

Annex I - Tender Specifications Frontex/OP/131/2016/AH

**Multiple Framework contract with reopening of competition for the
provision of SharePoint related Services**



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I. GENERAL INFORMATION

I.1 General Information on Frontex

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) was established by the Council Regulation (EC) 2007/2004 of 26 October 2004 as subsequently amended, (hereinafter called “Frontex Regulation”) with a view to improving the integrated management of the external borders of the Member States of the European Union.

Frontex started to be fully operational on 3 October 2005 with its seat in Warsaw, Poland. As of March 2016, Frontex has approx. 400 staff members.

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.

I.2 Procurement procedures

For its fast growing organization and performance, Frontex is in constant need of goods and services. Tendering is the structured way to consult the market for the purchase of these goods and services.

The purpose of competitive tendering for awarding contracts is two-fold:

- To ensure the transparency of operations;
- To obtain the desired quality of services and supplies at the best possible price.

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:L_2015_342_R_0002&from=EN.

I.3 Eligibility

The participation in tender procedures is open on equal terms to all firms under the condition that:

- a) They are not in any of the situations excluding them from participation and that they have no conflict of interest in connection with this contract;
- b) They have all the necessary knowledge and experience as well as technical and human resources to implement the contract; and

- c) They possess adequate economic and financial capacity to perform the required services.

I.4 Penalties

Without prejudice to the application of liquidated damages laid down in the contract, Tenderers and Contractors who have been guilty of making false declarations concerning situations referred to in point III.3 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 145 of the above mentioned Commission delegated Regulation No 1268/2012 of 29/10/2012.

I.5 Joint Tenders

No special legal form is required but, in the event a group of Contractors submits an acceptable offer, it shall be necessary to provide an undertaking that each company shall be jointly and severally responsible for the due performance of the contract. In the case of a consortium bid, the Contractor shall be required to act on behalf of the consortium.

Statements saying, for instance, that:

- a) "...one of the partners of the joint tender shall be responsible for part of the contract and another one for the rest...", or
- b) "...more than one contract shall be signed if the joint tender is successful...",

are thus incompatible with the principle of joint and several liability.

Frontex shall disregard any such statement contained in a joint tender, and further reserves the right to reject such tenders without further evaluation on the grounds that they do not comply with the tendering specifications.

I.6 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).

Accordingly:

- a) Frontex shall treat all contractual matters (e.g. payment) exclusively with the main Contractor, whether or not the tasks are performed by a subcontractor;
- b) Under no circumstances the main Contractor can avoid liability towards Frontex on the grounds that the subcontractor is at fault.

If subcontracting is envisaged in the tender it shall include a complete documentation that:

- a) defines clearly the roles, activities and responsibilities of subcontractor(s);
- b) specifies the volume / proportion of the tender being subcontracted for each subcontractor; and
- c) contains a letter of intent by each subcontractor stating its intention to collaborate in case the contract is awarded.

All members of the consortium and subcontractors shall meet the eligibility and exclusion criteria given in points I.3 and III.3.

I.7 Cost of preparing tenders

The invitation to participate in a tender procedure does not constitute any commitment on behalf of Frontex for award of the contract to a company. Frontex shall not reimburse any costs incurred by Tenderers in preparing and submitting offers.

I.8 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 this offer and may result in administrative penalties.

I.9 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. Scope and contractual information

II.1.1 Scope of contract

The scope of the contract covers the provision of ICT services in SharePoint technology. Detailed description of requirements is presented in the relevant Terms of Reference documents (Annex II).

II.1.2 Type of contract

The envisaged contract is a multiple framework contract with re-opening of competition. Frontex may conclude framework contracts with the selected Tenderers (three) on the basis of the draft contract included in the Annex V.

II.1.3 Contractual information

This framework contract will establish the terms governing specific contracts to be awarded during a given period, in particular, with regard to price. Signature of the framework contract imposes no obligation on the Contracting Authority to order services. Only the implementation of the framework contract through specific contracts is binding for Frontex. Each specific contract will contain details of deliverables and timelines for particular services to be provided.

II.1.4 Duration of the contract

This framework contract duration is 2 years + 1 year + 1 year i.e. after the initial duration of 2 years the framework contract shall be automatically renewed no more than two times, each time for a period of one (1) year and on the same conditions, unless one of the parties informs the other of its intention not to extend the framework contract and such notification is received by the party to which it is addressed, no later than three months before the contract expires. The overall duration of the framework contract may in no event exceed four (4) years.

II.1.5 Place of Performance

It is assumed that majority of services under the contract shall be executed at Frontex' premises however Frontex may request to carry out the work from contractor's premises. Every time place of performance shall be indicated on specific contract.

II.1.6 Volume of the contract

The maximum value estimated for the whole duration of the framework contract is 2 650 000 euro.

