

21.07.2020 no. 3-13/77

IT and Development Centre. Ministry of the Interior, Estonia (hereinafter “SMIT” or the “contracting authority”), is organising an open procurement procedure titled “Entry/Exit System face image capture solution in Estonian Border Control Points” (222866) and proposes that a tender be submitted in accordance with the requirements set out in the contract notice (hereinafter the “CN”), this invitation to tender (hereinafter the “ITT”) and annexes thereto, hereinafter jointly referred to as the “procurement documents” or “PD”.

## **1. General information**

### **1.1. Contracting authority:**

1.1.1. IT and Development Centre. Ministry of the Interior, Estonia (SMIT);

1.1.2. Registry code 70008440;

1.1.3. Mäealuse 2/2, 12618 Tallinn;

1.1.4. Person responsible for the procurement: Krista Rebane (hanked@smit.ee);

### **1.2. Type of the procurement procedure:** Open procedure;

### **1.3. Manner of carrying out the procurement procedure:**

E-procedure (the procurement is being carried out in the e-procurement environment)

### **1.4. Term of the framework agreement:** The framework agreement is effective for 48 months or until the maximum value is reached.

### **1.5. Maximum value of the framework agreement:**

EUR 2,000,000 (excl. VAT).

### **1.6. Source of financing:**

State budget and/or external funds, including funds from project ISFB-33 “Implementation of EES and ETIAS” of the Internal Security Fund of the European Union and the Ministry of the Interior of the Republic of Estonia. The specific source of financing is indicated in the public contract.

### **1.7. CPV code:**

Main code: 38651600-9 Digital cameras;

Additional codes: 35123500-7 Video identification systems;

48960000-5 Drivers and system software package;

48983000-2 Development software package.

### **1.8. Time limit for submission of the tender:**

In accordance with clause 93 (1) 4) of the Public Procurement Act (PPA), the time limit for submission of tenders may not be shorter than 30 days from publishing the contract notice in the register. The person in charge of the procurement has the right to change the time limit for submission of tenders, if necessary. A tender must be submitted electronically through the e-procurement environment at

<https://riigihanked.riik.ee> no later than by the time limit specified in the CN;

1.9. Examination of the public contract:

The submission of the tender does not presume the prior inspection of the place of performance of the public contract or on-site verification of documents clarifying the PD.

1.10. Reason for failure to divide the procurement into lots:

The contracting authority does not divide the public procurement into lots as the object of the contract is interoperable supplies that are necessary for the attainment of the same purpose. Division of the procurement into lots would make the performance of the contract technically excessively complicated and costly. Purchasing supplies by one tenderer ensures expedient and economic use of the contracting authority's funds and optimum administrative burden.

**2. The invitation to tender consists of this main text and the following annexes:**

2.1. Annex 1 – draft framework agreement and public contract;

2.1.1. Annex 1.1 – general terms and conditions of SMIT contract (version 3.1);

2.2. Annex 2 – technical specifications and table on conformity with technical specifications (the document is submitted in English to ensure that the procurement terms and conditions are understood in the same way by all, as the standards applied to the verification of the documents are in English and there is no generally recognised Estonian terminology);

2.3. Annex 3 – European Single Procurement Document with additional clarifications (includes grounds for exclusion of (a) tenderer(s) and selection criteria (e-procurement environment form);

2.3.1. Annex 3.1 – European Single Procurement Document (submitted separately with regard to each joint tenderer or person whose data are relied on);

2.3.2. Annex 3.2 – form of list of contracts performed;

2.4. Annex 4 – tender suitability criteria (e-procurement environment form);

2.4.1. Annex 4.1 – form of application of tenderer for participation in procurement procedure;

2.4.2. Annex 4.2 – form of power of attorney of joint tenderers;

2.5. Annex 5 – award criteria (e-procurement environment form).

2.6. The translations of documents listed in this clause to English (incl. technical specifications available only in English) are made available to interested economic operators in the e-procurement environment.

2.7. In case of a conflict in the PD documents in Estonian and English versions the Estonian version shall be considered correct and applicable.

**3. Object and award of framework agreement**

3.1. The object of the framework agreement (hereinafter the “object of the agreement”) is ordering a face image capture hardware and software solution which is in compliance with the EES (Entry/Exit System) requirements for Border Guard workstations in accordance

with the technical specifications of the procurement (annex 2). As a result of the procurement, a framework agreement is awarded for 48 months.

