

IT infrastructure hosting services

Framework Contract

TENDER SPECIFICATIONS

OPEN CALL FOR TENDERS

ACER/OP/ADMIN/14/2012

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1. TITLE OF THE INVITATION TO TENDER

IT infrastructure hosting services for the Agency for the Cooperation of Energy Regulators, tender no. ACER/OP/ADMIN/14/2012.

This tender is not divided into lots.

2. BACKGROUND AND OBJECTIVES OF THE CONTRACT

The Agency for the Cooperation of Energy Regulators (the “Agency”) is a European Union body, established in 2010 by Regulation (EC) No 713/2009¹ and is central to the liberalisation of the EU's electricity and natural gas markets. The Agency is based in Ljubljana, Slovenia.

The Agency works towards a competitive, sustainable, secure and transparent Internal Energy Market for the benefit of all consumers in the European Union (EU). Its overall mission is to assist national energy regulatory authorities (NRAs) to perform their duties at the EU level and to coordinate their actions whenever necessary. The Agency thus cooperates closely with NRAs, but also with EU institutions, European associations of stakeholders and market participants, especially the European Networks of Transmission System Operators (ENTSOs), to deliver a series of instruments for the completion of a single EU energy market.

The main areas on which the Agency's activities focus are:

- supporting European market integration: this is mainly done through the development of common network and market rules as well as through the coordination of regional initiatives which are concrete efforts from market participants to work towards greater integration;
- advising the EU institutions on trans-European Energy infrastructure issues: the Agency issues opinions on ten-year network development plans with a view to making sure that these are in line with priorities set at EU level;
- energy market monitoring: the Agency has a general mission in terms of market monitoring at the EU level and has, since the end of 2011, a very specific responsibility when it comes to oversight of wholesale energy trading. More specifically, on 28 December 2011, the Regulation (EU) No 1227/2011² of the European Parliament and the Council on wholesale energy market integrity and transparency (hereafter: REMIT) entered into force.

According to REMIT, the Agency is responsible for monitoring the wholesale energy markets to detect market abuse. Wholesale energy markets monitoring by the Agency shall base on timely data collection of complete trading as well as fundamental data, which describe all the exchanges and the orders placed on the wholesale energy markets in the European Union (trading data) as well as the operational conditions of the energy systems (fundamental data), in both the electricity and gas sectors.

More information on the Agency can be found on the website www.acer.europa.eu.

Further information on the Agency's activities under REMIT can be found at: http://www.acer.europa.eu/portal/page/portal/ACER_HOME/Activities/REMIT.

¹ Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators, OJ L 211, 14.8.2009, p. 1

² Regulation (EU) No 1227/2011 of the European Parliament and the Council on wholesale energy market integrity and transparency, OJ L 326, 08.12.2011, p.1

3. OBJECTIVES OF THE AGENCY'S REMIT INFORMATION SYSTEM (ARIS)

The Agency is responsible for the implementation of REMIT. One of the main challenges for the Agency over the period 2012-2014 is to develop a fully functional IT system for monitoring trading activities in wholesale energy products with the aim to detect and deter market abuse in forms of insider trading and market manipulation, including attempted market manipulation.

A first step in this direction shall be the establishment of a Centralised European Registry for Energy Market Participants (hereinafter: CEREMP), which shall gather the information regarding all the parties involved in the wholesale European energy market. CEREMP will be fed with information from the national registries, established and managed by the NRAs, according to a registration format that the Agency shall determine in cooperation with the NRAs pursuant to article 9(3) of REMIT.

A second step shall be the establishment of a data collection and reporting system. Reporting format, channels and times need to be set by the European Commission with the Implementing Acts envisaged according to article 8(2) and (5) of REMIT.

A third step shall be the establishment of a market monitoring system, which will be able to analyse and pre-screen all the transactions and fundamental data in an appropriate way in order to identify and alert the Agency's staff of a possible market abuse case (i.e. suspicious events). The market monitoring system will also be used for supporting the investigations that need to be conducted by the NRAs in coordination with the Agency.

All three components of the Agency's REMIT Information System (ARIS) - i.e. CEREMP, data collection and reporting system and market monitoring tool - must be fully web-based in order to be accessed by the NRAs and all the interested parties from all EU Member States. According to the requirements set in article 12 of REMIT it must also be operationally reliable. In addition, in line with article 10 of REMIT, the information held in ARIS has to be shared with the NRAs, the financial regulatory authorities as well as the European Securities and Markets Authority (ESMA). In particular, the Agency shall take all the necessary measures to prevent any misuse of, and unauthorised access to, the information maintained in ARIS.

4. SUBJECT OF THE CONTRACT

This tender is looking for suitably qualified service providers and/or individual experts who shall provide infrastructure hosting services for the implementation of ARIS, the Agency's REMIT Information System.

The aim is to provide technical infrastructure hosting services (e.g. servers, security devices, system management, monitoring tools, etc.) which will be needed for the Agency's software development products, web applications, databases, services, etc. and to provide the necessary support in full compliance with all the security and privacy law requirements.

For details please refer to Annex I.A to these tender specifications.

4.1 Quality and standards

The Contractor shall perform the services and provide the products in full knowledge and consideration of the Agency's computing environment and in accordance with technical norms, standards and procedures based on best professional practices in the information technology and/or telecommunications field (i.e. ISO 9000 and ISO 27000 standards).

