

**TENDER SPECIFICATIONS**

**PROVISION OF INTERNET CONNECTIVITY, E-MAIL, IP-TELEPHONY AND  
MOBILE TELEPHONY SERVICES**

**2012-BEREC-OT-01**

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## **PART 1: TECHNICAL DESCRIPTION**

### **1 CONTEXT**

**BEREC Office** is being set up to provide administrative and professional support to the BEREC, the Body of European Regulators for Electronic Communications. The seat of the BEREC Office is Riga, Latvia.

BEREC is composed of a Board of Regulators consisting of the Heads of the 27 national regulatory authorities (NRAs). BEREC will advise the European Commission and the NRAs, and assist the European Parliament and Council, on issues related to the application of the EU regulatory framework for electronic communications. BEREC will in particular help to ensure fair competition and consistency of regulation in the internal market for electronic communications by providing expert advice on market definitions, analysis and remedies, definition of trans-national markets, cross-border disputes and numbering issues.

The BEREC Office has been established as a Community Body by Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 and is managed by an Administrative Manager under the supervision of a Management Committee composed of the same Heads of the 27 NRAs and a representative of the European Commission. The Office will be financed by a subsidy from the Community and financial contributions from Member States or from their NRAs made on a voluntary basis.

### **2 OBJECTIVES**

The purpose of this tender is the purchasing of Internet, e-mail, IP-telephony and mobile telephony services for BEREC Office.

The tender is divided in four different lots as follows:

- **Lot 1** - IP-telephony services
- **Lot 2** - Internet connectivity and email services
- **Lot 3** - Wireless network
- **Lot 4** - Mobile telephony services

#### **2.1. Lot 1 - IP-telephony services**

Our Agency is seeking to conclude a contract for the detailed design, supply, installation, configuration, commissioning and maintenance of a logically and administratively single, resilient, scalable IP telephone system.

It is the intention of the BEREC Office that this contract will enable the migration of telephony services from the existing systems to a new solution.

The different services and supplies covered by this tender are:

- Telephone services including, but not restricted to:
- Design, provision, hosting, installation, testing, commissioning, training, project management, support, maintenance, operation and management of any services provided
- Endpoints and devices required to access any services provided

- Anything required for the solution to operate over the BEREC Office's IP data network, including any necessary configuration of the BEREC Office's data network equipment

## **2.2. Lot 2 - Internet connectivity and email services**

Our Agency is seeking to conclude a contract for the provision of internet services.

The scope of work in the proposed tender includes:

- providing continuous access to Internet resources in Latvia and abroad with no change for the amount of sent/received data Bit rates for domestic data traffic min. 100 Mbps (1:1) symmetric, for data traffic to/from abroad min. 50 Mbps (1:1) symmetric
- supply, installation and commissioning of related hardware and software for setting up Internet connection at the BEREC Office site in Riga
- configuration of all related hardware and software including any training to BEREC Office IT, if required

## **2.3. Lot 3 - Wireless network**

Our Agency is seeking to conclude a contract for the development of a wide secure, scalable, manageable Wi-Fi network for BEREC Office.

## **2.4. Lot 4 - Mobile telephony services**

The scope of this tender is to provide different devices to assist the business needs of BEREC Office's staff members that are travelling frequently.

The different services and supplies covered by this tender are:

- Mobile voice, data and email services
- Supply of Smartphones or similar devices and their accessories
- Handling and associated services for SIM cards and hardware

**The detailed technical specifications for each lot are enclosed as appendixes to the present tender document as follows:**

- **Appendix 1** – Technical specifications for Lot 1. *IP-telephony services*
- **Appendix 2** – Technical specifications for Lot 2. *Internet connectivity and email services*
- **Appendix 3** – Technical specifications for Lot 3. *Wireless network*
- **Appendix 4** – Technical specifications for Lot 4. *Mobile telephony services*

Tenderers are allowed to submit an offer for one or more Lots. **It should be clearly indicated in the offer for which Lot(s) is applied for. In case the tenderer decides to apply for more Lots, the offer should include a technical and financial offer for each Lot.**

## **3 DURATION**

The service contract will be concluded for an initial duration of one year.

Subject to budgetary availability, satisfactory performance of the initial contract, and mid-term review of prices and technological evolution, the contract may be renewed up to three times and the **total duration of the contract shall not exceed four years.**

#### 4 DETAILED TECHNICAL SPECIFICATIONS

See **Appendixes 1 - 4** enclosed.

