



Call for Tender no. VT/2013/001

***Assistance to the Audit Board of the
Administrative Commission for the
coordination of social security
systems***

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1. Title of the Contract

Assistance to the Audit Board of the Administrative Commission for the coordination of social security systems

2. Background

2.1. General presentation of EU coordination instruments: Regulations (EC) Nos. 883/2004 and 987/2009

Treaty on the functioning of the EU (TFEU) establishes freedom of movement of workers (Article 45 TFEU) and of other citizens (Article 21 TFEU). Article 48 TFEU requires that necessary arrangements be made to secure the social security rights of employed and self-employment migrant workers and their dependents who move within the EU. EU provisions implementing Article 48 TFEU are contained in Regulation (EC) No 883/2004 (hereinafter 'the basic Regulation') and Regulation (EC) No 987/2009 (hereinafter 'the implementing Regulation') and provide for the co-ordination of Member States' national social security schemes.

Under EU law in the field of social security, there is no unified European social security system. Each Member State is responsible for its own social security system and decides which benefits shall be provided, the conditions for eligibility and the value of these benefits.

EU provisions establish common rules and principles which have to be observed when applying national laws. In doing so, it is ensured that the application of the different national legislations does not adversely affect persons exercising their right to free movement within the European Union (EU), the European Economic Area (EEA) and Switzerland. Consequently, the below-mentioned is also valid with regard to Iceland, Liechtenstein, Norway and Switzerland.

The above-mentioned regulations contain a detailed chapter on sickness and maternity benefits with special rules for employed persons, self-employed persons, unemployed persons, pensioners, and members of their families residing or staying abroad.

These provisions ensure that mobile persons will receive sickness benefits in kind in the situation the person changes his/her residence from one Member State to another, or is staying in another Member State than that of his/her affiliation for a certain period of time, e.g. as a student, posted worker or a tourist.

The sickness benefits in kind to be provided under the national legislation of a Member State will vary from one Member State to another. Such benefits may cover medical and dental care, medicines and hospitalisation, as well as direct payments intended to reimburse the costs of the care mentioned. As a general rule, benefits in kind are provided to the person in need in accordance with the legislation of the Member State where the person resides or is staying temporarily as if he/she were insured in that Member State even if the person is affiliated to the insurance scheme of another Member State.

The EU social security coordination regulations not only give rights to sickness benefits to insured persons in other Member States (see Articles 17, 19, 20, 22 to 28 and 31

to 34 of the basic Regulation), but they also deal with the financial consequences for the Member State which provided its health services.

The aim is to provide for a fair distribution of financial burdens: the general principle is that the costs of the healthcare provided by the Member State of stay or residence to a person who is insured in another Member State has to be refunded by the institution of the State where the person is insured (see Articles 35 and 41 of the basic Regulation and Articles 62 to 69 of the implementing Regulation).

For this purpose, Article 74 of the basic Regulation sets up a special committee – the Audit Board – which monitors the reimbursements of healthcare costs between Member States. It is attached to and reports to the Administrative Commission for the coordination of social security systems.

2.2. Accounts and processing of the claims

The costs of the benefits provided to a person who resides or is staying temporarily in a Member State other than that of affiliation are to be refunded by the sickness insurance institution of the place of his/her affiliation to the institution which has provided the benefits. The costs of these benefits shall be fully refunded.

The reimbursements between the institutions shall be made as promptly as possible and within given deadlines. The deadlines to be followed concern the introduction and the settlement of claims (Article 67 of the implementing Regulation). The rules provide for the possibility to charge interest on late payments and to make down payments (Article 68 of the implementing Regulation).

Additional detailed provisions on reimbursement procedures between Member States are contained in Decisions S4¹ and S6² of the Administrative Commission.

The reimbursements are determined and effected either on production of proof of actual expenditure (actual costs) or on the basis of fixed amounts (average costs). Member States are also allowed to provide between themselves for other methods of reimbursement or to waive all reimbursement between the institutions coming under their jurisdiction.

