

Warsaw, 7 October 2021  
Our ref: Frontex/2021/OP/597/AH  
Please quote when replying.

**Subject: Invitation to the Open Tender procedure No.: Frontex/2021/OP/597/AH**

Dear Sir/Madam,

1. The European Border and Coast Guard Agency, hereinafter referred to as “Frontex”, being contracting authority is planning to award the public contract referred above.
2. Please be informed that Frontex is an autonomous EU Agency with own legal personality and has therefore its own Financial Regulation - see following Website:

[https://frontex.europa.eu/assets/Key\\_Documents/MB\\_Decision/2019/MB\\_Decision\\_19\\_2019\\_ad\\_opting\\_the\\_Frontex\\_Financial\\_Regulation\\_002.pdf](https://frontex.europa.eu/assets/Key_Documents/MB_Decision/2019/MB_Decision_19_2019_ad_opting_the_Frontex_Financial_Regulation_002.pdf)

In accordance with Article 85 of this Regulation the relevant provisions of the EU general Financial Regulation (2018/1046) shall apply, subject to exceptions provided for in Article 86 of the Frontex Financial regulation. For further details please see the following Website:

<https://publications.europa.eu/en/publication-detail/-/publication/e9488da5-d66f-11e8-9424-01aa75ed71a1/language-en/format-PDF/source-86606884>

3. Please find the related annexes, including tender specifications and the draft contract at the following TED e-Tendering website<sup>1</sup>:

<https://etendering.ted.europa.eu/cft/cft-display.html?cftId=9468>

Economic operators interested in this contract are invited to submit a tender in one of the official languages of the European Union (preferably in English).

4. Your offer must be submitted as follows:

Tenders must be submitted exclusively via the electronic submission system (e-Submission) available from the above website<sup>2</sup> and accessible on the Funding and Tenders Opportunities portal (F&T portal)<sup>3</sup>. Tenders submitted in any other way (e.g. e-mail or by letter) will be disregarded.

In order to submit a tender using e-Submission, economic operators (each member of the group in the case of a joint tender) will need to register in the European Commission's [Participant Register](#) - an

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<sup>1</sup> Subscription to the call for tender at the above link allows interested economic operators to receive e-mail notifications when new information or documents are published. Subscription is free of charge and does not involve any commitment to submit a tender.

<sup>2</sup> For detailed instructions on how to submit a tender please consult the e-Submission Quick Guide available at: [https://webgate.ec.europa.eu/digit/opsys/esubmission/assets/documents/manual/quickGuide\\_en.pdf](https://webgate.ec.europa.eu/digit/opsys/esubmission/assets/documents/manual/quickGuide_en.pdf).

The supported browsers, file types, size of attachments and other system requirements can be consulted at: <https://webgate.ec.europa.eu/fpfs/wikis/x/f6dqEg>. In case of technical problems, please contact the e-Submission Helpdesk (see contact details in the e-Submission Quick Guide) as soon as possible.

<sup>3</sup> <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home>

online register of organisations participating in EU calls for tenders or proposals. On registering each organisation obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the above register. Instructions on how to create a PIC can be found on this [page](#). Economic operators already registered in the Participant Register shall reuse their existing PICs when preparing tenders in e-Submission.

**The deadline for receipt of tenders is 15/11/2021, at 16:00 hrs**, as indicated under Heading IV.2.2 of the contract notice where local time shall be understood as a Warsaw, Poland local time. The time-limit is published also on the above TED eTendering website which sends notifications to subscribed users when the call for tenders' data is modified.

**To avoid any complications with regard to late receipt/non-receipt of tenders within the deadline, please allow yourself sufficient time to submit your tender. We strongly recommend not to wait until the very last moment.**

A tender received after the time-limit for receipt of tenders will be rejected. The submission receipt provided by e-Submission with the official date and time of receipt of the submission (timestamp) constitutes proof of compliance with the time-limit for receipt of tenders<sup>4</sup>.

Please note that it is not possible to submit a tender through eSubmission after the time-limit for receipt of tenders indicated in the contract notice and/or the TED eTendering website. To ensure tenders are submitted on time, tenderers are invited to get familiar with the system and the system requirements, in particular the accepted file formats<sup>Error! Bookmark not defined.</sup>, well in advance.

Tenderers must ensure that their submitted tenders contain all the information and documents required by the contracting authority at the time of submission as set out in the procurement documents.

The following documents shall be dated and signed, either by hand or by applying an advanced electronic signature based on a qualified certificate, by an authorised representative of the signatory:

- Declaration(s) on honour (Annex V),
- Tenderer's submission form (Annex VI),

When the declaration(s) on honour and/or Tenderer's submission form are signed by hand, a scanned copy must be attached to the tender in e-Submission. The hand-signed original(s) must be sent by letter to the contracting authority's postal address specified under Section I.1 of the contract notice at the latest on the first working day following the electronic submission of tender. The envelope, clearly mentioning the reference to the call for tenders and the eSubmission ID of the tender must be marked as "CALL FOR TENDERS - NOT TO BE OPENED BY THE INTERNAL MAIL DEPARTMENT". Only the original(s) of the Declaration on Honour are to be sent by letter, not other documents.

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<sup>4</sup> If no submission receipt is received in reasonable time after submission, please contact the e-Submission Helpdesk (see contact details in the above referred e-Submission Quick Guide) as soon as possible.

After submitting a tender, but before the deadline for receipt of tenders, a tenderer may definitively withdraw its tender<sup>5</sup>, or withdraw it and replace it with a new one<sup>6</sup>. A withdrawal receipt will be provided by e-Submission as proof of withdrawal.

All costs incurred for the preparation and submission of tenders are to be borne by the tenderers and will not be reimbursed.

5. The tender specifications, listing all the documents that must be produced in order to submit a tender, including supporting evidence of economic, financial, technical and professional capacity and the draft contract, are attached.
7. The period of validity of the tender during which the Tenderer may not modify the terms of his tender in any respect is 4 months after the the deadline for receipt of tenders, as indicated under Heading IV.2.6 of the contract notice.
8. The submission of a tender implies the acceptance of all the terms and conditions set out in this invitation to tender including all attachments (in particular in the tender specifications, Terms of Reference, draft contract etc.) and, where appropriate, waiver of the Tenderer's own general or specific terms and conditions. Tenders containing any reservations or constrains or assumptions will not be evaluated. In case of doubts, please make use of the possibility defined below in point 9a). The submitted tender is binding on the tenderer to whom the contract is awarded for the duration of the contract.
9. Contacts between the Frontex and Tenderers are prohibited throughout the procedure save in exceptional circumstances and under the following conditions only:

Submission phase (before the deadline for receipt of tenders):

- a) At the request of the Tenderer, Frontex may provide additional information solely for the purpose of clarifying the the procurement documents. Any requests for such additional information must be made **electronically only** via TED e-Tendering platform using the link mentioned in point 3 of this invitation, in the questions and answers tab by clicking on "create a question". Registration on TED e-Tendering is required to be able to create and submit a question
- b) The contracting authority is not bound to reply to requests for additional information received less than six working<sup>7</sup> days before the time-limit for receipt of tenders
- c) Frontex may, may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other type of clerical error in the text of the procurement documents.
- d) All additional information including that referred to above will be published in the same way the procedure has been published via TED e-Tendering platform (see provisions of the relevant Contract Notice above).

The website will be updated regularly therefore please visit TED e-Tendering platform regularly while preparing the tender; it is Tenderer's responsibility to check for updates and modifications during the submission period.

After the opening of tenders:

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<sup>5</sup> A submitted tender can be withdrawn directly in the "Procurement/My Submission(s)" area in the F&T Portal. For detailed instructions on how to withdraw a tender please consult the above referred e-Submission Quick Guide.

<sup>6</sup> To submit a new version, the tenderer must create a new tender in e-Submission and include all the information and documents required in the procurement documents with the submission of a tender, even if some of them have already been included in the replaced tender.

<sup>7</sup> Working days at the contracting authority's location indicated under Heading I.1 of the contract notice.

If any clarification is required or if obvious clerical error(s) made by the Tenderer in the tender need(s) to be corrected, Frontex may contact the Tenderer provided that the terms of the tender are not modified as a result.

10. This invitation to tender is in no way binding on Frontex. Frontex's contractual obligations commence only upon signature of the contract with the successful Tenderer.

Up to the point of signature of the contract, Frontex may decide to cancel the procurement procedure, without the Candidates or Tenderers being entitled to claim any compensation. The decision will be substantiated and the Candidates or Tenderers notified.

11. A public opening session will take place on **16/11/2021, at 11:00 hrs** at Frontex premises at Plac Europejski 6 in Warsaw, Poland. Tenderer's representatives are welcome. Please inform Frontex via e-mail: [procurement@frontex.europa.eu](mailto:procurement@frontex.europa.eu) about your planned participation.
12. Once Frontex has opened the tenders, they shall become its property and will be treated confidentially.
13. You will be notified whether or not your tender has been accepted. The notification will be sent to the e-mail address provided in the e-Submission application for the Tenderer (group leader in case of a joint tender) under the section *Tender Contact Info*. The same e-mail address will be used by Frontex for all other communications with the Tenderer. It is the Tenderer's responsibility to provide a valid e-mail address and to check it regularly.
14. If your offer includes subcontracting, it is recommended that contractual arrangements with subcontractors include mediation as a method of dispute resolution.
15. If processing your reply to the invitation to tender will involve the recording and processing of personal data (for instance - your name, address or CV), such data will be processed pursuant to 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<sup>8</sup>. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate your tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by Frontex Procurement Sector. You are informed that for the purposes of safeguarding the financial interests of the Union, your personal data may be processed by the internal audit service or transferred to Internal Audit Service of the European Commission, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF). You are entitled to obtain access to your personal data on request and to rectify any such data that is inaccurate or incomplete. If you have any queries concerning the processing of your personal data during the procurement procedure, you may address them to the Frontex Procurement Sector. You have the right of recourse at any time to the European Data Protection Supervisor for matters relating to the processing of your personal data.
16. Your personal data may be registered in the Early Detection and Exclusion System (EDES) if you are in one of the situations mentioned in Article 136 of the Financial Regulation (2018/1046).
17. Means of redress.

Tenderers may submit any observations concerning the procurement procedure to the contracting authority using the contact details under Section I.1 of the contract notice. If tenderers believe that there is maladministration, they may lodge a complaint to the European Ombudsman within two years of the date from which they become aware of the facts which form the basis for the complaint (see <https://www.ombudsman.europa.eu>).

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<sup>8</sup> OJ L 295, 21.11.2018

Within two months of notification of the outcome of the procedure (*award decision*), tenderers may launch an action for its annulment. Any request tenderers may make and any reply from the contracting authority, or any complaint for maladministration, will have neither the purpose nor the effect of suspending the time-limit for launching an action for annulment nor open a new period for launching an action for annulment. The body responsible for hearing annulment procedures is indicated under Section VI.4.1 of the contract notice.

Yours faithfully,

[signed]

Dirk Vande Ryse  
Authorising Officer

Annexes:

*Annex I - Tender Specifications*

*Annex II - Terms of Reference*

*Annex III - Draft contract*

*Annex IV - Financial Proposal*

*Annex V - Declaration of Honour*

*Annex VI - Tender submission form*

*Annex VII - Model Power of Attorney and Statement of Intent*