

Annex II to the Invitation to Tender

Frontex/OP/33/2019/RS

Terms of Reference

Framework Contract for the provision of passenger transfer services by sea from Mytilini (LOCODE GRMJT) to Dikili (LOCODE TRDIK).

1. Background

1.1. Introduction to the European Border and Coast Guard Agency

The European Border and Coast Guard Agency (hereinafter referred to as “Frontex”) was established by Regulation 2016/1624¹ in order to ensure European integrated border management at the external borders with a view to managing the crossing of the external borders of the European Union (EU) efficiently.

The key role of Frontex is to establish a technical and operational strategy for 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 Member States (hereinafter referred to as the “MS”) through joint operations (JO) and rapid border interventions and to ensure the practical execution of measures in a situation requiring urgent action at the EU 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 (RO) and return interventions (RI).

¹ Regulation (EU) 2016/1624 of 14 September 2016 on the European Border and Coast Guard (OJ L 251, 16.9.2016, p. 1).

2. Purpose

This document defines terms and conditions to procure passenger transport services by sea. It describes the minimum requirements for the requested services and ensures that the services carried out during the implementation of the contract comply with Frontex requirements.

The Terms of Reference shall become an integral part of the contract that may be awarded as a result of this open tender procedure.

All the information delivered in this document, its annexes and other referred documents shall be taken into consideration by the Tenderers in preparation of the offer and by the Contractor during the contract's implementation.

The tenderers shall be aware that the services are needed in support to law enforcement operational activities. The main purpose of these activities is to transport non EU nationals subject to an individual decision to leave the Greek territory and other relevant designated staff including escorts officers (hereinafter "passengers"). Such activities will be conducted under the supervision of Hellenic law enforcement authorities (Police and Coast Guard) and the coordination of European Commission. Such operational modalities imply the fulfilment of very specific confidentiality conditions as described in point 5.6.

3. Scope

The purpose of this procurement procedure is to establish a single framework contract so to provide Frontex with passenger transfer services by sea.

More specifically, the contract provides for the following:

- Passenger transfer services by sea for passengers from Mytilini (LOCODE GRMJT) to Dikili (LOCODE TRDIK), provided by individual ship fully reserved for Frontex and including the catering services and medical services.
- Vessel availability for trainings conducted on board at the port of Mytilini (LOCODE GRMJT).

A transfer service by sea is defined as transportation of passengers between one designated port of departure (Mytilini) and one designated port of arrival (Dikili) and consist of a round trip between these two ports. The duration of a transfer service cannot exceed 24 hours, preferably the same day, including embarkation and disembarkation.

4. Description of services

4.1. Requirements for passenger transfer services

Transfer services shall be inclusive of all taxes, port, passenger, and other fees. The ship to deliver the requested services has to be ready 1,5 (one hour and a half) prior to the scheduled time of embarkation at the designated port of departure.

4.1.1. Ship requirements

- Individual ship fully reserved for Frontex irrespective of the number of available seats;
- Have all required authorisations and permits to operate in the designated ports;

- The ship shall have a capacity to embark a minimum of 100 passengers in closed areas (excluding open decks/seats outside closed areas) and provide the possibility to limit the access to open air (e.g. lockable doors);
- The passenger seats shall be fixed individual seats (no benches) and displayed in rows;
- The ship shall be equipped with the toilets within the closed areas, accessible directly from the passenger area (without the need to cross open deck area);
- The ship shall be equipped with all regulatory and mandatory lifesaving equipment for all passengers;
- All areas accessible to passengers shall be clean and in good condition. So to ensure proper hygienic conditions and cleanness of the ship, the seats used during the transfer may be covered with a protective disposable plastic covers (e.g. black bags).

4.1.2. Catering services requirements

The catering services in form of snacks shall be provided to all Frontex passengers on board. Within 24 hours prior to the scheduled departure Frontex will notify the contractor the total number needed.

One snack unit per passenger shall consist of:

- Two sandwiches (no pork);
- Soft drinks (1 bottle of 0.5 litre) and water (2 bottles of 0.5 litre).

4.1.3. Medical services requirements

The medical service shall consist of the availability of a doctor on the ship during the transfer. The doctor shall possess valid permission to practice as General Practitioner and shall have basic resuscitation kit including medicines of general use.

A copy of the licence issued by the national registry of physicians or equivalent authorisation to practice medicine shall be provided at least 24 hours prior to the transfer.

The medical services may not be required for all transfers, Frontex shall notify the contractor of such need at the moment of the establishment of the Specific Order.