<b>Tender Summary timetable</b>	<b>Date</b>	<b>Comments</b>
Launch date	21/05/2012	<b>Date publication sent to OJ</b>
Deadline for request of clarifications from BEREC Office	16/07/2012	
Last date on which clarifications are issued by BEREC Office	18/07/2012	
<b>Deadline for submission of offers</b>	<b>20/07/2012</b>	
Opening session	06/08/2012	<b>at 14:00 local time</b>
Date for evaluation of offers	20/08/2012	Estimated
Notification of award to the selected tenderer	end-September 2012	Estimated
Contract signature	October 2012	Estimated
Commencement date of activities	November 2012	Estimated

## **PART 2: ADMINISTRATIVE DETAILS**

### **1 ELIGIBILITY REQUIREMENTS**

The present tender documents are drawn up in respect of the Decision 10(44) of the Management Committee of the BEREC Office, and Financial Regulation applicable to the general budget of the European Union (Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 as amended by Council Regulation (EC, Euratom) N° 1995/2006 of 13 December 2006), as well as its implementing rules (Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 as amended by i) Commission Regulation 1261/2005 of 20 July 2005, ii) Commission Regulation 1248/2006 of 7 August 2006 and iii) Commission Regulation (EC, Euratom) No 478/2007 of 23 April 2007), hereinafter referred to as the Financial Regulation.

Participation in tendering procedures is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement.

Where the Plurilateral Agreement on Government Procurement concluded within the WTO applies, the contracts are also open to nationals of the countries that have ratified this Agreement, on the conditions it lays down.

Operators in third countries which have signed a bilateral or multilateral agreement with the Union in the field of public procurement must be allowed to take part in the tendering procedure on the conditions laid down in that agreement. The BEREC Office will refuse tenders submitted by operators in third countries which have not signed such agreements for the present call for tender.

### **ADMISSIBILITY OF TENDERS**

All the **requirements** related to the **submission and opening of the tenders** are detailed in the invitation to tender (see sections 2, 4 and 8 of the invitation to tender) including:

- *Address and deadline for submission of the tender*
- *Presentation of the offer and Packaging*
- *Opening of the Tenders*

### **2 ADMINISTRATIVE REQUIREMENTS**

A service provider may consider submitting a tender as a single entity or decide to collaborate with other service providers to present a bid: either by submitting a **joint tender** or through **subcontracting**. Tenders may also combine both approaches. Whichever type of bid is chosen, the tender must stipulate the legal status and role of each legal entity in the tender proposed.

#### **2.1 Different ways to submit a tender**

Options 1 to 4 below describe the different ways to submit a tender.

**Please make sure all required documents and evidences are submitted with your tender (Please refer to the checklist in Annex 7).**

**Option 1:** Submission by **one tenderer: Private / Public entity / Individual.**

**Option 2:** Submission by **partners** as defined under section 2.2 below.  
One must be designated as **lead partner/contractor.**

**Option 3:** Submission by **one tenderer with subcontractors** as defined under section 2.2 below

**Option 4:** Submission by **partners** (one must be designated as lead partner/contractor) **with subcontractors** as defined under section 2.2 below

## **2.2 Joint Tenders and Subcontracting**

### **2.2.1 Joint tenders**

In case of a joint tender submitted by a group of tenderers, these latter will be regarded as **partners**. If awarded the contract, they will have an equal standing towards the contracting authority in the execution of the contract.

The partnership may take the form of:

a) a **new legal entity** which will sign the contract with the BEREC Office in case of award

or

b) a group of partners not constituting a new legal entity, who via a **power of attorney (Annex 5)**, signed by an authorised representative of each partner (except the lead partner), designate one of the partners as lead partner, and mandate him as lead contractor to sign the contract with the BEREC Office in case of award.

In both cases, all partners shall be considered as tenderers and shall **assume joint and several liability towards the BEREC Office for the performance of the contract.**

### **2.2.2 Subcontracting**

Subcontracting is a situation where a contract is to be established between the BEREC Office and a service provider and where this service provider, in order to carry out the contract, enters into legal commitments with other legal entities for performing part of the tasks foreseen in the contract.

The tenderer submitting the tender, if awarded the contract, shall become the sole contractor and shall assume **full liability toward the BEREC Office for the performance of the contract as a whole.** The other service providers will be regarded as subcontractors.

Subcontracting is subject to the provisions of Article II.13 of the model contract annexed to the invitation.

## 2.3 Identification of the tenderer – List of Forms & Evidences Required

### Options 1/2/3/4: Documents to be provided by the single tenderer or lead partner:

- Annex 1: Administrative identification form (ORIGINAL filled in and signed by (an) authorised representative(s))
- Annex 2: Legal Entities form<sup>1</sup> (ORIGINAL filled in, signed by (an) authorised representative(s), and supported by relevant evidences according to the entity concerned, i.e. private/public/individual)  
Economic operators already registered as a legal entity in the BEREC Office 's files (i.e. they are or have been contractors of the BEREC Office) are not obliged to provide a new form, on the condition that they confirm that no change in the information already provided has occurred. In case of doubt, we recommend submitting a new form.
- Annex 3: Financial Identification form<sup>2</sup> (ORIGINAL filled in according to the instructions contained in this form)  
If the corresponding bank account of economic operators is already registered in the BEREC Office 's files they are not obliged to provide a new form, on the condition that they confirm that no change in the information already provided has occurred. In case of doubt, we recommend submitting a new form.
- Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (ORIGINAL filled in and signed by (an) authorised representative(s))
- Legible photocopy of the statutes of the legal entity (for public/private entities)
- Legible photocopy 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.

