

## **Annex I**

**Tender Procedure No: Frontex/RP/159/2017/AH**

**Framework Contract  
For ICT Products and Services for Eurosur**

**Additional information to Candidates**

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# I. GENERAL INFORMATION

## I.1 General Information on Frontex

The European Border and Coast Guard Agency (Frontex) was established by [Regulation \(EU\) 2016/1624](#) of the European Parliament and of the Council of 14 September 2016 *on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC* (OJ L 251, 16.09.2016, p. 1).

Frontex promotes, coordinates and develops European border management in line with the EU fundamental rights charter applying the concept of Integrated Border Management.

Responsibility for the control of external borders of the Member States of the European Union lies with the Member States. Frontex strengthens border security by ensuring the coordination of Member States' actions in the implementation of Union measures relating to the management of the external borders.

Frontex liaises closely with other EU bodies and partners responsible for the security of the external borders, such as Europol, CEPOL, EMSA, the customs cooperation and the cooperation on phyto-sanitary and veterinary controls, in order to promote overall coherency. Frontex actively promotes cooperation with other border related law enforcement bodies responsible for internal security at EU level.

The activities of Frontex are intelligence driven. Frontex complements and provides particular added value to the national border management systems of the Member States and to the freedom and security of their citizens.

Frontex is a key player in the implementation of common EU policy for Integrated Border Management and it actively promotes the gradual development and the effective functioning of the EU Integrated Border Management System.

Further information about Frontex can be found on the Agency's web site at [www.frontex.europa.eu](http://www.frontex.europa.eu).

## I.2 Selected procedure: restricted procedure

The procurement procedure is governed by the following legal provisions:

- a) Part 1, Title 5 of the Regulation (EC, Euratom) of the European Parliament and of the Council of No 966/2012 of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L298 of 26/10/2012) as amended <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32012R0966>;
- b) Commission delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L362 of 31/12/2012) as amended:

[http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L2015\\_342\\_R\\_0002&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L2015_342_R_0002&from=EN).

This call for tenders is based on a restricted procurement procedure in accordance with Article 104 of the Financial Regulation<sup>1</sup>.

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<sup>1</sup> Part 1, Title 5 of the Regulation (EC, Euratom) of the European Parliament and of the Council of No 966/2012 of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L298 of 26/10/2012) as amended <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32012R0966>;

The restricted procedure is composed of two distinct phases:

the first phase concerns the selection of candidates following the publication of a contract notice in the Official Journal;

a second phase concerns the evaluation of tenders submitted by the candidates selected in the first phase.

The assessment of the candidates in the candidature phase and of the tenders in the tender phase will comprise the following phases:

In the pre-qualification phase (phase 1):

Exclusion of candidates

Selection of candidates based on their:

- Economic and financial capacity
- Legal capacity
- Technical and professional capacity

In the tendering phase (phase 2):

Evaluation of tenders:

- Technical evaluation
- Financial evaluation

This document ("Additional information to Candidates") is concerned with phase 1: exclusion and selection of candidates.

Only selected candidates will receive the "Invitation to Tender", which will contain further information related to the scope of the contract, administrative procedure, contractual and financial issues, (guarantees, terms of payments, draft framework contract and draft specific contracts, etc.), the awarding procedure and the detailed technical specifications.

## **I.2 Eligibility**

The Candidate:

- must not be in any of the situations as described in point II.7;
- must be registered/domiciled on the territory of the European Union;
- must demonstrate sufficient economic, financial, professional and technical capacity

In order to ascertain the eligibility the Tenderer must indicate in the application the country in which it has its registered office or in which it is domiciled. It shall also submit the evidence required under their national law.

## **I.3 Penalties**

Without prejudice to the application of liquidated damages laid down in the contract, Applicants, Tenderers and Contractors who have been guilty of making false declarations concerning situations referred to in point II.5.A or have been found to have seriously failed to meet their contractual obligations in an earlier procurement or grant shall be subject to the administrative and financial penalties set out in Article 133 of Commission Regulation 2342/2002 of 23/12/2002. (OJ L 357 of 31/12/2002).

## **I.4 Legal form to be taken by the group of economic operators to whom the contract is to be awarded:**

If candidates intend to submit a joint candidature in order to submit a joint tender during the second phase of this call for tenders, candidates must mention this fact in their candidature, together with

any other information in this respect. They must specify which company will be put forward as coordinator to manage the contract.

