



**Guide for candidates:  
Selection of candidates to be invited to submit an offer  
Annex I to Invitation to submit Candidatures**

**Call for Tenders**

**LISA/2015/RP/02- Framework contract for the maintenance in working order of the Visa Information System (VIS) and Biometric Matching System (BMS)  
(Restricted Procedure - Article 104 (1) (b) Financial Regulation,  
Article 127 (2) paragraph 2 Rules of Application)**

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## 1. SUMMARY

Awarding authorities	The European Agency for the operational management of large scale IT systems in the area of freedom, security and justice referred to as "eu-LISA" and "contracting authority"
Procedure	Restricted procedure
Purpose	Framework contract for the maintenance in working order of the Visa Information System (VIS) and Biometric Matching System (BMS)
Lots	This call for tenders has <u>one</u> single lot.
Volume (indicative)	The estimated volume is EUR 194,450,000.00 for the entire maximum duration of the framework contract including renewal.  The Agency may exercise the option to increase this estimated maximum volume at a later stage via negotiated procedure with the successful tenderer in accordance with Art. 134 (1) (f) of the Rules of Application of the Financial Regulation.
Contracts	eu-LISA will sign a <u>single</u> framework contract with the successful tenderer.
Submission of candidature/offer	Each candidate/tenderer can only submit <u>one</u> candidature/offer.
Duration of framework contract	The duration of the framework contract shall be four (4) years. The framework contract may be renewed once for a maximum period of two (2) years.
Main places of delivery	eu-LISA`s premises in Strasbourg, France and Sankt Johann im Pongau, Austria.
Particulars of delivery	Delivery must be in conformity with the placed orders.  Maintenance of the systems is business critical and requires 24/7 availability 365 day a year.  Services will normally be carried out during normal working days and normal working hours; however, the delivery of certain services outside the normal working days and normal standard working hours may be required.
Variants	Not permitted.
Joint candidatures/offers	Permitted.
Subcontracting	Permitted. However, any intention to subcontract must be clearly announced in the request to participate where the total amount envisaged for each subcontractor is above 20% of the maximum estimated total value of the contract.

## 2. BACKGROUND

This document is designed to guide candidates in the submission of their candidatures in response to a call for tenders aimed at awarding a framework contract for the maintenance in working order of the Visa Information System (VIS) and Biometric Matching System (BMS).

The subject of this call for tenders is outlined in the Executive Summary, attached as Annex II to the invitation to submit candidatures. The Tender Technical Specifications (TTS), which will be provided to candidates admitted to the second phase of this Restricted Procedure, will further detail the scope of services of the envisaged framework contract.

The contract notice explicitly mentions the procedure and the award criteria.

## 3. CALL FOR TENDERS PROCEDURE

### Selected procedure: Restricted procedure (two phases)

The present call for tenders follows the restricted procedure in terms of Article 104 (1) (b) of the Financial Regulation applicable to the general budget of the European Union<sup>1</sup> and Article 127 (2) paragraph 2 Rules of Application<sup>2</sup>.

The nature of a restricted Call for Tenders implies different steps, namely the assessment of candidates in the candidature/application phase and the assessment of the tenders/offers in the tender phase. More in particular, the procedure will comprise two phases and four main stages:

As regards the candidature phase (phase 1):

- (1) Eligibility of candidates
- (2) Exclusion of candidates
- (3) Selection of candidates
  - (a) Economic and financial capacity
  - (b) Technical and professional capacity

As regards the tender phase (phase 2):

- (4) Evaluation of tenders
  - (a) Technical evaluation
  - (b) Financial evaluation

This restricted procedure is open to any economic operator (candidate) coming from countries within the European Union and any other economic operator coming from a third country that has concluded with the European Union a specific agreement in the area of public contracts, under the conditions provided for in that agreement.

In practice, the participation of candidates from third countries that have concluded a bilateral or multilateral agreement with the European Union in the area of public contracts is allowed under the conditions provided for in that agreement.