### Options 2 and 4: documents to be provided by each partner, except the lead partner

- Annex 1: Administrative identification form (ORIGINAL filled in and signed by (an) authorised representative(s))
- Annex 2: Legal Entities form<sup>3</sup> (ORIGINAL filled in, signed by (an) authorised representative(s), and supported by relevant evidences according to the entity concerned, i.e. private/public/individual)  
Economic operators already registered as a legal entity in the BEREC Office 's files (i.e. they are or have been contractors of the BEREC Office) are not obliged to provide a new form, on the condition that they confirm that no change in the information already provided has occurred. In case of doubt, we recommend submitting a new form.
- Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (ORIGINAL filled in and signed by (an) authorised representative(s))

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<sup>1</sup> A standard template in each EU language is available at [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

<sup>2</sup> A standard template in each EU language is available at [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm)

<sup>3</sup> A standard template in each EU language is available at [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)



- Annex 5: Power of attorney (ORIGINAL filled in and signed by (an) authorised representative(s) of each partner)
- Legible photocopy of the statutes of the legal entity (for public/private entities)
- Legible photocopy 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.

### **Options 3 and 4: Documents to be provided by each subcontractor**

- Annex 1: Administrative identification form (ORIGINAL filled in and signed by (an) authorised representative(s))
- Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (ORIGINAL filled in and signed by (an) authorised representative(s))
- Annex 6a: Letter of intent from each subcontractor (ORIGINAL signed by (an) authorised representative(s)) to confirm their willingness and availability to perform the tasks.

**Individual external experts, not part of the tenderer's staff, foreseen to execute a part of the work are also to be considered subcontractors. Individual external experts will have to provide only the letter of intent in Annex 6b (ORIGINAL).**

### **3 SIGNATURE OF THE TENDER**

The signature of the single tenderer's or lead partner's authorised representative or representatives (preferably in blue ink) on the administrative identification form (**Annex 1**) will be considered as the signature of the tender, binding the single tenderer or the group of partners to the terms included in the tender.

### **4 LAYOUT OF THE TENDER**

All tenders must be clear, complete and consistent with all the requirements laid down in the tendering documents and **presented in 3 sections** as follows:

#### **4.1 Administrative section**

The documentary evidence required in accordance with part 2 section 2, section 3, section 5.1.3 and section 5.2 of the Tender Specifications must be included in the administrative section of the tender. **Tenders not including the necessary evidence may be rejected.** The BEREK Office reserves the right, however, to request clarification or additional evidence in relation to the exclusion and selection stages after the opening within a time limit stipulated in its request and in the conditions explained in section (3) of the invitation to tender.

#### **4.2 Technical section**

This section must address all the requirements laid down in Part 1 - Technical description of the tender specifications. Information included here will be used to conduct the

qualitative assessment of the tenders on the basis of the technical award criteria listed in section 5.3 below.

The technical proposal for each Lot must be based on the technical specifications provided in **Appendixes 1 - 4**.

The BEREC Office will reject tenders where no technical offers are proposed.

#### **4.3 Financial section**

The price quoted must fulfil the following requirements:

- The price included in the tender must be expressed **in Euro and LVL**.
- The price quoted must **be firm and not subject to revision**.
- The BEREC Office, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, is exempt from all duties, taxes and dues, including value added tax (VAT).

**Such charges may not therefore be included in the calculation of the price quoted.**

VAT exemption is granted to the BEREC Office by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption.

For those countries where national legislation provides an exemption by means of reimbursement, **the amount of VAT is to be shown separately**. In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the BEREC Office is exempt from VAT.

- The price quoted shall be subject to the terms set in Article I.3 of the model contract attached.
- Tenders involving more than one legal entity, either as partner or subcontractor (including external experts) must specify the categories above for each legal entity.
- The tenders where no financial offers are proposed will be rejected.
- The part that the tenderer intends to subcontract shall be precisely indicated and detailed.

The **estimated budget** available for the entire duration of this contract (over four years and including all lots) is **EUR 250 000** [two hundred fifty thousand euro].

The **financial section** must be submitted in a separate envelope, upon which shall be written the reference of the call for tender as indicated in the invitation, and with the clear mention "Financial section".

Tenderers must submit a **separate price quote for each lot** for which they are tendering.

They must fill in the price tables provided in the technical specifications for each lot (additional cells may be added to the tables if necessary) in **Appendixes 1 - 4**.

