

INVITATION TO SUBMIT an APPLICATION

Title: **Facilities Management Services**
Reference: ENISA F-CSS-22-T36
Procurement procedure: RESTRICTED call for tender
Expiry date and time: **21st October 2022 at 18:00 (CEST) Central European Summer time**

Dear Madam/Sir,

The European Union Agency for Cybersecurity (ENISA) referred to below as *the contracting authority*, is planning to award the contract resulting from the above procurement procedure. The procurement documents consist of the contract notice, this invitation letter, and tender specifications with their respective annexes. All documents are available at the following TED e-Tendering website¹:

<https://etendering.ted.europa.eu/cft/cft-display.html?cftId=12266>

Economic operators interested in this contract are invited to submit an application in one of the official languages of the European Union.

1. Submission of applications.

Applications must be submitted exclusively via the electronic submission system (e-Submission) available from the above website² and accessible on the Funding and Tenders Opportunities portal (F&T portal)³, Applications submitted in any other way (e.g. e-mail or by letter) will be disregarded.

In order to submit an application 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 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.

¹ 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.

² 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. The supported browsers, file types, size of attachments and other system requirements can be consulted at: <https://webgate.ec.europa.eu/fpfis/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.

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

An application received after the time-limit for receipt of applications 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 tenders⁴.

Interested economic operators 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 a qualified or an advanced electronic signature based on a qualified certificate, by an authorised representative of the signatory:

- Declaration(s) on Honour on exclusion and selection criteria (template available in the tender specifications).
- The submission report (a document generated by e-Submission and listing all the documents included in the tender, to be signed by the tenderer or the group leader in case of a joint tender).

When the Declaration(s) on Honour and/or the submission report are signed by hand, a scanned copy must be attached to the tender in e-Submission.

After submitting an application, but before the deadline for receipt of applications, an economic operator may definitively withdraw its application⁵, or withdraw it and replace it with a new one⁶. A withdrawal receipt will be provided by e-Submission as proof of withdrawal.

All costs incurred for the preparation and submission of applications are to be borne by the economic operators and will not be reimbursed.

2. Legal effects of the invitation and submission of an application.

This invitation to submit an application is in no way binding on the contracting authority. The contracting authority's contractual obligation commences only when the contract with the successful tenderer is signed by both parties.

Up to the signature of the contract the contracting authority may cancel the procurement procedure without economic operators being entitled to claim any compensation. Any such decision must be substantiated and tenderers notified.

The validity period of the tender, during which economic operators may not modify the terms of their applications in any respect, is indicated under Heading IV.2.6 of the contract notice.

⁴ 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.

⁵ 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.

⁶ 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.

Submission of an application implies acceptance of all the terms and conditions set out in the procurement documents and, where appropriate, waiver of the economic operator's own general or specific terms and conditions.

3. Contacts during the procurement procedure.

Contacts between the contracting authority and economic operators are prohibited throughout the procedure save in exceptional circumstances and under the following conditions only:

3.1 Submission phase (before the time-limit for receipt of applications)

Upon request, the contracting authority may provide additional information solely for the purpose of clarifying the procurement documents.

Any request for additional information must be made in writing only through the above TED e-Tendering website in the "Questions & answers" tab, by clicking "Create a question" (registration on TED e-Tendering is required to be able to create and submit a question).

The contracting authority is not bound to reply to requests for additional information received less than six working⁷ days before the time-limit for receipt of applications.

The contracting authority 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.

Any additional information will be published on the above TED e-Tendering website. The website will be updated regularly and it is the economic operator's responsibility to check for updates and modifications during the submission period¹.

3.2 After the opening of applications

If any clarification is required or if obvious clerical error(s) in the application needs to be corrected, the contracting authority may contact the Candidate provided that the terms of the tender are not modified as a result.

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

Up to the point of signature, ENISA may either abandon the procurement or cancel the award procedure, without the candidates or Tenderers being entitled to claim any compensation. The decision must be substantiated and the Tenderers notified.

Once ENISA has opened the application, the documents shall become the property of ENISA and be treated confidentially.

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

Evaluation of applications

You will be notified whether or not your application has been accepted, whereupon you will be invited to receive the technical specifications via the eTendering platform and by email to participate in the second phase of this restricted procedure.

If your offer includes subcontracting, it is recommended that contractual arrangements with subcontractors include mediation as a method of dispute resolution

4. Data protection.

If processing a reply to the invitation to submit an application involves the recording and processing of personal data (such as name, address and CV), such data will be processed pursuant to Regulation (EU) 2018/1725⁸ of 23 October 2018 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. Unless indicated otherwise, any personal data will be processed solely for evaluation purposes under the call for tender by the Executive Director. Details concerning the processing of personal data are available in the privacy statement at:

<http://www.enisa.europa.eu/procurement/repository-of-files/privacy-statement-enisa-procurement-procedures>

The economic operator's personal data may be registered in the Early Detection and Exclusion System (EDES) if the tenderer is in one of the situations mentioned in Article 136 of the Financial Regulation⁹. For more information, see the privacy statement: http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm.

5. Means of redress.

Applicants may submit any observations concerning the procurement procedure to the contracting authority using the contact details under Heading 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>).

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 Heading VI.4.1 of the contract notice.

⁸ OJ L 295, 21.11.2018, p. 39

⁹ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193 of 30.07.2018, p.1).

Yours faithfully,

Juhan Lepassaar, Executive Director
(*e-signed*)

Annexes to the invitation to tender:

Annex I – Tender specifications and annexes