In principle, the general method of reimbursement is the refund on the basis of actual expenditure (the actual amount of the expenses for benefits in kind as shown in the accounts of the institution that provided them) and the information is communicated between the competent national authorities by the use of forms S-080 (former E 125) which is an individual claim for an actual expenditure.

Only by a way of exemption, those Member States whose legal or administrative structures are such that the use of reimbursement on the basis of actual expenditure is not appropriate, can reimburse benefits in kind on the basis of fixed amounts in relation to certain categories of persons (see Article 63(2) of the implementing Regulation).

These categories are: family members who do not reside in the same Member State as the insured person (Article 17 of the basic Regulation) and to pensioners and members of their family (Article 24(1) and Articles 25 and 26 of the basic Regulation).

The Member States that apply fixed amounts reimbursements with regard to these categories of persons are those listed in Annex 3 to the implementing Regulation

¹ [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0424\(14\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0424(14):EN:NOT)

² [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0427\(02\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0427(02):EN:NOT)

(Ireland, Spain, Cyprus, the Netherlands, Portugal, Finland, Sweden, the United Kingdom, Norway)³.

2.2.1. Establishment of the fixed amounts (average costs)

Each Member State applying reimbursements based on fixed amounts has to calculate for each calendar year the monthly fixed amount (average costs) per person. The fixed amount should be as close as possible to actual expenditure. The method of calculation is laid down by Article 64 of the implementing Regulation. In order to calculate the monthly fixed amount per person, annual average cost per person broken down by age group is determined and then divided by 12. A reduction of 20% or 15% is applied to these monthly amounts.

The annual average cost per person in each age group is obtained by dividing the annual expenditure on all benefits in kind provided in the creditor Member State to all persons in the age group concerned insured under its legislation by the average number of persons concerned in that age group in the calendar year in question. The expenditures and amounts which are to be included and excluded for the purpose of average costs are laid down in Decision S5 of the Administrative Commission⁴.

There are three age groups used for calculating the fixed amounts: under 20, 20 – 64, 65 and over. The reduction to be applied is normally 20%. Where the debtor Member State does not provide more rights to pensioners returning to it as to their State of insurance under Article 27(2) of the basic Regulation (ie. the Member State is not listed in Annex IV of that Regulation) only the reduction of 15% is applied⁵.

For each debtor Member State, the total fixed amount to be reimbursed for a calendar year is obtained by multiplying the calculated monthly fixed amount per person by the number of months completed by persons insured with the debtor State in the creditor State in each age group. The number of months completed by persons concerned is determined by the creditor State from an inventory kept for that purpose. This inventory shall be presented to the debtor State by the end of the year following the reference year.

For the exchange of the information needed for the refunds on the basis of fixed amounts form S-095 (former E 127) is used. That form is an individual record of monthly lump sum payments. On the basis of the forms received, the Debtor institution makes the payment to the Creditor institution by the use of the traditional banking system.

2.2.2. Transitional period

Regulations (EC) Nos 883/2004 and 987/2009 replaced previous Regulations (EEC) Nos 1408/71 and 574/72. New rules started to apply in the EU on 1 May 2010, with regard to Switzerland on 1 April 2012 and in the EEA area on 1 June 2012.

For years up to and including 2012, Member States thus continue to calculate average costs in accordance with rules and methodology set out in Regulation (EEC) No 574/72 for reimbursements in relation to Norway, Liechtenstein, Island and Switzerland.

Also, until 1 May 2015, Member States applying fixed amounts under the new rules can continue to use the old method of calculation based on Articles 94 and 95 of Regulation (EEC) No 574/72, provided that the reduction set out in Article 64 (3) of

³ As of June 2013, Annex 3 will also include Croatia.

⁴ [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0424\(15\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0424(15):EN:NOT)

⁵ This "rebate" stems from a highly sensitive debate between the Member States. The legislator has fixed a review clause to assess this financial provision among others (see Articles 64(5) and 86 (3) of the implementing Regulation).

the new implementing Regulation is applied. The reimbursement rules set out in Regulation (EEC) No 574/72 therefore still continue to be relevant for that period.

