



Scan to verify source &
version of document.

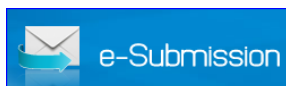
OPEN CALL FOR TENDERS

“PETs controls matrix: A systematic approach for assessing online and mobile privacy tools”

ENISA D-COD-16-T08

- Part 1 Introduction to ENISA**
- Part 2 Terms of Reference**
- Part 3 Tender Specifications**

Annex I	Legal Entity & Financial ID Forms
Annex II	Declaration of Honour for exclusion criteria & absence of conflict of interest
Annex III	Financial Offer form
Annex IV	Draft Service contract
Annex V	Power of Attorney for Consortium Form
Annex VI	Sub-Contractors Form
Annex VII	Checklist of documents to be submitted in the e-Submission application
Annex VIII	e-Submission Quick Guide for Tenderers
Annex IX	Guide to creating an ECAS account



*Offers via e-Submission portal **ONLY***

CONTENTS

PART 1 INTRODUCTION TO ENISA	3
PART 2 TERMS OF REFERENCE	4
I. SCOPE OF THIS TENDER	4
II. ELECTRONIC SUBMISSION OF OFFERS	5
1. GENERAL DESCRIPTION OF THE REQUIRED SERVICES	7
1.1 INTRODUCTION	7
2. OBJECTIVES AND TASKS	8
2.1 TASK 1: PETs controls matrix	8
2.2 TASK 2: Assessment of mobile privacy tools	9
2.3 TASK (on-going) Project management	9
3. EXPECTED SKILLS	10
4. DURATION AND DEADLINES	10
5. LIST OF DELIVERABLES	10
6. PLACE OF EXECUTION OF THE ACTIVITIES AND COMMUNICATIONS	11
7. TENDER RESULT AND ESTIMATED CONTRACT VALUE	11
8. CONTENT AND PRESENTATION OF THE TECHNICAL OFFER	11
9. CONTENT AND PRESENTATION OF THE FINANCIAL OFFER	12
10. DATA PROTECTION	12
11. MARKING OF SUBMITTED DOCUMENTS	13
12. PRICE	13
13. PRICE REVISION	13
14. PROTOCOL ON PRIVILEGES AND IMMUNITIES OF THE EUROPEAN COMMUNITIES	13
15. PAYMENT ARRANGEMENTS	13
PART 3 TENDER SPECIFICATIONS	14
1. INFORMATION ON TENDERING	14
2. STRUCTURE AND CONTENT OF THE TENDER	16
3. ASSESSMENT AND AWARD OF THE CONTRACT	19
3.1 EXCLUSION CRITERIA	20
3.2 SELECTION CRITERIA	20
3.3 AWARD CRITERIA	22
4. TENDER OPENING	24
5. OTHER CONDITIONS	24
6. SPECIFIC INFORMATION	25
6.1 Timetable	25

PART 1 INTRODUCTION TO ENISA

1. Background on ENISA

1.1 Introduction

Electronic communications, infrastructure and services are essential factors, both directly and indirectly, in economic and societal development. They play a vital role for society and have in themselves become ubiquitous utilities in the same way as electricity or water supplies, and also constitute vital factors in the delivery of electricity, water and other critical services. Communications networks function as social and innovation catalysts, multiplying the impact of technology and shaping consumer behaviours, business models, industries, as well as citizenship and political participation. Their disruption has the potential to cause considerable physical, social and economic damage, underlining the importance of measures to increase protection and resilience aimed at ensuring continuity of critical services. The security of electronic communications, infrastructure and services, in particular their integrity, availability and confidentiality, faces continuously expanding challenges which relate, inter alia, to the individual components of the communications infrastructure and the software controlling those components, the infrastructure overall and the services provided through that infrastructure. This is of increasing concern to society not least because of the possibility of problems due to system complexity, malfunctions, systemic failures, accidents, mistakes and attacks that may have consequences for the electronic and physical infrastructure which delivers services critical to the well-being of European citizens.

1.2 Scope

The European Union Agency for Network and Information Security (ENISA, hereinafter 'the Agency') was established in order to undertake the tasks assigned to it for the purpose of contributing to a high level of network and information security within the Union and in order to raise awareness of network and information security and to develop and promote a culture, of network and information security in society for the benefit of citizens, consumers, enterprises and public sector organisations in the Union, thus contributing to the establishment and proper functioning of the internal market.¹

1.3 Objectives

The Agency's objectives are as follows:

- The Agency shall develop and maintain a high level of expertise.
- The Agency shall assist the Union institutions, bodies, offices and agencies in developing policies in network and information security.
- The Agency shall assist the Union institutions, bodies, offices and agencies and the Member States in implementing the policies necessary to meet the legal and regulatory requirements of network and information security under existing and future legal acts of the Union, thus contributing to the proper functioning of the internal market.
- The Agency shall assist the Union and the Member States in enhancing and strengthening their capability and preparedness to prevent, detect and respond to network and information security problems and incidents.
- The Agency shall use its expertise to stimulate broad cooperation between actors from the public and private sectors.

2. Additional Information

Further information about ENISA can be obtained on its website: www.enisa.europa.eu.

¹ Regulation (EU) No 526/2013 of the European Parliament and of the Council of 21 May 2013 concerning the European Union Agency for Network and Information Security (ENISA) and repealing Regulation (EC) No 460/2004.

