



TERMS OF REFERENCE

SEA for the IP AT-HU 2021-2027

Request for submission of an offer in a “direct award procedure with prior announcement” (“Direktvergabe mit vorheriger Bekanntmachung”) according to the Austrian law for public procurement (§ 47 BVergG 2018) and the European Directive 2014/24/EU.

Contracting entity

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Subject matter of the contract

Strategic Environmental Assessment of the Interreg Programme (IP) Austria-Hungary 2021-2027.



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1 Introduction

In June 2019, the Monitoring Committee (MC) of the cooperation programme Interreg V-A Austria-Hungary (CP AT-HU 2014-2020) gave a mandate to the Managing Authority (MA) to initiate the programming process by setting up the nomination process for the Programming Group (PG) for the new Interreg Programme Austria-Hungary 2021-2027 (IP AT-HU 2021-2027). Then, in February 2020 the content related work started with the MA contracting the expert team for supporting the programming process and the development of the new Interreg programme. Upon availability of first results from the expert team, the PG took up its work with its first meeting in June 2020. The status of the programming process is in more detail explained in chapter 2.2.

The main aim of the contract to be awarded is to prepare the Strategic Environmental Assessment (SEA) for the IP AT-HU 2021-2027, which will contribute to the integration of environmental considerations into the programming process with a view to promoting sustainable development.

Results of the process of strategic environmental assessment are the environmental report as well as a programme with least possible adverse effects on the environment during its implementation.

The work shall be framed within the provisions of the Strategic Environmental Assessment Directive (SEA Directive 2001/42/EC) which is to be further complemented with relevant national legislation.

2 Background and context

2.1 Interreg AT-HU in the period 2014-2020

Within the framework of the European Regional Policy, cross-border cooperation between Austria and Hungary is fostered since 1995, continued in the Community Initiative Interreg IIIA in the period 2000-2006, the European Territorial Cooperation programme in 2007-2013 and the current Interreg V-A programme in the period 2014-2020.

The Interreg V-A Austria-Hungary programme (hereafter referred to as Interreg AT-HU) aims at reducing regional disparities by enhancing regional competitiveness and strengthening economic, social, cultural and ecological contacts in the border region. It is financed through the European Regional Development Fund (ERDF) and supports cross-border projects implemented by Austrian and Hungarian partners. Based on the programme intervention in the Cooperation Programme (CP) approved by the EC on 30 June 2015, in line with Article 6 of Regulation (EU) 1299/2013, competitiveness of SMEs, environmental and resource efficiency, sustainable transport and better institutional cooperation are the four axes at the core of Interreg AT-HU CP. For the 2014-2020 programming period, the budget of the Interreg AT-HU programme amounts to 95m €, out of which 78m € ERDF.

Interreg AT-HU is approaching its final phase of implementation. Since opening the programme for project applications and the first approvals in 2016, 55 projects have been approved and thus around 98 % of total ERDF allocated to the four thematic priority axes. The programme management, the Managing Authority (MA, Regionalmanagement Burgenland) and Joint Secretariat (JS, hosted by the Széchenyi Programme Office) are located in Eisenstadt and Sopron.





The Interreg AT-HU programme covers the following geographical areas, representing the programme partners Hungary and the Austrian Länder Burgenland, Lower Austria, Styria and Vienna:

- Nord-, Mittel- and Südburgenland;
- Wien, Wiener Umland-Südteil;
- Niederösterreich Süd;
- Graz and Oststeiermark;
- Győr-Moson-Sopron, Vas and Zala county.

The CP, which contains all information about the socio-economic analysis of the programming area upon the start of the programme, programme strategy, overall and specific priority axis objectives, financial plan, and a detailed description of institutions and procedures for programme implementation, is available on the website of the programme (www.interreg-athu.eu) at the following link: <https://www.interreg-athu.eu/downloads/programmdokumente/>.

