

ANNEX IV

DECLARATION BY THE TENDERER

Exclusion Criteria Form and supporting documents

(a) Declaration

To be eligible for participating in this contract award procedure, Tenderers (and any member of a consortium/grouping as may be the case) and subcontractors envisaged to perform tasks under the Service Contract must submit the following Exclusion Criteria Form¹:

EXCLUSION CRITERIA FORM

The undersigned (*economic operator*):

.....

Name of company or organisation:

Official address in full:

.....

Official legal form:

Statutory registration number:

VAT number:

Name of person signing this form (designated individual legally authorised to represent the Tenderer or the Tenderer in dealings with third parties and acting on behalf of the above company or organisation):

.....

declares that the company or organisation that he/she represents:

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of

¹ Article 93 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248 of 16.9.2002).

the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;

- e) has not 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) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract.
- k) that the information provided to the Commission within the context of this invitation to tender is accurate, sincere and complete.
- l) that in case of award of contract, they shall provide the evidence as requested in the section (b) on "Supporting documents to the Exclusion Criteria Form" of this Annex II.A to the Invitation to Tender—Technical Tables of Answers that they are not in any of the situations described in points a, b, d, e above.

By signing this form, the undersigned acknowledges that they have been acquainted with the administrative and financial penalties described under art 133 and 134 b of the Implementing Rules (Commission Regulation 2342/2002 of 23/12/02), which may be applied if any of the declarations or information provided prove to be false.

Stamp, date and signature of the Tenderer

(b) Supporting documents to the Exclusion Criteria Form

The Tenderer to whom the contract is to be awarded **MUST** provide, within the 15 days following the receipt of the letter informing him of the proposed award of the contract and preceding the signature of the contract, the following evidence confirming the Declaration of Honour above:

*In the case of a **consortium**, the requested documents have to be provided **individually by each member of the consortium**; in case of **subcontractor(s) envisaged to perform more than 20% of the total contract value** the declaration has to be provided individually by each respective subcontractor.*

- GSA shall accept, as satisfactory evidence that the Tenderer/Subcontractor is not in one of the situations described in point (a), (b) or (e) of the Exclusion Criteria Form, the production of a **recent extract from the judicial record or, failing that, a recent equivalent document issued by a judicial or administrative authority** in the country of origin or provenance showing that those requirements are satisfied.
- GSA accepts, as satisfactory evidence that the Tenderer/Subcontractor is not in the situation described in point (d) of the Exclusion Criteria Form, a **recent certificate issued by the competent authority of the State concerned**.
- Where the document or certificate referred to in Ref. 1 & 2 is not issued in the country concerned and for the other cases of exclusion referred to in the Exclusion Criteria Form, **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.
- Depending on the national legislation of the country in which the tenderer/subcontractor is established, the documents referred to in Ref. 1, 2, 3 shall relate to legal persons and/or natural persons including, where necessary, company directors or any person with power of representation, decision-making or control in relation to the tenderer/subcontractor. This would be the case when the national legislation concerned gives juridical responsibility of the acts committed by a legal entity (moral persons) to their legal representatives. The tenderer/subcontractor shall provide information on the ownership or on the management, control and power of representation of the legal entity whenever necessary for the proper understanding of the evidence submitted or whenever the GSA requests it
- Where there are doubts as to whether tenderer/subcontractor is in one of the situations of exclusion, the GSA may itself apply to the competent authorities referred to in Ref. 3 to obtain any information they consider necessary about that situation.
- The GSA may waive the obligation of a tenderer/subcontractor to submit the documentary evidence referred to in Ref. 1 and 2 if such evidence has already been submitted to it for the purposes of another procurement procedure 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 tenderer/subcontractor shall declare on his honour that the documentary evidence has already been provided to the GSA in a previous procurement procedure and confirm that no changes in his situation have occurred. He shall indicate in its tender all the references necessary to allow the GSA to check this evidence.
- Tenderers/subcontractors may refer to the e-Certis web-site listing the certificates available in EU Member States:
<http://ec.europa.eu/markt/ecertis/login.do>