

Agency for Support for BEREC

Call for tenders BEREC/2021/03/OT

**Provision of interim workers services to the Agency
for Support for BEREC (BEREC Office)**

Open procedure

TENDER SPECIFICATIONS

Part 1: Administrative specifications

30 March 2021

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1. SCOPE AND DESCRIPTION OF THE PROCUREMENT

1.1. Contracting authority: who is the buyer?

This call for tenders is launched and managed by the Agency for Support for BEREC (BEREC Office), referred to as the *Contracting authority* for the purposes of this call for tender.

1.2. Subject: what is this call for tenders about?

The subject of this call for tenders is the provision of interim workers services to the BEREC Office.

1.3. Lots: is this call for tenders divided into lots?

This call for tenders is not divided into lots.

1.4. Description: what do we want to buy through this call for tenders?

The services that are the subject of this call for tender, including any minimum requirements, are described in detail in the document *Tender specifications – part 2: Technical specifications*, hereafter referred to as *Technical specifications*.

Variants (alternatives to the model solution described in the tender specifications) are not allowed. The *Contracting authority* will disregard any variants described in a tender.

1.5. Place of performance: where will the contract be performed?

The services will be performed at the following locations:

- the location indicated under Heading II.2.3 of the contract notice.

1.6. Nature of the contract: how will the contract be implemented?

A framework contract establishes a mechanism for future repetitive purchases by the *Contracting authority* to be awarded in the form of specific contracts. The signature of a framework contract does not impose an obligation on the *Contracting authority* to conclude specific contracts with a framework contractor.

The framework contract will be concluded in the form of separate but identical contracts with 3 contractors at most provided that there are enough tenderers whose tenders are retained after the evaluation.

The tenders deemed admissible as a result of the evaluation will be ranked in descending order to establish a list of contractors and a sequence in which they will be offered specific contracts during the implementation of the framework

contract. The modalities of implementation of the framework contract in cascade are set out in Article I.4.3 of the draft contract.

👉 Tenderers need to take full account of the provisions of the draft contract as the latter will define and govern the contractual relationship(s) to be established between the *Contracting authority* and the successful tenderer(s). Special attention is to be paid to the provisions specifying the rights and obligations of the contractor, in particular those on payments, performance of the contract, confidentiality, and checks and audits.

1.7. Volume and value of the contract: how much do we plan to buy?

An indicative estimate of the volumes to be ordered over the whole duration of the framework contract is given in the financial model in **Annex 6**. These volumes are estimates only and there is no commitment as to the exact quantities to be ordered. The actual volumes will depend on the quantities, which the *Contracting authority* will order through specific contracts. In any case, the *framework contract ceiling*, i.e. the maximum amount to be spent under the framework contract, shall not be exceeded.

The *framework contract ceiling* is indicated in Heading II.2.6 of the contract notice.

Within three years following the signature of the framework contracts resulting from the current call for tenders, the *Contracting authority* may use the negotiated procedure under point 11.1.e of Annex 1 to [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#)¹ to procure new services from the contractors up to a maximum of 50 % of the initial framework contract ceiling. These services will consist in the repetition of similar services entrusted to the contractors and will be awarded under the following conditions:

- 1) There is a need for the new services;
- 2) The Contracting authority is of the opinion that the contractors are capable of providing these services;
- 3) The contract resulting from the current call for tenders has been completed according to the specifications and to the satisfaction of the Contracting authority;
- 4) The Contracting authority and the contractors conclude negotiations on the provision of the new services.

1.8. Duration of the contract: how long do we plan to use the contract?

The contracts resulting from the award of this call for tenders will be concluded for at most 48 months. The details of the initial contract duration and possible renewals are set out in Article I.3 of the draft contract.

1.9. Electronic exchange system: can exchanges under the contract be automated?

For all exchanges with the contractor during the implementation of the contract as well as for future possible subsequent proceedings for the purposes of EDES ([European Union's Early Detection and Exclusion System](#)) the *Contracting authority* may use an electronic exchange system meeting the requirements of Article 148 of [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#)¹. At the request of the *Contracting authority* the use of such a system shall become mandatory for the contractors at no additional cost for the *Contracting authority*. Details on specifications, access, terms and conditions of use will be provided in advance.