- 3.2. The technical specifications and the terms and conditions of the public contract have been specified in the CN and annexes to this ITT.
- 3.3. The framework contract is awarded to one partner.
- 3.4. The framework agreement and public contracts are awarded in Estonian if the tenderer who has submitted a tender that has been declared successful is a company registered in Estonia and/or the award and performance of the agreement/contract(s) in Estonian is feasible for the tenderer. If the tenderer who has submitted a tender that has been declared successful is registered in any other state and/or the award and performance of the agreement/contract(s) in Estonian is not feasible for the tenderer, the agreement/contracts are awarded in English.
- 3.5. After 14 calendar days have passed (unless the tender was only submitted by one tenderer), the contracting authority shall send the tenderer who has submitted the tender that has been declared successful the public contract for signature, the terms and conditions of which are in compliance with the terms and conditions of the CN, this PD and the tender that has been declared successful.
- 3.6. The tenderer shall sign the public contract sent to the tenderer for signature and return it to the contracting authority within no later than five working days from the day the contracting authority sent the contract to the tenderer. The contracting authority may extend the term for signing the contract with good reason, notifying the successful tenderer thereof in a format that can be reproduced in writing. The contracting authority has the right to regard refusal to sign the public contract within the aforesaid term or refusal to commence performance of the public contract as a refusal to enter into the public contract and as the withdrawal of the tender by the tenderer who submitted the tender that was declared successful within the meaning of subsection 119 (1) of the PPA and in such case the contracting authority shall proceed as provided for in the PPA.

#### **4. Procurement terms and conditions**

- 4.1. The procurement procedure is being carried out in the e-procurement environment.
- 4.2. The grounds for exclusion and selection of tenderers and the tender suitability criteria are set out in the e-procurement environment.
- 4.3. The information about the contents of the procurement procedure is included in the CN and ITT and annexes thereto constituting an integrated whole.
- 4.4. The PD can be examined free of charge in the e-procurement environment. In order to participate in the procurement procedure, receive notifications and ask questions via the e-procurement environment, people must disclose their contact details to the contracting authority by registering for the procurement.
- 4.5. Clarifications about the contents of the CN and ITT can be obtained from the contracting authority by written inquiry through the information exchange worksheet in the e-procurement environment.
- 4.6. The contracting authority shall respond to questions within three working days of the receipt of a request for clarification by adding responses to the information exchange sheet of the e-procurement environment. The e-procurement environment sends an automatic notification about addition of the responses to all the people who have registered for the procurement in the e-procurement environment. Questions and responses are available on the information exchange sheet of the procurement for all people who have logged in. The contracting authority has the right not to respond to questions, which have arrived six or less days before the closing date for submission of tenders in accordance with subsection 46 (2) of the PPA.

- 4.7. In accordance with the PPA, the contracting authority has the right to make changes in the CN and/or ITT and/or extend the time limit for submission of tenders. After the publication of a notice, the e-procurement system sends an automatic notification about adding and cancelling the PD to people who have registered for the procurement.
- 4.8. A tenderer is required to bear any and all costs related to drawing up and submitting the tender and entering into the contract. A tenderer shall not be compensated for any damage or costs related to participation in the procurement procedure.
- 4.9. The contracting authority shall not be responsible for any delays, failures or interruptions caused by circumstances in the e-procurement environment that are beyond the control of the contracting authority, power failures, malfunctions of a telephone or Internet connection or the operation of other electronic devices and means, including software, of the tenderer or the contracting authority. The contracting authority shall not be responsible for any damage or loss of profit arising from the use or non-use of the e-procurement environment.
- 4.10. Tenderers have the right to submit a joint tender.
- 4.11. The submission of variants is not allowed.
- 4.12. If several tenderers submit a joint tender, they must authorise a representative (legal person and representative thereof) from among themselves for the performance of the acts required in the following procurement procedure, award of the public contract and performance of the acts related to the performance of the public contract by submitting a power of attorney of a representative of joint tenderers. The power of attorney for the representation of joint tenderers and documents required for the qualification of tenderers must be submitted by all the joint tenderers along with the joint tender. The power of attorney issued to the authorised representative of the joint tenderers must be valid until the performance of the public contract. The tender of the joint tenderers must contain the declaration that the joint tenderers bear joint and several liability for the performance of the public contract.
- 4.13. The tenderer has no right to submit a conditional tender or bind the tender to other conditions that do not arise from the PD.

## **5. Confidentiality of tenders and trade secrets**

- 5.1. A tender is confidential until the decision to declare the tender successful is made. The tenderer must indicate in the tender what information in the tender is the tenderer's trade secret and justify the designation of the information as a trade secret. This information may not include the value of the tender or a part thereof where these are taken account of upon assessment of the tenders or other numerical indicators characterising a tender meeting the award criteria. The contracting authority will not disclose the contents of the tenders in the part of the trade secrets.

