

CALL FOR TENDERS

№ 2013-BEREC-OT-02

The Value of Network Neutrality to European Consumers

Tender Specifications

Riga, 13 December 2013

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PART 1: TECHNICAL DESCRIPTION

1 CONTEXT

Following its work programme for the year 2013, the Body of the European Regulators of Electronic Communications (BEREC) launched various projects on the question of network neutrality (“NN”)¹. One of these aims to clarify how the dynamics of internet ecosystems relate to the demand-side forces (EcoDem). This implies analysing consumer behaviour to identify how demand-side forces generate certain economic incentives for Internet Service Providers (“ISPs”, who provide Internet Access Services or “IAS”) to determine their network neutrality policy, which in turn may reveal current or future regulatory risks.

Collecting data about the demand side has been identified as the approach that could generate value, provided it is done with this project’s specific objectives in mind: the topic has not been explored in much detail yet and falls somewhat outside of the National Regulatory Authorities’ (“NRAs”) usual expertise. BEREC has therefore decided to commission an external study into the value of network neutrality to consumers, which will clarify whether consumer preferences are met by the ISPs’ value propositions.

2 OBJECTIVES

The key policy objective is to provide NRAs with a more evidence-based understanding of market dynamics between consumers, ISPs and Content and Application Providers (CAPs), particularly from the end-user perspective, in order to inform their approach to Net Neutrality issues.

Particularly:

- To understand the reasons for the different traffic management responses of ISPs to similar technical, legal and market constraints
- To understand how consumer expectations and market dynamics are reflected in practice in retail offers
- To understand the role and impact on Net Neutrality of competition, transparency and the ability of consumers to switch easily.

That it will both inform BEREC’s general approach and support future analysis of NRAs of their national markets, enabling them to adapt their regulatory approach to reflect a better understanding of how consumers and providers interact.

¹ To BEREC, “net neutrality” describes the principle of equal treatment of network traffic. The terminology used in this document refers to BEREC’s work on network neutrality. For more details, bidders are invited to read the relevant reports, available on BEREC’s website:

http://berec.europa.eu/eng/news_consultations/whats_new/1281-berec-has-adopted-two-summaries-and-the-updated-reports-on-net-neutrality

As such, this work will thus enable show BEREC to continue in its role as a recognized, objective and reliable voice in the Net Neutrality debate in Europe.

3 SCOPE

The BEREC Office is seeking to conclude a service contract for the provision of a study which will investigate the value of network neutrality to European consumers. In this study empirical data will be gathered on:

a) the behaviour and perceptions of end users, e.g. their understanding of net neutrality related information, the impact of direct users' subscriptions to Content Application Providers (CAPs) etc.

b) the incentives and constraints for IAS providers to differentiate traffic, focusing in particular on CAPs differentiation due to partnerships such as bundled access and content service (particularly to favour data traffic over the access service from such CAP partners).

The shape this study should take is discussed below.

The study will speed up the process of collecting information on consumer behaviour a proxy for "demand-side forces", which will improve BEREC's understanding of the incentives at play for ISPs.

BEREC will use this information as a basis for an analysis of the sequence of interactions between consumers and suppliers, i.e. the "market dynamics". That later stage will rely on the new data, mainly supplementing it with public information and information from the NRAs, BEREC, the European Commission and third parties where applicable.

Under this approach, the study on consumer behaviour should not be conceived as a purely stand-alone piece of work, but rather as a foundation for a wider reflection. This means that, although the study would directly answer questions about the "demand-side forces", it should also be a building block in the comprehension of ecosystem dynamics. This should be reflected in the methodology to be employed.

The information collected should allow BEREC to:

- achieve a better understanding of what (applications) consumers use internet for;
- assess and quantify the value of net neutrality to consumers; and
- analyse how the internet ecosystem is likely to respond to these demand patterns in the future and how this will affect its structure, from a dynamic perspective.

The study is expected to produce more formal results than most of the works that have been conducted so far, i.e. place more emphasis on quantitative results. The focus of the study is on individual choices by informed consumers, and how they translate into transactions, rather than on aggregate figures about past facts in a context of imperfect information. Standard large-scale surveys are therefore unlikely to answer the right questions, whereas methods that reveal elements of

the demand functions of relevant categories of consumers are more likely to be effective.

As micro- level information can be very costly to collect on a large scale, such as the whole BEREC area (BEREC members and observers states), but the priority on precision implies preferring micro- level data, costs need to be reduced by focussing the analysis on a reduced number of test areas. BEREC therefore requests tenderers to provide a methodology for selecting a small number of representative test areas, where the study will be conducted.

The selected test areas may present significant differences and this can constitute a serious challenge to the validity of the quantitative data, unless mitigated from the beginning. The study must therefore include some qualitative research, before the quantitative research, that will identify the key notions and language elements to be used when discussing with consumers the value of network neutrality. This is of utmost importance because the purpose of this study is not to describe the behaviour of consumers at different degrees of information who may not always be fully rational in their purchasing habits, but to understand the real preferences of relevant types of consumers, absent information asymmetry or other exogenous bias.

