

PART 1: TECHNICAL DESCRIPTION

1. Background

Article 4 (1) of Directive 2002/95/EC¹ on the restriction of the use of certain hazardous substances in electrical and electronic equipment (the “RoHS Directive”) provides that from 1 July 2006, new electrical and electronic equipment put on the market does not contain lead, mercury, cadmium, hexavalent chromium, PBB or PBDE. The Annex to the Directive lists a limited number of applications of lead, mercury, cadmium and hexavalent chromium, which are exempted from the requirements of Article 4 (1) and are subject to adaptation to technical and scientific progress.

Adaptation to scientific and technical progress is provided for under Article 5 of the Directive. Pursuant to Article 5(1): “Any amendments which are necessary in order to adapt the Annex to scientific and technical progress for the following purposes shall be adopted in accordance with the procedure referred to in Article 7(2):”

Article 5(1)(b) of Directive 2002/95/EC provides that materials and components can be exempted from the substance restrictions contained in Article 4(1) if their elimination or substitution via design changes or materials and components which do not require any of the materials or substances referred to therein is technically or scientifically impracticable, or where the negative environmental, health and/or consumer safety impacts caused by substitution outweigh the environmental, health and/or consumer safety benefits thereof.

On the basis of this provision the Commission is receiving requests for exemptions that need to be evaluated in order to assess whether the request for exemptions fulfil the requirements of Article 5(1) (b). Where the requirements of Article 5(1) (b) are fulfilled the Commission can propose a draft decision amending the annex to the RoHS Directive.

Article 5 (1)(c) of the RoHS Directive provides that the Commission shall carry out a review of each exemption in the Annex at least every four years or four years after an item is added to the list with the aim of considering deletion of materials and components of electrical and electronic equipment from the Annex if their elimination or substitution via design changes or materials and components which do not require any of the materials or substances referred to in Article 4(1) is technically or scientifically possible, provided that the negative environmental, health and/or consumer safety impacts caused by substitution do not outweigh the possible environmental, health and/or consumer safety benefits thereof. Therefore, any requests for the review of existing exemptions which may be received by the Commission will need to be assessed.

The Commission is launching this project for the evaluation of requests for new exemptions submitted pursuant to Article 5(1) (b), and the review of existing exemption in the Annex to the RoHS Directive pursuant to Article 5(1)(c). This project includes the consultation with the stakeholders pursuant to Article 5(2) and the suggestion for a final wording for the exemption where applicable.

¹ OJ L 37, 13.2.2003, p. 19

On 3 December 2008 the Commission adopted a proposal to revise the RoHS Directive² which, inter alia, proposes changes concerning the exemption mechanism. If the revised RoHS Directive is adopted during the contract duration, all references to the current RoHS Directive shall be read as references to the relevant provisions of the revised RoHS Directive. The Commission will keep the consultants informed of any developments in the co-decision process relevant for their work.

2. Objectives

(1) The Commission needs a clear technical and scientific assessment of any requests for new exemptions, or for the review of existing exemptions, in light of the parameters listed in the Directive. The list of exemptions to be assessed shall be agreed with the Commission and updated throughout the project. The assessment shall include at minimum 8 exemptions, but shall not exceed 10 exemptions in total.

Where, on the basis of the result of the consultation of Article 5(2) and the assessment following the criteria laid down in Article 5(1) (b), (c) respectively, a new/reviewed exemption can be justified, a clear wording shall be provided to the Commission.

(2) Stakeholder consultations should be organised in order to fulfil the first objective (as described in detail below).

3. Content / Description of the tasks

Task 1: Assessment and evaluation of the exemptions

The contractor shall provide a technical and scientific assessment of any requests for new exemptions, or for the review of existing exemptions, as indicated by the Commission. The contractor shall discuss and agree the detailed boundaries of the assessment with the Commission services.

In particular, the contractor shall:

- Provide a clear assessment and evaluation of whether a request for new exemption or review of existing exemption is justified in line with Article 5(1) (b), (c) respectively.
- Indicate the specific application for which the exemption (new request/review) is requested.
- Propose a precise and clear wording for any new/ reviewed exemption.
- Indicate why the restricted substance is currently required or used and the quantity of the restricted substance present in the specific application.