2.2 Current status of the ATHU programming process

The Managing Authority (hereafter MA) of the programme is primarily in charge of the implementation of the current programme, as well as of the programming process for the period 2021-2027, and therefore is the contracting entity for the service described hereafter.

Other programme working groups supervising the programming process are:

- the Bilateral Working Group (BWG) as a technical working group strongly involved in the operative planning process and supporting the MA/JS in the preparation of decisions, and
- the Programming Group (PG) as the main decision making body with the main task of supporting the development of the necessary analyses, defining procedures and identifying strategic topics leading to a comprehensive programme strategy for the Interreg Programme AT-HU 2021-2027.

In June 2019, the Monitoring Committee (MC) gave a mandate to the MA to set up the nomination process for the Programming Group (PG) which took up its work with its first meeting in June 2020. At this time, the programming process was already running and preparation work was done by the BWG as regards topics like e.g. simplified cost options (SCOs). The content related work started in February 2020 with the MA contracting the expert team for supporting the programming process and the development of the new Interreg programme.

The objectives of the expert team support are as follows:

- To carry out a territorial and socio-economic analysis of the Austria-Hungary cross-border area. The analysis should identify the main joint challenges, needs and potentials of the area as well as strategically relevant fields of actions for cross-border cooperation with the potential to overcome border obstacles and territorial disparities, taking into account economic, social, environmental and other relevant aspects;
- To develop a process for, and execute a cross-border strategy building for the future IP AT-HU 2021-2027 in consultation with key national, regional and local stakeholders of the programme area;





- To provide recommendations for the future orientation and definition of the IP AT-HU 2021-2027 programme strategy and prepare a proposal/methodology for the output and result indicators, priority axes and the respective financial allocations for them based on the analysis and needs;
- To define the functional area(s) of the IP and prepare the map of the programme area and functional area(s);
- To draft the main content parts (chapter 1 to 3) of the IP AT-HU 2021-2027 taking into consideration the requirements deriving from relevant EU Regulations for the programming period 2021-2027 in close cooperation with MA/JS under the supervision of the Programming Group (PG).

After finalising the territorial and socio-economic analysis, the strategy building process for the future thematic orientation is running. During summer 2020, a first draft of the strategic thematic directions has been developed which outlined the strategic framework for the policy objectives relevant for the programme. Complemented by thematic discussion groups, these resulted in first recommendations of the expert team regarding the selection of policy objectives and specific objectives as well as Interreg-specific objectives for the IP AT-HU 2021-2027.

Due to the COVID-19 pandemic, the stakeholder consultation was shifted from spring to fall 2020. An online survey was carried out based on a first draft of the chapters 1 and 2 of the IP AT-HU. Recently, targeted stakeholder workshops are conducted meaning to complete the online survey. The consultation is expected to give valuable input about the stakeholder needs and substantiate the selection and definition of specific objectives for the future programme.

As further explained in chapter 2.3, the results of the impact evaluation currently strongly contribute to the discussion on thematic orientation, as well as give inputs to the future indicator system.

Beside the determination of thematic focus points for the programme, the MC considered the topics simplified cost options, programme structures, programme documents based on HIT (harmonized implementation tools) and the future monitoring system as a priority for the programming process.

2.3 Input from programme evaluations

The Monitoring Committee of the Interreg AT-HU programme adopted an evaluation plan on 14th December 2016, which set up the framework for the following evaluations:

- an evaluation of the efficiency of the programme's structures and processes;
- an evaluation of the programme communication strategy;
- an evaluation of the efficiency, effectiveness and impact of the programme (impact evaluation);

The efficiency of programme's structures and processes as well as the communication strategy were evaluated at once in 2018 and the results of experts' work presented to the MC in November 2018. Corrective measures are introduced in 2019 on the basis of evaluation outcomes and recommendations.

