

Tender Specifications and Monitoring

Tender No VT/2010/035

1. TITLE OF THE CONTRACT

Organisation and coordination of a Network on the co-ordination of social security schemes within the European Union.

2. BACKGROUND

In the interest of free movement of persons, national social security schemes, pursuant to Article 48 Treaty on the functioning of the European Union (TFEU), are co-ordinated by the EU coordinating instruments.

The coordination of social security schemes is currently ensured by Regulation (EC) No. 1408/71¹ of 14 June 1971 and its implementing Regulation (EC) No. 574/72². By the scope of Regulation (EC) No 859/2003³ of 14 May 2003, these regulations also apply to nationals of States which are not part of the European Union when such a person resides legally within the European Union. After 2004 and 2007 enlargements, the legal situation has become more complex with 27 Member States and transitional measures in place. The EU regulatory framework currently applies to 31 different national social security systems of EEA countries (by means of EEA agreement) and Switzerland (on the basis of EU-Switzerland agreement on free movement of persons).

On 29 April 2004 the European Parliament and the Council agreed on a complete review of the coordination system by adopting Regulation (EC) No. 883/2004⁴, which shall apply from the date of entry into force of the implementing Regulation. On July 27 2009, the Council and European Parliament reached an agreement on Regulation (EC) No. 987/2009⁵ for implementing Regulation (EC) No. 883/2004 on the coordination of social security systems. This agreement concluded over a decade of negotiations on the new modernised EU social security coordination rules. The agreement also started the countdown to 1 May 2010, date of the entry into force of this legislative package (Regulation (EC) No. 883/2004, as amended by Regulation (EC) No. 988/2009⁶, and implemented by Regulation (EC) No. 987/2009). Based on the same fundamental principles which have been working for the past 50 years, the modernised coordination rules focus on making the system work more efficiently and on better information for citizens.

The Commission's proposal (COM(2007)439) aimed at extending the provisions of Regulation (EC) No. 883/2004 and its implementing Regulation to third country nationals who are not yet covered by these provisions solely on the ground of their nationality, did not achieve agreement within the Council in 2009. Discussion of the proposal will continue in 2010. For the time being, the Regulations (EC) No. 1408/71 and (EC) No. 574/72 will therefore apply for third country nationals legally residing in the EU. Before new agreements on application of the Regulation (EC) No. 883/2004 are concluded with EFTA countries, the Regulations (EC) No. 1408/71 will also continue to apply to them.

¹ Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ No L 28 of 30.1.1997, p. 1).

² Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (OJ No L 28 of 30.1.1997, p. 102).

³ Regulation (EC) No 859/2003 of the Council of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality. OJ No L124 of 20.5.2003, p. 1.

⁴ Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems. OJ No L166 of 30.4.2004, p. 1.

⁵ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems.

⁶ Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes.

Other legal instruments are related to the co-ordination system such as international agreements concluded by the EU. The EU social security coordination is also influenced by certain aspects of the EU law in the field of internal market.

The objective of EU social security co-ordination is to ensure that persons moving within the European Union do not suffer any loss of social security rights. This objective can only be achieved if the EU co-ordination provisions are well adjusted and in coherence with the economic and social developments in the national social security legislations it aims to co-ordinate. An independent analyses carried by experts in the field of social security coordination will better position the Commission to take decisions about the appropriateness to propose legislation, which would adapt the EU rules to nowadays realities and the changing needs of the EU migrant citizens.

The implementation of the EU co-ordination provisions has in the first place to be guaranteed at national level. In the Member States and EFTA this involves public authorities, competent institutions, social partners, judges, representatives of non-governmental organisations (NGO) and other experts. They need to take decisions or give advice in numerous cases submitted to them.

To follow the implementation of the Regulations on the coordination of social security schemes at national level the Commission needs specialised and technical information, which is different from general social security information. It means monitoring of application of numerous, detailed and complicated provisions laid down in the Regulations, as interpreted by the Court of Justice of the European Union.⁷ Until recently, the Commission depended mainly on individual complaints, petitions and written or oral parliamentary questions as basis for investigations.

The field of EU social security coordination may be experienced as complex and difficult to interpret by national authorities and institutions, national courts and the European Union. The implementation of the EU coordination provisions have generated a substantial amount of jurisprudence linked to the free movement of persons and social policy. Especially in view of the entry into force of Regulations 883/2004 and 987/2009, and during the period of adjustment for national authorities, more efforts will have to be generated to ensure the correct implementation of the EU co-ordination provisions.

There is a clear need for strengthening the expertise of the various actors involved as well as for national and EU-wide networking. The training and contacts at national level could provide the opportunity and to serve as a source of information for reporting to the Commission on problems of implementation met at national level.

The network of independent experts in the field of European social security law was first formed in 2001. The creation of the network was welcomed in broad circles because of its role of strengthening the expertise of all actors involved and contributing to the Commission's objective to achieve better regulation. The tasks of the network have developed based on the needs of the Commission. The tasks performed have considerably helped the Commission to gather information on the different national legislation and case law. They have also enhanced the quality of the Commission's task of monitoring of the Member States' compliance with the EU law.

