

Framework Contract for provision of interpretation services

Tender Specifications

Annex I to invitation to tender no

Frontex/OP/76/2019/MS

I. GENERAL INFORMATION

I.1 General Information on Frontex

The European Border and Coast Guard Agency - Frontex (hereinafter referred to as “Frontex”) was established by the Council Regulation (EC) Regulation (EU) 2016/1624 with a view to improve the integrated management of the external borders of the Member States of the European Union.

Further information about Frontex can be found on the Agency’s web site www.frontex.europa.eu.

I.2 Procurement procedures

For its fast growing organisation 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: Title VII of Regulation (EU, Euratom) 2018/1046 on the financial rules applicable to the general budget of the Union (Financial Regulation), repealing Regulation (EU, Euratom) No 966/2012 and Annex I to the same regulation.

I.3 Eligibility

Participation in this call for tenders is open on equal terms to all natural and legal persons coming within the scope of the Treaties, as well as to international organisations.

It is also open to all natural and legal persons established in a third country which has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement, including the following:

- Under the Stabilisation and Association Agreements (SAA) economic operators established in FYROM, Albania, Montenegro, Serbia, Bosnia and Herzegovina and Kosovo have been granted access to procurement procedures of the Union institutions, agencies and bodies regardless of the value of the purchase.
- Under the EEA Agreement, economic operators established in Iceland, Norway and Liechtenstein have full access to procurement procedures of the Union institutions, agencies and bodies regardless of the value of the purchase.

The rules on access to procurement do not apply to subcontractors. Subcontracting may not be used with the intent to circumvent the rules on access to procurement.

For tenderers established in the United Kingdom:

Please be aware that after the UK’s withdrawal from the EU, the rules of access to EU procurement procedures of economic operators established in third countries will apply to tenderers from the UK depending on the terms of any Withdrawal Agreement. In case such access is not provided by legal provisions in force tenderers from the UK could be rejected from the procurement procedure.

Participation is open to all natural and legal persons as defined above, 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, shall be subject to the financial penalties set out in Article 135 and 138 of the above mentioned Regulation No 2018/1046.

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 tender 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) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC;
- 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.

For the purpose of performing the services the Contractor and its staff engaged in the implementation of the contract will be required to sign the Declaration of Confidentiality (*Annex VII*).

II. SPECIFIC INFORMATION

II.1. Scope and contractual information

II.1.1 Scope of contract

The subject of the contract is provision of simultaneous and consecutive interpretation services together with rental of necessary equipment related to the interpretation services as described in Terms of reference (Annex II).

II.1.2 Contractual information

Frontex will conclude a framework service contract with the selected candidate on the basis of the draft contract included in Annex III to the Invitation to tender.

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

II.1.3 Duration of the contract

The duration of the contract is 12 months with the possibility to prolong it maximum three times, each time for a period of 12 months 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.1.4 Volume of the contract

The maximum value (excluding VAT) estimated for the whole duration of the framework contract is EUR 700,000.00.

Frontex reserves the right to conduct negotiated procedure without prior publication of a contract notice based on point 11.1 (e) of the Annex I to Financial Regulation to increase the ceiling, if such a need occurs.

II.1.5 Site visit

On-site visit in order to get acquainted with the venue and with Frontex equipment is foreseen in Frontex premises on **09/07/2019 at 10.00 Warsaw local time**. Representatives of the Tenderers can participate - limited to maximum two persons per Tenderer. The names of representatives must be communicated to Frontex by e-mail to procurement@frontex.europa.eu till on 05/07/2019 at 15.00 the latest.

II.2. Form and content of the tender

II.2.1 Documents to be included in the offer

The tender shall be clear and concise, with continuous page numbering, and assembled so as to constitute a coherent whole.

The tender shall include all the information and documents required by Frontex for the appraisal 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.

a) Technical Proposal

The Technical Proposal shall be consistent with the Terms of Reference and shall confirm that the Tenderer meets all requirements stipulated there.

b) Financial proposal

Financial proposal shall be submitted using the form in Annex IV. Prices shall be indicated in Euro, net amount (excluding VAT) and be all inclusive, i.e. include all costs aligned with the services/supplies.

Total reference price will be calculated on the basis of price factor reflecting the current needs for each of the services. For example, price for provision of interpretation in EN, FR, DE, IT and ES have the highest price factor as the most frequently needed languages. However, the price factor should not be regarded as the binding information for the prospective contract since the needs may change during the contract execution.

The correctness of the calculation of reference price will be verified by Frontex.

In preparing the Financial Proposal, the Tenderer should take into account that Frontex is, in general, exempt from all taxes and dues, including VAT, pursuant to the Protocol on the Privileges and Immunities of the European Union, annexed to the Treaty on the Functioning of the European Union. Therefore, VAT will not be taken into account in evaluation of offers.

The Contractor, if established outside of Poland, 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 will assist the Contractor by issuing "VAT and excise Duty Exemption Certificate - 1510 form" used for this purpose by the European Union.

c) Supporting documentation

The supporting documentation is an important part of the offer and shall be complete to guarantee that the technical proposal shall be evaluated. The supporting documentation shall contain the following elements:

1. Tenderer's Declaration of Honour (Annex V),
2. Tender Submission Form - duly filled and signed by the authorised representative of the Tenderer (Annex VI),
3. Documents confirming fulfilment of legal, economic and financial, and technical and professional capacities as requested in points III.4.1, III.4.2 and III.4.3.

