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**SESAR 3 JOINT UNDERTAKING**

**Call for tenders ref. S3JU/LC/015/CFT**

***Front and back-office reception services***

**Open procedure**

**TENDER SPECIFICATIONS**

***Model version of 06-07-2022***

**TABLE OF CONTENTS**

[1. Scope and description of the procurement 4](#_Toc134786771)

[1.1. Contracting authority: who is the buyer? 4](#_Toc134786772)

[1.2. Subject: what is this call for tenders about? 4](#_Toc134786773)

[1.3. Lots: is this call for tenders divided into lots? 4](#_Toc134786774)

[1.4. Description: what do we want to buy through this call for tenders? 4](#_Toc134786775)

[1.5. Place of performance: where will the contract be performed? 8](#_Toc134786776)

[1.6. Nature of the contract: how will the contract be implemented? 9](#_Toc134786777)

[1.7. Volume and value of the contract: how much do we plan to buy? 10](#_Toc134786778)

[1.8. Duration of the contract: how long do we plan to use the contract? 10](#_Toc134786779)

[1.9. Electronic exchange system: can exchanges under the contract be automated? 11](#_Toc134786780)

[2. General information on tendering 12](#_Toc134786781)

[2.1. Legal basis: what are the rules? 12](#_Toc134786782)

[2.2. Entities subject to restrictive measures and rules on access to procurement: who may submit a tender? 12](#_Toc134786783)

[2.3. Registration in the Participant Register: why register? 13](#_Toc134786784)

[2.4. Ways to submit a tender: how can economic operators organise themselves to submit a tender? 13](#_Toc134786785)

[2.5. Joint tenders 14](#_Toc134786786)

[2.6. Subcontracting 16](#_Toc134786787)

[2.7. Entities (not subcontractors) on whose capacities the tenderer relies to fulfil the selection criteria 17](#_Toc134786788)

[2.8. Rules common to subcontractors and entities (not subcontractors) on whose capacities the tenderer relies to fulfil the selection criteria 17](#_Toc134786789)

[3. Evaluation and award 19](#_Toc134786790)

[3.1. Exclusion criteria 19](#_Toc134786791)

[3.2. Selection criteria 21](#_Toc134786792)

[3.3. Compliance with the conditions for participation and minimum requirements specified in the procurement documents 26](#_Toc134786793)

[3.4. Award criteria 26](#_Toc134786794)

[3.5. Award (ranking of tenders) 28](#_Toc134786795)

[4. Form and content of the tender 29](#_Toc134786796)

[4.1. Form of the tender: how to submit the tender? 29](#_Toc134786797)

[4.2. Content of the tender: what documents to submit with the tender? 29](#_Toc134786798)

[4.3. Signature policy: how can documents be signed? 31](#_Toc134786799)

[4.4. Confidentiality of tenders: what information and under what conditions can be disclosed? 32](#_Toc134786800)

[Appendix: List of references 34](#_Toc134786801)

[Annexes 35](#_Toc134786802)

[Annex 1. List of documents to be submitted with the tender or during the procedure 36](#_Toc134786803)

[Annex 2. Declaration on Honour on exclusion and selection criteria 42](#_Toc134786804)

[Annex 3. Agreement/Power of attorney 43](#_Toc134786805)

[Annex 4. List of identified subcontractors and proportion of subcontracting 45](#_Toc134786806)

[Annex 5.1. Commitment letter by an identified subcontractor 46](#_Toc134786807)

[Annex 5.2. Commitment letter by an entity on whose capacities is being relied 47](#_Toc134786808)

[Annex 6. Financial tender form 48](#_Toc134786809)

[Annex 7. List of SESAR 3 JU public holidays 2023 49](#_Toc134786810)

[Annex 8. Declaration of Confidentiality 50](#_Toc134786811)

# Scope and description of the procurement

## Contracting authority: who is the buyer?

This call for tenders is launched and managed by the SESAR 3 Joint Undertaking, referred to as the contracting authority or “SESAR 3 JU” for the purposes of this call for tenders.

## Subject: what is this call for tenders about?

The subject of this call for tenders is provision of ***front and back-office reception services***.

## Lots: is this call for tenders divided into lots?

This call for tenders is not divided into lots.

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

The purchases that are the subject of this call for tenders, including any minimum requirements, are described in detail below.

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.

### Background and objectives

* + - 1. **Introduction to the SESAR 3 Joint Undertaking**

Established in 2021 by the European Union (Council Regulation (EU) 2021/2085[[1]](#footnote-2)), the SESAR 3 JU is an institutionalised European private and public partnership set up to accelerate through research and innovation the delivery of the Digital European Sky. It is developing and accelerating the take-up of the most cutting-edge technological solutions to manage conventional aircraft, drones, air taxis as well as vehicles flying at higher altitudes.

The SESAR 3 JU partnership brings together the EU, EUROCONTROL and more than 50 founding Members listed in Annex 3 to the above-mentioned Regulation, covering the entire aviation value chain, from airports, airspace users of all categories, air navigation service providers, drone operators and service providers, the manufacturing industry and scientific community.

The establishment of the SESAR 3 JU and its vision of a Digital European Sky sees the latest digital technologies (‘SESAR Solutions’) being leveraged to transform Europe’s aviation infrastructure (ATM), enabling it to handle the future demand and diversity of air traffic safely and efficiently, while minimising its environmental impact. Further information on the activities of SESAR 3 JU is available at [www.sesarju.eu](http://www.sesarju.eu).

SESAR 3 JU premises are located within the headquarters of EUROCONTROL, an international organisation. More information about EUROCONTROL is available at <https://www.eurocontrol.int>.

* + - 1. **Objectives of this call for tenders**

In order to ensure a welcoming environment for its guests, the proper execution of certain administrative tasks, and in support of delivering the SESAR 3 JU purpose and core responsibilities, SESAR 3 JU operates its own reception services, which are visitor-oriented (front-office), on the one hand, and SESAR 3 JU-oriented (back-office), on the other hand.

SESAR 3 JU is therefore launching an open call for tender aimed at concluding a framework contract with one (1) successful tenderer to provide front and back-office reception services.

### Detailed characteristics of the purchase

Below is described the type of services, purchased by the SESAR 3 JU under this call for tenders, as well as the relevant conditions for the provision of such services.

* + - 1. **Catalogue of services**

The below catalogue of services and tasks is non-exhaustive, similar tasks in kind and nature might be requested depending on the needs of SESAR 3 JU via specific contracts, implementing the framework service contract:

* Welcoming and escorting of visitors and technicians: Welcoming, booking of taxis, reservation / management of visitors’ registration.
* Welcoming of suppliers: Welcoming, receipt of deliveries, verification and storage
* Meeting rooms: Preparation of meeting rooms (set up of rooms, blocks, pencils, water, easels, nametags, etc. Logistic services and equipment requirements delivery
* Cafeteria: Organization of meetings’ coffee breaks and lunches, maintenance of cafeteria cleanliness including dishwasher, inventory management of consumables and preparation of related orders.
* Office supplies: Inventory management, ordering administrative supplies and ensure their availability.
* Assistance to the Secretariat: In-coming correspondence/mail (physical or digital) registration, invoice registration, photocopies, scans, destruction of documents, sending documents by express mail and related tasks
* Telephone: Answering the standard phone, transferring or taking messages.
* Premises related services: Support in the planning of staff members’ desk allocation, contribution to the staff arrival and departure process, maintaining of the SESAR 3 JU directory[[2]](#footnote-3).
* Logistic Services: Request and record the technicians’ interventions (as for example but not limited to: cleaning, flowers/plants, water fountains and coffee machines);
* Hospitality management: Logistic Services
* Inventory stocktaking
* Archiving tasks
* Related administrative support, as required.