For the purposes on this study, an information package should therefore be produced which would allow consumers to answer all possible questions with as little bias as possible. The content of this information package has to be carefully designed to give a well-balanced description of how the Internet works, as well as how the Internet can be used for different purposes. The information presented to the survey respondents is a critical factor for the validity of the findings.

The study which collects information on consumer behaviour has to include the following three stages.

3.1 Stage A: Drawing a list of test countries / meaningful geographic segmentation

The work included with this stage will deliver a rigorous methodology for categorising the countries of the BEREC area with regard to the state of network neutrality in their respective electronic communication sector, based on the relevant country information that the contractor will collect. The work will also include an application of this methodology to define the relevant categories. Finally, the contractor will also provide a list of test areas representing each of these categories, e.g. one country per category, which will be studied more in depth in stages B and C.

The data to be collected and the data analysis are focussed on the “micro”-level, with a level of detail sufficient to effectively reconstruct consumer preferences. This requires a precision that is difficult and costly to achieve on a very large geographic scale – to put it in a nutshell, the number of data points to be collected is almost proportional to the number of categories (for example, countries) to be compared. It therefore seems unreasonable to produce highly-detailed quantitative analyses of all the BEREC member and observer countries. To ensure the study’s results are representative enough of this group, however, a good compromise seems to be to study e.g. various countries or geographic segments (stratified

sampling), together illustrating the diversity of European electronic communications markets, in terms of the size of the markets, the attitudes of consumers, ISPs and society generally towards net neutrality.

The most obvious approach to this segmentation appears to be to choose a selection of a number of countries, based on their representativeness. Other methods of segmentation/stratification could be possible, but must be carefully assessed. One alternative geographic segmentation approach could be to conduct the surveys in a number of cities rather than in a few countries. However, while this may allow to cover more countries, it could generate additional biases (e.g. excluding rural consumers) and higher costs, for a benefit that is not a priori very clear. Whatever the approach chosen for geographic segmentation, its design should be tailored to make sense with regard to net neutrality policy. The theoretical total population for the survey consists of the consumers in the countries in the BEREC area. The different segments (strata) chosen should, internally, be as homogeneous as possible, and between them be differentiated enough and delineated along criteria that are likely to have a significant impact on the traffic management policies of ISP, not limited to but possibly including a selection from the following:

- General economic health criteria (e.g. Internet Penetration rate for mobile and fixed access)
- Competition criteria:
 - o Population size
 - o Profitability of ISPs
 - o Number and market share of network providers (mobile; fixed), e.g. <4, >=5 etc.
 - o Levels of switching
- Technical criteria:
 - o Penetration rate of specialised services, such as IPTV (since IPTV can significantly slow down other services)
 - o Availability of tiered bundles (e.g. bundles with blocked/unlimited VoIP/P2P)
 - o Number of NN incidents (e.g. blocking of VoIP/P2P services, slowing down of traffic)
 - o Levels of digital literacy
- Legal/regulatory criteria (e.g. levels of enforcement of Net neutrality in the jurisdiction (e.g. three groups: countries where net neutrality is regulated, countries where co-regulation is used and countries where there are no regulation).

The segmentation process is expected to produce a set of relevant categories (of countries). This grouping shall not imply that each national situation can be deduced from the characteristics of the group; rather, the aim of the exercise is to build a robust panel of users in order to evidence general trends and patterns of behaviour across Europe. Within each of these "main" categories, a minimal number of elements (e.g. one country) should be selected as the 'guinea pig' for the detailed analysis, the test areas. In this way we ensure that representatives of

the different subgroups of countries will be included in the study. This should ensure, for the stage subsequent research work that the data collected are:

- representative of a significant category within the European telecoms economy;
- of good quality; and
- relevant for identifying non-obvious differences and similarities between the different parts of the BEREC members and observer countries.

The contractor will establish a geographic segmentation methodology and the relevant selection criteria. Once the methodology and the criteria are established, the contractor will apply them to draw the list of geographic segments to be used for selecting the study's test areas, regardless of the country of establishment of the contractor and its subcontractor(s). The contractor will then apply the chosen methodology to propose a selection of test areas (e.g. countries) representing each of the geographic segments. The BEREC Office will reserve the right to approve or reject this proposed selection as the basis for the rest of the study.

With regard to this stage, tenderers are required to provide explanations in their response of:

- the methodology they propose to use to identify the categories of similar geographic areas, according to relevant criteria, and then to choose one or more typical test areas from within each category
- how many test areas they believe they would need to present as a representative picture, in light of the criteria and geographic categories identified as relevant
- how they would make a sample representative in a given test area
- to what extent it is possible to extrapolate any conclusions for the test areas to other geographic areas, taking into considerations the differences and similarities between areas in a given category and between categories.

