EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

SECOND CALL FOR

APPLICATIONS FOR DESIGNATION OF EU REFERENCE LABORATORIES IN THE FIELD OF IN VITRO DIAGNOSTIC MEDICAL DEVICES

TERMS OF REFERENCE

Contents

1 INTRODUCTION

1.1 Purpose

The purpose of this second call for applications is to invite Member States and the European Commission's Joint Research Centre (JRC) to submit applications for laboratories in the respective Member State or at JRC in view of their possible designation as EU reference laboratories in the area of *in vitro* diagnostic medical devices according to Article 100 of Regulation (EU) 2017/746[1].

In 2022, the European Commission launched a first call for the designation of EU reference laboratories in 8 categories of class D devices:

1 - Detection or quantification of markers of hepatitis or retrovirus infection
2 - Detection or quantification of markers of herpesvirus infection
3 - Detection or quantification of markers of infection with bacterial agents
4 - Detection or quantification of markers of arbovirus infection
5 - Detection or quantification of markers of respiratory virus infection
6 - Detection or quantification of markers of infection with haemorrhagic fever viruses or other biosafety level 4 viruses
7 - Detection or quantification of markers of parasite infection
8 - Detection of blood grouping markers

Following the evaluation process, the European Commission designated 5 EU reference laboratories covering the categories 1, 2, 3 and 5.

For the remaining 4 categories (4, 6, 7 and 8) there were either no laboratories that satisfied the criteria or their combined capacity was insufficient to cover the expected volume of requests for tasks referred to in Article 100(2)(a) and (b) of Regulation (EU) 2017/746. Therefore, no EU reference laboratory was designated for these categories of devices following the first call.

The current second call for applications will be run in two waves:

1) a first early application wave for the following currently not covered categories of class D devices:
   - detection or quantification of markers of arboviruses (category 4);
   - detection or quantification of markers of parasite infection (category 7);
   - detection of blood grouping markers (category 8);

2) a second wave open for all 8 abovementioned categories of class D devices.

Designated EU reference laboratories will address one or more of the specific categories of class D *in vitro* diagnostic medical devices referred to in **Annex I** of this call. These categories will constitute the scope of designation of the laboratories. Each category includes several groups of devices also listed in **Annex I**. A laboratory must cover as a minimum all the listed groups in the category it is designated for, and also any other devices falling in the category (with the exception of category 8, where only the listed groups must be covered).

[1] Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on *in vitro* diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU

Candidate laboratories must provide evidence of compliance with the criteria set out in Article 100(4) of Regulation (EU) 2017/746, as further specified by Commission Implementing Regulation (EU) 2022/944 on tasks and criteria of EU reference laboratories[2], for the intended scope of designation.

Please refer to **Annex II** for the timing of the waves for Member States and candidate laboratories.

This call does not constitute an obligation on the European Commission to designate the EU reference laboratories or award a financial contribution.

1.2 Legal framework

Tasks of EU reference laboratories

Pursuant to Article 100(2) of Regulation (EU) 2017/746, the tasks of EU reference laboratories, within the scope of their designation, are the following:

(a) to verify the performance claimed by the manufacturer and the compliance of class D devices with the applicable CS[3], when available, or with other solutions chosen by the manufacturer to ensure a level of safety and performance that is at least equivalent, as provided for in the third subparagraph of Article 48(3);

(b) to carry out appropriate tests on samples of manufactured class D devices or batches of class D devices, as provided for in the Section 4.12 of Annex IX and in Section 5.1 of Annex XI;

(c) to provide scientific and technical assistance to the Commission, the MDCG[4], the Member States and notified bodies in relation to the implementation of this Regulation;

(d) to provide scientific advice regarding the state of the art in relation to specific devices, or a category or group of devices;

(e) to set up and manage a network of national reference laboratories after consulting with the national authorities and publish a list of the participating national reference laboratories and their respective tasks;

(f) to contribute to the development of appropriate testing and analysis methods to be applied for conformity assessment procedures and market surveillance;

(g) to collaborate with notified bodies in the development of best practices for the performance of conformity assessment procedures;

