



Brussels, 09/11/2017
srb.e.e2.fp(2017)6113939

LETTER OF INVITATION TO TENDER

Dear Sir/Madam,

Subject: Open call for tenders SRB/OP/5/2017
Contract notice reference in the Official Journal: 2017/S 223 -462 884

PROVISION OF LEGAL ADVICE

1. The Single Resolution Board (hereinafter referred to as "the Contracting Authority" or "the SRB") is planning to award the contract referred to above. The procurement documents consist in the contract notice referred to above, this invitation to tender, the Tender Specifications with their annexes and the draft Multiple Framework Service Contract with reopening of competition.
2. If you are interested in this contract, you must submit your tender on paper, in one original (containing original signatures where requested) and 2 copies in one of the official languages of the European Union. The original version must be clearly labelled "original" and the two copies "copy 1" and "copy 2". Your offer must include a cover letter signed by the person(s) empowered to represent the tenderer and entitled to sign the contract if your offer is successful. You are also requested to save your bid on 2 USB sticks (one with the technical content and the other with the financial content) and include it in your offer.

In case of discrepancies, the paper copy marked original shall supersede.

The tender must be placed inside two closed envelopes addressed as indicated below, the inner envelope should be marked as follows: "CALL FOR TENDERS - NOT TO BE OPENED BY THE INTERNAL MAIL DEPARTMENT".

The inner envelope must also contain two closed envelopes, one containing the technical tender and the other the financial tender. Each of these envelopes must clearly indicate the content ("Technical" and "Financial").

The time limit for receipt of the tender is 22/12/2017. You must use one of the means of submission listed below. Receipt is understood as the time at which the tenderer hands over the tender to the post office or courier service or central mail department of the European Commission.

Means of submission	Time limit	Evidence	Address for delivery
Registered Post	22/12/2017 24:00 CET	Postmark in case of registered post	CALL FOR TENDERS SRB/OP/5/2017 Single Resolution Board (SRB) Treurenberg 22, B-1049, Brussels, Belgium For the attention of Ms Alkaterini Fotsi, Procurement Section of the SRB

<p>Courier or delivery in person (hand delivery)</p>	<p>22/12/2017 No later than 17:00</p>	<p>Date of the deposit slip of courier service Or Proof of submission, signed and dated by the official in the central mail department who takes delivery</p>	<p>CALL FOR TENDERS SRB/OP/5/2017 Single Resolution Board (SRB) T-22 office 02/027 1 Avenue du Bourget B-1140 Evere Belgium For the attention of Ms Aikaterini Fotsi, Procurement Section of the SRB</p>
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The Commission's central mail department is open from 07:30 to 17.30 Monday to Fridays. The service is closed on Saturdays, Sundays and official holidays of the contracting authority.

3. Tenders must:

- be signed by a duly authorised representative of the tenderer;
- be perfectly legible so that there can be no doubt as to words and figures;
- be clear and concise;
- be assembled in a coherent fashion (e.g. bound or stapled) with all the pages numbered;
- be drawn up using the model reply forms in the Tender Specifications (Annexes 2 to 6).

4. The period of validity of the tender, during which tenderers may not modify the terms of their tenders in any respect, is 9 months from the final date for submission.

5. Submission of a tender implies acceptance of all the terms and conditions set out in the procurement documents, and where appropriate, waiver of the tenderer's own general or specific terms and conditions. The submitted tender is binding on the tenderer(s) to whom the contract(s) is awarded for the duration of the contract(s).

6. All costs incurred during the preparation and submission of tenders are to be borne by the tenderers and will not be reimbursed.

7. A maximum of two representatives per tender can attend the opening of tenders as provided in Section IV.2.7 of the contract notice. For organisational and security reasons, the tenderer must provide the full name and ID or passport number of each of the representatives at least 3 working days in advance to: SRB-Procurement@srb.europa.eu. Failing that, the Contracting Authority reserves the right to refuse access to its premises.

8. Contacts between the Contracting Authority and tenderers are prohibited throughout the procedure **save in exceptional circumstances** and under the following conditions only:

- Before the date of receipt indicated in point 2:



Upon request, the Contracting Authority may provide additional information solely for the purpose of clarifying the procurement documents.

Any request for additional information must be made in writing only to SRB-Procurement@srb.europa.eu.

The Contracting Authority is not bound to reply to requests for additional information received less than six working days before the date of receipt of tenders indicated in point 2.

The Contracting Authority may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other type of clerical error in the text of the procurement documents.

Any additional information including that referred to above will be posted on the SRB website under Procurement <https://srb.europa.eu/en/procurement>. The website will be updated regularly and it is your responsibility to check for updates and modifications during the submission period.

- After the opening of tenders:

If obvious clerical errors in the tender need to be corrected or confirmation of a specific or technical element is necessary, the Contracting Authority will contact the tenderer provided this does not lead to substantial changes to the terms of the submitted tender.

9. This invitation to tender is in no way binding on the Contracting Authority. The Contracting Authority's contractual obligation commences only upon signature of the contract with the successful tenderers.
10. Up to the point of signature, the Contracting Authority may cancel the procurement procedure without the candidates or tenderers being entitled to claim any compensation. This decision must be substantiated and the candidates or tenderers notified.
11. Once the Contracting Authority has opened the tender, it becomes its property and it shall be treated confidentially.
12. You will be informed of the outcome of this procurement procedure (award decision) by e-mail only. It is your responsibility to provide a valid e-mail address together with your contact details in your tender and to check this e-mail address regularly.
13. If processing your reply to the invitation to tender involves the recording and processing of personal data (such as your name, address and CV), such data will be processed pursuant to Regulation (EC) No 45/2001¹ on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate

¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p.1.



your tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by the Data Protection Officer of the SRB.

14. Your personal data may be registered in the Early Detection and Exclusion System (EDES) if you are in one of the situations mentioned in Article 106 of the Financial Regulation ² . For more information, see the Privacy Statement on http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm)

I look forward to receiving your tender in response to this call for tenders.

Yours faithfully,



Eike König
Chair

Annexes: Tender Specifications, draft Multiple Framework Service Contract and other annexes

² Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298 of 26.10.2012, p. 1) as amended.

CALL FOR TENDERS

SRB/OP/5/2017

PROVISION OF LEGAL ADVICE

TENDER SPECIFICATIONS

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1. INFORMATION ON TENDERING

1.1 PARTICIPATION

Participation in this tender procedure is open on equal terms to all natural and legal persons coming within the scope of the Treaties. This contract will not be covered under the plurilateral Agreement on Government Procurement (GPA) concluded within the World Trade Organisation (WTO).