The impact evaluation was carried out at a later stage of programme implementation. It was meant to deliver valuable input for an optimal programme implementation in the cur-





rent period and most importantly serve as a starting point and cornerstone for the programming exercise of 2021-2027 period. Thus, it gives concrete recommendations for improvement of quality and impact, as well as for the development of a sound indicator system of the future programme. Consequently, evaluation recommendations considered the requirements of the period 2021-2027 in order to provide thoughtful recommendations for the programming exercise in the final evaluation report.

First findings and recommendations from the impact evaluation have been available already in 2019; the final report was issued in May 2020.

2.4 Documentation to be considered

The following documents provide an overview on the objectives and scope of the Cooperation Programme and the main achievements of the 2007-2013 and 2014-2020 programmes:

OP AT-HU 2007-2013:

- Final Implementation Report

CP AT-HU 2014-2020:

- Cooperation Programme Interreg V-A Austria-Hungary (V3.0, 12 March 2018)
- Regional analysis and SWOT (June 2013)
- Evaluation of the efficiency of the programme's structures and processes and the evaluation of the communication strategy (Operational evaluation, January 2019)
- Evaluation of the efficiency, effectiveness and impact of the programme (Impact evaluation, expected to be finalised in February 2020)

In addition, the service provider should consider:

- Border Orientation Paper Austria-Hungary prepared by European Commission in May 2019,
- all relevant documents on EU cohesion policy (e.g. draft legislative package for the 2021-2027 period, Overcoming obstacles in border regions prepared by European Commission in 2016, Cross-border review (2015) and Communication "Boosting Growth and Cohesion in EU Border regions" (2017), Border Needs Study: collecting solid evidence to assess needs (2016)),
- any study, analysis or other sources of relevance for the Austria-Hungary cross-border area (e.g. EC Communications, ESPON reports, etc.),
- all relevant national/regional/local strategies.

Upon request and as far as relevant for the programming, the MA will grant an access to additional programme documentation, raw data and statistics to the service provider.

As regards confidentiality and data protection of the data provided to the service provider, please refer to chapter 9 of the present document.

3 Legal basis

The Strategic Environmental Assessment Directive (2001/42/EC) (SEA Directive) requires Member States to assess the effects of certain programmes on the environment. According





to Article 3 of the SEA Directive, programmes co-financed by the European Union (EU) fall under the scope of the SEA Directive. The SEA is mandatory for all programmes "which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 2011/92/EU with its amendments".

The SEA Directive is further complemented with relevant national legislation to be applied.

4 The SEA: scope and purpose

The purpose of this assignment is to support the programming process for the elaboration of the IP AT-HU 2021-2027 and to deliver all the documents in accordance with the necessary steps of the SEA in compliance with the relevant EU Directive as well as with the applicable national legislation of Austria and Hungary.

The SEA will identify, describe and assess the likely significant effects on the environment of the programme implementation, which have to be taken into account in its preparation. The SEA will provide relevant information to assess the environmental challenges and considerations which will help to ensure that environmental concerns are appropriately integrated in the decision-making and implementation processes of the programme.

The service should also support a shared learning process – this leads to the following additional objectives:

- raise awareness for the potential environmental impact of envisaged activities among the programme partners;
- provide recommendations for adjustments of the programme thereby respecting the principle of proportionality.

The specific tasks of the SEA consist in providing an environmental assessment of the programme and developing recommendations for the programme formulation. In accordance with Article 4 of the SEA Directive, the environmental assessment will be carried out during the preparation of the programme and before its adoption. Aligning the SEA with the programme elaboration will avoid later amendments of the programme. For this purpose, the SEA will be organized as a process which is divided into several successive steps, allowing for interactive-adaptive feedback-loops between the SEA and IP AT-HU 2021-2027.

The SEA documentation will be composed of two parts:

- the Scoping report and
- the Strategic Environmental Assessment (SEA) report.

The scoping report will define the issues that need to be addressed and further developed in the SEA report, considering the specific context in which the programme is being developed and is likely to be implemented.