PART 2 TERMS OF REFERENCE

I. SCOPE OF THIS TENDER

Within the framework of this Open tender procedure, ENISA would like to find a suitably qualified contractor to provide the services as stipulated in the Terms of Reference outlined below.

Subject of the tender	Maximum budget
PETs controls matrix: A systematic approach for assessing online and mobile privacy tools	€ 55,000.00
PLEASE NOTE: <i>This tender procedure is limited to tenderers which are legally incorporated in a member state of the European Union/EEA, or which have an incorporated subsidiary in one of the EU/EEA member states. (The Agreement on Government Procurement (GPA) does not apply to EU Regulatory Agencies.)</i>	

Method of submitting tenders:	e-Submission portal	YES
	<i>Courier or postal service</i>	<i>NO</i>
	<i>By hand</i>	<i>NO</i>
	<i>By email</i>	<i>NO</i>

II. ELECTRONIC SUBMISSION OF OFFERS

Please see **ANNEX VIII** of this Tender for a quick description of the e-Submission application.

Access to the e-Submission application

If you are accessing a tender procedure linked to e-Submission via the e-Tendering platform *for the first time*, you will need to create a user account in the Commission system (**European Commission Authentication Service - ECAS**): <https://webgate.ec.europa.eu/cas/>

A **'Guide to creating an ECAS account'** is provided as Annex IX to this Tender.

A button "Submit your Tender" will be then displayed and you will be able to access the e-Submission application.

Before proceeding to fill in the tender details in the system, you need to accept the Terms & Conditions and acknowledge the Privacy Statement of the e-Submission application.

On-time submission of tenders

You are ***strongly advised*** not to wait until the last moment before the deadline to submit your tender. The process of uploading your documents and entering required data may take longer than anticipated.

It is highly recommended to give yourself a MINIMUM of 24 hours before the stated expiry date and time to upload your tender to e-Submission!

In case of any problems with the submission of your electronic tender, we recommend that you call the helpdesk in reasonable time before the time limit for receipt.

After submitting a tender, but within the time limit for receipt, you may still submit a new (updated) version of your tender. To do this, you should upload a new consolidated tender package containing corrected tender documents together with formal notification by email that the previous tender is withdrawn (to procurement@enisa.europa.eu).

Late receipt of your tender will lead to its exclusion from the award procedure for this contract.

Proof of receipt

You will receive a tender receipt confirmation in your e-Submission mailbox, including information about the timestamp put on your tender by the e-Submission system. This is considered as the official time of receipt and will constitute proof of compliance with the tender deadline.

Withdrawal of tender

If, after submission, you wish to withdraw your tender, you must send a duly signed letter, firstly by email to procurement@enisa.europa.eu as well as by registered post to the address below identifying the name and reference of the tender you wish to withdraw. This notification must be signed by the same authorised legal representative(s) who previously signed the tender in question.

Address

[Insert tender title and reference]

ENISA

For the attention of the Procurement Officer

PO Box 1309,

Heraklion 710 01,

Greece

Get to know the e-Submission application

On the '**Help for e-Submission**' page of the application a detailed [User Manual](#), in each of the 23 languages of the European Union, is available that elaborates the system requirements and a step by step procedure to successfully submit a tender.

A **Quick Guide** can also be found on this Help page, summarising the User Manual (*the English version is included as Annex VIII of this tender*).

The 'Help for e-Submission' page is available at:

https://webgate.ec.europa.eu/supplier_portal_toolbox/esubmissionFileProject/files/BT3/spotsHelpPage_en.html

TEST environment for e-Submission application

In order to familiarise yourself with the system and to test whether your workstation configuration is working correctly with our environment, you are invited to access the **test environment**.

Select the first link if the Call for Tenders has NO LOTS, or the second link for a tender with LOTS.

For a tender with **NO** LOTS:

https://webgate.ec.europa.eu/supplier_portal_toolbox/spots/openSpots.do?CFTUUID=TEST_CFT-NO_LOTS&VERSION=1&CAID=5790001791483&screenWidth=1000&screenHeight=850

For a tender **WITH** LOTS:

https://webgate.ec.europa.eu/supplier_portal_toolbox/spots/openSpots.do?CFTUUID=TEST_CFT-3_LOTS_3&VERSION=1&CAID=5790001791483&screenWidth=1000&screenHeight=850

1. GENERAL DESCRIPTION OF THE REQUIRED SERVICES

1.1 INTRODUCTION

Privacy and data protection are fundamental human rights and are strictly anchored within the EU legal framework². Over the last years, ENISA has put considerable effort in these areas, providing technical guidance on key privacy technologies such as cryptographic techniques, trust frameworks and electronic seals, and supporting the discussions for the reform of the European data protection regime.

Following the recent revelations on the surveillance of electronic communications³, it is widely recognized that one of the most serious concerns today is the preservation of privacy when using internet and mobile applications. This concern has given rise to an increasing appearance of online tools, often open-source and/or freeware, affirming that they can offer certain privacy-preventive functionality for the average user, such as for example secure communication, protection against tracking, safeguarding of personal data, anonymous browsing, etc. However, in many cases the functionality of such tools is not as expected, for example due to lack of transparency on the tool's development and operation or lack of proper maintenance mechanisms. There are already a few known cases of tools declared as top privacy solutions that have been proven fraudulent. Privacy enhancing technologies⁴ (PETs) that fail to offer what they promise can be very dangerous, as the false sense of protection can compromise the users' personal data and negatively affect or even put in harm's way their personal life.