### Team requirements and business continuity

The tenderer shall propose a team combining all the expertise and experience necessary to carry out the tasks described in these tender specifications. To do this, a contract manager role shall be appointed to supervise and manage service requests, day-to-day oversight of service implementation and contractual matters.

The contract manager must ensure that the composition of the team (on-site resource(s) and replacement(s)) complies with the present tender specifications throughout the full duration of the contract, including the provision of an appropriate replacement(s) in case of absences.

As such, the future contractor shall ensure business continuity for the provision of the services to be requested via specific contracts at all times. The replacement(s) to be deployed shall possess the same technical capacity as the main resource(s).

The tenderer must specify in their technical offer the means intended to ensure continuity of services and minimize the absences of the resource(s) (e.g. transfer of procedures, training of replacements).

### Meetings

A kick-off meeting should take place between the selected contractor and the SESAR 3 JU upon signature of the framework service contract and the first specific contract implementing it, with the purpose of discussing working arrangements. Further meetings shall be scheduled and requested in the ad hoc request for services.

Such meetings shall serve the continuous evaluation of the services provided and include amongst other such topics as planned trainings and their schedule, any corrective measures in case of issues with the quality of the service provided etc.

### Confidentiality and conflict of interest

The selected contractor must ensure that their resource(s), providing services, undertake to not disclose to any person, during the term of the framework contract and any specific contract and after their termination, information and documents relating to the methods, organization and/or operation of SESAR 3 JU and to demonstrate absolute discretion over all data or information of which they may be aware of, whether directly or indirectly and whether or not these data relate to the services to be provided.

The selected contractor’s resource(s) will also be required to sign an individual Confidentiality Declaration (see Annex 7) and conflict of interest declaration (template to be provided by the SESAR 3 JU before the start of the execution of the tasks) upon the start of the provision of the services as per each specific contract.

### Deliverables

Deliverables may vary depending on the type of requested services and the conditions for their provision and will be specified in details in the relevant specific contracts. Typical deliverable might be a report, demonstrating that all required service obligations are fulfilled and indicate the percentage of time allocated to the relevant service, along with a short summary of the tasks performed and any gaps in the service provision and/or replacement of resources, if applicable.

Such a report will serve as a basis for the processing of selected contractor’s invoices and for the interim and final payments under the relevant specific contract.

Further deliverables may be defined in the request for services and the resulting specific contracts.

### Process for placing specific contracts

As per Section 1.4, the framework service contract will be implemented through specific contracts according to the template attached to the draft framework service contract.

The process for award of the specific contracts will be broken down in the following steps:

1. The SESAR 3 JU will address its “request for services”, which will define in detail the services required, and related conditions for their provision, by email to the person indicated as responsible for contractual matters;
2. The contractor will submit an offer to the specific contract within a maximum of 5 calendar days in urgent cases and within 10 calendar days, in all the other cases, from the date of receiving the request for services;
3. Each specific offer shall answer to the technical requirements detailed by the contracting authority in its request for services and be composed of a technical and a financial part.
   * The technical part will contain and bring clarity about:
     + Detailed description of how the requested services will be implemented;
     + Timeline of each stage of implementation, in line with the deadlines specified by the SESAR 3 JU;
     + Composition of the team, which will perform the tasks (including CVs of the team proposed) and allocation of tasks;
     + Proposed fixed total price requested for the activities in accordance with Article I.6 of the FWC;
     + Proposal for a milestone payment plan based on the duration of the services to be performed, including interim payments in case needed in accordance with Article I.6 of the FWC;
     + Any other information deemed relevant and/or explicitly requested by the contracting authority.
   * The specific financial offer shall be drawn up in conformity with the selected contractor’s unit prices as they appear in Annex II to the signed framework service contract, stating the total price for rendering the services requested in the form of unit prices as quoted in the financial offer.
4. This process will normally result in the signature of the specific contract in question. In case the SESAR 3 JU evaluates that the specific tender of the contractor does not properly cover the services requested as defined in the request for services, it may ask the contractor for clarifications or/and correction of the specific tender, re-define and re-submit its request for services, or cancel it all together.

## Place of performance: where will the contract be performed?

The services will be performed at the following locations:

**SESAR 3 Joint Undertaking**

**Rue de la Fusée 96**

**1130 Bruxelles**

**Access to SESAR 3 JU premises:**

It is to be noted that resource of the selected contractor, which will be responsible for providing services under the specific contract, will be provided with a badge allowing access to the main building and offices. The badge will be personal (i.e. non-transferable to another person) and will need to be carried in a visible manner. In the event of loss or theft, the resources must immediately notify EUROCONTROL security.

Upon the signature of the relevant specific contract, in order to receive a badge, the selected contractor will be requested to provide SESAR 3 JU the following information for the staff member(s), responsible for service provision:

|  |
| --- |
| Name |
| Date of birth |
| ID/Passport n° |
| Expiry date ID/ passport |
| Nationality |
| License plates (if applicable) |

Access to the premises will be limited to SESAR 3 JU working days and corresponding to the services requested under the specific contract.

* SESAR 3 JU reserves the right to deny access to its premises for any reason, considered necessary. Upon termination or expiry of the relevant specific contract, contractor’s resource must immediately clear SESAR 3 JU’s premises and return the badge to EUROCONTROL security. The selected contractor commits to abide at all times to the relevant security requirements of EUROCONTROL.

## Nature of the contract: how will the contract be implemented?

The procedure will result in the conclusion of a single framework contract.

A framework contract (FWC) establishes a mechanism for future repetitive purchases by the contracting authority to be awarded in the form of specific contracts[[3]](#footnote-4). The signature of a framework contract does not impose an obligation on the contracting authority to conclude specific contracts with a framework contractor.

The single framework contract will be concluded with one contractor. Specific contracts shall be awarded on the basis of the terms laid down in the framework contract, refined or, in duly justified circumstances, supplemented to reflect the particular circumstances of the specific contract. The details are set out in the draft contract and in these tender specifications.

 It shall be noted that the provision of the services under the awarded FWC, and more specifically under the relevant specific contracts in SESAR 3 JU shall not be regarded as and cannot in any way lead to an employment relationship between the resource(s) and SESAR 3 JU. At any time during the execution of the awarded contract, in the event that SESAR 3 JU finds that the person(s) in charge of the performance of the services do(es) not satisfy the requirements as formulated in these tender specifications and the contract, the selected contractor shall be bound to propose a replacement(s), complying with all the professional qualifications listed in these tender specifications for the services described.

Tenderers need to take full account of the full set of procurement documents, including the provisions of the draft contract as the latter will define and govern the contractual relationship to be established between the contracting authority and the successful tenderer. 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.