[2] Commission Implementing Regulation (EU) 2022/944 of 17 June 2022 laying down rules for the application of Regulation (EU) 2017/746 of the European Parliament and of the Council as regards the tasks of and criteria for European Union reference laboratories in the field of *in vitro* diagnostic medical devices (Text with EEA relevance)

[3] CS: Common specifications. List of common specifications adopted under the Regulation (EU) 2017/746: Commission Implementing Regulation (EU) 2022/1107

[4] MDCG: Medical Device Coordination Group

(h) to provide recommendations on suitable reference materials and reference measurement procedures of higher metrological order;

(i) to contribute to the development of CS and of international standards;

(j) to provide scientific opinions in response to consultations by notified bodies in accordance with this Regulation and publish them by electronic means having considered national provisions on confidentiality.

In addition, in accordance with Article 100(5) of Regulation (EU) 2017/746 the EU reference laboratories must form a network in order to coordinate and harmonise their working methods as regards testing and assessment. That coordination and harmonisation will involve:

(a) applying coordinated methods, procedures and processes;

(b) agreeing on the use of same reference materials and common test samples and seroconversion panels;

(c) establishing common assessment and interpretation criteria;

(d) using common testing protocols and assessing the test results using standardised and coordinated evaluation methods;

(e) using standardised and coordinated test reports;

(f) developing, applying and maintaining a peer review system;

(g) organizing regular quality assessment tests (including mutual checks on the quality and comparability of test results);

(h) agreeing on joint guidelines, instructions, procedural instructions or standard operational procedures;

(i) coordinating the introduction of testing methods for new technologies and according to new or amended CS;

(j) reassessing the state of the art on the basis of comparative test results or by further studies, as requested by a Member State or by the Commission.

Designation of EU reference laboratories

In accordance with Article 100(1) of Regulation (EU) 2017/746 the European Commission may designate, by means of implementing acts, one or more EU reference laboratories for specific devices, or a category or group of devices, or for specific hazards related to a category or group of devices. The European Commission shall only designate the EU reference laboratories for which a Member State or the European Commission's Joint Research Centre has submitted an application for designation.

The European Commission will designate the EU reference laboratories for a minimum period of 5 years with extension subject to continued compliance with the criteria.

The European Commission may, by implementing act, suspend, withdraw or restrict the designation in case of non-compliance (see Article 100(9) of Regulation (EU) 2017/746).

Financing of EU reference laboratories

According to Article 100(7) of Regulation (EU) 2017/746, where notified bodies or Member States request scientific or technical assistance or a scientific opinion from an EU reference laboratory, the EU reference laboratory may charge fees to cover the costs incurred by the laboratory in carrying out the requested task according to predetermined and transparent terms and conditions.

The Commission Implementing Regulation (EU) 2022/945 on the fees that may be levied by EU reference laboratories[5] identifies the categories of costs eligible to be covered by fees. Given the wide variety of *in vitro* diagnostic devices on the EU market and the various tasks that can be assigned to EU reference laboratories, the calculation of the exact fee for each task is at the discretion of the EU reference laboratories.

The EU reference laboratories must determine the rules according to which they calculate the fees for carrying out the requested tasks, including the rules for the estimation of incurred costs based on average costs, and make them publicly available. The fee levying system and related documentation will be subject to controls referred to in Article 100(9) of Regulation (EU) 2017/746.

As laid down in Article 100(6) of Regulation (EU) 2017/746, the EU reference laboratories may be granted a Union financial contribution. The European Commission may set out detailed arrangements and the amount of this contribution by means of implementing acts. The European Commission will consider the establishment of the Union contribution following designation of EU reference laboratories and evaluation of the needs for funding. It may in particular cover the tasks of the EU reference laboratories not funded by fees and tasks of the network of EU reference laboratories referred to in Article 100(5) of Regulation (EU) 2017/746.

2 THE PROCEDURE FOR SUBMISSION OF APPLICATIONS AND SELECTION OF EU REFERENCE LABORATORIES

2.1 General procedure

1. The call is available in English only. English will be the working language for this call and applications must be completed in English. Supporting documents should as much as possible be provided in English, except where it would be inappropriate, such as national accreditation certificates or other proof of competence in the form of certificates.