2. GENERAL INFORMATION ON TENDERING

2.1. Legal basis: what are the rules?

This call for tenders is governed by the provisions of [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#) (the Financial Regulation)¹.

The *Contracting authority* has chosen to award the contract resulting from this call for tenders through an open procedure pursuant to Article 164(1) (a) of the Financial Regulation. In an open procedure, any interested economic operator (any natural or legal person who offers to supply products, provide services or execute works) may submit a tender.

2.2. Rules on access to procurement: who may submit a tender?

Participation in this call for tenders is open on equal terms to all natural and legal persons coming within the scope of the [Treaties](#), as well as to international organisations.

It is also open to all natural and legal persons established in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement. The Contracting Authority can therefore accept tenders from and sign contracts with tenderers from 37 countries, namely: a) the countries, which are parties to the Agreement on the European Economic Area (EEA) (the 27 EU Member States, Lichtenstein, Norway and Iceland) and b) 6 Stabilisation and Association Agreements (SAA) countries (North Macedonia, Albania, Montenegro, Serbia, Bosnia and Herzegovina, Kosovo²).

The rules on access to procurement do not apply to subcontractors. Subcontracting may not be used with the intent to circumvent the rules on access to procurement.

To enable *the Contracting authority* to verify the access, each tenderer must indicate its country of establishment (and in case of joint tender – the country of establishment of each group member) and must present the supporting evidence normally acceptable under the law of that country/-ies. The same document(s) could

¹ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193 of 30.07.2018, p.1).

² This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence

be used to prove country/-ies of establishment and the delegation(s) of the authorisation to sign as described in **Section 4.3**.

2.3. Participant Register and identification

2.3.1 Registration in the Participant Register: why register?

Any economic operator willing to submit a tender for this call for tenders must be registered in the [Participant Register](#) - an online register of organisations and natural persons participating in the calls for tenders or proposals (participants) of the EU entities.

On registering each participant obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the Participant Register. A participant needs to register only once – the information provided can be further updated or re-used by the participant in other calls for tenders or calls for proposals of the EU entities.

👉 Please provide information about the SME status of the participant in the Participant Register by filling in the SME Declaration section in the Participant Register. The section becomes available only when updating/modifying the details of the registered organisation.

2.3.2 Identification documents

All tenderers (including all members of the group in case of joint tender) must provide a signed Legal Entity Form with its supporting evidence. The form is available on: http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

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

The tenderer (or the leader in case of joint tender) must provide a Financial Identification Form with its supporting documents. Only one form per tender should be submitted. No form is needed for subcontractors and other members of the group in case of joint tender. The form is available on: http://ec.europa.eu/budget/contracts_grants/info_contracts/index_en.cfm

2.4. Ways to submit a tender: how can economic operators organise themselves to submit a tender?

Economic operators can submit a tender either as a sole economic operator (sole tenderer) or as a group of economic operators (joint tender). In either case subcontracting is permitted.

In order to fulfil the selection criteria set out in **Section 3.2** the tenderer can rely on the capacities of subcontractors or other entities that are not subcontractors.

The role of each entity involved in a tender (hereafter referred to as “*involved entity*”) must be clearly specified in the eSubmission application: i) sole tenderer, ii) *Group leader* of a group of tenderers, iii) member of a group of tenderers, or iv) subcontractor. For an entity on whose capacities the tenderer relies to fulfil the selection criteria (that is not a subcontractor), this role is defined in the commitment letter (**Annex 5.2**). This applies also where the *involved entities* belong to the same economic group.

2.4.1. Joint tenders

A joint tender is a situation where a tender is submitted by a group (with or without legal form) of economic operators regardless of the link they have between them. The group as a whole is considered a tenderer³.

All members of the group assume joint and several liability towards the *Contracting authority* for the performance of the contract as a whole.

Group members must appoint a *Group leader* and a single point of contact authorised to act on their behalf in connection with the submission of the tender and all relevant questions, clarification requests, notifications, etc., that may be received during the evaluation, award and until the contract signature. The model power of attorney attached in **Annex 3** is to be used.

