

ANNEX A

Open call for tender F/SE/11/02

**Medical services for Staff Members of the
European Union Agency for Fundamental
Rights (FRA)**

TENDER SPECIFICATIONS

1. Description of the tender

The subject of the present call for tender is the Provision of Medical services for Staff Members of the European Union Agency for Fundamental Rights.

A contract notice was published on 27/04/2011 with reference number 2011/S 81-132567

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2. Division into lots

This tender is divided into two lots, as follows:

Lot 1: Provision of services offered by a Medical Advisor

Lot 2: Provision of services offered by a Medical Centre

Tenderers can apply for one or for more lots. However, a separate tender must be submitted for each lot, and each tender must cover all the tasks in the lot to which it refers. Submission of a tender for only some of the tasks to be performed under the contract will lead to the exclusion of the tender.

Tenderers must be aware that Lot 1 is open both to natural persons (e.g. doctors) and to legal persons (e.g. medical centres, hospitals, clinics, etc.).

3. Purpose of the tender

The purpose of this invitation to tender is to award single framework service contract(s) for the provision of the services as specified in Annex A.1 Technical Specifications.

Framework contracts involve no direct commitment and, in particular, do not constitute orders per se. Instead, they lay down the legal, financial, technical and administrative provisions governing the relations between the Contracting Authority and the Contractor during the period of its validity. Specific contracts or orders will be issued throughout the validity of the framework contract. Such specific contracts or orders will be attached to the framework contract. The Draft Framework Contract (Annex B) specifies the basic conditions applicable to any assignment placed under its terms. Signature of a framework contract does not oblige the Contracting Authority to place an assignment. The framework contract does not preclude the Contracting Authority from assigning tasks in the areas set out above to the other Contractors or from having these tasks carried out by Contracting Authority's staff.

4. Place of performance

The place of performance of the tasks shall be the Contractor's premises or any other place indicated in Annex A.1 Technical Specifications, within the area of Vienna.

5. Duration

The framework contract(s) resulting from the present call for tenders shall enter into force the date on which it is signed by the last contracting party.

The framework contract(s) will have an initial duration of one (1) year as from the date of signature, and may be renewed up to three times for an additional period of one (1) year each time. The contract(s) shall be renewed automatically under the same conditions, unless written notification to the contrary is sent by one of the contracting parties and received by the other before expiry of the period indicated in the Draft Framework Contract (Annex B). Renewal does not imply any modification or deferment of existing obligations. The duration of the framework contract(s) shall not exceed four (4) years. Implementation of the framework contract(s) may not start before the date on which the contract enters into force.

6. Volume

The maximum volume of the framework contract(s) for 4 years is estimated at € 300,000.00 excluding VAT, as follows:

- Lot 1 : Provision of services offered by a Medical Advisor, € 162,000.00.
- Lot 2 : Provision of services offered by a Medical Centre, € 138,000.00.

Depending on the budget availability and the needs of the Contracting Authority, this volume could be increased up to 50%.

7. Terms of payment

Payments under the Contract shall be made on a bimonthly basis.

8. Financial guarantees

No financial guarantees are required.

9. Participation in the tendering procedure

Participation in tendering procedures is open on equal terms to all natural and legal persons coming within the scope of the Treaties.

10. Consortia or group of service providers

Joint tenders submitted by several economic operators (a consortium or a group of companies) are allowed. In such cases, one of the members must be designated as the group leader or group manager. All members of a consortium or a group of companies (i.e. the leader and all other members) are jointly and severally liable towards the Contracting Authority. Changes in the composition of the consortium or group of companies must be expressly authorised by the Contracting Authority.

Tenderers submitting joint bids shall describe how their cooperation will be organised in order to perform the tasks specified in Annex A.1 Technical Specifications.

Joint tenders will be assessed as follows:

- The exclusion criteria will be assessed in relation to each company individually. The Declaration of Honour with respect to the Exclusion Criteria and Absence of Conflict of Interest included in Annex C, duly signed and dated, stating that the tenderer is not in one of the exclusion

situations, must be provided by each member of the consortium or the group.

- The selection criteria for economic and financial capacity will be assessed in relation to each company individually. However, economic and financial criteria that shall be achieved above a certain minimum threshold (i.e. average annual turnover) will be assessed in relation to the consortium or group of companies as a whole.
- The selection criteria for technical and professional capacity will be assessed in relation to the consortium or group of companies as a whole.

11. Subcontracting

Any intention to subcontract part of the contract must be clearly stated by the tenderer in Annex C. Tenderers must indicate the maximum percentage of the contract they intend to subcontract and the identity of the subcontractors they intend to work with, and clearly state the nature of their links to those subcontractors.

