

CALL FOR EXPRESSION OF INTEREST 2016-2020

Creation of a roster of experts to support the activities of the Energy Community and its Secretariat

1. Purpose

The objective of this call for expressions of interest is to set up and maintain a roster of experts for providing assistance to the Energy Community and its institutions, incl. Secretariat in the framework of its work program, including in the framework of EU funded grant contracts concluded between the Energy Community and/or the European Commission and other donors.

Background information

The principle objective of the Energy Community is to create a regulatory and market framework that is capable of attracting investments for a stable and continuous energy supply. This paves the way for an integrated energy market, allowing for cross-border trade and integration with the EU market.

The Energy Community strives to enhance security of supply and competition, and to improve the environmental situation in its Contracting Parties. Currently, the Parties to the Treaty are the European Union and nine Contracting Parties: Albania, Bosnia and Herzegovina, Georgia, Kosovo*¹, former Yugoslav Republic of Macedonia, Moldova, Montenegro, Serbia and Ukraine. Armenia, Turkey and Norway are Observers.

In the last ten years of its operations, the Energy Community and its institutions, including the Secretariat, have gained experience in number of initiatives on European and regional level across the territories of its constituencies. The Secretariat has become a professional partner for the EU and other donors in the course of energy reform through the implementation of European energy law and energy policy strategies incl. Energy Union strategy and other regional programs.

Energy Community's activities are financed by the contributions of the Parties to the Treaty establishing the Energy Community according to the Parties' contribution table laid down in Annex IV of the Treaty². In 2016, the Energy Community has concluded two grants contracts with the EU to support and monitor the implementation of overall strategies in the overall amount of approximately EUR 8 Million. Currently, the Secretariat implements the following grant contracts:

- **EU4Energy Governance Project (part of the EU4Energy Initiative)**
Component 3 - Legislative and Regulatory Environment and Key Energy Infrastructure

The EU4Energy Initiative covers all EU support to improve energy supply, security and connectivity, as well as to promote energy efficiency and the use of renewables in the Eastern Partnership countries, ie. Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. It does this by financing projects and programmes that help to reform energy markets to reduce national energy dependence and consumption. Over the longer term, this makes energy supply more reliable, transparent and affordable, thus reducing energy poverty and energy bills for both citizens and the private sector.

Within the EU4Energy Initiative, the EU4Energy programme comprises five distinct components, all of which will contribute to better policy making and implementation. In order to implement the overall

¹ *This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

² <https://www.energy-community.org/legal/treaty.html>

action, the European Commission has awarded the direct grant agreements with two international organisations (1) the International Energy Agency (IEA) for Components 1, 2 and 4 and in June 2016 with (2) the Energy Community for Component 3³.

The aim of the EU4Energy Governance project, implemented by the Energy Community Secretariat - is to create a robust legislative and regulatory framework that is vital for the development of a sustainable energy sector. The project works with the six Eastern Partnership countries to strengthen their legislative and regulatory frameworks, and to help identify investment opportunities in key strategic energy infrastructure projects.

- **CONNECTA (TA to Connectivity in the Western Balkans)**
Component 2: Regional Energy Market

In the framework of the “Berlin” or “Western Balkan 6” process, the general objective of this project is to assist the Western Balkan governments of Albania, Bosnia and Herzegovina, Kosovo*, former Yugoslav Republic of Macedonia, Montenegro, and Serbia to establish a regional energy market by facilitating the implementation of so-called "soft measures". This was agreed in 2015 at the Vienna Summit of the Western Balkan 6 process. These measures envisage the removal of existing legislative and regulatory barriers and enhancing the institutional structures necessary for the functioning of this market in line with the Energy Community acquis.

It focuses on the support to concrete reform measures, such as unbundling, market opening, strengthening regulatory authorities, streamlining and reducing barriers to permitting and licensing for new energy infrastructure, environmental impact assessment procedures, regulatory measures for cross-border energy infrastructure etc.