3.2 Stage B: Understand what consumers use internet for and what matters to them in the characteristics of their internet access

In stage B, the contractor will compile existing information about the attitude of consumers with regard to network neutrality in each of the test area. The work in stage B will also include a qualitative assessment of the preparatory work necessary to ensure the success of stage C, including an understanding of significant cultural and social differences between the test areas. In addition, the work in stage B will collect the relevant information about the existing internet access service offerings in each of the test areas.

For each of the test areas selected in stage A, it is then necessary to conduct a qualitative study of consumers' attitude towards net neutrality. This preparatory research is crucial to the success of the work in stage C, the quantitative research, due to the importance to stage C of having a clear and effective set of information for research subjects, and due to the differences that exist between among

BEREC member and observer countries in the BEREC area. It is also an opportunity to collect much useful material for later policy analysis, especially with regard to possible explanations to observed divergences.

Using a mixture of desk research and a relevant method of qualitative research (e.g. focus groups, interviews, etc.), this part of the research should show in particular:

- what is the appropriate way (e.g. terminology, tone of language, educational material) to describe net neutrality to consumers in each of the test areas;
- in the different test areas, what are the aspects of net neutrality that seem to have the most influence on customer choice;
- whether there are risks of biases in the quantitative study that should be mitigated; and
- whether specific factors should be taken into account when analysing the causes of supposedly inefficient behaviour of ISPs.

Beginning this stage with a survey of existing research and academic literature will provide a foundation for the ensuing qualitative research. It is also important to draw on existing research as it reduces the amount of bespoke qualitative research it is necessary to undertake, reducing costs. Much of the new qualitative information sought should aim to take account of any cultural, social and other aspects that make up the differences between the test areas, and how they affect the quantitative research described in stage C, below. In particular, the educational material to be used during the next stage is of utmost importance for the validity of the findings from the quantitative research. If the consumers are not provided with correct and unbiased information (i.e. representing all relevant stakeholder groups) respondents cannot be considered to be “informed Internet users”. The contractor will provide the BEREC Office with a prototype illustrating the necessary characteristics of an effective information pack, for the purpose of conducting the work in stage C.

The contractor will also produce for stage B a representative picture of the available broadband retail products in each of the test areas, covering the main consumer types that can be identified and representative ISPs. This is crucial for analysing the efficiency of electronic communication markets.

3.3 Stage C: Measure the value of network neutrality in the test countries and compare results

The work in stage C will consist in collecting quantitative data about the value of network neutrality, in its various dimensions, to informed consumers in the test areas. The work in stage C will produce detailed figures allowing meaningful comparisons between test areas and between categories of respondents within each test area.

This stage is about collecting empirical data about the behaviour of an individual confronted with the choice of an ISP. The previous stage will have identified key areas for the quantitative investigation, and what language and what kind of educational material is appropriate when asking consumers about their preferences.

Importantly, analysing the efficiency of electronic communication markets implies comparing the ISP's actual value propositions to the statistically representative consumers' ideal expectations about net neutrality. In practice, this will probably mean comparing data about the representative fixed and mobile ISP's' value propositions (including gaps in those ISPs' product ranges, where applicable) to the representative consumers' real informed preferences and expectations, as opposed to the positions that ISPs and consumer representatives take in the public debate, which may be biased or uninformed. When asked about their preferences, consumers should therefore be in a situation to declare their informed and unbiased preference, which will require a briefing period and access to adequate information. Contractor will define what they will include in the information packs (including define how they will adapt the general information pack from stage B to each test area).

The data collection needs to produce micro-level data on individual choices. For example, a well-established technique to produce that type of information is called "conjoint analysis", which product managers frequently use when designing product ranges in all sorts of industries. In the context of this study, the technique – a conjoint analysis or any alternative likely to satisfy the requirements of this research – would be used to uncover the factors, in terms of net neutrality attributes (such as blocking, throttling, contractual restrictions or prioritisation of certain applications, the exemption of certain application from download or upload caps, charging based on type of application etc.) but also other relevant attributes, driving consumers to choose between the competing broadband offerings available to them. The list of attributes tested by the contractor will be discussed by the BEREC Office with the possibility of their suggesting amendments, at the relevant checkpoints during the life of the project.

The analysis should quantify the relative weight of these attributes in broadband consumption decisions. It should also be carried out with a level of detail sufficient to reveal any heterogeneity between segments of the consumer population. For example, if a given factor is shown to have a certain weight on average, the study should make it clear if some sub-groups in the population actually attribute more or less weight to that factor, and what those sub-groups are. The analysis must therefore keep track of the relevant demographic attributes of the interviewees, and probably select them by quotas or appropriately control for such characteristics – tenderers are expected to describe in sufficient detail how the interviewees will be selected and the rationale behind the chosen approach.

After the completion of the work composing stage C, the BEREC Office's representatives should be in possession of robust figures about the relative importance of different attributes and how that relative importance varies between test areas and between categories of consumers within each test area.

It is strongly desirable that the information collected should be detailed enough to allow the evaluation of a consumer's willingness to pay for a given broadband package, given the consumer's characteristics and the broadband package's attributes.

4 DURATION

Duration of the tasks must not exceed 7 months and is subject to the provisions of Article I.2.3 of the contract.