The Administrative Commission has adopted transitional rules⁶, according to which the reimbursement rules set out in Regulation (EC) No 987/2009 shall apply to claims on the basis of actual expenditure that were recorded in the accounts of the creditor Member State after the entry into force of that Regulation. For the fixed amounts the decisive date is the date of the publication of the average costs in the Official Journal of the European Union. Average costs published in the Official Journal after the entry into force of the Regulation (EC) No 987/2009 shall be subject to the procedural reimbursement rules set out in Articles 66 to 68 of that Regulation, even if these costs concern years during which Regulation (EEC) No 574/72 applied.

2.3. Role of the Audit Board

The settling of the accounts between the institutions is supervised by the Audit Board, which is a sub-group of the Administrative Commission.

In line with the Article 74 of the basic Regulation, the Audit Board shall a) verify the method of determining and calculating the annual average costs presented by Member States; b) collect the necessary data and carry out the calculations required for establishing the annual statement of claims of each Member State; c) give the Administrative Commission periodic accounts of the results of the implementation of the regulation and of the implementing regulation, in particular as regards the financial aspect; d) provide the data and reports necessary for decisions to be taken by the Administrative Commission pursuant to Article 72(g); e) make any relevant suggestions it may have to the Administrative Commission, including those concerning Regulation 883/2004 in connection with subparagraphs (a), (b) and (c); f) carry out all work, studies or assignments on matters referred to it by the Administrative Commission.

Acting within the remit of the power given to the Administrative Commission by Article 64(6) of the implementing Regulation, the Audit Board has agreed on the methods for calculating the fixed amounts. The Audit Board approves the methodology presented by the Member States calculating the average costs and annual calculations which subsequently are to be adopted by the Administrative Commission.

Each calendar year, the Administrative Commission shall establish the claims situation in accordance with Article 72(g) of the basic Regulation on the basis of the report by the Audit Board. To this end, the liaison bodies of Member States shall notify each year the Audit Board of the amount of the claims introduced settled and contested (creditor position) and the amount of claims received, settled or contested (debtor position) as provided for under Article 69 of the implementing Regulation.

Within five years after entry into force of the new Regulations (by 1 May 2015), the Administrative Commission will present a specific report on the fixed amounts calculations which may serve as a basis for a review of fixed amounts calculation method with the aim of avoiding unbalanced payments between Member States. Furthermore, Article 86 of the implementing Regulation ('Review clause') requires specific reporting and auditing from the Administrative Commission on the functioning of the reimbursement provisions. These tasks presuppose evidence based preparatory work from the Audit Board, which should be finalised during 2014.

⁶ See Decision S7 of the Administrative Commission: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0427\(03\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0427(03):EN:NOT)

2.3.1. Composition and working methods of the Audit Board

The composition and working methods of the Audit Board are determined by the Administrative Commission. The current composition and working methods were established by Decision H4 of the Administrative Commission⁷.

In accordance with Article 3(3) of Decision H4 of the Administrative Commission, the Audit Board shall be assisted by an independent expert or expert board with professional training and experience in matters concerning the functions of the Audit Board, in particular as regards its tasks under Articles 64, 65 and 69 of the implementing Regulation. It follows, that the expert(s) shall not represent any particular Member State(s) when performing the supporting functions, which may include also other tasks of the Audit Board apart from those included in the above mentioned articles.

3. Subject of the contract

The purpose of the Contract is to ensure the services of a technical expertise to the Audit Board in order to enable the Audit Board to carry out its task as set out in Article 74 of Regulation (EC) No 883/2004 and in Articles 62 to 69 and 86 of Regulation (EC) No 987/2009.

In line with Article 3(3) of Decision H4 of the Administrative Commission, the expert or the expert team is expected to perform his/their duties in an unbiased manner and based on reasoned technical deliberations. His/their work should aim to facilitate the unanimous decision making of the Audit Board.

All duties are to be carried out in **close cooperation with and under the supervision** and responsibility of Unit B4 of Directorate General Employment, Social Affairs and Inclusion, ensuring the Secretariat of the Audit Board (hereafter 'the Secretariat').

3.1. General assistance to the Audit Board

Services are provided under a contract with the European Commission and consist in the following elements.

