FRONTEX

Framework Contract for the provision of mobile office and toilet containers with associated services in Cyprus, Montenegro, Ukraine, Albania and Serbia.

Tender Specifications

Annex I to the Invitation to Tender no Frontex/ Frontex/2021/OP/1118/AG

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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) 2016/1624)[1] 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

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 Republic of North Macedonia, 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.

For the tenderers with registered seat in Ukraine, participation is also allowed but it is limited to Lot 3 (Ukraine) only.

The rules on access to procurement do not apply to subcontractors. Economic operators are free to choose their subcontractors from any country. Thus, in principle all economic operators can act as subcontractors of other economic operators who have themselves access to the EU procurement procedures. Subcontracting may not be used with the intent to circumvent the rules on access to procurement.

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;

[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.*

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:

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) 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.

Once the Contracting authority has opened a tender, it becomes its property and shall be treated confidentially, subject to the following:

- For the purposes of evaluating the tender and, if applicable, implementing the contract, performing audits, benchmarking, etc., the Contracting authority is entitled to make available (any part of) the tender to its staff and the staff of other Union institutions, agencies and bodies, as well to other persons and entities working for the Contracting authority or cooperating with it, including contractors or subcontractors and their staff provided that they are bound by an obligation of confidentiality.

- After the signature of the award decision tenderers whose tenders were received in accordance with the submission modalities, who have access to procurement, who are not found to be in an exclusion situation referred to in Article 136(1) of the Financial Regulation, who are not rejected under Article 141 of the Financial Regulation, whose tenders are not found to be incompliant with the procurement documents, and who make a request in writing will be notified of the name of the tenderer to whom the contract is awarded, the characteristics and relative advantages of the successful tender and the price of the offer and/or contract value. The Contracting authority may decide to withhold certain information that it assesses as being confidential, in particular where its release would prejudice the legitimate commercial interests of economic operators or might distort fair competition between them. Such information may include, without being limited to, confidential aspects of tenders such as unit prices included in the financial offer, technical or trade secrets.

- The Contracting authority may disclose the submitted tender in the context of a request for public access to documents, or in other cases where the applicable law requires its disclosure. Unless there is an overriding public interest in disclosure, the Contracting authority may refuse to provide full access to the submitted tender, redacting the parts (if any) that contain confidential information, the disclosure of which would undermine the protection of commercial interests of the tenderer, including intellectual property.

- The Contracting authority will disregard general statements that the whole tender or substantial parts of it contain confidential information. Tenderers need to mark clearly the information they consider confidential and explain why it may not be disclosed. The Contracting authority reserves the right to make its own assessment of the confidential nature of any information contained in the tender.

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 Contracts (FWC) in order to rent mobile office containers, toilet containers and associated services in in Cyprus, Montenegro, Ukraine, Albania and Serbia 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.

II.1.2 Type of the contract

Frontex will conclude a single Framework Contract with one selected Tenderer per Lot on the basis of the draft contract presented as the Annex III to the Invitation to Tender. Consequently, that FWC will be implemented only with that successful tenderer.

However, bidding is allowed for more than one Lot, therefore it may happen that the same successful bidder is awarded a contract covering more than one Lot.

The FWC will be implemented by issuing Order Forms. Frontex may request the Contractor to propose supplementary services or supplies of the same type as those listed in the offer. The supplementary elements may not depart from the essential terms fixed in the FWC and may be requested only if they are absolutely necessary for the execution of the given order form.

II.1.3 Duration of the contract

The Framework Contract will be concluded for 24 months with the possibility to prolong it maximum 2 times, each time for a period of 12 months as total 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 contracts

The maximum value (excluding VAT) estimated for the whole duration of the framework contract (4 years) is 995,000 (nine hundred and ninety-five thousand) EUR. However, this does not bind the contracting authority to purchase for the maximum amount.

This total value is divided in lots as follow:

LOTS - value for 4 year

LOT 1	**Cyprus**	**250,000 EUR**
LOT 2	**Montenegro**	**250,000 EUR**
LOT 3	**Ukraine**	**250,000 EUR**
LOT 4	**Albania**	**125,000 EUR**
LOT 5	**Serbia**	**120,000 EUR**

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 and the respective conditions apply.

II.2. Form and content of the tender

The tender for this Contract shall be submitted according to the rules set out in the Invitation to Tender submitted exclusively via the electronic submission system (e-Submission).

- The tender shall be clear and concise include all the information and documents required by Frontex for the appraisal of tenders based on the award criteria, and in accordance with these specifications and the relevant Terms of Reference. In the absence of these documents/information Frontex may decide to reject the tender from the awarding procedure for the contract.

II.2.1 Documents to be included in the offer

The offer 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.

a) Technical Proposal

Technical Proposal shall be prepared in accordance with point 5 of Terms of Reference (Annex II to the Invitation to Tender) on the template provided in Annex VII and must be signed by the Tenderer. It shall include:

- Detailed description of each service enumerated in Annex II (Terms of Reference) points 5.1 to 5.4. This description should contain plans with measurement indication, layouts and colour pictures of the containers proposed; the description should as well include manufacturer information (descriptions, brochures, pictures) of proposed furniture and technical equipment.

b) Financial proposal

The Financial proposal shall be prepared in accordance with the template provided in Annex IV 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.
However, for the tenderers with registered seat in Ukraine bidding for Lot 3, bidding prices shall include all the costs to be invoiced by that tenderer to Frontex and to be paid by Frontex, including Ukrainian taxes like VAT etc., since in this specific case all costs to be paid by Frontex will be taken into account during the financial evaluation of the bid.