The main activities of the project are to:

- a) Facilitate legal alignment between the national laws and Energy Community obligations for a regional energy market;
- b) Establish market designs, corporate structures and the contractual framework needed;
- c) Design tailor-made technical (including IT) infrastructure and software as appropriate;
- d) Provide targeted support to national authorities in implementing the national and regional energy market reforms and integration (designing regulatory measures, tariffication, model contracts and terms and conditions, public service obligations, competition and State aid enforcement, permitting etc.);
- e) Promote the cooperation between entities from different countries through regional agreements;
- f) Support institutional development and capacity building.

³ In the initial phase, Energy Charter and Energy Community, both represented by its Secretariats, were to implement jointly the Component 3. The Energy Community Secretariat was a Coordinator under the initial contract. However, the initial contract was amended with the effective date of 1 May 2017 with which the implementation of the project's objectives is independent by the Energy Community and Energy Charter (date of the amendment of the initial contact)

Application of the Roster of Experts

The Roster applies for the purpose of contracting services such as consultancy and technical assistance, project management, capacity building, communications falling within the areas listed under point 8. below, under the Energy Community budget (ordinary budget) and its extra-ordinary budget, that includes EU-funded grant contracts, revenues from other IFIs, the Secretariat maintains a database of experts (the so called 'roster of experts', 'RoE')..

Exception from the application is possible in the following cases:

- (1) Contracts with an estimated value below 10.000 EUR can be awarded directly to any professional service provider in- or outside the Roster of Experts.
- (2) Contracts requiring an expertise of a kind which can only be provided by a specific expert;

Any exemption will be justified and documented.

2. Beneficiaries

The Energy Community is the Contracting Authority for contracts awarded to experts/consultants/companies included in the Roster. Consultants will be legally and professionally liable to the Energy Community for performance of tasks assigned in their respective contract. To the extent possible the contract will be based on the Secretariat's General Terms and Conditions.

The Contracting Parties, namely Albania, Bosnia and Herzegovina, Georgia, Kosovo*, the former Yugoslav Republic of Macedonia, Moldova, Montenegro, Serbia and Ukraine are the ultimate Beneficiaries of the interventions. As Observers, Armenia and Turkey⁴ benefit to the extent their specific status is relevant. Within the context of the EU4Energy project, Azerbaijan and Belarus are also Beneficiaries of the interventions.

3. Registration procedure

Interested persons/companies and institutions are invited to fill in the electronic form accessible at: <https://www.energy-community.org/aboutus/procurement/roster.html>. Signed application shall submitted together with all requested supporting documents by email to experts-roster@energy-community.org. All requested documents shall be submitted in English.

4. Legal form of the applicants

No particular legal form is required. Natural persons as well as legal entities regardless of their form of organization may apply.

In case of companies or consortia, the applicant should set-up a project team and send the CV's of the members of the team. Team members can be replaced or added, provided that the new team member possess at least equivalent qualifications and experience as the replaced team member.

⁴ excl. Norway

5. Nationality of applicants

Experts submitting their expression of interest as natural persons can apply regardless of their nationality.

For services financed through the EU grant contracts, participation of legal persons (participating either individually or as part of a consortium) is limited to entities effectively established in a Member State of the European Union or in an eligible country or territory as defined under the Regulation (EU) No. 236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (Article 9) for the applicable Instrument under which the contract is financed⁵.

No restrictions regarding nationality applies to legal persons established in the Energy Community Contracting Parties, Observers and Candidate Countries.

6. General description of the procedure

To be included in the Roster of Experts, interested persons and legal entities are invited to submit an application in accordance with the rules set out in this notice for one or more of the categories specified at point 9 below. The Roster comprises sub-lists, corresponding to the main fields listed at point 9.

The Contracting Authority establishes Selection Committees to assess the applications (exclusion criteria listed at point 10.1. below) based on the criteria set at point 10.2. below. Eligible candidates whose applications are not successful will be informed in writing about the reasons for their non-inclusion in the Roster.

The list of experts accepted to the Roster shall be published at the website of the Energy Community, subject to explicit consent provided by the applicant in his/her/its Application Form.