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<sup>1</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (Financial Regulation) (OJ L 298, 26.10.2012, p.1).

<sup>2</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (Rules of Application), (OJ L 362 of 31.12.2012, p.1).

In the candidature phase any interested economic operator having access to the European Union public procurements can be candidate and submit a request to participate containing only the documentation required for stage 1 (Eligibility), stage 2 (Exclusion) and stage 3 (Selection). These requests to participate are then assessed against the eligibility requirements, exclusion criteria and selection criteria outlined below. All candidates will be informed of the decision on their request to participate.

In the tender phase (phase two) the pre-selected candidates are invited, simultaneously and in writing, to submit a tender that will be evaluated against the award criteria published in the contract notice and specified more in detail in the invitation to tender documents (stage 4, Evaluation). The contract is awarded once the offers have been assessed.

The present document (Guide for candidates) deals only with the candidature phase (phase 1). Once the successful candidates have been selected, they will receive an invitation letter to submit a tender (phase 2). This invitation will include the full set of tender documents including the technical specifications, the draft framework contract and the detailed award criteria.

### **No conflict of interest**

With reference to Article 107 (a) of the Financial Regulation, the contracting authority cannot award a contract to tenderers, including subcontractors, who are subject to a conflict of interests.

### **Contacts with the contracting authority**

In principle, no contact is permitted between the contracting authority and the candidates during the procurement procedure.

However, in exceptional circumstances, contact may be made on the candidates' initiative before the final date for the receipt of the requests to participate in order (and only for this reason) to clarify the nature of the subject of the procedure. From the start of the procedure until the award stage, the only contact point for candidates and tenderers is the one published in the contract notice.

You must not contact or attempt to contact individual members of the contracting authority with a view to discussing any aspect of the ongoing call for tenders.

### **General terms and conditions for submitting a request to participate**

Submission of a request to participate in response to a restricted call for tenders implies that the candidate accepts all the terms and conditions set out in the invitation and its annexes and waives all other terms of business.

The contracting authority will not reimburse expenses incurred in preparing and submitting requests to participate.

Variants are not allowed.

### **Tax exemption**

eu-LISA is exempt from all duties and taxes, in accordance with:

- Articles 3 and 4 of the *Protocol on the Privileges and Immunities of the European Communities* annexed to the Treaty;
- Article 15(10) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes, as last amended.

The Governments of the Member States grant this exemption either through refunds upon presentation of documentary evidence, or by immediate exemption. eu-LISA will give the successful tenderer instructions covering this point.

### **Availability of documents**

The electronic version of the invitation to submit a candidature and all the annexes thereto (phase 1) are available at the following Internet address:

<http://www.eulisa.europa.eu/Procurement/Pages/OpenTenders.aspx>

No paper copy of these documents will be issued.

Answers to questions of general interest and any other important information about the call for tenders arising during the candidature phase will also be published on the eu-LISA website. Interested parties are invited to consult this site regularly until the deadline for submission of candidature.

The tender documents concerning the second phase of the call for tenders will be sent simultaneously only to selected candidates by electronic means only. No electronic version of this documentation will be made available on eu-LISA website.

### **No obligation to award**

Fulfilment of conditions for award will not oblige the contracting authority to award the framework contract.

The contracting authority shall not be liable for any compensation with respect to candidates and tenderers whose requests to participate or offers have not been accepted. The same applies in case the contracting authority decides not to award the contract.

## **4. THE CONTRACT**

### **Framework contract**

The contract to be signed following this restricted procedure is a framework contract. The framework contract lays down the legal, financial, technical and administrative provisions governing the relationship between the contracting authority and the contractor during its period of validity.

Actual orders will be placed by means of specific contracts and/or service requests/order forms based on the framework contract.