The Contractor guarantees that software delivered under the Framework contract, whether or not developed in the execution of the Framework contract, will not fail to execute its programming instructions due to defects and workmanship when properly installed and used on the devices designated by the Contractor. It shall be devoid of any deliberate mechanism which leaves it under the Contractor's control after supply to the Agency. It shall meet the operating requirements, specifications and characteristics specified in the Contractor's documents and/or laid down in the Framework contract.

The quality of the Contractor's products and services shall be measured by reference to the definitions, quality standards and procedures defined in the Framework contract and/or the specific contract, and the quality indicators defined in the service level agreement.

The Contractor shall comply with these quality standards. Compliance with quality standards shall be monitored by the Agency. Unless otherwise stated in the specific contract, in the event of non-compliance with one or more of the standards over a period not exceeding three (3) months, the Contractor shall submit an improvement plan. In the event of non-compliance with one or more of the standards for more than three (3) months, consecutive or not, over a period not exceeding six (6) months, a specific contract for which the quality of the services has proved substandard may be terminated. In case of a substandard overall quality of services the Agency reserves to terminate the specific contract and as a result might terminate the relevant Framework contract.

Quality standards may be revised in line with developments on the market.

Unless otherwise stated in the Framework contract, in the event of a complete system failure lasting more than twenty-four (24) hours from the time it is notified by a means of communication to the Contractor, or in the event of intermittent failures lasting more than forty-eight (48) hours for any reason whatsoever, the Contractor shall, upon a duly substantiated request, make available to the Agency within twenty-four (24) hours an equivalent system or the necessary hardware and software enabling the Agency to run its applications in the interim period. The cost of such equivalent material shall be charged to the Contractor, except for cases of *force majeure*.

4.2 Security

Contractors working at the Agency's premises shall conform to the Agency's internal security rules and policy. If the Contractor's staff shall work at the Agency's premises, the Contractor is required, at the Agency's request, to replace immediately and without compensation any person considered undesirable by the Agency. In addition, all Contractors' staff who shall perform the services at the Agency's premises shall comply with the requirements of the Agency's Business Continuity Plan. These requirements shall be provided to them upon their arrival at the Agency.

The security requirements for each specific assignment shall be described in the relevant specific contract. The Contractor agrees to impose the security obligations upon any of its subcontractors and their staff who shall perform tasks for the Agency in the execution of this Framework contract.

The Contractor shall not move or remove any product, equipment or material whatsoever owned by the Agency or present at the Agency's premises without the Agency's express written approval. Each move or removal of a product, equipment or material whatsoever, shall be recorded in writing.

The Contractor shall take all the necessary measures and steps to ensure that the data and the magnetic media where products are or shall be stored are safely preserved. The services

and products supplied shall not contain any mechanism (e.g. viruses) which could compromise a proper operation of a product in question or any other product owned by the Agency. The cost of repairing the damage caused by such a mechanism shall be borne solely by the Contractor.

The Contractor undertakes to inform the Agency in writing as soon as it has any knowledge of defaults in his products that might endanger the security of the configurations of which they form a part of. He shall immediately take any measures necessary to restore the security of the configurations and correct the defaults.

The Contractor shall ensure that all security precautions for each product or services are clearly spelled out in the relevant documentation supplied to the Agency.

Should the Contractor, during the performance of the services which are the subject of the Framework contract, need remote access to internal informatics resources from the external domain, he shall be requested to comply with the Agency's internal rules on practical and technical security for remote intervention. For this purpose the Contractor shall sign a specific agreement for remote intervention provided by the Agency.

The Agency may in exceptional cases, due to security reasons, ask the Contractor that his staff undergoes a security clearance. This may apply to a specific contract.

For the project management, the Agency intends to apply the PM², a project management framework mainly based on Prince2 and PMBOK (see http://home.gwu.edu/~kwak/PMPM_Model.pdf).

For IT services and IT business needs, the Agency has the intention to adopt ITIL (Information Technology Infrastructure Library) practices.

IT governance and IT management will be addressed internally using the COBIT Framework which can be seen as an integrator for the remaining IT related standards.

4.3 Product development and compatibility

Any services and product delivered under this Framework contract shall be demonstrated by the Contractor, at his expense.

Any new product must be capable of replacing a previously approved product in the same operational environment, with no loss of performance and at no extra cost to the Agency.

In case a product approved by the Agency shows, in the course of its use, any incompatibility with the existing Agency's products, this shall be resolved by the Contractor as swiftly as possible and at no cost to the Agency.

The Contractor shall ensure that the product, or a replacement product, is available on the market during the lifetime of the Framework contract and at least from the date when a specific contract is concluded.

The Contractor shall ensure that maintenance of a product delivered under a specific contract may be requested and provided for a period of at least five (5) years from the date of signature of a specific contract, or, where applicable, of an acceptance form signed by both parties.

4.4 Documentation and reporting

Except where the specific contracts provides for otherwise, the Contractor must report in English on the services rendered in performance of each specific contract. The quantity of the reports and the forms in which they shall be submitted will be specified in each specific contract.

The Agency may reproduce or use all documentation and reports in full or in part.