Against this background, ENISA conducted in 2015 a study on online privacy tools, aiming at enhancing trust and assurance in their use by the general public⁵. One of the main findings of the study was the need for a widely accepted methodology for the assessment of PETs, which could enable a uniform presentation of their different aspects, thus supporting the general public in making informed choices. Such a methodology could be used both by privacy experts providing reviews and/or comparisons of tools and/or by the PET developers (in the course of a self-assessment practice). More advanced users could also apply the methodology to assess certain elements of their preferred tools. ENISA, in the same study, proposed a number of criteria that could be applied in the context of PETs assessment, focusing on reliability/trustworthiness and usability of the tools. A number of open issues were also identified, for example relating to the assessment of privacy by design, the analysis of side effects (due to the use of PETs), the usability & accessibility assessment, performance and costs of PETs, and relevant legal, ethical and societal aspects. The practical application of the methodology was outlined as an important element, taking into account maintenance and visualization issues.

² See the European Commission's data protection web site for a thorough overview of the underlying legal and regulatory framework, http://ec.europa.eu/justice/data-protection/index_en.htm; Also, the web site of the Article 29 Working Party for a list of opinions and other documents on specific data protection matters, <http://ec.europa.eu/justice/data-protection/article-29/>

³ European Parliament, Committee of Civil Liberties, Justice and Home Affairs, "Report on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs", 2013, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2014-0139+0+DOC+PDF+V0//EN>

⁴ Note that the term PETs is used in the context of this tender to also refer to privacy enhancing tools (or privacy tools).

⁵ <https://www.enisa.europa.eu/activities/identity-and-trust/library/deliverables/privacy-tools-for-the-general-public>

Following the aforementioned work, ENISA decided, under its 2016 work programme⁶, to continue this activity towards the development and practical implementation of a systematic approach for the assessment and presentation of PETs (the PETs control matrix).

2. OBJECTIVES AND TASKS

The scope of this project is to provide a thorough and easy-to-use methodology for the assessment of PETs for the general public, together with its practical application in the area of mobile privacy tools.

The successful contractor is expected to:

- Develop a systematic approach for the assessment of online and mobile PETs (PETs controls matrix).
- Apply the methodology, in co-operation with PETs developers, for the assessment/presentation of at least five (5) tools for mobile privacy (e.g. smartphone apps).

The objectives of this tender are organised into the following tasks:

2.1 TASK 1: PETs controls matrix

In this task the prospective contractor will first define the criteria to be taken into account in the assessment of PETs, considering different aspects (e.g. reliability/trustworthiness, security, usability, functionality). Then, for each criterion the type, level and method of assessment will be defined, describing all parameters that need to be considered. Assessment values and scales could also be defined per criterion. Apart from the generic criteria (applicable for all types of PETs), specific functionality criteria will also be defined at least for encryption, secure messaging and anti-tracking tools.

The outcome of this work will be a matrix for assessment/presentation of PETs, including all defined criteria, the particular parameters per criterion, as well as their possible scales/values. The matrix will be provided in a practical form/tool to allow for easy application by PETs developers⁷ or independent evaluators, as well as for user-friendly presentation of the results to the general public.

In conclusion, for this task the contractor should:

1. Define the criteria for the assessment of PETs (generic and specific per PETs type).
2. Provide a detailed description per criterion of the parameters that need to be assessed, the level and method of assessment, relevant values and scales.
3. Present all criteria in a controls matrix that could be used for the assessment of different aspects of PETs (e.g. reliability/trustworthiness, security, usability, functionality).
4. Provide the PETs control matrix in a practical form/tool for easy application by interested parties and user-friendly presentation to the general public.

In order to perform this task, the contractor should take into account the ENISA's previous work on online privacy tools⁸, as well as relevant research and work in the field. Privacy experts with experience on the topic (from academia, data protection authorities, industry) should also be consulted.

⁶ <https://www.enisa.europa.eu/publications/programmes-reports/enisa-work-programme-2016>

⁷ Similar approaches can be found in other areas, e.g. the CSA cloud controls matrix that «is designed to provide fundamental security principles to guide cloud vendors and to assist prospective cloud customers in assessing the overall security risk of a cloud provider», <https://cloudsecurityalliance.org/group/cloud-controls-matrix/>

⁸ <https://www.enisa.europa.eu/activities/identity-and-trust/library/deliverables/privacy-tools-for-the-general-public>

It should be mentioned that for purpose of the project emphasis is put on online and mobile PETs, i.e. privacy enhancing tools designed to work during an internet connection and/or tools that protect the privacy of mobile (e.g. smartphone) users.

The outcome of this task will be the first milestone of the project and will be documented in the first draft of Deliverable D1.

2.2 TASK 2: Assessment of mobile privacy tools

In this task the contractor will first provide an overview of existing PETs for the protection of mobile users, especially in the areas of encryption, secure messaging and anti-tracking. To this end, relevant mobile apps will be examined covering different operating systems. Then, following the results of task 2, the aim would be to have the PETs control matrix applied by the developers of at least five (5) mobile privacy tools and accordingly present the results. In the course of this exercise, the contractor will evaluate the practical implementation of the proposed methodology and will also assess its potential applicability in the context of privacy certification and privacy seals⁹.