### **Duration of the framework contract**

The duration of the framework contract shall be 4 (four) years. The framework contract may be renewed automatically once under the same conditions for a maximum period of 2 (two) years, unless written notification to the contrary is sent by the contracting authority and received by the contractor no later than 12 (twelve) months before the expiration date. Renewal will not imply any modification or deferment of existing obligations and conditions.

### **Estimate of all contracts signed under the framework contract**

The maximum estimated volume/ceiling of the framework contract for its entire duration (including renewal) is EUR 194.450.000,00 (hundred ninety-four millions four hundred fifty thousand/00). Any information on volume is purely indicative. The total value of the contract will ultimately depend on the orders that contracting authority will place through specific contracts and service requests/order forms. eu-LISA does not commit to place orders up to estimated value of the framework contract.

### **Place of performance and delivery**

As a basic rule, the contractor will be requested to provide services at the locations of the central systems in Strasbourg, France and in Sankt Johann im Pongau, Salzburg, Austria. For certain services it will, however, be required that the contractor performs initial development and tests at its own premises. Exceptionally, the contractor may be asked to perform services related to the central system at Member States' sites during the development and deployment period of the new functionalities. In addition, the contracting authority may request the contractor to attend meetings in Brussels or Tallinn or other locations within the EU.

### **Working language**

The spoken and written language of all communications between the contractor, the contracting authority, the end users of the systems will be English.

As a general rule, all documentation deliverables, reports, drafts and other documents the contractor is expected to deliver must be written in English. Meetings will be conducted in English.

The language of written and spoken communications between the Operations Centre run by the Agency and the contractor at the location in Strasbourg will be English as well. However, the contractor is expected to have sufficient knowledge of French, which might be needed for its services in Strasbourg. If this is not the case, any translation of the documents and interpretation of spoken communications that may become necessary will be done by the contractor and cannot be reimbursed.

### **Performance guarantee**

The contracting authority may decide to request a performance guarantee for certain specific contracts up to 5% of the value of the specific contract. Any such request will be based on a risk assessment carried by the contracting authority on a case by case basis.

### **Subcontracting terms**

The contractor remains liable for the subcontractor's performance during the execution of the framework contract.

The contractor must ensure that all security and confidentiality obligations, including the audit and inspection obligations, as it will be stated in the framework contract template (phase 2) are applicable to the subcontractors.

If the tenderer's offer will include subcontracting, it is recommended that the contractual arrangements with the subcontractors include mediation as a method of dispute resolution.

## **5. CONFIDENTIALITY AND SECURITY OF THE PROJECT AND THE CALL FOR TENDERS**

### **Confidentiality of tender documents**

The content of the technical specifications will be confidential and the preselected candidates/tenderers will have to treat them as such. Unauthorised disclosure of any information received from the contracting authority in the framework of this call for tenders to third parties will result in the tenderer's exclusion.

To this end, each legal entity involved in the candidature (i.e. members of groups and/or subcontractors) is required to submit the signed "declaration of confidentiality" (Attachment 2 to the Standard Submission Form –Annex III).

### **Confidentiality under the framework contract**

Prior to the signature of the framework contract the contracting authority will ask the successful tenderer to obtain a written confidentiality and security undertaking from each member of its staff, board and directors. By means of this undertaking the tenderer's staff will have to declare that they will respect the confidentiality of any information which is linked, directly or indirectly, to the execution of the tasks. Moreover, they will have to declare not to divulge to third parties or use for their own benefit or for the benefit of any third party any document or information not available publicly, even after completion of the tasks.

### **Obligatory security clearance**

The contractor is expected to work and deliver at the Operations Centre in France and the back-up centre in Austria, which are highly secured zones. All personnel of the successful tenderer working in the project, including remotely from the contractor's premises, must hold a positive security clearance at least at EU Secret level issued by a National Security Authority prior to providing services under the framework contract. Candidates who are invited to phase 2 of the restricted procedure will have to commit to this requirement for the implementation of the contract. It is the responsibility of the contractor to be aware of and to anticipate the vetting procedure constraints that are specific to the originating countries of proposed personnel. Such vetting procedure will have to be carried out by the contractor at no cost to eu-LISA.