The Commission is therefore planning to rely again on a network of independent experts taking into account the previous experience. The Network will be asked to provide a constant supply of accurate information to the Commission, particularly with regard to compliance with EU law by the national bodies responsible for legislation and its application and the relevant national jurisprudence, as well as to promote the knowledge and information on social security coordination in the EU.

The increased obligation of the Commission to carry out in-depth impact assessment for all new legislative proposals will require gathering information of socioeconomic nature. The input of experts will be used for this type of Commission's work. Finally, the Network will be asked to carry out legal analysis to help the Commission achieve its goal for better regulation and signal where the EU co-ordination rules need to be adapted to economic and social developments.

⁷ More than 10 % of all judgments of the Court delivered in the framework of preliminary proceedings concerns the Regulations on the coordination of social security schemes.

3. SUBJECT OF THE CONTRACT

I. Expertise in social security coordination: Creation of the Network of experts in the field of social security coordination. The function of this Network will be to monitor developments in legislation, application and national courts' practice of EU law on social security and to report to the Commission on problems of implementation of the EU co-ordination rules on social security, mainly through the legal report as well as through responding to other requests of the Commission for information or strategic analysis in relation to the application of EU law on social security coordination. Another task will involve contribution to impact assessment and collection and analysis of statistics on the functioning of the coordination system. The experts will be also asked to participate in the specialised seminars and maintain and keep up-to-date the legal databases published on the website of the Network.

II. Information and training: Organisation of the specialised seminars and of the annual conference of the Network, maintenance of the contacts database of the participants of the seminars, maintenance and further developments of the website of the Network.

The tasks are divided into two lots and bidders may bid for one or two lots. For each lot a separate bid must be submitted.

The activities will be carried out under the direct supervision and responsibility of Unit E/3 of the Directorate General Employment, Social Affairs and Equal Opportunities.

4. PARTICIPATION

Please note that:

The competition is open to any physical person or legal entity coming within the scope of the Treaties and any other physical person or legal entity from a third country which has concluded with the Union a specific agreement in the area of public contracts, under the conditions provided for in that agreement.

Where the Multilateral Agreement on Public Contracts concluded within the framework of the WTO applies, the contracts are also open to nationals of States that have ratified this Agreement, under the conditions provided for therein. It should be noted that research and development services, which come under category 8 of Annex II A of Directive 2004/18/CE, are not covered by this Agreement.

5. TASKS TO BE CARRIED OUT BY THE CONTRACTOR

5.1. Lot 1 –Expertise in social security coordination (Max. 420.000 €/year)

Management and coordination of the Network

Creation of network of social security experts

The Contractor shall propose a team of relevant experts on social security issues. This list shall include a **minimum** of 15 experts specializing in the field of application of article 48 TFEU, EU regulatory framework on social security coordination.

The Network needs to be composed in such a way that it can map the situation and provide expertise on social security legislation in **all Member States**⁸. The network must have a capacity to provide in-depth legal analysis, to contribute to mapping of the socioeconomic impacts of the EU social security legislation in the Member States and to the collection and analysis of statistics on the functioning of the coordination system.

⁸ For the purpose of this contract, the Member States mean EEA countries and Switzerland.

The Contractor shall select one or more persons with sufficient statistical expertise, who may stand outside the Network, to provide the necessary technical expertise for task 5 of Lot 1.

For more details about the professional qualifications required see point 12 of the tender specifications.

Administrative and financial management

The contracts with the experts of the Network shall be concluded by and on the responsibility of the Contractor, who will be responsible for their administrative and financial management. These contracts must give precise details of the tasks to be accomplished.

If, during the contract period, an enlargement of the EU takes place and consequently new Member States participate in this Network, an extension of the contract will be made by negotiated procedure according to Article 126(1)(f) of Commission Regulation No. 2342/2002 (EC, Euratom) laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No. 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.⁹

The Coordinator

The function of the Coordinator shall be established. The Coordinator will ensure monitoring, coordination and all necessary back-up for the Network. In particular, the Coordinator will be responsible for close monitoring of the experts' outputs through regular and intensive contact. The Coordinator will assist the experts in gathering data and complementary information on developments in the field of social security coordination. The Coordinator may be one of the experts of the Network.

The Coordinator will be responsible for the overall quality control of the output of the Network in order to ensure that the Commission is provided with accurate, up-to-date and relevant information of the highest quality.

Task 1: Reporting

The Commission has to fulfil its role as a guardian of the Treaty and guarantee that EU law is correctly implemented in all Member states. One of the main tasks of the Contractor will be to dispose of a picture, based on contributions by the Network experts, of how the detailed EU rules on social security coordination have actually been implemented in all the Member states.

To this end, the Contractor shall produce during the contractual year **either a general legal report** ("European Report") **or a thematic legal report**. The final decision about the character of the report shall be taken within 6 weeks from the signature of the contract by both parties, taking into account the suggestions of the Contractor and the needs of the Commission.