## **5 EVALUATION OF TENDERS**

The evaluation of tenders will be done in accordance with the following subsequent steps:

- The BEREC Office verifies that the **tenderer** is not in one of the situations covered by the exclusion criteria (first step, see section 5.1 below)
- For all tenderers that are not in one of the situations covered by the exclusion criteria, the BEREC Office verifies that the **tenderer** has the appropriate capacities to perform the contract on the basis of the selection criteria (second step, see section 5.2 below)
- For those tenderers that have met the minimum requirements for the selection criteria, the BEREC Office assesses the **tender** on the basis of the award criteria (third step, see section 5.3 below).

### **5.1 Exclusion Criteria**

**5.1.1.** Pursuant to Article 45(2) of Council Directive 2004/18/EC and to Article 93(1) of the Financial Regulation, the BEREC Office will exclude tenderers from participation in the procurement procedure if:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- (f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation.

Points (a) to (d) of the first subparagraph shall not apply in the case of purchase of supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities, or from the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law.

For the purpose of the correct application of the above paragraph, the candidate or tenderer, whenever requested by the contracting authority, must:

- (a) where the candidate or tenderer is a legal entity, provide information on the ownership or on the management, control and power of representation of the legal entity,

- (b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to in paragraph 1 of Article 93 of the Financial Regulation.

**5.1.2.** Pursuant to Article 45(2) of Council Directive 2004/18/EC and Article 94 of the Financial Regulation, a contract shall not be awarded to candidates or tenderers who, during the procurement procedure for this contract:

- (a) are subject to a conflict of interest;
- (b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply this information;
- (c) find themselves in one of the situations of exclusion, referred to in Article 93(1) of the Financial Regulation, for this procurement procedure.

**5.1.3. Tenderers – including sub-contractors if any - shall provide a declaration on their honour (Annex 4)**, duly signed and dated, stating that they are not in one of the situations referred to in Article 93(1) or 94 of the Financial Regulation. The tenderers must undertake to inform the BEREC Office, without delay, of any changes with regard to these situations after the date of submission of the tender.

**5.1.4. In addition, for contracts of a value higher than EUR 125000, ONLY the tenderer to whom the contract is to be awarded** shall confirm the declaration by providing, within a time-limit defined by the contracting authority and preceding the signature of the contract, the following evidences (if the tender is proposed by partners, these evidences must be submitted by each partner):

- 1) The contracting authority shall accept as satisfactory evidence that the candidate or tenderer to whom the contract is to be awarded is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document, **issued less than 12 months before the date of the letter informing of the contract award** by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a certificate by the competent authority of the State concerned, **issued less than 12 months before the date of the letter informing of the contract award**.
- 2) Where the document or certificate referred to in the first subparagraph is not issued in the country concerned and for the other cases of exclusion referred to in Article 93(1) of the Financial Regulation, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

Depending on the national legislation of the country in which the tenderer is established, the documents referred to in paragraphs 1) and 2) shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

In case of doubt on the declaration on the honour provided by the subcontractor(s) in accordance with the indications of point 5.1.3 above, the contracting authority shall request the evidence referred to in points 1) and 2) above from the subcontractor(s).

### ***5.1.5. Administrative and financial penalties***

1. **By returning the form in Annex 4 duly signed and dated**, tenderers confirm that they have been notified of the following points: Each institution has a central database containing information on tenderers who have been in one of the situations described under 5.1.1 and 5.1.2 above. The sole purpose of this database is to ensure, in compliance with Union rules on the processing of personal data, that the above-mentioned cases of exclusion are applied correctly. Each institution has access to the databases of the other institutions.

Tenderers and, if they are legal entities, persons who have power of representation, decision-making or control over them, are informed that, should they be in one of the situations mentioned in:

- the Commission Decision of 16.12.2008 on the Early Warning System (EWS) for the use of authorising officers of the Commission and the executive agencies (OJ, L 344, 20.12.2008, p. 125), or
- the Commission Regulation of 17.12.2008 on the Central Exclusion Database – CED (OJ L 344, 20.12.2008, p.12),

their personal details (name, given name if natural person, address, legal form and name and given name of the persons with power of representation, decision-making or control, if legal person) may be registered in the EWS only or both in the EWS and CED, and communicated to the persons and entities listed in the above-mentioned Decision and Regulation, in relation to the award or the execution of a procurement contract or a grant agreement or decision.

2. In accordance with Article 96 of the Financial Regulation the contracting authority may impose administrative or financial penalties on the following:
  - (a) candidates or tenderers in the cases referred to in point (b) of Article 94 of the Financial Regulation;
  - (b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.

In all cases, however, the contracting authority must first give the person concerned an opportunity to present his observations.