- Assistance and analysis of the Member States' methodology for the calculation of the average costs; assistance and analysis of the Member States' annual presentations and calculations of the average costs; preparation of the approved average costs for the publication in the Official Journal of the EU (see Task 1)⁸.
- Preparation and presentation to the Audit Board of an annual report pursuant to Article 69 of Regulation (EC) No 987/2009, on the situation regarding all outstanding claims between the institutions for refunds on the basis of the Creditor and Debtor position of each Member State, as of 31 December of each year (see Task 2).
- Establishment and updating of a Data base of key summary financial and demographic data which relate to the actual situation of the claims between the Member States and its evolutions, as well as the calculation and evolution of the average costs (see Task 3).

⁷ [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0427\(01\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0427(01):EN:NOT)

⁸ For the purpose of this contract, the Member States include all countries applying the coordination rules – ie. the EU countries (including Croatia after its entry in the EU), plus Norway, Island, Liechtenstein and Switzerland.

- Preparations of reports concerning the review of the provisions of Regulations (EC) Nos. 883/2004 and 987/2009 on reimbursement procedures as stipulated in Articles 64(5) and 86 of Regulation (EC) No 987/2009 (see Task 4).
- Providing a technical support to the Commission/ the Secretariat of the Audit Board in the analysis and preparation for the Audit Board meetings; participation to the bi-annual meetings of the Audit Board; preparation and up-dating of written guidelines (see Task 5).

4. Tasks to be carried out by the contractor

4.1. Task 1: Average costs

This task will entail:

- a) Analysis of Member States'⁹ **methodology for calculation of average costs** presented pursuant to Regulations (EC) Nos 883/2004 and 987/2009.

Analysis of Member States' **methodology for calculation of average costs** presented on the basis of Regulations (EEC) Nos 1408/71 and 574/72 as provided for under the transitional arrangements for time before the entry into force of Regulations (EC) Nos 883/2004 and 987/2009, as well as on the basis of the application of Article 64 (7) of Regulation (EC) No 987/2009 following its entry into force.

Provision of technical support and information to Member States and to the Secretariat on the above, on the basis of the Member States' or the Secretariat's requests.

This entails setting up of an effective communication with the representatives of the national administrations, as well as the Commission/the Secretariat.

The relevant methodological information regarding this task, shall be included also in written guidelines (see Task 5).

- b) Preparation of standard **model for the presentation of annual average costs** by Member States to the Audit Board.
- c) Analysis of Member States' calculations of annual average costs presented on the basis of Regulations (EC) Nos 883/2004 and 987/2009.

Analysis of Member States' **calculations of annual average costs** presented on the basis of Regulations (EEC) Nos 1408/71 and 574/72 as provided for under the transitional arrangements for time before the entry into force of Regulations (EC) Nos 883/2004 and 987/2009, as well as on the basis of the application of Article 64 (7) of Regulation (EC) No 987/2009 following its entry into force.

Provision of technical support and information to Member States and to the Secretariat on the above, on the basis of the Member States' or the Secretariat's requests.

⁹ For the purpose of this contract, the Member States include the EU countries, Norway, Island, Liechtenstein and Switzerland.

The tasks under point c) will entail the scrutiny and assessment whether a sufficient level of detail and precision has been provided in each of the Member States' national notes which form the basis for their calculations; verifying the compliance with the agreed approved methodology used by each Member State and verifying the available statistics justifying the basis for the calculation of the average health care costs; verifying that the standard Audit Board model for presentation of the calculations has been followed and that the relevant Audit Board decisions concerning the method of calculation to be used and the nature of benefits concerned have been fully respected; verifying consistency of the average costs as well as continuity and coherence with previous Member States notes on average cost calculations.

This entails setting up of an effective communication with the representatives of the national administrations, as well as the Secretariat. The bidder should foresee several exchanges with each Member State on their calculations of average costs, during which the role of the contractor would be to give the Member State suggestions for improvements.

- d) Submission of **technical (positive or negative) opinion** to the Audit Board on the calculations of presented methodology (point a) and on the annual of average costs (point c).