5 DELIVERABLES, MEETINGS AND TIMETABLE

5.1 Deliverables

All intellectual property rights of the study shall belong to BEREC.

The whole material associated with this study can be used by any of the BEREC members and observers for conducting a similar or different study.

5.1.1 For stage A, the deliverables listed below must be provided by the contractor:

- **An Inception report**, specifying the methodology, resources and objectives provided in the tender in accordance with the indications provided by the BEREC Office during the inception meeting (see section meetings below). A draft of the report shall be made available to the BEREC Office for information 2 working days before the inception meeting. The report should be finalised after the meeting taking into account all observations and comments raised at the meeting. The Inception Report shall be made available within a week after the inception meeting.
- **The Final study report**, including the following sections:
 1. Executive summary
 2. A description of the methodology used
 3. The data used to make the choice
 4. Conclusions, choice of test areas and implications for stages B and C
 5. Annexes, including all the raw data used for the purpose of the study

The final study report shall be made available to the BEREC Office within 1 month after signature of the contract by the last contracting party.

An electronic version of the final dataset should be provided in the form of a spreadsheet for BEREC Office internal usage. It should include a dataset with all the information on the variables listed in section Scope, Stage A above. The spreadsheet should also include a pivot table of the variables listed in section Scope, Stage A above. The pivot table should allow users to filter and sort data according to a number of criteria e.g. such as the size of the country, the penetration rate for broadband etc. It should include graphical presentations of the data.

- **Progress report**, including e.g. time-sheets on person/days consumption, travel details, use of consumables, etc.

5.1.2 For stage B, the deliverables listed below must be provided by the contractor:

- **An Inception report**, specifying the methodology, resources and objectives provided in the tender in accordance with the indications provided by the BEREC Office during the inception meeting (see section meetings below). A draft of the report shall be made available to the BEREC Office for information 5 working days before the inception meeting. The report should be finalised after the meeting taking into account all observations and comments raised at the meeting. The Inception Report shall be made available within a week after the inception meeting.

- **An Interim study report** which will cover the relevant methodological issues and how the contractor intends to address them, a description of the information-gathering process, and a summary of the results already achieved. The draft interim study report shall be made available to the BEREC Office within 2 months after signature of the contract by the last contracting party. A draft of the report shall be made available to the BEREC Office 5 working days before the interim meeting in month 2 (described in section meetings below). The report should be finalised after the meeting taking into account all observations and comments raised at the meeting. The finalised Interim Study Report shall be submitted to the BEREC Office within 2 weeks after the first interim meeting.

- **Final study report**, including the following sections:

1. Executive summary
2. A description of the methodology followed
3. The information collected on market characteristics and descriptive language
4. The information collected on product price lists and catalogues
5. Conclusions and implications for stage C, including a general prototype consumer information package, and recommendations for adaption to different test areas.
6. Annexes, including all the raw data used for the purpose of the study

The final study report shall be made available to the BEREC Office within 3 months and two weeks after signature of the contract by the last contracting party.

- An electronic version of the final dataset should be provided in the form of a spreadsheet for BEREC Office internal usage. It should include a dataset with all the information on the variables listed in section Scope, Stage B above.

- **Progress report**, including e.g. time-sheets on person/days consumption, travel details, use of consumables, etc.

5.1.3 For stage C, the deliverables listed below must be provided by the contractor:

- **An Inception report**, specifying the methodology, resources and objectives provided in the tender in accordance with the indications provided by the BEREC Office during the inception meeting (see section on meetings below). A draft of the report shall be made available to the BEREC Office for information 5 working days before the inception meeting. The report should be finalised after the meeting taking into account all observations and comments raised at the meeting. The Inception Report shall be made available within a week after the inception meeting.

- **An Interim study report** which will cover the relevant methodological issues and how the contractor intends to address them, the current consumer information packages, description of the net neutrality attributes selected for the study so far, a description of the information-gathering process, and a summary of the results already achieved. A draft of the report shall be made available to the BEREC Office's 5 working days before the first interim meeting in month 4 (described in section meeting below). The report should be finalised after the meeting taking into account all observations and comments raised at the meeting. The finalised Interim Study Report shall be submitted to the BEREC Office within 2 weeks after the interim meeting.

- **The Final study report**, including the following sections:

1. Executive summary
2. A description of the methodology followed
3. Description of the net neutrality attributes and other attributes selected for the study
4. The information collected
5. General observations at the wider European level / across the test areas
6. Observation per test area, including all transversal differences within each test area
7. Conclusions.
8. Annexes, including consumer information packages and all the raw data used for the purpose of the study

The final study report shall be made available to the BEREC Office within 6 months and two weeks after signature of the contract by the last contracting party.

- An electronic version of the final dataset should be provided in the form of a spreadsheet for BEREC Office internal usage. It should include a dataset with all the information on the variables listed in section Scope, Stage C above. The spreadsheet should also include a pivot table of the variables listed in section Scope, Stage C above. The pivot table should allow users to filter and sort data according to a number of criteria such as the test area, the type of consumer etc. It should include graphical presentations of the data.