[5] Commission Implementing Regulation (EU) 2022/945 of 17 June 2022 laying down rules for the application of Regulation (EU) 2017/746 of the European Parliament and the Council with regard to fees that may be levied by EU reference laboratories in the field of *in vitro* diagnostic medical devices (Text with EEA relevance)

2. The Member State and the candidate laboratory must decide on the proposed scope of designation of the laboratory by selecting one or more categories of devices listed in **Annex I**. The candidate laboratory must estimate its minimum capacity for tasks referred to in points (a) and (b) of Article 100(2) of Regulation (EU) 2017/746 for each group of devices in the selected category or categories. The Member State may submit the application if the laboratory either partially or fully covers the estimated minimum EU-wide capacity for those tasks as set out in **Annex I**. Please note that in case the laboratory only partially covers the estimated minimum EU-wide capacity for a group of devices, its designation for the corresponding category may also be conditional on availability of other candidates who fulfil the selection criteria.

3. The selection criteria for EU reference laboratories in the field of *in vitro* diagnostic medical devices are outlined in Section 3 of this call. The preference criteria are listed in Section 4.

4. As laid down in Article 100(1) of Regulation (EU) 2017/746, Member States are responsible for submitting the completed application forms and supporting documentation for the selection criteria for candidate laboratories they wish to propose to be designated as EU reference laboratories to the European Commission. Supporting documentation for the preference criteria must be submitted at a later stage only by those candidate laboratories for which an assessment of preference criteria will be necessary, i.e. in case there are more candidate laboratories for a category of devices with significantly higher collective capacity than the estimated minimum EU-wide capacity. Please see **Annex II** for the detailed instructions for submitting the application.

5. Before submitting the applications to the European Commission, the Member States must verify that the candidate laboratory complies with the selection criteria in section 3. The Member States must document the verification and its outcome in the template for verification of compliance with the selection criteria, provided in **Annex X**.

6. A selection panel will be set up by the European Commission services. The panel will check the verification of compliance with selection criteria performed by the Member States or the European Commission's Joint Research Centre for consistency and completeness. The panel will also apply the preference criteria in case there are more candidate laboratories for a category with considerably higher collective capacity than the estimated minimum EU-wide capacity.

7. In case of need for minor clarification about the submitted application, supporting documents or the verification template, the selection panel will contact the candidate laboratory or the Member State, respectively.

8. In order to be designated, the candidates must satisfy all the selection criteria.

   In addition, the European Commission will seek to ensure that for each group of devices listed in **Annex I**, the collective capacity of the designated EU reference laboratories corresponds to a reasonable extent to the estimated minimum EU-wide capacity for tasks referred to in points (a) and (b) of Article 100(2) of Regulation (EU) 2017/746, as set out in **Annex I**.

Where several candidates fulfil all the selection criteria, and whose collective capacity is significantly higher than the estimated minimum EU-wide capacity for tasks referred to in points (a) and (b) of Article 100(2) of Regulation (EU) 2017/746, as set out in **Annex I**, then the preference criteria will be used to select the laboratories with the highest scores whose collective capacity corresponds to a reasonable extent to the estimated minimum EU-wide capacity.

In cases where the preference criteria need to be applied, the European Commission will contact the relevant Member States with a request for candidate laboratories to submit them within a specified deadline.

9. The Member States will be informed about the outcome of the selection.

10. Thereafter, as laid down in Article 100(1) of Regulation (EU) 2017/746, the European Commission will designate the selected EU reference laboratories by means of an implementing act. The act will identify the laboratories and the scope of the designation, i.e. the categories of devices each of them will cover.

11. During the evaluation period, only contacts between the European Commission services and Member States will take place. Candidate laboratories must contact their Member States for information.

12. Submission of an application following this call implies acceptance by the candidate laboratory and Member State of all provisions and conditions stipulated in this call.