## **6. Formalisation of tenders**

- 6.1. A tender must be submitted on the basis of the prescribed structure:
  - 6.1.1. general details of a tenderer;
  - 6.1.2. documents certifying the absence of the grounds for exclusion of a tenderer and compliance of a tenderer with the selection criteria (set out in the list of documents under the 'European Single Procurement Document with additional clarifications' document on the procurement data page in the e-procurement environment);
  - 6.1.3. documents certifying the compliance of a tender with the tender suitability criteria (set out in the list of documents under the 'Tender suitability criteria' document on the procurement data page in the e-procurement environment);

- 6.1.4. value of a tender (see the list of documents under the 'Award criteria' document on the procurement data page in the e-procurement environment).
- 6.2. A tender (incl. qualification documents) shall be formalised electronically in Estonian or in English.
- 6.3. A tenderer submits the value of a tender on a form to be completed in the e-procurement environment, indicating any and all information set out there.
- 6.4. The value shall be presented in euros to an accuracy of two decimal places. If a tenderer is a person liable to value added tax, the value added tax must be separately specified.
- 6.5. The amount indicated in the value of the tender is final for the contracting authority, incl. contains any fees or other taxes, except value added tax that is separately specified, and no additional payments or costs are added to the amount indicated therein.
- 6.6. Documents must be formalised in PDF or in any other common format.
- 6.7. The contracting authority does not accept tenders submitted by e-mail, on paper or in any other form and rejects such tenders, except in the case provided for in clause 6.8.
- 6.8. If the documents to be submitted contain documents that cannot be entirely submitted electronically, these must be submitted, in addition to the extracts submitted in the e-procurement environment, entirely on a CD or any other common data medium prior to the closing date for submission of tenders.
- 6.9. In the case specified in clause 6.8, the data medium (media) must be submitted in one non-transparent sealed envelope that bears the following information:
  - 6.9.1. procurement title,
  - 6.9.2. procurement reference number,
  - 6.9.3. tenderer's name and registry code,
  - 6.9.4. the note 'Do not open before the time limit for opening of tenders'.
- 6.10. The documents on paper or other data medium must be submitted by mail or delivered personally.
- 6.11. Documents delivered personally must be submitted on the closing date for submission of tenders at least 15 minutes prior to the time limit for opening of tenders at the location of the contracting authority, considering that the reception desk of the contracting authority is open from 10 to 16 on working days (from Monday to Friday, except on public holidays or on shortened working days preceding public holidays).
- 6.12. If documents to be submitted include documents signed in writing by a third party, the document must be submitted in a scanned form and the original document is only required if the contracting authority has any doubts about the document.
- 6.13. All the documents not drawn up in Estonian must be submitted along with the Estonian or English translation. The contracting authority shall proceed from the Estonian translation and the tenderer is responsible for the correctness of the translation.

## **7. Reading technical specifications of the object of contract**

- 7.1. Every reference that the contracting authority makes in documents related to this procurement to any ground specified in subsection 88 (2) of the Public Procurement Act as a criterion of the conformity of a tender with the technical specifications shall be read such that it is accompanied by the words 'or equivalent'.
- 7.2. Every reference that the contracting authority makes in documents related to this procurement to a purchase source, process, trademark, patent, type, origin or manner of production shall be read such that it is accompanied by the words 'or equivalent'.
- 7.3. Upon tendering equivalence, the solution tendered must be compatible with the existing systems of the contracting authority. The equivalence of a tender is verified and evaluated by employees of the contracting authority who have respective specialist knowledge.

- 7.4. The tender must meet the requirements established or be at least equivalent thereto, but compatible with the existing solution.
- 7.5. The tenderer submits the documents and data certifying equivalence together with a tender.

## **8. Place of and closing date for submission of tenders and opening of tenders**

- 8.1. A tender and all the documents to be submitted with the tender must be submitted electronically through the e-procurement environment at <https://riigihanked.riik.ee> by the time limit for submission of tenders.
- 8.2. The closing date for submission of tenders has been specified in the CN published in the e-procurement environment.
- 8.3. When the time of submission of tenders is changed, the change is considered as having entered into force upon publication of the change in the CN published in the e-procurement environment.
- 8.4. Tenders are opened in the e-procurement environment.
- 8.5. The time of opening of tenders has been specified in the CN published in the e-procurement environment.

## **9. Minimum period of validity of tenders**

- 9.1. A tender submitted by a tenderer must remain valid for at least three months after the closing date for submission of tenders. The period of validity of the tender may be extended in accordance with the PPA.

## **10. Reverse procedure**

- 10.1 Before verifying the absence of the grounds for exclusion and the qualifications of tenderers, the contracting authority may verify the conformity of tenders with the terms and conditions set out in the PD and assess the suitable tenders in accordance with the rules established in this Act. In such an event the contracting authority ensures that the public contract is not awarded to the tenderer who should have been excluded from the procurement procedure based on subsection 95 (1) of this Act or who does not meet the selection criteria established by the contracting authority pursuant to subsection 52 (3) of the PPA.

## **11. Qualification of tenderer(s)**

- 11.1. The contracting authority shall verify the compliance of the tenderer's qualification with the terms and conditions set out in the CN.
- 11.2. A tenderer shall submit the European Single Procurement Document as an initial certificate for absence of the grounds for exclusion and compliance with the selection criteria.
- 11.3. On the basis of the information given by the tenderer in the European Single Procurement Document, the contracting authority makes an initial decision regarding the exclusion, qualification or non-qualification of the tenderer.
- 11.4. The contracting authority has the right to substantively verify the absence of the grounds for exclusion of the tenderer and the qualifications of the tenderer throughout the public procurement and at any time demand that the tenderer submit all or some of the documents corresponding to the declarations made in the European Single Procurement Document or clarification of the contents of the submitted documents or the submission or modification of data or documents that allow for clarification.
- 11.5. Before awarding the contract, the contracting authority substantively verifies the absence of the grounds for exclusion of the successful tenderer and compliance of the successful tenderer with the selection criteria, demanding, where necessary, that the successful

tenderer submit the required documents, unless the data are available to the contracting authority free of charge on the basis of data in a database or the contracting authority has the data on the basis of data or documents previously existing.

- 11.6. The contracting authority makes a decision to exclude or not to exclude and to qualify or not to qualify the successful tenderer.
- 11.7. The procedure provided for in § 104 of the PPA shall apply to the verification of the grounds for exclusion and qualifications.

## **12. Declaration of tender(s) suitable**

- 12.1. The contracting authority shall verify the compliance of the tenders submitted with the terms and conditions set out in the PD.
- 12.2. A tender is declared suitable if it is in compliance with all the terms and conditions set out in the PD or if there are no substantial deviations from the terms and conditions established.
- 12.3. A tenderer must accept the terms and conditions submitted in the draft public contract (annex 1 to the ITT).
- 12.4. At the request of the contracting authority, a tenderer must explain, delimit or specify the information set out in its tender.
- 12.5. The contracting authority has the right to reject the tender if it does not comply with the terms and conditions set out in the PD and if the tenderer has submitted additional terms and conditions that are not in compliance with the PD.
- 12.6. A tenderer whose tender has been rejected shall not participate in the further procurement procedure.

## **13. Rejection of tenders**

- 13.1. The contracting authority reserves the right to reject a tender if it is not in compliance with the requirements provided for in the CN and ITT or contains additional terms and conditions imposed by the tenderer.
- 13.2. The contracting authority reserves the right to reject all tenders if:
  - 13.2.1. the values of all tenders received exceed the estimated value of the procurement and financial possibilities of the contracting authority to such an extent that the award of the public contract with such a value is unacceptable;
  - 13.2.2. less than two tenders subject to assessment have been submitted;
  - 13.2.3. for unforeseeable objective reasons independent of the contracting authority if the contracting authority has, during the process of the public procurement procedure, become aware of such new circumstances that exclude the completion of the procurement procedure on the terms and conditions established in the PD or make it unreasonable for the contracting authority (incl. amendments to laws or other legislation).

## **14. Evaluation of tenders and declaration of tender successful**

- 14.1. The contracting authority evaluates all tenders that have been declared suitable on the basis of the award criterion of the lowest total value. The award criteria have been specified in annex 5 to the ITT.
- 14.2. A tender the total value whereof without value added tax is the lowest shall be declared successful. The prerequisite for declaring a tender successful is the compliance of the tender with the terms and conditions established.

## **15. Notification of economic operators of decisions of the contracting authority**

A written notice about the decisions made in the course of this procurement procedure is submitted to the tenderers immediately, but no later than within three working days of making the respective decisions.

Yours faithfully,

*(digitally signed)*

Ragner Paevere  
Director

Annex: Set out in clause 2

Krista Rebane  
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