The main tasks in content development are described hereafter:





4.1 Scoping report

Before drafting the environmental report, environmental authorities must be consulted to determine the scope and level of detail of the information to be included in the environmental report. Within the scoping phase the extent and depth of environmental assessment will be adjusted in close cooperation with the MA/JS/PG and the expert team in charge for drafting the programme.

The external expert is expected to further specify the rationale and approach, which will be taken in developing the following elements of the scoping report:

1. Overview of the programme and its institutional legislative framework
2. Description of key stakeholders and their concerns
3. Description of key environmental aspects to be addressed in the SEA report
4. Description of the scope of the environmental baseline to be prepared in the SEA report

4.2 Preparation of the Strategic Environmental Assessment (SEA) Report

The environmental report is a document outlining the contents and objectives of the programme and the relevant aspects of the current state of the environment, describing the entire assessment process and its key findings, elaborating on alternatives dealt with, assessing the effects on relevant environmental objectives and listing mitigating measures to as fully as possible offset any significant adverse effects on the environment by implementing the programme. The public should be involved in the decision-making process concerning the adoption of the programme during the preparation of the strategic environmental assessment through consultations. An integral part of the environmental report is a non-technical summary of the environmental report findings with a rationale.

The SEA will contain information on points referred to in Annex 1 of the Directive 2001/42/EC and the relevant specifications in the Austrian and Hungarian national legislation respectively, taking into account the objectives and priorities of the IP AT-HU 2021-2027 as well as the allocated financial resources. According to Annex I of the SEA Directive, the Strategic Environmental Assessment report shall contain the following key elements:

- a. an outline of the contents, main objectives of the programme and relationship with other relevant plans and programmes;
- b. the relevant aspects of the current state of the environment and likely evolution thereof without implementation of the programme;
- c. the environmental characteristics of areas likely to be significantly affected;
- d. any existing environmental problems which are relevant to the programme including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Directives 2009/147/EC with its amendments and 92/43/EEC;
- e. the environmental protection objectives, established at international, Union or Member State level, which are relevant to the programme and the way those objectives and any environmental considerations have been taken into account during its preparation;
- f. the likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors;



- g. the measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the operational programme;
- h. an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;
- i. a description of the measures envisaged concerning monitoring in accordance with article 10 of the SEA-Directive;
- j. a non-technical summary of the information provided under the above headings.

4.3 Consultations with environmental authorities and the public

Consultations of both the environmental authorities and the public are required on the draft programme, the Environmental Report and the non-technical summary. The documents must be made available for each Member State, respecting the arrangements regulated by the transposing national legislation.

The external expert is envisaged to involve stakeholders according to methodology and related tools previously agreed with the PG.

The SEA Directive requires that environmental authorities and the public must be consulted. Detailed arrangements for such consultations are regulated by the transposing national legislation. For this reason, the evaluator must elaborate a joint environmental report that will be subject to separate consultations – in each Member State - of the environmental authorities and of the public as defined in the Austrian and Hungarian legislation.

This task should include the organisation of public consultation (in cooperation with the MA/JS) with environmental authorities and the general public of the involved Member States.

4.4 Following the results of the consultations

Consultations contribute to the quality of the information available to those responsible for the preparation of the programme and they may reveal important new information which may lead to significant changes to the programme and consequently to its likely significant environmental effects. If so, it might be necessary to consider a revision of the report and of the draft programme.

The external expert should ensure that the opinions expressed during the consultation process will be prepared in such a way and timely in line, that the MA/JS/PG and the programming expert team will be able to take them into account during the preparation of the final version of the programme. For this reason, it is useful to define adequate tools for the follow-up and to set time-frames for the decision-making process that give adequate time for those in charge of programming to take the opinions expressed into account before programme submission.





4.5 Notification of decision related to the SEA report

The designated environmental authorities and the public of the Member States must be informed of the adoption of the programme and be provided with some explanations, including a statement summarising how environmental considerations and the results of the consultations have been taken into account.