Where the deliverables of Member States under point a) and c) do not follow the adequate and agreed methodology, adequate accuracy and the level of detail, the contractor shall present detailed technical remarks to the Audit Board. This entails preparation for and participation to the bi-annual meetings of the Audit Board.

- e) Preparation of the approved average costs for the publication in the Official Journal of the EU. This entails the update of the template for publication and the preparation of the average costs to be published after their approval.¹⁰

After 2014, the bidder should foresee analysis of about ten national notes per year. Until year 2014, the bidder should foresee analysis of about 20 national notes per year due to the fact that all Member States calculate average costs on the basis of Regulation (EEC) No 574/72 until mid-2012.

The bidders are asked to present in **their proposals** how they intend to develop verification indicators on the adequate calculation and presentation of annual average costs, and how they intend to set up the communication with Member States.

4.2. Task 2: Annual reporting on claims situation pursuant Article 69 of Regulation (EC) No. 987/2009

This task will entail:

- a) Providing support and information to Member States concerning their establishment of the claims situation.
- b) Establishing a template for the national reports on the claims situation. The template shall describe the type of data to be provided and the format of the data. The template shall be managed in an IT format and shall feed into the Database with key financial data (see Task 3).
- c) Establishing the annual Audit Board report pursuant to Article 69 of Regulation (EC) No 987/2009.

¹⁰ For an example of the publication of average costs, see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:253:0003:0006:EN:PDF>.

- d) This entails the analysing and summarising of the national notes and the detailed financial tables provided by each Member State and converting figures expressed in national currencies into the EUR currency. The report must contain tables showing the relative situation of each Member State with regard to its situation as a Creditor as well as that of Debtor; the breakdown of claims in relation to the reference year in question; an analysis of the situation regarding claims calculated according to individual accounts and claims calculated according to lump sums (Articles 94 and 95 of Regulation (EEC) No 574/72) or fixed amounts (Article 64 of Regulation (EC) No 987/2009). The report and the data contained in it should be formulated in a transparent and comprehensive way in order to allow clear conclusions on the claims situation in respect of the reference calendar year in question.
- e) Presentation of the results of the annual claims situation in the meeting of the Audit Board and of the Administrative Commission.

The bidders are asked to present a draft template for their report(s).

4.3. Task 3: Database with key financial and demographic data

This task will entail the establishment and updating of a database containing:

- a) key summary financial and demographic data, per Member State and globally, relating to the claims situation and the average and actual costs of sickness benefits (outstanding claims per country and globally, the evolution of outstanding claims, etc.).
- b) evolution of average costs per country (decreases/increases, etc.).

The data should be accessible in a transparent, understandable and user friendly way. It shall allow for customised data extractions on the basis various performance indicators (for example, outstanding claims for actual or fixed amounts per year, per country, from the view of the debtor, from the view of the creditor, etc.).

The bidders are asked to present a proposal for their database. The bid shall present how the database should be built and kept updated, what features it will provide, which performance indicators it would include and in what way it can be consulted by the various stakeholders (the Commission, the Member States, the Audit Board, etc.).

- c) Task 3 will also entail contributing to discussions on future establishment of a new information and communication (ICT) system for data collection and reporting, which would allow tracking of Member States' claims for reimbursements and show the status of those claims. The contractor shall be ready to represent the business side in the discussions and to propose key business requirements for such an ICT tool.

4.4. Reports on review clauses

Preparations of reports concerning the review of the provisions of Regulations (EC) Nos 883/2004 and 987/2009 on reimbursement procedures as stipulated in Articles 64(5) and 86 of Regulation (EC) No 987/2009. This task will entail:

- a) proposal of methodology and template for the collection of relevant data
- b) analysis of the information and data provided by Member States
- c) preparation of the report on the basis of the Member States' input with a summary and an assessment of the findings for the purpose of the review.

The report shall include namely the following:

- information on the application of time limits set out in Article 67 of Regulation (EC) No 987/2009 regarding development of a claim from its birth (ie. reference year) to its final settlement. The report should show whether the claims have been introduced and settled within the prescribed deadlines and it should provide a success/failure rate for the respect of the deadlines.
- information on the application of procedures set out by Article 67 of Regulation (EC) No 987/2009.
- information on the application of reductions referred to in Article 64(3) of Regulation (EC) No 987/2009.

