

Advertisement for Contracts for the Provision of Legal Services

1. Details of the contracting authority:

European Chemicals Agency (ECHA),
Address: Annankatu 18, PO Box 400, FI-00121Helsinki, FINLAND.
E-mail: Litigation@echa.europa.eu
Internet: <http://echa.europa.eu>

2. Description of the contracts:

The contract(s) for the provision of legal services may vary in view of their particular subject, duration and value. In general, the contracts will normally be concluded for an initial period of one year (with a possible renewal of one year).

3. Description of services:

The provision of legal services may cover any of the following area(s):

- ✓ Legal analysis and/or advice in relation to REACH, CLP and related legislation (i.e. Biocides, Pesticides, Waste etc.)
- ✓ Advice on admissibility of appeals lodged against the Agency's decisions (e.g. admissibility on the form, respect of deadlines, admissibility on the substance, standing of the appellant)
- ✓ Advice on the subject matter of proceedings before the Board of Appeal or the European Courts (e.g. actions for annulment, failure to act, damages claims)
- ✓ Legal analysis and/or advice related to the application of the Staff Regulation or the Financial Regulation (e.g. public procurement)
- ✓ Legal analysis and/or advice in relation to intellectual property
- ✓ Legal analysis and/or advice related to applicable Finnish law
- ✓ Litigation and pre-litigation advice to ECHA in its contracts with third parties under Finnish law

4. Description of the procedure:

In response to this advertisement, an economic operator who is potentially interested in providing the type of services indicated above must submit to the functional mailbox indicated above the following duly completed and signed documents:

- A Legal Entity Form¹
- A Financial Identification Form²
- A declaration regarding their capacity to provide legal services in the above-mentioned areas where they have expertise³

The possibility to submit an expression of interest in response to this advertisement will remain open for as long as the notice is available in the section for procurement of ECHA Website.

On the basis of the responses to this advertisement, a list of potential service providers will be drawn up. Potential service providers will be notified of the decision whether they have

¹ available at: http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

² available at: http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

³ As evidenced by the provision of similar services in the past.

been included in the list. Inclusion on the list of potential service providers does not guarantee in any way that ECHA will invite a potential service provider to present an offer in response to a request for services.

Contracts for legal services may be awarded by the Agency following a negotiated procedure without prior publication with a single service provider for the following legal services⁴:

- (i) legal representation by a lawyer within the meaning of Article 1 of Council Directive 77/249/EEC in arbitration, conciliation or judicial proceedings;
- (ii) legal advice given in the preparation of the proceedings referred to above or where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings, provided that the advice is given by a lawyer within the meaning of Article 1 of Council Directive 77/249/EEC;
- (iii) for arbitration and conciliation services;
- (iv) document certification and authentication services which must be provided by notaries.

.

When receiving a request for services from ECHA the invited service provider will be required to submit to the functional mailbox Litigation@echa.europa.eu the following duly completed and signed documents:

- A financial proposal
- A Declaration of honour with respect to the exclusion criteria and the absence of conflict of Interest⁵

Contracts for other legal services than those mentioned under Article 134 1) h) RAP are awarded following negotiated procedures depending on the contract amount⁶: with a single service provider for contracts up to € 15.000 and with at least 3 or 5 service providers for contracts up to respectively € 60.000 and € 135.000.

When receiving a request for services from ECHA, the invited service providers will be required to submit their offer according to the instructions mentioned in the service request.

An invitation to present an offer in response to a request for services does not create an obligation on ECHA to award a contract.

ECHA

⁴ Article 134 1) h) of the Rules of Application of the General Financial Regulation

⁵ See Annex I.

⁶ Article 136 a and Article 137 of the Rules of Application of the General Financial Regulation

Comments [*in grey italics in square brackets*] are to be deleted and/or replaced by appropriate data.

**Declaration on honour on
exclusion criteria and selection criteria**

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

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

➤ declares whether the above-mentioned person is in one of the following situations or not:		
SITUATION OF EXCLUSION CONCERNING THE PERSON	YES	NO
a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations;	<input type="checkbox"/>	<input type="checkbox"/>
b) it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:		
(i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) entering into agreement with other persons with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) violating intellectual property rights;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) attempting to influence the decision-making process of the contracting authority during the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
d) it has been established by a final judgement that the person is guilty of any of the following:		
(i) fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;	<input type="checkbox"/>	<input type="checkbox"/>

(ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of EU Member States, drawn up by the Council Act of 26 May 1997, and in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the legal provisions of the country where the contracting authority is located, the country in which the person is established or the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;	<input type="checkbox"/>	<input type="checkbox"/>
(vi) child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an Authorising Officer, OLAF or the Court of Auditors;	<input type="checkbox"/>	<input type="checkbox"/>
f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;	<input type="checkbox"/>	<input type="checkbox"/>
g) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the applicant is subject to: <ul style="list-style-type: none"> i. facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body; ii. non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics; iii. decisions of the ECB, the EIB, the European Investment Fund or international organisations; iv. decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or v. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body. 	<input type="checkbox"/>	<input type="checkbox"/>

[Only for legal persons other than Member States and local authorities, otherwise delete this table]

- declares whether a natural person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers the company directors, members of the management or supervisory bodies, and cases where one natural person holds a majority of shares) is in one of the following situations or not:

SITUATIONS OF EXCLUSION CONCERNING NATURAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON	YES	NO
Situation (c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>
Situation (d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>
Situation (e) above (significant deficiencies in performance of a contract)	<input type="checkbox"/>	<input type="checkbox"/>
Situation (f) above (irregularity)	<input type="checkbox"/>	<input type="checkbox"/>

➤ declares whether a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations or not:			
SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE LEGAL PERSON	YES	NO	N/A
Situation (a) above (bankruptcy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (b) above (breach in payment of taxes or social security contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

➤ declares whether the above-mentioned person is in one of the following situations or not:		
GROUPS FOR REJECTION FROM THIS PROCEDURE	YES	NO
h) has not distorted competition by being previously involved in the preparation of procurement documents for this procurement procedure;	<input type="checkbox"/>	<input type="checkbox"/>
i) has provided accurate, sincere and complete information to the contracting authority within the context of this procurement procedure;	<input type="checkbox"/>	<input type="checkbox"/>
➤ acknowledges that the above-mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.		

REMEDIAL MEASURES

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

EVIDENCE UPON REQUEST

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

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

For the situation described in point (a) or (b), production of recent certificates issued by the competent authorities of the State concerned are required. These documents must

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

If the person already submitted such evidence for the purpose of another procedure, its issuing date does not exceed one year and it is still valid, the person shall declare on its honour that the documentary evidence has already been provided and confirm that no changes have occurred in its situation.

➤ declares whether the above-mentioned person complies with the selection criteria as provided in the tender specifications:		
SELECTION CRITERIA	YES	NO
(a) It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section [<i>insert</i>] of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable economic and financial criteria indicated in section [<i>insert</i>] of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>
(c) It fulfills the applicable technical and professional criteria indicated in section [<i>insert</i>] of the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>
➤ declares that the above-mentioned person will be able to provide the necessary supporting documents listed in the relevant sections of the tender specifications and which are not available electronically upon request and without delay.		

Full name

Date

Signature