Document for completion by the contracting authority

to be submitted as **ANNEX to the tender dossier**

(not published for the simplified procedure or negotiated procedure)

**WORKS CONTRACT NOTICE**

**< Contract title >**

**< Location** ‑ Area/region and country/countries >

1. **Reference**

< Reference >

1. **Procedure**

[Simplified][Negotiated]

1. **Programme title**

< Please specify the programme title mentioned in the applicable financing agreement/ financing decision>

1. **Financing**

The project is [co-financed] [financed] by the European Union, in accordance with the rules of <specify the programme> programme.

[The project is co-financed by < specify financing body >.]

1. **Contracting authority**

EITHER

< European Union, represented by the European Commission on behalf of and for the account of the partner country/countries > (direct management)

OR

< The partner country > (indirect management)   
< Address>

**CONTRACT SPECIFICATIONS**

1. **Nature of contract**

**<Lump-sum>**

1. **Description of the contract**

<Recommended maximum: 10 lines >

1. **Provisional commencement date of the contract**

< Date >

1. **Period of implementation of tasks**

<Specify the period from contract signature, or alternative date, until the provisional acceptance>

**CONDITIONS OF PARTICIPATION**

1. **Legal basis, eligibility and rules of origin**

**[For commitments financed by a basic act under the MFF 2021-2027:**

[For NDICI and OAD-Greenland Decision 2021/1764[[1]](#footnote-1):

The legal basis of this procedure is <Regulation (EU) N° 2021/947 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI)[[2]](#footnote-2) >/<OAD-Greenland Decision 2021/1764>. See Annex A2 of the practical guide.

For financing under the OAD-Greenland Decision 2021/1764 and NDICI geographic programmes, Civil Society Organisations and Global Challenges programmes:

For this contract award procedure, financed by <OAD-Greenland Decision 2021/1764>/<NDICI geographic programmes>/<NDICI Civil Society Organisations programme>/<NDICI Global Challenges programme>, participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) which are effectively established in a Member State of the European Union or in an eligible country or territory as defined under Article 28 of Regulation (EU) N° 2021/947.

For financing under NDICI Human Rights and Democracy and Stability and Peace programmes, as well as for the rapid response actions:

For this contract award procedure, financed by <NDICI Human Rights and Democracy programme>/<NDICI Stability and Peace programme>/<NDICI rapid response actions>, participation is open without limitations.

Participation is also open to international organisations.

All supplies and materials under this contract may originate in any country.]

[For INSC 2021/948 [[3]](#footnote-3):

The legal basis of this procedure is<Council Regulation (Euratom) 2021/948 of 27 May 2021 establishing a European Instrument for International Nuclear Safety Cooperation complementing the Neighbourhood, Development and International Cooperation Instrument – Global Europe on the basis of the Treaty establishing the European Atomic Energy Community.> See Annex A2 of the practical guide.

For this contract award procedure, participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) which are effectively established in a  Member State of the European Union or in an eligible country or territory as defined under Article 11 of Regulation (EU) No 2021/948.

Participation is also open to international organisations.

All supplies and materials under this contract may originate in any country.]

[For IPA III 2021/1529[[4]](#footnote-4):

The legal basis of this procedure is <Regulation (EU) No [1529] establishing the Instrument for Pre-accession Assistance (IPA III)>. See Annex A2 of the practical guide.

For this contract award procedure, participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) which are effectively established in a  Member State of the European Union or in an eligible country or territory as defined under Article 11 of Regulation (EU) No [1529]  establishing the Instrument for Pre-accession Assistance (IPA III).

All supplies and materials under this contract may originate in any country.]

**[For commitments financed by a basic act under the MFF 2014-2020:**

[General budget of the Union for calls where the CIR applies:

The legal basis of this procedure is Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and <please introduce here the reference of the regulation or other instrument under which this contract is to be financed (e.g. DCI, ENPI, ENI, Ifs). > See Annex A2 of the practical guide.

Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) which are effectively established in a  Member State of the European Union or in a eligible country or territory as defined under Article 8 of Regulation (EU) No 236/2014 for the applicable instrument under which the contract is financed. Participation is also open to international organisations.

Participation financed by the European Instrument for Democracy and Human Rights (EIDHR) and the Instrument contributing to Stability and Peace (IcSP)[[5]](#footnote-5) is fully untied[[6]](#footnote-6).

[If the estimated intrinsic value of the products (of the tender procedure as a whole or if divided into lots, per lot) is above or equal to EUR 100 000:

All supplies under this contract must originate in one or more of these countries.]

[If the estimated intrinsic value of the products (of the tender procedure as a whole or if divided into lots, per lot) is below EUR 100 000:   
All supplies under this contract may originate from any country.]

[General budget of the Union for calls where the CIR does not apply (e.g. for IPA I):

The legal basis of this procedure is < Regulation or other instrument under which this contract is to be financed.> See Annex A2 of the practical guide.

