

Provision of medical services - pre-recruitment examination

Terms of Reference

**Annex II to invitation to tender no
Frontex/OP/1491/2019/KM**

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1. Introduction and background information

The European Border and Coast Guard Agency (Frontex) is governed by Regulation (EU) 2019/1896¹. The main aim of the European Border and Coast Guard is to ensure European integrated border management at the external borders with a view to managing those borders efficiently in full compliance with fundamental rights and to increasing the efficiency of the Union return policy.

Further information about the European Border and Coast Guard Agency can be found on the Agency's web site (www.frontex.europa.eu)

Frontex is located in Warsaw, Poland and is in the process of significantly increasing the size of its staff from the current number of 580, to meet its expanded tasks.

The pre-recruitment medical examination is mandatory (with some specific exceptions²) for future staff members before signing a contract of employment. The staff engaged by Frontex is subject to [Staff Regulations \(EUSR\) and Conditions of Employment of Other Servants of the European Union](#) (CEOS) which constitutes the legal framework for Frontex employment procedures. Although Frontex has its headquarters in Poland, its employees are not subject to the Polish Labour Code.

In the field related to these terms of reference, the following obligations are to be taken into account:

- Article 13 of CEOS states that before being engaged a staff member of the temporary staff shall be medically examined by one of the institutions' medical officers in order for the institution to be satisfied that he fulfils the requirements of Article 12 (2) (d). The same applies to contract staff pursuant to Article 83 of CEOS.
- Article 12(2) (d) of CEOS provides that a member of the temporary staff may be engaged only on condition that he is physically fit to perform his duties. The same applies to contract staff pursuant to Article 82 (3) (d) of CEOS staff in category A1 serves the duties of administrative nature and shall undergo the general pre-recruitment examination programme (Appendix 1);
- Article 33 of EUSR states that if a negative medical opinion is given the candidate may request that his case is submitted for the opinion of a medical committee composed of three doctors chosen by the appointing authority from among the institutions' medical officers. The medical officer responsible for the initial negative opinion shall be heard by the medical committee. The candidate may refer the opinion of a doctor of his choice to the medical committee.

For contract implementation purposes, Frontex staff that will be covered by the medical services is divided into 2 categories: category A1 and category A2.

Staff in category A1 (composed of Temporary Staff and Contract Staff) are serving in most cases in Frontex Headquarters in Warsaw and should undergo the general pre-recruitment examination programme defined in detail in Appendix 1.

Staff in category A2 (composed of Temporary Staff and Contract Staff) are to be treated as “deployed staff”, serving in most cases outside Frontex Headquarters, and may exercise executive powers³ and thus require additional medical tests in line with the programme relevant to this category defined in Appendix 2.

¹ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

² Except if the staff member is already a TA, CA or Official in one of the EU Institutions or EU Agencies with which the Medical Service of the Commission has a Service Level Agreement, has already undergone a medical examination with this Medical Service at the time of recruitment and there has not been a break of more than 6 months between the two contracts; furthermore this is conditional to the person not occupying an at-risk post i.e. staff members occupying positions in the Security Sector, working on shift-work basis or serving in a third country or exercising executive powers.

³ In line with Article 55(7) of REGULATION (EU) 2019/1896: The statutory staff to be deployed as members of the teams shall be able to perform, in accordance with Article 82, the following tasks requiring executive powers, in accordance with the profiles of staff and relevant

Currently (figures for 16 December 2019), there are 581 staff in category A1 employed at Frontex. The employment of category A2 shall begin within the first months of 2020.

The envisaged staff numbers evolution for the following years are as follows (total number of staff at the end of the year):

PLANNED STAFF NUMBERS	2019	2020	2021	2022	2023
STAFF IN CATEGORY A1	581	780	780	785	800
STAFF IN CATEGORY A2	0	750	1000	1500	1500

The indicative number of candidates to be examined, including possible turnover of staff for the following years is as follows:

Indicative number of medical check-ups	2020	2021	2022	2023	Total
STAFF IN CATEGORY A1	210	30	35	45	310
STAFF IN CATEGORY A2	750	450	700	200	2100
Total	950	480	735	245	2410

The information given above serves as a guidance only and is not in any way binding as regards the volume of services that will be ordered under the framework contract.

