

Annex I to the Invitation to Tender

Frontex/OP/677/2017/AG

Tender Specifications

Maintenance Contract for HP/Cisco Equipment

1. Information on tendering	3
1.1. General information	3
1.1.1. Participation in the tender procedure	3
1.1.2. Cost of preparing tenders	4
1.1.3. Misrepresentation and corruptive practices	4
1.1.4. Confidentiality and public access to documents	4
1.1.5. Content of the tender	4
1.2. Specific information	5
1.2.1. Scope of the contract	5
1.2.2. Duration and type of the contract	5
2. Evaluation of offers	6
2.1. Evaluation steps	6
2.2. Exclusion criteria	6
2.3. Selection criteria	6
2.3.1. Legal capacity	6
2.3.2. Economic and financial capacity	7
2.3.3. Technical and professional capacity	7
3. Award criteria	8
3.1. Award criteria	8
3.1.1. Technical evaluation	Error! Bookmark not defined.
3.1.2. Final evaluation	Error! Bookmark not defined.
3.2. No obligation to award	8
3.3. Notification of outcome	8
3.4. Assessment of joint tenders and tenders involving subcontracting	8

1. Information on tendering

1.1. General information

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

- to ensure process transparency;
- to obtain the desired quality of services at the best possible price.

The procurement procedure is governed by the following legal provisions:

- Part 1, Title 5 of Regulation (EU, Euratom) No 966/2012 of 25 October 2012 (with all amendments) on the financial rules applicable to the general budget of the Union;
- Part 1, Title 5 of Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 (with all amendments) on the rules of application of Regulation (EU, Euratom) No 966/2012 of 25 October 2012 on the financial rules applicable to the general budget of the Union.

1.1.1. Participation in the tender procedure

This procurement procedure is open to the natural or legal person wishing to bid for the assignment and established in the EU, EEA and SAC countries.

Any attempt by a tenderer 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 will lead to the rejection of his tender and may result in administrative 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 of their companies 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 Commission Delegated Regulation (EU) No 1268/2012 of 29/10/2012 (OJ L 362 of 31/12/2012), as last amended.

1.1.1.1. Participation of consortia

A consortium may submit a tender under the condition that it complies with the rules of competition.

A consortium may be a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure. Such grouping (or consortium) must specify the company or person heading the project (the leader) and must also submit a copy of the document authorising this company or person to submit a tender. All members of a consortium (i.e. the leader and all other members) are jointly and severally liable to Frontex.

In addition, each member of the consortium must provide the required evidence for the exclusion and selection criteria (see # 2.2. Exclusion criteria and # 2.3. Selection criteria below). Concerning the selection criteria 'technical and professional capacity', the evidence provided by each member of the consortium will be checked to ensure that the consortium as a whole fulfils the criteria.

The participation of an ineligible entity (i.e. the entity established outside the EU, EEA and SAC countries) will result in the automatic exclusion of that entity. In particular, if that ineligible entity belongs to a consortium, the whole consortium will be excluded.

1.1.1.2. Subcontracting

Subcontracting is permitted in the tender but the tenderer will retain full liability towards Frontex for performance of the contract as a whole and clearly indicates in the tender which parts of the work will be subcontracted and to which subcontractor. The bid shall also include:

- (i) A document signed by the contractor stating clearly the identity, roles, activities and responsibilities of subcontractor(s) and specifying the volume/proportion for each subcontractor;
- (ii) A letter of intent by each subcontractor stating its unambiguous undertaking to collaborate with the tenderer if it wins the contract and the extent of the resources that it will put at the tenderer's disposal for the performance of the contract.
- (iii) A document signed by the subcontractor regarding its compliance to the exclusion criteria.

Subcontractors must satisfy the eligibility and exclusion criteria applicable to the award of the contract. Subcontractors may be entities established outside the EU, EEA and SAC countries.

1.1.2. 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 in the preparation and submission of a tender. Any such costs must be paid by the tenderer.