## **6. PREPARATION AND STRUCTURE OF THE APPLICATION**

### **General conditions and form of application**

Applications must be:

- written in one of the official languages of the European Union;
- clear and concise, with continuous page numbering, and assembled in a coherent fashion (but not bound or stapled);
- perfectly legible in order to rule out any doubt whatsoever concerning the words or figures;
- drawn up by using the Standard Submission Form –Annex III to this document; provided forms must not be changed;
- accompanied with a cover letter signed by the candidate or his duly authorised agent.

Applications must be submitted in the requested quantity to the addressee and by the deadline as indicated in the invitation letter.

Both joint-candidatures and subcontracting are allowed in this call for tenders. Applications may even combine both modalities of participation. In any case, the application must specify very clearly, by means of the appropriate forms, detailed hereafter, whether each company involved in the candidature is acting as a member in a joint-candidature or as a subcontractor (this also applies where the various legal entities involved are part of the same group, or even where one is the parent company of the others).

### **Joint candidature and joint tender**

The organisation of joint candidatures, irrespective of the legal form is at the sole discretion of the involved legal entities, provided that this does not infringe the rules of public procurement and fair competition.

Please note that one company cannot be member of two different groupings. However, a company may be:

- Member of one grouping, and/or
- Sub-contractor to different groupings.

If candidates intend to submit a joint candidature with a view to submitting a joint-tender during phase 2, they must mention this fact in their candidature, together with any other relevant information in this respect. They must specify the entity leading the grouping. The party identified as the leader of the group shall be responsible for the receipt and processing of payments for members of the grouping, for managing and coordination the contract administration. In this case, a power of attorney shall be provided.

If awarded, members in a joint candidature will assume joint and several liabilities towards the contracting authority for the performance of the contract as a whole.

Statements claiming, for instance:

- that one of the members of the joint tender will be responsible for part of the contract and another for the rest, or
- that more than one contract should be signed if the joint tender is successful

are thus incompatible with the principle of joint and several liability. The contracting authority will disregard any such statement, and reserves its right to reject such candidatures/tenders on the grounds of non-conformity with the rules of public procurement and fair competition.

Joint-candidatures must specify the role, qualifications and experience of each member of the group. Each applicant (including members of a consortium) must complete and sign the identification forms in Section 1 of the Standard Submission Form and provide all the necessary documents for assessing the candidature with regard to the exclusion criteria, selection criteria.

The joint tender itself must come from the same group of legal entities that submitted the request to participate ("joint candidature"), and only if that group is subsequently invited to submit a tender (phase 2). This means that the tender has to be submitted by the same entity that presented its request to participate, was selected and will be invited to submit a tender.

In case of a joint-candidature where a formal legal status has already been established, the candidate shall mention this fact in the candidature, together with any other relevant information in this connection.

In case of a joint-candidature where a formal legal status has not yet been established, the candidate shall be aware that eu-LISA may require the awarded tenderer to give a formal status to this collaboration before the contract is signed. This can take the form of:

- an entity with legal personality recognised by a Member State; or
- an entity without legal personality but offering sufficient protection of eu-LISA's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

Based on the above, for joint-candidatures, the candidate is required to provide a power of attorney, by using one of the two models<sup>3</sup> depending on the set up that has been chosen.

### **Sub-contracting**

If the candidate intends to resort to subcontracting and the total amount envisaged for subcontracting is above 20% of the maximum estimated total value of the contract, the candidature must include a document

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<sup>3</sup> The models are provided under Section 1.4 of the Standard Submission Form (Annex III).

that clearly states the roles, activities and responsibilities of the proposed subcontractor(s), and the reasons why the candidate is envisaging subcontracting, as well as a letter of intent from each proposed subcontractor stating its intention to collaborate with the candidate in compliance with the terms and conditions set out in the tender documents.