A first review report shall be prepared by the end of 2014.

4.5. Task 5: Assistance to the Commission/the Secretariat of the Audit Board

This task shall entail:

- a) assistance to the representative of the Commission/the Secretariat in the preparations and discussions concerning the drafting of the documents, the decisions and the recommendations to be discussed and approved by the Audit Board and adopted by the Administrative Commission.

This entails setting up of an effective communication with the Commission/ the Secretariat.

In addition, the bidder should foresee at least one half-day preparatory meeting with the Commission/Sekretariat in Brussels per semester.

- b) Participation to the Audit Board and the Administrative Commission meetings on matters for which the Audit Board is responsible. The bidder should foresee participation to two 1.5 day meetings of the Audit Board and at least half a meeting day of the Administrative Commission in Brussels per year.
- c) Creation and updating of written guidelines to be used by Member States. These guidelines shall include:
 - i. the relevant methodological information for the calculation and the presentation of average costs (see Tasks 1 b)
 - ii. the relevant methodological information for the preparation of the national reports on the claims situation (see Task 2 b)
 - iii. the relevant methodological information for data collection on the application of the time limits and procedures for reimbursement (see Task 4).

The guidelines shall be written in English or French and shall be kept up-to-date and be complemented, as appropriate.

4.6. Work organisation and quality control

For the purpose of the Contract, bidders may propose a single expert or a team of two or more experts (see chapter 'Selection Criteria', in particular point 11.2, of the present Tender Specifications). If a team of two or more experts is proposed, the bid shall contain a description of the work organisation of the team and each team member's responsibilities.

The bidders shall present a mechanism for the quality control of deliverables under the contract.

5. Time schedule and reporting

See Article I.2. of the draft contract.

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

Work may not start until after the signature of the contract by both parties. The period of performance will be 12 calendar months from the date of contract signature.

The initial contract may be renewed 3 times for a period of 12 calendar months each 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 Contracted Party shall produce, 6 months after the start of the contractual period, a short **Interim Report** assessing overall progress towards the achievement at half term of the contract.

A **Final Report** will be delivered at the latest 12 months after the start of the contractual period. This report shall provide a concise overview of the work undertaken during the course of the entire contract period. It shall provide details of all task carried out, deliverables produced and results achieved.

All reporting must be done in English or French and delivered both on paper and electronically.

6. 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.

The total price ought not to exceed **€100.000,00**.

- **Professional fees and other 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. The contractor's costs for participation in meetings must be included in these fees.

⌘ Other costs are not authorised

It is recommended to present the detailed offer according to the following model:

Breakdown of prices

Description	Unit price in EUR	Max. No of units	Unit type	Sub-total per item EUR	Total amounts in EUR
Experts' fees (to be specified for each specific task)	0.00	0	working day	0.00	0.00
Details					
Total amount (art. I.3.1.) of the contract					0.00

7. Payments and standard contract

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".

Administrative Part

8. 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.

9. 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 contract¹¹. 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.

10. 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 106 and 107 of the Financial Regulation.

Those articles are as follows:

"Article 106:

1. *Candidates or tenderers shall be excluded from participation in procurement procedures 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*

¹¹ 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.

are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

- b) they or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;
- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify including by decisions of the EIB and international organisations;
- d) they are not in compliance with 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 or persons having powers of representation, decision making or control over them have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests;
- f) they are currently subject to an administrative penalty referred to in Article 109(1) .

(...)

Article 107:

A contract shall not be awarded to candidates or tenderers who, during the procurement procedure for that contract:

- a) are subject to a conflict of interest;
 - b) are guilty of misinterpreting the required by the contracting authority as a condition of participation in the procurement procedure or fail to supply that 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 143 of the Rules of Application, confirming the declaration referred to in point 1 above.

Article 143 of the Rules of Application – 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 106(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 106(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State concerned.