13. The European Commission services will not reimburse any expenses incurred in preparing and submitting applications.

2.2 Modalities applicable in case of the expression of interest by a consortium

For the purpose of this call, a "consortium" is defined as *'two or more entities in one or more Member States working together to perform the EU reference laboratory tasks for the same category or categories of devices, as referred to in Annex I of the call'. Individual consortium members may cover some of the groups within the category. The consortium as a whole must cover the entire selected category or categories.*

Specific requirements for consortia in addition to the ones foreseen for single entities:

1. A single application must be submitted for a consortium. In case the entities are located in different EU Member States, the application must be submitted jointly by all relevant Member States.
2. Each member of the consortium must meet all selection criteria.
3. The consortium must nominate a coordinator who will be the leading entity and general contact point.
4. Consortium members must authorise the coordinator to represent the consortium on their behalf.

5. Consortium members must authorise the coordinator to receive and distribute possible financial contributions received from the European Commission according to a distribution key agreed among consortium members, which will be described in the work programme.
6. Each member of the consortium must include in the application **an accession letter** with the following:

- confirmation of its participation in the consortium;
- indication of the specific area of participation;
- statement as to which entity has been nominated as the coordinator of the consortium;
- indications that the authorisations referred to in points 4 and 5 above have been granted.

7. Each member of the consortium must submit all documents requested for the selection criteria as part of the single application.
8. For the preference criteria only, the consortium must submit a single jointly elaborated set of documents. The work programme of the consortium has to contain a demonstration of coherence and complementarity within the consortium members including task division, decision-making process and the exchange of knowledge.
9. Technical liability: the consortium members are jointly and severally liable for carrying out the tasks of the EU reference laboratory. If a consortium member fails to implement its part of the tasks, the other members become responsible for implementing this part.
10. Financial liability: the consortium members maintain individual financial liability.

3 SELECTION CRITERIA

Candidate laboratories must satisfy the following selection criteria as demonstrated by the corresponding means of proof and supporting documents.

No	Criterion	Means of proof
1	The candidate laboratories must document and justify the knowledge and experience requirements for staff, including the director, the scientific and the technical staff, needed to fulfil the EU reference laboratory tasks in the scope of designation.	*1.1 List of knowledge and experience requirements and the justification thereof for the director, the scientific staff and the technical staff, and any relevant sub-categories of staff if the candidate deems this necessary*
2	The candidate laboratories must have staff that fulfils the requirements referred to in point 1.1 and document how those requirements are fulfilled.	*2.1 Overview tables for knowledge and experience of staff referred to in **Annex III** and the numbered supporting documents*
3	The candidate laboratories must have a sufficient number of staff in relation to the volume of the tasks they are to carry out.	*3.1 Estimate of minimum capacity of the candidate laboratory for task referred to in Article 100(2) (a) of Regulation (EU) 2017/746 (number of notified body requests processed*

		*per year per device group referred to in **Annex I**, see template in **Annex IV**)* *3.2 Estimate of minimum capacity of the candidate laboratory for task referred to in Article 100(2) (b) of Regulation (EU) 2017/746 (number of notified body requests processed per year per device group referred to in **Annex I**, see template in **Annex IV**)* *3.3 Justification of the number of staff to cover the above capacities and the other tasks of EU reference laboratories referred to in Article 100(2) of Regulation (EU) 2017/746*
4	The candidate laboratories must put in place a continuous training and education programme for their staff.	*4.1 Description of the continuous training and education programme for staff*
5	The candidate laboratories must possess the equipment, including specimens and control materials, and sufficient quantity of reference materials, necessary to carry out the tasks in the scope of designation of the EU reference laboratory.	*5.1 Justification as to which equipment and reference materials are necessary to carry out the tasks within the proposed scope of designation. The justification must also cover specimens and control materials* *5.2 Evidence that the candidate laboratory possesses the equipment referred to in point 5.1 and a sufficient quantity of the reference materials referred to in that point* *5.3 A plan for the procurement of the specimens, control materials and reference materials referred to in point 5.1*
6	The candidate laboratories must have up-to-date documentation on international standards and best practices that apply to the tasks within their proposed scope of designation.	*6.1 A list of international standards and best practices, including common specifications, that apply to the tasks within the proposed scope of designation, and justification of their relevance* *6.2 Evidence that the laboratory has integrated the international standards and best practices referred to in point 6.1 into the operating procedures for the relevant tasks*