In any event, the main contractor will be fully liable towards the contracting authority for the performance of the contract as a whole. Accordingly,

- the contracting authority will treat all contractual matters (e.g. payments) exclusively with the main contractor, whether or not the tasks are performed by a sub-contractor;
- under no circumstances can the main contractor avoid liability towards the contracting authority on the grounds that the sub-contractor is at fault.

The rules on “no conflict of interest” apply also to sub-contractors.

If the application provides for subcontracting, the candidate must provide all information on subcontracting as requested in the Standard Submission Form.

Freelancing, drawing on the activities or staff of any other entirely different legal entity than the contractor, independently of its exact legal form (and independently of the applicable national law), does qualify as subcontracting.

## **Structure of the application**

The application must include three sections:

- 1) Administrative information on the candidate, any subcontractor or any member of a consortium or grouping);
- 2) Documents related to the exclusion criteria;
- 3) Documents related to the selection criteria:
  - Economic and financial capacity;
  - Technical and professional capacity;
- 4) Declaration on confidentiality.

### **Section One: Administrative proposal**

#### **Administrative information**

This section must provide the following information, as required in the Standard Submission Form (Section 1):

##### 1) Applicant's identification (section 1)

Applicants must provide proof of registration, as prescribed in their country(ies) of establishment, in one of the professional or trade registers or provide a declaration or certificate.

Each applicant (including sub-contractor(s) or any member of a group must complete and sign the identification form in Section 1 of the Standard Submission Form and also provide the above-mentioned documents.

## 2) Legal Entity and Financial Identification Form

The legal entity and financial identification forms must be filled in and should be accompanied with a number of supporting documents indicated in the forms. These forms are available at the following links:

[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)

[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)

Only original documents or certified copies, which must be less than 6 months old, will be accepted.

All companies (except subcontractors) involved in the request to participate must provide their legal entity forms as well as the evidence mentioned above.

Only the candidate or, in case of a joint-candidature, only the leader of the group shall provide the financial identification form.

Subcontractors are not required to provide the legal entity form and the financial identification form and the above mentioned evidence.

## **Section Two: Exclusion criteria**

### **a) Exclusion criteria applicable for participation in procurement procedures (Art. 106 Financial Regulation)**

To be eligible for participating in this procurement procedure, tenderers must not be in any of the following situations:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgement of a competent authority of a Member State which has the force of *res judicata*;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests<sup>4</sup>;
- (f) they are currently subject to an administrative penalty referred to in Article 96 (1) of the Financial Regulation.

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<sup>4</sup> a) Cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities' financial interests established by the Council Act of 26 July 1995 (OJ/C 316 of 27.11.1995, p. 48);

b) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, established by the Council Act of 26 May 1997 (OJ/C 195 of 25.6.1997, p. 1);

c) Cases of involvement in a criminal organisation, as defined in Article 2(1) of Joint Action 98/733/JHA of the Council (OJ/L 315 of 29.12.1998, p. 1)

d) Cases of money laundering as defined in Article 1 of Council Directive 91/308/EEC (OJ/L 166 of 28.6.1991, p.77).

**b) Evidence to be provided by the candidates**

1. When submitting their application, each candidate (including declared subcontractor(s)<sup>5</sup> or any member of a joint-candidature) shall provide a declaration on their honor, duly signed and dated, stating that they are not in one of the situations mentioned above. For that purpose, they must complete and sign the form in Section 2 of the Standard Submission Form (Annex III). Where the applicant is a legal entity, they shall, whenever requested by the Contracting authority, provide information on the ownership or on the management, control and power of representation of the legal entity.