3. The penalties referred to in paragraph 2 shall be proportionate to the importance of the contract and the seriousness of the misconduct, and may consist in:
  - (a) exclusion of the candidate or tenderer or contractor from the contracts and grants financed by the Union budget for a maximum period of ten years; and/or
  - (b) the payment of financial penalties by the candidate or tenderer or contractor up to the value of the contract in question.
4. In accordance with Article 133 of the Regulation laying down the rules for the implementation of the Financial Regulation, the cases referred to in point e) of 5.1.1. above shall be the following:
  - (a) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests drawn up by Council Act of 26 July 1995 (OJ C 316, 27.11.1995, p. 48);
  - (b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of

Member States of the European Union, drawn up by the Council Act of 26 May 1997 (OJ C 195, 25.6.1997, p. 1);

- (c) cases of involvement in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council (OJ L 351, 29.12.1998, p. 1);
- (d) cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC (OJ L 166 of 28 June 1991, p. 77).

5. Pursuant to article 133a of the Regulation laying down the rules for the implementation of the Financial Regulation, in order to determine duration of exclusion and to ensure compliance with the principle of proportionality, the institution responsible shall take into account in particular the seriousness of the facts, including their impact on the Union's financial interests and image and the time which has elapsed, the duration and recurrence of the offence, the intention or degree of negligence of the entity concerned and the measures taken by the entity concerned to remedy the situation.

When determining the period of exclusion, the institution responsible shall give the candidate or tenderer concerned the opportunity to express their views.

Where the duration of the period of exclusion is determined, in accordance with the applicable law, by the authorities or bodies referred to in Article 95(2) of the Financial Regulation, the BEREC Office shall apply this duration up to the maximum duration laid down in Article 93(3) of the Financial Regulation.

6. The period referred to in Article 93(3) of the Financial Regulation is set at a maximum of five years, calculated from the following dates:
- (a) from the date of the judgment having the force of res judicata in the cases referred to in points (b) and (e) of Article 93(1) of the Financial Regulation;
  - (b) from the date on which the infringement is committed or, in the case of continuing or repeated infringements, the date on which the infringement ceases, in the cases referred to in Article 93(1)(c) of the Financial Regulation.

That period of exclusion may be extended to ten years in the event of a repeated offence within five years of the date referred to in points (a) and (b), subject to paragraph 5.

7. Candidates and tenderers shall be excluded from a procurement and grant procedure as long as they are in one of the situations referred to in points (a) and (d) of Article 93(1) of the Financial Regulation.
8. Pursuant to article 134b of the Regulation laying down the rules for the implementation of the Financial Regulation, without prejudice to the application of penalties laid down in the contract, candidates or tenderers and contractors who have made false declarations, have made substantial errors or committed irregularities or fraud, or have been found in serious breach of their contractual obligations may be excluded from all contracts and grants financed by the Union budget for a maximum of five years from the date on which the infringement is established as confirmed following an adversarial procedure with the contractor.

That period may be extended to ten years in the event of a repeated offence within five years of the date referred to in the first subparagraph.

9. Tenderers or candidates who have made false declarations, have committed substantial errors, irregularities or fraud, may also be subject to financial penalties representing 2% to 10% of the total estimated value of the contract being awarded.

Contractors who have been found in serious breach of their contractual obligations may be subject to financial penalties representing 2% to 10% of the total value of the contract in question.

That rate may be increased to 4% to 20% in the event of a repeat infringement within five years of the date referred to in the first subparagraph of paragraph 8.

The institution shall determine the administrative or financial penalties taking into account in particular the elements referred to in Article 133a(1) of the Regulation laying down the rules for the implementation of the Financial Regulation.

## 5.2 Selection criteria

The following selection criteria will be used to select the tenderers.

If the tender is submitted by partners (as defined under section 2.2 above)

- the selection criteria in respect of financial and economic capacity (see point 5.2.2 below) are to be considered as setting minimum standards which must be fulfilled by each partner; consequently, documentary evidence has to be provided by each partner and an evaluation of the financial and economic capacity will be carried out for each of them;
- the selection criteria in respect of technical capacity (see 5.2.3 below) will be assessed in relation to the combined capacities of all the members of a partnership as a whole (including subcontractors)

Documentary evidence of the tenderers' claims in respect of the selection criteria is required as indicated below. The tender should also include any other document that the tenderer(s) wish(es) to include by way of clarification.

### 5.2.1 *Financial and economic capacity*

Criterion:	Sufficient financial and economic standing to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract
Documentary evidence:	Photocopies of annual income statements and balance sheets or extracts there from signed by the authorised representative of the legal entity for the last three financial years, where applicable, as approved by the general assembly of the company, audited and/or published

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

The BEREC Office shall have sole discretion to judge the adequacy of tenderers' financial standing and, where it considers this insufficient, the right to reject any offer or to accept an offer subject to the provision of a pre-financing guarantee. Submission of a tender implies acceptance that the BEREC Office 's decision to request a pre-financing guarantee will be final and that it will not enter into negotiations with tenderers on this subject.