7	The candidate laboratories must identify at least one person within their management as having overall responsibility for the performance of the tasks set out in Article 100(2) of Regulation (EU) 2017/746.	*7.1 Identification of the person having overall responsibility for the performance of the tasks set out in Article 100(2) of Regulation (EU) 2017/746*
8	The candidate laboratories must have sufficient administrative staff to provide the necessary administrative support for performance of the tasks set out in Article 100(2) of Regulation (EU) 2017/746, in relation to the volume of those tasks.	*8.1 Estimate of the expected volume of administrative work related to the tasks referred to in Article 100(2) of Regulation (EU) 2017/746* *8.2 Justification of the number of administrative staff to cover the volume of work referred to in point 8.1*
9	The candidate laboratories must have an appropriate administrative organisation and structure.	*9.1 Evidence of the laboratory's status as a legal entity* *9.2 If the laboratory is part of a larger organisation, a description of the activities of that organisation, its organisational structure and governance* *9.3 If the laboratory is, directly or indirectly, controlled by other entities, the identity of such entities and their controlling position* *9.4 A description of the laboratory's internal organisational structure with clearly allocated responsibilities and reporting lines* *9.5 A description of its operating procedures including management and performance of tasks, management of staff, a staff substitution plan, as well as registration of documentation and correspondence with external entities* *9.6 Evidence of its sources of funding* *9.7 Declaration that none of the exclusion situations referred to in Article 136 of Regulation (EU, Euratom) 2018/1046[6] apply to the*

[6] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

		*candidate laboratory (template in **Annex V**)* *9.8 Evidence of economic viability without financial assistance from the Union, including:* *9.8.1 Economic viability template in **Annex VI B*** *9.8.2 Balance sheets, profit and loss accounts or annual reports for the last three financial years* *9.8.3 Where available, audits reports from the last three financial years* *9.9 Proposed system for detailed records of the calculation of the costs and the corresponding fees levied (for the tasks that may be covered by fees)*
10	The candidate laboratories must have a confidentiality policy and put in place and document measures to ensure that the staff complies with the confidentiality policy.	*10.1 Confidentiality policy including the following:* *10.1.1 the type of information that shall be considered confidential;* *10.1.2 rules for the appropriate secure handling, storage and processing of confidential information and measures to prevent undue disclosure;* *10.1.3 rules for sharing of confidential and non-confidential information with staff, and the public;* *10.1.4 rules for granting access to confidential information to a competent authority of a Member State upon its request in the context of market surveillance or vigilance activities by the competent authority;* *10.1.5 rules for sharing confidential information, on the initiative of the EU reference laboratory, with a competent authority of a Member State and with the*

		European Commission where the EU reference laboratory has reason to believe that such sharing is in the interest of protection of public health. *10.2 List of measures to ensure that the staff complies with the confidentiality policy*
11	The candidate laboratories must have the confirmation of their respective Member State that they will perform their tasks as EU reference laboratories in the public interest and in an independent manner within their proposed scopes of designation.	*11.1 Confirmation by the Member State that the candidate laboratory will perform its tasks as the EU reference laboratory in the public interest and in an independent manner within the proposed scope of designation (template in **Annex XI**)*
12	The candidate laboratories must have a policy to ensure that the members of their staff do not have financial or other interests in the in vitro medical device industry, which could affect their impartiality with regard to the performance of their tasks.	*12.1 Policy for the management of conflict of interest of laboratory staff, including steps to prevent, identify and resolve conflicts of interest*
13	If designated, the candidate laboratory must not be the designer, manufacturer, supplier, installer, purchaser, owner or maintainer of devices within its scope of designation, nor the authorised representative of any of those parties and shall not be involved in the design, manufacture or construction, marketing, installation, use or maintenance of the devices within its scope of designation. If designated, the candidate laboratory must not act as a notified body for devices within its scope of designation. If designated, the candidate laboratory must not perform any tasks related to conformity assessment under Regulation (EU) 2017/746 on request by a notified body, other than the tasks referred to in Article 100(2) of Regulation (EU) 2017/746. If designated, the candidate laboratory must not enter into collaboration with a device manufacturer or a notified body concerning a joint commercial exploitation if such collaboration falls within its scope of designation.	*13.1 A declaration as follows (template in **Annex VII**):* *13.1.1 if designated, the candidate laboratory will not be the designer, manufacturer, supplier, installer, purchaser, owner or maintainer of devices within the proposed scope of designation, nor the authorised representative of any of those parties;* *13.1.2 if designated, the candidate laboratory will not be involved in the design, manufacture or construction, marketing, installation, use or maintenance of the devices within the proposed scope of designation;* *13.1.3 if designated, the candidate laboratory will not be a notified body for devices within the proposed scope of designation;*