² COM(2008) 809 final 2008/0240 (COD)
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0809:FIN:EN:PDF>.

- Indicate if the elimination or substitution of the hazardous substance via design changes, or different materials and components is currently technically or scientifically possible.
- Indicate if the negative environmental, health and/or consumer safety impacts caused by substitution are likely to outweigh the environmental, health and/or consumer safety benefits.
- If substitutes exist, indicate why they are not used.
- Indicate any similar applications in which the substances (or their substitutes) are used and why they are not suitable for the application in question.
- Indicate, if possible, what efforts have been made by the applicant to find out if alternatives are available/what efforts are being made by the applicant to develop alternatives.
- Indicate if alternative techniques or materials will be available within the next four years.
- Work in close liaison with the Commission, the parties who submitted requests for exemptions, relevant trade associations and non-governmental organisations.
- Consult with relevant scientific and research bodies undertaking research on the use of substitutes within and outside the European Union.
- Consider previous assessments of the exemption requests published at: http://ec.europa.eu/environment/waste/weee/events_rohs1_en.htm.

Task 2: Stakeholder Consultation

Pursuant to Article 5(2), before the Annex of the RoHS Directive is amended, the Commission shall *inter alia* consult producers of electrical and electronic equipment, recyclers, treatment operators, environmental organisations and employee and consumer associations. Comments shall be forwarded to the Committee referred to in Article 7. The Commission shall provide an account of the information it receives.

This public consultation shall be conducted following the minimum standards for consultation of interested parties set in the Commission Communication COM (2002) 704 final or 11.12.2002³.

The contractor shall:

- 1) Prepare the consultation documents based on the specific stakeholder consultation formats provided by the Commission, as well as any other technical documents necessary;
- 2) Follow-up the consultation. In particular, manage and maintain regular contact with stakeholders and be ready to respond to all technical questions;
- 3) Provide to the Commission a summary of the stakeholder contributions;

³ eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0704:FIN:EN:PDF.

- 4) At the beginning of the project, the contractor shall set up a website and keep it updated with regular reports indicating the progress of work. The non-confidential contributions of the stakeholders shall be posted on the Circa website;
- 5) If appropriate, organise a one day stakeholder workshop. The workshop shall take place in Brussels. The meeting room will be booked by the Commission. The Commission will send out the invitation to the stakeholders. The number of stakeholders to be invited may have to be limited to about 50 participants. The Contractor shall: a) prepare the draft agenda for the meeting; b) prepare the presentation and be ready to respond to all technical questions; c) prepare the minutes of the workshop. The results of the workshop should be reflected in the final report.

4. Experience required of the Contractor

The contractor should demonstrate that the team is technically capable of carrying out the work as described in this technical annex and show that the core team has proven experience in the field of assessing the technical aspects of Directive 2002/95/EC.

The contractor should be able to provide all the deliverables to the Commission in English.

5. Deliverables

The contractor shall start work immediately after signature of the contract.

Details of the work plan, as presented in the offer, shall be finalised in agreement with the Commission within two weeks from the date of signature of the contract. This can be done via e-mail and telephone. Given that exemption requests can be received at any time, the contractor must show flexibility in updating the work plan throughout the contract duration.

Progress reports for each exemption (new request/review) assessed shall be submitted **4** months after submission of an exemption for assessment to the contractor. Where possible, the progress reports shall include a final recommendation for the wording of the new/reviewed exemption.

An interim report shall be submitted not later than **6** months from the date of the signature of the contract.

As appropriate, an expert workshop shall take place not later than **8** months from the date of signature of the contract.

A draft final report taking into account the comments from the participants of the above workshop shall be submitted not later than **11** months from the date of signature of the contract.

Final report on at least eight exemptions shall be submitted not later than **12** months from the date of signature of the contract.

All reports shall be provided on paper (three copies) and in electronic form (WORD 7 or higher version format, two copies). The reports shall be drafted in English.

The contractor shall include in the offer the availability for two to three meetings with the Commission.

6. Duration of the tasks

The tasks should be completed within **12** months of the signature of the contract (see point 5). The execution of the tasks may not start before the contract has been signed.

7. Place of performance

The place of performance of the tasks shall be the contractor's premises or any other place indicated in the tender, with the exception of the Commission's premises.