

## **OPEN CALL FOR TENDERS**

### **Tender Documentation**

# **“Vulnerability disclosure policies and vulnerability databases”**

## **ENISA D-PDI-21-T07**

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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

By means of this Call for Tenders ENISA aims to procure supporting services to take stock of existing policies and good practices on Coordinated Vulnerability Disclosure (CVD), in the EU Member States and outside the EU, as well as taking stock of the existing national, regional and global vulnerability registers and databases, and the formats, metrics, procedures used in these registers and databases.

The successful bidder should be able to demonstrate significant experience and skills in in this field, with emphasis on the aspects dealt with in the annual ENISA Work Programme.

Subject of the tender	Maximum budget
Vulnerability disclosure policies and vulnerability databases	A maximum budget of <b>€125.000,00 (one hundred and twenty five thousand euro)</b>
Last date for <u>dispatch</u> of offers	<b>15<sup>th</sup> March 2021 until 18:00 CET</b>

**PLEASE NOTE:** *This tender procedure is limited to tenderers which are legally incorporated or which have an incorporated subsidiary in a member state of the European Union/EEA as well as SAA countries<sup>1</sup>. The Agreement on Government Procurement (GPA) does not apply to EU Regulatory Agencies and as such, ENISA cannot accept offers from legal entities based in 'third countries'.*

**IMPORTANT: For UK based entities (and entities outside the EU):**

*The United Kingdom is now considered a 'third country by the European Union'. ENISA cannot therefore accept submissions from legal entities based in the UK, nor can a UK legal entity be nominated as part of a consortium. Subcontracting of UK (and other third country) entities is allowed.*

*In these cases, any transfer of personal data to third countries shall only take place after prior authorisation of ENISA and shall fully comply with the requirements laid down in Chapter V of Regulation (EU)2018/1725.*

<b>Method of submitting tenders:</b> 	<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>

<sup>1</sup> Under the Stabilisation and Association Agreements (SAA) economic operators established in FYROM, Albania, Montenegro, Serbia, Bosnia and Herzegovina and Kosovo have been granted access to procurement procedures of the Union institutions, agencies and bodies.

## 1. GENERAL DESCRIPTION OF THE REQUIRED SERVICES

With this tender, ENISA aims to procure services to:

- take stock of existing policies and good practices on Coordinated Vulnerability Disclosure (CVD), in the EU Member States and outside the EU, as well as
- take stock of the existing national, regional and global vulnerability registers and databases, and the formats, metrics, procedures used in these registers and databases.

### **Background and state of play vulnerability disclosure**

A national CVD policy is a framework under which security researchers are allowed and encouraged to research ICT products and services, following a set of rules, and report any vulnerabilities they find to the national authorities or the product vendor. A national CVD policy helps to increase the overall level of cybersecurity in a country, it increases transparency, and this helps to build trust in the ICT services and products used in that country. The current state of play is that there are national CVD policies in place in a number of EU countries, but in some EU countries, these CVD policies are not yet in place or still under development. On the side of the private sector, many companies also encourage security research on their website with awards, ranging from an honourable mention, a mug or t-shirt, or in some case substantial financial rewards, aka bug bounties.

### **Background and state of play vulnerability databases**

Vulnerability registers and databases play an important role in the final stage of the CVD process, when the vulnerability has been disclosed by the vendor and/or the security researchers. In that last stage, there might be patches/fixes available; there may be related advisories from CSIRTs about risks or impact, information about new cyber-attacks exploiting the vulnerability, etc. Registers and databases provide a unique identifier to each vulnerability, a structured and machine-readable format for the information, and typically a number of references to fixes, patches, and solutions. This is important because there are many products, many vendors, many versions, each with their own set of vulnerabilities and patches. There are global registers like MITRE CVE, where product vendors can obtain unique identifiers for new vulnerabilities, there are national and regional databases, like NVD in the US and CNNVD in China, which contain further information about vulnerabilities, and there are security companies, national CSIRTs, and national cybersecurity agencies who publish advisories about new vulnerabilities. Many security tools use the CVE index and the structured (SCAP) data format, which makes it easier for companies to do vulnerability management.

