

## **OPEN CALL FOR TENDERS**

### **Tender Documentation**

## **“Supporting Analysis of the NIS Market”**

### **ENISA F-COD-20-T23**

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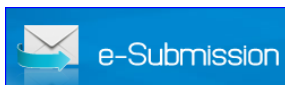
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*Offers via e-Submission portal **ONLY***

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## 1.1 INTRODUCTION

The European Union Agency for Cybersecurity (ENISA) was established by the European Parliament and the Council Regulation (EU) No 2019/881 of 17 April 2019 (OJ L 151/15, 07.06.2019). ENISA is actively contributing to European cybersecurity policy, in order to support Member States and European Union stakeholders to support a response to large-scale cyber incidents that take place across borders in cases where two or more EU Member States have been affected. This work also contributes to the proper functioning of the Digital Single Market.

## 1.2 SCOPE

The Agency shall assist the European Commission and EU Member States (EU MS), and in consequence cooperate with the business community, in order to help them to meet the requirements of network and information security, thereby ensuring the smooth functioning of the Internal Market. As described in ENISA regulation, one of the objectives of the agency is to assist the Union institutions, bodies, offices and agencies in developing policies in network and information security, so, including building expertise related to availability, authenticity, integrity and confidentiality of stored or transmitted data and the related services offered by or accessible via those networks and systems. For instance, the new ENISA regulation mentions the necessity to analyse current and emerging risks (and their components), stating: *“the Agency, in cooperation with Member States and, as appropriate, with statistical bodies and others, collects relevant information”*. In particular, under Art. 3, Tasks, d), iii), the new ENISA regulation states that ENISA should enable effective responses to information security risks and threats.

ENISA supports the development and implementation of the European Union's policy and law on matters relating to network and information security (NIS) and assists Member States and European Union institutions, bodies and agencies in establishing and implementing vulnerability disclosure policies on a voluntary basis.

Since 2019, following the bringing into force of the Cybersecurity Act (Regulation 2019/881), ENISA is tasked to prepare the ‘European cybersecurity certification schemes’ that serve as the basis for certification of products, processes and services that support the delivery of the Digital Single Market. The European Cybersecurity Act introduces processes that support the cybersecurity certification of ICT products, processes and services. In particular, it establishes EU wide rules and European schemes for cybersecurity certification of such ICT products, processes and services.

## 1.3 OBJECTIVES

The Agency's objectives are as follows:

- The Agency shall enhance the capabilities of the cybersecurity community including EU Member States to prevent, to address, and to respond to cybersecurity issues and threats.
- The Agency shall provide assistance and deliver advice to the Commission and EU MS on issues related to cybersecurity falling within its competencies as set out in the Regulation.
- Building on national and EU efforts, the Agency shall develop a high level of expertise.
- The Agency shall use this expertise to stimulate broad cooperation between actors from the public and private sectors.
- The Agency shall assist the Commission, in the technical preparatory work for updating and developing EU legislation in the field of cybersecurity.

## 2. ADDITIONAL INFORMATION

Further information about ENISA can be obtained on its website: [www.enisa.europa.eu](http://www.enisa.europa.eu).

## PART 2 TERMS OF REFERENCE

### I. SCOPE OF THIS TENDER

The purpose of this Call for Tenders is to provide support for ENISA's work analysing the Network and Information Security market from a demand and a supply-side perspective, throughout the years 2020 - 2023. ENISA envisages various projects per year in this area, on specific topics such as NIS investments, market trends, economics of cybersecurity, cost of cybersecurity incidents etc.

By means of this Call for Tenders ENISA seeks to contract the services of a service provider, which can provide support in the field of the NIS market. The successful bidder should be able to demonstrate significant experience and skills in this field, with emphasis on the aspects dealt with in the annual ENISA Work Programme (which is described below).


