

CFT/EUI/ICTS/2018-001

## DECLARATION ON HONOUR ON EXCLUSION CRITERIA AND ABSENCE OF CONFLICT OF INTEREST

### Open Call for Tenders for the Supply and Implementation of a Learning Management System (managed hosting / SaaS)

The undersigned (signatory of this form):

Name and surname .....

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

Name .....

or

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

born on (date) ..... at (place) .....

Province ..... Tax identification code .....

in his/her function as .....

for the Company .....

legally established in .....

with administrative offices in .....

**(the declaration is done by checking the relevant boxes and, where required, completing the statements, writing clearly; in the event that the space provided is not sufficient, further documentation may be attached to this form, on condition that there is clear identification on this form of which documents are attached to it)**

In submitting its Offer for the tender procedure, fully accepting all liabilities inherent in this Declaration, including the awareness that false statements will incur the penalties envisaged by the existing applicable legislation:

1. 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 grave professional misconduct by a final judgment of a competent judicial authority or administrative decision or decisions of international organisations;
  - c) is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of Italy being the country of establishment of the Institute or those of the country where the contract is to be performed. This breach needs to have been established by a judgment or administrative decision having final and binding effect in accordance with the legal provisions of the country in which the economic operator is established or of Italy being the country of establishment of the Institute;
  - d) has been the subject of a final judgment for fraud, corruption, involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or other forms of trafficking in human beings or any other illegal activity, where such illegal activity is detrimental to the Institute's financial interests;
  - e) has been in serious breach of a contract financed by the Institute or has been the subject of an offense of serious irregularity established by a final judgment of a competent judicial authority or administrative decision;
  - f) is subject to an administrative penalty for being guilty of grave professional misconduct, or for having made substantial errors or committed irregularities or fraud, or has been declared to be in breach of its obligations under contracts covered by the Institute's budget (Article 41 of the EUI's Public Procurement Regulation (President's Decision No. 36/2016 of 4 August 2016)).

Except for cases provided for in point (d) above, the Institute may decide not to exclude the economic operator where it can provide evidence that it has taken remedial measures to demonstrate its reliability.

The Institute may also provide for a derogation from the mandatory exclusion provided in point (c) where an exclusion would be clearly disproportionate, in particular where only minor amounts of taxes or social security contributions are unpaid or where the economic operator was informed of the exact amount due following its breach of its obligations relating to the payment of taxes or social security contributions at such time that it did not have the possibility of taking measures as to demonstrate its reliability before expiration of the deadline for submitting its tender.

2. Declares that the natural person(s) who is/are (a) member(s) of the administrative, management or supervisory body of the economic operator or has/have the powers of representation, decision or control is/are not in a situation listed above.
3. 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, including conflicting professional interests; at present or having occurred over the past 5 years;
  - h) will inform EUI, 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, in as much as it is an incentive or reward relating to award of the contract;
  - j) will not undertake to unduly influence the decision-making process of the Institute or obtain confidential information that may confer upon it undue advantages in the procurement procedure;
  - k) will not undertake to enter into agreements with other candidates and tenderers aimed at distorting competition;
  - l) will not undertake to deliberately provide misleading information that may have a material influence on decisions concerning exclusion, selection or award;
  - m) has provided accurate, sincere and complete information to EUI within the context of this procurement procedure.
4. Acknowledges that [the above-mentioned legal person] [he/she] may be subject to administrative and financial penalties<sup>1</sup> 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 Institute:

For situations described in (a), (b), (d) 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 (c) 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 the paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made

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<sup>1</sup> As provided for in Article 41 of the EUI President's Decision 36/2016 of 4 August 2016 (Public Procurement Regulation).

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 in relation to the candidate or tenderer shall be provided only upon request by the Institute.

5. Registration with the Chamber of Commerce

- that the organisation is registered in the Company Register administered by its local branch of the Chamber of Commerce, Industry, Arts and Crafts, and Agriculture (attach extract from the Chamber's Registry):

Chamber branch \_\_\_\_\_

Registration number \_\_\_\_\_ Registration date \_\_\_\_\_

Name \_\_\_\_\_

Italian tax ID code \_\_\_\_\_ *Or* VAT no. \_\_\_\_\_

Current legal status \_\_\_\_\_

Legally established in (city) \_\_\_\_\_ Province of \_\_\_\_\_

Street Address \_\_\_\_\_ No. \_\_\_\_\_ Postcode \_\_\_\_\_

Memorandum of Association dated \_\_\_\_\_ Company duration \_\_\_\_\_

**Or**

- that the organisation is under no obligation to register with the Chamber of Commerce, Industry, Arts and Crafts, and Agriculture (*in this case, attach to this Declaration a copy of the company's Memorandum of Association and its By-laws*).