In conclusion, for this task the contractor should:

1. Provide an overview of PETs for mobile users (mobile privacy tools).
2. Apply, in co-operation with PETs developers, the PETs controls matrix to at least five (5) mobile privacy tools.
3. Describe open issues and the potential of further applicability of the proposed methodology, taking also into account the areas of privacy certification and privacy seals.

The outcome of this task will be the second milestone of the project and will be documented in the second draft of Deliverable D1.

Deliverable D1 will provide an integrated presentation of the results of the two tasks (final document).

ENISA will fully support the contractor in the different subtasks. The contractor will collaborate closely with ENISA throughout the elaboration of the study and agree on the chosen solutions.

2.3 TASK (on-going) Project management

The contractor should implement an appropriate and efficient project management method.

The contractor is expected to submit to the ENISA, prior to the Kick Off meeting, detailed Gantt Charts and related documentation. These will be reviewed by ENISA.

The Gantt charts and related documentation should include:

- Scheduling of all tasks and activities within the tasks.
- Milestones and critical activities.
- Assignment of experts and person days to tasks and activities.
- Identification of possible risks and suggestions to mitigate them.
- Quality assurance and peer review measures to ensure high quality results.

⁹ See relevant discussion on the European Commission's JRC project on EU privacy certification schemes <http://www.vub.ac.be/LSTS/pub/Dehert/481.pdf>

The contractor is expected to send monthly progress reports to the ENISA project manager about the project and to schedule two-weekly telephone meetings about the progress. The progress reports should include what has been done the previous weeks, the status, what is planned for the next two weeks, the risks and suggested solutions and finally, points to take decisions upon. After meetings, the contractor sends the meeting minutes to the ENISA project manager.

3. EXPECTED SKILLS

The performance of the abovementioned activities requires professionals that have good academic and professional multi- disciplinary knowledge and experience of all or a subset of the following fields:

- Very good understanding and professional experience on data protection and privacy, both at policy and technical level.
- Very good understanding and professional experience in information security issues and disciplines (e.g. security policies and controls).
- Proven experience in projects of similar topic on privacy and data protection in regional, national, European, international level.
- Excellent knowledge of data collection, analysis and validation methods including the ability to produce clear and understandable text.
- Very good understanding of policy and regulatory issues related to data protection and security of public telecommunication networks at national and/or pan European level.
- Excellent project management skills including quality assurance.
- Very good communication skills.

4. DURATION AND DEADLINES

The scheduled duration of the contract is for a maximum of 6.5 months and the contractor must be available to start March 2016.

1. Kick of meeting – no later than 20th of March 2016
2. First draft Deliverable D1 – no later than 20th of May 2016
3. Second draft Deliverable D1 – no later than 20th of July 2016
4. Final draft Deliverable D1 – no later than 1st of September 2016
5. Final delivery - no later than 30th of September 2016

The deliverable shall include the full report, a slide show and a presentation for the ENISA staff delivered online.

5. LIST OF DELIVERABLES

The final deliverables should use the standard ENISA document template, which will be provided to the contractor.

The following milestones and deliverable are expected:

- **First draft** Deliverable D1: PETs controls matrix (Task 1)
- **Second draft** Deliverable D1: Assessment of mobile privacy tools (Task 2)
- **Final draft** Deliverable D1: Integration of results from tasks 1 and 2 & conclusions
- **Final Deliverable** D1: The full report.

English is the language to be used for all the documents (interim and final reports, project management reports etc.) produced.

6. PLACE OF EXECUTION OF THE ACTIVITIES AND COMMUNICATIONS

The execution of the activities will take place at the Contractor's premises. Network based collaborative tools (i.e. videoconferencing) will be used as working methods. No physical meetings are envisaged for this project

It should be mentioned that the costs of potential business trips - if any was needed- should be included in the total offer. ENISA will not additionally reimburse the contractor for these trips.

7. TENDER RESULT AND ESTIMATED CONTRACT VALUE

The result of the evaluation of tenders will be the awarding of a Service Contract. The total estimated budget cannot exceed **55,000.00 Euros (fifty five thousand Euros)** covering all tasks executed and including all costs.

8. CONTENT AND PRESENTATION OF THE TECHNICAL OFFER

The Tenderer shall enclose with the **Technical Offer** all documents and information that will enable its offers to be assessed in terms of quality and of compliance with the Specifications. An Offer shall include a description of the operational means and procedures to be implemented to perform the Contract, supported where appropriate by related documents.

An offer must address each of the following elements as A MINIMUM in order to be considered to be a valid and conforming offer:

- Description of the skills of the prospective contactor
 - The Tenderer will have to present its compliance with the expected skills as described in the relevant section.
- Description of the deliverables
 - The deliverables must be presented as requested in the article entitled "Deliverables"
 - The approach and method to perform the tasks and ensure the quality of the deliverables (stakeholders involved, reasoning behind, interesting use cases to study, reasoning why etc.).
 - Examples of previous related works, specifically on: privacy and data protection, privacy enhancing technologies, evaluation/assessment of technical tools.
 - A full list of all related projects and activities that the contractor has undertaken in the past.