Subject of the tender	Maximum budget
Supporting Analysis of the NIS Market	A maximum budget of <b>€600.000,00 (six hundred thousand euro)</b> over the maximum possible period of 4 years
Last date for <u>dispatch</u> of offers	<b>27<sup>th</sup> July 2020 until 18:00 CEST</b>

**PLEASE NOTE:** 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.)

#### IMPORTANT!

#### Provisions relating to BREXIT

For UK candidates or tenderers: Please be aware that following the entry into force of the EU-UK Withdrawal Agreement on 1 February 2020 and in particular Articles 127(6), 137 and 138, the references to natural or legal persons residing or established in a Member State of the European Union are to be understood as including natural or legal persons residing or established in the United Kingdom. UK residents and entities are therefore eligible to participate under this call..

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

## 1. BACKGROUND INFORMATION

Business drivers resulting in digital transformation across sectors of the economy have brought cybersecurity at the forefront for many organisations. This trend has been enhanced by the continuous development of the relevant EU Regulatory and Policy Framework with the introduction of the Network and Information Security (NIS) Directive<sup>1</sup>, the EU Cybersecurity Act<sup>2</sup> and the Digital Single Market Strategy<sup>3</sup> among other initiatives. However, not enough data currently exists in the EU on how this trend has manifested in terms of cybersecurity investments in the private sector or how the overall NIS market has evolved both from a demand and a supply side perspective.

The Cybersecurity Act provides that *“In order to support the businesses operating in the cybersecurity sector, as well as the users of cybersecurity solutions, ENISA should develop and maintain a ‘market observatory’ by performing regular analyses and disseminating information on the main trends in the cybersecurity market, on both the demand and supply sides.”*<sup>4</sup>

ENISA is looking to contract services that will provide market data and the relevant analysis thereof in relation to:

- (a) how EU operators across various sectors have been developing their strategy and investment in cybersecurity products and services,
- (b) what technology and business tendencies drive the demand and supply side of NIS products and services,
- (c) how does innovation impact strategy and investment in cybersecurity,
- (d) in which market and in what form large market shifts are or can be expected,
- (e) what are the main tendencies that drive strategy and investment across markets,
- (f) what is the relative competitive position of main authors of strategy and investment,
- (g) as well as any other issue relevant to the economics of cybersecurity,
- (h) the Contractor is expected to explain her approach and method in relation to data and analyses carried out.

While the scope of this project is the European Union strategies, tendencies and data, data from other markets can equally be used as long as they are likely to have an impact in the EU; for instance an

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<sup>1</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2016.194.01.0001.01.ENG&toc=OJ:L:2016:194:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.194.01.0001.01.ENG&toc=OJ:L:2016:194:TOC)

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0881&from=EN>

<sup>3</sup> <https://ec.europa.eu/digital-single-market/en>

<sup>4</sup> Cyber Security Act, Rec. 42

important supplier established outside the EU, which nevertheless delivers products and services in the EU is certainly of interest.

It is important to underline that ENISA is an internal market Agency within the EU, therefore the interest in relation to this study concerns aspects related to considerations affecting the internal market; this for instance would exclude aspects related to policy on defence. ENISA intends to use this data in relation to policy areas it assists with.

The resulting reports will be used by ENISA in relation to its role partially described as a market observatory in accordance with Article 8 Market, cybersecurity certification, and standardisation of the Cybersecurity Act.

## 2. PROJECT PROPOSED FOR 2020

ENISA already has a firm project to be contracted immediately upon award and signature of this Framework contract.

- **Market Study on NIS Investments – budget between €130.000 and €150.000.**

Due to time pressures and the requirement to have the deliverable for this specific project by the end of November 2020, it has been decided to incorporate the abovementioned 1<sup>st</sup> project into this tender in the form of a fully costed ‘Scenario’.

This real ‘Scenario’ will be technically evaluated concurrently with the general award criteria (see page 23), forming the basis for the conclusion of a specific contract for the project immediately upon countersignature of this Framework Contract with the successful tenderer.

It is therefore of the utmost importance that you closely examine ‘*Annex A Project Scenario - Market study on NIS Investments*’ and provide a fully detailed and costed Technical offer as well as a Financial offer. You must use the attached template (Annex III) which incorporates both the general consultancy rates for the 4 year framework contract in Part 1, as well as the detailed costing for this 1<sup>st</sup> project in Part 2.