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 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 **31/07/2019 at 11:00 (Warsaw time)** at the premises of Frontex, Plac Europejski 6, 00-844 Warsaw. 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 22 205 9501). 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 will be evaluated against the following criteria:

- a) Exclusion criteria
- b) Selection criteria
- c) Award criteria

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

Tenderers or in case of consortium all members of consortium (as well as all subcontractors) will declare on their honor, by completing and signing Annex V that they are not in any of the situations excluding them from the participation in this tender. 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 fulfilment of the Exclusion Criteria, as requested by the contracting authority.

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 email (normally these are to be submitted within 48 hours following the request).

III.4.1 Legal capacity

The tenderer is asked to prove that is authorised to perform the contract under the national law.

Evidence of that must be provided by:

- the document confirming that the Tenderer is already established as a recognised legal entity and is registered in a relevant professional or trade register.

III.4.2 Economic and financial capacity

The tenderer shall provide evidence of its sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract.

Evidence of that must be provided by:

- free-format declaration of the turnover on the services specified in the contract carried out over the past three financial years. The annual turnover shall be at least (equivalent of) 250,000.00 EUR for each year: 2016, 2017 and 2018.

The obligation of a tenderer to submit the documentary evidence referred to in this point is waived for a particular year if such evidence has already been submitted to Frontex for that year for the purposes of another procurement procedure and still complies with requirements of this point. The tenderer is in such cases obliged to indicate the reference number of that procurement procedure.

Frontex reserves the right to request any additional documentary evidence it deems necessary or useful in order to verify a tenderer's economic and financial standing.

III.4.3 Technical and professional capacity

The technical and professional capacity shall be evaluated and verified in accordance with the following elements:

A. Criteria relating to tenderers

- 1) The tenderer must have proven experience as provider of interpretation services of a minimum of 3 years as well as possess the human and technical resources capacity.

Evidence of that must be provided by:

- a brief description of the company's profile,
 - a list of the principal interpretation services organised and provided in the past three years, with the value of contracts (if possible to disclose due to the confidentiality agreements), dates and client's names, public or private;
 - a free format confirmation of availability of the technical equipment needed for simultaneous interpretation. In case of rental it must be confirmed by the statement from a company from which the equipment will be rented (as it will constitute subcontracting).
- 2) The tenderer must have the following minimum company's experience: organisation of at least 8 events that entailed simultaneous interpretation in at least 3 European languages, for at least 30 participants in the last 3 years.

Evidence of that must be provided by:

- a list of at least 8 events that entailed simultaneous interpretation in the last 3 years, stating the type of event, number of participants and languages concerned.
- at least 5 reference letters issued by former clients from the above list stating the type of event, number of participants, languages concerned and confirming good quality of the services provided,

B. Criteria relating to the team performing the contract:

The following minimum requirements must be met by each proposed interpreter:

- 1) a level of education which corresponds to completed university studies of at least 3 years attested by a diploma;
- 2) native-level fluency in the language for which this person is proposed and the other language relevant for the interpretation (target and source languages, may be via relay) evidenced by bachelor degree and/or master degree and/or other completed studies/formal course in interpreting/or/linguistic attested by diploma or certificate;
- 3) appropriate qualification in interpreting - certificates and/or diplomas in interpreting issued by recognised institutions;
- 4) professional experience of at least 2 years in provision of simultaneous interpretation services;
- 5) experience in providing simultaneous interpretation in the language he/she is proposed for during at least 8 high-level meetings of a similar scale to the Frontex Management Board Meetings (interpretation of 11 languages provided to approx. 90 high-level participants) during the last three years;
- 6) proven experience in interpretation of such topics as immigration, border management, security and foreign affairs presented by a list of topics dealt with.

Evidence of that must be provided by:

- CVs of at least three interpreters for the following languages: English, Italian, Spanish, French and German, and CVs of at least one interpreter for all other languages listed in Annex IV - Financial Offer;
- CVs must include all the information confirming the fulfilment of the requirements listed above and must be presented in the Europass CV format available under this link: <https://europass.cedefop.europa.eu/editors/en/cv/compose>
- Statement of intent (Annex VII) signed by each interpreter proposed

Only offers meeting the Selection Criteria will pass to the next stage of the evaluation.

III.5 Award criteria

Once the tenderer has demonstrated the appropriate capacity to perform the contract on the grounds of the selection criteria, the offer should be assessed on the basis of the award criteria.

The contract will be awarded to the tenderer meeting all the exclusion and selection criteria and offering the lowest total reference price.

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

III.6.1 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 (*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*)
- 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 as an annex), when the Tenderers have not formed a legal entity.

III.6.2 Tenders involving subcontracting 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 (*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*)
- 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 award criteria shall be assessed in relation to the tender. Subcontracting as such cannot be an award criterion.

Other annexes:

Annex II - Terms of Reference

Annex III - Draft contract

Annex IV - Financial offer template

Annex V - Declaration on honour concerning exclusion criteria

Annex VI - Tender submission form

Annex VII - Statement of intent