Participation is open to all legal persons (participating either individually or in a grouping – consortium – of tenderers) which are established in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme under which the contract is financed. Participation is also open to international organisations. Participation of natural persons is directly governed by the specific instruments applicable to the programme under which the contract is financed.

[All supplies under this contract must originate in one or more of these countries.]

[10th EDF/11th EDF:

The legal basis of this procedure is Annex IV to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as amended in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010. Reference is made to Annex IV as revised by Decision 1/2014 of the ACP-EU Council of Ministers of 20 June 2014.

Participation in tendering is open on equal terms to all natural and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) which are established in one of the Member States of the European Union, ACP States or in a country or territory authorised by the ACP-EC Partnership Agreement under which the contract is financed.   
  
Participation is also open to international organisations.

[If the estimated intrinsic value of the products (of the tender procedure as a whole or if divided into lots, per lot) is above or equal to EUR 100 000:

All supplies and materials under this contract may originate in one or more of these countries.]

[If the estimated intrinsic value of the products (of the tender procedure as a whole or if divided into lots, per lot) is below EUR 100 000:

All supplies and materials under this contract may originate in any country.]

[Other basic acts which may apply different eligibility rules: <…………………>]

**[For commitments financed by a basic act under the 2014-2020 or previous MFFs, 11th or previous EDF:**

For UK candidates or tenderers: Please be aware that following the entry into force of the EU-UK Withdrawal Agreement\* on 1 February 2020 and in particular Articles 127(6), 137 and 138, the references to natural or legal persons residing or established in a Member State of the European Union and to goods originating from an eligible country, as defined under Regulation (EU) No 236/2014\*\* and Annex IV of the ACP-EU Partnership Agreement\*\*\*, are to be understood as including natural or legal persons residing or established in, and to goods originating in, the United Kingdom \*\*\*\*. Those persons and goods are therefore eligible under this call.

\* Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

\*\* Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action.

\*\*\* Annex IV to the ACP-EU Partnership Agreement, as revised by Decision 1/2014 of the ACP-EU Council of Ministers (OJ L196/40, 3.7.2014).

\*\*\*\* Including the Overseas Countries and Territories having special relations with the United Kingdom, as laid down in Part Four and Annex II of the TFEU.**]**

1. **Subcontracting**

**Subcontracting is allowed.** [EDF only: In the selection of subcontractors preference shall be given by the contractor to natural persons, companies or firms of ACP States capable of performing the work required on similar terms.]

Subcontractors, suppliers and entities upon whose capacity the tenderer relies for the selection criteria, must be eligible in respect of the rules on nationality and origin for the financing programme detailed in Section 10 above.

1. **Grounds for exclusion**

Natural persons, companies or undertakings falling into a situation set out in Section 2.6.10.1.1. (‘exclusion from participation in procurement procedures’) and Section 2.6.10.1.2. (‘rejection from a given procedure’) of the practical guide, are not entitled to participate in this tender procedure or be awarded a contract. Should they do so, their tender will be considered unsuitable or irregular respectively. Tenderers must provide declarations to the effect that they are not in any of the exclusion situations listed in Section 2.6.10.1. of the practical guide. The declarations must cover all the members of a joint venture/consortium. Tenderers guilty of making false declarations may also incur financial penalties up to 10% of the value of the contract and exclusion in accordance with the Financial Regulation in force.

Those exclusion situations apply to all members of a joint venture/consortium, all subcontractors and all suppliers to tenderers, as well as to all entities upon whose capacity the tenderer relies for the selection criteria.

Tenderers included in the lists of EU restrictive measures (see Section 2.4. of the PRAG) at the moment of the award decision cannot be awarded the contract.

1. **Number of tenders**

Tenderers may submit only one tender. Tenders for parts of the works will not be considered. Tenderers may not submit a tender for a variant solution in addition to their tender for the works required in the tender dossier.

**SELECTION AND AWARD CRITERIA**

1. **Selection criteria**

### In order to be eligible for the award of the contract, tenderers must provide evidence that they meet the selection criteria. If a tender is submitted by a consortium, unless specified, the selection criteria will be applied to the consortium as a whole.

The selection criteria for each tenderer are as follows:

< To be specified>

The selection criteria should be clear and non-discriminatory and may not go beyond the scope of the contract. The reference period for financial capacity may not go beyond the last 3 years for which accounts have been closed. Concerning the professional and technical capacity and in order to verify the corresponding selection criteria, the contracting authority may request one or more of the following:

(a) information on the educational and professional qualifications, skills, experience and expertise of the persons responsible for performance;

(b) a list of the works carried out in the last five years, accompanied by certificates of satisfactory execution for the most important works. However, where necessary in order to ensure an adequate level of competition, the contracting authority may indicate that evidence of relevant works delivered or performed more than five years before will be taken into account.