The price formula for awarding of points will similarly be a composite of the general consultancy rates and the actual pricing for the Project Scenario (see page 24).

## 3. AREAS OF EXPERTISE

Tenderers are expected to have expertise and knowledge on the following topics.

- Studies in Economics and the market in relation to cybersecurity, technology and innovation;
- Collection of market data; in the interest of time and as market data collection is not funded through this project as such, **ideally the tenderer will have established procedures to collect relevant datasets independently of this framework contract** and possibly have readily available access to data to support the analyses;
- Methodology in social sciences, quantitative, qualitative and mixed methods;
- Analysing market data and producing key findings from large datasets – statistical analyses;

- Survey methods to collect quantitative and qualitative economic/market data;
- Knowledge and experience in the field of cybersecurity, technology and innovation;
- Excellent understanding of the cybersecurity market in terms of products, services etc.;
- Excellent knowledge of data collection and validation methods including the ability to draft clearly and accompany text with suitable graphics and visual enhancements;
- Familiarity and experience with the tasks of ENISA;
- Policy and regulatory issues related to the development of industrial/market policies in the area of cybersecurity, technology and innovation;
- Policy and decision-making / drafting of relevant recommendations in relation to the analysis carried out.

#### 4. DESCRIPTION OF TASKS & SERVICES TO BE PROVIDED

Against the background of ENISA leading this activity, the prospective Supplier is expected to carry out a range of tasks and services under the guidance and subject to approval by the Agency. Throughout the period of delivering the said services, ENISA will provide feedback and interact with the prospective Supplier. ENISA may provide such guidance acting on its own or in combination with the European Commission and/or duly appointed external experts as appropriate.

In this vein, the objectives of the support services related to studies on cybersecurity strategies and investment may take but are not limited to, the following forms:

- Collect relevant market data and support ENISA in the analysis of this data in order to produce key findings; this may involve consolidating market data from large existing datasets that the contractor can make available to support a specific project under this framework contract. Relevant data sets, analyses and findings will be submitted to ENISA in draft format;
- Under ENISA guidance, carry out economic and market analyses based on qualitative and quantitative market data, as well use mixed methods as appropriate;
- Carry out a desk research on the topics mentioned above; relevant existing literature, research outputs, policy instruments, legislation;
- Produce graphics and visual enhancements (charts, infographics, slides etc.) to present data as well as analysis;
- Under ENISA guidance perform interviews with designated stakeholders for data collection and/or analysis. (e.g. planning, design, implementing, drafting minutes, etc.);
- Under ENISA guidance collect input (initial phase) and feedback (review phase) from related stakeholders for the studies and reports mentioned above. This involves the setting up of online tools and/or platforms for surveys, questionnaires, polls, etc. based on the content and the requirements set by ENISA on the topics mentioned above;
- Process the results from interviews, surveys and questionnaires. This may include extraction of statistical values, design of infographics, compilation of summary reports/slides, etc.;
- Support ENISA in the drafting of reports based on collected market data and information collected via interviews, surveys or desk research. Support activities in this category may include proofreading, editorial work, substantiating findings by correlating to stocktaking, etc.



The list of tasks connected to the provision of consultancy services is indicative. The successful tenderer may be required to carry out any additional service in support of the above-mentioned objectives in order to ensure efficient and effective delivery of quality material and contribute to meeting the ENISA Work Programme objectives.

Some travelling within the EU may be deemed necessary for example to meet with stakeholders and/or attend relevant meetings. Any required travelling will be clearly specified in the requests for offers under this framework contract.

## 5. POOL OF EXPERTS AND EXPERT PROFILES

The successful tenderer shall have a pool of experts available for individual assignments/tasks. The experts for individual assignments will be selected depending on their availability and experience with regard to the specific requirements related to each project. The pool shall comprise experts of both junior and senior category. You are required to provide only the CVs of experts deemed relevant and experienced on the above-mentioned topics.