For British tenderers:

Please be aware that after the UK's withdrawal from the EU, the outcome of the negotiations may have an impact on the tenderers' ability to participate in this Multiple Framework Service Contract (hereinafter referred to as the "FWC").

1.2 VOLUME OF THE MARKET

The maximum amount for the execution of all the assignments referred to in this call for tenders is fourteen million euros (EUR 14 000 000) for the full duration of the contract (i.e. 24 months and the 2 optional renewals). This amount includes all expenses (direct and indirect, including fees, meetings, administrative expenses, overheads, travel, accommodation and daily subsistence expenses).

Please note that the above figures are given for estimation purposes and that the total value of the FWC depends on the specific assignments.

The SRB reserves the right to use a negotiated procedure for increasing the ceiling of the FWC based on Article 134(1)(e) of the Rules of Application of the Financial Regulation³.

1.3 DURATION

The FWC resulting from the present call for tenders will have an initial duration of 24 months from the date of its signature by the last contracting party. This FWC may only be renewed up to two (2) times in total, each time for an additional period of twelve months (12) months.

1.4 CONTRACTUAL CONDITIONS

The purpose of this tender procedure is the selection of up to a maximum of eight (8) tenderers for the provision of legal advice.

The services specified will be the subject of the FWC with **Reopening of Competition** drawn up between the SRB and the successful tenderers to whom the FWC is awarded. The draft FWC is annexed to the Invitation to Tender.

The same terms and conditions under the FWC will apply to each contractor. The purpose of this system is to put contractors of the FWC into competition at later stages. As a result of the present procurement procedure, the successful tenderers will be awarded FWCs, without any declared or effective priority or ranking amongst them.

³ Commission Delegated Regulation (EU) 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union, OJ L 362, 31.12.2012, p 1.

When preparing their offers, the tenderers should bear in mind the provisions of the draft FWC (which specifies the rights and obligations of the contractor, particularly on payments, performance of the contract, confidentiality and checks and audits) and its annexes. Submitting an offer means that the tenderers accept them.

It should be noted that the FWC does not impose on the contractors an obligation to submit an offer in reply to each Request for Services; however, the SRB reserves the right to terminate the FWC signed with the particular contractor, in line with the provisions of the FWC in one of the following situations, which are recognized as a breach of the contractor's obligations under the FWC:

- a) the contractor is not respecting its contractual obligations under the Specific Contract;
- b) the contractor is not responding to the Requests for Services (i.e. the contractor fails to submit an offer within the deadline for the fifth time in a row without justified reasons); or
- c) the contractor is not submitting compliant offers against the Requests for Services (i.e. its offers are evaluated to be below the minimum required levels for at least five times).

Procedure for Specific Contracts applicable for the FWC:

The FWC will be implemented through Specific Contracts. The procedure for awarding the Specific Contracts shall be as follows:

- a) Verification of absence of conflict of interest:

Prior to each assignment, the SRB shall contact, by e-mail, all the contractors within the FWC informing them about the specific elements of the assignment concerned in order to determine whether there is a conflict of interest. The contractors will, without undue delay, and in any event within two working days, provide a duly signed declaration that the execution of the assignment will not be vitiated by a conflict of interest. Reference is made to Annex IV of the draft FWC.

Each contractor must sign a declaration of absence of conflict of interest, in Annex IV to the FWC. This declaration of absence of conflict of interest shall cover also any potential subcontractors contracted by the tenderer for the purpose of execution of the Specific Contract.

It should be noted that the SRB reserves the right to shorten/extend the deadline for submitting the declaration of absence of conflict of interest depending on the nature and urgency of the specific assignment.

A conflict of interest or failure of the contractor(s) to meet the applicable deadline for the submission of the declaration shall lead to the exclusion of the contractor from the reopening of competition for the particular assignment.

Please note that confidentiality should be a key element of this verification process and therefore all contractors need to have appropriate procedures in place to ensure the secrecy of the information prior to and whilst performing a conflict of interest check.

b) Request for services:

Following the assessment of the declaration of absence of conflict of interest by the SRB, a "Request for services with reopening of competition" shall be sent (via e-mail) to the contractors who are not in any conflict of interest. The request for services shall specify the following:

- the particular assignment and the services needed;
- the deadline for submitting a specific offer that is commensurate with the urgency and relevance of the task to be executed;
- deliverables and reporting to be provided (if applicable);
- the duration of the service (if applicable);
- the details of meetings between SRB and the contractor (if applicable);
- the payment arrangements (if applicable).

Within the deadline specified in the "Request for services with reopening of competition", the contractors will provide the SRB with a written specific offer (by e-mail). **It should be noted that the deadline for receiving offers will depend on the nature and urgency of the specific tasks.**

In case of failure to comply with the particular deadline, the contractor shall be considered as unavailable and shall be rejected from the mini competition of the Specific Contract.

When preparing their offers, the tenderers should bear in mind the provisions of the FWC, which specifies the rights and obligations of the contractor, particularly those on payments, performance of the contract, confidentiality, checks and audits, and of the Specific Contract. Submitting an offer means that the tenderers also accept the provisions of the Specific Contract.

c) Assignment under Specific Contracts:

The SRB will examine the specific offers received and the Specific Contract shall be awarded in accordance with the award criteria stated in point 2.4.2 "Criteria for the award of the Specific Contracts" of these Tender Specifications.

Within five working days of a Specific Contract being sent by the SRB to the contractor, the SRB shall receive it back, duly signed and dated. **It should be noted that the deadline for receiving a Specific Contract will depend on the nature and urgency of the specific assignments.**

The period allowed for the execution of the assignments shall start to run on the date the contractor signs the Specific Contract, unless a different date is indicated.

1.5 LOTS

Not applicable.

1.6 COLLABORATING WITH OTHER COMPANIES

An economic operator may consider submitting a tender as a single entity or in collaboration with other service providers:

- (i) by submitting a **joint tender** with (a) partner(s) (assuming joint and several liability towards the Contracting Authority for the performance of the contract); and/or

(ii) through subcontracting.

In any case, the tender must specify clearly whether each company involved in it is acting as a partner in a joint tender or as a subcontractor (this also applies where the various companies involved belong to the same group, or even where one is the parent company of the others).

The implications of these two modes of collaboration are radically different as outlined below.