The joint tender must clearly indicate the role and tasks of each member and of the *Group leader* who will act as the *Contracting authority's* contact point for the contract's administrative or financial aspects and operational management. The *Group leader* will have full authority to bind the group and each of its members during contract execution. If the joint tender is successful, the *Contracting authority* shall sign the contract with the Group leader, authorised by the other members to sign the contract on their behalf via power of attorney drawn up in the model attached in **Annex 3**.

Changes in the composition of the group during the procurement procedure (after the submission deadline and before contract signature) shall lead to rejection of the tender except in case of a merger or takeover of a member of the group (universal succession), provided that the new entity has access to procurement (see **Section 2.2**) and is not in an exclusion situation, (see **Section 3.1**).

In any case the selection criteria must be still fulfilled by the group and the terms of the originally submitted tender may not be altered substantially, i.e. all the tasks assigned to the former entity must be taken over by the new entity member of the group, the change must not make the tender non-compliant with the tender specifications, and the evaluation of award criteria of the originally submitted tender may not be modified.

³ References to *tenderer* or *tenderers* in this document shall be understood as covering both sole tenderers and groups of economic operators submitting a joint tender.

2.4.2. Subcontracting

Subcontracting is the situation where the contractor enters into legal commitments with other economic operators which will perform part of the contract on its behalf. The contractor retains full liability towards the *Contracting authority* for performance of the contract as a whole.

The following shall not be considered subcontracting:

- a) Use of workers posted to the contractor by another company owned by the same group and established in a Member State (“intra-group posting” as defined by Article 1, 3, (b) of [Directive 96/71/EC concerning the posting of workers in the framework of the provision of services](#)).
- b) Use of workers hired out to the contractor by a temporary employment undertaking or placement agency established in a Member State (“hiring out of workers” as defined by Article 1, 3, (c) of [Directive 96/71/EC concerning the posting of workers in the framework of the provision of services](#)).
- c) Use of workers temporarily transferred to the contractor from an undertaking established outside the territory of a Member State and that belongs to the same group (“intra-corporate transfer” as defined by Article 3, (b) of [Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer](#)).
- d) Use of staff without employment contract (“self-employed persons working for the contractor”), without the tasks of the self-employed persons being particular well-defined parts of the contract.
- e) Use of suppliers and/or transporters by the contractor, in order to perform the contract at the place of performance, unless the economic activities of the suppliers and/or the transporting services are within the subject of this call for tender (see **Section 1.4**).
- f) Performance of part of the contract by members of an EEIG (European Economic Interest Grouping), when the EEIG is itself a contractor or a group member.

The persons mentioned in points a), b), c) and d) above will be considered as “personnel” of the contractor as defined in the contract.

All contractual tasks may be subcontracted unless the *Technical specifications* expressly reserve the execution of certain critical tasks to the sole tenderer itself, or in case of a joint tender, to a member of the group.

By filling in the form available in **Annex 4**, tenderers are required to give an indication of the proportion of the contract that they intend to subcontract, as well as to identify and describe briefly the envisaged contractual roles/tasks of subcontractors meeting any of these conditions (hereafter referred to as *identified subcontractors*):

- on whose capacities the tenderer relies upon to fulfil the selection criteria as described under **Section 3.2**;
- whose individual share of the contract, known at the time of submission, is above 10 %.

Any such subcontractor must provide the tenderer with a commitment letter drawn up in the model attached in **Annex 5.1** and signed by its authorised representative.

Changes concerning subcontractors identified in the tender (withdrawal/replacement of a subcontractor, additional subcontracting) during the procurement procedure (after the submission deadline and before contract signature) require the prior written approval of the *Contracting authority* subject to the following verifications:

- any new subcontractor is not in an exclusion situation;
- the tenderer still fulfils the selection criteria and the new subcontractor fulfils the selection criteria applicable to it individually, if any;
- the terms of the originally submitted tender are not altered substantially, i.e. all the tasks assigned to the former subcontractor are taken over by another involved entity, the change does not make the tender non-compliant with the tender specifications, and the evaluation of award criteria of the originally submitted tender is not modified.

Subcontracting to subcontractors identified in a tender that was accepted by the *Contracting authority* and resulted in a signed contract, is considered authorised.