For this call in particular, we expect that you should include at least 4 experts; at least 2 ‘Senior Experts’ and at least 2 ‘Junior Experts’ (see below):

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### 5.1 JUNIOR EXPERT PROFILE

The **Junior Expert** shall have:

- Minimum 2 years of professional experience in collecting and/or analysing market data and producing key findings from large datasets;
- Minimum 2 years of prior experience (academic or professional) with market data collection and validation methods including the ability to produce clear and understandable text equipped with graphical elements.;
- Social sciences methods.
- Very good drafting skills and ability to draft technical reports;
- Excellent communication and presentation skills;
- Proficient in both written and spoken English;

Advantageous:

- Knowledge of the EU and MS legal framework on cybersecurity on concerning industry and market aspects of cybersecurity;
- Knowledge and experience in the field of cybersecurity;
- Familiarity and experience with the tasks performed by ENISA.

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## 5.2 SENIOR EXPERT PROFILE

The **Senior Expert** shall have:

- Minimum 5 years of professional experience in collecting and/or analysing market data and producing key findings from large datasets;
- Minimum 5 years of prior experience (academic or professional) with market data collection and validation methods including the ability to produce clear and understandable text equipped with graphical elements;
- Minimum 5 years of prior experience with market studies specifically in the cybersecurity domain and an overall strong understanding of the cybersecurity market demand and supply side;
- Social sciences methods.
- Excellent project management skills including quality assurance and risk management and experience in realising international projects;
- Excellent drafting skills and ability to draft technical reports.
- Excellent communication and presentation skills.
- Proficient in both written and spoken English

Advantageous:

- Knowledge of the EU and MS legal framework on cybersecurity on concerning industry and market aspects of cybersecurity;
- Knowledge and experience in the field of cybersecurity;
- Policy and regulatory issues related to the resilience of critical infrastructures and services at national and/or European level including activities related to CIIP and National Cybersecurity Strategies;
- Familiarity and experience with the tasks performed by ENISA.

## 6. CONTENT AND PRESENTATION OF THE TECHNICAL OFFER

The Tenderer should submit a **Technical Offer** containing relevant documents and information which enables ENISA to assess its quality and compliance with the specifications above (the technical description).

The technical offer shall be structured as follows:

- **Section 1: Expertise and Methodological approach (30% of total score)**
  - The Tenderer will have to present its **compliance with the expected skills** as described in the relevant section.
  - Examples of previous related works, a **list of all related projects and activities** that the contractor has undertaken in the past, particularly in relation to the collection and analysis of cybersecurity market data.
  - **Methodological approach** for the delivery of the indicative tasks.
  - **Methodology and resources for collecting market data.** The tenderer is encouraged to indicate relevant data that are already available or are collected on a regular basis, details on the methodology for collecting such data and any other/external sources used to obtain missing data to support the relevant analyses.
- **Section 2: Organisation of the work and resources (25% of total score)**
  - Description of relevant **roles/responsibilities** within the proposed framework contract management team
  - Description of **tasks/activities** to be undertaken by each team member and foreseen allocation of resources to the global management of the framework contract.
  - In the case of a tender being submitted by a consortium, a description of the **input from each of the consortium members** and the distribution and interaction of tasks and responsibilities between them;
  - A **description of sub-contracting arrangements foreseen**, if any, with a clear indication of the tasks that will be entrusted to a sub-contractor and the quality assurance methods to be used in relation to these tasks.
- **Section 3: Project Management and Quality Assurance (20% of total score)**
  - The approach and methodology for the **project management of the specific projects.**
  - General approach to **managing the Framework Contract**, communication and deliverables quality control, including provisions for proof reading of deliverables.
  - Provisions for **continuity of service** in case of absence of a member of a project team.
  - The foreseen **project risks** and how are going to be mitigated.
  - A description of **sub-contracting arrangements foreseen**, if any, with a clear indication of the tasks that will be entrusted to a sub-contractor and the quality assurance methods to be used in relation to these tasks.

- **Section 4: Project scenario – “Market study on NIS Investments”. (25% of total score)**
  - As per Annex A - Scenario – ‘Market study on NIS Investments’

In addition to the above the tenderer must provide the information concerning subcontracting as requested in Part 3; section 1.4.