### 5.2.2 *Technical background*

Criterion:	Relevant expertise of the tenderer and other applicants, including subcontractors if any, acquired in the last three years, for providing the type of services and supplies as requested in these Tender Specifications
Documentary evidence:	List of contracts covering similar type of services and supplies as requested in these Tender Specifications, performed in the past three years, or currently being performed, with their respective values

Criterion:	Management capability
Documentary evidence:	List of contracts of a value of at least EUR 30 000 [thirty thousand] each, performed by the tenderer(s) (including subcontractor(s), if any) in the last three years. <sup>4</sup>  Short description of the measures employed to ensure the quality of the services for each of the listed contracts.  Statement of the average annual manpower and the number of managerial staff of the service provider or contractor in the last three years

## 5.3 Award criteria

### 5.3.1 *Technical award criteria*

The tenders will be qualitatively assessed on the basis of the technical award criteria and respective scores listed below:

#### **A. Lot 1 - IP-telephony services**

<b>Technical award criterion</b>	<b>Maximum score /weighting</b>	<b>Threshold</b>
<b><i>Technical quality</i></b>	<b>70</b>	<b>35</b>
Service quality and proposed functionalities	30	15
Quality of proposed service delivery	20	10
Proposed Service Desk and customer support	20	10

<sup>4</sup> If the tenderer(s) or subcontractor(s) participated as a partner in a consortium, the total value of the contract should be mentioned along with the value corresponding to the work executed by the partner.



<b><i>Management of the contract</i></b>	<b>30</b>	<b>15</b>
Quality of the proposed Contract management procedures (ordering, billing) and proposed maintenance (in case of broken devices, guarantees, replacement of devices)	30	15

**B. Lot 2 - Internet connectivity and email services**

<b>Technical award criterion</b>	<b>Maximum score /weighting</b>	<b>Threshold</b>
<b><i>Technical quality</i></b>	<b>70</b>	<b>35</b>
Service quality and proposed functionalities	40	20
Proposed service maintenance and customer support	30	15
<b><i>Management of the contract</i></b>	<b>30</b>	<b>15</b>
Quality of the proposed Contract management procedures (ordering, billing) and proposed maintenance (in case of broken devices, guarantees, replacement of devices)	30	15

**C. Lot 3 - Wireless network**

<b>Technical award criterion</b>	<b>Maximum score /weighting</b>	<b>Threshold</b>
<b><i>Technical quality</i></b>	<b>70</b>	<b>35</b>
Service quality and proposed functionalities	40	20
Proposed service maintenance and customer support	30	15
<b><i>Management of the contract</i></b>	<b>30</b>	<b>15</b>
Quality of the proposed Contract management procedures (ordering, billing) and proposed maintenance in case of broken devices, guarantees, replacement of devices)	30	15

**D. Lot 4 - Mobile telephony services**

<b>Technical award criterion</b>	<b>Maximum score /weighting</b>	<b>Threshold</b>
<b><i>Technical quality</i></b>	<b>70</b>	<b>35</b>
Service quality and proposed functionalities (including licences, handsets and accessories)	30	15
Geographical coverage	10	5
Quality of proposed service delivery	10	5
Proposed Service Desk and customer support	20	10

<b>Management of the contract</b>	<b>30</b>	<b>15</b>
Quality of the proposed Contract management procedures (ordering, billing) and proposed maintenance (in case of broken devices, guarantees, replacement of devices)	30	15

Minimum score per criterion (threshold):

Tenders scoring **less than 50%** of the maximum score for any technical award criterion will be considered of insufficient quality and rejected.

Minimum total score (threshold):

Tenders with a total score of **less than 60 points** at the end of the evaluation process will be considered of insufficient quality and rejected.

### 5.3.2 Price

The contract will be awarded to the tenderer offering the best value for money, taking into account the awarding criteria listed above. No award criteria and sub-criteria other than those detailed above will be used to evaluate the offer.

Price weighting = **30**.

The weighting of quality and price will be applied as follows:

score for tender X	=	$\frac{\text{cheapest price}}{\text{price of tender X}}$	*	price weighting (in absolute value)	+	$\frac{\text{total quality score (out of 100) for all award criteria of tender X}}{100}$	*	quality criteria weighting (in absolute value)
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The price quoted must comply with the requirements laid down in Part 2 - section 4.3 above.

## **6 AWARD OF THE CONTRACT**

The Contract shall be awarded to the tender offering the best value for money, which will be the one with the best quality/price ratio, taking into account the award criteria listed in section 5.3.

The qualitative score obtained for the technical award criteria will be divided by the total price of the tender.

## **7 PAYMENT AND STANDARD CONTRACT**

- Payments under the contract shall be made in accordance with articles I.4 and II.4 of the model contract attached.
- Depending on the financial solidity of the tenderer, payment of the pre-financing may be made conditional upon the furnishing by the Contractor of a financial guarantee.

- In any case, a financial guarantee shall be required for the payment of pre-financing exceeding EUR 150 000. The guarantee shall be supplied by a bank or an authorised financial institution. The guarantee shall be denominated in Euro. The guarantee shall be released as and when the pre-financing is deducted from interim payments or payments of balances to the contractor in accordance with the terms of the contract.