- **A Progress report**, describing the use of resources in the performance of the contract including the relevant information about the work hours and other expenses effectively incurred for the execution of the contract.

5.1.4 Report format

All deliverables must be written in English.

All reports should be consistent in style (headings, margins, citations, bibliography, etc.) and contain a short executive summary. The contractor is required to properly apply quotation techniques and particular care will be taken to verify improper re-use of existing material.

All reports will be submitted in an open electronic format. Exchange of advance copies as well as other non-formal communications shall take place via electronic mail.

The Final Study Report, including an executive summary not exceeding 15 pages, shall be provided in an open electronic format suitable for publication by the BEREC Office on BEREC websites.

The BEREC Office will decide the possible dissemination of the findings and conclusions and any other information produced under this assignment.

5.2 Meetings

A schedule of meetings and workshops will be agreed with the contractor for this assignment. Such meetings (i.e. meetings and workshops) will be attended by representatives of the BEREC Office, the contractor's project leader and other members of the contractor's team, as required. Other knowledgeable experts might be invited to participate by the BEREC Office. The meetings will be chaired by a BEREC Office representative and will take place at the BEREC bureau de passage in Brussels.

The aim of the meetings will be to guide the work of the contractor. In particular, they will allow setting-up the initial orientations, review progress in critical milestones, review educational material and "net neutrality attributes" selection, and review the intermediate and final deliverables of the assignment.

Within three days following each meeting, the contractor will circulate minutes of the meeting to all participants, together with copies of presentations made during the meeting or other related documents. The minutes shall be concise and concentrate on major decisions and shall list the open action points for the next reporting period.

Inception meetings for stages A, B and C

Inception meetings will be organised by the BEREC Office at the BEREC bureau de passage in Brussels. For stage A, this will take place within two weeks after signature of the contract by the last contracting party. For stage B, it will take place at the end of month 1. For stage C, it will take place at the end of month 3. The contractor will have to finalise the inception reports on the basis of the outcome of the inception meetings.

Final meeting for stage A

A final meeting during which the contractor will present the final findings and proposed conclusions will be held within 1 month after signature of the contract by the last contracting party. It will be organised by the BEREC Office at the BEREC bureau de passage in Brussels. The contractor will have to finalise the final study report on the basis of the outcome of the final meeting.

Interim meeting for stage B / workshop discussing educational material

An interim meeting during which the contractor will present the interim findings will be held within 2 months after signature of the contract by the last contracting party. It will be organised by the BEREC Office at the BEREC bureau de passage in Brussels. The contractor will have to finalise the interim study report on the basis of the outcome of the interim meeting.

Final meeting for stage B

A final meeting during which the contractor will present the final findings and proposed conclusions will be held within 3 months after signature of the contract by the last contracting party. It will be organised by the BEREC Office at the BEREC bureau de passage in Brussels. The contractor will have to finalise the final study report on the basis of the outcome of the final meeting.

First Interim meeting for stage C / workshop discussing “net neutrality attributes

An interim meeting during which the contractor will present the interim findings will be held within 4 months after signature of the contract by the last contracting party. It will be organised by the BEREC Office at the BEREC bureau de passage premises in Brussels. The contractor will have to finalise the interim study report on the basis of the outcome of the interim meeting.

Final meeting for stage C

A final meeting during which the contractor will present the final findings and proposed conclusions will be held within 7 months after signature of the contract by the last contracting party. It will be organised by the BEREC Office at the

BEREC bureau de passage premises in Brussels. The contractor will have to finalise the final study report on the basis of the outcome of the final meeting.

Monthly conference calls

In addition to the meetings to be organised in Brussels, a monthly conference call on the state of progress of the study will take place between representatives from the contractor and the BEREC Office.

Weekly updates

In addition to the meetings to be organised in Brussels and to the monthly conference calls, representatives from the contractor will update on a weekly basis the designated BEREC representatives, about the state of progress of the study. This communication will take place either by telephone or by e-mail. The BEREC Office will have the possibility to cancel a given instance of this weekly update, if that instance of the weekly update is deemed unnecessary.

Costs related to the following activities and items must be borne by the contractor and included in the price:

- Setting the workshop agenda in cooperation with the BEREC Office;
- Identifying participants and speakers in cooperation with the BEREC Office;
- Inviting speakers and participants;
- Managing the travel and accommodation arrangements for speakers;
- Financing the travel and accommodation expenses for speakers;
- Any speakers' fees;
- Cost of providing catering during the workshop;
- Printing and distributing relevant information material for speakers and participants.

The tenderers should include costs of attendance of its own representative(s) at all the above meetings and workshops in the financial section of the offer.