For each subcontractor identified in the tender, tenderers must provide a Letter of Intent as per the template provided in Annex C signed by the subcontractor stating their unambiguous undertaking to collaborate with the tenderer.

Offers involving subcontracting will be assessed as follows:

- Where the amount of subcontracting exceeds or equals 20% of the contract, the exclusion criteria will be assessed in relation to all proposed subcontractors. The Declaration of Honour with respect to the Exclusion Criteria and Absence of Conflict of Interest included in Annex C, duly signed and dated, stating that the subcontractor is not in one of the exclusion situations, must be provided by each proposed subcontractor.
- Where the tenderer relies on the economic, financial, technical and professional capacity of the subcontractor(s) to meet the selection criteria, subcontractors shall be treated as if they were partners in a consortium or a group of companies for the purposes of the evaluation of the selection criteria, and therefore, they shall provide proof of economic, financial, technical and professional capacity as well.

Tenderers must inform the subcontractor(s) and include in their Letter of Intent that the provisions referring to checks and audits included in the Draft Framework Contract (Annex B) may be applied to sub-contractors.

Once the contract has been signed, the provisions regarding subcontracting included in the Draft Framework Contract will apply. The Contracting Authority retains the right to approve or reject the proposed subcontractors.

If the tender includes subcontracting, it is recommended that contractual arrangements with subcontractors include mediation as a method of dispute resolution.

12. Visits to premises or information meeting

A visit to the premises/information meeting is not foreseen.

13. Date and place of opening of the tenders

Tenders will be opened at **10:30 hrs** on **21.06.2011** at the Contracting Authority's address. An authorised representative of each tenderer may attend the opening of the bids. Companies wishing to attend are requested to notify their intention by sending a fax or e-mail at least 48 hours in advance to the fax or e-mail given below. This notification must be signed by an authorised officer of the tenderer and specify the name of the person who will attend the opening of the bids on the tenderer's behalf.

14. Contacts between the tenderer and the Contracting Authority

In principle, no contact is permitted between the Contracting Authority and the tenderers during the tendering procedure.

However, in exceptional circumstances contact may be made on the tenderers' initiative before the final date for the receipt of bids, in order (and only for this reason) to clarify the nature of the contract.

Such requests for further information may be made by fax, e-mail or to the address below:

<p>European Union Agency for Fundamental Rights Invitation to tender No: F/SE/11/02 Administration Schwarzenbergplatz 11 Vienna 1040 – Austria Fax: +43 (0)1 580 30 691 ; e-mail: procurement@fra.europa.eu</p>
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Insofar as it has been requested in good time, the additional information will be sent simultaneously to all economic operators who requested specifications or showed interest in submitting a bid no later than six calendar days before the deadline for the receipt of bids or, in the case of requests for information received less than eight calendar days before the deadline for the receipt of bids, as soon as possible after the request for information has been received.

The answers to the requests for additional information can also be found at the following Internet address: <http://www.fra.europa.eu>.

Similarly, contact may in exceptional circumstances be made on the Contracting Authority's initiative:

- a. before the final date for the receipt of bids, in order to inform interested parties of an error, a lack of precision, an omission or any other material shortcoming in the drawing up of the documents of the invitation to tender; or
- b. after the opening of bids, where a bid requires clarification or in order to correct material errors made in drawing up a bid.

Please note that in any event such contact may not result in a modification of the terms of the bid.

15. Alteration or withdrawal of tenders

Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders. No tender may be altered after the deadline for submission. Withdrawals must be unconditional and will end all participation in the tender procedure.

Any such notification of alteration or withdrawal must be prepared and submitted in accordance with the instructions on how to submit tenders included in the Invitation to tender, and the envelope must also be marked with "alteration" or "withdrawal" as appropriate.

16. Variants

Variant solutions will not be taken into consideration.

17. Assessment of the tenderers

Tenderers will be assessed on the basis of the exclusion (Phase I) and selection (Phase II) criteria described below.

17.1 Exclusion criteria (Phase I)

The aim of this phase is to assess if tenderers fall in any of the exclusion situations listed below and therefore, cannot take part in the tender procedure.

17.1.1 Exclusion situations.

Tenderers shall be excluded from participation in the present 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 those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
- c) they have been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;
- d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the contract is to be performed;

- e) they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- f) following another procurement procedure or grant award procedure financed by the Union budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

Tenderers shall be excluded from the award of the contract if, during the present procurement procedure:

- g) are subject to a conflict of interest;
- h) are guilty of misrepresentation in supplying the information required by the Contracting Authority as a condition of participation in the contract procedure or fail to supply this information.

17.1.2 Documentary evidence

At the tendering stage, tenderers shall declare that they are not in one of the situations listed above by submitting a signed Declaration of Honour and Absence of Conflict of Interest, in accordance with the form included in Annex C.

In addition, the tenderer to whom the contract is to be awarded shall provide, within fourteen (14) calendar days and preceding the signature of the contract, the following documents as proof that the tenderer is not in one of the situations described above:

- for points (a), (b) and (e) above, recent extract(s) from the judicial record or, failing that, an equivalent document(s) recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied
- for point (d) above, a recent certificate issued by the competent authority of the State concerned. Where the document or certificate referred to is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance, and
- for points (c) and (f) above, the tenderer may provide a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

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

The Contracting Authority may waive the obligation of a tenderer to submit the documentary evidence referred to above if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that the

documents are not more than one year old starting from their issuing date and that they are still valid.

Administrative or financial penalties may be imposed by the Contracting Authority on tenderers who are in one of the exclusion situations after they have been given the opportunity to present their observations.

These penalties are detailed in Article 96 of the Financial Regulation, as amended, (OJ L 390, page 1, of 30 December 2006) and Article 133 of the Regulation laying down the rules for the implementation of the Financial Regulation, as amended (OJ L 111, page 13, of 28 April 2007). We invite tenderers to read carefully those two articles.

17.2 Selection criteria – Phase II

The aim of this phase is to assess if tenderers have sufficient economic and financial capacity and sufficient technical and professional capacity to perform the contract.

17.2.1 Economic and financial capacity

Proof of economic and financial capacity of the tenderers shall be furnished by the following documents and minimum requirements:

For Lot 1, Medical Advisor:

- a) Evidence of professional risks indemnity insurance for the medical services requested.

For Lot 2, Medical Centre:

- a) Evidence of professional risks indemnity insurance for the medical services requested.
- b) Copy of the balance sheets and profit and loss accounts for the last two (2) financial years for which accounts have been closed, where publication of the accounts is required under the company law of the country in which the economic operator is established. In case of a consortium, each consortium member shall present their own balance sheets or extracts from balance sheets.

If the tenderer is not obliged to publish its accounts under the law of the state in which it is established, a copy of audited accounts for the last two (2) financial years should be presented. In case of a consortium, audited accounts for each consortium partner shall be presented.

- c) Statement of the annual average turnover for the last two (2) financial years for which accounts have been closed. The minimum average annual turnover of the tenderer shall be of **€ 30,000.00**. In case of a consortium, the annual average turnover for each of the partners shall be presented.

The sum of the annual average turnovers of each partner will be taken into account to reach the minimum annual average turnover of **€ 30,000.00**.

If for some exceptional reason which the Contracting Authority considers justified, the tenderer is unable to provide the references requested above, he may prove his economic and financial capacity by any other means which the Contracting Authority considers appropriate.

17.2.2 Technical and professional capacity

Proof of the technical and professional capacity of the tenderers shall be furnished by the following documents and minimum requirements:

For Lot 1, Medical Advisor:

- a) The educational and professional qualifications of the proposed Medical Advisor. The tenderer shall include a CV in Europass format meeting the minimum educational and professional requirements set out in section 3.1.3 of Annex A.1 Technical Specifications.
- b) Copy of the degree in Medicine recognised in one of the EU member states or equivalent qualification.
- c) Copy of the certificate of registration as general practitioner and/or medical specialist in occupational health with a Medical Association authorising the practice of medicine in Austrian territory.

For Lot 2, Medical Centre:

- a) Proof that the contractor is authorised to perform the medical services required in the tender under the Austrian law, as evidenced by inclusion in the relevant official professional register.
- b) A list with a detailed description of similar services provided to private or public clients, proving that the tenderer is capable to cover all services required under this tender.
- c) A description of the internal structure of the Medical Centre, its organisational division, medical areas covered by the centre, information on the medical and administrative staff, and a description of the equipment in use for the performance of all requested examinations. The organisational chart of the Medical Centre shall be included.

18. Assessment of tenders – Phase III

The aim of this phase is to evaluate from the technical and the financial points of view the offers submitted by the tenderers. The award method is based on the most economically advantageous offer.

18.1 Technical Evaluation

Tenderers' technical offer will be evaluated on the basis of the following technical award criteria and their corresponding weightings:

For Lot 1, Medical Advisor:

Technical Award criteria	Weighting in %
1.1 Demonstration of an understanding of the medical services required by FRA and a description of how the tenderer intends to comply with the tasks assigned to the Medical Advisor in Annex A.1 - Technical Specifications.	80
1.2 Description on how the tenderer plans to ensure short-notice availability.	20
TOTAL	100

For Lot 2, Medical Centre:

Technical Award criteria	Weighting in %
2.1 Organisation and methodology that will be employed to perform the contract to ensure that the minimum requirements specified in Annex A.1 - Technical Specifications are met.	70
2.2 Quality of the offered services, measured as follows:	30
2.2.1 Availability to provide tests and exams in the same premises.	10
2.2.2 Ability to meet the deadlines for delivery of tests results and flexibility to adapt to complementary tests as per minimum requirements specified in sections 3.2.4 Annex A.1 – Technical Specifications.	15
2.2.3 Cancellation policy. Flexibility referred to policy on last minute cancellations or reappointments	5

TOTAL	100
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For each criterion a number of points in a range between 0 to 100 points will be given. A tender can reach a maximum of 100 points per criterion and a maximum of 100 points in total. After the application of the corresponding weightings per criterion as per the grid above, tenders scoring less than 60.00% in the total overall weighted points or less than 50.00% in the weighed points awarded for a single criterion will be excluded from the rest of the assessment procedure.

18.2 Financial Evaluation

18.2.1 Financial award criteria

Tenderers' financial offers will be evaluated on the basis of the following financial award criteria and their corresponding weightings:

For Lot 1:

Item	Financial award criteria/sub-criteria	Weighting in %
1	Hourly rate	90
2	Daily fee first day of mission	5
3	Daily fee from the second day of mission on	5

For Lot 2:

Item	Financial award criteria/sub-criteria	Weighting in %
1	Annual medical examination of staff	60
2	Pre-employment medical examination of candidates	40

The tender with the highest number of points will receive 100 points in the financial evaluation. The remaining tenders will receive their financial score in accordance with the following formula:

$$\text{Financial score for tender } X = (\text{lowest weighted price} / \text{weighted price of tender } X) * 100$$

18.2.1 Information concerning prices

The financial evaluation of the offers will be based on the prices quoted by the tenderers in their financial proposals. Tenderers must fill in the Financial Offer Form included in Annex C. For Lot 2, also Annex I to the Financial Offer shall be completed.

When filling in the Financial Offer Form, tenderers must take into consideration that prices shall be:

- Expressed in euro. For tenders in countries which do not belong to the euro zone, tenderers shall quote their prices in euro and the price quoted may not be revised in line with exchange rate movements. It is for the tenderer to select an exchange rate and assume the risks or benefits deriving from any variation.
- Inclusive of all costs and expenses, directly and indirectly connected with the goods and/or services to be supplied/provided and including all the charges (travel and subsistence), unless otherwise stated in the tender documents.
- Free of all duties and taxes (in particular VAT). According to Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities, the European Union Agency for Fundamental Rights is exempt from all charges, taxes and dues, including value added tax; such charges may not therefore be included in the calculation of the price quoted; the VAT amount must be indicated separately.

Prices shall be fixed and not subject to revision for specific contracts or orders placed during the first year of performance of the Contract.

From the beginning of the second and every following year of the Contract, 80% of each price may be revised upwards or downwards if such revision is requested by one of the contracting parties by registered letter no later than three months before the anniversary of the date on which it was signed. The Contracting Authority shall purchase on the basis of the prices in force on the date on which orders or specific contracts are signed. Such prices shall not be subject to revision.

This revision shall be determined by the trend in the harmonised consumer price index "MUICP" (eurozone), published for the first time by the Publications Office of the European Union in the Eurostat monthly 'Data in Focus' publication at <http://www.ec.europa.eu/eurostat/>.

Revision shall be calculated in accordance with the following formula:

$$Pr = Po \left(0,2 + 0,8 \frac{I_r}{I_o} \right)$$

where:

Pr = revised price;

Po = price in the original tender;

Io = index for the month corresponding to the final date for submission of tenders;

Ir = index for the month corresponding to the date of receipt of the letter requesting a revision of prices.

Costs incurred in preparing and submitting tenders are borne by the tenderers and cannot be reimbursed.

19. Contract award – Phase IV

The contract will be awarded to the most economically advantageous offer (best value for money) on the basis of the quality and the price ratio.