2. The winning tenderer upon request of eu-LISA (including declared subcontractor(s) or any member of a consortium or grouping) must also provide the following evidence, confirming the declaration referred to above:

The Contracting authority shall accept, as satisfactory evidence that the applicant is not in one of the situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the applicant is a legal person and the national legislation of the country in which the applicant is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the applicant.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the applicant is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

If you have already submitted the documentary evidence for the above criteria for the purpose of another procurement launched by eu-LISA and the documents are not more than one year old starting from their issuing date then you do not have to resubmit these documents. In such a case, candidates must declare on their honour that the documentary evidence have 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 his situation have occurred.

3. The contracting authority reserves the right to request any other document relating to the proposed application for assessment and verification purpose, within a delay determined in its request.

**Section Three: Selection criteria**

To be eligible, the candidate must have the economic and financial capacity as well as the technical and professional capacity to perform the tasks required in this call for tenders.

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<sup>5</sup> I.e. subcontractors whose envisaged tasks are equal to or exceed 20% of the estimated total contract value.

A "large-scale IT system", as referred to in the financial and technical selection criteria, must fulfil the following minimum requirements:

- a) To have more than 2,500 end-users directly or indirectly exploiting the data of the system;
- b) To have a target volume of data handled of at least:
  - i. 25,000,000 records stored with binary information (e.g. Finger Prints + Facial Images);
  - ii. 150,000 transactions per hour.
- c) To have a significant geographic distribution – at least two different Countries of the European Economic Area – in terms of users;
- d) To have high-availability requirements – 24h/7days/365 days a year and a SLA of at least 99,99%;
- e) To handle both entering of data, queries to the data and reporting on the data.

A candidate may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. In that case, evidence must be provided that it will have at its disposal the resources necessary for performance of the contract, for example by producing a clear undertaking on the part of those entities to place those resources at its disposal.

In case of joint-candidature or sub-contracting for which the total amount envisaged is above 20% of the total contract value, the tenderer(s) must stipulate the role, qualifications and experience of each service provider and, where relevant, the monitoring arrangements that exist between them.

In case of joint-candidature, or sub-contracting for which the total amount envisaged is above 20% of the total contract value, evidence of the ability of the entity involved in the joint-candidature or the potential subcontractor(s) to perform the tasks entrusted to him/them shall be included in the offer. Such evidence is the same as that also required from the tenderer, as described and identified above.

#### **A. Economic and financial selection criteria**

The financial and economic capacity of each candidate will be evaluated on the basis of the following criteria:

1. The candidate must have an overall annual turnover of at least 50,000,000 (fifty million) Euro in each of the past three years for which the accounts have been closed. Out of this minimum annual turnover, at least 20,000,000 (twenty million) Euro must relate to the maintenance of large-scale IT systems<sup>6</sup>.
2. The candidate must have a valid professional risk indemnity insurance.

#### **Evidences required**

The candidate must provide proof of its financial and economic capacity by filling in the relevant parts of the Standard Submission Form (Annex III, section 3). In particular, the candidate shall provide the following evidence:

1. Balance sheets or extracts from balance sheets for the past three (3) financial years for which accounts have been closed, or equivalent documentation (where the law of the country in which the candidate is established does not require to publish balance sheets) and completed "Financial and Economic Capacity Overview Form" in section 3 of the Standard Submission Form. In case of conversion from currencies other than EURO, the rate to be used is the INFOEURO<sup>7</sup> valid for the month in which the Contract Notice for the present call was published.
2. An insurance policy/certificate from the sole candidate or -in case of joint candidature- from each economic operator composing the grouping (excluding subcontractors), proving that the candidate is covered by a professional risk indemnity insurance which is valid at the time of submission of the

<sup>6</sup> For the definition of "large-scale IT system", please refer to *Section Three: Selection criteria*.

<sup>7</sup> [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/infoeuro/infoeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm)

candidature, and, in case of contract award, a commitment to keep it valid for the entire duration of the contract.