All accepted experts will be informed in writing about the outcome of the application by the Energy Community Secretariat.

The Roster will be used by the Contracting Authority for awarding contracts in line with the Austrian public procurement law (Austrian Federal Public Procurement Law (*Bundesvergabegesetz 2006*, Federal Law Gazette I No. 17/2006, in its most recent version), namely for the following procedures:

- Restricted procedure without prior notice, as per art 25(4) of the Austrian Federal Public Procurement Law: a limited number of suitable natural persons and/or companies from the Roster will be invited to submit their bids to the Secretariat.
- Negotiated procedure without prior notice, as per art 25(6) of the Austrian Federal Public Procurement Law: a limited number of suitable natural persons and/or companies from the

⁵ For the EU4Energy project, financed through the European Neighbourhood Instrument, the countries are as specified in the Annex I. to the Regulation (EU) No 232/2014: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, The Republic of Moldova, Morocco, occupied Palestinian territory (oPt), Syria, Tunisia, Ukraine. For the CONNECTA project, financed through the Instrument for Pre-Accession Assistance, the countries are as specified in the Annex I. to the Regulation (EU) No 231/2014, Albania, Bosnia and Herzegovina, Iceland, Kosovo*, Montenegro, Serbia, Turkey, The former Yugoslav Republic of Macedonia

Roster will be invited to submit their bids to the Secretariat. Negotiations on the content of the contract will follow.

- Direct award without prior notice, as per art 41(1) of the Austrian Federal Public Procurement law: a limited number of suitable natural persons and/or companies from the Roster will be invited to submit their offers in cases when the estimated value of the contract does not reach the value of 100 000 EUR.

Experts on the Roster will be invited to take part in the restricted procedure without prior notice, negotiated procedure without prior notice and direct award. When a relevant contract is to be awarded relating to a field listed at point 9 and depending on the specifics of the relevant procurement procedure, the Contracting Authority will invite one or several persons and legal entities from the Roster (on the relevant sub-list(s)), selected on the basis of objective and non-discriminatory criteria, to submit an offer or participate in a tender.

Depending on the estimated costs involved, other procedures as specified by the Austrian Federal Public Procurement Law⁶ will be used in addition to the procedures involving the Roster of Experts. All procurement procedures will be done in accordance with the thresholds and procedures provided for in the Austrian Federal Public Procurement Law.

Inclusion on the list entails no obligation of the Contracting Authority concerning the award of the contract or an invitation to submit an offer or to participate in a tender.

7. Protection of personal data

As processing the candidates' expression of interest involves the recording and processing of personal data (such as the candidates' name, address and CV), such data as well as all commercial and business secrets and other non-public information revealed during the procedure will be handled strictly confidential. This excludes potential publication upon explicit consent.

Due to provisions of the Grant Contract between the European Commission and the Energy Community Secretariat on implementation of EU4Energy Governance Project, the data from the Roster of Experts, including CVs, will be shared with the Energy Charter Secretariat for the purposes of Project implementation.

As of 25 May 2018, the Energy Community Secretariat will process personal data in compliance with the provisions of the General Data Protection Regulation (GDPR) (EU) 2016/679. The GDPR was designed to harmonize data privacy laws across Europe, to protect and empower all EU citizens' data privacy and to reshape the way organizations across the region approach data privacy.

As a result, the application form for the roster of experts shall contain a new section in which applicants shall be provided with the following information:

- a. The legal base for processing the data
- b. Who will receive their personal data (or the categories of recipients of personal data)
- c. The data retention period (for both the case in which the application is rejected and the case when the application is successful)

⁶ <https://www.ris.bka.gv.at/defaultEn.aspx>

- d. The rights of the data subjects (which include the right to request their data, and have it rectified or erased)
- e. The right to withdraw consent at any time; and
- f. The right to complain to the applicable regulator.

The applicants shall be required for express consent for the processing of their personal data by the staff of the Energy Community Secretariat during and after the selection process.