The Contractor shall provide the Agency with the following documentation and updates, as well as organise meetings:

- After the signature of a specific contract and before initiating the development phase:
 - Project initiation request;
 - Kick-off meeting at the premises of the Agency;
 - Project stakeholder matrix;
 - Subcontracting management plan.
- During the implementation of a specific contract:
 - Kick-off meeting with application owner/s, business experts and IT Team representatives.
- During the implementation of a specific contract and before starting the detailed analysis or the detailed functional analysis:
 - Business Case;
 - Project Charter (also known as Vision Document)
 - Project Work Plan & Resource Plan;
 - Project Outline;
 - Transition to Production Plan also known as “Deployment Plan”;
 - Business Implementation Management Plan also known as End User Support Material.
- Throughout the implementation of a specific contract, where and when needed, with the aim to monitor and control:
 - A document showing the implementation of best practices as foreseen in the standards.
- At the end of a specific contract:
 - Post Project Review meeting at the premises of the Agency;
 - Post Project Review.

The contractor shall take the responsibility to maintain up to date the plans, using the standards, methodologies and technologies described under point 4.3 of these tender specifications, which will be used by the Agency to monitor the performance of the contract and to improve the efficiency of the overall processes of hosting services (these shall include: communication management plan; risk management plan; issue management plan; scope change management plan; project quality plan; product acceptance plan; subcontract management plan).

Annual activity report

A succinct annual activity report on all the work carried out by the Contractors in performance of the Framework Contract must be produced in English.

The report must indicate, for the preceding twelve months, the services performed during that period, in terms of quantity and price, broken down by type.

The contractor must send the Agency one copy of the report by electronic mail and 2 (two) paper copies within 30 days following the end of the reference period.

The cost of producing the above reports will be borne exclusively by the Contractor. The Agency will not contribute in any way to the costs incurred in, *inter alia*, the drafting, production or distribution of the required reports.

5. PARTICIPATION IN THE CALL FOR TENDER

Participation in the Agency's procurement procedure is open on equal terms to all natural and legal persons or groupings of such persons (consortia) falling within the scope of the Treaties. It includes all economic operators registered in the EU and all EU citizens.

Pursuant to Article 106 of the general Financial Regulation³ the participation is also open to all natural and legal persons from non-EU countries that have a ratified agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. The Agency can therefore accept offers from and sign contracts with tenderers from 34 countries, namely: the 27 EU Member States, 3 European Economic Area (EEA) Countries (Lichtenstein, Norway, Iceland) and 4 Stabilisation and Associations Agreements (SAA) Countries (Croatia, FYROM, Albania and Montenegro). The Agency's procurement procedures are not open to tenderers from countries covered by the Agreement on Government Procurement (GPA).

6. VARIANTS

No variants are permitted.

7. SIZE OF THE CONTRACTS

The contract shall have an initial duration of two (2) years as from date of signature and may be renewed up to two times for an additional period of one (1) year each time. The total duration of each Framework Contract shall not exceed four (4) years. The Agency reserves the right to cancel the contract(s) with any Contractor(s) whose services are deemed to be of insufficient quality.

The maximum total value of the orders which may be placed each year is as follows:

- maximum ceiling for 2012: EUR 100,000.00 excluding VAT
- maximum budget ceiling for the total duration of the contract (4 years) shall be EUR 1,200,000.00

The estimated date for signature of the framework contracts is October 2012.

The Agency shall carry out a mid-term review three months prior to the expiry of the initial duration of the Framework contract. In case the outcome of the review is that either the relation between the contract prices and the market prices of the services required under

³ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, as amended by Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006

these tender specifications changed considerably (the difference in the calculation of the reference prices as set under point 19.2 of these tender specifications is equal to or more than 30% of the contract prices) or the technology and/or the equipment offered is obsolete, the Agency may no longer use the Framework contract and/or may decide not to extend it.

8. DOCUMENTS AVAILABLE TO THE TENDERER

- Contract notice published in the Official Journal of the European Union (OJ EU) S 112 on 14.06.2012;
- Call for Tender documents and annexes;
- Other documents, as mentioned in these tender specifications.

9. CONTRACTUAL FRAMEWORK

9.1 Type of contract

The services described above will be the subject of a single Framework contract.

The Framework contract will lay down the legal, financial, administrative and technical conditions applicable throughout its period of validity, including price indexation.

The draft Framework contract is attached in Annex III to this invitation to tender. Signature of the Framework contract does not commit the Agency to placing orders and does not give the Contractor any exclusive rights regarding the services covered by the Framework contract. In any case, the Agency reserves the right, at any time during the validity of the Framework contract, to cease placing orders, without the Contractor having the right to any compensation.

9.2 Modus Operandi

Within 1 working day of a request for services being sent by the Agency to Contractor, the Agency shall receive a notification from the Contractor confirming that the request has been received and is readable.

Within 2 working days of a request for services being sent by the Agency to the Contractor, the Agency shall receive a reply from the Contractor informing the Agency whether he intends to submit the offer. Should the Contractor be unavailable, he shall give reasons for refusal within the same period and the Agency.

Within 7 working days of a request for services being sent by the Agency to the Contractor, and if the latter has confirmed its intention to submit an offer, the Agency shall receive an offer which shall include all the details as specified in the request for services, including the estimate of the resources to be allocated for its execution.