A) **The European report** shall take stock of the problems and issues arising in the Member States with regard to the implementation of the Regulations on social security coordination. The report shall focus on actual issues related to operational implementation of the Regulations. Assessments and observations of the Network will be based on the research work of the experts, national case law, contacts with national administrations and other sources.

The European report shall present the general situation at the EU level, drawing attention to actual cross-cutting issues. The report may suggest legal or other solutions for a particular issue, or suggest topics for a deeper analysis or further policy action. The European report shall also shortly describe specific situation in each Member State, putting emphasis on the actual issues.

B) **The thematic report** on agreed topic should also be based on contributions of national experts, but should focus especially on a synopsis, highlighting trends and drawing conclusions.

European or thematic report will amount to **maximum** 100 pages.

⁹ Official Journal L 357 of 31/12/2002

The reports shall follow the content, format and guidelines developed in close consultation with the Commission. **The bidders are asked to provide suggestions on format and content of the reports in their bid.**

The reports shall be submitted to the Commission in English. The draft, as well as an executive summary should be submitted on the tenth month of the contractual year. The final version, which shall include and reflect comments made by the Commission, shall be prepared at the end of the 12-calendar month contract's period as well as paper versions (2 copies).

The reports shall be prepared in electronic form (PDF format + word format). The Contractor shall carry out the following tasks: linguistic checking, editing, graphic design and lay-out of the reports in order to ensure a harmonised and clear set of reports. The final version of the reports shall be published on the Network website.

Task 2: Providing analytical support to the Commission

The Network must be able to meet the needs of providing the analytical support to the Commission in relation to the application of the EU law on social security coordination. To do so, the Contractor will be required to:

- a) **Provide accurate concrete responses to punctual requests for information by the Commission**, concerning country-specific and/or EU-wide developments. This will involve presenting a short written reply (approx. 3 pages) to the Commission within a short deadline (ten working days). At least 10 working days per year for one national expert should be reserved for this work.
- b) **Carrying out an ad hoc study or contributing to the impact assessment**. This work will involve a preparation of an EU-wide comparative study or contribution to the impact assessment, including providing information on the socioeconomic impacts of the EU social security legislation in the Member States. The output shall have a maximum of 50 pages and be delivered within five calendar months from the request. One such request can be asked per year from the Contractor.

Depending on the actual needs of the Commission, the deliverables under task 2 (Lot 1) shall be re-assessed upon the preparation of the annual work programme of the Network.

The bidders are asked to present how the request/reply mechanism could be organised and the degree of flexibility of their working methods in their bid.

Task 3: Legal data bases

The Contractor shall maintain and keep up to date legal **data bases** established under a previous Commission project.

- 1) The **resources data base** contains the legal text of Regulations (EC) 1408/71 and 574/72 and new Regulations (EC) 883/2004 and 987/2009 as well as related case-law and Decisions of the Administrative Commission. It also contains other documentation relating to EU social security coordination, such as the most interesting studies, reports and articles published during the year(s) of reference, indicating the name, source and the author (national bibliography).

The case-law shall contain both relevant recent cases of the Court of Justice of the European Union and a selection of historical “leading cases”; as well as national case-law. The case-law shall be presented in by articles of the Regulations and key words.

- 2) Data base of **key words** relevant to the main concepts of the regulatory framework on the social security coordination, together with related practical examples or case studies related to those main concepts, and replies.

The databases shall be part of the Network website (see Lot 2 - Task 2). The Commission will provide all necessary functional and technical specifications which shall be respected for the maintenance and updating of those databases.

The databases remain the property of the Commission. At the end of the contract, the Contractor will provide the Commission with all appropriate functional and technical specifications required for a satisfactory handover of the databases.

Task 4: Legal and strategic long-term analysis

The objective of social security coordination can only be achieved if the EU provisions are well adjusted and in coherence with the economic and social developments in the national social security legislations it aims to coordinate.

To this end, the contractor shall set up expert groups of 4-8 experts ("think-tank") having an overall knowledge of the EU coordination rules to analyse the potential gaps or shortcomings of the current rules and to identify where the rules need to be adapted in order to fulfil the objectives set by TFEU. The experts shall illustrate possible scenarios how to obtain these goals.

The Contractor will be asked to deliver one report per year of no more than 50 pages. The content of the report must comprise an in-depth analysis of the situation, possible scenarios how to obtain the set goals, as well as a table of synopsis reflecting situation on the topic at national level.

The bidders are asked to suggest potential topics for analysis and the organisation and working methods of think-tank in their bid.

The final topic(s) will be decided by the Commission within 6 weeks from the signature of the contract by both parties. To select the topic(s), the Commission will take account of other existing studies and networks and suggestions of the Contractor.

The draft versions of the analytical report shall be prepared and submitted to the Commission no later than 6 weeks before the end of the contractual year, in English, and in an electronic form (PDF + word format). The final versions of the report shall be submitted to the Commission at the end of the 12-calendar month contract's period as well as paper versions (2 copies).