### **Background and context ENISA project**

ENISA supports the Commission and the EU Member States, national authorities, cybersecurity agencies, national CSIRTs, with the implementation of cybersecurity policy and legislation, such as the NIS Directive. In practice, ENISA works with a number of different expert groups, with experts from national authorities in all the EU Member States, for different cyber security topics. An important focus is to create a setting where Member States can discuss and exchange good practices. This project is a preparatory action to support the upcoming discussions on vulnerability disclosure,

### **NIS2 proposal - disclaimer**

It is important to note that the recently published EU cybersecurity strategy and the Commission's proposal for an updated NIS directive (NIS2) also asks MS (in Article 6 of NIS2) to implement a national CVD policy and collaborate with other EU member states on vulnerabilities. The discussions about these

proposals are ongoing in the Council (between the Commission and the Member States) and this tender does not aim to make recommendations with regards to this proposal.

## 2. OBJECTIVES AND TASKS

With this tender, ENISA aims to procure supporting services to take stock of existing policies and good practices on Coordinated Vulnerability Disclosure (CVD), in the EU Member States and outside the EU, as well as taking stock of the existing national, regional and global vulnerability registers and databases, and the formats, metrics, procedures used in these registers and databases.

This tender has two main objectives:

- **Stocktaking of vulnerability disclosure policies and good practices in the EU:** To draw up a report on existing national vulnerability disclosure policies and processes looking at how they work, what are good practices and lessons learned, what are challenges, legal issues, etc. This stock tacking will cover all EU countries, and some relevant third countries.
- **Stocktaking of global, regional and national vulnerability databases and registers:** To draw up a report on existing national, regional and global vulnerability registers and databases, including an overview of formats and metrics used, to keep track of vulnerabilities and provide stakeholders with relevant information about them.

Specific tasks required from the prospective contractor are detailed below.

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### 2.1 TASK 1 – DESKTOP RESEARCH ON CVD POLICIES AND VULNERABILITY REGISTERS/ DATABASES

In this task the prospective contractor will need to collect information from existing ENISA papers<sup>2 3 4</sup> on vulnerability disclosure and perform desktop research using public information about existing CVD policies and existing vulnerability databases;

- State of play on CVD policies used in the 27 EU countries and some key countries and regions outside the EU;
- Global, regional, national vulnerability registers and databases and other sources about vulnerabilities, such as bulletins, vendor websites, etc.
- Vulnerability standards, formats, language used, including metrics, severity scores, etc.

During this task the contractor should carefully document source material, reference sources, and collect relevant links.

Based on the information collected in this task, the contractor should be able to develop a first list of areas of interest, technical, policy, economic, legal issues, which can provide input for the interview questions in Task 2.

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<sup>2</sup> <https://www.enisa.europa.eu/publications/vulnerability-disclosure>

<sup>3</sup> <https://www.enisa.europa.eu/publications/economics-of-vulnerability-disclosure>

<sup>4</sup> <https://www.enisa.europa.eu/publications/technical-reports-on-cybersecurity-situation-the-state-of-cyber-security-vulnerabilities/>

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## 2.2 TASK 2 – INTERVIEWS WITH STAKEHOLDERS ON CVD

In this task the prospective contractor will support ENISA with the organization and scheduling of a minimum of 20 interviews with relevant experts from the public and private sector, covering

- National experts from ministries and authorities who develop cyber security strategies and policies;
- Experts from national CSIRTs and national authorities implementing CVD in practice or are otherwise involved with vulnerabilities;
- Other relevant stakeholders like security researchers, product vendors, service providers, and law enforcement entities.

The prospective contractor should support ENISA with developing a list of topics and interview questions, targeted at these different groups of experts, based on the results of Task 1 and looking ahead to Tasks 3 and 4.

Note that ENISA will use its network, at national level, in the ministries in the cybersecurity agencies and in the CSIRTs, to find relevant experts to interview in the EU member states; however the prospective contractor should also propose names of relevant experts from industry and academia and other relevant stakeholders, to bring an outside perspective on this.