4.6 Monitoring

The SEA Directive requires that the significant environmental effects of the implementation of the programme should be monitored in order to identify unforeseen adverse effects, and to be able to undertake appropriate remedial actions. This will usually include the selection of appropriate indicators. To this end, the external expert, in close cooperation with the prospective MA should define a monitoring plan for environmental effects, with the identification of relevant environmental indicators. Existing monitoring arrangements may be used if appropriate, with a view to avoiding duplication of monitoring.

4.7 Revision of the Interreg Programme after submission to the EC

In case where, as a result of the EC observations, the programme requires substantive revisions, an updated/revised SEA process should be also considered, with update of the environmental report, and eventually additional consultations concerning the revised contents.

The external expert, in coordination with MA/JS/PG and the programming expert team is responsible for the preparation of the information to be submitted to the EC in relation to SEA. In order to aid and facilitate the timely consideration of the programme application and the compliance with the SEA Directive, the European Commission needs the following information:

- a non-technical summary of the information provided in the environmental report, as foreseen by Annex I(j) of the Directive;
- the description of the measures decided concerning the monitoring foreseen in Articles 9(1)(c) and 10 (monitoring);
- information on the consultations with the public and the environmental authorities concerned (Article 6 of the Directive);
- a summary of how environmental considerations and the opinions expressed have been taken into account. The final statement required by the SEA Directive is to be issued after the adoption of the programme by the Commission.





5 Work organisation

5.1 Deliverables

Once selected, the service provider will be invited by the MA to a kick-off meeting to discuss and clarify the terms and conditions of the service as well as the main aspects of its implementation. The kick-off meeting will be organized online. This meeting should enable the service provider to successfully implement the service and deliver the obligatory deliverables listed hereunder.

Based on the descriptions in chapter 4, obligatory deliverables are:

- the Scoping report;
- the Strategic Environmental Assessment (SEA) report.

All deliverables are to be discussed and approved in the PG.

All documents shall be delivered in English and shall be written in a concise and easy to understand style and shall present contents in an attractive and visual way (through maps, charts, pictures, etc.) which allows its communication and dissemination to different programme stakeholders. The MA expects the documents to be prepared to a very high standard, both in terms of language proficiency as well as clarity and concise presentation of complex facts.

5.2 Coordination of the process

The working language in the programming process, and thus also for the SEA, is English, although German and Hungarian may be used in some cases where adequate (e.g. workshops, interviews).

All documents shall be delivered in English. The public consultations shall be prepared bilingually. Translations in German/Hungarian – upon availability - can be provided by the programme.

The work of the SEA expert is part of an interactive process. The expert shall work and cooperate closely with all actors involved in the preparation of the IP AT-HU (i.e. the members of the PG, the prospective MA/JS and the expert team for programming). Pro-active communication with MA/JS is considered important for a smooth and effective implementation of the SEA parallel to the progress of the programming activities. Participation of the SEA expert in at least one PG meeting will be necessary.





5.3 Timeframe

The successful service provider shall start immediately after the award of the service contract and commit itself to the following deliverables and the indicative timeline, which shall be adapted to the timeline of the preparation of the IP AT-HU 2021-2027 if needed.

Table 1: Indicative timeframe

Phase	Key milestones and deliverables	Indicative timeframe and deadlines
Contracting	Signature of the contract	Beginning of March 2021
	Kick-off meeting with the MA	Beginning of March 2021
Implementation phase	Approximately 2 PG meetings	Ongoing
	Submission of the Scoping Report (Deliverable I)	End of April 2021
	Preparation of the first draft of the SEA Report	End of May 2021
	Consultations with environmental authorities and the public	June 2021
	Final draft of the SEA Report (Deliverable II)	End of July 2021
	Notification of decision related to the SEA Report	Beginning of August 2021
	Monitoring	August 2021
Final phase	Eventual revision of the SEA for the IP AT-HU 2021-2027 considering the EC observations (until the approval of the IP by the EC)	Autumn 2021





6 Expected structure and content of the bid

Bids should include at least the following sections and content:

- **Methodology and approach:** methods and techniques, reference documentation to be used, data needed and to be collected, expected results etc.;
- **Work organisation:** Tasks planned, time plan, composition of the team and distribution of tasks, quality management procedures etc. Note that an illustrative outline of the timing and work steps is expected. Major difficulties inherent to the implementation of the service should be briefly explained as well as the measures implemented to overcome them;
- **Bidder:** presentation of the company (contact details, webpage, legal status, registration code, VAT registration number, short description of profile (up to one page per company) and list of relevant references;
- **Team:** CVs of all the members of the SEA expert team;
- **Budget:** fee rate per day per function, work days assigned to each task, total working days offered, travel costs, costs of subcontracted activities (if applicable), total budget (net, gross) including all related costs. The budget should be in EUR, and not subject to indexation.

7 Admissibility of the bidders, proof of professional capacity and structure of the team

7.1 Admissibility of bidders and subcontracting

The bidder has to prove its legal authorisation and provide an extract from the business, professional and/or trade register (proof can be submitted in original language) depending on the relevant regulations of the legal system being effective at the registered seat. This requirement also applies in case the offer is submitted by a consortium. In this case, the document described above must be submitted by all the members of the consortium.

It is not permitted to use subcontractors for the provisions of a major part of the service, and the subcontracting of the entire contract is not permissible. Parts of the service may only be subcontracted if the subcontractor disposes of the necessary authorization to execute its part, and if the subcontractor disposes of evidence of its technical capacity.

Any subcontracting during the period for provisions of the services requires the express prior consent of the MA.

7.2 Professional capacity

7.2.1 Credentials

In order to cope with the required tasks, the bidder is (in case of a consortium, all members are) expected to fulfil the following general criteria:

- Registration for the particular activities with the authorized body of the state where its seat is located;





- Confirmation that no enforced settlement bankruptcy proceedings have been initiated and it has not suspended business activities by virtue of a court decision or some other enforceable decision;
- Confirmation that there are no debts in the field of social security;

Additionally, the bidder should demonstrate its capacity to conduct the tendered service with:

- Experience with the preparation of Strategic Environmental Assessment for programmes financed in the frame of ESI funds (European Structural and Investment Funds): at least 1 contract in the last 15 years

The following credentials are expected of the SEA experts:

- Specialised background (master degree) and/or at least 3 years of experience in fields relevant for the delivery of the expected service;
- Fluency in English (additional command of German and/or Hungarian will be considered as an advantage);
- Experience with the SEA and the corresponding national provisions in Austria and Hungary.

The composition of the expert team must be kept unchanged, as far as possible, for the duration of the contract. A replacement should be exceptional and in any case be communicated to the contracting authority and prior to the replacement authorized in written form.

The bidders are required to detail in their offers the composition of the team and its structure as well as the distribution of tasks. The CVs of the members of the SEA team shall be included in the bid.

8 Award procedure and provisions for the bids

8.1 Legal basis and procedure

The contract shall be awarded – in due accordance with the provisions of the Austrian Law on Public Procurement – as a “direct award procedure with prior announcement” according to §47 Bundesvergabegesetz 2018 (BGBl. I Nr. 65/2018 and its amendments).

Interested candidates are invited to submit a binding offer based on the description as laid down in this document.





8.2 Assessment of the submitted bids

The contract will be awarded to the technically and economically most favourable bid. Valid offers will be evaluated using a value analysis on the basis of the following award criteria:

Table 2: Award criteria

Criterion	Weighting
Total price	30 %
The criterion will be evaluated according to the following formula: Points = TP min / TP bid x 10 TP min: total price of the best bid in monetary terms TP bid: total price of the bid under consideration	
Technical quality , of which	70% , of which
Quality of the proposal for the implementation of the SEA: - Consistency of the methodology and approach to be applied for the SEA; - Quality of the work plan, including <ul style="list-style-type: none"> o transparency of the proposal in general; o management and coordination (within the SEA team as well as with other actors involved in the programming process); o Feasibility of the time plan (in correspondence with the proposed methodology, expected deliverables and in alignment with the general time plan of the programming process) 	70%
References - Level of experience in conducting SEA; - Level of expert knowledge of the programme area (or equivalent) as well as regional, national and EU policy/legal framework relevant for the SEA; - Level of command of English, German and Hungarian (written and spoken).	30%

The total points possible are 10 points. Points awarded for each of the criteria will be weighted and added up according to the percentage values stated in the table above. The offer with the highest number of points will be considered to be the technically and economically most favourable.

