

Annex II to the Invitation to Tender

Frontex/OP/790/2017/JL/MS

Terms of Reference

**Framework Contract for provision of Mobile
Surveillance Systems for Frontex operational
activities**

1. Acronyms, Terms and Definitions	3
2. Background	4
2.1. Introduction to European Border and Coast Guard	4
2.2. Frontex operational capacity	4
3. Purpose and scope	5
3.1. Purpose	5
3.2. Scope	5
4. Description of services and deliverables	5
4.1. Deliverables	5
4.1.1. Mobile Surveillance Systems	5
4.2. Services	5
4.2.1. Transportation	5
4.2.2. Training	6
4.3. Indicative implementation plan for the Framework Contracts	6
4.4. Indicative budget	6
4.5. General requirements	6
4.5.1. Duration	6
4.5.2. Place of delivery	6
4.5.3. Use scenario	6
4.5.4. Origin	7
4.6. Specific Requirements	7
4.6.1. Mobile Surveillance Systems vehicles' registration	7
4.6.2. Transportation to the place of registration and to the operational area	7
4.6.3. Relocation to different operational areas	7
4.6.4. Training and Training materials for multipliers and operators	7
4.6.5. Timeline for the delivery of Mobile Surveillance Systems	8
4.6.6. Drawings of the Mobile Surveillance System	8
4.6.7. Delivery of the prototype	8
4.6.8. Exploitation Acceptance	8
4.6.9. Maintenance Requirements	9
4.6.10. Colour and markings of the MSS	
4.6.11. Documentation	9
4.6.12. Warranty	10
4.6.13. Liabilities and Insurance	11

1. Acronyms, Terms and Definitions

Acronym, Term	Definition
Frontex	European Border and Coast Guard Agency
FWC	Framework Contract
GPS	Global Positioning System
JO	Joint Operations
MS	A Member State of the European Union
MS of registration	A Member State of the European Union where the Mobile Surveillance System is registered
MSS	Mobile Surveillance Systems
RAP	Rules of Applicable Procedures
SC	Specific Contract
TETRA	Terrestrial Trunked Radio
ToR	Terms of Reference
TS	Technical Specifications
VHF	Very High Frequency

2. Background

2.1. Introduction to European Border and Coast Guard Agency

The European Border and Coast Guard Agency (hereinafter referred to as “Frontex”) was established by the Council Regulation¹ (EU) 2016/1624 in order to ensure the European integrated border management at the external borders with a view to managing the crossing of the external borders of the Member States (hereinafter referred to as the “MS”) of the European Union efficiently.

The key role of Frontex is to establish a technical and operational strategy for the implementation of integrated border management at the European Union level; to oversee the effective functioning of border control at the external borders; to provide increased technical and operational assistance to MS through joint operations and rapid border interventions; to ensure the practical execution of measures in a situation requiring urgent action at the external borders; to provide technical and operational assistance in the support of search and rescue operations for persons in distress at sea; and to organise, coordinate and conduct return operations and return interventions.

The Agency organises the appropriate technical and operational assistance to MS to reinforce their capacity for implementing the obligations as regard the control of the external borders of the EU. In this respect, based on the Risk Analyses, by the request of a MS or on Frontex initiative, the Agency organises and coordinates joint operations in one or more MS and deploys European Border and Coast Guard teams, as well as the necessary technical equipment.

Further information about Frontex origin, organisation, its mandate, fields of activities, strategy and planned activities can be found on the Agency’s web site: www.frontex.europa.eu

2.2. Frontex operational capacity

The Regulation (EU) 2016/1624 establishes under its Articles 38 and 39 the conditions under which Frontex:

- may acquire, either on its own or as a co-owner with a MS, or lease technical equipment to be deployed during joint operations, pilot projects, rapid border interventions, return interventions, migration management support team deployments or technical assistance projects in accordance with the financial rules applicable to the Agency;
- shall set up and keep centralised records of equipment in a technical equipment pool.

At the moment Frontex covers its operational needs mostly by deploying technical equipment provided by MS for a specific period of time - from one to twelve months per year.

