

TD3_Form 1 Multiple Declaration of Honour

- **Details of the person making the declaration:**

First name:

Surname:

VAT NUMBER:

E-mail:

Fax:

Mobile phone no.:

Postal address:

- **In the case of acting on behalf of another organisation/person:**

Organisation or person he/she represents:

VAT number:

Position:

A. INFORMATION ON THE PROCUREMENT PROCEDURE AND THE CONTRACTING AUTHORITY

- ✓ Identity of the contracting authority: Ente Vasco de la Energía / Basque Energy Agency (EVE)
- ✓ Procurement procedure: Pre-commercial Public Procurement (PCP)
- ✓ Contract title: Wave energy research and development services contract
- ✓ Dossier code: [...]

B. INFORMATION ON THE ECONOMIC OPERATOR

a) Identification

- ✓ Name of the company or legal entity or name of the entrepreneur as a physical person:
- ✓ VAT number of the company or legal entity or ID/VAT number of the entrepreneur as a physical person:

b) General information for statistical purposes of the economic operator only (please indicate as appropriate)

- ☐ It is a micro enterprise (less than 10 employees and an annual turnover or annual balance sheet total not exceeding EUR 2 million).
- ☐ It is a small enterprise (less than 50 employees and an annual turnover or annual balance sheet total not exceeding EUR 10 million).
- ☐ It is a medium-sized enterprise (neither a micro-enterprise nor a small enterprise, with fewer than 250 employees and an annual turnover not exceeding EUR 50 million, or whose annual balance sheet total does not exceed EUR 43 million).

c) Representative of the economic operator, if applicable

- ✓ Name and surname of the representative:

It is also declared that the representative signing the proposal has sufficient powers of attorney to represent the economic operator for the purposes of the contracting procedure.

d) Data for the practice of notifications

Electronic notification system (in the case where it is not possible to receive notifications via the online application system, notices of receipt of notifications will be automatically generated via the e-mail address indicated):

- ✓ Mobile phone no.:
- ✓ E-mail address:
- ✓ Fax:
- ✓ Postal address:

Likewise, the undertaking is given to accept and accept as valid all notifications made by any of the means indicated.

e) Form of participation (indicate as appropriate)

☐ Individual

☐ Jointly with one or more others in a joint venture (TJV/Consortium). The rest of the economic operators that make up the grouping are identified, adding as many lines as there are economic operators:

VAT number	Name / Company name

A single model provided by EVE is attached, under the title TD6_Annex 2: Joint declaration of bidders, to be completed and signed by the members of the TJV/Consortium. Likewise, in the case of participating through a TJV, the same document shall state that each of the members takes on the commitment to formally form a joint venture in the event that they are finally awarded the contract. In the case of participating through a Consortium, the draft consortium agreement shall be attached.

Furthermore, in the aforementioned document, the name of the person who shall represent them, or have sole power of attorney for all of them, shall be recorded.

f) Intention to subcontract any part of the contract to third parties

- ☐ No intention to subcontract.
- ☐ Yes intention to subcontract.

If yes, the following documents must be attached:

- ✓ TD6_Annex 1 ("Declaration and Information on Subcontractors").
- ✓ A multiple declaration of honour from each of the contractors.

g) Personality

A declaration that the economic operator has legal personality and possesses the full legal capacity and powers required to enter into a contract.

C. EXCLUSION CRITERIA

a) Grounds relating to criminal convictions

A declaration that the person acting in his/her own name or, where applicable, the company he/she represents and its directors or representatives, has NOT been convicted by final judgement for any of the following reasons:

☐ Participation in a criminal organisation, as defined in Article 2 of the Council Framework Decision 2008/841/JHA

☐ Corruption, as defined in Article 3 of the Council Act of 26 May 1997, on the basis of Article K.3.2 c of the Treaty on European Union, the Convention on the fight against corruption involving officials of the European Communities or officials of Member States

United States and Article 3.1 Joint Action 98/742/JHA of 22 December 1998, adopted by the Council on the basis of Article K.3 of the Treaty on European Union, corruption in the private sector.