2.4.3. Entities on whose capacities the tenderer relies to fulfil the selection criteria

In order to fulfil the selection criteria a tenderer may also rely on the capacities of other entities, regardless of the legal nature of the links it has with them. It must in that case prove that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment letter in the model attached in **Annex 5.2**, signed by the authorised representative of such an entity, and the supporting evidence that those other entities have the respective resources.

If the contract is awarded to a tenderer intending to rely on another entity to meet the minimum levels of economic and financial capacity, the *Contracting authority* may require the entity to sign the contract or, alternatively, to provide a joint and several first-call financial guarantee for the performance of the contract.

With regard to technical and professional selection criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required.

👉 Relying on the capacities of other entities is only necessary when the capacity of the tenderer is not sufficient to fulfil the required minimum levels of capacity. Abstract commitments that other entities will put resources at the disposal of the tenderer will be disregarded.

3. EVALUATION AND AWARD

The evaluation of the tenders that comply with the submission conditions will consist of the following elements:

- Check if the tenderer has access to procurement (see **Section 2.2**);
- Verification of administrative compliance (if the tender is drawn up in one of the official EU languages and signed by duly authorised representative(s) of the tenderer);
- Verification of non-exclusion of tenderers on the basis of the exclusion criteria;
- Selection of tenderers on the basis of selection criteria;
- Verification of compliance with the minimum requirements specified in the procurement documents;
- Evaluation of tenders on the basis of the award criteria.

The *Contracting authority* will evaluate the abovementioned elements in the order that it considers to be the most appropriate. If the evaluation of one or more elements demonstrates that there are grounds for rejection, the tender will be rejected and will not be subjected to further full evaluation. The unsuccessful tenderers will be informed of the ground for rejection without being given feedback on the non-assessed content of their tenders. Only tenderer(s) for whom the verification of all elements did not reveal grounds for rejection can be awarded the contract.

The evaluation will be based on the information and evidence contained in the tenders and, if applicable, on additional information and evidence provided at the request of the *Contracting authority* during the procedure. If any of the declarations or information provided proves to be false, the *Contracting authority* may impose administrative sanctions (exclusion or financial penalties) on the entity providing the false declarations/information.

For the purposes of the evaluation related to exclusion and selection criteria the *Contracting authority* may also refer to publicly available information, in particular evidence that it can access on a national database free of charge.

3.1. Exclusion criteria

The objective of the exclusion criteria is to assess whether the tenderer is in any of the exclusion situations listed in Article 136(1) of the Financial Regulation.

Tenderers found to be in an exclusion situation will be rejected.

As evidence of non-exclusion each tenderer needs to submit with its tender a Declaration on Honour⁴ in the model available in **Annex 2**.⁵ The declaration must be signed by an authorised representative of the entity providing the declaration.

⁴ The European Single Procurement Document (ESPD) may not be used yet in BEREC Office's calls for tenders.

The initial verification of non-exclusion of tenderers will be done on the basis of the submitted declarations and consultation of the [European Union's Early Detection and Exclusion System](#). The documents mentioned as supporting evidence in the Declaration on Honour need to be provided **only** when requested and where this is necessary to ensure the proper conduct of the procedure within a deadline given by the *Contracting authority*⁵.

Annex 1 specifies which of the *involved entities* participating in a tender need to provide the Declaration on Honour and, when requested by *the Contracting authority*, the supporting evidence.

Before the award decision, the contracting authority may request documentary evidence on compliance on the exclusion criteria set out in the present tender specifications. All tenderers are invited to prepare in advance the documents related to the evidence, since they may be requested to provide such evidence within a short deadline. Failure to provide valid documentary evidence within the deadline set by the Contracting Authority shall lead to the rejection of the tender for the award of the contract, unless the tenderer can justify the failure on the grounds of material impossibility.

3.2. Selection criteria

The objective of the selection criteria is to assess whether the tenderer has the legal, regulatory, economic, financial, technical and professional capacity to perform the contract.

The selection criteria for this call for tenders, including the minimum levels of capacity, the basis for assessment and the evidence required, are specified in the following subsections.