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## 2.3 TASK 3 – STATE OF PLAY, GOOD PRACTICES AND CHALLENGES IN CVD

In this task the prospective contractor will analyse the collected information on CVD policies, in Tasks 1 and 2, and analyse it to produce

- State of play CVD policies in the EU and a number of relevant third countries and regions, like the USA, and China;
- An overview of good practices in CVD, including a template CVD policy and procedure, bringing together the good practices and ideas collected from the different countries;
- An overview of challenges and issues, including technical, policy, economic and legal issues, supplemented with possible solutions and recommendation to address these challenges and issues.

For this task it is important that the prospective contractor develops and provides practical examples, which explains some of these concepts and issues in practice, how these CVD policies would work, what would be challenges, legal issues, etc. drawing on well-known past cases.

For this task it is important that the prospective contractor analyses the information collected (in Tasks 1 and 2) using diagrams like timelines, decision trees, and flowcharts.

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## 2.4 TASK 4 – GLOBAL, REGIONAL AND NATIONAL VULNERABILITY DATABASES

In this task the prospective contractor should consolidate the information collected in tasks 1 and 2, about existing global, regional and national vulnerability databases and registers, and give a structured overview and comparison of

- Global vulnerability registers and databases;

- National and regional registers and databases in the EU and outside the EU;
- Relations between registers and databases
- Entities supporting and contributing to the registers and databases
- Other relevant sources of information about vulnerabilities in the EU and outside the EU, such as bulletins, and advisories;
- Standards, formats, metrics, scores, used in these databases and other sources.

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## 2.5 TASK 5 – EXECUTIVE SUMMARIES, VISUALS, PRESENTATION MATERIAL

Once the content of deliverables D3 and D4 are stable, the prospective contractor will produce executive summaries for these 2 main deliverables, concisely summarizing the results and highlights, develop visual material (diagrams and flowcharts), as well as draft presentations cq. slidedecks for the content in deliverables D3 and D4.

For the visuals, the contractor should choose a standard and a format, in consultation with ENISA, so that it can be easily updated and edited later by ENISA.

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## 2.6 TASK (ON-GOING) - PROJECT MANAGEMENT

We expect the tenderer to carry out appropriate project management and to adequately plan the activities, taking into account the time and resources available.

We expect the tenderer to interact with ENISA staff regularly and to provide progress reports on a regular basis. The tenderer will need to send to ENISA a brief **monthly progress report** explaining the status of tasks in the planning and issues if any. The tenderer is expected to discuss progress with ENISA in a virtual meeting (conference call) on a **bi-weekly** basis and provide the minutes of these calls.

The prospective contractor is expected to submit, prior to the kick off meeting, a detailed Gantt chart, describing the project plan in more detail. These will be discussed with ENISA in the kick-off meeting before confirmed as final.

The Gantt charts and related documentation should include:

- Scheduling of all tasks and activities within objectives and their respective tasks
- Identification of milestones and critical activities
- Identification of possible risks and suggestions to mitigate them
- Quality assurance and peer review measures to ensure high quality results
- Detailed information on the expertise of the prospective contractors on the tasks and topics of this tender including references to previous, relevant projects,
- Detailed justification for subcontracting tasks or parts of them. In that case, ENISA requires additional information on the
  - o Tasks undertaken by the sub-contractor
  - o Expertise of the prospective contractor and its experts

- Resources allocated to him/her
  - Co-ordination mechanisms among the prime and the sub-contractors
  - Risk management method in case of delayed and/or low quality delivery of sub-contractor's outcomes
  - Official statement of overall responsibility for the whole project and its results by the prime contractor
- Proposal for a peer-review

Based on the Gantt chart, the prospective contractor is expected to deliver the following documents regularly:

- Monthly progress report on current activities (as they defined in the Gantt chart) information on the progress achieved, next steps, possible risks affecting project, and risk mitigation measures
- Early warning reports, at any time, if emerging risks threaten key milestones of the project and when the Agency needs to either be informed or take a decision
- Minutes from the bi-weekly teleconferences with ENISA staff on the progress of the project and its tasks

At least the following communication with the Contractor is expected:

- Regular video or teleconferences (bi-weekly or at more frequent intervals to be agreed upon) on the progress achieved.
- Monthly progress reports (template provided by ENISA).
- It is expected that the prospective contractor performs a first level of proof-reading before transmitting any document to ENISA and proof reads the final deliverable by an English native speaker prior to submission.