All candidates must provide proof of their economic and financial capacity. If several economic operators are involved in the candidature, each of them, in principle, must have and show that it has the necessary economic and financial capacity to perform the tasks assigned to them in the tender. The same applies to subcontractors whose tasks are equal to or exceed 20% of the estimated total contract value.

If, for some exceptional reasons which eu-LISA considers justified, a candidate is unable to provide one or more of the above documents, it may prove its economic and financial capacity by any other relevant means of proof which eu-LISA considers appropriate. In any case, eu-LISA must at least be notified of the exceptional reason and its justification in the candidature. eu-LISA reserves the right to request any other document or further information enabling it to verify the candidate's economic and financial capacity.

## B. Technical and professional selection criteria

The technical and professional capacity of each candidate will be evaluated on the basis of the following criteria:

1. The candidate must have proven experience in the design and/or development and/or maintenance of large-scale IT Systems<sup>8</sup> in at least 3 (three) entirely separate (i.e. no new versions or releases concerning the same System) projects during the last 3 years.

Out of these three projects:

- a) at least 1 (one) must be related to a large-scale IT system that is considered as a critical infrastructure<sup>9</sup>, preferably processing personal data;
- b) at least 2 (two) must have been operational for more than 1 (one) year;
- c) at least 1 (one) must be related to a system that involves biometric management technologies, preferably matching solutions related to fingerprints.

Provided that the aforementioned minimum requirements are met, on-going projects may be taken into consideration, if these projects effectively started no later than 6 (six) months before the deadline to submit candidatures in response to this call.

2. The candidate must have the necessary technical capacity for performing the requested services in connection with the use and access to the BMS core technology as described in point I.1.5 of Annex II (Executive Summary).
3. The candidate must have sufficient professional capacity to provide the requested services under the envisaged framework contract. The candidate must also ensure that the necessary individual resources will be available and mobilised throughout the entire duration of the framework contract. In particular, the candidate must have on average a minimum total number of 50 full-time staff members per each year in 2012, 2013 and 2014; these staff members must:
  - match the profiles described in Annex 1 of the Executive Summary (Annex I)
  - collectively cover all the profiles listed in Annex 1 of the Executive Summary (Annex I).
4. The candidate must have an ISO 9001 certification or equivalent in order to prove the suitability of its organisational capacity. The afore-mentioned certification shall be valid at the time of submitting the

<sup>8</sup> For the definition of "large-scale IT system", please refer to *Section Three: Selection criteria*.

<sup>9</sup> A "Critical infrastructure" is broadly defined as an asset that is essential for the society in terms of economy, public safety or other relevant vital areas for the society. In this context it means an IT-system that is part of or is critically supporting such an infrastructure.

candidature for the parts of the organisation(s) and location(s) that will be used by the candidate to deliver the services to eu-LISA under the framework contract.

5. The candidate must have an ISO 27001 certification or equivalent in order to prove the suitability of its security capacity. The afore-mentioned certification shall be valid at the time of submitting the candidature covering all systems, premises, procedures and practices that will be used by the candidate to perform 'sensitive activities'<sup>10</sup> under the framework contract.

### **Evidences required**

Candidates must provide proof of their technical and professional capacity by filling in the relevant parts of the Standard Submission Form (Annex III, section 4). In particular the candidate shall provide the following evidences:

1. A description of the projects referred to in section B.1 above. The project references must fulfil all the requirements stated in point 1 of *section B. Technical and professional selection criteria*. The references must be submitted by using the Project Reference Form provided in Attachment 1 to the Standard Submission Form.
2. Formal evidence that, in case of award of the contract, the candidate will have access, on commercial basis, to the BMS core technology described in point I.1.5 of Annex II (Executive Summary) for the entire duration of the contract. In particular, the owner of the BMS core technology may be involved in the candidate's application as a member of a joint-candidature or as a subcontractor; in the latter case a clear undertaking by the owner of the BMS core technology to place the BMS core technology at the candidate's disposal shall be provided.
3. Evidence of the criteria referred to in section B.3 above, including:
  - overall staff members,
  - the overall number of staff members with roles matching the requirements set for the profiles described in Annex 1 of the Executive Summary.