Tenders submitted by tenderers not meeting the minimum levels of capacity will be rejected.

When submitting its tender each tenderer shall declare on honour that it fulfils the selection criteria for the call for tenders. The model Declaration on Honour available in **Annex 2** shall be used.

⁵ Unless the same declaration has already been submitted for the purposes of another award procedure of the BEREC Office, the situation has not changed, and the time elapsed since the issuing date of the declaration does not exceed one year.

⁶ The obligation to provide the supporting evidence will be waived in the following situations:

- if the same documents have already been provided in a previous award procedure of the BEREC Office, have been issued no more than one year before the date of their request by the *Contracting authority* and are still valid at that date;
- if such evidence can be accessed by the *Contracting authority* on a national database free of charge, in which case the economic operator shall provide *the Contracting authority* with the internet address of the database and, if needed, the necessary identification data to retrieve the document;
- if there is a material impossibility to provide such evidence.

The initial assessment of whether a tenderer fulfils the selection criteria will be done on the basis of the submitted declaration(s).

The subsections below specify which selection criteria evidence must be provided with the tender or may be requested later, at any time during the procurement procedure⁷. In any case, to the extent that there is no ground for a waiver, the evidence must be provided, upon request and within a deadline given by the *Contracting authority*. The evidence must be provided in accordance with the applicable basis for assessment of each criterion: in case of a consolidated assessment – only by the *involved entities* who contribute to the fulfilment of the criterion, and in case of individual assessment – by each *involved entity* to whom the criterion applies individually.

Before the award decision, the contracting authority may request documentary evidence on compliance with the selection criteria set out in the present tender specifications. All tenderers are **invited to prepare in advance the documents related to the evidence**, since they may be requested to provide such evidence in a short deadline. In any event, the tenderer proposed by the evaluation committee for the award of the contract, will be requested to provide such evidence.

Failure to provide valid documentary evidence within the deadline set by the Contracting Authority shall lead to the rejection of the tender for the award of the contract, unless the tenderer can justify the failure on the grounds of material impossibility.

3.2.1. Legal and regulatory capacity

Tenderers must prove that they have legal capacity to perform the contract and the regulatory capacity to pursue the professional activity necessary to carry out the work subject to this call for tenders.

The legal and regulatory capacity shall be proven by the evidence listed below:

Criterion L1: The tenderer (including each member of the group in case of joint tender) must provide the following information in its tender if it has not been provided with the Legal Entity Form:

⁷ The obligation to provide the supporting evidence will be waived in the following situations:

- if the same documents have already been provided in a previous award procedure of the BERE Office, have been issued no more than one year before the date of their request by the *Contracting authority* and are still valid at that date;
- if such evidence can be accessed by the *Contracting authority* on a national database free of charge, in which case the economic operator shall provide the *Contracting authority* with the internet address of the database and, if needed, the necessary identification data to retrieve the document.

Evidence: A legible copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation applicable to the legal person requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.

Criterion L2: The tenderer (including each member of the group in case of joint tender) must be entitled to provide work placement services required in these tender specifications.

Evidence: a copy of a licence issued in accordance with Latvian law.

👉 The evidence of legal and regulatory capacity **must be** provided with the tender. This criterion applies to each member of the group in case of a joint tender.

3.2.2. Economic and financial capacity

Tenderers must comply with the following selection criteria in order to prove that they have the necessary economic and financial capacity to perform the contract.

Criterion F1	
Minimum level of capacity	Average yearly turnover of each of the last two financial years above EUR 500 000.
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out.
Evidence	Copy of the profit and loss accounts and balance sheets for the last two years for which accounts have been closed from each concerned involved entity, or, failing that, appropriate statements from banks. The most recent year must have been closed within the last 18 months.

👉 The evidence of economic and financial capacity does need not be provided with the tender but may be requested by the *Contracting authority* at any time during the procedure. **Please note that a request for evidence in no way implies that the tenderer has been successful.**

3.2.3. Technical and professional capacity

Tenderers must comply with the following selection criteria in order to prove that they have the necessary technical and professional capacity to perform the contract.