If you intend to participate with a partner and have already set up a consortium or similar entity to that end, you should mention this fact in your request to participate, together with any other relevant information in this context.

Consortiums of economic operators may submit a tender. Frontex reserves the right to require the consortium retained to have a given legal form if this is necessary for the proper performance of the contract. This requirement may be communicated by Frontex at any time during the contract award procedure, but in any case before the contract is signed.

The Applicants who are members of the consortium shall describe in detail the contractual arrangements or agreements between them.

The consortium of economic operators shall furnish proof of its legal form in the application. This may take one of the following forms:

an entity with legal personality recognised by a Member State;

an entity without legal personality but offering sufficient protection of Frontex's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association);

the signature by all the partners of a type of 'power of attorney' or equivalent document confirming a form of cooperation.

The document supplied must prove the consortium's actual status.

Frontex may accept other legal forms not referred to above, provided that they ensure the parties' joint and several liability and are compatible with performance of the contract. However, in the contract to be signed with the consortium Frontex will refer expressly to the existence of such joint and several liability. In addition, it reserves the right to require, contractually, the appointment of an authorised representative who may represent the members and who is empowered, inter alia, to issue invoices on behalf of the other members.

Tenders from consortiums of economic operators must specify the role, qualifications and experience of each of the members of the consortium. The tender shall be submitted jointly by the economic operators, who shall also assume joint and several liability for the tender submission.

In the case of a consortium of economic operators, each member will furnish proof of the right of access to the contract (eligibility), as well as proof concerning compliance with the exclusion and selection criteria. With regard to the selection criteria, Frontex may rely on the capacity of the other members of the consortium in order to establish whether the tenderer will have the resources needed to perform the contract. In this case an undertaking will be required from those members stating that they will make available to the other members the resources needed to perform the contract.

#### **I.4 Other particular conditions**

Performance of the contract may involve access to information classified RESTREINT UE.

Prospective companies shall be compliant with the national laws and regulations of the Member State applicable to handling classified information at RESTREINT UE level in which the contractor or subcontractor is registered. When awarding the contract, Frontex will notify the NSA/DSA (National Security Authority/Designated Security Authority) of the respective Member State. Additional requirement may apply as communicated by the NSA/DSA.

If the contractor or his personnel and, where applicable, sub-contractors fail to comply with the Frontex security rules or with instructions from the Frontex Security, Frontex may, without prejudice to any indemnity due by the contractor to Frontex, terminate the contract with immediate effect by giving notice in writing to the contractor. In these circumstances, no costs or compensation relating to such termination shall be due by Frontex to the contractor.

## **I.5 Sub-contracting**

Sub-contracting is allowed, provided that the subcontractor(s) and his scope of work shall be clearly indicated in the tender. Nevertheless, the responsibility for the full execution of the contract rests with the Contractor, as Frontex has no direct legal commitment with the subcontractor(s).

**All members of the consortium and subcontractors shall meet the eligibility and exclusion criteria given in points I.2 and II.7.**

If your application envisages subcontracting, your file must include a document:

- Mentioning the reasons why you are envisaging subcontracting;
- Stating clearly the roles, activities and responsibilities of subcontractor(s), and
- Specifying the volume/proportion for each subcontractor

A letter of intent by each subcontractor stating its intention to fully collaborate with the main contractor in the execution of the contract and the terms of this collaboration if you win the contract must be included.

## **I.6 Cost of preparing applications**

The contract notice does not constitute any commitment on behalf of Frontex for award of the contract to a company. Frontex shall not reimburse any costs incurred in preparing and submitting applications.

## **I.7 Misrepresentation and corruptive practices**

The contract shall not be awarded to Tenderers who, during the procurement procedure:

- a) are subject to a conflict of interest;
- b) are guilty of misrepresentation in supplying the information required by Frontex as a condition of participation in the contract award procedure or fail to supply this information;
- c) attempt to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or Frontex during the process of examining, clarifying, evaluating and comparing tenders.

All the above-mentioned circumstances shall lead to the rejection of the offer and may result in administrative penalties.

## **I.8 Confidentiality and public access to documents**

In the general implementation of its activities and for the processing of tendering procedures in particular, Frontex observes the following EU regulations:

- a) Regulation (EC) No. 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data;
- b) Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

## **II. SPECIFIC INFORMATION**

### **II.1 Subject of the tender**

The subject of this tender is a Framework Contract for ICT Products and Services for Eurosur.