Frontex reserves the right to conduct exceptional negotiated procedure based on art.134.1.(e) of Commission delegated Regulation (EU) No 1268/2012 of 29 October 2012 (RAP) to increase the ceiling, if such a need occurs.

II.2. Form and content of the tender

The tender shall be clear and concise, with continuous page numbering, and assembled so as to constitute a coherent whole (e.g. bound or stapled, etc.).

The tender shall include all the information and documents required by Frontex for the evaluation of tenders on the basis of the award criteria, and in accordance with these specifications and the relevant Terms of Reference, in the absence of which, Frontex may decide to exclude the tender from the awarding procedure for the contract.

II.2.1 Documents to be included in the offer

The offer shall contain the following documents as attached to the relevant Terms of Reference, including:

a) Technical Proposal

The Technical Proposal shall be consistent with the Terms of Reference

c) Financial Proposal

The financial proposal must be prepared on the basis of the template presented in the Terms of Reference.

c) Supporting Documents

Prices in the Financial Proposal shall be all inclusive.

In preparing the Financial Proposal, the Tenderer should take into account that Frontex is, in general, exempt from all taxes and dues pursuant to the Protocol on the Privileges and Immunities of the European Union, annexed to the Treaty on the Functioning of the European Union¹.

The Contractor shall take the necessary steps in order to obtain, from the competent national authorities, exemption from VAT in respect of the services to be provided under the contract concluded with Frontex. Frontex may assist the Contractor by issuing "VAT and excise Duty Exemption Certificate" used for this purpose by the European Union.

Prices shall be quoted in Euro. If the Tenderer is subject to VAT (which is the case in Poland) and is required to pay that tax, the offer should clearly show the rate of VAT and the price excluding VAT, as indicated on the compulsory reply form.

Nevertheless, the VAT amount shall not be taken into consideration in the financial evaluation.

The Tenderer shall be also required to submit the fulfilled Legal Entity form and its necessary attachments.

III. EVALUATION OF OFFERS

Offers are opened and evaluated by duly designated Opening Board and Evaluation Committee, possessing the technical and administrative capacities necessary to give an informed opinion on the offers.

III.1 Offer opening session

The main aim of the non-public Opening Session is to check whether the offer received is compliant with the following formal requirements:

- a) Not submitted later than the submission deadline, and
- b) The envelope containing the offer is sealed.

The offer Opening Session shall take place on 13 June 2016 at 11:00 (Warsaw time) at the premises of Frontex, Plac Europejski 6. 00-844 Warsaw - Phone: +48 22 5449500. - Fax: +48 22 5449501. Tenderers wishing to attend the opening session shall send a confirmation e-mail or fax to the Procurement Sector (procurement@frontex.europa.eu , Fax: +48 22 5449501). A maximum of one representative per Tenderer may attend the Opening Session. Their participation shall be restricted to an observer's role.

III.2 Offer evaluation session

Offers complying with the formal requirements checked during the offer Opening Session shall be considered eligible and shall be evaluated.

The Evaluation Committee evaluates the technical proposal and awards a score against the award criteria as defined in the relevant - Technical Proposal document, attached to the respective Terms of Reference.

Then the Evaluation Committee proceeds with the financial evaluation, verifies the offers and proceeds with the final evaluation.

The Evaluation Committee's deliberations are held in closed sessions and its decisions are collective. The members of the Evaluation Committee are bound to secrecy.

III.3 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.

¹ OJ C 83, 30.03.2010, p.266 - 272).

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 IV - Tenderers Declaration of Honour).

In addition, the Tenderer which will be selected for the award of the contract shall provide in due time, preceding the signature of the contract, the evidence confirming the Declaration of Honour.

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.

III.4 Selection criteria

Each offer shall be verified against the criteria specified below. Incomplete Tenders 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).

III.4.1 Legal capacity

Requirement

A tenderer is asked to prove that they are authorised to perform the contract under the national law as evidenced by inclusion in a trade or professional register, or a sworn declaration or certificate, membership of a specific organisation, express authorisation or entry in the VAT register.

Evidence required

The tenderer shall provide a duly filled in and signed Legal Entity form (see the link below) accompanied by the documents requested therein.