Criterion T1

The tenderer must prove experience in the field of providing qualified interim workers to clients of a similar scale.	
Minimum level of capacity	At least three years of similar services (in scope and complexity) provided in the last three years. The reference contracts must have been implemented in 2018, 2019, and 2020.
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
Evidence	<p>A list of 10 contracts of the principal services provided in the last three years (2018, 2019, 2020), with sums, dates, recipients (public or private), and a brief overview of the types of profiles of the (interim) workers.</p> <p>One reference letter from a company to whom interim services were provided in the period of the past two years (2019, 2020). The letter must include contact details of the client who the Contracting authority may contact in view of verifying the tenderer's compliance with this criterion.</p>

Criterion T2	
Suitably qualified and experienced contract manager and back-up to perform the service delivery and follow-up in line with BEREC Office's requirements	
Minimum level of capacity	The contract manager and his/her back-up must have at least three years of experience of managing a similar contract and a level of English corresponding to at least level B2 of the Common European Framework of Reference for Languages or equivalent.
Basis for assessment	This criterion applies to the tenderer as a whole, i.e. the combined capacities of all <i>involved entities</i> .
Evidence	<ol style="list-style-type: none"> 1) Proof of professional experience of the tenderer's managerial staff responsible for providing the service (i.e. two Curricula Vitae: one of the contract manager, one of a back-up). 2) Proof of knowledge of the English language (i.e. a certificate stating the level of English or proof of educational or professional background of at least three years with English as the main working language).

👉 The evidence of technical and professional capacity does need not be provided with the tender but may be requested by the *Contracting authority* at any time during the procedure. **Please note that a request for evidence in no way implies that the tenderer has been successful.**

👉 Involved entities must not be subject to conflicting interests which may negatively affect the contract performance. Where the *Contracting authority* has established such conflicting interests, it may conclude that the tenderer or an involved entity does not possess the required professional capacity to perform the contract to an appropriate quality standard.

The presence of conflicting interests shall be examined during the evaluation phase based on the statements made through the Declarations on Honour and, where applicable, the commitment letters (***Annex 5.1 and Annex 5.2***).

3.3. Compliance with the minimum requirements specified in the procurement documents

By submitting a tender a tenderer commits to perform the contract in full compliance with the terms and conditions of the procurement documents for this call for tender. Particular attention is drawn to the minimum requirements specified in the Technical specifications document (Tender specifications – part 2) and to the fact that tenders must comply with applicable data protection, environmental, social and labour law obligations established by Union law, national legislation, collective agreements or the international environmental, social and labour conventions listed in Annex X to Directive 2014/24/EU.

The minimum requirements shall be observed throughout the entire duration of the contract. Compliance with these requirements is mandatory and cannot be subject to any assumptions, limitations, conditions, or reservations on the part of a tenderer.

👉 **Tenders that are not compliant with the applicable minimum requirements shall be rejected.**

3.4. Award criteria

The objective of the award criteria is to evaluate the tenders with a view to choosing the most economically advantageous tender.

Tenders will be evaluated on the basis of the following award criteria and their weighting:

1. Price - 40%

The price considered for evaluation will be the total price of the tender, covering all the requirements set out in the tender specifications.

2. Quality – 60%

The quality of the tender will be evaluated based on the following criteria:

Award criteria	Content of the offer	Minimum pass score	Maximum points
1. Quality of interim worker services provided to the BEREK Office	<p>The Tenderer must submit the following information:</p> <p>1.1 A description of the general selection and recruitment methodologies applied by the Tenderer (including methods of screening CVs, verification of educational qualifications and professional experiences, verification of references, presentation letters, interview techniques and tests) (Minimum 10 points; maximum 20 points for 1.1)</p> <p>1.2 A description of the modalities of presentation of the interim candidates to the BEREK Office, including a description of the measures in place to facilitate the final selection to be made by the BEREK Office (Minimum 10 points; maximum 20 points for 1.2)</p> <p>1.3 A description on the measures in place to retain, train, develop and motivate interim workers. (Minimum 10 points; maximum 20 points for 1.3)</p>	40	60
2. Quality of contract management service provided to the BEREK Office	<p>The Tenderer must submit the following information:</p> <p>A description of the measures taken to ensure consistency of service in terms of specific dedicated staff providing service to the BEREK Office and how tenderer plans to ensure that requests from BEREK Office are responded to within the time limits, how effective communication and contract management would be ensured, means of communication and designated persons, response time.</p>	10	20

