authority related to the services and/or supplies subject to the Contract shall be made through the bank account of the *Group leader*: **[Provide details on bank, address, account number]**.
- 4) The *Group members* grant to the *Group leader* all the necessary powers to act on their behalf in the submission of the tender and the conclusion of the contract, including:
 - (a) The *Group leader* shall submit the tender on behalf of all *Group members* and indicate in the "Tender Contact Info" section in e-Submission the name and e-mail address of an individual - single point of contact authorised to communicate officially with the Contracting authority in connection with the submitted tender on behalf of all *Group members*, including in connection with all relevant questions, clarification requests, notifications, etc., that may be received during the evaluation, award and until the contract signature.
 - (b) The *Group leader* shall sign any contractual documents — including the contract, and amendments thereto — and issue any invoices related to the performance of the contract on behalf of all *Group members*.
 - (c) The *Group leader* shall act as a single contact point with the Contracting authority in the

delivery of the services and/or supplies subject to the contract. It shall co-ordinate the delivery of the services and/or supplies by the *Group* to the Contracting authority, and shall see to a proper administration of the contract.

Any modification to the present Power of attorney shall be subject to the Contracting authority's express approval. This Power of attorney shall expire when all the contractual obligations of the *Group* have ceased to exist. The parties cannot terminate it before that date without the Contracting authority's consent.

Place and date:

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

Annex 4. List of identified subcontractors

Identification details	Roles/tasks during contract execution	Proportion of subcontracting (% of contract volume)
[Full official name Registered address Statutory registration number VAT registration number]		
[Full official name Registered address Statutory registration number VAT registration number]		
[REPEAT AS MANY TIMES AS THE NUMBER OF IDENTIFIED SUBCONTRACTORS]		
Other subcontractors that do not need to be identified under Section 2.4.2		
	TOTAL % of subcontracting	0,00%

Annex 5.1. Commitment letter by an identified subcontractor

[Letterhead, if any]

EUROPEAN COMMISSION

Call for tenders Ref. [reference number]

Attn:

[Insert date]

Commitment letter by identified subcontractor

I, the undersigned,

Name:

Function:

Company:

Registered address:

VAT Number:

having the legal capacity required to act on behalf of the company [insert name of the entity] hereby confirm that our company agrees to participate as subcontractor in the offer of [insert name of the tenderer] for the Call for Tenders [insert reference number] – [insert title of procedure]

In the event that the tender of the aforementioned tenderer is successful, [insert name of the subcontractor] commits itself to make available the resources necessary for performance of the contract as a subcontractor and to carry out the services that will be subcontracted to it in compliance with the terms of the contract. It further declares that it is not subject to conflicting interests which may negatively affect the contract performance and that it accepts the general conditions attached to the Tender Specifications for the above call for tender, in particular the contractual provisions related to checks and audits.

Done at:

Name:

Position:

Signature:

Annex 5.2. Commitment letter by an entity on whose capacities is being relied

[Letterhead, if any]

EUROPEAN COMMISSION

Call for tenders Ref. [reference number]

Attn:

[Insert date]

Commitment letter by an entity on whose capacity is being relied

I, the undersigned,

Name:

Function:

Company:

Registered address:

VAT Number:

having the legal capacity required to act on behalf of the company [insert name of the entity] hereby confirm that our company **authorises the** [insert name of the tenderer] **to rely on its financial and economic capacity in order to meet the minimum levels** required for the Call for Tenders [insert reference number] – [insert title of procedure].

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

Done at:

Name:

Position:

Signature: