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General Guidance on Europol Procurement Procedures

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1. Foreword

1.1. Europol Procurement

“Public procurement” means the purchasing of works, supplies and services by public bodies at either national or European Union (EU) level.

The objective of public procurement is to increase the choice of potential suppliers to public bodies, thereby allowing achieving a better value for money result, while at the same time developing market opportunities for companies.

Europol must respect EU regulations on procurement and budgetary matters when contracting with economic operators. The conclusion of a contract is in principle only possible after the successful completion of a procurement procedure.

In accordance with Article 85 of the Financial Regulation applicable to Europol, Europol complies with the Financial Regulation applicable to the general budget of the Union¹ (FR).

All Europol procurement procedures² are centrally managed by the Europol Procurement Office in order to ensure better coherence in the application of the rules and to guarantee compliance with the principles of transparency, proportionality, equal treatment and non-discrimination.

This document is designed to help economic operators with the preparation and submission of requests to participate/tenders in response to procurement procedures issued by Europol.

Tenderers should note that any information contained in the procurement documents can in no way be regarded as a commitment on the part of Europol to enter into any contract.

Europol publishes information related to its procurement procedures on its website: www.europol.europa.eu.

This guidance complements the procurement documents for each specific procedure. The ‘Invitation to tender & tender specifications’ describes the service or supply that Europol intends to purchase, the timetable, the exclusion, selection and award criteria, what the participating economic operators are required to provide as part of their submission and the resulting contractual terms. In case of any inconsistency between these guidelines and the individual ‘Invitation to tender & tender specifications’, the individual ‘Invitation to tender & tender specifications’ shall prevail.

1.2. Types of procedures and terminology

Types of procedures

The following different procurement procedures might be used depending on the value and type of contract in accordance with the Financial Regulation³:

- Open procedure

¹ Regulation (EU, EURATOM) No 2018/1046 of the European Parliament and of the Council.

² For contracts with an estimated value exceeding 15.000 €.

³ For more information please refer to Article 164 of the Regulation (EU, EURATOM) No 2018/1046 of the European Parliament and of the Council.

- Restricted procedure, including through a dynamic purchasing system
- Negotiated procedure, including without prior publication
- Competitive procedure with negotiation
- Procedures involving a call for expression of interest
- Competitive dialogue
- Innovation partnership
- Design contest

The type of procurement procedure used in each specific procurement is specified in the 'Invitation to tender & tender specifications'.

Depending on the type of procedure used, the procurement procedure can be organised in one step (e.g. the open procedure) or in two steps (e.g. the restricted procedure).

If the procurement procedure is organised in **one step**, economic operators are invited to submit tenders (comprising exclusion, selection documents as well as the technical tender and the financial tender). The contracting authority assesses the exclusion and selection criteria and evaluates the tenders against award criteria in one step.

Unless otherwise stated in the 'Invitation to tender & tender specifications', the procurement procedure is organised in one step.

If the procurement procedure is organised in **two steps**, economic operators are invited to submit requests to participate (comprising exclusion, selection documents). In Step I, the contracting authority assesses the exclusion and selection criteria. Only selected candidates are invited to submit their tenders in Step II. In Step II, the contracting authority checks the compliance of the tenders with the minimum requirements as well as evaluates the tenders against the award criteria.

If the procedure is organised in two steps, this fact is clearly specified in the 'Invitation to tender & tender specifications'.

Procurement procedures⁴ for contracts with a value above 15.000 € are, depending on the value and type of procedure, either published in the Official Journal "S" series (OJ S) by means of a Contract Notice, or advertised by means of an ex-ante publicity on Europol website.⁵

Terminology

'Candidates' means an economic operator that has sought an invitation or has been invited to take part in a two-step procurement procedure.

'Contracting authority' means Europol in the context of this document.

'Contractor' means an economic operator with whom a contract has been signed. Where the procurement documents refer to 'tenderer'/'candidate'/'economic operator' it shall be considered as 'contractor' after signature of the contract.

'Economic operator' means any natural or legal person, including a public entity or group of such persons who offer to supply products, execute works or provide services or supply immovable property.

⁴ Except for negotiated procedures without prior publication.

⁵ <https://www.europol.europa.eu/careers-procurement/procurement/ongoing-calls-for-tender>

‘eTendering’ means the platform used by Europol for managing calls for tenders⁶. The platform is an extension of TED which consists of the publication of procurement documents and the management of questions and answers. In some of the procurement procedures, the electronic submission system (eSubmission) is integrated in eTendering.

‘Invitation’ refers to the ‘Invitation to tender & tender specifications’ including its annexes and, if applicable, also to ‘Invitation to Step II’ including its annexes.

‘Procurement documents’ mean any document produced or referred to by the contracting authority to describe or determine elements of the procurement procedure, including: the publicity measures (e.g. contract notice, corrigenda); the invitation to tender; the tender specifications, including technical specifications and the relevant criteria, or the descriptive documents in the case of a competitive dialogue; the draft contract.

‘Subcontracting’, in this context, is the situation where a contract has been or is to be established between the contracting authority and a contractor only and where the contractor or candidate/tenderer, in order to carry out that contract, enters into legal commitments with other entities for performing parts of the contract. The contracting authority has no direct legal commitment with the subcontractor(s). In practice, any third party involved in the contract implementation which has no legal link with the contracting authority but with the contractor will be considered as subcontractor (e.g. any other company which does not participate in the contract execution but provides financial capacity).

‘TED’ means Tenders Electronic Daily database (<http://ted.europa.eu>), where all contract notices published in the Official Journal “S” series (OJ S) are available.

‘Tenderer’ means an economic operator that has submitted a tender (whether in a one-step procedure or in Step II of a two-step procedure).

‘Tenders’ submitted in the context of a procurement procedure are also designated **‘offers’**.

1.3. Implications of submitting a request to participate/tender

Requests to participate/tenders shall be submitted strictly in accordance with the conditions set out in the procurement documents. If any other conditions are attached to or referred to in the request to participate/tender, the candidate/tenderer should declare that such conditions are entirely withdrawn.

The period of validity of the tender, during which the tenderer may not modify the terms of the tender in any respect, must be at least six months following the time limit for receipt of tenders. The **successful tenderer** must maintain its offer for a further four months from the date of the written notification of Europol’s intention to award it the contract.

Europol reserves the right to decline without further comment any proposal that does not accept its draft contract.

The submitted tender is binding on the tenderer to whom the contract is awarded for the duration of the contract.

All costs incurred for the preparation and submission of tenders are to be borne by the tenderers and will not be reimbursed.

⁶ <https://etendering.ted.europa.eu/general/page.html?name=home&locale=en>.

The fact of submitting a request to participate /tender in response to a Europol call for tenders implies that you:

- a) Accept all terms and conditions as stipulated in the procurement documents;
- b) Waive your own terms of business;
- c) Accept the draft contract;
- d) Accept to receive notification of the outcome of the procedure by electronic means.

The Invitation is in no way binding on Europol. Europol's contractual obligation commences only upon signature of the contract with the successful tenderer.

Up to the point of signature of the contract, Europol may cancel the procurement procedure without the candidates or tenderers being entitled to claim any damages or compensation. This decision must be substantiated and the candidates or tenderers notified.

In case candidates/tenderers would like to raise objections or ask questions about the procurement documents they should comply with the procedure indicated in **point 4 below**.

1.4. Language of the request to participate/ tender

Europol's working language is English. Requests to participate/tenders must be submitted in one of the official languages of the European Union. Since Europol's working language is English, Europol would highly appreciate to receive requests to participate/tenders written in English.

2. Access to procurement, exclusion, selection and award criteria

2.1. Access to procurement

Participation in procurement procedures is open on equal terms to all natural and legal persons falling within the scope of the Treaties. This includes all legal entities registered in the European Union (EU) and all natural persons having their domicile in the EU. Participation is also open to all natural and legal persons registered or having their domicile in a non-EU country which has an agreement with the European Union in the field of public procurement on the conditions laid down in that agreement.

The rules of access to procurement do not apply to subcontractors⁷. Subcontracting may not be used with the intent to circumvent the rules on access to procurement.

Participation in procurement procedures shall also be open to international organisations.

2.2. Exclusion criteria

Candidates/tenderers must not be in any of the situations listed in articles 136 and 141 of the Financial Regulation applicable to the general budget of the Union⁸.

The candidate/tenderer shall be requested to sign a Declaration on honour on exclusion and selection criteria. The template of the declaration is included in the procurement documents.

⁷However, entities on whose economic and financial capacity the tenderer relies in order to fulfil the required minimum levels of capacity must have access to procurement. Please refer to Section 3.3 of this document.

⁸ Regulation (EU, EURATOM) No 2018/1046 of the European Parliament and of the Council.

2.3. Selection criteria

The purpose of the selection criteria is to determine whether the candidate/tenderer has the capacity necessary to implement the contract.

Selection criteria may only relate to the legal and regulatory capacity to pursue the professional activity, the economic and financial capacity and the technical and professional capacity.

Detailed information about the specific selection criteria for each procurement procedure is provided in the Invitation.

The candidate/tenderer shall be requested to sign a Declaration on honour on exclusion and selection criteria. The template of the declaration is included in the procurement documents.

Requests to participate/ tenders submitted by candidates/ tenderers not meeting the minimum levels of capacity will be rejected.

Any economic operator with a professional conflicting interest which prevents it from performing the contract adequately may be rejected.

In case of a joint request to participate /tender submitted by a group of economic operators or in the case of subcontracting, the candidate/tenderer shall provide the information and documentation listed below in **point 3**.

2.4. Award criteria

The purpose of the award criteria is to evaluate the technical and financial offers with a view to choosing the most economically advantageous tender.

The award of contracts will be based on one of the three following award methods:

- best price-quality ratio: the contract is awarded taking into account the price or cost and other quality criteria. In this case detailed quality criteria including the maximum scoring for each of them are defined in advance as well as the weighting for quality and price (e.g. 60% quality/40% price).
- lowest price: the contract is awarded to the lowest tender that satisfies the minimum requirements set in the Invitation;
- lowest cost: the contract is awarded based on a cost-effectiveness approach including life-cycle costing.

Detailed information about the specific award method as well as the specific criteria and weighting applicable to each procurement procedure are provided in the Invitation.

3. Ways to submit a request to participate/ tender

3.1. How can economic operators organise themselves to submit a request to participate/ tender?

Economic operators can submit a tender either as a single candidate/ tenderer or as a group of economic operators. In either case subcontracting is permitted.

In order to fulfil the selection criteria, economic operators can rely on the capacities of other entities (see Section 3.3 – Subcontracting).

The role and tasks of each entity involved in a request to participate/ tender (e.g. single tenderer/ candidate, member of a group or Group Leader, subcontractor) must be specified in the request to participate/ tender. This applies also where the involved entities belong to the same economic group.

3.2. Groups of economic operators

Groups of economic operators are authorised to submit requests to participate/tenders (joint requests to participate/joint tenders). The group as a whole is considered a candidate/ tenderer. Each member of the group shall accept the terms and conditions set out in the procurement documents.

The members of the group shall designate one member as Group Leader with full authority to bind the group and each of its members. The Group Leader shall act as a single point of contact with Europol in connection with the present procurement procedure.

Europol may not demand that groups of economic operators must have a given legal form in order to be allowed to submit a request to participate/tender. However, the group selected may be required to adopt a given legal form after it has been awarded the contract and before the contract is signed, if this change is necessary to the proper performance of the contract.

The group of economic operators can take the form of:

- an entity with legal personality recognised by a Member State; or
- an entity without legal personality but offering sufficient protection of Europol's contractual interests, for instance a temporary grouping of service providers or a joint venture.

If the partners of the group have already set up a consortium or similar entity to that end, they should state this in their request to participate/ tender, together with any other relevant information and connected documentation.

Any change in the composition of the group during the procurement procedure may lead to the rejection⁹ of the corresponding request to participate/tender. Any change in the composition of the group after the signature of the contract may lead to the termination of the contract.

3.2.1. Documentation and information to be provided by groups of economic operators

In the relevant section of the request to participate/tender the role and tasks of each member of the group will be clearly identified.

In general, each member of the group must provide the same administrative documentation as the Group Leader.

The documentation that must be provided is indicated in the Invitation.

⁹ A change may be accepted by Europol in case of a merger or takeover of a member of the group (universal succession), provided that the new entity has access to procurement and is not in an exclusion situation. 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.

3.2.2. Assessment of joint requests to participate/ joint tenders

Joint requests to participate / joint tenders submitted by groups of economic operators will be assessed as follows:

Access to market and exclusion criteria will be assessed in relation to each member of the group individually.

The selection criteria for the economic and financial capacity and technical and professional capacity will be assessed in relation to the combined capacities of all members of the group, as a whole, unless specified differently in the Invitation.

Compliance with minimum requirements and award criteria will be assessed in relation to the joint tender.

Since all members of the consortium are jointly and severally liable towards Europol for the performance of the contract, statements included in the joint tender saying, for instance:

- that each member of the group will be responsible only for a specific part of the contract, or
- that a separate contract should be signed with each member of the group if the joint offer is successful,

are incompatible with the principle of joint and several liability.

Europol will disregard any such statement contained in a joint tender, and it reserves the right to reject such tenders without further evaluation, on the grounds that they do not comply with the procurement documents.

3.2.3. Groups of economic operators - contract implementation

Once the contract has entered into force, all members of the group shall be jointly and severally liable towards Europol for the performance of the contract as a whole.

The Group Leader – duly authorised by the other members of the group, via power of attorney – will be entitled to sign any contractual documents; it shall act as a single point of contact with Europol in connection with the services to be provided under the contract; it shall co-ordinate the provision of the services by the group members to Europol; it shall guarantee a proper administration of the contract.

The composition of the group and the allocation of tasks among the members of the group shall not be altered without prior written information to Europol.

3.3. 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 Europol for performance of the contract as a whole.

The candidate/tenderer may subcontract the tasks specified in the procurement documents to other economic operators, as long as the supplies and/or services are provided in accordance with the specified requirements and have no impact on the prices proposed in its financial tender.

The following shall not be considered subcontracting:

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- 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 matter of the contract.
- 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 procurement documents expressly reserve the execution of certain critical tasks to the single tenderer itself, or in case of a joint tender, to a member of the group.

In case of subcontracting the candidate/tenderer shall clearly state in the section of the request to participate /tender related to the eligibility and capacity:

- which tasks it intends to subcontract and clearly indicate the roles, activities and responsibilities of the subcontractor(s),
- the volume or proportion of the activities likely to be subcontracted.

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 following verifications and the prior written approval of Europol:

- 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 Europol and resulted in a signed contract, is considered authorised.

In order to fulfil the selection criteria related to technical and professional capacity or economic and financial capacity a candidate/ 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 signed by the authorised representative of such an entity, and the supporting evidence that those other entities have the respective resources.

If a third party provides the whole or a large part of the financial capacity, the contracting authority may demand that that entity signs the contract, or alternatively, the third party may commit itself to execute the contract jointly and severally with the contractor by providing a letter or intent to that effect. If the third party chooses to sign the contract, then they must meet the exclusion criteria indicated above in **point 2.2** and have access to procurement as defined above in **point 2.1**.

With regard to the technical and professional capacities, an economic operator 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 included in the request to participate/ tender that other entities will put resources at the disposal of the tenderer will be disregarded.

3.3.1. Documentation and information to be provided in case of subcontracting

The documentation that must be provided is indicated in the Invitation.

3.3.2. Assessment of subcontractors

In case of subcontracting, the request to participate /tender will be assessed as follows¹⁰:

- the exclusion criteria will be assessed in relation to each proposed subcontractor individually;
- unless otherwise specified in the Invitation, selection criteria for the economic and financial capacity and the selection criteria for the technical and professional capacity will be assessed in relation to the combined capacities of the candidate/tenderer and the subcontractor(s), as a whole, depending on the extent to which the subcontractor(s) will put their resources at the disposal of the candidate/tenderer for the performance of the contract;
- Compliance with minimum requirements and award criteria will be assessed in relation to the tender.

During the procurement procedure, if a subcontractor does not meet the exclusion and selection criteria, the contracting authority will request their replacement with a new subcontractor.

¹⁰ The Invitation may specify that exclusion and selection criteria of the subcontractors will be verified only in certain cases (e.g. when subcontracting represents a significant part of the contract).

3.3.3. Subcontracting - contract implementation

Once the contract has entered into force, the successful tenderer shall retain full liability towards Europol for the performance of the contract as a whole. Europol will not have any direct legal commitment with the subcontractor(s). Accordingly:

- Europol does not acknowledge any contractual link between itself and subcontractor(s) and will treat all contractual matters (e.g. payment) exclusively with the main contractor, whether or not the tasks are performed by a subcontractor;
- under no circumstances can the main contractor avoid liability towards Europol on the grounds that the subcontractor is at fault.

During the execution of the contract, the contractor will need Europol's express authorisation to replace a subcontractor with another subcontractor and/or to subcontract tasks for which subcontracting was not envisaged in the original tender, in compliance with the provisions on subcontracting foreseen in the contract.

Europol recognises that arrangements in relation to sub-contracting may (within limits) be subject to future change. If the subcontracting arrangement has changed this must be notified to Europol in a signed letter.

4. Contacts between Europol and the candidates/tenderers

Contacts between Europol and candidates or tenderers are prohibited throughout the procedure save in exceptional circumstances and under the following conditions only:

4.1. Questions and answers before the time limit for receipt of tenders

Upon request, the contracting authority may provide additional information solely for the purpose of clarifying the procurement documents.

Any request for additional information must be made in writing only. Further details about submitting questions are specified in the Invitation.

Any answer/additional information provided at the request of an economic operator will be provided simultaneously to all operators by the same means as for the procurement documents.

Tenderers shall note that Europol is not bound to reply to questions submitted less than six (6) working days¹¹ before the time limit for receipt of tenders.

Clarifications / additional information will be regarded as an integral part of the procurement documents.

4.2. Amendments to the procurement documents before the time limit for receipt of tenders

Europol may, on its own initiative, modify the procurement documents by amendment if it spots any error, inaccuracy, omission or other clerical error in the procurement documents.

¹¹ Working days at Europol's location in The Hague.

Amendments to procurement documents will be provided simultaneously to all operators by the same means as for the procurement documents.

In order to allow economic operators reasonable time in which to take the amendment into account in preparing their requests to participate/tenders, Europol, at its discretion, may extend the time limit for receipt of requests to participate/tenders.

Amendments will be regarded as an integral part of the procurement documents.

4.3. Contacts with candidates/ tenderers following submission of requests to participate/tenders

Except in duly justified cases, candidates/ tenderers who have failed to submit evidence or to make statements as required in the procurement documents, shall be contacted by the contracting authority to provide the missing information or clarify supporting documents.

The contracting authority may correct obvious clerical errors in the tender after confirmation of the correction by the tenderer. Such information, clarification or confirmation shall not substantially change the tender.

Only in the case of a negotiated procedure, if so stated in the Invitation, Europol may negotiate with tenderers the tenders they have submitted, in order to adapt them to the requirements set out in the procurement documents and in order to find the most economically advantageous tender. The minimum requirements defined in the procurement documents are not subject to negotiation. During negotiations equal treatment of all tenderers will be ensured. Europol reserves the right not to negotiate and to award the contract on the basis of the tenders initially received.

5. Submission of requests to participate/tenders, opening and evaluation

5.1. Submission of requests to participate/tenders

The candidates/ tenderers must observe the time limit for receipt of requests to participate/tenders as specified in the Invitation.

Depending on the type and value of the procurement procedure, requests to participate/tenders shall be submitted either electronically or as hard-copy via post/courier/hand delivery.

Detailed information about the specific modalities of submission for each procedure is provided in the Invitation.

5.2. Opening session

Requests to participate/tenders submitted in accordance with the specified rules shall be opened by Europol in an opening session.

In open procurement procedures, the opening session is public, with the meaning that any authorised representative of the tenderer may attend the opening session. The Invitation or Contract Notice will specify whether the opening session is public.

5.3. Formal opening requirements

The contracting authority shall open all requests to participate and tenders. However, it shall reject:

- (a) requests to participate and tenders which do not comply with the time limit for receipt, without opening them;
- (b) tenders already open¹² when they are received, without examining their content.

5.4. Attending the public opening session

The public opening session will take place on the date and time indicated in the contract notice and in the procurement documents. In light of the COVID-19 situation, Europol may decide to organise the public opening session via a video conference.

Should a tenderer wish to be present, it shall inform Europol by email (tenders@europol.europa.eu) not later than the date and time indicated in the procurement documents providing the full name of tenderer's authorised representative who will attend the public opening session.

Europol may request additional information from the tenderer such as:

- proof of tender submission (such as the submission receipt generated by eSubmission);
- the national ID number (or, alternatively, a date of birth) of its authorised representative¹³.

Tenderers who do not register and/or do not provide the information required for registration within the given deadline may not be allowed to attend the opening session.

Tenderers not present at the public opening session may send an information request to tenders@europol.europa.eu if they wish to be provided with the information announced during the public opening (extract of the record of the opening session including the names of the tenderers).

5.5. Evaluation of requests to participate/tenders

Requests to participate/tenders found compliant during the opening session will be evaluated as specified in the Invitation.

The evaluation will be carried out under the conditions of confidentiality and absence of conflict of interest.

The following aspects will be assessed:

- access to procurement and exclusion criteria of the candidate/tenderer to participate in the procurement procedure;

¹² Including the cases where the integrity of the (electronic) tender has been compromised.

¹³ This data is necessary to ensure access to Europol buildings, if attendance can take place at Europol Premises.

- capacity of the candidate/tenderer to perform the contract against the selection criteria;
- compliance with the minimum requirements;
- technical and financial tenders against the pre-defined award criteria.

A request to participate/tender failing to pass a given category of criteria will not be evaluated under the other categories and the candidate/tenderer will be informed of the ground for rejection without being given feedback on the non-assessed content of the tender.

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.

6. Award and signature of the contract with the successful tenderer

6.1. Award and notification of the outcomes of the procurement procedure

Following the finalisation of the evaluation, a decision will be taken about the selection of candidates/award of the contract.

Candidates/tenderers will be simultaneously and individually notified by e-mail as soon as possible about the decision taken about their request to participate / tender, including the grounds for any decision to not award the contract or to cancel the procedure.

The notification will be sent to the e-mail address provided in the request to participate/ tender. The same e-mail address will be used by the contracting authority for all other communications with the candidate/ tenderer. It is the candidate/tenderer's responsibility to provide a valid e-mail address together with contact details in the request to participate/ tender and to check this e-mail address regularly.

For high value contracts equal to or above the Directive threshold (i.e. 139.000 € for services and supplies), the contract will not be signed for 10 days (standstill period), counting from the day after simultaneous dispatch of the notification by e-mail to all tenderers (successful and unsuccessful). Only after the end of this "standstill period" Europol may sign the contract.

After the closing of the tendering procedure and in order to improve the quality of tenders and the quality of our procedures, Europol may hold upon request from the unsuccessful tenderers an optional debriefing meeting of its representatives with unsuccessful tenderers, aimed at exchanging feedback and suggestions for improvement in view of future procurement procedures.

Once the award notice is published in the Official Journal of the European Union unsuccessful tenderers may submit a request for a debriefing meeting. However, Europol reserves the right to accept or refuse such requests and schedule the meeting date on the basis of the particular circumstances of each individual procurement procedure or of the existing workload.

Europol would like to stress that it is not free to disclose any information where such disclosure would hinder the application of the law, be contrary to public interest, harm the legitimate business interests of public or private undertakings or distort fair competition.

6.2. Exclusion criteria documentation

In relation to **point 2.2** above and in particular articles 136 and 141 of the Financial Regulation¹⁴ the candidate/tenderer (including each group member¹⁵) shall provide, upon request, the evidence specified in the 'Declaration on honour on exclusion and selection criteria'.