In addition, some operational needs are covered by Frontex own operational capacity established on contractual basis with commercial companies. Following the amended Frontex mandate, as indicated above, as well as the need for more efficient border control the demand for further development of Frontex own operational capacity becomes one of the highest priorities in the domain of the European Border and Coast Guard.

¹ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 December 2016 on the European Border and Coast guard and amending Regulation (EU) 2016/399 of the European Parliament and the Council and repealing Regulation (EC) No 863/2017 of the European parliament and the Council, Council Regulation (EC) 2007/2004 and Council Decision 2005/267/EC

3. Purpose and scope

3.1. Purpose

The purpose of this Tender is to acquire Mobile Surveillance Systems to be used for border surveillance within Frontex joint operations.

3.2. Scope

The scope of this tender is to conclude a single Framework Contract for each of the three lots with commercial providers for delivery of Mobile Surveillance Systems. A single asset delivered shall include a four-wheel-drive vehicle (a pick-up for Lot 1 and a mini-bus for Lots 2 and 3) with a system of surveillance sensors - thermal camera, day camera and surveillance radar (surveillance radar is required only for Lot 3) installed on board, as well as a communication system, including all the necessary devices and software to control the surveillance sensors and the entire system.

The concluded FWCs will be implemented by Specific Contracts (SC). Detailed procedure and time limits for establishing and implementing a SC are described below in section 4.6 Specific Requirements.

These Terms of Reference will become an integral part of each of the Framework Contracts that may be awarded as a result of this open tender procedure.

4. Description of services and deliverables

The FWC seeks to acquire Mobile Surveillance Systems (MSS) to be deployed for Frontex coordinated operational activities, as well as transportation services in case of need to relocate the MSS to a different location at a distance longer than 200 km.

The MSS will be used for detection, identification and recognising of objects of interest e.g. human beings and/or groups of people, vehicles moving across the border, as well as vessels sailing within the coastal areas, and other objects identified as objects of interest.

MSS should be able to be utilised successfully regardless the terrain, weather conditions and time of day. In addition, the MSS will be used for management of border patrols in carrying out specific tasks stemming from their service duties.

4.1. Deliverables

4.1.1. Mobile Surveillance Systems

Mobile Surveillance Systems designed in accordance with the requirements and parameters specified in Appendix 1 - Technical Specifications to these Terms of Reference.

Lot 1: MSS with thermal camera based on pick-up vehicle.

Lot 2: MSS with thermal camera based on mini-bus.

Lot 3: MSS with thermal camera and a radar based on mini-bus.

4.2. Services

4.2.1. Transportation

The Contractor is required to provide transportation services as specified in Articles 4.6.2 and 4.6.3. of this ToR.

4.2.2. Training

The Contractor is required to provide training and training materials for multipliers and operators as specified in Art. 4.6.4. of this ToR.

4.3. Indicative implementation plan for the Framework Contracts

The list below presents the indicative plan of the implementation of the FWCs, which is not binding on Frontex and may be adapted during the contractual period.

First Specific Contracts are expected to be issued by Frontex in December 2017. For the total duration of the framework contract, Frontex intends to make orders for:

- 20 vehicles under Lot 1;
- 30 vehicles under Lot 2;
- 15 vehicles under Lot 3.

4.4. Indicative budget

Maximum indicative budget available is as follow:

- for the FWC for Lot 1 - 8,000,000 EUR;
- for the FWC for Lot 2 - 12,000,000 EUR;
- for the FWC for Lot 3 - 8,000,000 EUR.

The maximum total duration of the FWC is 4 years. Frontex reserves the right to conduct exceptional negotiated procedure in accordance with Art.134.1 (e) of RAP to increase the ceiling with the Contractors for any of the lots, if such a need occurs.

4.5. General requirements

The following requirements apply to deliverables under this FWC, adherence to these requirements shall be explicitly confirmed by the Tenderer in his offer.

4.5.1. Duration

The Framework Contract is expected to be concluded for 2 years per lot (renewable once for another 2 years) and have a maximum total duration of 4 years.