4.2. Requirements for the provision of a ship for training services

In order to organise the preparatory trainings for escort officers on how to conduct the readmission operations in real life scenario, Frontex needs to have access to the ship used for carrying out the transfer services in the harbour of Mytilini, Lesbos.

The ship availability for trainings shall be arranged as follows:

- Frontex training courses irrespectively of their dates start on Friday and finish on Tuesday. The ship shall be used for training purposes on Sundays and Tuesdays. One training course will have a duration of 3,5 hours per day. If the ship is available only on a different day (then on Saturday or on Monday), its provision shall be confirmed by the course manager;
- The ship shall preferably be available from 11:45 until 15:15, however the exact timing within the indicated week days can be adapted to the current schedule of the ship.
- In situations when different dates for the trainings need to be proposed such information will be forwarded to the contractor at least 4 weeks prior to the intended training date and the confirmation of the availability of the ferry will need to be provided not later than 3 weeks before the proposed date of the training.

5. Conditions for service delivery

The specific information regarding the service delivery will be indicated by Frontex in a Specific Order (see Appendix 1) sent to the framework Contractor in advance for its acceptance and signature.

The Specific Order will indicate:

- date and time of service (time of departure for transfers or time of the start of the training);
- number and type of needed services;
- number of passengers concerned;
- number of snacks to be provided on board;
- need of medical services.

6. Acceptance criteria and ship visits

6.1. Acceptance criteria

All the services provided under this Framework Contract (FWC) are subject to Frontex' acceptance. Frontex will monitor the quality of the services provided by the Contractor.

Elements that will be monitored include:

- Full compliance with the service requirements stipulated in these Terms of Reference point 4;
- Adherence to deadlines and guidelines;
- Communication skills and ability to cooperate with users;
- Ability to document the work.

The Contractor shall notify Frontex about the completion of services delivery no later than 1 (one) hour after the end of the service completion (e.g. last disembarkation). In case the performance standards are not up to the expectations Frontex will inform the Contractor with no delay.

6.2. Ship visits

The purpose of a ship visit is to ensure that the general state of the ship is in compliance with the service requirements and the specifications as stipulated in point 4 above.

Before and after each transfer Frontex and the contractor representatives shall perform a ship visit to inspect the general state of the ship. Within 24 hours prior to the service Frontex will inform the provider about the exact time needed. The ship visits should be performed within 1 (one) hour up to 1,5 (one and a half) hour prior to the start of the embarkation and after the end of the last disembarkation. The findings should be reflected in a Ship Visit Report Form (see Appendix 2) signed by both parties.

The ship visits can also be performed in case of the training activities. In such case they shall be performed in the same manner as the ones prior and post transfer service.

7. Contract Implementation

7.1. Indicative implementation plan

This Framework Contract will be implemented by the means of Specific Orders. The following indicative plan is not binding for Frontex and may be adjusted during the contractual period:

- Signature of the first Specific Order: Q2 2019;
- Estimated number of services:
 - 2 (two) transfers per month, including medical services and 40 snacks;
 - 1 (one) training per month.

Occasionally, more than one Specific Order may run at the same time.

7.2. Contact points

At the moment of the Specific Order signature the contractor shall indicate one or several contact points, including full contact details, for the timely implementation of services and any related issues.

7.3. Language

For the implementation of the contract, all communications shall be made in English.

7.4. Guidelines for all participants in readmission activities

Contractor and subcontractor(s) in charge of the transportation of passengers, and any other staff involved in the organisation and implementation of the activity:

- Must promptly and diligently follow the instructions by Frontex and the Greek authorities present in the activity;
- Must behave in accordance with public order, full respect for fundamental rights as enshrined in the EU Charter of Fundamental Rights and in other relevant international instruments;
- Must apply the maximum discretion and confidentiality in relation to the activity;
- Without prejudice to the further confidentiality provisions of the main body of the contract, must not document or share information on the activity by any means such as photo, video, commenting or sharing in social media, or equivalent;
- Must not allow on board any passengers which are not participants in the activity and which have not been expressly authorised by Frontex.

Failure to follow the above mentioned instructions may lead to the termination of the contract by Frontex.

7.5. Cancellation policy

Should Frontex cancel the services ordered, the contractor shall be entitled to the payment of a certain percentage of the total price. The cancellation fee paid by Frontex will be calculated in relation with the time remaining before the start of the agreed service delivery:

- more than 72 hours - no payment of cancellation fee.
- between 72 hours and 48 hours - 40% of the total;
- between 48 hours and 24 hours - 60% of the total;
- less than 24 hours - 90% of the total.

8. Appendixes

Appendix 1 - Specific Order

Appendix 2 - Ship Visit Report