The application form shall also include a request for explicit consent for the publication of certain personal data (such as name, nationality) on the website of the Energy Community Secretariat if the respective applicant is selected for the Roster of Experts.

Unless indicated otherwise, the reply to this notice and any personal data requested are required only for the purposes indicated above in point 7 and will be processed solely for those purposes by the Contracting Authority indicated in point 3.

8. Categories of experts and fields of expertise

The Roster will include natural persons and legal entities who may be called on to provide the Contracting Authority with expertise in the fields listed below (non-exhaustive):

- a) Consultancy services
- b) Legal services
- c) Training, communication and other services

Applicants may apply for one or more fields of expertise. Supporting documents and references must be provided for each field applied for.

List of fields of expertise which may be applied for:

a) Consultancy Services

- Project Management and Project Promotion
- Management & Strategy Consulting
- Energy (Electricity, Gas, Oil) Markets and Processes, which may include (but is not limited to):
 - o Implementation of energy market reforms
 - o Tariff structure designs in the energy sectors
 - o Market development, including (cross-border) balancing, realizing market coupling and hubs
 - o Restructuring companies, including unbundling and certification of system operators
 - o Ensuring security of supply
- Advising Institutions, which may include (but is not limited to):

- Governmental institutions
- Energy regulatory authorities
- Competition and state aid authorities
- Energy and environmental agencies
- Judicial authorities
- Energy Efficiency, which may include (but is not limited to):
 - Implementation of energy efficiency directive (obligation schemes, energy management, development of energy services market, improvement of efficiency in energy supply etc.)
 - energy performance of buildings
 - energy labelling and eco-design
- Infrastructure planning (Electricity, Gas and Oil), which may include (but is not limited to):
 - Mid/long term system development planning (Scenario development, network modelling and simulations, system resilience analysis, market modelling and simulations)
 - Cross border cost allocation methodologies
 - Financial and economic project assessment and project-specific analysis, economic and financial cost-benefit analysis
 - Smart grids
 - Permitting
 - Oil stocks design
- Environment, which may include (but is not limited to):
 - Emissions reduction
 - Strategic and environmental impact assessment
 - Industrial emissions
 - Fuel quality
 - Environmental liability
 - Biodiversity
- Renewable Energy, which may include (but is not limited to):
 - Support scheme design
 - Permitting
 - Grid connections
 - Guarantees of origin system
 - Certification system of sustainability criteria for bioliquids and biofuels
- Climate Change, which may include (but is not limited to):
 - Greenhouse gas emission monitoring
 - Emission trading schemes
 - Climate change adaptation
- Statistics
 - Data modelling
 - Computing and analysis of data
- IT Services and Solutions related to one or more of the above sub-categories

b) Legal Services

- Energy law
- European law
- Tax law
- Procurement law
- Competition and State aid law
- Corporate law

- Contract law
- Trade law
- Environmental law
- Administrative and infrastructure law
- Dispute Resolution and Arbitration
- Other legal services of relevance for one of the sub-categories listed under point 9.a)

c) Training, communication and other services

- Organization of trainings, courses
- Communication
 - o Public Relations
 - o Graphic design, layouting (brochures, reports etc.)
 - o Video production
- External evaluation
- Auditing
- Translation and interpretation
- Catering and conference organisation
- Travel management services
- General IT services
 - o Custom solutions and consultancy
 - o Applications development
 - o Hardware and software consultancy
 - o Programming and maintenance

For each field of expertise listed in points 9. a) – c), candidates are requested to provide a list of projects carried out over the past three years. One reference project can serve as evidence for multiple fields.

Each time a specific contract is to be awarded involving the Roster of Experts, the Contracting Authority will specify the nature of tasks to be performed and the numbers and categories of experts requested for the particular assignment, based on the following grades.

Junior Experts

At least level of secondary education attested by a diploma, which gives access to postsecondary education, a university degree or equivalent in a field relevant to the assignment; after having obtained the diploma, the Junior Expert must have at least 2 years of appropriate full-time professional experience.⁷

Mid-level Experts

At least a university degree or equivalent in a field relevant to the assignment. After having obtained the diploma, the Mid-Level Expert must have at least 6 years of appropriate full-time professional experience.