Award criteria	Content of the offer	Minimum pass score	Maximum points
3. Methods/ Policy in place ensuring continuity of the service	<p>The Tenderer must submit the following information:</p> <p>A description of methods that would ensure business continuity and smooth hand-over procedures in cases of:</p> <ul style="list-style-type: none"> • Sudden resignation of interim worker • Unplanned unavailability of interim worker for more than 10 working days • Ensuring a smooth hand-over procedure and end-of-service report at the end of a Specific Contract that is not followed by a new Specific Contract for the same services by the same interim worker 	10	20
Total maximum points:			100
Minimum pass score:			60

3.5. Award (ranking of tenders)

Tenders shall be ranked according to the best price-quality ratio in accordance with the formula below:

score for tender X	=	$\frac{\text{cheapest price}}{\text{price of tender X}}$	*	100	*	price weighting (0,40)	+	total quality score (out of 100) for all award criteria of tender X	*	quality criteria weighting (0,60)
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Should the outcome of the formula lead to two or more tenders with the same result, the tenders with lower price will be ranked higher than the tenders with higher price.

👉 The contract shall be awarded to the first 3 ranked tenders, which comply with the minimum requirements specified in the procurement documents and are submitted by tenderers with access to procurement, not in an exclusion situation and fulfilling with the selection criteria. The ranking will determine the sequence in which the contractors will be offered specific contracts during the implementation of the framework contract.

4. FORM AND CONTENT OF THE TENDER

4.1. Form of the tender: how to submit the tender?

Tenders are to be submitted via the eSubmission application according to the instructions laid down in the Invitation to tender letter and the [eSubmission Quick Guide](#).

👉 Make sure you prepare and submit your electronic tender in eSubmission early enough to ensure it is received within the deadline specified under Heading IV.2.2 of the contract notice.

4.2. Content of the tender: what documents to submit with the tender?

The documents to be submitted with the tender in eSubmission are listed in **Annex 1**.

The following requirements apply to the technical and financial offer to be uploaded in eSubmission:

- *Technical offer.*

The technical offer must provide all the information needed to assess the compliance with the Technical specifications (Tender specifications – part 2), in particular the minimum requirements included in point 3 thereof, and the award criteria.

Tenderers are invited to use the Tender Submission Form in **Annex 7** for responding to the award criteria, and to annex it to their technical offer.

Tenders deviating from the minimum requirements or not covering all the requirements may be rejected on the basis of non-compliance and not evaluated further.

- *Financial offer.*

A complete financial offer, including the breakdown of the price needs to be uploaded. For this purpose, the Financial Model in **Annex 6** shall be completed and uploaded in eSubmission. The total amount of the offer as indicated in cell I14 must be encoded in the field “Total amount excl. taxes” under the section “Tender data” in eSubmission.

It is the responsibility of each tenderer to ensure that the total amount of the tender inserted in the eSubmission field “Total amount excl. taxes” corresponds to the amount indicated in the uploaded financial offer. In case of discrepancies, only the amount indicated in the financial offer will be taken into account.

The financial offer shall be:

- expressed in euros. Tenderers from countries outside the euro zone have to quote their prices in euro. The price quoted may not be revised in line with

exchange rate movements. It is for the tenderer to bear the risks or the benefits deriving from any variation.

- quoted free of all duties, taxes and other charges, i.e. also free of VAT.

👉 The European Union Institutions are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union of 8 April 1965 annexed to the Treaty on the Functioning of the European Union. Exemption is granted to the BEREC Office either through refunds upon presentation of documentary evidence or by direct exemption.

In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Union is exempt from VAT.

4.3. Signature policy: how can documents be signed?

Where a document needs to be signed, the signature must be either hand-written or a qualified electronic signature as defined in [Regulation \(EU\) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market \(the eIDAS Regulation\)](#).

For hand-written signatures see Section 1 of the Invitation to tender.

For electronic signatures see: <https://webgate.ec.europa.eu/fpfis/wikis/x/YIrglw>

All documents must be signed by the signatories (when they are individuals) or by their duly authorised representatives.