5.3 Timetable

Deliverable ↓	Meeting ↓	Month 1 →	2	3	4	5	6	7
	Inception meeting, stage A	1						
Inception report, stage A		1, week 2						
	Final meeting, stage A		2					
Final report, stage A			2, week 2					
	Inception meeting, stage B		2					
Inception Report, stage B			2, week 2					
	Interim meeting/workshop, stage B			3				
Interim report, stage B				3, week 3				
	Final meeting, stage B				4			
Final report, stage B					4, week 3			
	Inception meeting, stage C				4			
Inception report, stage C					4, week 2			
	Interim meeting/workshop, stage C					5		
Interim report, stage C						5, week 3		
	Final meeting, stage C							7
Final report, stage C								7, week 2

6 TERMS OF APPROVAL OF REPORTS/DELIVERABLES

6.1 Study report(s)

After reception of each study report included in sections above, BEREC Office will have 14 calendar days in which:

- to approve it,
- to reject it and request a new report.

Where the BEREC Office requests a new report because the one previously submitted has been rejected, this must be submitted within 14 calendar days. The new report shall likewise be subject to the above provisions.

6.2 Progress reports

The BEREC Office shall have forty-five days from receipt to approve or reject the progress reports, and the Contractor shall have 10 days in which to submit additional information or a new report.

The progress reports will be approved if the BEREC Office can be confident that the information provided is accurate and the results presented show sound management.

7 LAYOUT/CONTENT OF THE WORK PLAN

Offers should include a detailed work plan. The work plan should specify the management structure as well as the responsibility of each member of the team, including the main contractor and/or sub-contractors. It should include the names of the persons in charge of the different countries where data have to be gathered.

The work plan should include a list of tasks to be performed, with clear and realistic stages and milestones. Resources should be clearly associated to each task.

PART 2: ADMINISTRATIVE DETAILS

1 ELIGIBILITY REQUIREMENTS

The present tender documents are drawn up in respect of the Financial Regulation (EU, Euratom) No 966/2012 of the European Parliament and 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, as well the Commission Delegated Regulation (EU) No 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, hereinafter referred to as the Financial Regulation.

Participation in the Office's procurement procedure is open on equal terms to all natural and legal persons or groupings of such persons (consortia) coming within the scope of the Treaties. It includes all natural and legal persons established in the European Union. Pursuant to Article 119 of the general Financial Regulation the participation is also open to all natural and legal persons from a third country which has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. The Office can therefore accept tenders from and sign contracts with tenderers from 34 countries, namely: the 28 EU Member States, 3 European Economic Area (EEA) Countries (Lichtenstein, Norway, Iceland) and 4 Stabilisation and Associations Agreements (SAA) Countries (FYROM, Albania, Montenegro and Serbia). The Office's procurement procedures are not open to tenderers from countries which have ratified the Multilateral Agreement on Government Procurement (GPA).

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, 3, and 4 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

The tender must include a cover letter (Annex 9) presenting the name of the tenderer (including all entities in case of joint offer as well as their roles) and identified subcontractors, if applicable.

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 BEREK 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 BEREK Office in case of award.

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

2.2.2 Subcontracting

Subcontracting is a situation where a contract is to be established between the BEREK 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.7 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 (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: Bank Identification form (ORIGINAL filled in according to the instructions contained in this form)

If the corresponding bank account of economic operators is already registered in the Commission'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 (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))
- 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 BEREC 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. BEREC Office will reject tenders where no technical offers are proposed.

4.3 Financial section

The price quoted must fulfil the following requirements:

- A **total** fixed price expressed **in Euro** must be included in the tender.
- 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.
- The price must fall within the scope of these tender specifications and be broken down into unit prices and quantities per each of the following categories:

(a) Travel and subsistence expenses (including costs of attendance of future contractor's representative(s) at meetings and/or workshops with the BEREC Office as foreseen in section 4.2, part 1). In the event of travel being necessary to carry out the duties specified in the tender, travel and subsistence expenses shall be paid as indicated in the tender.

(b) Other expenses (outsourced services or supplies e.g. translation expenses, printing expenses, website development, cost of acquiring data etc.)

- 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 BEREC Office will reject tenders where no financial offers are proposed.

The part that the tenderer intends to subcontract shall be precisely indicated and detailed.

The total price quoted cannot exceed EUR 400 000 (four hundred thousand).
Tenders with a higher total price will be rejected.

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 106(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 or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the European Investment Bank and international organisations;
- (d) they are not in compliance with their 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 they are established or with those of the

- country of the contracting authority or those of the country where the contract is to be performed;
- (e) they or persons having powers of representation, decision making or control over them have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests;
 - (f) they are currently subject of an administrative penalty referred to in Article 109(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.

Points (b) and (e) of the first subparagraph shall not apply where the candidates or tenderers can demonstrate that adequate measures have been adopted against the persons having powers of representation, decision making or control over them, who are subject to a judgement as referred to in points (b) or (e) of the first subparagraph.