Senior Experts/Team leaders

⁷ Master Degree accounts for one year of professional experience.

At least a university degree or equivalent in a field relevant to the assignment. After having obtained the diploma, the Senior Expert must have at least 12 years of appropriate professional experience.

Languages

Excellent written and spoken English is a prerequisite. CVs submitted must list all languages mastered and the level of proficiency. Country specific experience and knowledge of the local language might be requested for certain assignments.

9. Criteria for inclusion on the Roster

9.1. Exclusion criteria

Candidates will be excluded, 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 which has the force of 'res judicata';
- c) they have been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify including by decisions of international organisations;
- d) they are not in compliance with their 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 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 judgment which has the force of 'res judicata' for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity;

Before being included in the Roster, interested persons and legal entities shall provide a declaration on their honour stating that they are not in one of the situations of exclusion listed above. The declaration shall also include a commitment to notify the Contracting Authority, immediately and on their own initiative of

- any changes in the circumstances covered by the declaration of honour;
- any potential conflict of interest in connection with the Contracting Authority or a beneficiary; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;

In case of doubt, they may be requested to provide supporting evidence of non-exclusion. The declaration of honour must be signed by the candidate or in case of legal entities by person(s) empowered to represent the legal entity and to sign any subsequent contracts.

Candidates included in the Roster having received an invitation to submit an offer or to participate in a tender will be requested to declare that they are still in the same situation in respect of the exclusion criteria as indicated in their application and before being awarded, be requested to provide the evidence mentioned in this declaration of honour. Where the application involves more than one legal entity (including members), each entity must provide the form.

9.2. Selection criteria

The selection criteria are the following:

NOTE: Point a. below is applicable only for legal entities (including consortia), The other points apply to both legal entities and natural persons.

a. Turnover development and human resources (only for legal entities):

Turnover development and human resources assessment shall guarantee a selection of candidates with sound and sufficient resources allowing them to run their activities over the period of implementation of the contract.

- I. Number of employees in total and number of employees with know-how and specialised experience related to the field applied for; **and**
- II. Declaration concerning the sales turnover related to the field associated with the invitation to tender during the last 3 financial years (or for the time span from the business formation onwards for companies that are younger than 3 years).; for bidder consortia, please fill the tables for each member individually

b. Technical and professional competence for each selected field of expertise:

Candidates shall present evidence of educational and professional qualifications of the composition of the firm's managerial staff and those of the person/persons responsible for carrying out the work, for each selected field of expertise. Curriculum vitae must be provided. Candidates shall provide a list of related projects that were carried out over the past 3 years.

c. List of countries:

Candidates shall present evidence of their country specific experience and competences.

d. Proof of enrolment on a professional or trade register. All candidates must prove that they are authorized to perform the contract under national law, as evidenced by inclusion in a trade or professional register, or a sworn declaration or certificate, membership of a specific organization, express authorization or entry in the VAT register. If the candidate is a natural person, she/he will be required to prove her/his status as a self-employed person. She/he must supply details of her/his social security cover and situation with regards to VAT regulations. If the candidate is a consortium, please provide a proof of enrolment for each member of the group.

10. Place of delivery

The place of delivery of each specific assignment will be specified in the tender documents.

11. Expiry date of the list resulting from this call for expressions of interest

The list resulting from this notice is valid for 4 years from the date of dispatch of this notice. Interested parties may submit an application at any time prior to the last 3 months of validity of the list.

12. Cooperation

The legal entities or natural persons placed on the list and contracted to provide assistance to the Contracting Authority will be requested to work under the supervision of the staff members of the Energy Community Secretariat, and may be requested to work in cooperation with its partner organisations or other natural persons or legal entities on the Roster.

13. Date of dispatch of notice

Notice dated 10/08/2016 updated on 18/04/2018, valid until 10/08/2020.

All request for additional information shall be sent to: experts-roster@energy-community.org