The Contractor should carry out the following tasks: linguistic checking, editing, graphic design and layout of the reports in order to ensure a harmonised and clear set of reports. The final reports shall be published on the website of the Network.

Task 5: Statistics on functioning of the coordination system

a) Statistics on the functioning of the coordination system

The Contractor shall contribute to the collection and analysis of statistics on the functioning of the coordination system.

This task will involve:

- i. Taking stock of the data available at European and national level: The Contractor shall map available data sources with relevance to social security coordination (such as Eurostat, EuroBarometer, Audit Board information, EESSI system, national sources of data and others).
- ii. Evaluating the data and proposing a statistical methodology: The Contractor shall analyse the data available and evaluate its reliability and relevance. To this respect the Contractor shall draft analytical notes. The notes shall include a proposal of a statistical methodology and type data which should be collected both at national and EU level, in order to have reliable and relevant indicators on functioning of the coordination system (e.g. number of errors, delays, a number of pensioners abroad, healthcare provided abroad,...).
- iii. Annual statistical report: Upon the collection of the data, the contractor shall prepare an annual statistical report. The Contractor may base the report on the data available (point i) and on the data collected through the developed common methodology (point ii), which will be subject to the approval by the European Commission and Administrative Commission on the social security for migrant workers.

The draft versions of the statistical report, including the analytical notes, shall be prepared and submitted to the Commission no later than 6 weeks before the end of the contractual year, in English, and in an electronic form (PDF + word format). The final versions of the documents shall be submitted to the Commission at the end of the 12-calendar month contract's period as well as paper versions (2 copies).

The Contractor should carry out the following tasks: linguistic checking, editing, graphic design and layout of the reports in order to ensure a harmonised and clear set of reports.

The bidders are asked to submit an indicative work plan and a provisional estimate of resources (e.g. working time) for the task a).

b) Report on Monitoring the use of the European Health Insurance Card

The Contractor shall analyse replies of the Member States and prepare the annual **report on Monitoring the use of the European Health Insurance Card** based on questionnaire sent out by the Commission to the Member States. The report of maximum 20 pages in English shall be delivered within one month from the reception of all the replies from the Member States.

5.2. Lot 2 - Information and training (Max. 200.000 €/year)

The implementation of the EU coordination rules has in the first place to be guaranteed at national level. In the Member States, public authorities, institutions, social partners, judges, lawyers, NGO representatives and other experts are daily confronted with questions of interpretation and implementation of the detailed coordination rules. Representatives of public authorities and institutions already liaise at national level and often attend meetings at European Union level in order to discuss problems of implementation. This is, however, not necessarily the case for the other partners involved- lawyers, judges, social partners, NGO representatives and other experts.

Training and building networks of all actors involved at national level should contribute to the prevention of queries and infringements and thereby, to contribute to a better enforcement of EU legislation.

To this end, the Contractor shall carry out the following tasks.

Administrative and financial management

The contracts with the co-organisers mentioned under the tasks of Lot 2 shall be concluded by and on the responsibility of the Contractor, who will be responsible for their administrative and financial management. These contracts must give precise details of the tasks to be accomplished and must include all costs related to the tasks listed below (i.e. specialised seminars, re-development and maintenance of the website, annual conference).

Task 1: Specialised seminars

a) Organisation of the seminars

The objective of the seminars will be, on one hand, to widen awareness and raising consciousness about the EU rules on social security coordination and, on the other hand, to serve as a source of information for further analysis of issues which demand close attention by the Commission. These Seminars shall be organised on behalf of the European Commission.

The form and setting of the Seminars for the contractual year will be decided by the Commission within 6 weeks of the signature of the contract by both parties, based on a proposal from the Contractor.

The Contractor shall present the proposals for Seminars to be organised during the contractual year within 4 weeks of the signature of the contract by both parties. The formal proposal shall comprise the venue, the subject to be dealt with, possible dates, participants sectors and possible speakers.

The Commission will base its agreement about the planning of the Seminars on the basis of the above-mentioned objectives as well as on the overall quality of the proposal, and taking into account other seminars organised on behalf of Directorate General Employment, Social Affairs and Equal Opportunities in order to avoid possible overlaps.

Further guidelines concerning the seminars:

The Contractor shall act as **main organiser** of each of the seminars. He should associate in the organisation of the seminars the expert in charge of the Member States concerned which will be acting as **co-organiser**.

Number of seminars and Member States coverage:

- The Contractor shall organise **minimum 5** specialised seminars per year
- The seminars can be **either multinational or national**
- The Contractor shall ensure **a balanced participation of the Member States**.

Trainers

- Network Experts
- Other experts acquainted with national law, implementation of relevant EU law in the Member State(s)¹⁰ concerned and remedies available at national level;
- Representative(s) of the European Commission (not to be included in the budget).