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal-entities_en.cfm

III.4.2 Economic and financial capacity

The Tenderer shall provide evidence of its economic and financial capacity to perform the contract as follows:

- a) the Tenderer shall provide Frontex with its balance sheets for the past three financial years, on condition that the publication of balance sheets is stipulated by the legislation on firms in the country where the Tenderer is established;
- b) the Tenderer shall provide Frontex with a declaration of the total turnover carried out over the past three years; the 3-year sum must amount to minimum (equivalent of) 1 000,000.00 EUR

III.4.3 Technical and professional capacity

The Tenderer shall prove its technical and professional capacity to perform the contract. This capacity will be evaluated using the following criteria:

- a) Sufficient internal capacity in terms of qualified human resources, whose number must be minimum such as described in the Terms of reference, art. 8.1 item 17 and qualifications and experience must correspond to the requirements of Staff Profiles (items 18 to 24);
- b) Professional experience in the domain of the tender of minimum 3 years;
- c) Three confirmed references for successful projects completed by the Tenderer in the most recent 3 years for implementation of SP solutions for at least 100 users each
or
having developed software products dedicated to SP at the level of sales not lower than 250 000 EUR/year for the most recent 2 years.

The following documents or/and information shall be presented as evidence of compliance with the technical and professional capacity criteria listed above:

- a) The tenderer must be able to provide a team of consultants matching the requirements detailed in the relevant Terms of Reference document and its attachments. List of named personnel available for this FWC. For each offered persons there shall be attached the following documents: CV, Statement of Intent, Statement of Compliancy presented in forms displayed in appendixes to the TOR.

- b) A list and a brief description of recent activities (in the last 3 years) in the field of the tender, together with the list of contracts performed in the past three years, with sums, dates and recipients;
- c) The reference shall convey information about the number of users, technology used, dates of implementation and main functionalities.
The proof of sales is understood as self-declaration of the Tenderer signed by the authorized person which declares the sales of self-developed software for SP with the list of products and references to products descriptions.

Only the offers that meet the Selection Criteria shall pass to the next stage of the evaluation.

III.5 Award criteria

The award criteria serve to identify the most economically advantageous tender.

The quality of each offer will be evaluated in accordance with the award criteria and the associated weighting. No award criteria and sub-criteria others than those mentioned in the documentation attached to the relevant Terms of Reference will be used to evaluate the offer.

III.5.1 Technical evaluation

Each component of the Technical Proposal for the FWC from a specific Tenderer will be evaluated against the scoring method and evaluation criteria which is presented in the following table. The points earned for each component of the Technical Proposal will be summed up. The maximum number of points is 100. The minimum acceptable number of points earned from component Technical Proposals for the FWC is 50. Any Technical Proposal scored lower than this threshold will not be considered as eligible and will be rejected from further evaluation.

Component of Technical Proposal	Evaluation criteria	Maximum number of points
Description of Quality Assurance For Times and Means and Quoted Times and Means Specific Contracts	<p>Frontex will assess comprehensiveness and effectiveness of the proactive and reactive quality assurance measures for T&M and QT&M assignments, company experience in dealing with the practical challenges occurring in this type of assignments, how the proposed controls are systemic, mature and embedded into the Tenderer organization culture.</p> <p>Zero points will be assigned in case the offer does not demonstrate Tenderer practice or is limited to theoretical approach and reactive measures with no support embedded into the companies' processes.</p> <p>Maximum points for practical, proactive, systemic solutions embedded into company formal processes.</p>	20
3rd Level Support	<p>Frontex will assess the level of integration and harmonisation of 3rd Level Support with other levels of support, software development and HW maintenance activities in the context of multivendor environment.</p> <p>Frontex will assess the SLA targets.</p> <p>Zero points will be assigned to those proposal with SLA targets below the expected or support processes not taking into account the specificity of the technical and organizational environment at Frontex.</p> <p>Maximum points will be allocated to those proposal that offer higher SLA targets than required and align the processes to Frontex specificity.</p>	15
Approach to configuration management and testing	<p>Frontex will assess efficiency and effectiveness of the proposed configuration management and testing, its alignment to the technological constraints and the situation where multiple changes from multiple vendors may being developed simultaneously. Frontex will focus on keeping the solution being used by the users in perfect order so the faulty</p>	15