The candidate shall use the Staff Capacity Form provided in Section 4 of Standard Submission Form. The candidate should provide any other information they deem relevant to demonstrate that they will be capable of mobilising the necessary profiles during the entire duration of the contract. Candidates must not submit CVs as part of their candidature.
4. Copy(ies) of ISO 9001 Certification(s) or any equivalent evidence, for the parts of the organisation(s) and location(s) that, in case of contract award, would be used by the candidate to deliver the services to eu-LISA under the framework contract. The certification(s), or any equivalent evidence, shall be submitted along with the information requested in in Section 4.c of the Standard Submission Form. The contractor will be required to remain compliant throughout the full period of execution of the framework contract.
5. Copy(ies) of ISO 27001 Certification(s) or equivalent, covering all systems, premises, procedures and practices that, in case of contract award, would be used by the candidate to deliver services that involve performing "sensitive activities" under the framework contract. The certification(s) shall be accompanied by the information about the certificate(s), or any equivalent evidence, as requested in

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<sup>10</sup> The term 'performing sensitive activities' shall be interpreted to mean any activity undertaken by the Contractor, in which the Contractor staff or systems:

1. have access to eu-LISA IT-environment or systems which contain or process information classified as LIMITED HIGH or LIMITED BASIC; or
2. have access to eu-LISA systems, and this access is granted in a manner giving a level of privileged access that eu-LISA judge sufficiently powerful to warrant the application of additional security measures.

Section 1.4.d of the Standard Submission Form. The contractor will be required to remain compliant throughout the full period of execution of the framework contract.

## **7. ASSESSMENT OF CANDIDATURES**

A consolidated assessment shall be made for joint-candidature (all members of the group together) and in case of subcontracting (tenderer plus subcontractor).

### **Assessment of joint candidatures**

Joint-candidatures will be assessed as follows:

- the exclusion criteria will be assessed in relation to each legal entity individually;
- the selection criteria for economic and financial capacity and for technical and professional capacity will be assessed in relation to the combined capacities of the tendering group as a whole.

### **Assessment of subcontractors**

Candidatures including sub-contracting will be assessed as follows:

- the exclusion criteria will be assessed in relation to each legal entity individually;
- the selection criteria for the economic and financial capacity and for the technical and professional capacity will be assessed in relation to the combined capacities of the candidate and the sub-contractor as a whole to the extent that the sub-contractor puts its resources at the disposal of the candidate for the performance of the contract by producing a clear undertaking to place those resources at its disposal.

### **Changes to the composition of the candidate after phase 1 of the restricted procedure**

Changes to the composition of the group of economic operators presented in the candidature when submitting a tender in phase 2 of the restricted procedure may lead to the rejection of the offer. In this regard, eu-LISA will assess the changes to verify:

- whether the new economic operators (if any) are not in an exclusion situation, by requesting a Declaration on their honour concerning the Exclusion Criteria;
- whether the candidate/tenderer still fulfils the Selection Criteria when compared to the candidature originally submitted.

During the implementation of the contract, the contractor must require eu-LISA's express authorisation to replace a member or a subcontractor with another member or subcontractor and/or to subcontract tasks for which subcontracting was not envisaged in the original offer. eu-LISA reserves the right to reject any such request.

## **8. ADMINISTRATIVE AND FINANCIAL PENALTIES**

Without prejudice to the application of penalties laid down in the contract, candidates who have been found guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or have failed to supply this information or have been declared to be in serious breach of their obligations under contracts covered by the European Union budget may be subject to administrative or financial penalties, in accordance with Article 109 of the Financial Regulation and Articles 145 of the Rules of Application.