



Annex A1

Due Diligence Information Requirements

The ETI requires due diligence information during two stages of the Project Commissioning Process:

1. Submission of the Proposal - Certain information is required with the Proposal as part of the first stage of the Project Commissioning Process; and
2. Project Shaping and Contract Negotiation Stage - Further information will be required if any Proposal is selected to proceed to the Project Shaping and Contract Negotiation Stage.

Please note that successful completion of all elements of the ETI's required due diligence is a pre-requisite to any contract award: failure to meet any due diligence requirements may result in the exclusion of the Respondent(s) and/or the Proposal/Submission from the Project Commissioning Process.

1. Submission of the Proposal

1.1 State Aid

All Respondents shall confirm that there are no potential, threatened, pending or outstanding recovery orders by the European Commission in respect of any funding received by any Respondent (all proposed Participants).

1.2 General Due Diligence

All Respondents (except ETI Members, universities / higher education institutions and UK/EU government laboratories/agencies), together with any proposed Subcontractor(s) which provide more than 20% of the resources for the Project or which provide an input which is critical to the Project's success, shall provide due diligence information to the ETI according to the table in **Annex A2** (General Due Diligence Requirements).

1.3 Insurance

Respondents should confirm that insurance cover for the following risks is held by all proposed Participants, and should confirm levels of cover and expiry for each. The ETI will require evidence of these during the Project Shaping and Contract Negotiation Stage (see **Section 2** of this **Annex A1**).

- Property damage (both any property occupied by the Participants and any third party properties)
- Business interruption
- Employer's liability
- Public liability
- Product liability (or justify its exclusion if not appropriate)
- Professional Indemnity

Additionally, each Respondent should identify:

- if it or any other proposed Participant(s) self-insures or intends to self-insure for any of these risks;
- if it or any other proposed Participant(s) is intending to take out any project-specific insurance for the Project and the scope and intended beneficiaries of such insurance; and
- how (to the extent not already identified) each proposed Participant intends to insure against risks in the Project.

In relation to professional indemnity insurance, Respondents should note that the ETI has the following requirements.

- Each Participant is required to have in place at the start of the Project a professional indemnity insurance policy (with at least a 6 month unexpired term).
- Each policy should have a limit of indemnity of not less than £1,000,000 each and every loss (although this should be noted as the minimum for ANY ETI project and a higher requirement may be required for the Project).
- Each policy should provide an indemnity at least as extensive as the ETI's policy (the ETI will make this assessment). For example, the cover needs to include cover for negligent acts or omissions, and dishonest or fraudulent acts or omissions by the insured.
- Each Participant will need to agree to maintain a professional indemnity insurance policy in force for 6 years from the date of completion of the Project.
- Note: before entering into the Project Contract, the ETI will require sight of the insurance policy provided by the/each Participant or a copy of a letter of confirmation from the/each Participant's insurance company or broker summarising the detailed policy coverage and exclusions, and cannot proceed without this.

1.4 Intellectual Property

The ETI's IP due diligence requirements for the Proposal are set out at Appendix D of the RfP (Intellectual Property section). Responses should be included in the corresponding section of the Proposal.

1.5 Health Safety and the Environment

Please see Appendix D (Health Safety & Environmental Management) for the ETI's HSE requirements in relation to the Proposal (Respondents to set out how they will meet the requirements of Section 8 of the Project Commercial and Legal Requirements document). Responses should be included in the corresponding section of the Proposal.

A full competency assessment will be carried out on each proposed Participant (and, where appropriate, Subcontractors) at the Project Shaping and Contract Negotiation Stage (see Section 2 of this Annex A1, below).

2. Project Shaping and Contract Negotiation Stage – Further Due Diligence Requirements

These are only required if a Proposal is selected to proceed to the Project Shaping and Contract Negotiation Stage, and will include:

- further detailed due diligence to identify the required Background IP and Third Party IP (including third party data), existing rights to such IP and whether proposed licences for Third Party IP will meet the Project objectives; this will include a detailed questionnaire which will be issued by the ETI for completion to identify Background IP and Third Party IP relevant to the Project. Respondents and proposed Subcontractors (if any) may be asked to provide evidence of ownership or rights to use the relevant intellectual property for the Project and/or for exploitation of the results of the Project. The further due diligence may also include a Patent Study, which the Respondent(s) will be expected to submit to the ETI.

This shall be carried out, at the expense of the Respondent(s), by a Chartered European Patent Attorney to assist in determining whether the proposed Project can be carried out without infringing valid intellectual property rights of others. Full instructions will be provided during the Project Shaping and Contract Negotiation Stage. The scope of the Patent Study and the patent attorney proposed will be subject to the prior approval of the ETI;

- a full health and safety competency assessment, which will be required by the ETI, except to the extent that a Respondent's proposed scope of work under the Project is entirely desk-based, to assess each Respondent (and, where required, proposed Subcontractor) organisation's health and safety management systems and specific technical competence to manage the risks in this Project. The ETI competency assessment process includes completion by Respondents of a detailed questionnaire.
- financial due diligence on the breakdown of costs for the Project to enable the ETI to (i) assess value for money, (ii) assess financial risks associated with the Project (although the ETI will not be liable for any cost overrun, we recognise that any overrun would put financial pressure on other funders which may jeopardise successful completion of the Project) and (iii) ensure that it meets State aid requirements;
- copies of insurance policies; and
- any other information that the ETI reasonably requires in order to invest in the proposed Project including any information necessary to meet State aid requirements.