- The prospective contractor is expected to provide insights in the methodology (approach) chosen in order to reach the objectives of the project described above in section “Objectives and tasks”. In particular:
 - Details need to be provided on the approach that will be followed for developing the PETs controls matrix, especially relating to evaluating relevant research work and getting input/reviews from experienced privacy experts in the field. Also, details should be provided on the engagement and co-operation with PETs developers, especially for task 2 of the project (proposals on possible apps choices, how the PETs developers can get involved in the process, etc.).
- Management of provision of services
 - Project Management: a close description of the project management method used including quality assurance is required. Breakdown of tasks; milestones definition; assignment of experts to tasks and person days to tasks should be presented in a Gantt chart, included in the offer
 - At the kick off meeting, the project plans will be confirmed as final
 - The prospective contractor must also identify possible risks to the project and propose mitigation measures
 - The prospective contractor must interact with ENISA staff and external experts, and provide regular management reporting. This will ensure the punctual delivery of good quality results of this project and on budget
- In addition the tenderer is expected to highlight / explain
 - Availability and ability of the tenderer to respond: prompt availability of resources is required within the specified delivery timeframes. Additionally, any ancillary or support resources, such as a network of associates to support the scope of this Call for Tenders must be clearly stated
- Short CV’s of the experts that will be allocated to the project focussing on their experience and expertise in the areas covered by the study.
- If applicable, the contractor should also provide justification for subcontracting,

9. CONTENT AND PRESENTATION OF THE FINANCIAL OFFER

The Financial offer must be drawn up using the **Financial Offer form (see Annex III)**.

10. DATA PROTECTION

Personal contact information will normally be professional contact data only, so no special confidentiality requirements are envisaged.

Regarding personal data, the following EU data protection regulations have to be respected:

1. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

2. Regulation (EC) No. 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data;
3. 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.

11. MARKING OF SUBMITTED DOCUMENTS

The tenderer SHOULD NOT mark tender documents (for e.g. the header or footer) with any of the following words: RESTRICTED, CONFIDENTIAL, SECRET or TOP SECRET. If the tenderer considers that such markings are required, a prior approval from the ENISA Procurement office should be attained BEFORE sending the tender documents. The tenderer should be aware that the information sent to ENISA for procurement purposes is handled in accordance with the governing rules for EU Public Procurement and the EU Financial Regulation framework.

12. PRICE

Prices submitted in response to this Tender must be inclusive of all costs involved in the performance of the contract. Prices shall be submitted only in Euro and VAT excluded.

13. PRICE REVISION

Price revision does not apply to this tender procedure.

14. PROTOCOL ON PRIVILEGES AND IMMUNITIES OF THE EUROPEAN COMMUNITIES

ENISA is exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities. Tenderers must therefore give prices which are exclusive of any taxes and duties and must indicate the amount of VAT separately.

15. PAYMENT ARRANGEMENTS

Payments under the Contract shall be carried out within 60 days of submission of an invoice accompanying the final report or deliverable based on the conditions set out in the draft contract. One single payment will be made after receipt and approval of the deliverables by ENISA. An invoice must specify the specific deliverables covered. A note that accompanies the final deliverables must present the resources used for each of the deliverables presented. Time sheets should be submitted as appropriate.

Payments under the Service Contract shall be made in accordance with article I.5 of the Special Conditions and article II.4.3 of the General Conditions (see Annex IV)

PART 3 TENDER SPECIFICATIONS

1. INFORMATION ON TENDERING

1.1 Contractual conditions

In drawing up their offer, the tenderer should bear in mind the provisions of the draft contract (Annex IV) attached to this invitation to tender particularly those on payments, performance of the contract, confidentiality, and checks and audits. Submission of a tender by a potential contractor implies acceptance of this contract and all of the terms and conditions contained therein. Any limitation, amendment or denial of the terms of contract will lead to automatic exclusion from the procurement procedure.

It is strongly recommended that you have this draft contract checked and passed by your legal representative before committing to submitting an offer.

The Agency may, before the contract is signed, either abandon the procurement procedure or cancel the award procedure without the tenderers being entitled to claim any compensation.

1.2 Joint Tenders (if applicable)

A joint tender is a situation where a tender is submitted by a 'group' of economic operators (consortium). Joint tenders may include subcontractors in addition to the joint tenderers.

Tenders can be submitted by groupings of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded. However, the Agency will require the grouping:

- Either to have the contract sign by all members of the grouping. In this case, one of them will be responsible for the receipt and processing of payments for members of grouping, for managing the service administration and for coordination of the contract; or
- to have the contract sign by a team leader, which has been duly authorised by the other members to bind each of them (a power of attorney will be attached to the contract according to the template provided by the Agency).

In addition, the composition and constitution of the grouping, and the allocation of the scope of tasks amongst the members, shall not be altered without the prior written consent of the Agency which can be withheld at discretion.

In case of a joint offer, for each partner, except the LEAD partner:

- the **Legal Entities form** and the **Power of attorney of each partner**, must be filled in, signed by (an) authorised representative(s), scanned and uploaded in the corresponding section.
- the **Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest** must be filled in, signed by (an) authorised representative(s), scanned and uploaded in the corresponding section.

Hand written or electronic signature of the consortium leader who submits the tender is not required, since the signature of the *e-Submission 'Tender Preparation Report'* implies that all included documents are signed by this party.

More details about uploading the respective documents can be found in Annex VII.