The Framework Contract resulting from this tender procedure is to provide products and services to support and maintain the EUROSUR Network and to provide changes to its functionalities and to the underlying technical infrastructure in response to changing legal, political, organizational or technical environments.

The European Border Surveillance System (Eurosur) was established by the Regulation (EU) 1052/2013 of the European Parliament and the Council of 22 October 2013 to support secure exchange of border-related information including irregular migration and cross-border crime among the corresponding National Coordination Centres of participating Member States and between the National Coordination Centres and Frontex.

Eurosur Communication Network (ECN) enables secure exchange of Eurosur information. It is implemented as a web-based, GIS-intensive, distributed, extensible information exchange system based on Java and OSS technologies and using a set of secure peer-to-peer Internet connections for data exchange.

Eurosur Communication Network is currently composed of 31 nodes, each with their corresponding hardware and software, including a local copy of the information database. Additional nodes are deployed for staging and disaster recovery purposes in Frontex headquarters and in the backup data centre.

The Eurosur Technical Management System, providing master services, distribution of centrally served map services and support to the Eurosur Communication Network and its nodes, is an integral part of the ECN.

The maintenance and support of ECN as well as its evolution are objectives of this Framework. Evolution of the Network should be understood as the activities including, but not limited to, design, development, implementation and deployment of the new functionalities and to the underlying infrastructure.

Additionally Frontex might request services needed to extend the ECN environment by developing new categories of information sources, developing or extending applications and solutions that provide or consume Eurosur information or to introduce any kind of integration with external systems and applications.

More specifically, the Framework Contract shall cover the following main areas:

#### **a. EUROSUR Evolution**

- Extension of the EUROSUR Communication Network to new nodes to encompass additional current and future Member States, Schengen Associated Countries and selected EU Agencies
- Improving System Stability & Reliability of EUROSUR Nodes and Applications suite
- Extending EUROSUR Nodes accessibility by local users and systems
- Development of a EUROSUR training environments
- Enhancement of the EUROSUR Application
- Enhancement and rationalization of EUROSUR Infrastructure

#### **b. EUROSUR Support and Maintenance**

- Daily Operation of EUROSUR Network
- Maintenance & Support of the EUROSUR Network including hardware maintenance

- **Maintenance & Support of the application suite**

## **II.2 Variants**

Variants are not allowed.

## **II.3 Type of contract**

Frontex will conclude a single framework service contract with the successful Tenderer following the second stage of the procedure. The framework contract shall be implemented by means of:

- Specific contracts: fixed price and (quoted) time & means.
- Specific orders

The draft of the contract shall be included in the tender dossier.

## **II.4 Location and duration**

The tasks will be mainly performed at Frontex' premises.

Some services relevant to the provision of maintenance and support may need to be provided at Contractor's premises or at the location of the nodes in the territory of the EU and Schengen associated countries.

The framework contract shall be concluded for an initial period of one year with a possibility of maximum 3 renewals for 12-month periods.

## **II.5 Form and content of the application**

The application shall be clear and concise, with continuous page numbering, and assembled so as to constitute a coherent whole (e.g. bound or stapled, etc.). It shall be submitted by means of the prescribed questionnaires and forms together with all mandatory supporting documentation.

It shall include all the information and documents required by Frontex for the evaluation of applicants on the basis of the exclusion and selection criteria, in the absence of which, Frontex may decide to reject the application.

Your application should be submitted in the format of the Standard Reply form and include:

- A. **Request to Participate (covering letter) accompanied by the Identification of the Candidate**
- B. **Declaration on honour (Annex II) and documentary evidence related to the exclusion criteria**
- C. **Selection criteria questionnaires (indicated templates) and documentary evidence related to the selection criteria**

## **II.6 Evaluation of applications**

Evaluation of applications shall be conducted in two stages in regard to **exclusion and then selection criteria**.

## **II.7 Exclusion Criteria**

In line with the legislation in force the Tenderers shall be excluded from participation in a procurement procedure (or the contract shall not be awarded to them) if they are in any of the situations of exclusion.

The Tenderer or in case of consortium all members of consortium shall provide a declaration on their honour, duly signed and dated stating that they are not in one of the situations referred the above (Annex II - Tenderers Declaration on Honour).

In addition, the evidence confirming the Declaration on Honour must be included in the application.



If the person already submitted such evidence for the purpose of another procedure, its issuing date does not exceed one year and it is still valid, the person shall declare on its honour that the documentary evidence has already been provided and confirm that no changes have occurred in its situation.