Within 5 working days of receiving the offer the Agency shall evaluate the compliance of the submitted offer and inform the Contractor whether the offer: (a) is accepted, (b) needs to be revised or (c) is rejected, providing details for options (b) and (c).

In case the offer needs to be revised, the Contractor shall have 3 working days to revise the offer according to the Agency's guidelines and re-submit it to the Agency. The Agency shall inform the Contractor within 3 working days after receiving the revised offer whether the offer is accepted or rejected, providing reasons for the decision.

In the event of failure to observe any of the above mentioned deadlines or disagreement on the allocation of resources, the Contractor shall be considered unavailable.

For each specific request, Contractors will calculate their prices on the basis of the price quoted in the price table, Annex II to this invitation to tender (which forms an integral part of the Framework contract).

Once the offer is accepted by the Agency, the Agency shall forward the specific contract to the contractor.

Performance of the tasks starts from the date on which the specific contract is signed by the last contracting party.

The Contractor(s) must work in close and regular cooperation with the responsible units within the Agency. The Contractor/expert works under his own capacity and responsibility and does not represent the Agency. The Contractor's staff works under the instructions of the Contractor.

9.3 Subcontracting

Special attention will be paid to the approach proposed by the Contractor for managing his subcontractors. Tenderers will be required to indicate the kind of work which they plan to subcontract and the name of any companies to which they are intending to subcontract part of the work.

Subcontracting during the performance of the contract is permitted only with the prior written consent of the Agency. The Contractor remains solely liable for the proper performance of the contract.

10. CONTRACTORS' OBLIGATIONS

10.1 Employment law applicable to transfers of undertakings:

Tenderers are reminded that their bid must be established in conformity with the applicable national and European employment legislation regarding the transfer of undertakings, and specifically Directive 2001/23/EC⁴ and its national implementing measures. In particular, tenderers should take note of the provisions on safeguarding employees' rights in the event of a change of employer as a result of a legal transfer.

10.2 Copyright and other intellectual property rights

Copyright and other intellectual or industrial property rights and any other right of ownership will vest in the Agency, except where one or more of these rights already exists.

The Contractor must specify any parts of the services performed that are covered by copyright or any other rights of ownership. The Contractor must confirm that he has obtained the authorisation of the holder of these rights to use these parts. Any costs arising from obtaining this authorisation will be borne by the Contractor and clearly identified on his invoice.

⁴ Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or part of undertakings or businesses, OJ L 82 of 22.03.2001, p. 16.

Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the contract, shall be owned solely by the Agency, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where industrial or intellectual property rights exist prior to the contract being entered into.

Should the title of the copyright or intellectual property rights belong to a third party, the Contractor shall guarantee that it has requested and obtained those third parties' written authorisation to grant a license or assign to the Agency their copyright or intellectual property rights to the extent necessary for performing the services subject of this invitation to tender, and to the extent where the results/works obtained under the Framework contract are to be re-used in the context of another Agency's project/programme with another Contractor(s) working under a contract.

This applies to all products, documentation, distribution media and methods.

If subcontractors are used, the main Contractor will be required to obtain a guarantee from them on this point.

11. PLACE OF PERFORMANCE OF THE SERVICES AND WORKING HOURS

11.1 Place of work

The principle place of performance of a contract shall be at the Contractor's premises.

Meetings between the Agency's staff and the Contractor shall either take place at the Contractor's premises or at the Agency's premises in Ljubljana, Slovenia.

If deemed appropriate and at the sole discretion of the Agency, meetings between the Agency and the Contractor could be organised using video conference systems, telephone conferences and/or any other communication means.

11.2 Meetings at the Agency's premises

Meetings between the Agency and third parties (NRAs, EU institutions and other stakeholders), to which the Contractor may be invited, will be mainly organised in Ljubljana, Slovenia.

All meetings will be notified to the Contractor, by e-mail, in reasonable time and in any case at least five (5) calendar days prior to the meeting, or at least two (2) calendar days prior to the meeting if video/telephone conferencing systems are used. The Contractor shall confirm by e-mail the attendance at the meeting.

The Contractor shall prepare minutes of these meetings, indicating the participants, agenda, and main issues of discussion and action points.

Any expenses incurred by the Contractor within the framework of these meetings (i.e. travel costs, subsistence allowance or any other related costs) shall not be reimbursed separately by the Agency. Quoted prices should be all inclusive.

11.3 Missions

A maximum number of six (6) two-day missions per year to destination in Europe other than Ljubljana (e.g. Brussels, in cities where NRAs or organised wholesale energy markets have

their own seats), are envisaged.

The expenses related to these missions must be included in the price quote and shall not be reimbursed separately by the Agency.

In case additional missions shall be needed and which shall exceed the above limit, the Agency shall reimburse the expenses for these missions according to the rules and procedures applicable to the Agency's staff.

All missions shall be carried out at the express request and with prior authorisation of the Agency.

11.4 Normal working days and hours

A normal working day corresponds to 7 hours 30 minutes per day (37 hours 30 minutes per week). The normal working time of the Agency is between 8:00 am and 20:00 with core hours from 9:30 to 12:00 and from 15:00 to 16:30.

The Contractor shall define a formal agreement with the Agency on their working hours at the Agency's premises. Any recuperation on the working hours is not admissible.