1.1.3. 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 such Tenderers' offers and may result in administrative penalties.

1.1.4. 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) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- b) 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;
- c) 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.

1.1.5. 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.). Since Tenderers will also be judged on the content of their written offers, these must clearly state that the Tenderer is able to fully meet all the requirements of the Terms of Reference and is capable of carrying out the work foreseen.

The tender shall include all the information and documents required by Frontex for the appraisal of tenders on the basis of the exclusion, selection and award criteria, and in accordance with these specifications, in the absence of which, Frontex may decide to reject the tender from the award procedure for the contract.

In drawing up a tender, tenderers should bear in mind the provisions of the draft Contract (see Annex VI to the invitation to tender) which specifies the rights and obligations of the contractor, particularly those on payments, performance of the contract, confidentiality, and checks and audits. By agreeing to the Special Conditions and General Conditions of the draft Contract, the Contractor waives his own or all other terms of sale or performance of services and accepts fully the contractual conditions as

specified in the Frontex' contract templates. Imposing own contractual conditions by a Tenderer will result in the rejection of his offer.

The offer shall include the following documents:

(i) Technical Proposal

The Technical Proposal shall:

- be consistent with the Terms of Reference (Annex II to the invitation to tender) so that Frontex is able to evaluate the quality of the offers;
- contain clear and concise description of the services tendered.

The assessment of technical quality to enter into this contract with Frontex will be based on the ability of the tenderer to meet the purpose of the contract as described in the Terms of References.

The technical proposal must be consistent with the Terms of Reference and must be signed by the tenderer.

(ii) Financial offer

The Financial offer shall be prepared in accordance with the template provided in Annex III. The form shall be completed, dated and signed by the legal representative of the Tenderer. Prices shall be quoted in EUR and shall be expressed without VAT and any other taxes, if applicable.

When preparing the Financial Proposal, the Tenderers 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 Communities annexed to the Treaty, signed in Brussels on 8 April 1965 (OJ no. 152 of 13 July 1967), establishing a Single Council and a Single Commission of the European Communities.

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 Community.

(iii) Supporting documentation

The supporting documentation is an important part of the offer and shall be completed to guarantee that the technical proposal shall be evaluated.

The supporting documentation shall contain:

- Tenderer's Declaration of Honour - duly filled and signed by the authorized representative of the Tenderer (Annex IV);
- Tender Submission Form (Annex V);
- Selection Criteria documentation (all documentation requested in # 2.3).

1.2. Specific information

1.2.1. Scope of the contract

The scope of the tender is defined in Annex II - Terms of Reference.

1.2.2. Duration and type of the contract

The service contract is expected to be concluded for a period of 12 months, starting in the second half of January 2018, with the 2 extensions possible (each time for 12 months).

2. Evaluation of offers

2.1. Evaluation steps

Offers are opened and evaluated by an evaluation committee, possessing the technical and administrative capacities necessary to give an informed opinion on the offers. The evaluation committee members are nominated on a personal basis by Frontex under guarantee of impartiality and confidentiality.

The evaluation is based on the information provided in the submitted tender. It takes place in three steps:

- (i) Verification of non-exclusion of tenderers on the basis of the exclusion criteria;
- (ii) Selection of tenderers on the basis of selection criteria;
- (iii) Evaluation of tenders on the basis of the award criterion.

Only the offers meeting the requirements of the exclusion and selection criteria will be evaluated in terms of quality and price.

2.2. Exclusion criteria

In line with the Regulation (EU, Euratom) No 966/2012 of 25 October 2012 (with all amendments) on the financial rules applicable to the general budget of the Union, Tenderers shall be excluded from participation in a procurement procedure if they are in any of the situations as described therein.

In order to fulfil the eligibility criteria, the Tenderer or in case of consortium all members of consortium (and also all subcontractors, if applicable) shall provide within their bids the European Single Procurement Document (ESPD) or, as long as the ESPD is not available for EU institutions, a declaration on their honour, duly signed and dated stating that they are not in one of the situations referred the above (Annex IV - Tenderer's Declaration of Honour).

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.

2.3. Selection criteria

Tenderers must submit evidence of their legal, economic, financial, technical and professional capacity to perform the contract. Tenders, which are incomplete, will be rejected. However, Frontex may request that missing formal documents are submitted by e-mail. Normally these are to be submitted within 48 hours following the request. Lack of answer within the given deadline from the company to which the clarification e-mail was addressed, or negative assessment of the answer by the Evaluation Committee, may result in rejection of the offer from further proceeding.

2.3.1. Legal capacity

Requirement

The tenderer's legal capacity will be evaluated using the following criteria:

- A tenderer is asked to prove that is authorised to perform the contract under its national law.

Evidence required

- The Tenderer must be registered in a relevant commercial or trade register. Evidence of that must be provided by submission of a certificate of professional or commercial registration imposed by the country in which the Tenderer is established. If the Tenderer is not required or permitted to enrol in such a register for reasons of his statute or legal status, an explanation should be provided.

2.3.2. Economic and financial capacity

Requirement

The tenderer's economic and financial capacity will be evaluated using the following criteria:

- The tenderer must be in a stable financial position and have the economic and financial capacity to perform the contract.

Evidence required

Proof of economic and financial capacity shall be furnished by the following documents:

- The Tenderer must prove its financial reliability for the past two financial years: 2015, 2016. Evidence of that must be provided by submission of relevant balance sheets (provided that the publication of balance sheets is stipulated by the legislation on firms in the country where the Tenderer is established). If the Tenderer is not required to publish its balance sheets, an explanation should be provided.

2.3.3. Technical and professional capacity

Requirements

The tenderer's technical and professional capacity will be evaluated using the following criteria:

- The Tenderer must have at least one year of proven experience in providing similar services.
- The Tenderer must demonstrate its technical ability to provide all the services and products required in this call for tenders.

Evidence required

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

- Evidence of experience must be provided by submitting a list of contracts performed or deliveries executed in the two last years (2015-2016 or 2016-2017), indicating sums, dates and recipients. At least one reference letter should be provided, confirming performance of at least one contract from the list (letter must be issued and signed by the authorised person of the particular Tenderer's client). The required reference letter should contain a brief description of the referenced projects.
- Evidence of the technical ability must be provided by submission of a list of services which the tenderer can provide directly as well as a list of services which the Tenderer intends to subcontract (if applicable, with indication of the share of the prospective contract scope by proposed subcontractors).

3. Award criteria

3.1. Award criteria

Offers are opened and evaluated by an evaluation committee, possessing the technical and administrative capacities necessary to give an informed opinion on the offers. The evaluation committee members are nominated on a personal basis by Frontex under guarantee of impartiality and confidentiality. Only the tenders meeting the requirements of the exclusion and selection criteria will be evaluated in terms of quond price.

The evaluation of the award criteria will be conducted in accordance with the following principle:

Price is the only award criterion. The most economically advantageous offers is to be awarded under the condition that the selection criteria and other Frontex requirements are met.

3.2. No obligation to award

Completing the procedure of the call for tenders in no way imposes on Frontex an obligation to award the contract. Frontex shall not be liable for any compensation with respect to tenderers whose offers have not been accepted, nor shall Frontex be liable when deciding not to award the contract.

3.3. Notification of outcome

Each tenderer will be informed in writing about the outcome of this call for tender.

3.4. Assessment of joint tenders and tenders involving subcontracting

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;
- 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 criterion 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.

Tenders involving subcontracting shall be assessed as follows:

¹ 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.

- d) The exclusion criteria and the selection criteria for economic and financial capacity shall be assessed in relation to each company individually².
- e) 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.

The award criterion shall be assessed in relation to the tender. Subcontracting as such cannot be an award criterion.

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 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..