4.5.2. Place of delivery

Any delivery under this FWC of the ordered and manufactured MSS, including those in the scope of any Specific Contract, should be in principle delivered by the Contractor to Warsaw, Poland. The exact address of delivery will be provided to the Contractor prior to signing any Specific Contract within this FWC.

4.5.3. Use scenario

The Mobile Surveillance Systems will be used for terrain observation (land and/or sea - coastal surveillance), detection and recognition of objects (people, vehicles, drones, vessels), for determining a target's location, as well as own position and also for recording the results of the observation and transmission the observed image to a designated coordination centre. The Mobile Surveillance System will be used at day-and-night time, under any weather conditions around the year. The Mobile Surveillance Systems will be used for up to 12-hour long operations from a stationed vehicle. It will be operated by two persons.

During the period of exploitation it may be needed to relocate the MSS to a different operational areas. The relocation may require transportation by land and/or by sea.

4.5.4. Origin

All goods purchased must originate in a Member State of the European Union. For this purpose, 'origin' means the place where the goods are produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the EU Customs Code or to the relevant international agreement applicable. The appropriate Certificate of Origin has to be issued and provided to Frontex before the delivery of completed MSS to Frontex HQ.

4.6. Specific Requirements

The following specific requirements shall be obligatory for the Tenderer. The Tenderer is required to declare its full compliance with the obligatory requirements in his offer. Offers with partial compliance only will be rejected without further evaluation.

4.6.1. Mobile Surveillance Systems vehicles' registration

Each Mobile Surveillance System is a Frontex asset. Therefore, each and every Mobile Surveillance System shall be registered by Frontex, as a general rule, in Warsaw, Poland, where Frontex Headquarters is settled.

4.6.2. Transportation to the place of registration and to the operational area

If not otherwise required the contractor shall deliver the MSS to the seat of Frontex Headquarters in Warsaw, Poland, for registration and subsequently to transport them from there to the operational area which will be determined in each Specific Contract.

A non-exhaustive list of the most probable operational locations is provided below:

- Elhovo, Bulgaria;
- Orestiada, Greece;
- Alexandroupolis, Greece;
- any of Greek islands.

However, MSS may be deployed also to other locations on the Balkan Peninsula, as well as across Europe. Frontex keeps also the right to request the Contractor to deliver the MSS to a different Member State for the purpose of registration.

4.6.3. Relocation to different operational areas

As explained in Art. 4.5.3.- Use Scenario, during the contractual period the MSS may need to be relocated from one to another, different operational area(s). The relocation may require transportation by land and/or by sea. Therefore, the Contractor may be required to ensure transportation for the purpose of relocation of MSS and will be informed about that with at least one month prior notice. The transportation on land shall be made on a trailer. The transportation will be subject to a separate Specific Contract.

In case of such a need to ensure transportation of the MSS deployment from Frontex HQ to the other location, as well as in case of a relocation of MSS from an operational location specified in Art.4.6.2 to other location(s), when Frontex finds the obtained financial proposal for transportation services exaggerated, it reserves the right to request the Contractor for a detailed breakdown of all costs or to request for an independent quotation.

4.6.4. Training and training materials for multipliers and operators

The financial proposal of the provider shall include the cost of one five-day initial training on the operating of the MSS for operators and multipliers. Such training shall be obligatory provided upon delivery of the first set of MSS in the premises of the Contractor. The cost for the initial training shall be indicated separately in the financial offer and will be included in the overall price of the proposal. The financial proposal shall include the costs of at least 20 sets of training materials for operators and multipliers, the cost for training of a group of 20 persons, as well as the local transportation costs from the place of accommodation of trainees to the Contractor's premises for all the participants during the training period.

Detailed training syllabuses shall be accepted by Frontex (before the training).

The contractor shall provide Frontex with the training syllabuses and materials at least one month before the delivery of the Mobile Surveillance Systems.

Furthermore, the Contractor will be required to provide additional trainings upon Frontex request on the use of the MSS for multipliers and operators at least once per year. The additional trainings will be subject to a separate Specific Contract. The specific time slots and place of delivery of the trainings will be agreed between Frontex and the Contractor prior to the issue of the Specific Contract. The additional training shall last 3 days and to be delivered to a group of max 20 people. The financial proposal for the additional training shall be specified in a free format way and attached to the Annex IVa, but it shall not be used for the purpose of establishing the Tenderer's financial offer for the purpose of conclusion of the FWC.

All the participants in both initial and the additional trainings shall receive hard copies and electronic version of the training materials - documentation is to be in English.

4.6.5. Timeline for the delivery of Mobile Surveillance Systems

The delivery of the first set of Mobile Surveillance Systems ordered shall happen as follows:

- Delivery of prototype as described in Art. 4.6.7. of this ToR within 90 calendar days from the day of signature of the first Specific Contract;
- Delivery of the other manufactured MSS as specified in the Specific Contract within 150 days from the day of signature of the Specific Contract.

4.6.6. Drawings of the Mobile Surveillance System

Contractor shall submit drawings (Preliminary Design) which indicate how the Mobile Surveillance System will be designed not later than 10 days after signature of the first Specific Contract.

The Contracting Authority shall provide comments on the drawings within 10 days from their receiving. On this basis within 5 calendar days the Contractor shall submit to Frontex the amended drawings of the MSS for final approval. Frontex will decide about their final approval within 5 days.

4.6.7. Delivery of the prototype

After having approved the MSS drawings by Frontex the Contractor shall produce the prototype of the surveillance system and invite Frontex for acceptance. The acceptance shall take place not later than 80 days after signature of the Specific Contract.

Frontex reserves the right upon prior notice to visit the manufacturer premises to monitor the assembling of the prototype during the production process.

4.6.8. Exploitation Acceptance

Each Mobile Surveillance System assembled by the Contractor within this FWC shall be accepted for exploitation after having a field test performed by the Contracting Authority to confirm that the operational requirements are met and the technical parameters of the entire system are in compliance with the technical specification, as well as that there are no any defects in the general workmanship that reduce significantly the performance of MSS. For the purpose of the field test Frontex may be accompanied by independent experts contracted by Frontex.

The field tests shall be performed before the transportation of the MSS to Warsaw, Poland and prior to the initial training for operators and multipliers provided by the Contractor.

The place and time for performance of the field tests, as well as the duration of the tests shall be proposed by the Contractor and approved by Frontex.

4.6.9. Maintenance Requirements

The system shall provide necessary diagnostic information (BIT) without any external devices.

Scope and frequency of maintenance service and repairs shall be determined in the operational and maintenance documentation.

4.6.9.1. Maintenance of the surveillance systems and their components

During the warranty period the Contractor shall at least two times per year (in case the products requires more frequent periodical maintenance the Contractor should undertake related activities) to perform regular periodical checks of the functionality of all the MSS components and of the systems as a whole, and to implement the necessary preventive measures to ensure the proper functioning of the surveillance system. The specific schedule for such checks shall be agreed between Frontex and the Contractor upon signature of each Specific Contract.

In the event of a system failure during the warranty period the Contractor is obliged within maximum 3 calendar days after being notified to implement *in situ* diagnostics of the MSS on its own costs. In the event that the failure can be maintained on the spot the Contractor shall implement the repair within maximum 5 calendar days after completion of the *in situ* diagnostics. In the event that the *in situ* diagnostics finds that the maintenance shall be made in the service base of the Contractor, the Contractor shall ensure transportation from the place of deployment to its service base and back to the place of deployment. The failure either should be fixed or the malfunctioned part should be replaced within maximum 60 calendar days after the completion of the *in situ* diagnostics.

4.6.9.2. Maintenance of the base vehicle

During the warranty period in case of failure, the Contractor shall ensure road assistance and provide service support for the vehicles, at the vicinity of locations where the vehicles operate. The reaction time of the Contractor for such support shall be maximum 3 calendar days after obtaining Frontex formal request.

During the warranty period, if it is needed to change brake lining and/or timing belt of any of vehicles due to expiry of life cycle of these parts, all these changes should be done by the Contractor without any additional payment.

The Contractor shall provide a list of authorised service points in the EU Member States being of Frontex interest as specified in Art. 4.6.2. Frontex will ensure that the manufacturer's required regular maintenance of the vehicles are performed by the authorised service points throughout the warranty period.