In exceptional circumstances (e.g. continuous support services from 8:00 to 20:00), the Agency shall retain the right to have the services delivered during a specific time frame (e.g. from 8:00 to 16:00 and from 12:00 from 20:00 with a pause of 30 minutes).

12. LANGUAGE

Working language of the Agency is English. All communication, all the required services and all documentation must be provided in English. All meetings shall be held in English.

13. PAYMENT METHODS

Except where the specific contracts provides for otherwise, provisions related to payment are laid down in the draft contract (Annex III to the Invitation to Tender). Payments will be made exclusive of VAT, as the Agency is exempt from all duties and taxes, including value added tax (VAT) under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities. Invoice(s) presented by the Contractor must specify the amount(s) exclusive of VAT.

The services will be invoiced on the basis of the services provided after full delivery and approval of progress reports and against invoice(s), in line with the payment schedule described in the draft contract (Annex III) to the invitation to tender.

Payment will be made exclusive of VAT, as the Agency is exempt from all duties and taxes, including value added tax (VAT) under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities.

14. PRICES

- The prices should be quoted in Euro.
- Under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities the Agency is exempt from all duties and taxes, including value added tax (VAT). VAT should be indicated separately and will not be taken into account when considering prices.
- The unit prices quoted must be firm and not subject to revision for the first year of the contract.

From the beginning of the second year prices may be revised upwards or downwards according to the harmonised indices of consumer prices (HICP) for Slovenia (MUICP index) and the method laid down in the contract.

The prices quoted should include all services as described in these tender specifications and its annexes, including any travel and/or subsistence expenses as indicated.

- No expenses incurred within the framework of the preparation of the offer will be reimbursed.

15. SUBMISSION OF OFFERS

Each offer must be accompanied by a **dated cover letter signed by the tenderer** and the **duly completed reference table** (see Annex I.1 of these tender specifications) related to the exclusion and selection criteria.

The tenderer's offer should include:

- A. The declaration on honour relating to the exclusion criteria listed under point 17 of these tender specifications (model provided in Annex I.3 to these tender specifications), fully completed and signed and dated by the tenderer;
- B. All the documents relating to the selection criteria listed under point 18 of these tender specifications;
- C. The financial offer based on the model in Annex II to the invitation to tender, signed and dated by the tenderer including a detailed price list of all the services the tenderer offers;
- D. The technical tender, as described at point 16 of these tender specifications;

In case the offer involves subcontracting or the tender is submitted by a consortium or grouping of service providers, the tender must contain additional information as specified in points 17 and 18 of these tender specifications.

Tenders may be drafted in any of the official languages of the European Union.

The working language of the Agency is English.

16. TECHNICAL TENDER

Tenderers should include in their bid a technical tender detailing how they intend to perform the tasks covered by the contract, in compliance with all the requirements of these tender specifications. Bids that fail to comply with this requirement will be rejected.

The structure of the technical tender must follow that of the nature of the services requested and the working method.

The technical tender should not include any of the documents referred to under the exclusion or selection criteria, nor should it refer to matters already covered by the exclusion and selection criteria.

As a part of a technical tender, the tenderer shall provide a detailed description of the tenderer's facilities, the redundant technologies and the operational procedures applied, the relevant certifications, their hosting/collocation offering in terms of services and requirements (e.g.: constraints in connecting to the Internet service providers, required equipment, etc.).

The description shall include the following:

- Power distribution scheme;
- Air conditioning scheme;
- Fire protection measures;
- Physical security (policies, access, options for a cage to segregate a customer's environment, if available);
- Network connectivity scheme, depicting how the facility interconnects with the main national and European telecommunications operators and providers (redundancy of operators, variety of bandwidth options, guaranteed availability and performance,...), including the SLAs that the tenderer has in place with the telecommunications provider(s) to guarantee connection uptime;
- Technology options and characteristics for connecting the hosting centre with the client's premises, including variety of bandwidth options, guaranteed availability and performance as well as time needed for establishing the connections;
- Description of the networking infrastructure and the relevant equipment used for providing the hosting services including performance, age of equipment, compatibility with the relevant standards and security of networking equipment (firewalls, routers, switches, load balancers, proxies, etc.), variety of options, scalability and flexibility of the equipment, internal network security protection measures and policies;
- IT capacity (physical-virtual servers and storage): variety of options, scalability and flexibility of the equipment, performance;
- Fault tolerance of the tenderer's facility;
- Test plan and procedures to check resilience of the tenderer's data centre;
- Procedures for 24x7 operations management;
- Data security (policies, rules, implementations, data vulnerability and penetration tests, etc.);
- Description of the available support, service desk, maintenance and client reporting services with all the relevant options;
- A description of the different levels of SLAs and different key performance indicators (KPIs) that the tenderer offers and which relate to the services offered;
- A description of a full portfolio of services that fall within the scope of this invitation to tender;
- A draft plan for implementing and hosting a business continuity/disaster recovery solution (maximum ten (10) pages A4) for the current Agency's IT infrastructure as described in Annex I.A of these tender specifications, which should include at least a definition and a description of the needed actions, resources allocation, responsibilities, deliverables and project implementation time.

17. EXCLUSION CRITERIA

Tenderers must prove that they are not in one of the situations giving rise to exclusion as described below, by providing the following information, evidence and documents with their bid.

Exclusion from participation

Candidates or tenderers will be excluded from participation in a procurement procedure if:

- 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 these 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 integrity by a judgment which has the force of res judicata;
- c) they have been guilty of grave professional misconduct proven by any means which the awarding authority can justify;
- d) they have not fulfilled their 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 awarding authority, or with those of the country where the contract is to be performed;
- e) they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the European Union's financial interests;
- f) following another procurement procedure or grant award procedure financed by the European Union budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

Evidence

1. Tenderers shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations referred to above, using the form provided in Annex I.3 to these tender specifications.
2. The tenderers to whom it is proposed to award the contract shall furnish, within a time-limit specified by the awarding authority and prior to the signature of the contract, the following evidence in support of their declarations:

The contracting authority will accept, as evidence that the candidate or tenderer is not in one of the situations described in points (a), (b) and (e) above, the production of a recent extract from the judicial record (issued less than 90 days prior to the deadline for tender submission) or, failing this, a recent equivalent document (issued less than 90 days prior to the deadline for tender submission), issued by a judicial or administrative authority in the country of origin or provenance, showing that the requirements are met. The contracting authority will accept, as satisfactory evidence that the candidate or tenderer is not in one of the situations described in point (d) above, a recent certificate (i.e. less than 90 days old on the date of the deadline for tender submission) issued by the competent authority of the State concerned.

Where no document or certificate of the type referred to in the paragraph above is issued in the country concerned, and for the other cases of exclusion referred to in points c) and f), it may be replaced by a declaration under oath, or, failing that, a solemn declaration 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.

Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to above shall relate to legal persons and/or natural persons, including, where considered necessary by the awarding authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

3. The Agency reserves the right to check the information provided by tenderers.

Exclusion from award of the Framework contracts

The Framework contracts will not be awarded to tenderers who, during the procurement procedure:

- (a) are subject to a conflict of interests.

The Agency must ensure that on the date on which the tender is submitted, no tenderer is subject to a conflict of interests; such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest.

The Agency reserves the right to judge whether such a conflict of interests exists.

Tenderers are also asked to declare:

- that they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- that they have not granted, sought, attempted to obtain or accepted any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to the award of the contract;
- that they will inform the contracting authority without delay of any situation constituting a conflict of interests or which could give rise to a conflict of interests.

- (b) are guilty of misrepresentation in supplying the information required by the awarding authority as a condition of participation in the procurement procedure, or fail to supply this information.

Evidence:

Tenderers shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations referred to above, using the form provided in Annex I.3 to these tender specifications.

The Agency reserves the right to check the information provided by tenderers.

Tenders submitted by consortia or groups of service providers – tenders involving subcontracting:

In the case of tenders submitted by consortia or groups of service providers, each of the economic operators involved in the tender must provide a dated and signed declaration on honour, based on the model provided in Annex I.3 to these tender specifications, confirming that none of the exclusion criteria for participation in or award of the contract apply to them.

The tenderers proposed for award of the Framework contract must furnish, within the time-limit specified by the awarding authority and prior to the signature of the Framework contract, the evidence listed above, corroborating the declaration on their honour, in respect of each economic operator forming part of their consortium or group of service providers.

In the case of tenders involving subcontracting, the tenderer proposed for award of the contract must furnish, within the time-limit specified by the awarding authority and prior to the signature of the contract, the declaration on their honour and/or the evidence listed above regarding exclusion criteria for participation in or award of the contract, in respect of each of the subcontractors in respect of whom the Agency requests such evidence.

The Agency reserves the right to check the information provided by tenderers.

18. SELECTION CRITERIA

Tenderers must demonstrate that they have the necessary economic, financial, technical and professional capacity to perform the tasks described in these tender specifications in accordance with the payment schedule specified in the draft Contract at Annex III to the Invitation to Tender.

Where the bid is submitted by a consortium or group of service-providers, the economic and financial capacity must be ascertained at the level of each economic operator forming part of the consortium or group. Technical and professional capacity may be ascertained at consortium or group level, or at the level of each member of the consortium or group.

Where the bid is submitted by a tenderer who intends to subcontract part of the tasks or entrust them to another economic operator, the subcontractors or economic operators involved must demonstrate that they have the requisite economic, financial, technical and professional capacity.

An economic operator may, if necessary and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links he has with them. He must in this case prove to the awarding authority that he will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

Tenderers must provide proof of their professional, economic, financial, and technical capacity by enclosing with their tender the following information and documents, accompanied by the reference tables shown in Annex I.1 to these tender specifications:

18.1 Professional capacity

For natural and legal persons:

- Duly completed and signed form “Identification of the tenderer” (see Annex I.2 to these tender specifications);
- Duly completed and signed financial identification form (see Annex I.4 to these tender specifications) - the form can be downloaded from:
http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm
- Certificate of enrolment on the professional or trade register in accordance with the legislation of the Member State in which the tenderer is established;

- Duly completed and signed legal entity form (see Annex I.5 to these tender specifications) – the form can be downloaded from:
http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

For legal persons the following information is necessary in addition to the above:

- Legal form
- Copy of the Company's Articles of Association
- Names and duties of managerial staff

18.2 Financial and economic capacity (for natural and legal persons)

Evidence of financial and economic capacity must be provided by means of one or more of the following documents:

- Appropriate statements from banks or evidence of professional risk indemnity insurance;
- Balance sheets or extracts from balance sheets for at least the last two years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established;
- A statement of overall turnover concerning the services covered by the contract during the last three financial years.