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 tenders received are compliant with the following formal requirements:

a) Not submitted later than the submission deadline, and

b) the integrity and structure of the tender is maintained

The tender opening session will take place on the date indicated in the Invitation to tender 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 two representatives per tenderer may attend the opening session. Their participation shall be restricted to an observer's role. As indicated in the Invitation, due to Covid the Opening Session may also be conducted in remote mode (with e-participation only).

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 200,000 EUR.

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/inforeuro/inforeuro_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.

A. **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) **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.
at least three reference letters, issued and signed by an authorised person of that particular Tenderer's three clients from the list above, confirming satisfactory provision of services.

B. **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:

a) **The Curricula Vitae (CVs),** of the two proposed members of the team must be enclosed and must clearly show evidence of the experience and skills required. CVs must be presented in the Europass CV format available under this link: https://europass.cedefop.europa.eu/editors/en/cv/compose

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 award criteria serve to identify the most economically advantageous tender. The quality of each offer will be evaluated in accordance with the award criteria and the associated weighting. No award criteria and sub-criteria others than those detailed below will be used to evaluate the offer.

The contract shall be awarded to the tenderer offering the best value for money, with 40/60 ratio for the technical quality and price.

The Contracting authority may reject abnormally low tenders, in particular if it established that the Tenderer or sub-contractor does not comply with applicable obligations in the fields of environmental, social, and labour law.

III.5.1 Technical evaluation

Each component of the Technical Proposal for the framework contract from a specific Tenderer will be evaluated in accordance with criteria indicated in the below Technical Evaluation Grid.

Tenders scoring less than 50% for any criterion (except for non mandatory requirements - Criterion 6) will be deemed to be of insufficient quality and eliminated from further consideration. Any Technical Proposal scored lower than this threshold will not be considered as eligible and will be rejected from further evaluation. There is no threshold for sub-criteria.

Technical Evaluation Grid			
	Criterion	**Maximum score**	**Scoring**
1	**Overall quality of the containers, installations and equipment** **Description of the containers to be supplied addressing in particular the following criteria to be evaluated.**		
1.1	Provisions of new (never previously used) containers	30	
1.2	Additional safety features (the minimum are: window bars, fire extinguishers, high security door locks). Points will be awarded only for the additional safety features above the required minimum.	10	
2	**Delivery time** The tenderers shall indicate in their tenders the delivery deadline(s); a shorter than max. 15 working days delivery time will be considered as advantage. .		
2.1	11-14 working days	10	

2.2	6- 10 working days	15	
2.3	Up to 5 working days	25	
3	**Environmental characteristics**		
	Level of use of modern technology and sustainable, environmentally friendly materials and green energy. This includes but is not limited to use of solar and wind energy.	6	
4	**Cleaning services** twice a month.	2	
5	**Exceptional cleaning/disinfection**	2	
	Total	**100**	
		TOTAL SCORING	
		Is the tender meeting the minimum scoring for all criteria and admitted to the next stage of evaluation (Y/N)?	

The total scoring of the evaluated proposal shall be calculated as the sum of points earned in the column Scoring of Technical Evaluation Grid, per criteria described in rows.

$$\text{Technical score} = \frac{\text{Total technical score of the evaluated tender}}{\text{The highest technical score earned in the tender}}$$

III.5.2. Financial Evaluation

The Financial evaluation will be conducted on the basis of the Financial Proposals. The final financial score will be calculated on the basis of the Total Reference Price indicated in Annex IV – Financial Proposal.

Tenderers must provide daily rates for all of the profiles contained in the table in Annex IV – Financial Proposal. The daily rate is a fixed price and shall include all expenses. The rates that the Tenderers commit to shall be the basis for the calculation of the prices for the Framework Contract and are the maximum rates that the successful Tenderer will charge under any Order Forms.

The below scenario for the reference price will be used to compare Tenderers. The percentages reflect the estimated involvement of the various profiles in the execution of assignments.

Total reference price is equal to:

XXXXXXXXXXXXXXXXXXXX

The Financial Score will be calculated by using the following formula:

$$\text{Financial score} = \frac{\text{Lowest total Reference Price of an eligible offer}}{}$$

Total Reference Price of the evaluated proposal

III.5.3. Final Evaluation

The contract will be awarded to the tenderer offering most economically advantageous tender. The most economically advantageous tenders will be established by weighting technical quality against price on 60/40 basis.

It will be established by the application of the following formula:

Final Score = 0,6 x Technical score + 0,4 x Financial score

The contract will be awarded to the tenderer, who submitted tender with the highest Final Score.

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.
In case of Ukraine, despite a successful outcome of the procedure and conclusion of a framework contract for Lot 3, implementation of that contract may be postponed until peaceful conditions of performance are re-established.
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 individually[2].

[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.*

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 - Financial proposal template
Annex V – Declaration on honour concerning exclusion criteria
Annex VI - Tender submission form
Annex VII – Technical proposal template