For the purpose of the correct application of paragraph 1, the candidate or tenderer, whenever requested by the contracting authority, shall:

(a) where the candidate or tenderer is a legal person, provide information on the ownership or on the management, control and power of representation of the legal person and certify that they are not in one of the situations referred to in paragraph 1 of Article 106 of the Financial Regulation;

(b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to in paragraph 1 of Article 106 of the Financial Regulation

5.1.2. Pursuant to Article 45(2) of Council Directive 2004/18/EC and Article 107 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 misrepresenting 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 106(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 106(1) or 107 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 130 000, 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 106(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, a recent equivalent document issued **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. 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. The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 106(1) of the Financial Regulation, recent certificates or letters issued by the competent authorities of the State concerned, **issued less than 12 months before the date of the letter informing of the contract award**. 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.
- 2) Where the document or certificate referred to in the first subparagraph 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.

If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

Depending on the national legislation of the country in which the candidate or 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 BEREC Office 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 109 of the Financial Regulation the contracting authority may impose administrative or financial penalties on the following:
 - (a) contractors, candidates or tenderers in the cases referred to in point (b) of Article 107(1) 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 shall first give the person concerned an opportunity to present his or her 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) the exclusion of the candidate or tenderer or contractor concerned from the contracts and grants financed by the 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 141 of the Regulation laying down the rules of application of the Financial Regulation, the cases referred to in point e) of 5.1.1. above shall include all illegal activities detrimental to the Union's financial interests and be in particular 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 participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA (OJ L 300, 11.11.2008, p. 42);
 - (d) cases of money laundering as defined in Article 1 of Council Directive 2005/60/EC of the European Parliament and of the Council (OJ L 309, 25.11.2005, p. 15).
 - (e) cases of terrorist offences, offences linked to terrorist activities, and inciting, aiding, abetting or attempting to commit such offences, as defined in Articles 1, 3 and 4 of Council Framework Decision 2002/475/JHA (OJ L 164, 22.6.2002, p.3).
5. Pursuant to article 142 of the Regulation laying down the rules of application 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 108(2) and (3) of the Financial Regulation, the BEREC Office shall apply this duration up to the maximum duration laid down in Article 106(4) of the Financial Regulation.

6. The period referred to in Article 106(4) 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 106(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 cases, in the cases referred to in Article 106(1)(c) of the Financial Regulation where the misconduct relates to contracts with the institution concerned.

For the purposes of point (b) of the sixth subparagraph, if the grave professional misconduct was established by a decision of a public authority or an international organisation, the date of the decision shall prevail.

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 106(1) of the Financial Regulation.
8. Pursuant to article 145 of the Regulation laying down the rules application 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 a contradictory procedure with the candidate, tenderer or 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 142(1) of the Regulation laying down the rules of application 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.

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 BEREC Office 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.

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 2 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.

5.2.2 *Technical background*

Criterion:	Expertise of the tenderer and other applicants, including subcontractors if any, acquired in the last three years in the field of economic and market analysis.
Documentary evidence:	List of contracts in the fields listed above performed in the past three years, or currently being performed, with their respective values.

Criterion:	Experience, project management experience, technical knowledge and credibility of proposed team
Documentary evidence:	Concise but informative curricula vitae of team members, demonstrating relevant professional experience, including the requisite language skills needed to carry out the required tasks.

Criterion:	Management capability
Documentary	List of contracts of a value of at least EUR 20 000 (twenty

evidence:	thousand) each, performed by the tenderer(s) (including subcontractor(s), if any) in the last 3 years.
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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:

Technical award criteria	Maximum score/weighting	Threshold
<p>1. Understanding of the tasks required:</p> <p>1.1. Understanding of specific and long-term objectives 1.2. Value added in respect of information included in the tender specifications</p> <p><i>(Both sub-criteria above are of equal relative importance)</i></p>	20	10
<p>2. Technical quality of the tender</p> <p>2.1. In Stage A: Quality of the proposed methodological approach for identifying the relevant categories, and test areas, and quality of the explanations on how the methodology can be used</p> <p>2.2. In Stage B: Quality of the proposed methodological approach for compiling existing information, assessing the preparatory work for stage C, identifying significant cultural and social differences between the test areas, collecting the relevant information in each of the test areas.</p> <p>2.3. In Stage C: Quality of the proposed methodological approach for collecting quantitative data, including the sampling method producing detailed figures allowing meaningful comparisons between test areas and between types of respondents within each test area.</p> <p>2.4. Soundness and appropriateness of the proposed tools and data gathering techniques</p> <p>2.5. Relevance, quality and completeness of the information proposed to be used, and of the analysis proposed to be undertaken</p> <p><i>(All the sub-criteria above are of equal relative importance)</i></p>	50	25

<p>3. Management</p> <p>3.1. Feasibility of meeting the objectives specified in the tender specifications (outlined e.g. by a workplan or timetable). Tenderer's approach to the quality assurance and to project management to be used during the execution of the contract</p> <p>3.2. Sound and realistic allocation of:</p> <ul style="list-style-type: none"> - financial and - human resources, including allocation of expertise <p><i>(Both sub-criteria above are of equal relative importance)</i></p>	30	15
TOTAL	100	50

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 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 and calculated according to the following formula:

$$S_x = \left(\frac{CP}{PT_x} \right) * 30 + \left(\frac{TQS_x}{100} \right) * 70$$

where:

S_x = score for tender x

CP = cheapest price

PT_x = price of tender x

TQS_x = total quality score

7 PAYMENT AND STANDARD CONTRACT

- Payments under the contract shall be made in accordance with articles I.4, I.10 and II.15 of the model contract attached, provided that the contractor has fulfilled all his contractual obligations. No pre-financing is foreseen in this contract.