## 7. CONTENT AND PRESENTATION OF THE FINANCIAL OFFER

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

Prices/rates must be quoted in **EURO** and include all expenses necessary to perform the contract.

These prices must be a flat rate and include all administrative costs, with the exception of reimbursable costs in relation to travel and overnight stays away from your principal place of business if requested as part of the subsequent ‘Requests for offers’ under the framework contract’. These costs will be typically reimbursed as follows:

Travel by air will be reimbursed based on return economy tickets. Travel by train or coach will be reimbursed on the basis of a second class ticket. These approximate costs will be provided as part of the contractor’s offer following a ‘Request for offer’ by ENISA.

Any costs incurred during approved business trips such as travel costs and subsistence allowances for overnight stays will be reimbursed based on the *per diem* rates published by the European Commission for the actual dates of the trip. *Per diems* cover accommodation, meals, local travel at the place of the meeting and sundry expenses. Please, refer to the following link for actual rates of reimbursement:

[http://ec.europa.eu/europeaid/work/procedures/implementation/per\\_diems/index\\_en.htm](http://ec.europa.eu/europeaid/work/procedures/implementation/per_diems/index_en.htm)

Any other costs which may be necessarily incurred will be reimbursed as appropriate, following prior agreement between both ENISA and the contractor, in accordance with the special provisions which will be defined in each Specific Contract.

## 8. TENDER RESULT AND ESTIMATED CONTRACT VALUES

The estimated overall maximum contract value without this being binding for ENISA cannot exceed **six hundred thousand Euros (€ 600,000.00)** over a maximum possible period of 4 years.

*(Please note that in the case where unforeseen circumstances result in this contract being consumed faster than originally planned, the Agency reserves the right to consider conducting a ‘Negotiated procedure without prior publication of a contract notice’ with the existing contractor in order to increase the maximum amount stated above by up to 50%. This procedure being fully in accordance with Article 164(4) and Annex I - point 11.1(e) of the EU Financial Regulation (FR)).*

## 9. DATA PROTECTION AND TRANSPARENCY

While personal data mainly includes professional contact data, specific conditions may apply depending on the context and the type of personal data collected.

Regarding personal data, the EU data protection applicable on the Agency and its Contractors includes the following instruments:

- Regulation (EU) 2018/1725 of the European Parliament and of the Council 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.

Particular attention needs to be paid to transparency conditions that are applicable to the Agency, as they emanate from the following instrument:

- Article 15 of the Treaty of the Functioning of the European Union (TFEU).
- 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.

## 10. 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 Coordinator should be obtained 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.

## 11. 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.

## 12. PRICE REVISION

The price quoted must be fixed and not subject to revision during the first year of performance of the contract. From the beginning of the second year of performance of the contract, prices may be revised in accordance with Article I.3.3 of the framework contract

## 13. COSTS INVOLVED IN PREPARING AND SUBMITTING A TENDER

ENISA will not reimburse any costs incurred in the preparation and submission of a Tender. Any such costs must be paid by the Tenderer.

## 14. PERIOD OF VALIDITY OF THE TENDER

Tenderers must enclose a confirmation that the prices given are valid for (90) ninety days from the date of submission of the tender.

## 15. PROTOCOL ON PRIVILEGES & IMMUNITIES OF THE EUROPEAN UNION

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 Union. Tenderers must therefore give prices, which are exclusive of any taxes and duties and must indicate the amount of VAT separately.

## 16. 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.

## 17. CONTRACTUAL DETAILS

A Framework Service Contract will be proposed to the successful candidate. Selection of a candidate and / or signature of the Framework Service Contract imposes no obligation on ENISA to order services.

The contract and its annexes draw up the legal, financial, technical and administrative provisions governing the relations between the Agency and the Contractor during its period of validity.

The tender will conclude, valid as of the date of the last signature, with a one-year Framework Service contract, tacitly renewable yearly for a maximum of four years.