6. Declares that [the above-mentioned legal person] [he/she]:

- a) is in compliance with the provisions aimed at legalising the position of undeclared employees (individual legalisation plans - Piani Individuali di Emersione);
- b) is in compliance with all obligations related to the payment of social security and insurance contributions on behalf of its employees, pursuant to the existing legislations, and as a consequence of the correct implementation of the collective labour agreements for the sector;
- c) is in compliance with the labour regulations applicable to employees with disabilities, in conformity with the existing legislation (or else the economic operator is not in a category that is obliged by law to employ persons with disabilities, since it is an undertaking with fewer than 15 employees on the payroll).

Further, that the following Branch of the Italian national agency for social security (*or the social security agency in its country of residence*) can provide confirmation of all statements relating to the tenderer's social security and insurance payments:

<b>Branch for the Province</b>	
<b>Address</b>	
<b>Fax</b>	
<b>Telephone</b>	
<b>NOTES</b>	

- d) will undertake, in the event it is awarded the tender, to provide any and all required documentation in order to prove that it is fully up-to-date in its payment of social security and insurance contributions (e.g., through a DURC certificate), in compliance with existing legislation;
- e) has taken note of all general, particular and local circumstances, barring none, and of all other elements which may directly or indirectly influence the performance of the service or the calculations made in drawing up the Offer submitted with its bid; and it further declares that the Offer submitted is profitable; and that it undertakes to hold said Offer valid and binding for one-hundred-and-eighty (180) days, starting from the deadline for submission of its bid;
- f) is in possession of two (2) bank references from prime banks, or financial companies included in the registers of authorised brokers, issued after the date of the Invitation to tender and the publication of these Tender Specifications, proving that the organisation has always met its economic and financial obligations punctually and regularly;
- g) is in possession of the necessary insurance certificates valid for the entire duration of the contract and complying with the ceilings as follows :
- i. Civil Liability Insurance: - with a ceiling of at least **€5 million**
  - ii. Civil Liability Insurance for Service Provider: - with a ceiling of at least **€5 million**
- h) is in possession of the audited accounts for the last three years, or fewer if the economic operator has not been in activity for three years, for the **organisation submitting this tender**;
- i) a statement of the organisation's turnover and profit & loss position for the most recent full year of trading (or part year, if it has not been in activity long enough) and a Financial Statement for the end of the accounting period, in cases **where this information has not already been provided under item (h)**;
- j) **in the event that the tenderer is unable to provide the documentation called for under item (i)**, a statement of the organisation's forecast turnover, as well as its forecast of profits and losses, of cash flow for the year, and a letter from the company's bank outlining its existing cash and credit situation;
- k) a declaration that, over the previous three years (2015-2016-2017), the organisation's overall turnover, excluding VAT, was not lower than **€10 million**. The EUI does not have the size or capacity to test and improve an almost complete product or change this type of system frequently, and therefore is looking for a long-term reliable partner offering a proven product. The vendor shall be able to demonstrate that it has a number of similar customers making the organisation independent from this individual order.

- l) declaration that the tenderer is currently executing, or has executed over the previous three-year period (2015-2016-2017), services similar or identical to those that are the object of this tender procedure, indicating, for each of these services, client, duration, contract amount, and type of service.

Among the services performed over the previous three years (2015-2016-2017), the tenderer must be able to include at least 2 references that have been successfully executed for the overall period of the 3 years taken into account and displaying the same characteristics as the one that is the object of this tender procedure (Annex G);

Duration	Public / Private Entity	Amount (Euro)	Type of service
Total			

- m) is aware and fully in acceptance of the fact that any and all incorrect or incomplete information deliberately provided, within the context of this tender procedure, may lead to it being excluded from this and any other tender procedure managed and financed by the European University Institute.

Done at ..... date .....

Signature of Legal Representative .....

**A non-authenticated photocopy of the valid ID document of the signatory is enclosed.**