1.3 Liability of members of a group

Partners in a joint offer assume **joint and several liability** towards the Agency for the performance of the contract as a whole.

Statements, saying for instance:

- That one of the partners of the joint offer will be responsible¹⁰ for only one part of the contract and another one for the rest, or
- That more than one contract should be signed if the joint offer is successful

are thus incompatible with the principle of joint and several liability. The Agency will disregard any such statement contained in a joint offer, and reserves the right to reject such offers without further evaluation, on the grounds that they do not comply with the tendering specifications.

1.4 Subcontracting

Subcontracting is permitted in the tender but the contractor will retain full liability towards the Contracting Authority for performance of the contract as a whole.

If the tenderer intends to subcontract part of the service, they shall indicate in their offer which part will be subcontracted and to what extent (% of the total contract value).

Tenderers must ensure that Article II.7 of the contract (Annex IV) can be applied to subcontractors.

Tenderers must give an indication of the proportion of the contract that they intend to subcontract.

Tenderers are required to identify all subcontractors.

During contract execution, the change of any subcontractor identified in the tender will be subject to prior written approval of the Contracting Authority.

¹⁰ not to be confused with distribution of tasks among the members of the grouping

2. STRUCTURE AND CONTENT OF THE TENDER

2.1 General

Tenders must be written in **one of the official languages** of the European Union. The working language of ENISA is English.

Tenders must be clear and concise, with continuous page numbering. Since tenderers will be judged on the content of their written bids, they must make it clear that they are able to meet the requirements of the specifications.

2.2 Structure of the tender

Based on the *e-Submission* environment, all tenders must include two sections:

- 1) Qualification data;
- 2) Tender data.

The *'Qualification data'* consists of:

- Identification of the Tenderer;
- The lots the tender is applicable for;
- Information regarding exclusion and selection criteria.

The *'Tender data'* consists of:

- The technical proposal;
- The financial proposal.

2.3 Qualification data

a) Identification of the Tenderer

The tenderer must fill in all required fields in the section:

"Qualification" → "Identification of the Tenderer" → "[Party Name]".

In case of a joint tender the consortium name has to be provided in the section:

"Qualification" → "Identification of the Tenderer" → "Consortium"

and an identification of every party in the consortium needs to be added in the section:

"Qualification" → "Identification of the Tenderer" → "Consortium Members".

The following information should also be provided:

(i) Legal Entities

In order to prove their legal capacity and their status, all tenderers and identified subcontractors must provide a Legal Entity Form with its supporting evidence. The Legal Entity Form needs to be signed by participating parties that are not signing the *'Tender Preparation Report'* (see Annex VII for an overview of required signatures.)

However, the subcontractor(s) shall not be required to fill in or provide those documents when the services represent less than 20% of the contract.

The Legal Entity Form can be generated via the e-Submission application from the section:

"Qualification" → "Identification of the Tenderer" → "[Party Name]" → "Documents"

Located under the sub-section:

"Generate pre-filled documents" button "Legal Entity form"

and uploaded under *"Documents"* in the same section.

Alternatively a standard template in each EU language is available at:

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

Tenderers must provide the following information if it has not been included with the Legal Entity Form:

- For **legal persons**, a legible copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation which applies to the legal entity concerned requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.
- For **natural persons**, where applicable, a proof of registration on a professional or trade register or any other official document showing the registration number.

(ii) Financial identification

The tenderer (or the single point of contact in case of joint tender) must provide a Financial Identification Form and supporting documents. Only one form per offer should be submitted (no form is needed for subcontractors and other joint tenderers). The form is available on:

http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

Remark: Tenderers that are already registered in the Agency's accounting system (i.e. they have already been direct contractors) must provide the filled in form but are not obliged to provide the supporting evidence.

The form needs to be printed, filled in and then scanned and uploaded in the section:

"Qualification" -> "Identification of the tenderer" -> "[Party Name]" -> "Documents".

In case of a joint tender, it has to be uploaded in the *"Documents"* section of the Consortium Leader.

(iii) Power of Attorney

In case of a joint tender, an Agreement / Power of Attorney of each partner must be filled in, signed by (an) authorised representative(s), scanned and uploaded in section:

"Qualification" -> "Identification of the tenderer" -> "[Party Name]" -> "Documents"

Please choose 'Model A' for an ad hoc grouping or 'Model B' for a legally constituted consortium - see templates in Annex V (a) and (b)

(iv) Lots interested in (only in case the tender has multiple lots)

The tenderer must indicate for which lots the tender is applicable, by ticking the boxes in the section: *"Qualification" -> "Interest in the following lots" of the e-Submission application.*

b) Information regarding exclusion and selection criteria:

The tenderer is requested to submit the following documents:

1. Declaration by the Tenderer relating to the exclusion criteria (see 3.1 below)

The filled-in Declaration form needs to be uploaded under:

"Qualification" -> "Exclusion Criteria" -> "[Party name]"

In case of a joint tender, each member of the consortium has to submit a declaration under the respective party name (see template in Annex II)

2. Documents certifying economic and financial capacity (see 3.2.2 below **Error! Reference source not found.)**

The documents need to be uploaded under:

"Qualification" -> "Selection Criteria" -> "Financial and Economic Capacity" -> "[Party name]"

In case of a joint tender, each member of the consortium has to submit the documents under the respective party name.