Please note that the signature of the contract between Europol and the successful tenderer may be conditional upon provision of the documentary evidence from the successful tenderer.

Europol may request the above-mentioned documentary evidence for each subcontractor as well.

NB: As the time limit for submitting the above-mentioned documentation is in general very short, we strongly recommend that the tenderer starts gathering the requested documents (especially in case of joint tenders/subcontracting, including the relevant documents for group of economic operators /subcontractors as soon as possible in order to have the documents ready to be sent to Europol in case it is awarded the contract. This will allow reducing the time line to sign the awarded contract with Europol).

6.3. Selection criteria documentation

Documentation concerning selection criteria must specifically relate to the candidate/tenderer and any group members or subcontractors. The selection criteria remain applicable throughout the whole performance of the contract, i.e. the contractor must comply with these criteria at all times.

The documentation shall be submitted to Europol as specified in the Invitation.

If so requested by Europol, the successful candidate/tenderer shall submit the originals/certificates / documents for conformity check prior to the signature of the contract.

6.4. Additional administrative documentation

Europol contractors need to be registered in the European Commission's accounting system. Registration is based on the following forms: the Legal Entity Form and the Financial Identification Form.

More information about the forms is available at the following links:

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

and

http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

Please note that the registration of the contractor in the European Commission's accounting system is necessary in order to conclude the contract and to authorise payments.

¹⁴ Regulation (EU, EURATOM) No 2018/1046 of the European Parliament and of the Council.

¹⁵ See point 3.

7. Other relevant information

7.1. Electronic exchange of documents

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) Europol 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. At the request of Europol the use of such a system shall become mandatory for the contractor(s) at no additional cost for Europol. Details on specifications, access, terms and conditions of use will be provided in advance.

7.2. Protection of personal data

Details concerning the processing of your personal data are available in the privacy statement at: <https://www.europol.europa.eu/publications-documents/privacy-statement-for-europol-procurement>.

Tenderers are informed that for the purpose of safeguarding the financial interest of the Communities, their personal data may be transferred to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF).

7.3. Early Detection and Exclusion System (EDES)

Your personal data may be registered in the Early Detection and Exclusion System (EDES) if you are in one of the situations mentioned in Article 136 of the Financial Regulation¹⁶. For more information, see the Privacy Statement on http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm.

7.4. Confidentiality of tenders

Once Europol 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., Europol 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 Europol 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

¹⁶ Regulation (EU, Euratom) No 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

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. Europol 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 secrets¹⁷.

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

7.5. Disclaimer

Europol will not be responsible for, or pay for, expenses or losses that may be incurred by the candidate/tenderer in the preparation of its request to participate /tender and/or during the evaluation period.

Product names and trademarks: whenever the procurement documents mention a specific product name or trademark and a sufficiently precise and fully intelligible description is not possible, such mention should be understood as referring to that product or its equivalent, unless specified otherwise in the given procedure.

Once the contract has entered into force, the prices indicated in the financial proposal of the successful tenderer may be revised under the conditions laid down in the contract.

7.6. Means of redress

If you require further information on procurement procedures or related matters, please contact us at the following address:

Address for correspondence by post	Address for correspondence by courier
EUROPOL C25 Procurement Office PO BOX 908 50 2509 LW The Hague	EUROPOL C25 Procurement Office Eisenhouwerlaan 73 2517KK Den Haag

¹⁷ 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.

Europol Public Information

The Netherlands	The Netherlands
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E-mail address: tenders@europol.europa.eu

If tenderers believe that there is maladministration, they may lodge a complaint to the European Ombudsman within two (2) years of the date from which they become aware of the facts which form the basis for the complaint (see <https://www.ombudsman.europa.eu>).

Within two (2) months of notification of the outcome of the procedure (*award decision*), tenderers may launch an action for its annulment. Any request tenderers may make and any reply from the contracting authority, or any complaint for maladministration, will have neither the purpose nor the effect of suspending the time-limit for launching an action for annulment nor open a new period for launching an action for annulment. The body responsible for hearing annulment procedures is the General Court of the European Union (<http://curia.europa.eu>).