☐ Money laundering, as defined in Article 1 of Council Directive 91/308/EEC of 10 June 1991 on measures to prevent money laundering in the financial system, as amended by Directive 2001/97/EC of the European Parliament and of the Council.

☐ Fraud within the meaning of Article 1 of the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union for the Protection of the Communities' financial interests.

☐ Terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of the Council Framework Decision of 13 June 2002 on combating terrorism.

☐ Child labour and 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 of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

b) Reasons relating to the payment of taxes or social security contributions

A declaration that the person acting in his/her own name or, where applicable, the company he/she represents and its directors or representatives, has NOT failed to comply with his/her/its obligations relating to the payment of taxes or its obligations relating to Social Security contributions, both in the country in which it is established and in the Member State of the contracting authority (Spain).

c) Insolvency reasons, conflicts of interest or lack of professionalism

A declaration stating that the person acting in his/her own name or, if applicable, the company he/she represents and its administrators or representatives, are NOT involved in the following situations:

- a) Where the contracting authority can demonstrate by any appropriate means a breach of the applicable obligations referred to in Article 18(2) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014.
- b) When the bidder is bankrupt or is subject to insolvency or liquidation proceedings, when its assets are being administered by a receiver or by the court, when it is in an arrangement with creditors, when its business activities are suspended or is in any analogous situation arising from similar proceedings under national laws and regulations.
- c) Where EVE can demonstrate by appropriate means that the bidder is guilty of grave professional misconduct, which renders his/her/its integrity questionable.
- d) Where EVE has sufficiently plausible indications to conclude that the bidder has entered into agreements with other economic operators with the intention of distorting competition.
- e) Where the bidder has shown significant or persistent deficiencies in the performance of a substantive requirement under a previous public contract, a previous contract with a procuring entity or a previous concession contract which resulted in the early termination of that previous contract, damages or other comparable penalties.
- f) Where the bidder has been found guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or compliance with the selection criteria.
- g) Where the bidder has undertaken to unduly influence the decision-making process of the main contracting authority, in order to obtain confidential information that may confer an advantage in the procurement procedure, or to negligently provide

misleading information that may have a material influence on the exclusion, selection or award decisions.

- h) Where the bidder has failed and maintained the relevant licence or membership of an appropriate trade or professional organisation where required by law.

D. SOLVENCY CRITERIA

A declaration that he/she/it possesses, as appropriate in relation to the contract being tendered, the economic capacity, and meets the minimum solvency conditions required for contracting as established in the provisions of the PCP Request for Tenders Document.

E. OTHER ISSUES

1. Membership of a business group

Article 42.1 of the Commercial Code provides as follows:

"Every parent company of a group of companies shall be required to draw up consolidated annual accounts and a consolidated annual report in the form laid down in this Section.

A group exists when a company has or may have, directly or indirectly, control of one or more other companies. In particular, control shall be presumed to exist where a company, which shall be regarded as the controlling company, is in any of the following situations in relation to another company, which shall be regarded as a subsidiary:

- a) holds a majority of the voting rights.*
- b) has the power to appoint or dismiss a majority of the members of the board of directors.*
- c) may have, by virtue of agreements concluded with third parties, a majority of the voting rights.*
- d) has appointed with its votes the majority of the members of the board of directors who hold office at the time the consolidated accounts are to be drawn up and during the two immediately preceding financial years. In particular, this shall be presumed to be the case where the majority of the members of the board of directors of the controlled company are members of the board of directors or senior executives of the controlling company or of another company controlled by it. This situation shall not give rise to consolidation if the company whose directors have been appointed is linked to another company in any of the cases provided for in the first two points of this paragraph".*

In view of the above, I hereby declare that the bidding company I represent (insert as appropriate):

☐ **DOES NOT** belong to the same group of companies as another bidding company in the award procedure, nor is it made up of any partner in which any of the cases provided for in the aforementioned article applies.

☐ **DOES** belong to the same group of companies as another bidding company in the award procedure and/or is made up of a partner in which one of the cases provided for in the aforementioned article applies.