 Please be aware that if a tenderer to whom the contract is awarded (any of the group members in case of a joint tender) has established debt(s) owed to the Union, the European Atomic Energy Community or an executive agency when the latter implements the Union budget, such debt(s) may be offset, in line with Articles 101(1) and 102 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](https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=uriserv:OJ.L_.2018.193.01.0001.01.ENG&toc=OJ:L:2018:193:TOC) (Financial Regulation)[[4]](#footnote-5) and the conditions set out in the draft contract, against any payment due under the contract. The contracting authority will verify the existence of overdue debts of the successful tenderer (any of the group members in case of a joint tender), and, if any such debt is found, will inform the tenderer (the group leader in case of a joint tender who will then have the obligation to inform all other group members before signing the contract) that the debt(s) may be offset against any payment under due the contract.

## 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 Section II.2.6 of the contract notice.

Within three years following the signature of the framework contract resulting from the current call for tenders, the contracting authority may use the negotiated procedure under point 11.1.e of Annex 1 to the Financial Regulationto procure new services from the contractor up to a maximum of 50 % of the initial *framework contract ceiling.* These services would consist in the repetition of similar services entrusted to the contractor and would be awarded under the following conditions:

* The contracting authority shall send an invitation letter informing the contractor of the need for increasing the value of the contract up to a maximum of 50% of the initial contract value.
* The initial tender specifications shall remain the same.
* The contractor shall confirm its agreement on the repetition of the services under the same conditions.

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

The framework contract resulting from 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 the draft contract.

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

For all exchanges with the contractor during the implementation of the framework contract resulting from this call for tenders as well as for future possible subsequent proceedings, including, but not limited to, for the purposes of EDES ([European Union's Early Detection and Exclusion System](https://ec.europa.eu/info/strategy/eu-budget/how-it-works/annual-lifecycle/implementation/anti-fraud-measures/edes_en)), the contracting authority may use an electronic exchange system meeting the requirements of Article 148 of the Financial Regulation. At the request of the contracting authority, the use of such a system shall become mandatory for the contractor at no additional cost for the contracting authority. Details on specifications, access, terms and conditions of use will be provided in advance.

# General information on tendering

## Legal basis: what are the rules?

This call for tenders is governed by the provisions of the Financial Regulation.

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.

## Entities subject to restrictive measures and rules on access to procurement: who may submit a tender?

Tenderers must ensure that no involved entities (see Section 2.4) nor any subcontractors, including those which do not need to be identified in the tender (see Section 2.4.2), are subject to [EU restrictive measures](http://www.sanctionsmap.eu/) adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU)[[5]](#footnote-6), consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze. The prohibition applies throughout the whole performance of the contract.

Participation in this call for tenders is open on equal terms to all natural and legal persons coming within the scope of the [Treaties](https://europa.eu/european-union/law/treaties_en), as well as to international organisations.

It is also open to all natural and legal persons established in a third country provided that it has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement.

The Agreement on Government Procurement[[6]](#footnote-7) concluded within the World Trade Organisation does not apply. Therefore, the participation to this call for tenders is not open to natural and legal persons established in the countries that have ratified this Agreement.

The rules on access to procurement do not apply to entities on whose capacity tenderers rely to fulfil the selection criteria nor to subcontractors. Subcontracting may not be used with the intent or effect to circumvent the rules on access to procurement.

To enable thecontracting authority to verify the access, each tenderer must indicate its country of establishment (in case of a joint tender – the country of establishment of each group member) and must present the supporting evidence normally acceptable under the law of that country. The same document(s) could be used to prove the country/-ies of establishment and the delegation(s) of the authorisation to sign, as described in Section 4.3.

## Registration in the Participant Register: why register?

Any economic operator willing to participate in this call for tenders must be registered in the [Participant Register](https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/participant-register) - an online register of organisations and natural persons (participants) participating in calls for tenders or proposals of the European Commission and other EU institutions/bodies.

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 European Commission and other EU institutions/bodies.

** Each participant needs to ensure that its SME status in the Participant Register is registered and kept up to date.**

At any moment during the procurement procedure, the Research Executive Agency Validation Services (hereafter *the* *EU Validation Services)* may contact the participant and ask for supporting documents on legal existence and status [and financial capacity]. The requests will be made through the register's messaging system to the e-mail address of the participant's contact person indicated in the register. It is the responsibility of the participant to provide a valid e-mail address and to check it regularly. The documents that may be requested by *the EU Validation Services* are listed in the [EU Grants and Tenders Rules on Legal Entity Validation, LEAR appointment and Financial Capacity assessment](https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/guidance/rules-lev-lear-fca_en.pdf).

** Please note that a request for supporting documents by the *EU Validation Services* in no way implies that the tenderer has been successful.**

## 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)[[7]](#footnote-8). In either case subcontracting is permitted.

Tenders must be drawn and submitted in complete independence and autonomously from the other tenders. A declaration in this regard by each tenderer (in case of a joint tender, by each of its members) shall be requested.

A natural or legal person cannot participate at the same time and within the same procedure either as member of two or more groups of economic operators or as a sole tenderer and member of another group of economic operators. In such case, all tenders in which that person has participated, either as sole tenderer or as member of a group of economic operators, will be rejected.

Economic operators linked by a relationship of control or of association (e.g. belonging to the same economic/corporate group) are allowed to submit different and separate tenders provided that each tenderer is able to demonstrate that its tender was drawn independently and autonomously.

A natural or legal person may act as subcontractor for several tenderers as long as the tenders are drawn and submitted in complete independence and autonomously from each other. However, cross subcontracting among tenderers is forbidden, more precisely an entity “A” may participate as tenderer (either as sole tenderer or as member of a group of economic operators) and as subcontractor to another tenderer “B” within the same procurement procedure. However, in this case it is forbidden that tenderer “B” (or any of its participating members in case of a group of economic operators) is at the same time subcontractor for tenderer “A” (or for the group of economic operators in which “A” participates) within the same procurement procedure. In this case, both tenders A and B shall be rejected.

In order to fulfil the selection criteria set out in Section 3.2 the tenderer can rely on the capacities of subcontractors (see Section 2.4.2) or other entities that are not subcontractors (see Section 2.4.3).

An **“involved entity**” is any economic operator involved in the tender. This includes the following four categories of economic operators:

* sole tenderer,
* group members (including group leader),
* identified subcontractors (see Section 2.4.2), and
* other entities (that are not subcontractors) on whose capacity the tenderer relies to fulfil the selection criteria.

The role of each entity involved in a tender must be clearly specified in the eSubmission application: i) sole tenderer, ii) group leader (in case of a joint tender), iii) group member (in case of a joint tender), or iv) subcontractor[[8]](#footnote-9).

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*)**

## 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 in the group. The group as a whole is considered a tenderer[[9]](#footnote-10).

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

Group members must appoint from among themselves a group leader (the group leader) as 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. All group members (including the group leader)must sign an Agreement/Power of attorney drawn up in the model attached in ***Annex 3.***

The joint tender must clearly indicate the role and tasks of each group member, including those of the group leaderwho 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 also on their behalf via the Agreement/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 deadline for submission of tenders and before contract signature) shall lead to rejection of the tender, with the exception of the following case[s]:

* case of a merger or takeover of a group member (universal succession), provided that the following cumulative conditions are fulfilled:
* the new entity is not subject to restrictive measures, has access to procurement (see Section 2.2) and is not in an exclusion situation (see Section 3.1),
* all the tasks assigned to the former entity are taken over by the new entity member of the group,
* the group meets the selection criteria (see Section 3.2),
* the change must not make the tender non-compliant with the procurement documents,
* the terms of the originally submitted tender are not altered substantially and the evaluation of award criteria of the originally submitted tender are not modified,
* the new entity undertakes to replace the former entity for the implementation of the contract, in case of an award.
* case where a group member is subject to restrictive measures or does not have access to procurement (see Section 2.2) or is in an exclusion situation (see Section 3.1), provided the following cumulative conditions are fulfilled:
  + none of the remaining group members is subject to restrictive measures (see Section 2.2),
  + all the remaining group members have access to procurement (see Section 2.2),
  + the remaining group members meet the selection criteria (see Section 3.2),
  + the change must not make the tender non-compliant with the procurement documents,
  + the terms of the originally submitted tender are not altered substantially and the evaluation of award criteria of the originally submitted tender are not modified,
  + the continuation of the participation of the remaining group members in the procurement procedure does not put the other tenderers in a competitive disadvantage,
  + the remaining group members undertake to implement the contract, in case of an award, without the excluded group member.

The replacement of the group member not having access to procurement or in a situation of exclusion is not allowed.

## 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:

1. 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](https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A31996L0071)).
2. 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](https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A31996L0071)).
3. 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](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32014L0066)) .
4. 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.
5. 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 tenders (see Section 1.4).
6. 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 sole tenderer itself, or in case of a joint tender, to a group member.

By filling in the form available in *Annex 4* (List of identified subcontractors), 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*):

* subcontractors on whose capacities the tenderer relies upon to fulfil the selection criteria as described under Section 3.2;
* subcontractors whose intended 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.

Each tenderer shall identify *such* subcontractors and provide the commitment letters with its tender. The information must be true and correct at the time of submitting the tender. Any changes or additions regarding the envisaged subcontractors after the deadline for submission of tenders must be justified to the contracting authority.

The above rules apply also where the economic operators, which will perform part of the contract on behalf of a successful tenderer, belong to the same economic/corporate group as the sole tenderer or a member of the group submitting the joint tender.

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 subject to restrictive measures, has access to procurement if the rules on access to procurement apply also to subcontractors (see Section 2.2) and is not in an exclusion situation (see Section 3.1),
* 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.

## Entities (not subcontractors) 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 (that are not subcontractors), 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[[10]](#footnote-11).

 The above rules apply also where the economic operators on whose capacities the tenderer relies to fulfil the selection criteria (that are not subcontractors) belong to the same economic/corporate group as the sole tenderer or a member of the group submitting the joint tender.

## Rules common to subcontractors and entities (not subcontractors) on whose capacities the tenderer relies to fulfil the selection criteria

If a successful tenderer intends 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, i.e. the latter will either assume the role of subcontractors or will fall within the exceptions listed in Section 2.4.2 and will then assume the role of entities (not subcontractors) on whose capacities the tenderer relies to fulfil the selection criteria.

 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.

# Evaluation and award

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

* Check if the tenderer is not subject to restrictive measures and 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 the required documents 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 tenderers for whom the verification of all elements did not reveal grounds for rejection can be awarded the contracts resulting from this call for tenders.

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 authorityduring 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.

## 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[[11]](#footnote-12) needs to submit with its tender a Declaration on Honour[[12]](#footnote-13) in the model available in *Annex 2*.[[13]](#footnote-14) The declaration must be signed by an authorised representative of the entity providing the declaration. Where the declaration has been signed by hand, the original does not need to be submitted to the contracting authority, but the latter reserves the right to request it from the tenderer at any time during the record-keeping period specified in Section 4.3.

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](https://ec.europa.eu/info/strategy/eu-budget/how-it-works/annual-lifecycle/implementation/anti-fraud-measures/edes_en).

The documents mentioned in the Declaration on Honour as supporting evidence on non-exclusion must be provided with the tender[[14]](#footnote-15).

At any time during the procurement procedure, the contracting authority may request information on natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners, and appropriate evidence that none of those persons are in one of the exclusion situations referred to in Section A point (1) (c) to (f) of the Declaration on Honour.

 If the tenderer does not provide valid documentary evidence within the deadlines set by the contracting authority, the latter reserves the right to reject the tender. In any event, in case a tenderer proposed for the award of the contract fails to comply with the above evidence requirement, its tender will be rejected, unless the tenderer can justify the failure on the grounds of material impossibility to provide such evidence.

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

Please note that a request for evidence in no way implies that the tenderer has been successful.

## 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 this call for tenders. The model Declaration on Honour available in ***Annex 2*** shall be used.

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 procedure, within a deadline given by the contracting authority **[[15]](#footnote-16)**.

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 entity to whom the criterion applies individually.

In case not all selection criteria evidence is requested with the tender, all tenderers are **invited to prepare in advance the documentary evidence**, since they may be requested to provide such evidence within a short deadline. In any event, the tenderer[s] proposed by the evaluation committee for the award of the contracts will be requested to provide such evidence.

 If the tenderer does not provide valid documentary evidence within the deadlines set by the contracting authority, the contracting authority reserves the right to reject the tender. In any event, in case a tenderer proposed for the award of the contract fails to comply with the above evidence requirement, its tender will be rejected, unless there is a ground for a waiver.

Please note that a request for evidence in no way implies that the tenderer has been successful.

## Legal and regulatory capacity

Tenderers can be natural or legal persons. Tenderers are not obliged to take a specific legal form in order to submit their tenders.

Where tenderers submit a tender through an entity, which lacks legal personality (e.g., a branch), the compliance with the exclusion criteria, selection criteria, the rules on access to procurement as well as the absence of restrictive measures shall be assessed at the level of the tenderers.

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:

* Proof of enrolment in a relevant trade or professional register
* Proof of authorisation that the tenderer is authorised to perform the contract in its country of establishment
* Legal entities’ form (**for the coordinator and each member of the group in case of a joint tender, not needed for subcontractors**), dully filled-in and accompanied by all the supporting documents requested therein, (please, use the form available on the following web page:

<http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm>);

* Financial identification form (**only for the coordinator of the group/consortium or the one responsible for payment matters**) dully filled-in (please, use the form available on the following web page:

<http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm>);

In addition, involved entities (see Section 2.4) and all subcontractors, including those which do not need to be identified in the tender (see Section 2.4.2), must not be subject to [EU restrictive measures](http://www.sanctionsmap.eu/) adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU)[[16]](#footnote-17) that constitute a legal impediment to perform the contract. This requirement will be assessed by reference to the EU restrictive measures in force. Therefore, the tenderer is not required to submit any evidence of not being subject to EU restrictive measures.