18.3 Technical capacity

Tenderers must provide the following documentation to enable an assessment of their technical and professional capacity. For joint applications, the capacities of all members of the joint application, including subcontractors, shall be taken into account

The tenderers must provide:

- A statement of the average annual manpower and the number of managerial staff over the last three years.
- Details of staff turnover during the last financial year and the total staff turnover and percentage of staff that have worked within the relevant business area over the last three years.
- A detailed description of the infrastructure and resources available for the performance of the work required (equipment, premises, computer hardware and software, etc.).
- Evidence of the certifications held in the field of information security management, service management, quality management, environmental management and other relevant certifications for providing hosting services.
- Experience of the tenderer in the business domain, including the number of years of activity in the domain and the staff involved.
- An outline of the range of business activities and services provided by the tenderer during the last three years which are relevant to this tender.
- Details of at least three major contracts implemented by the tenderer during the last three years. The tenderers references must be relevant to these tender specifications; contracts must have been undertaken over the last three years. Provision of evidence that the tenderer has in the recent past provided resources of the type as requested in this tender and for a total invoiced amount of at least EUR 200,000.00 in 2010 and 2011. The following information has to be provided: customer name and address; contact name and telephone number, contract reference (e.g. number of the invitation to tender or the contract number or the specific contract number), the date of signature of the first contract, a brief description of service undertaken, a brief description of how this contract is relevant to these tender specifications, name(s) of sub-contractors and/or consortium members and their role, start- and end-date of the service contract, total number of person-months delivered across all profiles (e.g. project manager: xyz person months; software architect: xyz person-months; ...) during the complete duration of the contract,

financial volume of the contract upon initial signature, financial volume of the contract effectively delivered (i.e. total amount effectively invoiced to the customer) during the complete duration of the contract.

- A statement of the Tenderer's policy on the use of subcontractors and description of the means of ensuring quality when subcontractors are used.
- A detailed description of the human resources available for the performance of the work required, including subcontractors. The tenderer shall include Curricula Vitae (CVs) showing clearly their qualifications and professional experience within the relevant business area. The Tenderer shall provide two CVs for each profile described in Annex I.A (see detailed specifications of the profiles required).

For those tenders including subcontracting, the tenderer must submit:

- A document stating clearly the identity, roles, activities and responsibilities of the subcontractor(s) and specifying the volume/proportion of the tasks of (each of) the subcontractor(s), as well as the description of the quality control measures he intends to apply on the tasks to be carried out by (each of) the subcontractor(s);
- A letter of intent by (each of) the subcontractor(s) stating its unambiguous undertaking to collaborate with the tenderer if he wins the contract and the extent of the resources that it will put at the tenderer's disposal for the performance of the contract;
- In the absence of this, a document stating that the tenderer does not intend to subcontract and that he/she will inform the Agency about any change in this situation. The Agency reserves the right to judge if such change would be acceptable.

For those tenders submitted by a consortium or grouping of service providers, the tender must contain:

- A document stating clearly the composition and constitution of the grouping or similar entity (company/temporary association/...), or the legal form their cooperation will take, should they be awarded the contract;
- A letter signed by each member stating its commitment to execute the services in the tender clearly indicating its role, qualifications and experience;
- A document signed by all members specifying the lead of the consortium or grouping of service providers and authorising the appointed lead of the consortium or grouping of service providers to submit the offer.

Tenders which do not meet the exclusion and/or selection criteria will not be considered. Tenderers who do not provide the documents required in these tender specifications with regard to the exclusion and/or selection criteria may be excluded. The Agency will decide whether the substantiating documents provided constitute compliance with the selection criteria.

19. AWARD CRITERIA

The Framework contract will be awarded to the tender offering the best value for money on the basis of the criteria specified below.

19.1 Technical quality, with 65% weighting

Tenders scoring less than 60 overall points or less than 50% of the points awarded for each of the single criterion will be excluded from further evaluation.

The quality criteria, their importance factor and system of scoring are presented in detail below:

No	Technical quality criteria	Maximum points available
1.	Quality, efficiency and effectiveness of the security of hosting premises and related services (fire and flooding protections measures, assurance, completeness and effectiveness of measures and policies for access control of the premises and the racks, redundancy of electric power; cooling systems capacity, redundancy and guaranteed availability, policies, rules and implementations for security in terms of data loss prevention and fraud and forgery, data vulnerability and penetration testing description, areas of coverage, frequency; ISO 27001 certifications for company-wide data centre including the facilities used at the main location of the infrastructure).	30
2.	Capacity, availability, quality and reliability of the network infrastructure and connectivity (network connectivity, technology options for connecting, redundancy of operators, variety of bandwidth options, security of networking equipment, scalability and flexibility of the equipment, internal network security protection measures and policies, etc.).	20
3.	Quality of the plan to create and host the Agency's business continuity/disaster recovery datacentre at the tenderer's hosting premises, IT capacity	25
4.	Quality control and customer service (quality of Recovery Time Objectives (RTO), Service Level Commitment, Recovery Point Objectives (RPO), SLAs and KPIs, flexibility and scalability, quality and variety of procedures for 24x7 operations management, available support, service desk and maintenance services and flexibility of options, reporting services).	25
	TOTAL	100

19.2 Price, with 35% weighting

In order to evaluate the offers, the Agency will calculate a total reference price, based on the financial offer submitted by the tenderer in Annex II to the invitation to tender. The total reference price has no contractual value and will be used solely for the purpose of this evaluation.