Important notice:

During 2020 the work will not be distributed equally over the year. The peak will fall during the period March - June, when 600 - 750 candidates may have to be medically examined.

2. Scope of the services

The aim of the framework contract is to support Frontex with professional medical services (performed in English language) for its prospective staff as defined in point 1 above.

The scope of the medical services is:

1. Pre-recruitment medical examinations for staff in category A1 on the basis of the list of exams and tests defined in Appendix 1,
2. Pre-recruitment medical examinations for the staff with executive powers -staff in category A2- on the basis of list of exams and tests defined in Appendix 2.

training: (a) the verification of the identity and nationality of persons, including consultation of relevant Union and national databases; (b) the authorisation of entry where the entry conditions, as laid down in Article 6 of Regulation (EU) 2016/399, are fulfilled; (c) the refusal of entry in accordance with Article 14 of Regulation (EU) 2016/399; (d) the stamping of travel documents in accordance with Article 11 of Regulation (EU) 2016/399; (e) the issuing or refusing of visas at the border in accordance with Article 35 of Regulation (EC) No 810/2009 of the European Parliament and of the Council (40) and introducing relevant data in the Visa Information System; (f) border surveillance, including patrolling between border crossing points to prevent unauthorised border crossings, to counter cross-border crime and to take measures against persons who have crossed the border illegally, including interception or apprehension; (g) the registering of fingerprints of persons apprehended in connection with the irregular crossing of an external border in Eurodac in accordance with Chapter III of Regulation (EU) No 603/2013 of the European Parliament and of the Council (41); (h) liaising with third countries with a view to identifying and obtaining travel documents for returnees; (i) escorting third-country nationals subject to forced-return procedures.

2.1 Scope

The medical service provider is required at the first phase to:

- organize and carry out all of the necessary **tests and examinations** in line with the list in Appendix 1 for staff in category A1 and in the list in Appendix 2 for staff in category A2;
- organize and carry out a **consultation with qualified doctors** (for staff in both categories)
- for staff in category A2, organize and carry out a **consultation with a psychiatrist** and if required, with a **psychologist**.

At the second phase the medical service provider is required to:

- engage an occupational health doctor(s) who shall:
 - **summarise the results** of the first phase and shall **complete the anamnesis** (medical history) using the medical questionnaire for pre-recruitment provided in Appendix 3 for staff in category A1 and Appendix 4 for staff in category A2;
 - **provide final opinion** on the candidate;
 - **issue fitness certificates**, as described below;
 - in the event of irregularities issue the request to the candidate to carry out complementary consultations
- **deliver fitness certificates** to the appropriate addressees;
- **in the event of irregularities** deliver the request to the candidate to carry out complementary consultations
- **deliver the** medical files of examined candidates to the Medical Service of the European Commission in Brussels.

The occupational health doctor(s) shall be considered as Frontex Medical Officer(s) for pre-recruitment visits (under Article 33 of EUSR), acting under the administrative supervision of Frontex.

2.2 Appointment process

The appointment with the candidate (all tests, examinations and consultations) must take place during one working day.

To arrange the appointment Frontex shall contact the Contractor's contract manager via e-mail indicating: the name of the candidate and his/her birth date, the category of the candidate and the three proposed dates of examinations. This information shall be provided at least one week before the first proposed date. In reply the contractor shall choose one of the dates.

The confirmation of the appointment shall be sent to the assigned Frontex e-mail address on the day of request or on the next working day at the latest.

A privacy statement concerning the processing of personal data shall be given by the contractor to the candidate prior to the medical examination (Appendix 6).

2.3 Examination

The doctors shall use the medical questionnaire for pre-recruitment provided in Appendix 3 for staff in category A1 and in Appendix 4 for staff in category A2. The medical questionnaire contains 2 parts for category A1 and 3 parts for category A2. The part 1 needs to be filled in by the candidate. Both the examining doctor and occupational health doctor need to fill in part 2. The psychiatrist and, if applicable, the psychologist need to complete part 3.

For staff in category A2, additional consultation with psychiatrist shall be performed to check the predisposition for people to work in arduous, hazardous conditions, exposed to stress, conflict situations, changing rapidly environment, coping with people being in dramatic, injure or death exposed situations. The relevant description of the job position, working conditions, tasks and responsibilities shall be provided by Frontex prior to the consultations. The psychiatrist may decide to assign specific tests to a psychologist. The psychologist should

work under the supervision of the psychiatrist. The medical opinion should only be provided by the psychiatrist, with the possible input from a psychologist, when relevant

The contractor is required to offer appropriate privacy to patients and demonstrate high standard of cleanliness.