The Agency reserves the right to end the contract at any time, without any obligation to invoke the reason for it, at one months' notice. The Tenderer's offer must be drafted taking fully into account the provisions of the draft Framework Service contract annexed to this call for tenders (See draft contract, in Annex IV).

Execution of the Framework Contracts will be performed via Specific Contracts.

***Please note that the general conditions of our standard framework service contract cannot be modified. Submission of a tender by a potential contractor implies acceptance of this contract and all of the terms and conditions contained therein. It is strongly recommended that you have this draft contract checked and passed by your legal services before committing to submitting an offer.***

## 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.

Before the contract is signed, the Agency may decide to 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 signed by all members (partners) of the grouping. In this case, one of them, as 'Lead Partner', will be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration and for coordination of the contract;
- Or to have the contract signed by the 'Lead Partner' only, who has been duly authorised by the other members to bind each of them (a fully completed 'power of attorney' form for each member of the Group 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 its discretion.

In case of a joint offer, each member of the grouping shall provide the following:

- a **Legal Entities form** and a **Power of Attorney of each consortium partner**, must be filled in, signed by (an) authorised representative(s), scanned and uploaded in the corresponding section.
- a **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.

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### 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 responsible<sup>5</sup> 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, because they do not comply with the tendering specifications.

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### 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, any change of a subcontractor identified in the tender will be subject to prior written approval of the Contracting Authority.

## 2. STRUCTURE AND CONTENT OF THE TENDER

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### 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 written in a clear and concise manner, 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/terms of reference.

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<sup>5</sup> not to be confused with distribution of tasks among the members of the grouping



## 2.2 STRUCTURE OF THE TENDER

Based on the **e-Submission** environment<sup>6</sup>, all tenders must provide information and supporting documentation in three sections:

- 1) Company identification - data and documentation
- 2) Qualification - data and documentation;
- 3) Tender offer - data and documentation.

## 2.3 QUALIFICATION DATA

### a) Identification of the Tenderer

The tenderer must fill in all required fields in the qualification section. In case of a joint tender the consortium name has to be provided and an identification of every party in the consortium needs to be added.

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**'.

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

The Legal Entity Form can be generated via the e-Submission application. 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](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 at:

<sup>6</sup> Please refer to 'ANNEX VIII eSubmission application guide' for specific guidance on the e-Submission platform

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](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 **with ENISA** in the past) 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 Qualification section. 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 for each partner must be filled in, signed by (an) authorised representative(s), scanned and uploaded. 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 relevant boxes in the section: **"Interested in the following lots"**.

### **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.

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)**

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)**

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*).

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## **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 based on non-conformity with the tender specifications, and will not be evaluated.

The technical tender needs to be uploaded in the relevant section:

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 **euro**, including the countries that 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.**
- **Estimated travel and daily subsistence allowance expenses must be indicated separately.**  
(only if applicable to this procedure)

This estimate should be based on Articles I.5 and II.22 of the draft framework 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<sup>7</sup>.

- In the box labelled '**Total amount exclusive of taxes**' – please add the amount Total P<sub>B</sub> from your Financial Offer form.
- In the box labelled '**Total taxes amount**' – please put zero *(if this is not accepted by system then enter 0,01)*
- In the box labelled '**Total amount**' – again simply add the amount Total P<sub>B</sub> from your Financial Offer form

The completed Financial Offer form(s), MUST ALSO be uploaded in the relevant section:

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.

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<sup>7</sup> In the case of framework contracts, unless otherwise instructed, please add the maximum budget given for this tender

### 3. ASSESSMENT AND AWARD OF THE CONTRACT

The assessment will be based on each tenderer's bid. All the information will be assessed in 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 each stage will pass on to the next evaluation stage.

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#### 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.

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*.

The successful tenderer shall be asked to provide the actual 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:**

A tenderer may 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/her 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.

ENISA will also waive the obligation of the tenderer to submit the documentary evidence if it can access it on a national database free of charge.

Each tenderer (and each member of a consortium) shall declare in the relevant field in Annex VII (Administrative Identification form) whether it is a Small or Medium Size Enterprise (SME) in accordance with Commission Recommendation 2003/361/EC<sup>8</sup>.