		13.1.4 if designated, the candidate laboratory will not perform any tasks related to conformity assessment under Regulation (EU) 2017/746 on request of a notified body, other than the tasks referred to in Article 100(2) of Regulation (EU) 2017/746, within the scope of designation of the laboratory. *13.1.5 if designated, the candidate laboratory will not enter into collaboration with a device manufacturer or a notified body concerning a joint commercial exploitation, if such collaboration falls within the scope of its designation.*
14	In case the candidate laboratory already foresees outsourcing of testing to an external laboratory according to Article 7 of the Commission Implementing Regulation (EU) 2022/944.	*If applicable:* *14.1 A list of requirements set by the candidate laboratory regarding the competence for fulfilling the tasks covered by the contract, including staff and equipment* *14.2 Declaration by the candidate laboratory that the external laboratory:* *14.2.1 satisfies the requirements in point 14.1* *14.2.2 has in place and documents the measures referred to in point 10.2 regarding confidentiality policy;* *14.2.3 confirms the absence of conflict of interest in accordance with the policy referred to in point 12.1 as regards the activities covered by the contract.*

4 PREFERENCE CRITERIA

These additional criteria are intended to allow evaluating the scientific excellence of the candidate laboratory. Up to 100 points may be awarded for the four criteria below.

Submission of the supporting documents for the preference criteria is not necessary at the initial application stage. Candidate laboratories that are required to prepare this additional documentation will be informed by their Member State at a later stage. The Annexes to be completed will be provided together with the notification.

	Criterion	*Means of proof*
15	Team composition (exceptional level of experience and knowledge relevant to the proposed scope of designation) – up to 35 points	*15.1 Key scientific publications (up to 10); references of research and other activities of proposed EU reference laboratory staff members, relevant for the proposed scope of designation and the tasks of an EU reference laboratory* *15.2 A justification as to why these publications and activities show excellence of the candidate laboratory*
16	Evidence of understanding of the mission as a EU reference laboratory and capacity to develop a work program as an EU reference laboratory – up to 35 points	*16.1 A simulation of a Work Programme of activities that could be undertaken by the laboratory on its own initiative (description of the activities, objectives, expected outputs in line with Articles 100(2) and 100(5) of Regulation (EU) 2017/746) for three years (maximum ten pages, assuming a maximum budget of 200.000€ per year, template in* ***Annex XII to be provided at a later stage in the application process if necessary****)*
17	International collaboration – up to 15 points	*17.1 Evidence of activities at international level relevant for the proposed scope of designation and the tasks of an EU reference laboratory, e.g. involvement and participation in international standardisation activities and networks (e.g. CEN, ISO), involvement and participation in other multinational activities (e.g. research projects), reliable and proven procedures for dispatching and receiving relevant materials from manufacturers, laboratories, hospitals situated in the EU & third countries (e.g. batches, samples, infectious material for diagnostic and research purposes)*

18	Coordination – up to 15 points	*18.1 Evidence of coordination activities e.g. organisation of conferences, workshops, training activities etc., close working relations with other laboratories in the same area of competence*

5 SELECTION

For each scope of designation, the applications selected will be the ones that comply with the selection criteria and, collectively, cover the estimated minimum EU-wide capacity as referred to in **Annex I**. In case of evaluation of the preference criteria, the applications selected will be the ones with the highest score.