8.3 Submission deadline of the bids and binding period

Signed bids must be submitted to the contracting entity until:

01 March 2021, 12:00 (CET)

Bids received beyond this deadline will not be taken into account. Punctual delivery of the bid is in the responsibility of the bidder. The bid must be delivered in electronic version via e-mail or via ANKÖ e-tendering (<https://burgenland.vergabeportal.at/Detail/97840>). The language of the bid must be English.

The bidders are bound by their respective bids until the contract is awarded.





8.4 Award decision

A decision about the award is considered about 1 week after the submission of the bids.

The result of the bidding process will be communicated to the bidders in written form. The contract will ideally be signed with the service provider at the beginning of March 2021.

8.5 Expenses for the preparation of the offers

Costs incurred for the preparation and submission of the offers, related documentation and concepts will not be refunded.

9 General terms and conditions of the contract

9.1 Subject of the contract

The subject of the contract is conducting the Strategic Environmental Assessment for the Interreg Programme (IP) Austria-Hungary 2021-2027. The service is described in chapters 1 to 4 of this document.

9.2 Written form of the contract, contract validity and amendments

The contractual relationship will be placed solely in writing. The contract will be binding from the date of notification of the award of the contract until full completion of the service.

Amendments and additions to the contract as well as agreements to depart from the required form must also be made in writing.

9.3 Language of the contract

The contract will be conducted in German. English or Hungarian working translations can be provided.

9.4 Duty to supply information

The parties to the contract shall exchange important information concerning the subject matter of the contract on a continuous basis.

As soon as any circumstances become apparent to the contractor which might jeopardize the contractual completion of the order, it must notify the contracting entity immediately and in writing of these circumstances and of any measures to be considered.

9.5 Settlement of accounts

Payments for carrying out the order shall be made in instalments in accordance with the progress of the service, as follow:

- 30 % after the approval of the final draft Scoping Report (Deliverable I);
- 60 % after the approval of the final draft SEA Report (Deliverable II)
- 10 % after the approval of the IP AT-HU 2021-2027 by the EC (and after issuing of the final environmental statement).





The period allowed for payment is four weeks and starts with receipt of a correct and complete invoice by the contracting entity. If the invoice is incomplete, i.e. the correctness cannot be checked, the payment deadline will be interrupted.

If the service is delivered by a consortium, invoicing must be carried out solely by the lead member of the consortium.

9.6 Completeness of information, additional services

All contractual services are paid for and settled with the remuneration. Additional services may only be invoiced if they were ordered in writing.

9.7 Expenses

Expenses of the contractors' employees and any subcontractors not explicitly listed, such as mileage, accommodation expenses, daily allowances, travel allowances, travel times and the like shall be borne by the contractor.

9.8 Duties and taxes

With the exception of the value-added tax and any stamp duties, all taxes and duties arising from the contract or the related activity of the contractor shall be borne by the contractor. If claims are levelled against the contracting entity for such taxes and duties, the contractor shall hold the contracting entity safe and harmless. In particular, the contracting entity has the right to retain such amounts from the remuneration to be paid to the contractor.

9.9 Defaults in performance

9.9.1 Failures in fulfilment of obligations and delayed delivery

In case of failures of the contractor to fulfil its obligations, the contracting entity can temporarily reduce or suspend payments linked to invoices issued after the observed failure until the contractor resolves the problem in question.