4.6.10. Colour and markings of the MSS

The colour and special markings of the MSS will be specified in the requirements in each Specific Contract.

4.6.11. Documentation

The Supplier shall deliver all appropriate manuals including at least the following:

- Functional description of the equipment;
- Detailed technical parameters;
- Description of installation and activation procedures;
- Description of assembly and disassembly;
- Operational and maintenance manuals;
- Procedures for failure elimination while the system is in operation and within the basic and the middle level of technical maintenance.

Maintenance documentation shall include:

- Mechanical drawings;
- Part lists for all circuits;
- Highway diagrams and wire lists (connections) for the interconnection of modules, boards and subassemblies;
- The part numbers shall include the generic Original Equipment Manufacturers (OEM) numbers besides any others.

The documentation shall be delivered in English, one set per each MSS, in a book and electronic version, plus 5 additional paper copies for Frontex. The contents and scope of the documentation shall be agreed and approved by Frontex before the documentation is delivered.

4.6.12. Warranty

During the warranty period, the Contractor shall ensure permanent contact with their representatives. The representatives shall, free of charge, provide the user with information, consultation and technical support in so far as the use of the subject equipment of the Specific Contract. Communication will be in English.

6 months before the expiration of the warranty period the Contractor shall propose to Frontex a plan and to organise a complete check of the functionalities of all delivered MSS. The purpose of this check is to ensure that MSS are operational even after the expiry of the warranty period and will not collapse or show any major defects immediately after its expiry.

4.6.12.1. System warranty

Minimum 3-year warranty shall be provided for the whole delivery (including batteries and cooler). Failure elimination (through repair or replacement in the MSS base) during the warranty period may not take longer than 60 calendar days.

During the warranty period, all failures as well as effects of natural wear-out of system components shall be eliminated by the Contractor at the Contractor's expense. The warranty will not refer to the defects caused by user or *force majeure*.

During the warranty period, the time of failure elimination will be counted starting from the day following written notification of the Contractor (by a letter or an email message) and finishing on the day a failure is eliminated by repair or replacement. Warranty period for MSS shall be prolonged by the time of failure elimination.

The Contractor shall present a repair report after each repair. The report shall provide: date of failure notification, nature and description of a failure, description of performed service/repair activities (list of replaced parts), description of verification procedures and their results, date of repair or replacement.

All correspondence referring to operation, maintenance and repair shall be in English.

The Contractor shall pay a stipulated penalty for each day exceeding the repair time. The penalty will be 0,01% of the Specific Contract unit value of the MSS made inoperable by a failure.

4.6.12.2. Base vehicle warranty

The Contractor shall guarantee:

- a minimum factory warranty of 3 years for the vehicles which shall be counted from the date of their registration. A longer warranty period may be offered but without any extra cost for Frontex;
- that the vehicles are new, unused (maximum 200 km on the odometer), of the most recent models and incorporate all recent improvements in design and materials;
- that none of the vehicles have any defect arising from design, materials or workmanship.

4.6.13.Liabilities and Insurance

All liabilities and insurance costs including transportation will be borne by the Contractor until their registration by Frontex.

5. Prices and payment

All prices shall be in Euro, excluding VAT.

- **Pre-payment:**

Upon signature of the Specific Contract, the Contractor may issue a pro-forma invoice for an advance payment corresponding to 30% of its overall value. Frontex shall pay the pro-forma invoice within 30 days after its receipt.

- **Interim payment:**

After exploitation acceptance of all manufactured products, conduction of training and delivery of the ordered MSS to Warsaw, Poland, for registration of the ordered MSS, the Contractor may issue an invoice for interim payment corresponding to 90% of the overall value of the Specific Contract. Frontex shall pay the invoice within 30 days after its receipt. In case of the pre-payment made earlier, its amount will be deducted from the interim payment.

- **Balance payment**

After delivery of the ordered MSS to their operational area as foreseen in in the particular Specific Contract and upon reception of the final invoice, Frontex will execute the final payment corresponding to 10% of the overall value of the Specific Contract within 30 days.