1.7 JOINT TENDERS

A joint tender is a situation where a tender is submitted by a group of economic operators (consortium).

All economic operators in a joint tender ("joint tenderers") assume **joint and several liability** towards the SRB for the performance of the FWC as a whole. Nevertheless, tenderers must designate a single point of contact for the SRB.

Joint tenders may include subcontractors in addition to the joint tenderers.

Statements saying, for instance:

- that one of the joint tenderers will be responsible for part of the FWC and another one for the rest, or
 - that more than one contracts should be signed if the joint offer is successful,
- are thus incompatible with the principle of joint and several liability. The SRB will disregard any such statement contained in a joint offer, and reserves the right to reject such offers without further evaluation as not compliant with the Tender Specifications.

1.7.1 JOINT OFFERS WILL BE ASSESSED AS FOLLOWS:

- The exclusion criteria (see point 2.2 "Verification of non-exclusion" of the Tender Specifications) will be assessed in relation to each company individually.
- The selection criteria for economic, financial, technical and professional capacity (see point 2.3 "Selection Criteria" of the Tender Specifications) will be assessed in relation to the tendering group as a whole.
- The evaluation criteria (see point 2.4 "Award Criteria" of the Tender Specifications) will be assessed in relation to the tender.

1.7.2 SHOULD TENDERERS WISH TO TENDER WITH A PARTNER AND HAVE ALREADY SET UP A CONSORTIUM or similar entity to that end, this should be mentioned in the offer, together with any other relevant information in this respect.

Should tenderers intend to submit a joint offer, it should be noted that, if awarded the contract, the SRB will require the tenderer to give a formal status to the proposed association before the FWC is signed. This can take the form of:

- an entity with legal personality recognised by a Member State; or
- an entity without legal personality but offering sufficient protection of the SRBs contractual interests (depending on the Member State concerned, this may be, for example, a temporary association); or
- the signature by all the joint tenderers of a "power of attorney" based on the model laid down by the SRB, which provides for a form of cooperation.

After the award, the Contracting Authority will sign the FWC either with all the joint tenderers or with the tenderer duly authorised by the other joint tenderers (model provided under Annex 5 of the Tender Specifications).

1.8 SUBCONTRACTING

Subcontracting is defined as the situation where a contract has been or is to be established between the Contracting Authority and a contractor and where the contractor, in order to carry out that contract, enters into legal commitments with other legal entities for performing part of the work.

Subcontracting is permitted in the tender but **the contractor will retain full liability towards the Contracting Authority for performance of the FWC as a whole.** The Contracting Authority has no direct legal commitment with the subcontractor(s).

Accordingly:

- The SRB will treat all contractual matters (e.g. payment) exclusively with the main contractor, whether or not the tasks are performed by a subcontractor.
- Under no circumstances, subcontracting of tasks may jeopardise the SRB's ability to receive compensation under the liability clauses of the FWC. In this regard, in the context of a request for services for a Specific Contract, the Contracting Authority may request the contractors to submit a statement specifying the roles, activities and responsibilities (including the level of involvement) of the subcontractor whose involvement will exceed a certain proportion to be defined in the request for services. After assessing the above statement, the SRB may exceptionally accept that the contractor's liability will be excluded with regard to the advice provided by the subcontractor (whose involvement exceeds this defined proportion) under a national law on which the contractor has no expertise, if the subcontractor provides a legally binding assurance that the SRB will receive an appropriate compensation in case of liability, taking into account the conditions and level of involvement of the subcontractor. Such exclusion will be subsequently reflected in the Specific Contract.
- Subcontracting is permitted to subcontractors proposed in the offers submitted in reply to the call for tenders.
- One-person companies may be authorised as subcontractor and added to the list of subcontractors at any time during the execution of the contract.
- Additional subcontracting to other than one-person companies (or freelancers) during the execution of the FWC will be accepted for specialised technical expertise required for the provision of the services.
- Furthermore, additional levels of subcontracting (e.g. subcontracting of subcontracts) are not allowed during the execution of the FWC unless a prior written authorisation has been granted by the SRB.
- If your offer envisages subcontracting, your file must include:
 - (i) a document mentioning the reasons why you are envisaging subcontracting and a list of subcontractors;
 - (ii) a letter of intent: tenderers are required to identify the subcontractor(s) and document their willingness to accept the tasks and the terms and

conditions set out in the Tender Specifications via a letter of intent (model provided under Annex 6).

Offers involving subcontracting will be assessed as follows:

- The exclusion criteria (see point 2.2 "Verification of non-exclusion" of the Tender Specifications) will be assessed in relation to the tenderer and each proposed subcontractor.
- The economic, financial, technical and professional selection criteria (see point 2.3 "Selection Criteria" of the Tender Specifications) will be assessed in relation to the tenderer and possible subcontractor(s) as a whole.
- The evaluation criteria (see point 2.5 "Technical Offer" & point 2.6 "Financial Offer" of the Tender Specifications) will be assessed in relation to the tender.

Full details of such subcontractors must also be provided in Annex 2 "Letter of submission of the Tender" of the Tender Specifications.

During execution of the FWC, the change of any subcontractor identified in the tender or subcontracting tasks for which subcontracting was not envisaged in the original offer will be subject to prior written approval of the Contracting Authority.

Freelancing, drawing on the activities or staff of any other entirely different legal entity than the contractor, independently of its exact legal form (and independently of the applicable national law), does qualify as subcontracting.

If your offer envisages subcontracting to freelancers, your file must include:

- list of all freelancers;
- a letter of intent by each freelancer stating his/her intention to collaborate with you if you are awarded the contract.

1.9 CONTENT OF THE TENDER

The tenders must be presented as follows:

- Section 1: Identification of the tenderer (see point 1.10 of the Tender Specifications)
- Section 2: Exclusion criteria (see point 2.2 of the Tender Specifications)
- Section 3: Selection criteria (see point 2.3 of the Tender Specifications)
- Section 4: Technical offer (see point 2.5 of the Tender Specifications)
- Section 5: Financial offer (see point 2.6 of the Tender Specifications)

1.10 IDENTIFICATION OF THE TENDERER: LEGAL CAPACITY AND STATUS

To identify itself, the tenderer must include a duly signed letter of submission of tender (see Annex 2 "Letter of submission of the Tender" of the Tender Specifications) presenting the name of the tenderer (including all joint tenderers in case of joint offer and identified subcontractors if applicable) and the name of the single contact person in relation to this tender.