3. Proof of technical and professional capacity (see 3.2.3 below)

The documents need to be uploaded under:

"Qualification" -> "Selection Criteria" -> "Technical and Professional Capacity" -> "[Party name]"

In case of a joint tender, each member of the consortium has to submit the documents under the respective party name.

If any of the above documents are associated with a specific Lot, please indicate for which Lot it is applicable inside the document AND in the Description field of the attachment (*only in case the tender has multiple lots*).

2.4 Tender data

a) Technical proposal

The technical section is of great importance in the assessment of the bids, the award of the contract and the future execution of any resulting contract.

The technical offer must cover all aspects and tasks required in the technical specification and provide all the information needed to apply the award criteria. Offers deviating from the requirements or not covering all requirements may be excluded on the basis of non-conformity with the tender specifications and will not be evaluated.

The technical tender needs to be uploaded in the section:

"Tender" → "[name of Call for Tender]" in the e-Submission application.

The tenderer selects the "Technical Tender" document from the dropdown box ("Financial Tender or Technical Tender"). The e-Submission application allows attachment of as many documents as necessary.

b) Financial proposal

All tenders must contain a financial proposal to be submitted **using the form attached as Annex III.**

The tenderer's attention is drawn to the following points:

- Prices must be quoted in **euros**, including the countries which are not in the euro-zone. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.
- **Prices must be fixed amounts** [and include all expenses, such as travel expenses and daily allowances etc.].
- **Estimated travel and daily subsistence allowance expenses must be indicated separately.** This estimate should be based on Articles I.4 and II.16 of the draft contract (Annex IV). This estimate will comprise all foreseen travel and will constitute the maximum amount of travel and daily subsistence allowance expenses to be paid for all tasks.
- **Prices must be quoted free of all duties**, taxes and other charges, including VAT, as the European Union is exempt from such charges under Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union. The amount of VAT may be shown separately.
- Prices shall be fixed and not subject to revision during the performance of the contract.

The total price needs to be encoded in the e-Submission application. The completed Financial Offer form, ALSO needs to be uploaded in section:

"Tender" → "[name of Call for Tender]"

The tenderer selects the "Financial Tender" document from the dropdown box ("Financial Tender or Technical Tender"). The e-Submission application allows attachment of as many documents as necessary.

3. ASSESSMENT AND AWARD OF THE CONTRACT

The assessment will be based on each tenderer's bid. All the information will be assessed in the light of the criteria set out in these specifications. The procedure for the award of the contract, which will concern only admissible bids, will be carried out in three successive stages.

The aim of each of these stages is:

- 1) to check on the basis of the **exclusion criteria**, whether tenderers can take part in the tendering procedure;
- 2) to check on the basis of the **selection criteria**, the technical and professional capacity and economic and financial capacity of each tenderer;
- 3) to assess on the basis of the **award criteria** each bid which has passed the exclusion and selection stages.

Only tenders meeting the requirements of one step will pass on to the next step

3.1 EXCLUSION CRITERIA

All tenderers shall provide a declaration on their honour (see Annex II), stating that they are not in one of the situations of exclusion listed in Annex II.

The declaration on honour is also required for identified subcontractors whose intended share of the contract is above 20%.

The declaration on honour has to be duly signed by parties that are not signing the Tender Preparation Report in *e-Submission* (see Annex VII for an overview of required signatures.).

The successful tenderer shall be asked to provide the documents mentioned as supporting evidence in Annex II before signature of the contract and within a deadline given by the contracting authority. This requirement applies to all members of the consortium in case of joint tender

Remark:

The tenderers will be waived of the obligation to submit the documentary evidence mentioned above if such evidence has already been submitted for the purposes of another procurement procedure launched by ENISA, provided that the documents are not more than one year old starting from their issuing date and that they are still valid. In such a case, the tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement procedure, specifying the reference of the call for tender for which the documents have been provided, and confirm that no changes in their situation has occurred.

3.2 SELECTION CRITERIA

The following criteria will be used to select the Tenderers. If the Tender is proposed by a consortium these criteria must be fulfilled by each partner.

Documentary evidence of the Tenderers' claims in respect of the below-mentioned criteria is required.

3.2.1 Professional Information

The Tenderer must provide evidence of enrolment (declaration or certificates) in one of the professional or trade registers, in the country of establishment.

3.2.2 Financial and Economic Capacity

Proof of financial and economic standing shall be furnished by the following documents and minimum requirements:

- (a) Copy of the financial statements (balance sheets and profit and loss accounts) for the last two (2) financial years for which accounts have been closed, where publication of the accounts is required under the company law of the country in which the economic operator is established. In case of a consortium, each consortium member shall present their financial statements.

If the tenderer is not obliged to publish its accounts under the law of the state in which it is established, a copy of audited accounts for the last two (2) financial years should be presented. In case of a consortium, audited accounts for each consortium partner shall be presented.

- (b) A statement of the average turnover of the last two (2) financial years for which accounts have been closed. In case of a consortium, the annual average turnover for each of the partners shall be presented.

If for some exceptional reason which the Contracting Authority considers justified, the tenderer is unable to provide the documentary evidence requested above, he may prove his economic and financial capacity by any other means which the Contracting Authority considers appropriate, but only following a request for clarification before the tender expiry date.