Participants

- The Seminars should comprise **minimum 50** participants.
- representatives of social partners and NGO's, judges, lawyers, other experts dealing with implementation of relevant European Union law; country's representatives in the Administrative Commission on Social Security for Migrant Workers and in the Advisory Committee on Social Security for Migrant Workers; Member States' Solvit and EURES representatives; national experts of the EC-funded Network on Free Movement of Workers;

Language

- Interpretation into English and the language of the hosting country shall be foreseen.

The Contractor shall draft and submit the formal conclusions and main contributions of the Seminar to the Commission within 6 calendar weeks after the Seminar took place. These conclusions should be done on maximum 5 pages and should highlight the main points of the discussion.

As a quality control tool, the Contractor shall carry out a short participant satisfaction survey for each seminar. The results of the survey shall be attached to the conclusions of each seminar. The aggregated results of these surveys shall be attached to the final activity report (see point 7.a).

The bidders are asked to submit an indicative proposal for the specialised Seminars for the contractual year in their bid and indicate the number, scope and format of the seminars.

The bidders are asked to provide an example of the participant satisfaction survey.

b) Networking as a follow-up to the Seminars

As a follow-up to the Seminars, networks between the trainers and participants of the seminars shall be built and maintained in each of the Member States. In particular, by facilitating, notably via internet facilities, regular contacts between them. Other experts available in the Member State could also be part of that network. It is to be observed that processing of personal data required for the purposes of the network is subject to national law adopted for the implementation of Directive 95/46/EC¹¹.

To this end the Contractor shall maintain a data base of contacts established under a previous Commission project.

¹⁰ For the purpose of this contract, the Member States mean EEA countries and Switzerland.

¹¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

On the award of the Contract, the Commission will provide all necessary functional and technical specifications which will have to be respected for the maintenance and updating of these two databases.

The database remains the property of the Commission. At the end of the contract, the Contractor will provide the Commission with all appropriate functional and technical specifications required for a satisfactory handover of the databases.

Task 2: Network website

a) Content of the website

The Contractor shall provide content for a Network website, which may be based on the website developed under a previous Commission Project¹².

The website shall include the proposed content indicated below:

- a) Final outputs of the Network, except for the information provided under Task 2 and Task 5 of Lot 1;
- b) Data bases as described under Task 3 of Lot 1;
- c) Quarterly Newsletter with 3 or 4 articles made available on the website and sent by the Contractor to a mailing list of contacts. The Newsletter shall contain information about the recent and upcoming activities of the Network, as well as original academic articles in order to foster a wide-spread debate on actual issues in the social security coordination. These contributions will not compromise or represent the positions of the Commission of the European Union.

All outputs of the Network published on the website must be presented with a visible disclaimer that these contributions are an output of an EU funded independent Network of experts and do not represent the position of the Commission of the European Union.

b) Technical and editorial rules of the website

The website shall be in English.

The website and its content shall be developed in such a way, so that its format respects the technical and editorial rules for EUROPA websites (see the Information Providers Guide - http://ec.europa.eu/ipg/index_en.htm).

The website shall be hosted at the Data Centre of the European Commission and will be linked or visually integrated into the environment of the existing DG Employment, Social Affairs and Equal Opportunities website on social security coordination issues.

The website and its content remain the property of the Commission. At the end of the contract, the Contractor will provide the Commission with all appropriate functional and technical specifications required for a satisfactory handover of the website.

Task 3: Annual Conference

The Contractor shall organise an Annual Conference in the second half of each year. The date and the venue of the annual Conference shall be agreed between the Contractor and the Commission within the two months from the signature of the contract.

The conference shall be attended by all experts forming the Network. The Commission's representatives of Unit E/3 of Employment, Social Affairs and Equal Opportunities DG must be invited to this meeting. The meeting shall enable the experts to present the information given in the reports and draw the appropriate conclusions and recommendations from the reports and other outputs (seminars, ad hoc analysis). The Commission will communicate its suggestions to tailor the outputs of the Network according to its identified needs. Priorities for the following year will be discussed, as appropriate.

¹² <http://www.tress-network.org/TRESSNEW/>

The Contractor shall prepare minutes of the conference within three weeks. These minutes shall be approved by the Commission before they are distributed.

6. PROFESSIONAL QUALIFICATIONS REQUIRED

See point 12. Selection criteria below and Annex IV of the draft contract, experts' CVs and classification of experts.

7. TIME SCHEDULE AND REPORTING

See Article I.2. of the draft contract.

a) Reporting

In addition to regular oral reporting to the DG Employment, Social Affairs and Equal Opportunities, the contractors shall produce, after 6 months of the contractual year, an **Interim Activity Report** assessing overall progress towards the achievement of the annual work programme together with a time-planning for the remaining actions to be carried out by the end of the contractual year.

The **Final Activity Report** will be delivered at the latest 12 months after the start of the contractual year. It will provide a concise overview of the work carried out during the course of the contract, as well as any comments, suggestions or recommendations judged useful or necessary by the contractor.