As a general guideline, here is an excerpt from the Recommendation:

*“The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.”*

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## 3.2 SELECTION CRITERIA

The following criteria will be used to select the Tenderers for further evaluation. If the Tender is proposed by a consortium, these criteria must be fulfilled by each partner (unless otherwise stated).

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

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### 3.2.1 PROFESSIONAL INFORMATION

The Tenderer must provide evidence of enrolment (declaration or certificates) in one of the professional or trade registers related to the subject of this tender, in the country of its establishment.

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### 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/grouping, 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. The **minimum annual average turnover** of the tenderer shall be **€150.000,00 (one hundred and fifty thousand euro)**:

In case of a consortium/grouping, the annual average turnover for each of the partners shall be presented. The sum of the annual average turnovers of each partner will be taken into account to reach the annual average turnover.

- (c) If tenderers will call on the competences of another entity (for example, a parent company), a written undertaking by the said entity certifying that it will make available to the tenderers the resources required to implement the contract.

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<sup>8</sup> Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>

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 formal request for clarification **before** the tender expiry date.

### 3.2.3 TECHNICAL AND PROFESSIONAL CAPACITY CRITERIA AND EVIDENCE

These criteria relate to the Tenderer's or subcontractor's skill, efficiency, experience, reliability and similar circumstances. Tenderers are required to prove that they have sufficient technical and professional capacity to perform the contract by providing the following documentation:

#### a) Criteria relating to tenderers

Tenderers (in case of a joint tender the combined capacity of all tenderers and identified subcontractors) must comply with the following criteria:

- The tenderer must prove its experience in the field of market studies with at least two (2) projects/deliverables delivered in this field in the last three years, **at least one (1)** of them covering the NIS/cybersecurity market and each with a **minimum value of € 40,000.00**.
- The tenderer must prove experience of working and drafting reports in the English language with at least three (3) projects delivered in this field in the last five years, showing the necessary language coverage.
- The tenderer must prove its experience of working in EU countries with at least 2 projects delivered in the last three years.
- The tenderer must prove experience in one or more of the following as deemed relevant to the area of expertise the subject of this tender; market/economic data collection, survey techniques, statistical analyses and drafting reports and recommendations.

Please note that your list of previous projects in the fields of expertise mentioned above can be from a wide cross-section of organisations including private industry, commercial enterprises and academia as well as with public or governmental organisations.

#### b) Criteria relating to the team delivering the service:

The team delivering the service should include, as a minimum, the following profiles:

- **Junior Expert profiles** As per minimum requirements listed in Part 2 section 5.1
- **Senior Expert profiles** As per minimum requirements listed in Part 2 section 5.2

#### c) Evidence:

The following evidence should be provided to fulfil the above criteria:

- Details of the structure of the organisation
- List of list of all related projects and activities that the contractor has undertaken in the past five years, particularly in relation to the collection and analysis of cybersecurity market data, with sums, dates and recipients, public or private.

- The educational and professional qualifications of the experts who will provide the services for this tender (CVs), including the management staff. Each CV provided should indicate their intended function in the delivery of the service.

### 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 based on the award criteria.

No	Qualitative award criteria		Weighting (max. points)
1.	<b>Expertise and methodological approach</b>	This criterion assesses the suitability and strength of the proposal as measured against the requirements of the illustrative tasks in terms of the technical content and level of the tenderer's compliance with the required skills and the degree to which the methodology is suited to the needs set out by ENISA. Particular emphasis will be placed on the <b>tenderer's approach to collecting the relevant market data.</b>	30
2.	<b>Organisation of the work and resources</b>	This criterion will assess how the roles and responsibilities of the proposed team and of the economic operators (in case of joint tenders, including subcontractors if applicable) will be distributed. It also assesses the global allocation of time and resources to the global management of the framework contract.	25
3.	<b>Project management and quality assurance</b>	This criterion will assess the quality control system applied to the management of the framework contract concerning the quality of the deliverables, the project management approach for the specific contracts the language quality check, and continuity of the service in case of absence of a member of the team. It should be noted that submitting a generic quality control system would result in a low score.	20
4	<b>Project Scenario</b>	Compliance with the technical requirements (Annex A). Quality of the proposal and accuracy of the description to provide the requested services.	25
<b>Total Qualitative Points (QP)</b>			<b>100</b>

**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 award 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.

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**3.3.2 PRICE OF THE OFFER**

The Financial Offer form (Annex III) contains two Parts:

**Part 1: General Consultancy fees**

Consists of four (4) price boxes, which shall be completed with a monetary amount by the tenderer.