Where the document or certificate referred to in paragraph 1 of this Article is not issued in the country concerned and for the other cases of exclusion referred to in Article 106 of the Financial Regulation, 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 143 of the Rules of Application, 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.

11. Selection criteria

11.1. Economic and financial capacity

- ⌘ Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract.

Tenderers must provide proof of their economic and financial capacity by submitting the following documents:

- a) A full copy of the concerned legal entities' annual accounts (profit and loss account, notes on the accounts and auditors' remarks if applicable) for the last two financial years.
- b) Appropriate bank information or evidence of professional risk indemnity insurance for entities facing the impossibility to fully present evidence referred to under a).

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

11.2. Technical and professional capacity

The bid must demonstrate the following proven technical and professional capacity of the expert(s):

- ⌘ Knowledge of French or English, and in particular the ability to draft financial statistical reports and clear explanatory notes in one of these languages.
- ⌘ Understanding of the functioning of Member States' social security systems with regard to sickness insurance.
- ⌘ Tenderers will be required to provide a brief description of their business activities in services of the type which are listed in point 4 of these tender specifications as

well as detailed curriculum vitae of all the persons proposed to demonstrate relevant competence and professional capacity.

- ⌘ Professional experience will be required for experts: at least five years in the actuarial field including analysing financial tables, carrying out financial research, producing calculations, establishing average costs and providing statistical information.

If the bidder proposes a team of experts, the required technical and professional capacity must be proven **for at least one key expert**, who shall carry out the majority of the tasks under the contract and would act as the contact person to the Commission services and other stakeholders.

12. Award criteria

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

- ⌘ **Work organisation and quality control (20 %)**: quality of the presentation of the administrative and logistical tasks involved, in particular the project management, the allocation of tasks and responsibilities, the coordination between tasks and experts and measures to ensure quality and coherence of results.
- ⌘ **Approach (30 %)**: understanding of the nature of the assignment, its context and the results to be achieved.
- ⌘ **Methodology (50 %)**:
- Adequacy and quality (25 %): qualitative value of the proposal, including the clarity, adequacy, quality and innovativeness of the overall methodology.
 - Tools proposed (20 %): draft templates and proposals for tasks, which should be included, as a minimum, for Tasks 1, 2 and 3.
 - Communication strategy (5%): proposal for setting up of an effective communication with the various stakeholders (the Commission/the Secretariat, the Member States, the Audit Board).

These criteria weighted as indicated above will determine the quality of the proposals and will be compared with the price in order to determine the proposal that provides the **best value for money**. It should be noted that the contract will **not** be awarded to a tenderer who receives less than 70% in the Award Criteria. The points total will then be divided by the price, with the highest-scoring bid being chosen.

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.

13. Content and presentation of bids

13.1. 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 11 and 12 above);

- ✎ a bank ID form duly completed and signed by the bank;
- ✎ a "legal entity" form duly completed;
- ✎ the price;
- ✎ 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;
- ✎ the detailed CVs of the proposed experts;
- ✎ List of experts assigned, classified by level of expertise according following criteria:

Level of qualification I
<i>Highly qualified expert having assumed important responsibilities in his/her profession, recruited for his/her management/supervisory, thought and creativity skills as regards professional practise. He/she must have at least 15 years professional experience of which at least 7 must be connected with the professional sector concerned and the type of tasks to be performed.</i>
Level of qualification II
<i>Highly qualified expert having assumed responsibilities in his/her profession, recruited for his/her management/supervisory, thought and creativity skills as regards professional practise. He/she must have at least 10 years professional experience of which at least 4 must be connected with the professional sector concerned and the type of tasks to be performed.</i>
Level of qualification III
<i>Certified expert having received a high-level training in his/her profession, recruited for his/her thought and creativity skills as regards professional practise. He/she must have at least 5 years professional experience of which at least 2 must be connected with the professional sector concerned and the type of tasks to be performed.</i>
Level of qualification IV
<i>Junior expert, newcomer to the profession but holding a university degree or equivalent training related to the professional sector concerned and the type of tasks to be performed.</i>

13.2. 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 7, 9, 10 and 11 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.