In case of joint tender, the letter of submission of tender must be signed by a duly authorised representative for each joint tenderer, or by a single tenderer duly authorised by other joint tenderers with power of attorney (model provided under Annex 5 "Model of



Power of Attorney" of the Tender Specifications). The signed powers of attorney must be included in the tender as well.

Subcontractors must provide a duly signed letter of intent (model provided under Annex 6 "Letter of Intent" of the Tender Specifications) stating their willingness to provide the service foreseen in the offer and in line with the present Tender Specifications.

In order to prove their legal capacity and their status, all tenderers must indicate the state of establishment and provide a signed Legal Entity Form **with the supporting evidence** indicated in the form, acceptable under the law of the state of establishment. The Legal Entity Form is to be signed by a representative of the tenderer authorised to sign contracts with third parties. The form is available for individuals, private entities and public entities on:

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

Tenderers that are already registered in the Contracting Authority's accounting system (i.e. they have already been direct contractors) must provide the form but are not obliged to provide the supporting evidence.

Tenderers must provide the following information if it has not been included with the Legal Entity Form:

- For legal persons, a **legible copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties** and in legal proceedings, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.
- For individuals, where applicable, a **proof of registration** on a professional or trade register or any other official document showing the registration number.

The tenderer (or the single point of contact in case of joint tender) must provide a Financial Identification Form and supporting documents. Only one form per offer should be submitted (no form is needed for other joint tenderers or for subcontractors). The form is available on:
http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

2. EVALUATION AND AWARD

2.1. EVALUATION STEPS

The evaluation is based on the information provided in the submitted tender. It takes place in four steps:

- Verification of non-exclusion of tenderers on the basis of the exclusion criteria;
- Selection of tenderers on the basis of selection criteria;
- Verification of compliance with the minimum requirements set out in the Tender Specifications;

- Evaluation of tenders on the basis of the award criteria (technical and financial evaluation).

Only tenders meeting the requirements of one step will pass on to the next step.

The Contracting Authority may reject abnormally low tenders, in particular if it established that the tenderer or a subcontractor does not comply with applicable obligations in the fields of environmental, social and labour law.

2.2. VERIFICATION OF NON - EXCLUSION

The tenderers shall provide a declaration of honour (see Annex 3 "Declaration of honour with regard to exclusion and selection criteria" of the Tender Specifications), **duly signed and dated** by an authorised representative, stating that they are not in one of the situations of exclusion listed in this Annex. In the case of a joint tender, the declaration of honour shall be provided by each joint tenderer. The declaration of honour is also required for all the identified subcontractors.

The successful tenderer(s) shall provide the documents mentioned as supporting evidence in Annex 3 "Declaration of honour with regard to exclusion criteria and selection criteria" of the Tender Specifications before signature of the FWC and within a deadline given by the Contracting Authority. This requirement applies to all joint tenderers in case of joint tender and to all identified subcontractors.

A tenderer (or a joint tenderer in case of joint tender, or a subcontractor) is not required to submit the documentary evidence if it has already been submitted for another procurement procedure and provided the documents were issued not more than one year before the date of their request by the Contracting Authority and are still valid at that date. In such cases, if applicable, the tenderer must declare on its honour that the documentary evidence has already been provided in a previous procurement procedure, indicate the reference of the procedure and confirm that there has been no change in its situation.

A tenderer (or a joint tenderer in case of joint tender, or a subcontractor) is not required to submit a specific document if the Contracting Authority can access the document in question on a national database free of charge.

2.3. SELECTION CRITERIA

The tenderer may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the Contracting Authority that it will have at its disposal the resources necessary for performance of the contract, for example, by producing an undertaking on the part of those entities to place those resources at its disposal.

The tenderers (and each joint tenderer in case of joint tender, and each subcontractor whose capacity is necessary to fulfil the selection criteria) must provide the declaration of honour (see Annex 3), duly signed and dated by an authorised representative, stating that they fulfil the selection criteria applicable to them. In case of joint tender or subcontracting, the criteria applicable to the tenderer as a whole will be verified by combining the various declarations of honour for a consolidated assessment. Since the declaration of honour (see Annex 3) covers both exclusion criteria (see section 2.2) and

selection criteria, only one declaration of honour should be provided by each concerned entity.

The Contracting Authority will evaluate the selection criteria on the basis of the declarations on honour. Nevertheless, it reserves the right to require evidence of the legal and regulatory, financial and economic and technical and professional capacity of the tenderers at any time during the procurement procedure and performance of the FWC. In such case the tenderer must provide the requested evidence without delay. The Contracting Authority may reject the tender if the requested evidence is not provided in due time.

After the award of the FWC, the successful tenderers will be required to provide the evidence mentioned below before signature of the FWC and within a deadline given by the Contracting Authority. This requirement applies to each member of the group in case of joint tender and to subcontractors whose capacity is necessary to fulfil the selection criteria.

A tenderer (or a joint tenderer in case of joint tender, or a subcontractor) is not required to submit the documentary evidence if it has already been submitted for another procurement procedure and provided the documents were issued not more than one year before the date of their request by the Contracting Authority and are still valid at that date. In such cases, if applicable, the tenderer must declare on its honour that the documentary evidence has already been provided in a previous procurement procedure, indicate the reference of the procedure and confirm that there has been no change in its situation.

A tenderer (or a joint tenderer in case of joint tender, or a subcontractor) is not required to submit a specific document if the Contracting Authority can access the document in question on a national database free of charge.

2.3.1. LEGAL AND REGULATORY CAPACITY

Tenderers must prove that they are allowed to pursue the professional activity necessary to carry out the work subject to this call for tenders. The tenderer (including each joint tenderer in case of joint tender) must provide the following information in its tender if it has not been provided with the Legal Entity Form:

- For legal persons, a legible copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation applicable to the legal person requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.
- For natural persons, if required under applicable law, a proof of registration on a professional or trade register or any other official document showing the registration number.

2.3.2. ECONOMIC AND FINANCIAL CAPACITY CRITERIA AND EVIDENCE

As mentioned above, all tenderers must provide a declaration of honour (see Annex 3), **duly signed and dated** by an authorised representative.