(c) a statement of the technical equipment, tools or the plant available to the economic operator for performing the works contract;

(d) a description of the technical facilities and means available to the economic operator for ensuring quality, and a description of available study and research facilities;

(e) a reference to the technicians or technical bodies available to the economic operator, whether or not belonging directly to it, especially those responsible for quality control;

(g) a statement of the average annual manpower and the number of managerial staff of the economic operator for the last three years;

(h) an indication of the supply chain management and tracking systems that the economic operator will be able to apply when performing the contract;

(i) an indication of the environmental management measures that the economic operator will be able to apply when performing the contract.

Consider which proof documents should be requested for each selection criteria. See Section 2.6.11. of the practical guide.

***14.a Economic and financial capacity of candidate:***

**Examples of financial criteria:**

**-** the average annual turnover of the tenderer in the past 3 years must be at least <EUR/NC> <…..>

**-** the tenderer must have access to an amount of credit which exceeds <EUR/NC> <……>

***14.b Technical and professional capacity of candidate:***

**Examples of professional and technical criteria:**

**-** it must have completed at least <X> projects of the same nature/amount/complexity as the works **concerned** by the tender and implemented during the following period: <may not go beyond 5 years counting from the submission deadline please specify the dates>. The contracting authority reserves the right to ask for copies of certificates of final acceptance signed by the supervisors/contracting authority of the projects concerned.

Capacity-providing entities:

An economic operator may, where appropriate and for a particular contract, rely on the capacity of other entities, regardless of the legal nature of the links which it has with them. If the tenderer relies on other entities, it must prove to the contracting authority that it will have at its disposal the resources necessary to perform the contract by producing a commitment on the part of those entities to place resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality, as the economic operator relying on them and must comply with the selection criteria for which the economic operator relies on them. Furthermore, the tender should include a separate document providing data on this third entity for the relevant selection criterion. Proof of capacity must be provided at the request of the contracting authority.

With regard to technical and professional criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the works for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the tenderer relies, become jointly and severally liable for the performance of the contract.

Financial data to be provided by the tenderer in relation to the selection criteria must be expressed in [EUR] [<ISO code of national currency> only for indirect management in the following cases: (i) when legal or local constraints exceptionally impose using the national currency; (ii) when needed, for contracts within the imprest component of a programme estimate]. If applicable, where a candidate refers to amounts originally expressed in a different currency, the conversion to [EUR] [<ISO code of national currency> only for indirect management in the following cases: (i) when legal or local constraints exceptionally impose using the national currency; (ii) when needed, for contracts within the imprest component of a programme estimate] shall be made in accordance with the InforEuro exchange rate of [<**MONTH and YEAR>** of the applicable InforEuro exchange rate, which can either correspond to the month and year of the publication of the present contract notice or the month and year corresponding to the deadline for submitting applications], which can be found at the following address: <http://ec.europa.eu/budget/graphs/inforeuro.html>.

1. **Award criteria**

The sole award criterion will be the price: the most economically advantageous tender is the technically compliant tender with the lowest price.

[EDF only: To encourage the widest participation of natural or legal persons of ACP States, particular preferences shall be given to permit the optimisation of the physical and human resources of those States. See further Section 2.6.9. of the **practical guide**.]

**TENDERING**

1. **Ethics clauses**

**The tenderers are subject to the ethics clauses, detailed in Section 2.5.6. of the practical guide.**

instrument under which this contract is to be financed - See Annex A2 of the practical guide>]

[EDF: ACP-EC Partnership Agreement signed at Cotonou on 23 June 2000 as amended (Annex IV)]

1. **Appeals**

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See further Section 2.12. of the practical guide.

1. **Early detection and exclusion system**

The tenderers and, if they are legal entities, persons who have powers of representation, decision-making or control over them, are informed that, should they be in one of the situations of early detection or exclusion, their personal details (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the early detection and exclusion system (EDES) and communicated to the persons and entities concerned in relation to the award or the execution of a procurement contract.

1. Council Decision (EU) 2021/1764 of 5 October 2021 on the association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and the Greenland and the Kingdom of Denmark on the other (Decision on the Overseas Association, including Greenland); OJ L 355, 7.10.2021, p. 6–134. [↑](#footnote-ref-1)
2. Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009; OJ L 209, 14.6.2021, p. 1–78. [↑](#footnote-ref-2)
3. Council Regulation (Euratom) 2021/948 of 27 May 2021 establishing a European Instrument for International Nuclear Safety Cooperation complementing the Neighbourhood, Development and International Cooperation Instrument – Global Europe on the basis of the Treaty establishing the European Atomic Energy Community, and repealing Regulation (Euratom) No 237/2014; OJ L 209, 14.6.2021, p. 79–90. [↑](#footnote-ref-3)
4. Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III); OJ L 330, 20.9.2021, p. 1–26. [↑](#footnote-ref-4)
5. Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace (OJ L 77, 15.3.2014, p. 1). [↑](#footnote-ref-5)
6. Article 11 CIR. [↑](#footnote-ref-6)