



Annex I

Information to Candidates

Satellite Radio Frequency Emitter Detection for Situational Awareness

Tender procedure no Frontex/2020/0478/RP/MS

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I. GENERAL INFORMATION

I.1 General Information on Frontex

Frontex, the European Border and Coast Guard Agency, which was established by the Council Regulation (EC) [Regulation \(EU\) 2016/1624](#), supports EU Member States and Schengen Associated Countries in the management of EU's external borders and fighting cross-border crime. The Agency is a centre of excellence for border control activities at the EU's external borders, sharing intelligence and expertise with all EU Member States, as well as neighbouring non-EU countries affected by migratory trends and cross-border crime. Among its many tasks, the agency coordinates the deployment of border and coast guards, along with boats, airplanes, patrol cars and other equipment, to EU countries facing exceptional pressure at their external borders.

The new European Border and Coast Guard Regulation ([Regulation \(EU\) 2019/1896](#)), which entered into force on 4 December 2019, entrusted Frontex with new powers and tools that will help it meet three main strategic objectives: reduced vulnerability of the external borders based on comprehensive situational awareness; safe, secure and well-functioning EU borders and sustained European Border and Coast Guard capabilities.

Further information about Frontex origin, organisation, its mandate, fields of activities, strategy and planned activities can be read on the Agency's web site: www.frontex.europa.eu.

I.2 Selected procedure: restricted procedure

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.

This call for tenders is based on a restricted procurement procedure in accordance with Article 164 of the Financial Regulation.

The restricted procedure is composed of two distinct phases:

- the first phase concerns the selection of candidates following the publication of a contract notice in the Official Journal;
- a second phase concerns the evaluation of tenders submitted by the candidates selected in the first phase.

The assessment of the candidates in the candidature phase and of the tenders in the tender phase will comprise the following phases:

In the pre-qualification phase (phase 1):

Exclusion of candidates

Selection of candidates based on their:

- Economic and financial capacity
- Legal capacity
- Technical and professional capacity

In the tendering phase (phase 2):

Evaluation of tenders:

- Technical evaluation

- Financial evaluation

This document ("Information to Candidates") is concerned with phase 1: exclusion and selection of candidates.

Only selected candidates will receive the "Invitation to Tender", which will contain further information related to the scope of the contract, administrative procedure, contractual and financial issues, (guarantees, terms of payments, draft framework contract and draft specific contracts, etc.), the awarding procedure and the detailed technical specifications.

I.2 Eligibility

The Candidate:

- must not be in any of the situations as described in point II.7;
- must demonstrate sufficient economic, financial, professional and technical capacity.

In order to ascertain the eligibility the Candidate must indicate in the application the country in which it has its registered office or in which it is domiciled. It shall also submit the evidence required under their national law.

Frontex procurement procedures are open to any natural or legal person registered/domiciled in the territory of the European Union, European Economic Area and Schengen Associated Countries.

Exceptionally, and without prejudice to any other Frontex procurements, this procedure is open to all natural and legal persons established in third countries.

I.3 Penalties

Without prejudice to the application of liquidated damages laid down in the contract, Applicants, Tenderers and Contractors who have been guilty of making false declarations concerning situations referred to in point II.7, shall be subject to the financial penalties set out in Article 135 and 138 of the above mentioned Regulation No 2018/1046.

I.4 Legal form to be taken by the group of economic operators to whom the contract is to be awarded:

If candidates intend to submit a joint candidature in order to submit a joint tender during the second phase of this call for tenders, candidates must mention this fact in their candidature, together with any other information in this respect. They must specify which company will be put forward as coordinator to manage the contract.

If you intend to participate with a partner and have already set up a consortium or similar entity to that end, you should mention this fact in your request to participate, together with any other relevant information in this context.

Consortiums of economic operators may submit a tender. Frontex reserves the right to require the consortium retained to have a given legal form if this is necessary for the proper performance of the contract. This requirement may be communicated by Frontex at any time during the contract award procedure, but in any case before the contract is signed.

The Applicants who are members of the consortium shall describe in detail the contractual arrangements or agreements between them.

The consortium of economic operators shall furnish proof of its legal form in the application. This may take one of the following forms:

- an entity with legal personality recognised by a Member State;
- an entity without legal personality but offering sufficient protection of Frontex's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association);

- the signature by all the partners of a type of 'power of attorney' or equivalent document confirming a form of cooperation.

The document supplied must prove the consortium's actual status.

Frontex may accept other legal forms not referred to above, provided that they ensure the parties' joint and several liability and are compatible with performance of the contract. However, in the contract to be signed with the consortium Frontex will refer expressly to the existence of such joint and several liability. In addition, it reserves the right to require, contractually, the appointment of an authorised representative who may represent the members and who is empowered, inter alia, to issue invoices on behalf of the other members.

Tenders from consortiums of economic operators must specify the role, qualifications and experience of each of the members of the consortium. The tender shall be submitted jointly by the economic operators, who shall also assume joint and several liability for the tender submission.

In the case of a consortium of economic operators, each member will furnish proof of the right of access to the contract (eligibility), as well as proof concerning compliance with the exclusion and selection criteria. With regard to the selection criteria, Frontex may rely on the capacity of the other members of the consortium in order to establish whether the candidate will have the resources needed to perform the contract. In this case an undertaking will be required from those members stating that they will make available to the other members the resources needed to perform the contract.

I.4 Other particular conditions

In principle the performance of the contract shall not involve access to classified information; however, the contractor and its staff shall be obliged to respect Frontex security rules.

If the contractor or his personnel and, where applicable, sub-contractors fail to comply with the Frontex security rules or with instructions from the Frontex Security, Frontex may, without prejudice to any indemnity due by the contractor to Frontex, terminate the contract with immediate effect by giving notice in writing to the contractor. In these circumstances, no costs or compensation relating to such termination shall be due by Frontex to the contractor.

The processing of personal data by the contractor shall meet the requirements of Regulation (EU) No 2018/1725.

I.5 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).

All members of the consortium and subcontractors shall meet the eligibility and exclusion criteria given in points I.2 and II.7.

If your application envisages subcontracting, your file must include a document:

- Mentioning the reasons why you are envisaging subcontracting;
- Stating clearly the roles, activities and responsibilities of subcontractor(s), and
- Specifying the volume/proportion for each subcontractor.

A letter of intent by each subcontractor stating its intention to fully collaborate with the main contractor in the execution of the contract and the terms of this collaboration if you win the contract must be included.

I.6 Cost of preparing applications

The contract notice 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 preparing and submitting applications.

I.7 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 the offer and may result in administrative penalties.

I.8 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.

II. SPECIFIC INFORMATION

II.1 Subject of the tender

II.1.1 Background

Situational Awareness Division

The Situational Awareness and Monitoring Division (SAM) is a key component of Integrated Border Management, thus enabling its implementation EU-wide by Frontex and by the national authorities of Member States forming the European Border and Coast Guard. SAM is therefore oriented towards operational actors and contributes by fulfilling their information and intelligence needs. The Division drives operational responses to challenges at the EU's external borders and supports decision-making on EU border management and border security, in particular when assessing Member States vulnerabilities. The Division mobilises and fuses a wide range of sources of information from human intelligence, image & geospatial intelligence, patrolling activities, and aerial surveillance.

Information Fusion Centre and EUROSUR

The Information Fusion Centre (IFC), an entity within SAM, is a provider of up-to-date, reliable and innovative information services and knowledge and technology driven capabilities in support of the SAM business units and partners. Its information services and capabilities are based on the fusion of a wide range of data amongst which earth observation data, vessel data and data from Frontex operational activities and provided to internal and external stakeholders via the EUROSUR Fusion Services (EFS).

EUROSUR is the information-exchange framework designed to improve the management of Europe's external borders. It aims to support Member States by increasing their situational awareness and reaction capability in combating cross-border crime, tackling irregular migration and preventing loss of migrant lives at sea.

II.1.2 Description

The overall purpose of this tender is to increase Frontex' situational awareness primarily in the maritime domain and also over the land areas. This shall be achieved by integrating radio frequency emitter data collected by space borne platforms for the period of 365 days. This data will then be fused with other sources, e.g. image & geospatial intelligence, vessel reporting systems, etc. hence complementing the overall situational picture.

The scope of this procurement comprises the provision of geo-located radio frequency emitter detections for a period of 365 days. Included in the scope are also additional emitters which might become potentially available during the contract duration. The data shall be provided via the delivery channels that will be specified in the Terms of Reference. The contract shall cover also mentoring to understand the provided data as well as a few training days in Frontex premises. Dedicated hardware and software are not within the scope of this procedure. Also, neither the interception of the signals content nor the provision of personal data is a part of this tender.

II.1.3 Budget

The maximum estimated budget earmarked for the contract is 5.000.000 EUR.

II.2 Variants

Variants are not allowed.

II.3 Type of contract

Frontex will conclude a single service contract with the successful Tenderer following the second stage of the procedure. The draft of the contract shall be included in the tender dossier.

II.4 Location and duration

The tasks will be mainly performed online or at the Frontex HQ in Warsaw.

This contract shall be a single service contract with one selected contractor for a period of 14 months during which the requested service should be delivered for 365 days.

II.5 Form and content of the application

The application shall be clear and concise, with continuous page numbering, and assembled so as to constitute a coherent whole. It shall be submitted as indicated in the invitation letter, compiling the prescribed questionnaires and forms together with all mandatory supporting documentation.

It shall include all the information and documents required by Frontex for the evaluation of applicants on the basis of the exclusion and selection criteria, in the absence of which, Frontex may decide to reject the application.

Your application should be submitted in the format of the Standard Reply form and include:

- A. Request to Participate (covering letter) accompanied by the Identification of the Candidate.
- B. Declaration on honour (Annex II) and documentary evidence related to the exclusion criteria.
- C. Selection criteria questionnaires (indicated templates) and documentary evidence related to the selection criteria.

II.6 Evaluation of applications

Evaluation of applications shall be conducted in two stages in regard to **exclusion and then selection criteria**.

II.7 Exclusion Criteria

In line with the legislation in force the Candidates 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.

The Candidate 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 (*Tenderers Declaration on Honour*).

In addition, the evidence confirming the *Declaration on Honour* must be included in the application.

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.

II.8 Selection Criteria

Each application shall be verified against the criteria specified below. Incomplete applications shall 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).

II.8.1 Legal Capacity

Requirement

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

Evidence required

- A copy of an official document (Company Register, Official Gazette, etc.) confirming that the Candidate is already established as a recognised legal entity and is registered in a relevant professional or trade register.

II.8.2 Economic and Financial Capacity

Candidates must demonstrate that they have sufficient economic and financial resources to be able to carry out the tasks specified in this contract notice.

Requirement

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

Evidence required

a) a declaration of the company's total turnover from the past three years (or for the period the tenderer exists on the market) for which accounts have been closed (information shall be provided separately for each year); the average annual turnover over the last 3 years must be greater than EUR 300.000,00; If the currency of the tenderer's accountancy is other than Euro, the equivalent will be calculated on the basis of the exchange rates applicable for the month of tender submission published by the European Commission at:

http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm.

The obligation of a candidate 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 candidate 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 candidate's economic and financial standing.

II.8.3 Technical and Professional Capacity

Requirement 1

The candidate must have the technical, human and organizational capacity to deliver the requested services, i.e. Satellite Radio Frequency Emitter Detection.

Evidence required

a) Description of the candidate's technical, human and organizational capacity to deliver the requested services.

Requirement 2

The candidate must provide evidence that they have experience in successfully delivering services similar to the subject of this tender.

Evidence required

- a) A list of contracts (at least one) similar to the subject of this tender of the net value above 200,000.00 EUR performed in one of the past two years (2019 or 2020). The list should state the following: dates, recipients and brief description of the delivered service.

- b) At least 1 reference letter from the client, confirming high quality of delivered services; the reference letter must be referring to one of contracts from the list mentioned in point a) above.

Requirement 3

The proposed geo-located space borne radio frequency emitter detection data for electronic equipment must have the characteristics/functionalities as defined in the table below in the Evidence required section.

Evidence required

The candidates are required to fill in the dedicated table (below - table available in the reply form) inventorying the required capacity and capability to deliver the service required.

Only candidates capable of providing a service with all mandatory features shall be invited to submit a tender.

The candidates are required to declare the features of their solutions in the table below and evidence them by a description. It is advisable to enclose relevant screenshots or cases/examples. Frontex reserves the right to request additional information and/or evidence if those provided do not allow for a conclusive assessment.

Reference No	Radio frequency detection service capability	Answer
1 Mandatory	The service is able to provide geolocations of VHF maritime emitters	Yes/No
2 Mandatory	The service is able to provide geolocations of L-band satellite phones	Yes/No
3 Mandatory	The service is able to provide geolocations of X-band maritime radars	Yes/No
4 Mandatory	The service is able to provide geolocations of AIS maritime transponders	Yes/No

II.9 Opening of the requests to participate

In the first phase (selection of candidates), the opening of the requests to participate will not be public.

II.10 Assessment of the candidatures

The assessment will be based on the information provided by the candidates via the forms and questionnaires that are part of the requests to participate and of the accompanying documents.

All the information will be assessed in the light of the criteria set out in this document. The procedure for the selection of the candidates, which will concern only admissible requests to participate, will be carried out in two successive stages. Only requests meeting the exclusion criteria will be examined in relation to the selection criteria.

The aim is:

1. to check, in the first stage (exclusion criteria), whether candidates can take part in the tendering procedure and, where applicable, be awarded the contract;
2. to check, in the second stage (selection criteria), the economic and financial capacity and the technical and professional capacity of each candidate who has passed the exclusion stage.

All candidates will be informed of the decision regarding their request to participate as soon as the selection is completed.

III.4 Assessment of joint tenders and tenders involving sub-contracting

Joint applications 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 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 Candidate 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 Candidate 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 Candidates have not formed a legal entity.

Applications 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 individually².
- b) The selection criteria for technical and professional capacity shall be assessed in relation to the combined capacities of the Candidate and the subcontractor, as a whole, to the extent that the subcontractor puts its resources at the disposal of the Candidate for the performance of the contract.

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.