## **8 VALIDITY OF THE TENDER**

Period of validity of the tender shall be **eleven** months from the closing date for submission of the tender given above.

## **9 ADDITIONAL PROVISIONS**

- Changes to tenders will be accepted only if they are received on or before the final date set for the receipt of tenders.
- Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.
- No information of any kind will be given on the state of progress with regard to the evaluation of tenders.
- All documents submitted by tenderers will become property of the BEREC Office and will be regarded as confidential.

## **10 LIQUIDATED DAMAGES: SEE ARTICLE II.16 OF THE MODEL CONTRACT**

## **11 NO OBLIGATION TO AWARD THE CONTRACT**

Initiation of a tendering procedure imposes no obligation on the BEREC Office to award the contract. Should the invitation to tender cover several items or lots, the BEREC Office reserves the right to award a contract for only some of them. The BEREC Office shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be so liable if it decides not to award the contract.

### **Enclosures:**

- ❑ **Appendix 1** – Technical specifications for Lot 1. *IP-telephony services*
- ❑ **Appendix 2** – Technical specifications for Lot 2. *Internet connectivity and email services*
- ❑ **Appendix 3** – Technical specifications for Lot 3. *Wireless network*
- ❑ **Appendix 4** – Technical specifications for Lot 4. *Mobile telephony services*

**PART 3: ANNEXES**

**ANNEX 1: ADMINISTRATIVE IDENTIFICATION FORM**

<u>TENDERER'S ID</u>	
Name	
Legal form	
Date of registration	
Country of registration	
Registration number	
VAT number	
Address of registered office	
Contact address (if different)	
URL	
<u>AUTHORISED REPRESENTATIVE(S)<sup>5</sup></u>	
<u>CONTACT PERSON</u>	
Name	
Forename	
Position	
Telephone	
Fax	
Email	
<u>DECLARATION BY THE AUTHORISED REPRESENTATIVE(S):</u> I, the undersigned, certify that the information given in this tender is correct and that the tender is valid.	

Place and date:

Name (in capital letters) and signature:

<sup>5</sup> Please include the names of the legal representative(s) whose contract signature is required in accordance with the statutes of the organisation and the official document to be provided as required in Part 2 under section 2.3

## **ANNEX 2: LEGAL ENTITIES FORM**

**As required in PART 2 under section 2.3 of the tender specifications.**

A standard template in each EU language is available at:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

## **ANNEX 3: BANK IDENTIFICATION FORM**

**As required in PART 2 under section 2.3 of the tender specifications**

A standard template in each EU language is available at:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm)

<b>ANNEX 4: DECLARATION OF HONOUR WITH RESPECT TO THE EXCLUSION CRITERIA AND ABSENCE OF CONFLICT OF INTEREST</b>
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The undersigned *[name of the signatory of this form, to be completed]*:

- in his/her own name *(if the economic operator is a natural person)*

or

- representing *(if the economic operator is a legal person and the declaration is signed by a director or person with powers of representation)*

official name in full:

official legal form:

official address in full:

VAT registration number:

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

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;
- e) has not been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- f) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;

- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract.
- k) that the information provided to the BEREC Office within the context of this invitation to tender is accurate, sincere and complete.
- l) that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above<sup>6</sup>.

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the Tenderer is a legal person and the national legislation of the country in which the Tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the Tenderer.

For the situation described in point (d) above, recent certificates or letters 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 Tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

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

Full name

Date

Signature

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<sup>6</sup> Mandatory for contracts of value above EUR 125 000 only (see art. 134(2) of the Implementing Rules). The contracting authority can nevertheless request such evidence for contracts with a lower value.

**ANNEX 5: POWER OF ATTORNEY<sup>7</sup>**

**MANDATING ONE OF THE PARTNERS IN A JOINT TENDER AS LEAD PARTNER AND LEAD CONTRACTOR**

The undersigned:

– Signatory (Name, Function, Company, Registered address, VAT Number)

having the legal capacity required to act on behalf of his/her company,

HEREBY AGREES TO THE FOLLOWING:

- 1) To submit a tender as a partner in the group of partners constituted by Company 1, Company 2, Company N, and led by Company X, in accordance with the conditions specified in the tender specifications and the terms specified in the tender to which this power of attorney is attached.
- 2) If the BEREC Office awards the Contract to the group of partners constituted by Company 1, Company 2, Company N, and led by Company X on the basis of the joint tender to which this power of attorney is attached, all the partners shall be co-signatories of the Contract in accordance with the following conditions:
  - (a) All partners shall be jointly and severally liable towards the BEREC Office for the performance of the Contract.
  - (b) All partners shall comply with the terms and conditions of the Contract and ensure the proper delivery of their respective share of the services and/or supplies subject to the Contract.
- 1) Payments by the BEREC Office related to the services and/or supplies subject to the Contract shall be made through the lead partner's bank account: [Provide details on bank, address, account number].
- 2) The partners grant to the lead partner all the necessary powers to act on their behalf in the submission of the tender and conclusion of the Contract, including:
  - (a) The lead partner shall submit the tender on behalf of the group of partners.
  - (b) The lead partner shall sign any contractual documents — including the Contract, and Amendments thereto — and issue any invoices related to the Services on behalf of the group of partners.
  - (c) The lead partner shall act as a single contact point with the BEREC Office in the delivery of the services and/or supplies subject to the Contract. It shall co-ordinate the delivery of the services and/or supplies by the group of partners to the BEREC Office, and shall see to a proper administration of the Contract.