The successful tenderers must prove their economic and financial capacity and that they and any subcontractors have the necessary resources and financial means to carry out the work that is subject of the tender. In order to prove that you have sufficient economic and financial capacity to perform the contract, you will be asked to present the following evidence:

- relevant **professional risk indemnity insurance** as reasonably required by standard practice in the industry;
- copy of the profit & loss accounts and balance sheets for the last two years for which accounts have been closed, demonstrating a yearly turnover of EUR seven million (7 000 000); failing that, appropriate statements from banks;
- if you rely on the capacities of other entities (e.g. your parent company), a **written undertaking** on the part of those entities confirming that they will place the resources necessary for performance of the FWC at your disposal.

If, for some exceptional reason which the Contracting Authority considers justified, a tenderer is unable to provide one or other of the above documents, it may prove its economic and financial capacity by any other document which the Contracting Authority considers appropriate. In any case, the Contracting Authority must at least be notified of the exceptional reason and its justification in the tender. The Contracting Authority reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

The Contracting Authority shall analyse the adequacy of tenderers' financial standing. Where it considers this insufficient the Contracting Authority shall have the right either to reject any offer or to accept it subject to conditions or to any interim payments being deferred until the work has been completed. Submission of a tender implies acceptance that the Contracting Authority's decision will be final and that it will not enter into negotiations with tenderers on this subject.

2.3.3. TECHNICAL AND PROFESSIONAL CAPACITY CRITERIA AND EVIDENCE

Tenderers (or joint tenderers in case of a joint tender , or all identified subcontractors) are required to prove that they have sufficient technical and professional capacity to perform the FWC as further described in the Technical Specifications (see point 3). To that end, you are requested to provide the supporting documentation.

I) Tenderer's Cross Border experience

- Demonstrate that your company has cross border experience in at least **four Member States of the European Union**;
- Demonstrate ability to advise on legal issues related to the assignments and responsibilities of the SRB under **relevant International laws** and applicable domestic laws in **all Eurozone Member States as well as United Kingdom and United States of America**.

The **criteria provided under this sub-section constitute the minimum requirements** which a tender has to meet. Therefore, in case of non compliance with them, the tender shall be rejected as irregular.

II) Profiles and Mandatory Minimum Experience



Profile	Mandatory Minimum Experience
Partner	Partner position in the firm. Extensive experience, minimum of <u>8 years</u> of leading business critical legal projects and transactions, bringing genuine strategic insight. In-depth knowledge of the financial services and/or regulatory sector and of current policy and political issues affecting it.
Senior Associate	Substantial legal experience with a minimum of <u>5 years</u> . Familiarity with the issues and problems financial institutions and/or regulatory organisations may face. Experience of working in a wide range of relevant projects and in-depth knowledge of their specialist field.
Associate	Substantial legal experience, with a minimum of <u>3 years</u> , and an in-depth knowledge of their specialist field
Junior	Legal experience, minimum <u>1 year</u> , in a wide range of projects in their specialist field.
Paralegal	Person trained in subsidiary legal matters but not being a fully qualified lawyer

The members of the team should be key individuals within your organisation who will take responsibility for the consultancy or advice work covered in this assignment and who are able to work and communicate in excellent English.

The tenderer has to demonstrate the technical capacity to perform the required services based on the CVs provided.

EVIDENCE:

- i) Evidence of cross border experience in at least four Member States of the European Union (the evidence should be limited to 2 A4 pages).
- ii) Evidence of ability to provide legal advice in **all Eurozone Member States as well as United Kingdom and United States of America** (the evidence should be limited to 2 A4 pages), e.g. list of offices of tenderers and subcontractors.
- iii) Details of the proposed key staff that the tenderer intends to use to provide the services of this assignment, who are able to work and communicate in excellent English.
The evidence should include a **maximum of 10 CVs** (max 2 A4 side per CV) including the CV of the lead partner who will act as a contact point with the SRB.
- iv) The tenderer must demonstrate that it has previous experience and expertise, during the last six years, of successfully delivering relevant services similar to the ones described in point 3.2. for which you are bidding. This description must be limited to maximum of 4 A4 pages).
- v) Certificates proving that the proposed team (except for the paralegals) is composed of lawyers currently registered with a European Union bar association.

The Contracting Authority may request that some critical tasks, relating to the selection criteria, are performed directly by the tenderer itself or by a joint tenderer, in case of joint offers.

The SRB may reject tenderers at selection stage in case of a conflict of interest that may affect the performance of the contract.

2.4. AWARD CRITERIA

The tenderers are requested to submit the technical solutions to which they are tendering. Please take special notice that the award criteria are explained in Appendix A.

Only the tenders meeting the requirements of the exclusion and selection criteria will be evaluated in terms of quality and price. The FWC will be awarded to the tenderers who submit the most economically advantageous bid (those with the highest score) according to the "best quality-price ratio" award method.

2.4.1 CRITERIA FOR THE AWARD OF THE FWC

The tender will be evaluated based on the following award criteria, three quality criteria (Q1, Q2 and Q3) and a price criterion (P).

	Criteria	Weighting for each criterion
Q1	Approach and methodology	40%
Q2	Assignment Management	20%
Q3	Resource Management & Retention	10%
P	Price Criterion	30%
	Total ΣQ+P	100%

Please refer to Appendix A for further explanation on the award criteria.

Each quality criterion will receive from 0 to maximum 100 points. Tenders must score minimum 60 points for each quality criterion. Tenders that do not reach the minimum quality level for one of the quality criteria will be rejected and will not be ranked.

Ranking of the tenders:

The contract(s) will be awarded to the most economically advantageous tender(s), i.e. the tender offering the best price-quality ratio determined in accordance with the formula below.

Score for tender X	=	$\frac{\text{Cheapest price}}{\text{Price of tender X}}$	*	100	*	Weighting for P (In %)	+	Sum of the [(Score (out of 100) for each quality criterion) * (weighting for each quality criterion)]
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The first 8 ranked tenders after applying the formula will be awarded the FWCs.

2.4.2 CRITERIA FOR THE AWARD OF THE SPECIFIC CONTRACTS

The following criteria and procedure will be used for awarding Specific Contracts:

- **Admissibility**

Only admissible specific offers will be evaluated. The criteria for admissibility of the offers are the following:

- Deadline for submission of the declaration of absence of conflict of interest has been respected; and
- Deadline for submission of offers has been respected.

• **Award Criteria**

Taking into account the use of the FWC with reopening of competition, the Specific Contracts will be awarded based on the most economically advantageous tender, according to the 'best price-quality ratio' award method.

The tenders will be evaluated based on the following award criteria, two quality criteria (Q1 and Q2) and a price criterion (P).