The contractor is expected to send bi-weekly progress reports using the ENISA template to the ENISA project manager(s) about the project, and schedule bi-weekly videoconference meetings about the progress.

The progress reports should include (in bullets) what has been done the previous two weeks, the status, what is planned for the next two weeks, the risks and suggested solutions and finally, points to take decisions upon.

After every meeting (progress meetings, or project meetings), the contractor should take minutes and send them to the ENISA project manager(s) using the ENISA template.

### 3. EXPECTED SKILLS

The performance of the above-mentioned tasks requires professionals that have good professional multi-disciplinary knowledge on all or a sub-set of the following fields:

- Good understanding of EU cybersecurity policy, the mandate and work of ENISA, and the role of the relevant authorities in the EU Member States, for example the national CSIRTs in the EU and the national cybersecurity agencies.

- Good understanding of technical cyber security issues, including hardware and software vulnerabilities, security research, bug bounties, and vulnerability disclosure.
- Good understanding of the impact of cybersecurity issues on the EU digital market in the EU, the importance of transparency, good understanding of the relation between, on the one hand, ICT vendors, suppliers, and service providers, and on the other hand, the critical entities who use ICT products and services to provide essential services, such as telecom providers, hospital, airports, etc.
- Excellent project management skills including quality assurance and risk management and experience in realising international projects.
- Excellent knowledge of data collection and validation methods including the ability to produce clear and understandable text equipped with graphical elements.
- Excellent communication and presentation skills.
- Proficient in both written and spoken English.
- Very good presentation skills
- Excellent native English proof reading skills.

#### 4. DURATION AND DEADLINES

The duration of this work is foreseen from April 2021 until the 15<sup>th</sup> November 2021.

Tasks 1,2,3 and 4 shall run partly in parallel.

- Kick off meeting – within two weeks after award of the contract.
- Task 1 - to be completed, and D1 delivered before the 1<sup>st</sup> July 2021
- Task 2 - to be completed and D2 to be delivered before the 1<sup>st</sup> August 2021<sup>5</sup>
- Tasks 3 and 4 - expose and table of contents for D3 & D4 to be delivered before 1<sup>st</sup> July 2021
- Final deliverables D3 and D4 - no later than the end of October 2021.
- Final deliverable D5 - no later than 15<sup>th</sup> November 2021.

Note that ENISA will share early drafts of the deliverables D3 and D4 with interviewees and relevant stakeholders, to collect feedback and comments. The contractor should be available to integrate these comments and update these drafts until the end of the contract (15<sup>th</sup> November 2021).

The Tenderer is required to make a proposal for the time schedule of the activities in order to carry out the project (e.g. including a Gantt chart). The tenderer may propose to carry different activities in parallel. In its proposal the Tenderer shall indicate the estimated amount of person days required to accomplish all tasks associated with this procurement.

ENISA expects that the contractor will deliver a project plan indicating the execution of these activities.

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<sup>5</sup> Some flexibility may be needed here, because scheduling interviews with third parties is not always trivial. If needed, in consultation with ENISA, a small number of interviews could still take place after the summer break.

## 5. LIST OF DELIVERABLES

The contractor is expected to produce the following deliverables:

- D1** – Results from the desktop research, Task 1, including references and links
- D2** – Overview of highlights from the interviews as well as detailed minutes
- D3** – CVD policies in the EU
- D4** – National, regional and global vulnerability registers and databases
- D5** – Executive summaries and slide decks for D3 and D4

English is the language to be used for all the documents produced. The layout of the final report should be based on the templates provided by ENISA. The final report is expected to be proofread by a native English speaker. At the end, ENISA may edit the full report and publish it.

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

The final deliverables should use the standard ENISA document templates, which will be provided to the successful contractor. In addition, final deliverable should be written and proof-read by the Contractor following the European Commission English Style Guide<sup>6</sup> or any other style guide document that ENISA will provide to the successful contractor.

## 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.

At least the following communication with the contractor is expected.