Any modification to the present power of attorney shall be subject to the BEREC Office's express approval. This power of attorney shall expire when all the contractual obligations of the group of partners towards the BEREC Office for the delivery of the services and/or supplies subject to the Contract have ceased to exist. The parties cannot terminate it before that date without the BEREC Office's consent.

Signed in ..... on [dd/mm/yyyy]

Place and date:

Name (in capital letters), function, company and signature:

<sup>7</sup> To be filled in and signed by each of the partners in a joint tender, except the lead partner;



**ANNEX 6A: LETTER OF INTENT FOR SUB-CONTRACTORS**

**[Title of the call for tenders]**

The undersigned:

.....

Name of the company/organisation:

.....

Address:

.....

Declares hereby that, in case the contract is awarded to [name of the tenderer], the company/organisation that he/she represents, intends to collaborate in the execution of the tasks subject to this call for tender, in accordance with the tender specifications and the tender to which the present form is annexed, and is available to carry out its part of the tasks during the period foreseen for the execution of the contract.

Declares hereby taking note of Art. II.13 regarding subcontracting and Art. II.17 in relation with checks and audits of the service contract.

Place and date:

Name (in capital letters) and signature:

**ANNEX 6B: LETTER OF INTENT FOR EXTERNAL EXPERTS**

**[Title of the call for tenders]**

The undersigned:

.....

Address:

.....

Declares hereby that, in case the contract is awarded to [name of the tenderer], he/she intends to collaborate in an individual capacity as **an external expert** in the execution of the tasks subject to this call for tender, in accordance with the tender specifications and the tender to which the present form is annexed, and is available to carry out its part of the tasks during the period foreseen for the execution of the contract. In addition, the undersigned declares not to have any conflict of interest in connection with the contract, and not to be in one of the situations of exclusion referred to in Article 93(1) of the Financial Regulation<sup>8</sup>.

Declares hereby taking note of Art. II.13 regarding subcontracting and Art. II.17 in relation with checks and audits of the service contract.

Place and date:

Name (in capital letters) and signature:

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<sup>8</sup> Available at [http://ec.europa.eu/budget/documents/financial\\_regulation\\_en.htm](http://ec.europa.eu/budget/documents/financial_regulation_en.htm)

**ANNEX 7: CHECK LIST OF DOCUMENTS TO BE SUBMITTED**

The purpose of the table below is to facilitate the preparation of the tender by providing an overview of the documents that must be included (marked by ■) depending on the role of each economic operator in the tender (be it lead partner, partner in joint bid, single tenderer or subcontractor/external expert). Some of the documents are only relevant in cases of joint bids or when subcontractors are involved. Additional documents might be necessary depending on the specific characteristics of each tender.

Description	Lead partner in a joint bid	All the other partners in a joint bid	Single tenderer (with or without subcontractors)	Subcontractor	Subcontractor – External expert
<b><i>Administrative section of the tender</i></b>					
Annex 1: Original Administrative identification form (see section 2.3, part 2)	■	■	■	■	
Annex 2: Original Legal Entity Form (see section 2.3, part 2)	■	■	■		
Annex 3: Original Financial Identification form (see section 2.3, part 2)	■		■		
Annex 4: Original Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (see section 2.3, part 2)	■	■	■	■	
Annex 5: Original Power of attorney (see section 2.3, part 2)		■			
Annex 6 a: Original Letter of intent from each subcontractor (see section 2.3, part 2)				■	
Annex 6 b: Original Letter of intent from each subcontractor (see section 2.3, part 2)					■
Legible photocopy of the statutes of the entity (see section 2.3, part 2)	■	■	■		
Legible photocopy of the notice of appointment of the persons authorised to represent the tenderer (see section 2.3, part 2)	■	■	■		
Declaration or certificate of enrolment in one of the professional or trade registers in the country of establishment (see section 5.2.1, part 2)	■	■	■		
Evidence of financial and economic capacity (see section 5.2.2, part 2)	■	■	■		
Evidence of Technical background (see section 5.2.3, part 2)	■	■	■	■	■
<b><i>Technical Section of the tender (see section 4.2, part 2)</i></b>	■		■		
<b><i>Financial Section of the tender (see section 4.3, part 2)</i></b>	■		■		