All reporting must be done in English and delivered both on paper and electronically (word format).

b) Additional requirements (specific deadlines for the performance of tasks):

Work may not start until after the signature of the contract, which is estimated to be signed in November 2010. The period of performance will be 12 calendar months from the date of contract signature.

The initial contract may be renewed three times for a period of 12 calendar months only with the express written agreement of the parties before payment of the balance. Renewal does not imply any modification or deferment of existing obligations.

The successful contractors will participate in two annual meetings with the Commission in Brussels and participation costs at these meetings should be included in the tender budget. The first meeting will take place in the initial stages of the contract after creation of the Network, to establish the necessary contacts and discuss the annual work programme, which shall be established at the beginning of the contractual year. The final work programme shall be established no later than 2 months from the creation of the Network.

A member of the Network could be invited once a year to make a presentation on a particular question of interest at a meeting, in Brussels, in the Administrative Commission on Social Security for Migrant Workers and in the Advisory Committee on Social Security for Migrant Workers as regards any of the topics analysed by the Network on that particular year. The Commission shall ask the Contractor with a minimum two months in advance.

c) Overview of deliverables and time schedule

Remark: The overview does not contain deliverables linked to Task 3 of Lot 1 "*Databases*" and Task 2 of Lot 2 "*Website*", which do not follow a fixed time schedule.

LOT1	
Task 1	Thematic legal report or "European Report" (general legal report)
T0+6 weeks	Agreement about the character of the report and topic (in case of thematic report) with the Commission
T0+10 months	The draft report as well as an executive summary submitted to the Commission
T0+12 months	Final version of the report

Task 2	Accurate concrete responses to punctual requests for information by the Commission
TR+10 working days	Short written reply
Task 2	"Ad hoc study" or "Contribution to the impact assessment" (Once a year)
TR+5 months	Final version of the "Ad hoc study" or "Contribution to the impact assessment"
Task 4	"Think-tank" report
T0+6 weeks	Agreement about the final topic for the "Think-tank" report with the Commission
T0+10,5 months	Draft version
T0+12 months	Final version of the "think-tank" report
Task 5	Statistical report, including analytical notes
T0+10,5 months	Draft version
T0+12 months	Final version of the document
Task 5	Report on Monitoring the use of the European Health Insurance Card
TC+1 month	Final version of the report
	Work programme and activity reports
T0+0	Draft work programme
T0+2 months	Final work programme
T0+6 months	Interim Activity report
T0+12 months	Final Activity report

T0 = date of signature TR = date of request TC = date of reception of all replies from Member States

LOT2	
Task 1	Seminars
T0+4 weeks	Proposal for Seminars to be organised during the contractual year
T0+6 weeks	Agreement on the form and setting of the Seminars with the Commission
TS+6 weeks	Formal conclusions and main contributions
Task 3	Annual Conference
T0+2 months	Agreement on the date and venue of the Annual Conference
TS+3 weeks	Draft minutes of the conference
	Work programme and activity reports
T0+0	Draft work programme
T0+2 months	Final work programme
T0+6 months	Interim Activity report
T0+12 months	Final Activity report

T0 = date of signature TS = date of the seminar or of the conference

8. PAYMENTS AND STANDARD CONTRACT

See articles I.3., I.4, II.4 and II.5 of the draft contract.

Payments will be made according to the following schedule:

Pre-financing payment

Following the signature of the Contract by the last contracting party, within 30 days of the receipt by the Commission of a request for pre-financing with a relevant invoice, a pre-financing payment equal to 20% of the total amount of fees and direct costs referred to in Article I.3.1 of the contract shall be made.

Interim payment

Request for interim payment by the Contractor shall be admissible if accompanied by:

- an interim activity report in accordance with the instructions laid down in Annex I of the model contract;
- the relevant invoices

Provided the report has been approved by the Commission

The Commission shall have 60 days from receipt to approve or reject the report, and the Contractor shall have 30 days in which to submit additional information or a new report.

Within 30 days of the date on which the report is approved by the Commission, an interim payment corresponding to the relevant invoices, up to maximum 40% of the total amount referred to in Article I.3.1 of the contract shall be made.

Payment of the balance

The request for payment of the balance of the Contractor shall be admissible if accompanied by:

- the annual activity report(s) in accordance with the instructions laid down in Annex I of the draft contract;
- the relevant invoices,

Provided the report has been approved by the Commission.

The Commission shall have 60 days from receipt to approve or reject the report, and the Contractor shall have 30 days in which to submit additional information or a new report.

Within 30 days of the date on which the report is approved by the Commission, payment of the balance of the total amount referred to in Article I.3.1 of the contract shall be made.

In drawing up the bid, the tenderer should take into account the provisions of the standard contract comprising the "General terms and conditions applicable to service contracts".

9. PRICES

Under the terms of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, the latter are exempt from all charges, taxes and duties, including value added tax; such charges may not therefore be included in the calculation of the price quoted. The amount of VAT is to be indicated separately.