The name(s) of the company(ies) in which this circumstance applies is/are given below (if the list of companies is very extensive, it must be attached separately in an annex):

Company name	VAT number

a. Declaration of confidential documentation

It is hereby declared in relation to the documentation submitted, and in accordance with the provisions of Article 133.1 of the LPSC and in the particular administrative clauses:

☐ NOT to designate confidential documentation

☐ TO designate documentation of a confidential nature. For purposes of easier identification, Annex TD6 - Form 4 shall be provided in the corresponding Envelope B, completed taking into consideration the requirements set out in section 8.3 of the Request for Tenders Document (TD1).

b. Submission to the Spanish forum (only for foreign entrepreneurs)

Submission to the jurisdiction of the Spanish courts and tribunals of any order is declared for all incidents that may have arisen directly or indirectly from the contract, waiving, where appropriate, any foreign jurisdiction that may correspond to the bidder.

2. No conflict of interest

In order to ensure the fairness of the procurement procedure, the undersigned, as participant(s) in the tender, declare(s) the following:

FIRST - To be informed of the following:

- Article 61.3 "Conflict of interest" of Regulation (EU, EURATOM) 2018/1046 of the European Parliament and of the Council of 18 July (EU Financial Regulation) states that "a conflict of interest exists where the impartial and objective exercise of functions is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any direct or indirect personal interest".
- That Article 64 "Fight against corruption and prevention of conflicts of interest" of Law 9/2017, of 8 November, on Public Sector Procurement, aims to avoid any distortion of competition and to guarantee transparency in the procedure and ensure equal treatment for all candidates and bidders.

SECOND.- He/she/they also declare(s) the following:

- That he/she/they has/have not been convicted, pending completion of his/her/their sentence, of any offence concerning his/her/their professional conduct by a judgement which has the force of res judicata and has been handed down by the competent authority of an EU Member State, unless the offence is time-barred;
- That he/she/they has/have not committed grave professional misconduct proven by any means capable of producing a written record of the same by any interested party, and that the sanction has yet to be served, unless the misconduct is time-barred;
- That he/she/they has/have not been convicted of fraud, corruption, participation in a criminal organisation, money laundering or any other illegal activity detrimental to the financial interests of the European Union, unless the offence is time-barred by the statute of limitations, and that the sentence has yet to be served, by final judgement which has the force of res judicata;
- That he/she has not been the subject of an administrative sanction, pending its enforcement, for making false declarations in supplying the information required by the competent authorities, or for failing to supply such information, unless the offence is time-barred by statute of limitations; and
- That the natural persons with power of attorney, decision-making powers or control over the organisation do NOT fall within the cases and circumstances referred to above.

THIRD - That he/she/they does/do not find him/herself/themselves in any situation that could be qualified as a conflict of interest as indicated in Article 61.3 of the EU Financial Regulation.

FOURTH - That he/she/they undertake(s) to bring to the attention of the contracting authority/procurement committee, without delay, any situation of conflict of interest that gives or could give rise to such a scenario.

FIFTH - I am aware that a declaration of absence of conflict of interest that is proven to be false will entail the disciplinary/administrative/judicial consequences established by the applicable regulations.

3. Special criteria for the performance of the contract

In order to comply with this criterion, the undersigned, as participant(s) in the process of preparing and processing the dossier, declare(s) the following:

✓ **Compliance with the definition of R&D Services.**

- That the proposal in question does not exceed the limits established for the provision of R&D services referred to in clause 4.4.1 of the TD1_Request for Tenders Document. A declaration of honour is hereby made confirming that the services and activities proposed in this tender are solely and exclusively for R&D purposes.

✓ **Compatibility with other public funding**

- That a declaration of honour is hereby made certifying the absence of other public funding incompatible with the execution of this project, in accordance with clause 4.4.2 of the TD1_Request for Tenders Document.

4. Final declarations

I, the undersigned, hereby declare that the information given in this annex is true and that I am fully aware of the consequences of a false declaration.

.....of.....of. (Place and date)

Signature of the bidder: