

Framework Contract for the Provision of Mobile office containers and associated services in Albania, Serbia, Bosnia & Herzegovina and Republic of North Macedonia

Tender Specifications

Annex I to the invitation to tender no

Frontex/OP/374/2019/MS

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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 (EU) 2016/1624¹ 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 provision

- Title VII 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;

I.3 Eligibility

The participation in tender procedures is open on equal terms to any natural or legal person established in the European Union and/or Schengen Associated Countries under the condition that:

- a) They are not in any of the situations excluding them from participation which is confirmed by the Tenderer’s Declaration of Honour 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 I.3 or II.3 shall be subject to the administrative and financial penalties set out in Article 135 and 138 of the above mentioned Regulation.

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:

¹ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) 863/2007 of the European Parliament and of the Council, Council regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

- 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 prime 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;
- 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.

Where no subcontractor is given, the work will be assumed to be carried out directly by the tenderer.

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, protection of personal data 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. 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 will be required to follow the General Data Protection Regulation. Contractor and its staff engaged in the implementation of the contract may be required to sign the Declaration of Confidentiality

II. SPECIFIC INFORMATION

II.1. Subject and contractual information

II.1.1 Subject of the tender

The subject of this tender is to establish single Framework Contract (FWC) in order to rent Mobile office containers, toilet containers and associated services in Albania, Serbia, Bosnia & Herzegovina and Republic of North Macedonia , as described in Annex II to the Invitation to Tender (Terms of Reference). The FWC shall ensure that the services provided comply with Frontex requirements.

The tender is divided into eight (8) Lots per geographical locations as described below:

ALBANIA

- Lot 1 - Albania - Mobile Office Container
- Lot 2 - Albania - Toilet container

SERBIA

- Lot 3 - Serbia - Mobile Office Container
- Lot 4 - Serbia - Toilet container

BOSNIA & HERZEGOVINA

- Lot 5 - Bosnia & Herzegovina - Mobile Office Container
- Lot 6 - Bosnia & Herzegovina - Toilet container

REPUBLIC OF NORTH MACEDONIA

- Lot 7 - Republic of North Macedonia - Mobile Office Container
- Lot 8 - Republic of North Macedonia - Toilet container

Each Tenderer is invited to submit offers for one, more or all lots.

Frontex reserves the right to reject any offer without further evaluation on the grounds that it does not comply with the tender specifications.

II.1.2 Type of the contract

Frontex will conclude a single Framework Contract with one selected Tenderer on the basis of the draft contract presented as the Annex III to the Invitation to Tender.

II.1.3 Duration of the contract

The Framework Contract will be concluded for one (1) year with possibility of extension for another period of one (1) year. In case one of the parties does not wish to extend the Framework Contract, it shall notify in writing the other party, no later than one (1) month before the contract expires.

The maximum duration of the Framework Contract is two (2) years, including extension. The Framework contract shall continue to apply to the Specific Orders after its expiry, but no longer than six (6) months.

II.1.4 Volume of the contract

The maximum indicative budget available for the Framework Contract over a period of one (1) years is EUR 250,000.00 divided as follows:

ALBANIA	Lot 1 - Albania - Mobile Office Container	100,000.00 EUR (one hundred thousand euros)
	Lot 2 - Albania - Toilet container	25,000.00 EUR (twenty five thousand euros)
SERBIA	Lot 3 - Serbia - Mobile Office Container	40,000.00 EUR (forty thousand euros)
	Lot 4 - Serbia - Toilet container	10,000.00 EUR (ten thousand euros)
BOSNIA & HERZEGOVINA	Lot 5 - Bosnia & Herzegovina - Mobile Office Container	40,000.00 EUR (forty thousand euros)
	Lot 6 - Bosnia & Herzegovina - Toilet container	10,000.00 EUR (ten thousand euros)
REPUBLIC OF NORTH MACEDONIA	Lot 7 - Republic of North Macedonia - Mobile Office Container	20,000.00 EUR (twenty thousand euros)
	Lot 8 - Republic of North Macedonia - Toilet container	5,000.00 EUR (five thousand euros)

The maximum indicative amount covering all purchases under the Framework Contract for two (2) years is EUR 500,000.00, divided as follows:

ALBANIA	Lot 1 - Albania - Mobile Office Container	200,000.00 EUR (two hundred thousand euros)
	Lot 2 - Albania - Toilet container	50,000.00 EUR (fifty five thousand euros)
SERBIA	Lot 3 - Serbia - Mobile Office Container	80,000.00 EUR (eighty thousand euros)
	Lot 4 - Serbia - Toilet container	20,000.00 EUR (twenty thousand euros)
BOSNIA & HERZEGOVINA	Lot 5 - Bosnia & Herzegovina - Mobile Office Container	80,000.00 EUR (eighty thousand euros)
	Lot 6 - Bosnia & Herzegovina - Toilet container	20,000.00 EUR (twenty thousand euros)
REPUBLIC OF NORTH MACEDONIA	Lot 7 - Republic of North Macedonia - Mobile Office Container	40,000.00 EUR (forty thousand euros)
	Lot 8 - Republic of North Macedonia - Toilet container	10,000.00 EUR (ten thousand euros)

However, this does not bind the contracting authority to purchase for the maximum amount.

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 Period of validity of the tender

Tenderers must provide a confirmation that the tender is valid for four (4) months from the date of submission of the tender.

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. 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 tasks foreseen.

The tender shall include all the information and documents required by Frontex for the evaluation 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 awarding procedure for the contract.

In drawing up a tender, Tenderers should bear in mind the provisions of the draft contract (attached 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 & audits.

II.2.1 Documents to be included in the offer

The proposal must comprise the documents mentioned below and related to the exclusion criteria, selection criteria, technical proposal and the financial proposal. The offer shall be submitted to Frontex in accordance with the instructions given in the Invitation to Tender.

For each lot the offer shall include the following documents:

a) Technical Proposal

Technical Proposal shall be prepared in accordance with point 4 of Terms of Reference (Annex II to the Invitation to Tender) and must be signed by the Tenderer. It shall include:

- Detailed description of each service enumerated in Annex II (Terms of Reference) points 4.1 to 4.4. This description should contain plans with measurement indication, layouts and colour pictures of the facilities proposed; the description should as well include manufacturer information (descriptions, brochures, pictures) of proposed furniture and technical equipment.
- Minimal delivery periods for each service.

b) Financial proposal

The Financial proposal shall be prepared in accordance with the template provided in Annex IV A (for Mobile office container) and B (for Toilet container) to the Invitation to Tender.

In preparing the financial proposal, the Tenderers shall 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.

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 - 1510 form" 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 price excluding VAT, as indicated on the compulsory template (Annex III to the invitation to tender).

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

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 selection criteria (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 **... at 11:00** (Warsaw time) at the premises of Frontex, Plac Europejski 6, 00-844 Warsaw. Tenderers wishing to attend the offer opening session shall send a confirmation e-mail or fax to the Procurement Team (procurement@frontex.europa.eu, Fax: +48222059501). 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(s)

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, referred to in point III.3
- b) Selection criteria, as described in point III.4
- c) Award criteria, as described in point III.5

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.

Frontex may on its own discretion decide to change the order of the evaluation stages.

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.

In order to prove his/her capacity, the tenderer must comply with the following selection criterion:

- The average annual turnover of the tenderer during the past 3 years must be greater than:

ALBANIA	Lot 1 - Albania - Mobile Office Container	100,000.00 EUR (one hundred thousand euros)
	Lot 2 - Albania - Toilet container	25,000.00 EUR (twenty five thousand euros)
SERBIA	Lot 3 - Serbia - Mobile Office Container	40,000.00 EUR (forty thousand euros)
	Lot 4 - Serbia - Toilet container	10,000.00 EUR (ten thousand euros)
BOSNIA & HERZEGOVINA	Lot 5 - Bosnia & Herzegovina - Mobile Office Container	40,000.00 EUR (forty thousand euros)
	Lot 6 - Bosnia & Herzegovina - Toilet container	10,000.00 EUR (ten thousand euros)
REPUBLIC OF NORTH MACEDONIA	Lot 7 - Republic of North Macedonia - Mobile Office Container	20,000.00 EUR (twenty thousand euros)
	Lot 8 - Republic of North Macedonia - Toilet container	5,000.00 EUR (five thousand euros)

Evidence of that must be provided by:

- a declaration of the company's total turnover from the past three years 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 the amounts specified above for a given lot; 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/infoeuro/infoeuro_en.cfm

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 tenderer shall provide evidence of its technical and professional capacity to perform the contract.

The tenderer must have at least three years of professional experience in providing similar services, i.e. renting of mobile office and toilet containers.

Evidence of that must be provided by:

- a list of contracts for similar services executed on the subject in the past three years (at least one contract in a given year), specifying the tenderer's share (at least 50%) in provision of the services and if subcontractors were used for any of the services. A list should be prepared for each lot if the Tenderer is bidding for more than one lot.
- at least three reference letters for each lot issued and signed by an authorised person of that particular Tenderer's client from the list above, confirming satisfactory provision of services.

The Tender should appoint a Contract Manager (CM) and an alternate one who will be assigned to support the framework contract implementation, clearly defining their roles and responsibilities. In complying with this section, the Tenderer shall assure that the personnel being nominated are available to fulfil the demands of the Contract during its stated full term. The following requirements are mandatory: advanced Diploma in Logistics, Supply Management or equivalent qualification; at least 3 years of experience of working as a client account manager in companies providing transportation/shipment services.

The above minimum requirements for the profile of the staff shall be maintained during the whole duration of the contract, i.e. any replaced staff must have equivalent qualification and experience.

Evidence of that must be provided by:

The Curricula Vitae (CVs), in a common European format, of the two proposed members of the team must be enclosed and must clearly show evidence of the experience and skills required.

Only the offers that clearly demonstrate that they meet the selection criteria shall pass to the next stage of the evaluation.

Frontex may reject Tenderers at selection criteria compliance stage in case of presence of professional conflict of interest that may negatively affect the performance of the contract.

The obligation of a Tenderer to submit the documentary evidence referred to in this point is waived for 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 however obliged to indicate the reference number of that procurement procedure.

III.5 Award criteria

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

The contract will be awarded to the tender that fulfils the selection criteria and minimum technical requirements set in in the Annex II (Terms of Reference) and offering the lowest reference price presented in Annex IV (Financial Proposal).

All prices must be all-inclusive of all fees, costs and expenses related to the performance of the requested services.

III.6 No obligation to award

Completing the procedure of the Invitation to tender in no way imposes on the 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.

III.7 Notification of outcome

Each Tenderer will be informed in writing about the outcome of the call for tender. If Tenderers are notified that a tender has not been successful, Tenderers may request additional information by mail. This information can be given in a follow-up letter providing further details in writing, such as the name of Tenderers to whom the contracts are awarded and a summary of the characteristics and relative advantages of the successful tenders in comparison to the unsuccessful offer of the Tenderer requesting such further information.

III.8 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.
- 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.

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 individually².
- 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 to the Invitation to Tender:

Annex II - Terms of Reference

Annex III - Draft contract

Annex IV A - Financial proposal template for Mobile office container

Annex IV B - Financial proposal template for toilet containers

Annex V - Declaration on honour concerning exclusion criteria

Annex VI - Tender submission form

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.