The price must be stated in EUR(€), net of VAT (using, where appropriate, the conversion rates published in the C series of the Official Journal of the European Union on the day when the invitation to tender was issued), and broken down according to the model in Annex III included in the attached standard contract.

The total price sought ought not to exceed €420.000,00 €per year for Lot 1 and 200.000,00 €per year for Lot 2.

■ **Part A: Professional fees and direct costs**

- Fees, expressed as the number of person/days multiplied by the unit price per working day for each expert proposed. The unit price should cover the experts' fees and administrative expenditure;
- Travel expenses;
- Subsistence expenses of the Contractor and his staff (covering the expenditure incurred by experts on short-term trips outside their usual place of work);
- All expenses arising from the Annual Conference;
- Expenses for the shipment of equipment or unaccompanied luggage, directly connected with performance of the tasks specified in Article I.1 of this Contract;
- Other direct costs (to be specified).

■ **Part B: Reimbursable expenses**

Non Applicable

10. GROUPINGS OF ECONOMIC OPERATORS OR CONSORTIA

Tenders can be submitted by groupings of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but the consortium selected may be required to assume a given legal form when it has been awarded the contract if this change is necessary for proper performance of the contract¹³. However, a grouping of economic operators must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the following points 11 and 12 must be supplied by every member of the grouping.

Each member of the grouping assumes a joint and several liabilities towards the Commission.

11. EXCLUSION CRITERIA AND SUPPORTING DOCUMENTS

1) Bidders must provide a declaration on their honour, duly signed and dated, that they are not in one of the situation referred to in Articles 93 and 94 a) of the Financial Regulation.

Those articles are as follows:

"Article 93:

Applicants or tenderers shall be excluded if:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;

¹³ These entities can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

The contract has to be signed by all members of the group, or by one of the members, which has been duly authorised by the other members of the grouping (a power of attorney or sufficient authorisation is to be attached to the contract), when the tenderers have not formed a legal entity.

- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
 - d) they have not fulfilled their 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 they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
 - e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
 - f) they are currently subject to an administrative penalty referred to in Article 96(1)¹⁴.
- (...)

Article 94:

Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:

- a) are subject to a conflict of interest;
 - b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply this information;(...)"
- 2) The tenderer to whom the contract is to be awarded shall provide, within a time limit defined by the contracting authority and preceding the signature of the contract, the evidence referred to in Article 134 of the implementing Rules, confirming the declaration referred to in point 1 above.

Article 134 of the Implementing Rules – Evidence§3. The contracting authority shall accept as satisfactory evidence that the candidate or tenderer to whom the contract is to be awarded is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State concerned.

Where the document or certificate 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.

§4. Depending on the national legislation of the country in which the candidate or tenderer is established, the documents referred to in paragraph 3 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

See Annex I (which may be used as a checklist) for the supporting documents accepted by the European Commission to be provided by applicants, tenderers or tenderers to who the contract will be awarded.

3) The contracting authority may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to in Article 134 of the Implementing Rules, if such evidence has already been submitted to it for the purposes of another procurement procedure launched by DG EMPL and provided that the issuing date of the documents does not exceed one year and that they are still valid.

In such a case, the candidate or tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that no changes in his situation have occurred.

¹⁴ "Article 96(1): The contracting authority may impose administrative or financial penalties on the following:

- (a) candidates or tenderers in the cases referred to in point (b) of Article 94;
- (b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.

(...)"

12. SELECTION CRITERIA

The selection of offers will be carried out in accordance with the following criteria:

a) economic and financial capacity:

Tenderers will be required to demonstrate their financial status by presenting their balance sheets and their profit and loss statements for the last two years for which the accounts have been closed, including total turnover and turnover relating to services similar to those covered by this call for tenders for the past two financial years.

If, for some exceptional reason which the contracting authority considers justified, the tenderer or candidate is unable to provide the references requested by the contracting authority, he may prove his economic and financial capacity by any other means which the contracting authority considers appropriate.

b) technical capacity of the tenderer:

Experience required for the tenderer:

- Proven experience in financial, administrative and operational management of large scale networks at European level (for **Lot 1**);
- Proven experience in organisation of multi-national conferences or seminars and development of communication tools (for **Lot 2**).

Tenderers are required to provide a brief description of their business activities in services of the type which are the subject of this invitation to tender.

Means of proof:

- A description of the intended organisation and internal management
- The bidder must provide a list of the coordinator, experts of the network, other team members (e.g. assistants, specialists on statistics, economist,...), , together with their CVs and their qualifications. The CVs should include a list of main works in relation to the subject specified in this tender. If the work was undertaken for the European Commission, the candidate must also include the Commission reference number of the contract and the DG/Directorate/Unit for which the contract was performed.
- In the case of tenders from consortia, written confirmation from each member of the consortium that they are ready and willing participate in the work of the network should the contracted be awarded to their consortia, and briefly describing their role.