8 VALIDITY OF THE TENDER

Period of validity of the tender shall be 11 (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.12 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.

12 RESULTS

The results of the service must be forwarded to the BEREC Office. **The copyright will belong to the BEREC Office**; the BEREC Office will in particular have the right to publish the results.

If the result is not to be fully created for the purpose of the contract it is to be clearly pointed out in the tender. There should be information provided about the scope of pre-existing materials, their source and when and how right to them have been acquired.

The provisions on the use of the results and ownership of the results can be found in the Model Service Contract (Article I.8 Exploitation of the results of the contract and Article II.10 Ownership of the results – Intellectual and Industrial Property Rights).

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)²</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:

² 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

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

**ANNEX 4: DECLARATION OF HONOUR ON EXCLUSION CRITERIA AND
ABSENCE OF CONFLICT OF INTEREST**

(Complete or delete the parts in blue italics in parentheses)

[Choose options for parts in blue between square brackets]

The undersigned *(insert name of the signatory of this form)*:

in *[his][her]* own name *(for a natural person)*

or

representing the following legal person: *(only if the economic operator is a legal person)*

full official name:

official legal form:

full official address:

VAT registration number:

- declares that *[the above-mentioned legal person][he][she]* is not in one of the following situations:
- a) is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - b) has been convicted of an offence concerning professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;
 - c) has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the European Investment Bank and international organisations;
 - d) is not in compliance with 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 performed;
 - e) has been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such activity is detrimental to the Union's financial interests;
 - f) is a subject of an administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a procurement procedure or failing to supply this information, or having been declared to be in serious breach of its obligations under contracts covered by the Union's budget.
- *(Only for legal persons other than Member States and local authorities, otherwise delete)* declares that the natural persons with power of

representation, decision-making or control³ over the above-mentioned legal entity are not in the situations referred to in b) and e) above;

- declares that [the above-mentioned legal person][he][she]:
 - g) has 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 affinity, family, emotional life or any other shared interest;
 - h) 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) has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to award of the contract;
 - j) provided accurate, sincere and complete information to the contracting authority within the context of this procurement procedure ;
- acknowledges that [the above-mentioned legal person][he][she] may be subject to administrative and financial penalties⁴ if any of the declarations or information provided prove to be false.

In case of award of contract, the following evidence shall be provided upon request and within the time limit set by the contracting authority:

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.

³ This covers the company directors, members of the management or supervisory bodies, and cases where one natural person holds a majority of shares.

⁴ As provided for in Article 109 of the Financial Regulation (EU, Euratom) 966/2012 and Article 145 of the Rules of Application of the Financial Regulation

If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

Full name

Date

Signature

ANNEX 5: POWER OF ATTORNEY⁵

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 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:

⁵ 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.7 regarding subcontracting and Art. II.18 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 106(1) of the Financial Regulation⁶.

Declares hereby taking note of Art. II.7 regarding subcontracting and Art. II.18 in relation with checks and audits of the service contract.

Place and date:

Name (in capital letters) and signature:

⁶ Available at 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
<i>Administrative section of the tender</i>					
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)					■
Annex 8: Cover letter for the tender	■		■		
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)	■	■	■		
Evidence of financial and economic capacity (see section 5.2.1, part 2)	■	■	■		
Evidence of Technical background (see section 5.2.2, part 2)	■	■	■	■	■
<i>Technical Section of the tender (see section 4.2, part 2)</i>	■		■		
<i>Financial Section of the tender (see section 4.3, part 2)</i>	■		■		

ANNEX 8: COVER LETTER FOR THE TENDER

Please select the appropriate option

OPTION 1

Single legal person or private/ public entity

- The offer is submitted by a **one tenderer**.
-

OPTION 2

Joint offers

- The offer is submitted by **partners**.
- Company acting as **lead partner** for the group of tenderers:
.....
 - **Other partners** taking part in the joint tender:
.....
.....
-

OPTION 3

Joint offers

- The offer is submitted by one tenderer **with subcontractors**.
- Company acting as **tenderer**:
.....
 - **Subcontractors**:
.....
.....
-

OPTION 4

Joint offers

The offer is submitted by partners **with subcontractors**.

- Company acting as **lead partner** for the group of tenderers:

.....

- **Other partners** taking part in the joint tender:

.....

.....

- **Subcontractors:**

.....

.....

Submission modality for the dispatch of the invoice

Via the Supplier Portal

Via a direct connection

Between the Contractor's back office and the BEREC Office

Using the services of a third party service provider already connected to e-PRIOR and offering such services

- Name of the third party service provider:

.....