For the following documents, when signed by representatives, tenderers must provide evidence for the delegation of the authorisation to sign:

- The Declaration on Honour of the tenderer (in case of joint tender – the Declarations on Honour of all group members);
- (If applicable – in the case of joint tender) the power(s) of attorney drawn up using the model attached in **Annex 3**).

The delegation of the authorisation to sign on behalf of the signatories (including, in the case of proxy(-ies), the chain of authorisations) must be evidenced by appropriate written evidence (copy of the notice of appointment of the persons authorised to represent the legal entity in signing contracts (together or alone), or a copy of the publication of such appointment if the legislation which applies to signatory requires such publication or a power of attorney). A document that the *Contracting authority* can access on a national database free of charge does not need to be submitted if the *Contracting authority* is provided with the exact internet link and, if applicable, the necessary identification data to retrieve the document.

4.4. Confidentiality of tenders: what information and under what conditions can be disclosed?

Once the *Contracting authority* has opened a tender, it becomes its property and shall be treated confidentially, subject to the following:

- For the purposes of evaluating the tender and, if applicable, implementing the contract, performing audits, benchmarking, etc., the *Contracting authority* is entitled to make available (any part of) the tender to its staff and the staff of other Union institutions, agencies and bodies, as well to other persons and entities working for the *Contracting authority* or cooperating with it, including contractors or subcontractors and their staff provided that they are bound by an obligation of confidentiality.
- After the signature of the award decision tenderers whose tenders were received in accordance with the submission modalities, who have access to procurement, who are not found to be in an exclusion situation referred to in Article 136(1) of the FR, who are not rejected under Article 141 of the FR, whose tenders are not found to be incompliant with the procurement documents, and who make a request in writing will be notified of the name of the tenderer to whom the contract is awarded, the characteristics and relative advantages of the successful tender and the price of the offer and/or contract value. The *Contracting authority* may decide to withhold certain information that it assesses as being confidential, in particular where its release would prejudice the legitimate commercial interests of economic operators or might distort fair competition between them. Such information may include, without being limited to, confidential aspects of tenders such as unit prices included in the financial offer, technical or trade secrets⁸.
- The *Contracting authority* may disclose the submitted tender in the context of a request for public access to documents, or in other cases where the applicable law requires its disclosure. Unless there is an overriding public interest in disclosure⁹, the *Contracting authority* may refuse to provide full access to the submitted tender, redacting the parts (if any) that contain confidential information, the disclosure of which would undermine the protection of commercial interests of the tenderer, including intellectual property.

👉 The *Contracting authority* will disregard general statements that the whole tender or substantial parts of it contain confidential information. Tenderers need to mark clearly the information they consider confidential and explain why it may not be disclosed.

⁸ For the definition of trade secrets please see Article 2 (1) of DIRECTIVE (EU) 2016/943 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure.

⁹ See Article 4 (2) of the REGULATION (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

The *Contracting authority* reserves the right to make its own assessment of the confidential nature of any information contained in the tender.

APPENDIX: LIST OF REFERENCES

<i>Award criteria</i>	See Section 3.4
<i>Contracting authority</i>	See Section 1.1
<i>Entities on whose capacities the tenderer relies to fulfil the selection criteria</i>	See Section 2.4.3
<i>Exclusion criteria</i>	See Section 3.1
<i>Financial Regulation</i>	Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union
<i>Framework contract</i>	See Section 1.6
<i>Framework contract ceiling</i>	See Section 1.6
<i>Group leader</i>	See Section 2.4.1
<i>Identified subcontractors</i>	See Section 2.4.2
<i>Involved entities</i>	See Section 2.4
<i>Joint tender</i>	See Section 2.4.1
<i>Participating entities</i>	See Section 1.1
<i>Participant Register</i>	See Section 2.3 https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/participant-register
<i>Selection criteria</i>	See Section 3.2
<i>Sole tenderer</i>	See Section 2.4
<i>Subcontracting/subcontractor</i>	See Section 2.4.2
<i>Treaties</i>	The EU Treaties: https://europa.eu/european-union/law/treaties_en