Specific requirements for Coordinator and Network of Experts (**Lot 1**)

1. Coordinator

Requirements for Coordinator:

- Minimum experience: 6 years in social security (academic experience and/or practical experience in a legal or socioeconomic position in a social security field), with a proven experience/study in more than one Member State¹⁵.
- A proven experience in managing similar work (team management, planning, financial, administrative and operational management)

¹⁵ For the purpose of this contract, the Member States mean EEA countries and Switzerland.

- Demonstration of drafting skills
- Overall knowledge of national and EU coordination in social security

The coordinator should prove compliance with the above requirements by any combination of the following means

1. CV
2. List and examples of projects carried out
3. Articles/books (co-)published
4. Contributions to projects
5. Other practical work in social security field

2. Network of Experts

Requirements for individual experts:

- Minimum experience: 4 years in social security (academic experience and/or practical experience in a legal or socioeconomic position in a social security field) in a Member State concerned
- Demonstrated good English drafting abilities
- Demonstrated knowledge of the national language(s) of the Member State(s) concerned
- Demonstrated knowledge of social security systems in the Member State(s) concerned
- Letter of commitment from the expert for her/his participation in the network

Requirements for the composition of the Network: A team of experts as a whole should

- Include a minimum of 15 experts
- know well all the national social security systems
- know well the EU social security coordination provisions and how they interact with national provisions
- have a capacity to provide in-depth legal strategic analysis
- have a capacity to map socioeconomic impacts of the EU legislation in the Member States

The experts should prove that they comply with the requirements above by any combination of the following means

1. CV
2. Articles/books (co-)published
3. Other contributions to projects
4. Other practical work in social security field

3. Other persons

Requirements for person(s) with sufficient statistical expertise (for task 5 of Lot 1):

The person(s) should prove compliance with the above requirements by any combination of the following means

1. CV
2. List and examples of projects carried out in the field of statistics
3. Other practical work in statistics

13. AWARD CRITERIA

The contract will be awarded to the bid offering the best quality/price ratio, taking account of the following criteria:

1) Quality criteria:

Approach (40%):

- I. Demonstration of an understanding of the nature and context of the analysis required by the Commission along with the tasks to be performed and the results to be obtained. (8 %)

- II. Overall quality and relevance of proposals and their correspondence to the needs of the Commission. (8 %)
- III. Relevance and innovativeness of suggestions, with regards to the tasks 1, 2, 4 and 5 of Lot 1 and task 1 of Lot 2. (8 %)
- IV. Availability and flexibility demonstrated in the tender. (8 %)
- V. Formal presentation and quality of the tender. (8 %)

Methodology (30%):

- VI. Methodology proposed by the tenderer to carry out the individual tasks. The clarity and efficiency of the work plan will allow evaluating this criterion. (30 %)

Work Organisation (30%):

- VII. Work organisation proposed by the tenderer, in order to provide the required deliverables. (15 %)
 - i. The tenderer should explain how the team of experts will be organised and co-ordinated in relation to the individual tasks. Draft detailed timetable of the activities to be carried out must be provided. (Lot 1).
 - ii. The tenderer must explain how he plans to organise the specialised seminars and other information related activities and annual conference. Draft detailed timetable of the activities to be carried out must be provided (Lot 2).
- VIII. Work organisation with regard to the administrative management. (15 %)
 - iii. The tenderer must specify the number of people involved in the administrative management and give details on the internal organisation, distribution of tasks and the manner in which contact with the network will be guaranteed, for example, in order to reply to specific questions from the Commission (Lot 1).
 - iv. The tenderer must specify the internal organisation, distribution of tasks and the manner in which the work will be organised with regards to tasks under Lot 2.

2) Price

These criteria weighted as indicated above will determine the quality of the bids and will be compared with the price in order to determine the proposal that provides the **best value for money**.

The points total will then be divided by the price, with the highest-scoring bid being chosen.

Please note that the contract will **not** be awarded to any bid that receives less than 70 % in the award criteria. Initiation of a tendering procedure imposes no obligation on the Commission to award the contract. The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be so liable if it decides not to award the contract.

14. CONTENT AND PRESENTATION OF BIDS

Content of bids

Tenders must include:

- all information and documents necessary to enable the Commission to appraise the bid on the basis of the selection and award criteria (see points 12 and 13 above);
- a bank ID form duly completed and signed by the bank;
- a "legal entity" form duly completed;
- the price;
- the detailed CVs of the proposed experts;
- the name and function of the contractor's legal representative (i.e. the person authorised to act on behalf of the contractor in any legal dealings with third parties);
- proof of eligibility: tenderers must indicate the State in which they have their registered office or are established, providing the necessary supporting documents in accordance with their national law.

Presentation of bids

Bids must be submitted in triplicate (i.e. one original and two copies).

They must include all the information required by the Commission (see points 11, 12 and 13 above).

They must be clear and concise.

They must be signed by the legal representative.

They must be submitted in accordance with the specific requirements of the invitation to tender, within the deadlines laid down.

15. VALIDITY OF TENDERS

Tenders must be valid up to 6 months after submission deadline.