Tenderers shall submit the financial offer based on the model in Annex II to the invitation to tender and a detailed price list which shall include all the services, SLAs, support and maintenance options, etc. which are not covered by the model in Annex II. The financial offer and the detailed price list shall be contractually binding. In case the tenderer applies any discounts these should be clearly indicated.

For the purpose of calculating the total reference price, the tenderer shall provide the prices (in EUR) for the services described below.

Table 1 - Hosting and collocation services

A	Hosting and collocation services	Prices in EUR (including discount, if applicable)
1.	Yearly price for collocating standard 42U rack owned by the Agency	
2.	Price for renting one standard 42U rack for one year	
3.	Price for renting a half rack (22U) for one year	
4.	Electricity costs for infrastructure with average power consumption of 15 KW for one year	
5.	Installation and flat-rate for one year cost for one redundant 1 Gbps fibre connection (leased line) from the Agency's premises to the hosting location	
6.	Installation and flat-rate cost for one year for one redundant 64 Mbps connection (leased line) from the Agency's premises to the hosting location	
7.	Installation and flat-rate cost for one year for one redundant 64 Mbps private VPN point to point connection from the Agency's premises to the hosting location	
8.	Installation and yearly flat rate cost for one redundant connection to the public internet line of 64 Mbps (upload/download) capacity	
9.	Cost for assigning 48 public IPs for one year	
	TOTAL (= 1 + 2 + 3 + 4 + 5 + 6 + 7 + 8 + 9)	
	Weighting factor	40%
	Weighted price for A "Hosting and collocation services"	

Table 2 - IT support services

B	IT support services	Prices in EUR (including discount, if applicable)
1.	Cost for Level 1 support services for one year which include: <ul style="list-style-type: none"> - Performing hardware inventory of hosted equipment; - Power cycling; - Loading/changing pre-labelled removable media; - Reporting the status of indicator lights; - Resetting circuit breakers; - Checking cable connections; - Reporting physical conditions within the data centre; - Cable management; - Physically installing or removing equipment from collocation environment; - Device labelling. 	

2.	Cost for Level 2 support services for one year which include: <ul style="list-style-type: none"> - Logging on to the Agency's servers; - Performing hardware related software installations according to published installation processes; - Basic server administration tasks such as: creating new virtual hosts, activating authentications etc.; - Kernel updates and recompilation; - Software updates and recompilation; - Soft reboots (reboot done after logging in to a server); - File system checking; - Basic system troubleshooting; - Performing any Agency's supplied system administration procedure. 	
3.	Cost for one year for a service desk operational 24/7/365 for supervision, error detection and notification to the Agency's staff and/or contractors	
	TOTAL (= 1 + 2 + 3)	
	Weighting factor	30%
	Weighted price for B "IT support services"	

Table 3 - Provision of dedicated rented server and storage capacity

C	Provision of dedicated rented server and storage capacity	Prices in EUR (including discount, if applicable)
1.	Rent for one year for one physical server with Intel Xeon (1 CPUs, frequency $\geq 2,26$ GHz, 4 cores per CPU), 16 GB RAM or higher, 2 x 250GB hot-plug hard drives, including all maintenance, security update, set up and start up.	
2.	Rent for one year for one physical server with Intel Xeon (2 CPUs, 8 cores, frequency $\geq 2,26$ GHz, 16GB or higher, 2x 250GB hot-plug hard drives), including all maintenance, security update, set up and start up.	
3.	Rent for one year for one physical server with Intel Xeon (4 CPUs, frequency $\geq 2,26$ GHz, 6 cores per CPU), 36 GB RAM or higher, 2 x 500GB hot-plug hard drives, including all maintenance, security update, set up and start up.	
4.	Rent for one year for one managed virtualised server with CPU frequency ≥ 2.0 Ghz, 2 cores, 6GB or higher RAM, 160GB disk space, including all maintenance, security update, set up and start up.	
5.	Rent for one year for 20 TB of space in a dedicated storage area network (SAN or equivalent, RAID options include RAID 0, 1, 5, 1/0 and 5/0, supported disk types (FC, FATA, SSD), host interface speed (4gbps), controller cache (4gb), number of controllers (2), drives per enclosure (≥ 12))	
	TOTAL (= 1 + 2 + 3 + 4 + 5)	
	Weighting factor	30%
	Weighted price for C "Provision of dedicated rented server and storage capacity"	

The formulae to calculate the total reference price:

Weighted price	TOTAL
Weighted price for A “Hosting and collocation services”	
Weighted price for B “IT support services”	
Weighted price for C “Provision of dedicated rented server and storage capacity”	
Total reference price	

19.3 Final evaluation

The formulae to calculate economically the most advantageous offer is:

$$\text{Final score for tender X} = \frac{\text{cheapest total reference price}}{\text{total reference price of tender X}} * 35 + \frac{\text{total technical quality of tenderer X}}{100} * 65$$

The tenderer with the highest mark for the final score will be awarded the Framework contract.