## **II.8 Selection Criteria**

Each application shall be verified against the criteria specified below. Incomplete applications shall be rejected. However, Frontex may request that missing formal documents are submitted by fax (normally these are to be submitted within 48 hours following the request).

### **II.8.1 Economic and Financial Capacity**

Candidates must demonstrate that they have sufficient economic and financial resources to be able to carry out the tasks specified in this contract notice.

Minimum requirements:

- annual turnover for the last 3 financial years must be equal to or greater than 4,000,000 EUR separately for each year.
- the average annual pre-tax profit of the past 3 financial years for which the accounts have been formally closed must be positive. This requirement must be fulfilled for each member of the consortium, if applicable.

This evaluation shall be based on the following:

- (a) a statement of pre-tax profits for the last 3 financial years for which the accounts have been closed countersigned by the Chief Accountant.
- (b) a statement as to overall annual turnover during the past 3 financial years.

Should the application be submitted by a grouping, the information requested under (a) and (b) must be submitted to the contracting authority in the form of a separate document for each grouping member and subcontractors and a document summarizing the consolidated data for the grouping as a whole.

For the criteria that are deemed to be achieved above a certain level, i.e. overall turnover a consolidated assessment of all members of consortium together shall be made.

## **II.8.2 Legal, Technical and Professional Capacity**

The candidates shall provide information and formalities necessary for evaluating if the requirements are met:

- (a) proof that candidates 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;
  - (b) a list of the projects delivered in the past 3 years and meeting jointly all the following criteria:
    - delivers information exchange capabilities
    - Is web based
    - Is largely developed in java and Open Source Software technologies
    - Is GIS intensive
    - Its price is equal or higher than (equivalent of) 500 000 EURwith a brief description, sums, dates and recipients, public or private, showing hands-on experience in the subject of this call for tender;
  - (c) a list of available candidate's human resources, as defined in Annex V Personnel Requirements
- ❖ List based on the "list of available personnel template" accompanied by the required information and documentation submitted, wherever possible, by means of templates provided by Frontex.

Minimum level(s) of standards required:

Successful completion of at least 3 projects fulfilling all the characteristics listed in point (b) above delivered to clients over the last 3 years must be evidenced.

The available candidate's human resources must meet the profile requirements and their minimum number must correspond to the definition of the core team.

## **II.9 Opening of the requests to participate**

In the first phase (selection of candidates), the opening of the requests to participate will not be public.

## **II.10 Assessment of the candidatures**

The assessment will be based on the information provided by the candidates via the forms and questionnaires that are part of the requests to participate and of the accompanying documents.

All the information will be assessed in the light of the criteria set out in this document. The procedure for the selection of the candidates, which will concern only admissible requests to participate, will be carried out in two successive stages. Only requests to participate meeting the exclusion criteria will be examined in relation to the selection criteria.

The aim is:

1. to check, in the first stage (exclusion criteria), whether candidates can take part in the tendering procedure and, where applicable, be awarded the contract;
2. to check, in the second stage (selection criteria), the economic and financial capacity and the technical and professional capacity of each candidate who has passed the exclusion stage.

The number of selected candidates will be limited to five (5). In case the number of candidates eligible for further evaluation (phase 2) exceeds this number, the five (5) highest ranked candidates shall be invited to participate in the tender. The shortlisted Candidates shall be ranked on the basis of their experience in the implementation of projects defined in point II.8.2.( b) in the last 3 years and on the basis of human resources defined in point II.8.2.(c).

Each project in excess to the mandatory three required as a minimum and fulfilling all the characteristics listed in point (b) above will score 2 additional points. Maximum two additional projects may be presented, additional ones shall not be assessed.

Each project from the candidate's portfolio fulfilling additionally the characteristics of a distributed solution will score 2 additional points.

Each compliant member of personnel in possession of valid security clearance will score 1 additional point. Maximum five additional candidates in possession of valid security clearance shall be rewarded by points, additional ones shall not result in increased score.

Criterion	Points	Max
Each eligible project on the Project List in excess of the required three, up to two projects	5	10
Each eligible project on the Project List that delivered or maintained physically distributed solution	2	10
Each presented personnel in possession of EU Confidential or EU Secret clearance, up to five persons	1	5
<b>Maximum points to score</b>		<b>25</b>

All candidates will be informed of the decision regarding their request to participate as soon as the selection is completed.