	<p>changes are not deployed and the applied changes do not degrade the working system.</p> <p>Zero points will be scored to these proposals that are not specific for the case, lack precision and control over the quality and lead to significant risk of failure, conflict of versions or cost of rework, or rolling back from production, or the proposals are not feasible in the technology applied or in the organization constraints of Frontex.</p> <p>The maximum points will be given to the proposals that offer comprehensive, reusable, easy to control, measure and interpret configuration management and tests specific for this case at low level of efforts for Frontex supported by practical examples.</p>	
Draft BRD/SRS for the Hypothetical Scenario	<p>Frontex will assess the degree of ability to manage the requirements in order to fulfil the project goals, fit for purpose of the end product and support the development and maintenance processes on the practical case of the hypothetical scenario. Compliancy to the user requirements, ability to support the design-development-testing process in the specific Frontex environment, ability to be applied by business users and technical staff.</p> <p>Zero points will be assigned to proposals which don't provide added value to the requirements specification already presented in this TOR or not compliant with these requirements.</p> <p>Maximum points will be scored to the proposals which is compliant with the requirements and support the design-development-testing processes in specific Frontex environment in the practical and effective way while assuring good communication between business and technical stakeholders.</p>	15
Draft TDD for the Hypothetical Scenario	<p>Frontex will assess the solution proposed for the hypothetical scenario and the TDD document itself for its use in development and maintenance.</p> <p>Zero points will be assigned to offers which do not implement the requirements or the presented TDD does not work for its role.</p> <p>Maximum points will be granted to the proposals which design the solution meeting the requirements, which are compliant with the best practices for MS SharePoint 2013, which integrates and reuse the concepts and components of the platform, which can be applied, deployed and managed in various sites for various purposes and which is presented in concise, precise and communicative way that can be updated along the developments easily.</p>	15
Project Master Schedule for the Hypothetical Scenario	<p>Frontex will assess the offered time for delivery of the solution and the compliancy of the presented schedule to the requirements.</p> <p>Zero points will be assigned to the proposals which do not meet the requirements for the schedule</p> <p>Maximum points will be given to the proposals which offer the shortest delivery time and the schedule meeting the requirements.</p> <p>Other offer will be scored by the fraction of maximum score equal the proportion of the shortest delivery time with the actual delivery time.</p>	10
Description of risks and mitigations for the Hypothetical Scenario	<p>Frontex will assess the Tenderers ability to identify risks for the hypothetical scenario and offer effective counter measures.</p> <p>Zero points will be granted to proposals which recognize only the theoretical risks and not effective or efficient countermeasures.</p> <p>Maximum points will be scored to the proposals which focus on very practical risks for this assignment and propose effective yet efficient countermeasures.</p>	10
	Maximum Technical Score	100

The technical score shall be calculated on the basis of the sum of the award points received in relation to the components of the technical proposal as above and then the individual technical scores shall be calculated for each tender based on the following formula:

Total technical score of the evaluated tender

Technical score = -----

The highest technical score earned in the tender

III.5.2. Financial Evaluation

Financial evaluation shall be conducted on the basis of the Financial Proposals. The final financial score shall be calculated on the basis of the Reference Prices defined in chapter **Error! Reference source not found..** of the TOR. The following formula will be used to score offers:

$$\text{Financial Score} = \frac{\text{Lowest REFERENCE PRICE of an eligible offer}}{\text{REFERENCE PRICE of the evaluated offer}}$$

III.5.3. Final Evaluation

The most economically advantageous offers are established by weighting technical quality against price on 60/40 basis. It shall be established by the application of the following formula:

$$\text{Final Score} = 60 \times \text{Technical score} + 40 \times \text{Financial score}$$

The Contract as a result of the competition will be awarded to the maximum 3 Tenderers who submitted offers with the highest Final Scores.

III.6 Assessment of joint tenders and tenders involving sub-contracting

Joint tenders shall be assessed as follows:

- a) The exclusion criteria and the selection criteria for economic and financial capacity shall be assessed in relation to each company individually.²
- b) The selection criteria for technical and professional capacity shall be assessed in relation to the combined capacities of all members of the consortium, as a whole.
- c) The award criteria shall be assessed in relation to the tender, irrespective of whether it has been submitted by a single legal or natural person or by a tendering group.

Joint offers in the stage following the award:

If the Tenderer submits a joint offer but has not yet set up an entity with a legal form, and if he is awarded the contract, the contracting authority may require the Tenderer to give a formal status to his collaboration before the contract is signed, if this change is necessary for proper performance of the contract. This can take the form of an entity with or without legal personality but offering sufficient protection of Frontex contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

The contract shall be signed by all members of the group, or by one of the members, which has been duly authorised by the other members of the group (a power of attorney or sufficient authorisation has to be provided and shall be attached to the contract), when the Tenderers have not formed a legal entity.

Tenders involving subcontracting shall be assessed as follows:

² For the criteria that are deemed to be achieved above a certain level, e.g. overall turnover or turnover with the respect to the specific procurement, a consolidated assessment of all members of consortium together shall be made.

- a) The exclusion criteria and the selection criteria for economic and financial capacity shall be assessed in relation to each company individually³.
- b) The selection criteria for technical and professional capacity shall be assessed in relation to the combined capacities of the Tenderer and the subcontractor, as a whole, to the extent that the subcontractor puts its resources at the disposal of the Tenderer for the performance of the contract.
- c) The awarding criteria shall be assessed in relation to the tender. Subcontracting as such cannot be an awarding criterion.

³ For the criteria that are deemed to be achieved above a certain level, e.g. overall turnover or turnover with the respect to the specific procurement, a consolidated assessment of a Tenderer plus subcontractor together shall be made, to the extent that the subcontractor puts its resources at the disposal of the Tenderer for the performance of the contract..