If irrespective of any fault on the part of the contractor and for no fault of the contracting entity, the rendering of a service is repeatedly delayed, the contracting entity shall have the right to terminate the contract.

This shall not prejudice any claims for damages if fault can be attributed to the contractor.

9.9.2 Liability of damages

If damages are to be observed, the contractor shall be liable to the contracting entity in accordance with the provisions of the law. Liability for minor negligence is limited to the value of the order. Members of bidder consortia shall be jointly and severally liable.





9.9.3 Substitute performance

In each case of default in the performance attributable to the contractor, such as delayed delivery, fault clearance or elimination of defects, the contracting entity shall have the right to initiate substitute performance at the expense of the contractor.

9.10 Termination of the contract

The contracting entity may terminate the contract at any time and with immediate effect by unilateral declaration for good cause. Good cause is shown in particular,

- if liquidation proceedings or bankruptcy proceedings are opened against the assets of the contractor or a petition to open bankruptcy proceedings is dismissed due to lack of assets;
- it is subsequently established that the contractor provided incorrect information during the tender procedure upon which these general terms and conditions of contract are based and that this would have influenced the decision to award the contract;
- if circumstances arise that obviously render the timely performance of the order impossible unless these were caused by the contracting entity;
- if the contractor either directly or indirectly offers, promises or grants an organ of the contracting entity that is involved with the conclusion and implementation of the contract a pecuniary advantage for itself or a third party;
- if the contractor or an affiliated company illegally or immorally restricted competition or unfairly influenced the contract award procedure preceding the conclusion of the contract;
- if the contractor itself or any of its employees, in connection with the performance of the order, violates secrecy obligations;
- if the contractor dies without a legal successor or loses its legal capacity;
- if the contractor employs a subcontractor who has not been approved by the contracting entity.

If on the basis of this provision the contracting entity terminates the contract, the contractor shall lose all claims to the remuneration, except to the extent the contractor has already provided partial performance that can be utilized by the contracting entity. If the contractor is responsible for the cause of termination, it must reimburse the contracting entity for any additional costs incurred by placing the order with a third party.

9.11 Confidentiality and data protection

The contractor is obligated to maintain complete confidentiality towards third parties concerning all information that become known to it in the course of fulfilling the contract or contributed to the completion of the contract, in particularly concerning data of project applicants and beneficiaries, unless the contracting entity has released the contractor from such obligation in respect of a specific situation in writing.

The Joint Secretariat of the programme Interreg AT-HU is not considered as third party in the contract.

The obligation to maintain confidentiality shall persist indefinitely even after termination of the contract, with the exception of any duty to give evidence.





Furthermore, if a contractor employs others to supply the service, it shall be obligated to transfer the obligation to maintain confidentiality to such persons and shall be liable for any violation of confidentiality on their part in the same way as if the contractor had breached confidentiality.

The contractor shall be entitled to use any personal data entrusted to him for the purpose of the service to be delivered, in due consideration of the General Data Protection Regulation (GDPR) (EU) 2016/679 and the Austrian Data Protection Law in its valid version. This concerns particularly data of project applicants, beneficiaries about the implementation of their projects, and data about programme implementation.

9.12 Intellectual property rights

The contractor shall hold the contracting entity safe and harmless from all claims arising from or related to disputes concerning patent law, trademark law, design copyright and/or copyright and shall warrant unrestricted use in accordance with the intended purpose of the goods delivered or services supplied. The contracting entity acquires the right unrestricted by time or place or in terms of content to the goods delivered or services supplied.

9.13 Retention and obligation to render service

In the event of a dispute the contractor has no right to withhold delivery of goods or to suspend services.

9.14 Legal venue and applicable law

The sole legal venue for disputes arising from or in connection with the contractual relationship based on these general terms and conditions shall be the District Court of Eisenstadt.

The contractual relationship shall be governed solely by Austrian law.

9.15 Official copies of the contract

The contract will be issued in duplicate, one for each contracting party.