**PS = (P1 + P2)** will then be used in the price formula as shown below

**PJ = (P3 + P4)** will then be used in the price formula as shown below

**Please note:** If any of the 4 price boxes is left blank by the tenderer then the Financial Offer will be considered to be invalid and will be eliminated from further evaluation.

**Part 2: SCENARIO (Market study on NIS Investments)**

Consists of multiple fields (names of actual experts offered etc.) and price boxes in which the rates and the number of person days allotted to each expert consultant must be added, - thereby generating an automated sub-total and finally a total consultant cost for this particular scenario/first project.

**Please note:** It is obligatory to provide a fully costed and detailed financial offer for the Scenario/First project. The pricing provided and experts identified for the Scenario is binding and will be used to draft the specific contract for the first project - '*Market study on NIS Investments*'.

$$PP = (A / PS) + (C / PJ) \times 25 + (TSCA / TSC) \times 50$$

where

**A** - is the best price of all bidders for person/day rates for Senior Expert

**PS** - is the price for a single bidder for person/day rates for Senior Expert



**C** - is the best price of all bidders for person/day rates for Junior Expert

**PJ** - is the price for a single bidder for person/day rates for Junior Expert

**TSCA** - is the best Scenario price of all bidders

**TSC** - is the Scenario price for a single bidder

**Please note:** If any price box is left blank by the tenderer then the Financial Offer will be considered to be invalid and will be eliminated from further evaluation.

### 3.3.3 AWARD OF THE CONTRACT

The contract will be awarded to the offer that is the most cost effective (offers the best value for money) which obtains the highest number of points after the final evaluation, based on 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 reason, 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 **28<sup>th</sup> July 2020 at 11:30 EEST Eastern European Summer Time (Greek local time)** at ENISA Athens office, 1 Vasilissis Sofias Street, Maroussi 151 24 Attiki, 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](mailto:procurement@enisa.europa.eu) **at least 2 working days** prior to the opening session.

**Alternatively, please note** that all tenderers may simply request a copy of the Opening Report to be sent to them by email after the conclusion of the Opening Session procedure.

## 5. OTHER CONDITIONS

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### 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.

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### 5.2 LOTS

This Tender is not divided into Lots.

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### 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 the property of ENISA and will be treated as confidential.

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### 5.4 NO OBLIGATION TO AWARD THE CONTRACT

Initiation of a tendering procedure imposes no obligation on the Contracting Authority to award the contract. Should the invitation to tender cover several items or lots, the Contracting Authority reserves the right to award a contract for only some of them. The Contracting Authority shall not be liable for any compensation with respect to Tenderers whose 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 contracts is as follows:

Title: “**Supporting Analysis of the NIS Market**”

#### ENISA F-COD-20-T23

#### 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	25 <sup>th</sup> June 2020	
Deadline for request of information to ENISA	21 <sup>st</sup> July 2020	
Last date on which clarifications are issued by ENISA	22 <sup>nd</sup> July 2020	
Deadline for <b>electronic reception</b> of offers via <b>e-Submission</b>	<b>27<sup>th</sup> July 2020</b>	<b>18:00 CEST</b> Central European summer time
Opening of offers	28 <sup>th</sup> July 2020	<b>11:30 EEST</b> Eastern European summer <b>(Greek local)</b> Time
Date for evaluation of offers	TBA	TBA
Notification of award to the selected candidate + 10 day standstill period commences	TBA	Estimated
Contract signature	TBA	Estimated