The ranking of tenders in order to determine their relative value for money will be based on the quality/price ratio (60%/40%) of each tender, calculated as follows:

Final Score for tender X	=	$\frac{\text{Lowest price}}{\text{Price of tender X}}$	*	100	*	Price weighting (40 %)	+	total quality score (out of 100) for all criteria of tender X	*	Quality criteria weighting (60 %)
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20. Information for tenderers on the outcome of the tender

The Contracting Authority will inform tenderers of decisions reached concerning the award of the contract, including the grounds for any decision not to award a contract or to recommence the procedure.

If a written request is received, the Contracting Authority will inform all rejected tenderers of the reasons for their rejection and all tenderers submitting an admissible tender of the characteristics and relative advantages of the selected tender and the name of the successful tenderer.

However, certain information may be withheld where its release would impede law enforcement or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

21. No obligation to award the contract

The tendering procedure shall not involve the Contracting Authority in any obligation to award the contract.

No compensation may be claimed by tenderers whose tender has not been accepted, including when the Contracting Authority decides not to award the contract.

22. Cancellation of the tender procedure

In the event of cancellation of the tender procedure, tenderers will be notified of the cancellation by the Contracting Authority. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the unopened and sealed envelopes will be returned to the tenderers.

In no event shall the Contracting Authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure even if the Contracting Authority has been advised of the possibility of damages.

23. How to submit the tender

All tenders must be presented in three parts:

Part 1 – Administrative Proposal

In the Administrative Proposal, tenderers must include all the information and documents required by the Contracting Authority for the assessment of tenderers on the basis of the exclusion and selection criteria described above. For that purpose, tenderers must fill and sign the following documents following the forms included in Annex C:

Section A: Tenderers Identification

- Tenderers' identification form (administrative details).
- Legal Entities Form, to be signed by a representative of the tenderer authorised to sign contracts with third parties. There is one form for individuals, one for private entities and one for public entities. If the tenderer is submitting a joint offer, a Legal Entities Form must be submitted by each consortium or group member. It also has to be submitted by each subcontractor when the subcontracting percentage exceeds or equals 20% of the contract value.
- Bank Identification Form filled in and signed by an authorised representative of the tenderer and his or her banker. In case of a joint offer, only one of the members of the consortium or group of companies, usually the leader, must complete the Bank Identification Form.
- Power of Attorney (in case of joint offers).
- Statement on Subcontracting, indicating the intention of the tenderer to subcontract part of the contract and the percentage of subcontracting.
- Letter of Intent of Subcontractors (only if the tenderer intends to subcontract part of the contract).

Section B: Exclusion Criteria information

- Declaration of Honour with respect to the Exclusion Criteria and Absence of Conflict of Interest. To be submitted by each consortium or group member in case of joint offers, and by each subcontractor when the subcontracting percentage exceeds or equals 20% of the contract value.

Section C: Selection Criteria evidence

The documents and evidence relating to the technical, professional, economic and financial capacity of the service provider(s) involved in the bid shall be provided in accordance with the requirements mentioned in Section 17 above and using the Forms in Annex C (Standard Submission Form).

Part 2 – Technical proposal

In the Technical Proposal, tenderers must include all the information required by the Contracting Authority for the evaluation of tenders on the basis of the technical award criteria described in the corresponding sections of these Tender Specifications. Tenderers should elaborate on all points addressed in Annex A.1 Technical Specifications in order to obtain as many points as possible. The mere repetition of mandatory requirements set out in Annex A.1, without going into details or without giving any added value, will only result in a low number of points. In addition, if certain essential points of Annex A.1 are not expressly covered by the tender, the Contracting Authority may decide to give a zero mark for the relevant qualitative award criteria.

The technical offer must be written with a 'lay person' in mind. The style and presentation must, as far as is possible, be simple and clear, and free of jargon that obscures rather than promotes meaning to readers unfamiliar with it.

The technical proposal must be included in a separate envelope clearly marked as "Technical Offer".

Part 3 – Financial Proposal

In the Financial Proposal tenderers must indicate their financial offers by completing the Financial Offer Forms included in Annex C. Prices must be given in accordance with the instructions given in the corresponding sections of these Tender Specifications. The Financial Proposal must be included inside a separate envelope clearly marked as "Financial offer".

24. Data protection

Processing your reply to the invitation to tender will involve the recording and processing of personal data (such as your name, address and CV). Such data will be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate your tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by the Contracting Authority. You are entitled to obtain access to your personal data on request and to rectify any such data that is inaccurate or incomplete. If you have any queries concerning the processing of your personal data, you may address them to Contracting Authority's Data Protection Officer. You have the right of recourse at any time to the European Data Protection Supervisor for matters relating to the processing of your personal data.