- A physical or virtual kick off meeting at the ENISA Office in Athens
- Regular video or teleconferences on the progress achieved

It should be mentioned that the Contractor's costs of potential business trips – if needed - should be included in the total offer. ENISA will not additionally reimburse the contractor for taking part in these meetings.

In order to save project resources, the information exchange will be performed mainly via electronic means, such as e-mail, web and phone conferencing. ENISA will facilitate this information exchange by mediating between the contractor and the involved stakeholder group when necessary and especially during the initial phases of the project

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<sup>6</sup> [http://ec.europa.eu/translation/english/guidelines/documents/styleguide\\_english\\_dgt\\_en.pdf](http://ec.europa.eu/translation/english/guidelines/documents/styleguide_english_dgt_en.pdf)

## 7. 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 articles entitled “Tasks to be performed” and “Deliverables”, including examples of their contents
  - 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
  - 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 article “Tasks to be performed”.
- Management of provision of services
  - Project Management: a close description of the project management method used to include quality assurance and risk management 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
  - 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.

## 8. CONTENT AND PRESENTATION OF THE FINANCIAL OFFER

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

The lump sum price must be quoted in **EURO** and include all expenses necessary to perform the contract.

## 9. TENDER RESULT AND ESTIMATED CONTRACT VALUES

The result of the evaluation of tenders will be the awarding of a Service Contract. The total estimated budget cannot exceed **125,000.00 Euro (one hundred and twenty five thousand Euro)** covering all tasks executed and including all costs (e.g. travelling expenses of the Contractor to and from ENISA's premises)

## 10. 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.

## 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 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.

## 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. 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.

### 15. 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.

### 16. 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.

### 17. 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.

### 18. CONTRACTUAL DETAILS

A draft of the Service Contract is proposed to the successful candidate - see Annex V.

***Please note that the general conditions of our standard 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 V) 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>7</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 V) 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>7</sup> not to be confused with distribution of tasks among the members of the grouping

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## 2.2 STRUCTURE OF THE TENDER

Based on the **e-Submission** environment<sup>8</sup>, all tenders must provide information and supporting documentation in two sections:

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

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## 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:

[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)

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<sup>8</sup> Please refer to 'ANNEX VIII eSubmission application guide' for specific guidance on the e-Submission platform

**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 VI (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 III)

#### 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 IV.**

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 service contract (Annex V). 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>9</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>9</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 III 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 VIII (Administrative Identification form) whether it is a Small or Medium Size Enterprise (SME) in accordance with Commission Recommendation 2003/361/EC<sup>10</sup>.

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<sup>10</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>

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 **€125.000,00 (one hundred and twenty five 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.

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:

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 based on the award criteria.

No	Qualitative award criteria		Weighting (max. points)
1.	<b>Quality and accuracy of content and structure</b>	Quality of the proposal and accuracy of the description to provide the requested services as detailed in Part 2 of this document.	35/100
2.	<b>Technical capacity of the company</b>	Suitability of the company and staffing structure available for the activities covered by the contract. Quality of experience and references provided.	35/100
3.	<b>Project Team</b>	Composition of project team (ratio senior/juniors), project management, work flows and review cycles of the output, direct involvement of senior staff and distribution of tasks amongst experts; quality reviews of deliverables.	30/100
<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

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 Union. 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 Union annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, is exempt from all VAT.

Offers exceeding the maximum price set in Part 2; Article 9 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.

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#### 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 **16<sup>th</sup> March 2021 at 10:30 EET Eastern European 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: “**Vulnerability disclosure policies and vulnerability databases**”

#### ENISA D-PDI-21-T07

#### 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	10 <sup>th</sup> February 2021	
Deadline for request of information to ENISA	8 <sup>th</sup> March 2021	
Last date on which clarifications are issued by ENISA	9 <sup>th</sup> March 2021	
Deadline for <b>electronic reception</b> of offers via <b>e-Submission</b>	<b>15<sup>th</sup> March 2021</b>	<b>18:00 CET</b> Central European time
Opening of offers	16 <sup>th</sup> March 2021	<b>10:30 EET</b> Eastern European (Greek local) Time
Date for evaluation of offers	TBA	TBA
Notification of award to the selected candidate	TBA	Estimated
Contract signature	TBA	Estimated