All examinations must take place within the Warsaw city administrative boundaries. The medical centre must be easily accessible by the public transport.

The contractor is required to dedicate to the execution of the contract all the technical equipment which is necessary for delivering the range of services required.

Should some of the services be not available within the contractor's capacity, subcontracting of these services by the contractor is possible, with the condition of securing the same level of quality and confidentiality.

2.4 Fitness certificate

The occupational health doctor shall issue a fitness certificate in two originals using the template in Appendix 5 (one for Frontex and one for the medical file of the Medical Service of the European Commission). The certificate must state, if the candidate is either: fit, fit with reserve⁴ (Article 33 of EUSR and Articles 13 and 83 of CEOS) or not fit to perform the duties pertaining to the job. No medical details shall be disclosed to Frontex at any time.

The scan of fitness certificate shall be sent via e-mail to Frontex point of contact defined in the contract within seven calendar days, starting counting on the examination date (examination day counts as day 1). The original document shall be delivered not later than 2 weeks after the issuing date.

The contractor, every 1st and 16th day of the months must send all complete medical files of examined candidates to the Medical Service of the European Commission in Brussels (the Medical Service of Frontex), respecting the data protection provisions.

In exceptional cases when the issuing of the certificate according to the established deadline is endangered and there is a possibility of a delay, the contractor shall be obliged to inform Frontex in a pro-active and timely manner. The delay must be communicated immediately to Frontex in a form of an e-mail to the address defined in the contract, not later than five working days from the examination date, as issuing the fitness certificate impacts the starting date of the contract of employment. Frontex reserves the right to apply financial penalties in line with the contract for each day of a delay in communicating the fitness certificate in case the delay is solely caused by the contractor.

If explicitly requested by the examined person, the results of the tests and examinations, shall be sent by the contractor to him/her via registered mail, marked private and confidential, and/or electronically, assuring the highest security and privacy transmission measures (at least protected with a password).

If there are irregularities or concerns about the health condition of the candidate Frontex Medical Officer shall request the candidate to carry out additional consultations using the template in Appendix 7. The costs of such additional consultations are to be borne by the candidate.

2.5 Communication

No medical details/results must be transmitted to Frontex at any stage of the communication.

The contractor must provide contact details of the Contract manager.

The contractor should indicate all additional contact channels that will be required during execution of contract (telephone numbers of hotline, e-mail addresses, postal details, etc.) in order to facilitate communication at all times and in a smooth manner.

⁴ A certificate 'fit with reserve' is provided in case a candidate suffers from a pre-existing illness or invalidity for which Frontex may, in so far as risks arising from such sickness or invalidity are concerned, decide to grant him/her guaranteed benefits in respect of invalidity or death only after a period of five years from the date of entering into service.

2.6 Appeal

In case of an appeal against a negative medical opinion (i.e. a fitness certificate stating “fit with reserve” or “not fit” to work), a Frontex Medical Officer responsible for issuing the negative opinion may be required to be heard at the Medical Service of the European Commission in Brussels, within the framework of an appeal procedure. Such consultation may be made via a teleconference/skype or a visit to Brussels may be required. In case a visit to Brussels is necessary, the contractor will be entitled to receive a separate remuneration in a form of a lump sum that should be indicated in the contractor’s financial offer. This lump sum however cannot exceed 2000 EUR net (without VAT) and must include all costs aligned with this additional service (including all travel and accommodation costs, daily subsistence allowance, lost profit costs etc.) .

2.7 No show

In case the candidate was appointed but did not appear in the medical center on the day of examinations the contractor is not entitled to any remuneration. This situation must be reflected on the list attached to the invoice.

3. Contractor’s staff

The contractor must assure adequate number of staff to provide the services under the contract, especially in peak seasons (receptionists, nurses, doctors, technicians, support staff). The minimum requirements in relation to the personnel are defined below.

At least B2 level of knowledge of English is required for the doctors, psychologists and the contract manager as indicated in point 5 below. For the remaining staff, if the contact with candidates is required they must possess at least communicative level of English language.