## 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 the last three financial years above EUR **152.500,00.** |
| 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 three 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. |

|  |  |
| --- | --- |
| Criterion F2 | |
| Minimum level of capacity | The following financial ratios must show a positive trend over three years in order to demonstrate the economic and financial capacity of the tenderers:   1. Liquidity:  * Current ratio which measures a company's ability to pay off its current liabilities (payable within one year) with its total current assets such as cash, accounts receivable, and inventories. The higher the ratio, the better the company's liquidity position * Acid-test ratio measures a company's ability to meet its short-term obligations with its most liquid assets and therefore excludes inventories from its current assets  1. Profitability:  * Gross margin refers to a profitability measure that looks at a company's gross profit compared to its revenue or sales. The higher the gross margin, the more capital a company retains, which it can then use to pay other costs or satisfy debt obligations. * Net margin measures how much net income or profit is generated as a percentage of revenue. The net profit margin illustrates how much of each euro in revenue collected by a company translates into profit.  1. Rate on Return:  * Return on Total Assets is a type of return on investment (ROI) metric that measures the profitability of a business in relation to its total assets. This ratio indicates how well a company is performing by comparing the profit (net income) it’s generating to the capital it’s invested in assets.  The higher the return, the more productive and efficient management is in utilizing economic resources. * Return on Capital Employed (ROCE) is a financial ratio used to assess a company's profitability and capital efficiency. In other words, this ratio help to understand how well a company is generating profits from its capital as it is put to use.  1. Asset Usage:  * Total Asset Turnover measures the value of a company's sales or revenues relative to the value of its assets. The asset turnover ratio can be used as an indicator of the efficiency with which a company is using its assets to generate revenue. The higher the asset turnover ratio, the more efficient a company is at generating revenue from its assets. Conversely, if a company has a low asset turnover ratio, it indicates it is not efficiently using its assets to generate sales. * Current Asset Turnover measures the value of a company's sales or revenues relative to the value of its current assets (cash, inventory, accounts receivable, etc.). |
| Basis for assessment | The financial capacity will be assessed against each member of the group in case of joint tender. |
| Evidence | 1. Profit and loss accounts; 2. Balance sheets; 3. Explanatory notes and/or annexes that form part of the above financial statements (if available)   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. |

 All of the above-specified evidence of economic and financial capacity must be provided with the tender.

## Technical and professional capacity

 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. The entity on whose capacity the tenderer relies will either assume the role of a subcontractor or fall within the exceptions listed in Section 2.4.2.

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 reception and administrative services as described in sections 1.4.2. | |
| Minimum level of capacity | At least 2 similar (in scope and complexity) projects completed in the last three years preceding the tender submission deadline. |
| Basis for assessment | This criterion applies to the tenderer as a whole, i.e. the consolidated assessment of combined capacities of all involved entities will be carried out. |
| Evidence | A list of projects meeting the minimum level of capacity. The list shall include details of their start and end date, total project amount and scope, role and amount invoiced. In case of projects still ongoing, only the portion completed during the reference period will be taken into consideration.  As supporting documents for each project reference, the contracting authority may request statements issued by the clients and take contact with them. |

|  |  |
| --- | --- |
| Criterion T2 | |
| The team proposed must be composed of the following:   * + 1. contract manager,     2. front and back-office receptionist,     3. *at least* one replacement for 2) above. | |
| Minimum level of capacity | **Contract manager:** At least 2 years of contract management experience.  **Receptionist (and any replacement proposed)** At least 6 months of experience in an administrative function and at least 1 year of receptionist experience.  All team members must have good written and oral command of English - at least B2 level - and French – at least C1 level (reference is made to Common European Framework of Reference for Languages or equivalent).  All team members must have good knowledge of Microsoft Office and Outlook and in particular, a minimum of Level 3 - Intermediate Computing and Applications according to International Competitions and Assessments for Schools (ICAS) Computer Skills Assessment Framework or equivalent. Knowledge of working with Microsoft SharePoint is required. |
| Basis for assessment | This criterion applies to the tenderer as a whole, i.e. the consolidated assessment of combined capacities of all involved entitieswill be carried out. |
| Evidence | Detailed CVs of the persons who will be responsible for carrying out the tasks through an EU CV (Europass) format indicating all relevant educational and professional qualifications, work experience, linguistic levels and informatics skills. |

 All of the above-specified evidence of technical and professional capacity must be provided with the tender.

## Compliance with the conditions for participation and 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 tenders. Particular attention is drawn to the minimum requirements specified in Section 1.4 of these specifications 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.

Tenderers must declare when submitting their tenders in eSubmission whether their tenders comply with the minimum requirements specified in the procurement documents.

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

## 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 [Cost] - ***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 | Maximum available |
| Organisational Aspects:   * Adequacy and suitability of the proposed team assigned to the service for the execution of the tasks required * Trainings organized by the tenderer to guarantee the proper performance of the services under the contract, once awarded, including on site trainings for replacement(s) | 40 |
| Quality and relevance of the tender as per SESAR 3 JU requirements, described in the tender specifications:   * Understanding of the requirements and services to be provided * The extent to which the services and approach proposed meet SESAR 3 JU’s requirements as per section 1.4 | 30 |
| Quality assurance of contract management:   * Timely response and continuity of delivery of services; * Quality of services to be delivered; * Quality of proposed measures to minimize on-site agent replacement times and transfer of procedures * Efficiency of the meetings proposed to ensure continuous evaluation of the services provided | 30 |
| Total | 100 |

The evaluated tender must reach a minimum score of 50% or more per award criterion and 70 points or more globally in order to be admitted to the financial evaluation. The tenders with lower scores will be considered non-suitable and therefore excluded.

NB: Tenders presenting a mere repetition of the tender specifications or source documentation without providing evidence of the actual means of compliance by example(s) or additional detail about the scope of services proposed will be scored below the minimum required.

## Award (ranking of tenders)

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

**Score tender Y =**

Score of the award criteria of tender Y / highest score of the award criteria among acceptable tenders) x 0.60)] + (‘Total Price’ of the lowest priced acceptable tender /‘Total Price’ of tender Y) x 0.40] \* 100

 ‘Total Price’ shall be considered as ‘Total Price for 4 years’ as per Annex 6.

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 tender ranked first, which complies with the minimum requirements specified in the procurement documents and is submitted by a tenderer not subject to restrictive measures, having access to procurement, not in an exclusion situation and fulfilling the selection criteria.

 Detection of abnormally low tenders

Tenderers must be aware of Point 23 of Annex I to the Financial Regulation on abnormally low tenders and of the possibility for rejection of the tender based on it.

# Form and content of the tender

## 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 letter and the eSubmission Quick Guide available at the link below:

<https://wikis.ec.europa.eu/display/FTPortal/Open+procedures_EN>

 Make sure you prepare and submit your tender in eSubmission early enough to ensure it is received within the deadline indicated under Section IV.2.2 of the contract notice and/or on TED eTendering.

## 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 administrative, technical and financial tender to be uploaded in eSubmission. Tenderers shall be

* preferably written in English.
* perfectly legible so that there can be no doubt as to words and figures.

**Cover letter:**

It shall be signed by a duly authorised representative of the tenderer and dated and contain the following elements:

* The reference number of the SESAR 3 JU’s call for tender
* Brief description and presentation of the tenderer containing a detailed description of the structure, explaining the suitability of the tenderer’s organisation set up to perform the activities under the contract;
* The names, function and contact details (telephone, e-mail and addresses) of the following contact persons or responsible for:

1. Communications relating to this call for tender
2. Technical matters during contract implementation
3. Contract management (if different from the one in point i).
4. Person empowered to sign the contract (if awarded).

**Administrative offer:**

It shall contain:

* A valid power of attorney (or a clear reference to the official document), legally empowering the person/s who have signed any/all documents in response to this call for tenders and entitled to sign the resulting contract;
* Legal entities’ form (dully filled-in and accompanied by all the supporting documents requested therein (please, use the form available on the following web page: <http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm>;
* Financial identification form dully filled-in (please, use the form available on the following web page:

<http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm>);

* Declaration on honour with respect to the Exclusion Criteria and selection criteria (please refer to section 3.1 in the Tender specifications and to the template provided in Annexe 2 of the technical specifications)
* *Technical tender.*

The technical tender must provide all the information needed to assess the compliance with Section 1.4 of these specifications and the award criteria. 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.

Tenderers are free to choose where the personal data will be processed or stored as long as they comply with the contractual obligations on data processing (Art.I.8.2 and Art. II.9) and, in particular, with the requirements for transfer of personal data to third countries and international organisations laid down in Chapter V of Regulation (EU) 2018/1725[[17]](#footnote-18).

Tenderers must specify in their technical tender the location where the personal data will be processed and stored only where this location is outside the territory of the European Union or the European Economic Area. If no location is specified in the tender, the contracting authority will consider that the personal data will be processed and stored only within the territory of the European Union or the European Economic Area.

* *Financial tender.*

A complete financial tender, including the breakdown of the price, needs to be submitted. For this purpose, the financial model in *Annex 6* shall be used.

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

The financial tender 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 Commission by the governments of the Member States, 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 its national authorities to clarify the way in which the European Union is exempt from VAT.

## Signature policy: how can documents be signed?

Where a document needs to be signed, the signature must be either hand-written or, preferably, a qualified electronic signature (QES) as defined in [Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market (the *eIDAS Regulation*)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.257.01.0073.01.ENG).

Tenderers are strongly encouraged to sign with a QES[[18]](#footnote-19) all documents requiring a signature and only exceptionally to sign such documents by hand as hand-written signatures lead to an additional administrative burden for both the tenderer and the contracting authority. The originals of any hand-signed documents (other than the contract) do not need to be submitted to the contracting authority but the tenderer must keep them for a period of five years starting from the notification of the outcome of the procedure or, where the tenderer has been awarded a contract resulting from this call for tenders and the contract has been signed, the payment of the balance.

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 a joint tender – the Declarations on Honour of all group members);
* (in the case of a joint tender) the Agreement/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.

## 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, bodies and agencies, 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 are not subject to restrictive measures, 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 its total financial tender amount[[19]](#footnote-20). 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 tender, technical or trade secrets[[20]](#footnote-21).
* 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 disclosure[[21]](#footnote-22), 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. 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

|  |  |
| --- | --- |
| ***Award criteria*** | See Section 3.4 |
| ***Contracting authority*** | See Section 1.1 |
| ***Entities on whose capacities the tenderer relies to fulfil the selection criteria*** | See Section 2.4.3 |
| ***EU Validation services*** | See Section 2.3  [EU Grants and Tenders Rules on Legal Entity Validation, LEAR appointment and Financial Capacity assessment](https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/guidance/rules-lev-lear-fca_en.pdf) |
| ***Exclusion criteria*** | See Section 3.1 |
| ***Financial Regulation*** | [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](https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=uriserv:OJ.L_.2018.193.01.0001.01.ENG&toc=OJ:L:2018:193:TOC) |
| ***Framework contract*** | See Section 1.6 |
| ***Framework contract ceiling*** | See Section 1.6 |
| ***Group leader*** | See Section 2.4.1 |
| ***Group member*** | See Section 2.4.1 |
| ***Identified subcontractors*** | See Section 2.4.2 |
| ***Involved entities*** | See Section 2.4 |
| ***Joint tender*** | See Section 2.4.1 |
| ***Participating entities*** | See Section 1.1 |
| ***Participant Register*** | See Section 2.3  <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/participant-register> |
| ***Selection criteria*** | See Section 3.2 |
| ***Sole tenderer*** | See Section 2.4 |
| ***Subcontracting/subcontractor*** | See Section 2.4.2 |
| ***Treaties*** | The EU Treaties:  <https://europa.eu/european-union/law/treaties_en> |