	Criteria	Weighting
Q1	Quality and suitability of the specific methodology for the tasks being requested	40%
Q2	Quality and relevance of the procedures used to ensure the quality of the proposed profiles	20%
P	Price	40%
	Total ΣQ+P	100%

Each quality criterion will receive from 0 to maximum 100 points. Tenders must score minimum 60 points for each quality criterion. Tenders that do not reach the minimum quality level for one of the quality criteria will be rejected and will not be ranked.

Ranking of the tenders:

The contract will be awarded to the most economically advantageous tender, i.e. the tender offering the best price-quality ratio determined in accordance with the formula below.

Score for tender X	=	Cheapest price	*	100	*	Weighting for P (In %)	+	Sum of the [(Score (out of 100) for each quality criterion) * (weighting for each quality criterion)]
		$\frac{\text{Price of tender X}}{\text{Price of tender X}}$						

The first ranked tender after applying the formula will be awarded the Specific Contract.

2.5. TECHNICAL OFFER

The technical offer must cover all aspects and tasks required in the technical specifications and provide all the information needed to apply the award criteria. Offers not meeting the minimum requirements as defined in the request for services will be excluded on the basis of non-conformity with the Tender Specifications and will not be evaluated.

2.6. FINANCIAL OFFER

Tenderers must insert the hourly rates in the price table to be found in the Appendix A: "Award Criteria".

The price for the tender must be quoted in euro even for tenderers from countries outside the euro zone. The price quoted may not be revised in line with exchange rate

movements. It is for the tenderer to assume the risks or the benefits deriving from any variation.

Prices must be quoted free of all duties, taxes, including VAT, and other charges as the SRB is exempt from such charges under Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union⁴. The amount of VAT may be shown separately.

The quoted price must be a fixed amount. That price shall include all expenses (direct and indirect, including fees, meetings, administrative expenses, overheads, travel, accommodation and daily subsistence expenses). No additional refund request will be accepted.

Prices shall be fixed and not subject to revision during the first year of performance of the FWC. At the beginning of the second and every following year of the FWC, the amount may be revised upwards or downwards. This revision will be made according to Article I.5.2 of the draft FWC.

Different price options will not be accepted and will entail the refusal of the offer.

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/PRO/07>



TECHNICAL SPECIFICATIONS

3.1 GENERAL BACKGROUND AND PURPOSE OF THE CONTRACT

In response to the financial crisis of 2008, the European Commission pursued a number of initiatives to create a safer and sounder financial sector for the single market. The Single Resolution Mechanism (SRM) is one of them. It is the second pillar of the Banking Union. Its legal basis are the Bank Recovery and Resolution Directive (BRRD), Directive (EU) No 2014/59/EU and the SRM Regulation (SRMR), Regulation (EU) No 806/2014.

Together with the Single Supervisory Mechanism (SSM), for which the European Central Bank is responsible, the Single Resolution Board (SRB) is one of the corner stones of a new architecture in banking supervision and resolution within the Euro Area and beyond. Its creation represents a major step towards ending the toxic cycle of too-big-to-fail of the past and towards re-establishing the principles of the market economy in the banking sector.

The SRB is therefore the central decision-making body of the SRM and the European resolution authority as part of the European Banking Union. Its mission is to ensure an orderly resolution of failing banks with minimum impact on the real economy and public finances of the participating Member States and beyond. The SRB is a self-financed independent agency of the European Union, which has its seat in Brussels, Belgium. It works in close cooperation in particular with the national resolution authorities of participating Member States, the European Commission and the European Central Bank. The SRB is made up of 6 permanent Board Members and the SRB conveys decisions in its executive and plenary sessions. Any resolution decisions will be taken by the executive session.

The SRB is operational since 1st January 2015 and has started to work on developing resolution plans for credit institutions. Since 1 January 2016, the SRB is fully operational, with a complete set of resolution powers.

The recent financial crisis has shown the need for adequate tools at Union level to deal effectively with unsound or failing credit institutions and investment firms ('institutions'). The resolution framework should provide for timely entry into resolution before a financial institution is balance-sheet insolvent and before all equity has been fully wiped out.

According to the SRMR, resolution should be initiated when an institution is failing or likely to fail, no alternative measures (e.g. use of private funds) would prevent such a failure within a reasonable timeframe, and there is public interest in placing the institution under resolution and applying resolution tools rather than resorting to normal insolvency proceedings. When applying resolution tools and exercising resolution powers, the SRB may request legal advice and assistance when exercising the powers and duties conferred to it by the SRMR.

Moreover, the SRB is the owner of the Single Resolution Fund (SRF) and is responsible for its administration. The SRF was established as a pool of money financed by the banking sector in order to ensure the effective application of resolution tools. The SRF is gradually being built up during the first eight years (2016-2023). The target volume of the SRF is measured in proportion to client deposits held at all the banks in the Euro Area. The SRF shall reach at least 1 % of these so-called covered deposits (deposits of up to 100,000 for each client at any bank) which could lead to a final size of the SRF of

around EUR 55bn. As the owner and administrator of the SRF, the SRB may need assistance or/and advice relating to the constitution, the administration or the use of the SRF or any other relevant issues.

3.2. CONTRACT SPECIFICATIONS

3.2.1. General & specific objectives and minimum requirements

A description of the domains is given hereafter. It should be noted that the descriptions are indicative and the definitions are non-exhaustive. Furthermore, the complexity of the tasks involved and the limited time available may require close to full-time involvement of the expert advisors.

3.2.1. a Description of the tasks

Legal advice and assistance to the Board on, *inter alia*:

- Corporate law (including 'merger and acquisition'-aspects),
- Contract law,
- Real estate law and other laws regarding the (*in rem*) transfer of assets (including movable assets, aviation, shipping, infrastructure and receivables), liabilities and legal relationships, to the extent not achieved via corporate action,
- Banking law, in particular, loan documentation,
- Capital markets law, including:
 - write down and cancellation of debt and shares or other instruments of ownership,
 - capital reductions and increases,
 - derivatives and underlying template documentation (e.g., ISDA documentation) and,
 - more generally, any type of debt (including sovereign debt) and equity capital markets law,
- Labour law (on a single contract and a collective basis),
- Intellectual property and trademarks,
- Insolvency law, including, in particular, an assessment of:
 - the treatment of shareholders and creditors had the institution under resolution been wound up under 'normal' insolvency proceedings (instead of resolution), and
 - the potential differences in treatment of shareholders and creditors ('normal' insolvency proceedings vs resolution),