3.1. Contract manager

The contractor must designate the contract manager that will act as a main point of contact for Frontex, and guarantee his/her replacement in case of absences. The designated person should possess professional experience required to provide high level services and very good knowledge of English (as indicated in point 5 below).

3.2. Medical staff

Medical services must be provided by the qualified medical personnel that fulfils the following minimum requirements.

Frontex Medical Officer:

- Holds a degree in medicine, the degree must be issued in a Member State of the European Union or be recognised as equivalent by a Member State;
- Must be an occupational health doctor
- Has at least five years of professional experience (acquired after obtaining the required degree). Professional experience comprises the years in practice after all the required qualifications have been obtained;
- Fulfils the minimum English language requirement defined in point 5 below

Remaining medical personnel:

- Must possess professional qualifications relevant to the tasks performed

4. Replacement

Any replacement of personnel does not release the contractor from its contractual liability to Frontex throughout the entire period of performance of this contract.

4.1 Replacement of staff requested by the contractor

Replacement of staff requested by the contractor will be accepted by Frontex only in exceptional situations, based on written explanation providing reasons for replacement and it will be subject to Frontex prior approval. Such situations may happen on account of death, sickness or accident, or if a member of staff is unable to continue providing his services or for other reasons beyond the contractor's control.

Whenever a replacement occurs, the contractor must ensure a high degree of stability of the services and a smooth transfer of the contractual obligations.

The contractor shall provide a timely replacement with at least equivalent qualifications and experience to the person proposed in the original offer.

4.2 Replacement of staff requested by Frontex

Frontex reserves the right to request replacement of any person providing the services who is found by Frontex to be incompetent in discharging or unsuitable for the performance of his duties under the contract or if carrying out his tasks under the contract consistently prejudices the good and timely performance of the contract.

The replacement, regardless whether requested by the contractor or by Frontex, shall not oblige Frontex to pay any additional remuneration, fees or costs other than those laid down in the initial contract. The contractor shall bear all the additional costs arising out of or incidental to such replacement.

4.3 Temporary replacement

In agreement with Frontex, the personnel proposed by the Contractor can also be replaced temporarily during the implementation of the Contract due to annual or medical leaves or other short term absences for other reasons beyond the contractor's control. This personnel should be replaced according to the replacement policy defined in the contractor's offer. The personnel replacing the main staff must meet the below mentioned requirements.

5. Language

As the majority of Frontex staff are nationals of countries other than Poland, all the services as well as the documentation delivered under the contract (except laboratory tests results which may be accompanied by a glossary) shall be in English.

At least B2 level is required for the doctors, psychologists and the contract manager as defined by the Council of Europe's Common European Framework of Reference for Languages (CEFR) (<http://europass.cedefop.europa.eu/en/resources/european-language-levels-cefr>)

6. Contract implementation

The services shall be ordered via the specific orders issued by Frontex. Orders will indicate the types of services to be performed and the time-frame applicable to those services. Usually it is planned to issue orders covering one year, however, there may be orders issued for different length of time e.g. month(s), quarter etc.

7. Payments

The payment is eligible upon reception by Frontex of the fitness certificate with the exception of situations when complementary consultations are requested and the candidate did not provide the results. If the contractor is not able to issue the certificate due to lack of relevant documents from the candidate, the payment will be eligible after one month from the appointment. If the relevant documents are submitted at a later stage the contractor will issue the certificate at no cost.

The payment shall be executed on a monthly basis (unless time indicated on the specific order is shorter than one month or the order specifies different payment conditions), on the basis of a correctly issued invoice.

The invoice shall specify the following information:

- Timeframe for the invoiced period
- Services types together with number of units and prices

Additionally, the contractor must provide the list of candidates, indicating:

- Name of the person for which the services were provided
- date of the request of the service by Frontex
- date of the performed service;
- type of the service provided;
- indication of the result: “fitness certificate provided” “fitness certificate suspended” or “no show”.

8. List of appendixes:

Appendix 1: List of pre-recruitment examinations and tests - staff in category A1

Appendix 2: List of pre-recruitment examinations and tests - staff in category A2

Appendix 3: Pre-recruitment medical questionnaire - staff in category A1

Appendix 4: Pre-recruitment medical questionnaire - staff in category A2

Appendix 5: Fitness certificate template

Appendix 6: Privacy Statement

Appendix 7: Notification on complementary tests/examinations