# Annexes

## Annex 1. List of documents to be submitted with the tender or during the procedure

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Description** | **Sole tenderer** | **Joint tender** | | **Identified Subcontractor** | | **Entity on whose capacity is being relied (that is not subcontractor)** | **When and where to submit the document?** | **Instructions for uploading in eSubmission (if applicable)** | |
| Group leader | Group member | How to name the file? | Where to upload? |
| 1. **Identification and information about the tenderer.**   *eSubmission view* | | | | | | | | | |
| **Declaration on Honour on Exclusion and Selection Criteria** (see Section 3.1)  *model in Annex 2* | ☒ | **☒** | **☒** | **☒** | **☒** | | With the tender  in eSubmission | 'Declaration on Honour' | With the concerned entity under 'Parties'  'Identification of the participant' 'Attachments''Declaration on Honour'.  For entities that are not subcontractors and on whose capacity the tenderer relies to fulfil the selection criteria, the document must be uploaded in the section of the sole tenderer or group leader:  'Identification of the participant' 'Attachments''Other documents'. |
| **Evidence** that the person signing the documents is **an authorised representative** of the entity[[22]](#footnote-23) (see Section 4.3) | ☒ | **☒** | **☒** |  |  | | With the tender  in eSubmission | 'Authorisation to sign documents' | With the concerned entity under 'Parties'  'Identification of the participant' 'Attachments''Other documents'. |
| **Agreement/Power of attorney** (see Section 2.4.1)  *model in Annex 3* |  | ☒ | ☒ |  |  | | With the tender  in eSubmission | 'Agreement\_ Power of attorney' | In the group leader's section under 'Parties'  'Identification of the participant' 'Attachments''Other documents'. |
| **List of identified subcontractors** (see Section 2.4.2)  *model in Annex 4* | ☒ | ☒ |  |  |  | | With the tender  in eSubmission | 'List of identified subcontractors' | In the sole tenderer’s or the group leader's section under 'Parties'  'Identification of the participant' 'Attachments''Other documents'. |
| **Commitment letter** (see Section 2.4.2 and 2.4.3) |  |  |  | **☒**  *(model in Annex 5.1)* | **☒**  *(model in Annex 5.2)* | | With the tender  in eSubmission | 'Commitment letter' | With the concerned entity under 'Parties'  'Identification of the participant' 'Attachments''Other documents'. |
| **Evidence of non-exclusion** (see Section 3.1) | ☒ | **☒** | ☒ | **☒** | ☒ | | Tenderers (sole tenderers/all group members in case of a joint tender) must provide the evidence with their tenders in eSubmission. Subcontractors and entities on whose capacity a tenderer relies to fulfil the selection criteria must provide the evidence only upon request by the contracting authority. | No specific requirements how to name the file(s). | With the concerned entity under 'Parties'  'Identification of the participant' 'Attachments''Exclusion criteria'. |
| **Evidence of legal existence and status**  (see Section 2.3) | ☒ | **☒** | ☒ |  |  | | Only upon request by *the EU Validation services*  At any time during the procedure  In the Participant Register | n.a. | n.a. |
| **Evidence of legal capacity** (see Section 3.2.1) | ☒ | ☒ | ☒ | ☒ | ☒ | | With the tender  in eSubmission | No specific requirements how to name the file(s). | With the concerned entity under 'Parties'  'Identification of the participant' 'Attachments''Legal and regulatory capacity'. |
| **Evidence of economic and financial capacity F1** (see Section 3.2.2) | **The documents must be provided**  **only by the involved entities**  **which contribute to reaching the minimum capacity level**  **for criterion F1** | | | | | | With the tender  in eSubmission | 'Balance\_sheet\_ entity\_year'  'Profit\_Loss\_ Account\_entity\_year' | With the group leader or the sole tenderer under 'Parties'  'Identification of the participant' 'Attachments''Economic and financial capacity'. |
| **Evidence of economic and financial capacity F2** (see Section 3.2.2) |  |  |  |  |  | | With the tender  in eSubmission | 'Balance\_sheet\_ entity\_year"  'Profit\_Loss\_ Account\_entity\_year' | With the group leader or the sole tenderer under 'Parties'  'Identification of the participant' 'Attachments''Economic and financial capacity'. |
| **Evidence of technical and professional capacity T1** (see Section 3.2.3) | **The documents must be provided**  **only by the involved entities**  **who contribute to reaching the minimum capacity level**  **for criterion T1** | | | | | | With the tender  in eSubmission | 'Project\_ reference\_No.1"  'Project\_ reference\_No.2" | With the group leader or the sole tenderer under 'Parties'  'Identification of the participant' 'Attachments''Technical and professional capacity'. |
| **Evidence of technical and professional capacity T2** (see Section 3.2.3) | **The documents must be provided**  **only by the involved entities**  **who contribute to reaching the minimum capacity level**  **for criterion T2** | | | | | | With the tender  in eSubmission | CVs and related supporting documents | With the group leader or the sole tenderer under 'Parties'  'Identification of the participant' 'Attachments''Technical and professional capacity'. |
|  |  | | | | | |  |  |  |
| 1. **Tender data.**   *eSubmission view*    ***Failure to upload the following documents in eSubmission will lead to rejection of the tender.*** | | | | | | | | | |
| **Technical tender** (see Section 4.2) | ☒ | ☒ |  |  |  | | With the tender  in eSubmission | 'Technical tender' | Under section 'Tender Data' 'Technical tender' |
| **Financial tender** (see Section 4.2)  *model in Annex 6* | ☒ | ☒ |  |  |  | | With the tender  in eSubmission | 'Financial tender' | Under 'Tender Data' 'Financial tender' |

## Annex 2. Declaration on Honour on exclusion and selection criteria

## Annex 3. Agreement/Power of attorney

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Call for tenders XXX/XX/XX/20XY/XYZ - [***Lot X]***  [TITLE OF THE PROCEDURE]  **AGREEMENT/POWER OF ATTORNEY**  The undersigned:  ***[- Signatory 1 (Name, Function, Legal entity name, Registered address, VAT Number)]***  ***- Signatory 2 (Name, Function, Legal entity name, Registered address, VAT Number)***  ***- …***  ***- Signatory N (Name, Function, Legal entity name, Registered address, VAT Number)]***  having the legal capacity required to act on behalf of the entities they represent,  HEREBY AGREE TO THE FOLLOWING:   1. To submit a joint tender (the tender) as members of a group of tenderers (the group), constituted by ***[Insert names of Legal entity 1, Legal entity 2, ... Legal entity N – the name of the group leader must be included here!]*** (the group members), and led by ***[Insert name of Legal entity 1]*** (the group leader), in accordance with the conditions of the procurement documents and the terms of the tender to which this Agreement/Power of attorney is attached. 2. If the contracting authority awards a contract resulting from this call for tenders (the contract) to the group on the basis of the tender to which this Agreement/Power of attorney is attached, all group members (including the group leader) shall be considered parties to the contract in accordance with the following conditions: 3. All group members (including the group leader) shall be jointly and severally liable towards the contracting authority for the performance of the contract. 4. All group members (including the group leader) shall comply with the terms and conditions of the contract and ensure the proper delivery of their respective share of the services and/or supplies subject to the contract. 5. Payments by the contracting authority related to the services and/or supplies subject to the contract shall be made through the bank account of the group leader indicated in the contract. 6. The group members grant to the group leader all the necessary powers to act on their behalf in the submission of the tender and the conclusion of the contract, including: 7. The group leader shall submit the tender on its own behalf and on behalf of the other group members and indicate in the "Contact Person" section in eSubmission the name and e-mail address of an individual as a single point of contact authorised to communicate officially with the contracting authority in connection with the submitted tender on behalf of all group members, including in connection with all relevant questions, clarification requests, notifications, etc., that may be received during the evaluation, award and until the contract signature. 8. The group leader shall sign any contractual documents — including the contract, [specific contracts] and amendments thereto — and shall warrant the submission of any invoices related to the performance of the contract on behalf of all group members. 9. The group leader shall act as a single contact point with the contracting authority in the delivery of the services and/or supplies subject to the contract. It shall coordinate the delivery of the services and/or supplies by the group to the contracting authority, and shall see to a proper administration of the contract.   This Agreement/Power of attorney may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same document.  Any modification to the present Agreement/Power of attorney shall be subject to the contracting authority’s express approval. This Agreement/Power of attorney shall expire when all the contractual obligations of the group have ceased to exist. The parties cannot terminate it before that date without the contracting authority’s consent.   |  |  | | --- | --- | | ***Name Function Name of the legal entity*** | ***Name Function Name of the legal entity*** | | ***signature[s]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***  ***Done at ……………..…, on ……………***  ***Name Function Name of the legal entity***  ***signature[s]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***  ***Done at ……………..…, on ……………*** | ***signature[s]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***  ***Done at ……………..…, on ……………***  ***Name Function Name of the legal entity***  ***signature[s]: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***  ***Done at ……………..…, on ……………*** | |

## Annex 4. List of identified subcontractors and proportion of subcontracting

|  |  |  |
| --- | --- | --- |
| Identification details | Roles/tasks during contract execution | Proportion of subcontracting (% of contract volume) |
| *[Full official name of the identified subcontractor, registered address, statutory registration number, VAT registration number]* |  |  |
| *[Full official name of the identified subcontractor, registered address, statutory registration number, VAT registration number]* |  |  |
| *[REPEAT AS MANY TIMES AS THE NUMBER OF IDENTIFIED SUBCONTRACTORS]* |  |  |
| Other subcontractors that do not need to be identified under Section 2.4.2[[23]](#footnote-24) |  |  |
|  | **TOTAL % of subcontracting** | 0,00% |

## Annex 5.1. Commitment letter by an identified subcontractor

[Letterhead, if any]

SESAR 3 JOINT UNDERTAKING

Call for tenders Ref. [reference number]

Attn:

*[Insert date]*

Commitment letter by identified subcontractor

I, the undersigned,

Name:

Function:

Legal entity:

Registered address:

VAT Number:

having the legal capacity required to act on behalf of *[insert name of the entity]*, hereby confirm that the latter agrees to participate as subcontractor in the tender of *[insert name of the tenderer]* for the call for tenders [*insert reference number]* – *[insert title of procedure*] [Lot *[insert lot number]]*.

In the event that the tender of the aforementioned tenderer is successful, *[insert name of the subcontractor]* commits itself to make available the resources necessary for performance of the contract as a subcontractor and to carry out the services that will be subcontracted to it in compliance with the terms of the contract. It further declares that it is not subject to conflicting interests, which may negatively affect the contract performance, and that it accepts the terms of the procurement documents for the above call for tenders, in particular the contractual provisions related to checks and audits.

Done at:

Name:

Position:

Signature:

## Annex 5.2. Commitment letter by an entity on whose capacities is being relied

[Letterhead, if any]

SESAR 3 JOINT UNDERTAKING

Call for tenders Ref. [reference number]

Attn:

*[Insert date]*

Commitment letter by an entity on whose capacity is being relied

I, the undersigned,

Name:

Function:

Legal entity:

Registered address:

VAT Number:

having the legal capacity required to act on behalf of *[insert name of the entity]*, hereby confirm that the latter authorises the *[insert name of the tenderer]* to rely on its [financial and economic capacity] [technical and professional capacity] in order to meet the minimum levels required for the call for tenders [*insert reference number]* – *[insert title of procedure*] [Lot *[insert lot number]]*.

In the event that the tender of the aforementioned tenderer is successful, ***[insert name of the entity]*** commits itself to make available the resources necessary for performance of the contract. It further declares that it is not subject to conflicting interests which may negatively affect the contract performance, and that it accepts the terms of the procurement documents for the above call for tenders, in particular the contractual provisions related to checks and audits.

Done at:

Name:

Position:

Signature:

## Annex 6. Financial tender form

Annex 6 is published as a separate Excel document

## Annex 7. Declaration of Confidentiality

Legal entity/contractor: ……………………

Legal address: ……………………………... ..…………………………………………….. ..……………………………………………..

I, the undersigned, ................................................................................., in my role as personnel of the legal entity, undertake to respect the confidentiality of:

* any confidential information made available to me during and after the expiry date of specific contract no. [xxx], implementing framework service contract (FWC) ref. S3JU/LC/0XXX-CTR for “Front and back-office reception services” (hereinafter referred to as “the Contract”).

“Confidential Information" means any and all information, materials, drawings, know-how or data relating to the performance of the Contract, which is accidentally known, disclosed or given by SESAR 3 JU either directly or indirectly, whether in writing or by any other means, including, but not limited to, formulae, designs, simulations, processes, manufacturing methods; proprietary, technical, operational and financial data; information relating to the performance and output of research and development activities; cost and pricing data as well as business plans, customer lists, studies, reports, quotations, offers; and any notes, analyses, compilations, interpretations, memoranda or other documents.

This commitment of confidentiality shall stay in full force and effect for 5 years after the expiry date of the above mentioned Contract.

In particular, I acknowledge that I have been informed that I cannot disclose to third parties, use for my own benefit or that of a third party, or make public, either orally or in writing, in paper or in electronic form, the documents or information that are not in the public domain and that I have had or may have access to due to the services I provided related to the above mentioned contract to the services carried out.

I undertake to refrain from any declaration that could harm the reputation of the SESAR 3 JU, jeopardise the safety and security of its premises or its data systems.

I undertake to respect the confidentiality of all personal data that I may have access to and that I may process.

I also undertake to give back any Confidential Information in writing (paper or electronic) or by any other means relating to SESAR 3 JU in my possession at the end of the performance of obligations laid down by the Contract.

I am aware that the disclosure of procedures, names or other sensitive information relating to SESAR 3 JU may result in SESAR 3 JU initiating proceedings under the applicable law against me or/and the legal entity I am representing.

Date: …………………………… Place: ……………………………

Name of the signatory: ………………………………………………

Function of the signatory: …………………………………………

Signature, preceded by the words "Read and approved":

……………………………………………………………

……………………………………………………………

A copy must be kept by the signatory.

1. Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014 [↑](#footnote-ref-2)
2. SESAR 3 JU Directory is a digital registry that includes all the people working for and/or placed at SESAR 3 JU premises, their email address, acronym, phone number, work area and status (SESAR 3 JU/ ECTL staff, trainee, interim, contractor) [↑](#footnote-ref-3)
3. Any reference to specific contracts applies also to order forms (a simplified form of specific contract). [↑](#footnote-ref-4)
4. 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). [↑](#footnote-ref-5)
5. Please note that the EU Official Journal contains the official list and, in case of conflict, its content prevails

   over that of the [EU Sanctions Map](https://www.sanctionsmap.eu/#/main). [↑](#footnote-ref-6)
6. <https://www.wto.org/english/tratop_E/gproc_e/gp_gpa_e.htm>. [↑](#footnote-ref-7)
7. Each economic operator participating in the joint tender is referred to as “group member”. [↑](#footnote-ref-8)
8. Only identified subcontractors (see Section 2.4.2) must be specified in the eSubmission application. [↑](#footnote-ref-9)
9. 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. [↑](#footnote-ref-10)
10. This does not apply to subcontractors on whose capacity the tenderer relies to fulfil the selection criteria – for these the documentation required for subcontractors must be provided. [↑](#footnote-ref-11)
11. See Annex 1 which of the involved entities participating in a tender need to provide the Declaration on Honour. [↑](#footnote-ref-12)
12. The European Single Procurement Document (ESPD) may not be used yet in European Commission's calls for tenders. [↑](#footnote-ref-13)
13. Unless the same declaration has already been submitted for the purposes of another award procedure of the European Commission, the situation has not changed, and the time elapsed since the issuing date of the declaration does not exceed one year. [↑](#footnote-ref-14)
14. 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 European Commission, 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. [↑](#footnote-ref-15)
15. 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 European Commission and are still up-to-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. [↑](#footnote-ref-16)
16. Please note that the EU Official Journal contains the official list and, in case of conflict, its content prevails

    over that of the [EU Sanctions Map](https://www.sanctionsmap.eu/#/main). [↑](#footnote-ref-17)
17. [Regulation (EU) 2018/1725 of 23 October 2018](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1725&from=EN) on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295/39, 21.11.2018. [↑](#footnote-ref-18)
18. See [here](https://audiovisual.ec.europa.eu/en/video/I-222708) how to apply a QES on a document exchanged with a European institution, body or agency. [↑](#footnote-ref-19)
19. For a call for tenders resulting in multiple framework contracts this information will be provided for all successful tenderers and tenders. [↑](#footnote-ref-20)
20. 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](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L0943). [↑](#footnote-ref-21)
21. See Article 4 (2) of the [Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents](https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32001R1049). [↑](#footnote-ref-22)
22. 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. [↑](#footnote-ref-23)
23. For this category of subcontractors, please provide in a general manner their intended roles/tasks during contract execution, as well as the aggregated % of contract volume for all non-identified subcontractors. [↑](#footnote-ref-24)