- Tax law,
- Administrative law,
- Competition law,
- International law,
- Conflicts of laws provisions,

in the light of the tasks and responsibilities of the SRB, **including but not limited to:**

- The planning process pursuant to Art. 8 and 9 of the SRMR, in particular, the development of resolution strategies
- The assessment of resolvability pursuant to Art. 10 of the SRMR; in particular, the process of addressing and removing impediments to resolvability.
- Applying simplified obligations pursuant to Art. 11 of the SRMR.
- Establishing minimum requirements for own funds and eligible liabilities pursuant to Art. 12 of the SRMR.
- Adopting a resolution scheme pursuant to Art. 18 of the SRMR or the independent exercise of the write down or conversion powers pursuant to Art. 21 SRMR.
- Any issues related to the SRF, including, inter alia, issues related to:
 - the constitution of the SRF (e.g. legal advice with regard to the data collection for and calculation of the ex-ante contributions to the SRF and irrevocable payment commitments according to Art. 70 of the SRMR);
 - the administration of the SRF (e.g. legal advice with regard to the investment strategy of the SRF and its operationalization); and
 - the use of the SRF pursuant to Art. 76 et seq. of the SRMR.

Description of the profiles

The description of the profiles are generic. The description is presented in point 2.3.3 of the Tender Specifications.

3.2.1.b Minimum requirements

The tender shall be rejected as irregular if it does not meet the minimum requirements mentioned below:

- 1. Proved cross border experience in at least four Member States of the European Union;**
- 2. Capacity to provide advise on legal issues related to the assignments and responsibilities of the SRB under relevant International laws and applicable domestic laws in all Eurozone Member States as well as the United Kingdom and the United States of America ⁵.**

⁵ The compliance with the minimum requirements will be verified on the basis of the documentary evidence requested in line with the sub-section 2.3.3. Technical and professional capacity and evidence

3.3. PLACE OF WORK

It is anticipated that a number of tasks under the FWC will be based in and around Brussels. However, the services may be delivered in any other places depending on the specific tasks.

3.4. DELIVERABLES

Deliverables will be requested depending on requirements of the specific assignments.

3.5. INDICATIVE TIMETABLE

The estimated date for signature of the FWC is beginning of February 2018.



ANNEX 1 – DRAFT MULTIPLE FRAMEWORK SERVICE CONTRACT

ANNEX 2 - LETTER OF SUBMISSION OF TENDER

The purpose of this document is to facilitate the preparation of the tender by providing an overview of the information and documents requested.

Dear Sirs,

You will find enclosed the tender of [name of tenderer] in response to invitation to tender SRB/OP/5/2017 for the Provision of Legal Advice.

SECTION 1 - IDENTIFICATION	
Tenderer's identification	
NAME	
ADDRESS	
LEGAL FORM	

Tenderers will fill in the Legal Entity Form that can be attained from the following internet addresses:
http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm
 and provide the supporting evidence.

Personal details	
1.2.1.- Person authorized to sign the contract on behalf of the tenderer	
TITLE	Mr/Ms/Dr/other.....(delete or complete as appropriate)
NAME	Surname (in capital letters) Forename:
FUNCTION	
CONTACT DETAILS	Direct telephone: E-mail address:.....
1.2.2. - Contact person (if different from 1.2.1)	
TITLE	Mr/Ms/Dr/other.....(delete or complete as appropriate)
NAME	Surname (in capital letters): Forename:
FUNCTION	
MAILING ADDRESS	
CONTACT DETAILS	Direct telephone: E-mail address:

1.2.3 - Consortium details⁶

⁶ This section must be completed in case tenderer presents a joint offer by a group of tenderers in consortium and must be completed for each member of the consortium. Power of Attorney (Annex 5) should be signed by each member of the group.

NAME	
ADDRESS	
CONTACT DETAILS	Contact person: Telephone: E-mail address:
LEGAL FORM	

1.2.4 Sub-contractor's details

NAME	
ADDRESS	
CONTACT DETAILS	Contact person: Telephone: E-mail address:
LEGAL FORM	
COMMERCIAL REGISTER, ETC. – REGISTRATION DETAILS	Denomination of register: Date of registration: Country of registration: Registration number:
FOR NATURAL PERSONS	Identity Card [No + expiry date]..... Or Passport or other [No + expiry date]
VAT	Registration number: or Statement of exemption issued by the national VAT authority dated..... enclosed under reference..... Issued by.....
SHORT DESCRIPTION OF THE PORTION OF WORK SUB-CONTRACTED	

ANNEX 3 - DECLARATION OF HONOUR WITH REGARD TO EXCLUSION CRITERIA AND SELECTION CRITERIA

The undersigned [*insert name of the signatory of this form*], representing:

<i>(only for natural persons)</i> himself or herself	<i>(only for legal persons)</i> the following legal person:
ID or passport number: (‘the person’)	Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number: (‘the person’)

I – SITUATION OF EXCLUSION CONCERNING THE PERSON

(1) declares that the above-mentioned person is in one of the following situations:	YES	NO
a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations;	<input type="checkbox"/>	<input type="checkbox"/>
b) it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:		

(i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) entering into agreement with other persons with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) violating intellectual property rights;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) attempting to influence the decision-making process of the contracting authority during the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
d) It has been established by a final judgement that the person is guilty of the following:		
(i) fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of EU Member States, drawn up by the Council Act of 26 May 1997, and in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the legal provisions of the country where the contracting authority is located, the country in which the person is established or the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;	<input type="checkbox"/>	<input type="checkbox"/>
(vi) child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract	<input type="checkbox"/>	<input type="checkbox"/>

financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an Authorising Officer, OLAF or the Court of Auditors;		
f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;	<input type="checkbox"/>	<input type="checkbox"/>
g) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the applicant is subject to: <ul style="list-style-type: none"> i. facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body; ii. non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics; iii. decisions of the ECB, the EIB, the European Investment Fund or international organisations; iv. decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or v. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body. 	<input type="checkbox"/>	<input type="checkbox"/>

II – SITUATIONS OF EXCLUSION CONCERNING NATURAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON

Not applicable to natural persons, Member States and local authorities

(2) declares that a natural person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the	YES	NO	N/A
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above-mentioned legal person (this covers company directors, members of management or supervisory bodies, and cases where one natural person holds a majority of shares) is in one of the following situations:			
Situation (c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (e) above (significant deficiencies in performance of a contract)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (f) above (irregularity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

III – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE LEGAL PERSON

(3) declares that a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations:	YES	NO	N/A
Situation (a) above (bankruptcy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (b) above (breach in payment of taxes or social security contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IV – GROUNDS FOR REJECTION FROM THIS PROCEDURE

(4) declares that the above-mentioned person:	YES	NO
h) has distorted competition by being previously involved in the preparation of procurement documents for this procurement procedure.	<input type="checkbox"/>	<input type="checkbox"/>

V – REMEDIAL MEASURES

If the person declares one of the situations of exclusion listed above, it must indicate measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (d) of this declaration.