3.2.3 Technical and professional capacity

Evidence of the technical and professional capacity of the tenderers shall be furnished on the basis of the following documents:

- A curriculum vita of the Tenderer, as well as of all members of the Tenderer's team, shall be included, in which the Tenderer shall refer to the skills and experience required (in line with Part 2 – Section 3 - Expected Skills):
- Their technical knowledge and experience in the relevant technical areas (including references to projects similar to the one proposed in this tender);
- Their management capability (including, but not limited to, project management in a European context and quality assurance).

3.3 AWARD CRITERIA

3.3.1 Quality of the Offer

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

No	Qualitative award criteria		Weighting (max. points)
1.	Technical compliance	Compliance with the technical descriptions (Part 2 of this document)	25/100
2.	Quality and accuracy of content and structure	Quality of the proposal and accuracy of the description to provide the requested services	30/100
3.	Project Team	Composition of project team (ratio senior/juniors), relevant experience of the team, work flows and review cycles of the output, direct involvement of senior staff, and distribution of tasks amongst experts; quality reviews of deliverables.	25/100
4.	Methodology	Selected methodology and project management	20/100
Total Qualitative Points (QP)			100

Minimum attainment per criterion

Offers scoring less than 50% for any criterion will be deemed to be of insufficient quality and eliminated from further consideration.

Minimum attainment overall

Offers scoring less than 60% after the evaluation process will be considered to be of insufficient quality and eliminated from the following phase.

The sum of all criteria gives a total of 100 points. The respective weighting between the different awards criteria depends on the nature of the services required and is consequently closely related to the terms of reference. The award criteria are thus quantified parameters that the offer should comply with. The **qualitative award criteria** points will be weighted at **70%** in relation to the price.

3.3.2 Price of the Offer

Tenders must state a total fixed price in Euro. Prices quoted should be exclusive of all charges, taxes, dues including value added tax in accordance with Article 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities. Such charges may not therefore be included in the calculation of the price quoted.

ENISA, in conformity with the Protocol on the Privileges and Immunities of the European Community annexed to the Treaty of April 8th, 1965, is exempt from all VAT.

Offers exceeding the maximum price set in Part 2; section 7 will be excluded. The cheapest offer will receive the maximum points and the rest of the candidate's offers will be awarded points in relation to the best offer as follows

$$PP = (PC / PB) \times 100$$

where;

PP = Weighted price points
PC = Cheapest bid price received
PB = Bid price being evaluated

3.3.3 Award of the contract

The contract will be awarded to the offer which is the most cost effective (offers the best value for money) which obtains the highest number of points after the final evaluation on the basis of the ratio between the **quality criteria (70%) and the price (30%)**. The following formula will be used:

$$TWP = (QP \times 0.7) + (PP \times 0.3)$$

where;

QP = Qualitative points
PP = Price points
TWP = Total weighted points score

In case the successful tenderer is unable to sign the contract for any reasons, the Contracting Authority reserves the right to award the contract to other tenderers as per the ranking order established following the evaluation procedure.

4. TENDER OPENING

The public opening of received tenders will take place on **8th February 2016 at 11:00am EET** at ENISA Building, Science and Technology Park of Crete, GR - 70013 Heraklion, Greece.

A maximum of one legal representative per participating tenderer may attend the opening session. Tenderers shall inform the Agency in writing of their intention to attend by email to procurement@enisa.europa.eu **at least 48 hours** prior to the opening session.

5. OTHER CONDITIONS

5.1 Validity

Period of validity of the Tender: 90 days from the closing date stated in Invitation to Tender. The successful Tenderer must maintain its Offer for a further 120 days from the notification of the award.

5.2 Lots

This Tender is not divided into Lots.

5.3 Additional Provisions

- Changes to tenders will be accepted only if they are received on or before the final date and time set for the receipt of tenders.
- Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.
- No information of any kind will be given on the state of progress with regard to the evaluation of tenders.
- All documents submitted by Tenderers will become property of ENISA and will be regarded as confidential.

5.4 No obligation to award the contract

Initiation of a tendering procedure imposes no obligation on ENISA to award the contract. Should the invitation to tender cover several items or lots, ENISA reserves the right to award a contract for only some of them. ENISA shall not be liable for any compensation with respect to Tenderers who's Tenders have not been accepted. Nor shall it be so liable if it decides not to award the contract.

6. SPECIFIC INFORMATION

6.1 Timetable

The timetable for this tender and the resulting contract is as follows:

Title: “**PETs controls matrix: A systematic approach for assessing online and mobile privacy tools**”

ENISA D-COD-16-T08

Summary timetable comments

Launch of tender: Contract notice to the Official Journal of the European Union (OJEU) Uploaded to e-Tendering website Uploaded to ENISA website.	16th December 2015	
Deadline for request of information from ENISA	28 th January 2016	
Last date on which clarifications are issued by ENISA	29 th January 2016	
Deadline for electronic reception of offers via e-Submission	5th February 2016	23:59 CET (Central European time)
Opening of offers	8 th February 2016	11:00 EET (Eastern European time)
Date for evaluation of offers	TBA	10:30 EET (Eastern European time)
Notification of award to the selected candidate + 10 day standstill period commences	late Feb 2016	Estimated
Contract signature	Mid - late March 2016	Estimated
Commencement date of activities	As per tender	Estimated
Completion date of activities	As per tender	Estimated