VI – EVIDENCE UPON REQUEST

Upon request and within the time limit set by the contracting authority the person must provide information on the persons that are members of the administrative, management or supervisory body. It must also provide the following evidence concerning the person itself and concerning the natural or legal persons which assume unlimited liability for the debt of the person:

For situations described in (a), (c), (d) or (f), production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the person showing that those requirements are satisfied.

For the situation described in point (a) or (b), production of recent certificates issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the person is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

VII – SELECTION CRITERIA

(5) declares that the above-mentioned person complies with the selection criteria applicable to it individually	YES	NO	N/A
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as provided in the tender specifications:			
(a) It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section 15 of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable technical and professional criteria indicated in point 15 of the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(6) if the above-mentioned person is the sole tenderer or the leader in case of joint tender , declares that:	YES	NO	N/A
(c) the tenderer, including all members of the group in case of joint tender and including subcontractors if applicable, complies with all the selection criteria for which a consolidated assessment will be made as provided in the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VII – EVIDENCE FOR SELECTION

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents listed in the relevant sections of the tender specifications and which are not available electronically upon request and without delay.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

The above-mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial



penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.

Full name

Date

Signature

ANNEX 4 – FINANCIAL OFFER

Name of tenderer:

1. Pricelist per Profile

The price table below will become an annex to the Framework Contract.

Profile	Price per hour in EUR (including all expenses)*
Partner	
Senior Associate	
Associate	
Junior	
Paralegal	

*The hourly rate is a fixed price and shall include all expenses (direct and indirect, including including fees, meetings, administrative expenses, overheads, travel, accommodation and daily subsistence expenses).

The hourly rates that the tenderers commit to shall be the basis for the calculation of the prices for the Specific Contracts and are the maximum rates that the successful tenderers will charge under the Specific Contracts. Therefore, when quoting prices for the Specific Contract under the FWC, contractors must not exceed the hourly rates specified in the table above but can offer discounts.

ANNEX 5 - MODEL OF POWER OF ATTORNEY

MODEL 1 OF POWER OF ATTORNEY

(DESIGNATING ONE OF THE COMPANIES OF THE GROUP AS LEADER AND GIVING A MANDATE TO IT)

Agreement / Power of Attorney

We the undersigned:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
-
- Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company,
HEREBY AGREE AS FOLLOWS:

In case the SRB awards the Multiple Framework Service Contract (« **the Contract** ») to Company 1, Company 2, ..., Company N (« **the Group Members** »), based on the joint offer submitted by them on for the supply of and/or the provision of services for ... (« **the Supplies and/or the Services** »).

- (1) As co-signatories of the Contract, all the Group Members:
 - (a) Shall be jointly and severally liable towards the SRB for the performance of the Contract.
 - (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.
- (2) To this effect, the Group Members designate Company X as **Group Leader**. [N.B.: The Group Leader has to be one of the Group Members]
- (3) Payments by the SRB related to the Supplies or the Services shall be made through the Group Leader's bank account. [Provide details on bank, address, account number, etc.].
- (4) The Group Members grant to the Group Leader all the necessary powers to act on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks:
 - (a) The Group Leader shall sign any contractual documents - including the [Framework] Contract, [Specific Agreements] and Amendments thereto - and issue any invoices related to the Supplies or the Services on behalf of the Group Members.



- (b) The Group Leader shall act as single point of contact for the SRB in connection with the Supplies and/or the Services to be provided under the Contract. It shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the SRB, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the SRB's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the SRB in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the SRB's consent.

Signed in on

Name
Function
Company

Name
Function
Company

Name
Function
Company

Name
Function
Company

MODEL 2 OF POWER OF ATTORNEY

(CREATING THE GROUP AS SEPARATE ENTITY, APPOINTING A GROUP MANAGER AND GIVING A MANDATE TO HIM/HER)

Agreement / Power of Attorney

We the undersigned:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
-
- Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, **HEREBY AGREE AS FOLLOWS:**

In case the Single Resolution Board awards the Multiple Framework Service Contract (**« the Contract »**) to Company 1, Company 2, ..., Company N (**« the Group Members »**), based on the joint offer submitted by them on for the supply of and/or the provision of services for ... (**« the Supplies and/or the Services »**).

- (1) As co-signatories of the Contract, all the Group Members:
 - (a) Shall be jointly and severally liable towards the SRB for the performance of the Contract.
 - (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.
- (2) To this effect, the Group Members have set up under the laws of the Group (**« the Group »**). The Group has the legal form of a..... [Provide details on registration of the Group: VAT Number, Trade Register, etc.].
- (3) Payments by the SRB related to the Supplies or the Services shall be made through the Group's bank account. [Provide details on bank, address, account number, etc.].
- (4) The Group Members appoint Mr/Ms as **Group Manager**.
- (5) The Group Members grant to the Group Manager all the necessary powers to act alone on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks :
 - (a) The Group Manager shall sign any contractual documents - including the Multiple Framework Service Contract, [Specific Agreements] and amendments thereto - and issue any invoices related to the Supplies or the Services on behalf of the Group Members.



- (b) The Group Manager shall act as single point of contact for the SRB in connection with the Supplies and/or the Services to be provided under the Contract. He/she shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the SRB, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the SRB's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the SRB in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the SRB's consent.

Signed in on

Name
Function
Company

Name
Function
Company

Name
Function
Company

Name
Function
Company





ANNEX 6 – MODEL OF LETTER OF INTENT FOR SUBCONTRACTOR

Letter of Intent

SRB/OP/5/2017

The undersigned:

Name of the company/organisation:

Address:

.....

.....

Declares hereby the intention to collaborate in the execution of the tasks subject to the above call for tender, in accordance with the terms of the offer to which the present form is annexed, if the contract is awarded to (name of the tenderer).

Declares hereby accepting the contractual conditions attached to the tendering specifications for this call for tender.

Full name

Date

Signature

