



Call for Tenders

Deadline for submitting an offer, 08.09.2023, 14:00 EEST



DrugDetect has been co-funded by the ESME programme of the European Union under grant agreement No 101036225

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1. General Terms and Conditions

1.1 SCOPE OF THE CALL FOR TENDER

This Call for Tender concerns the re-tender of Lot 3 Detection on the body. The previous tendering procedure has not led to an award due to the fact that none of the 2 suppliers that submitted eligible tenders has reached the minimum threshold of 60% of the total amount of points for award criterion Quality.

This DrugDetect Call for Tenders invites all interested parties to present their offers for an innovative solution for the automatic detection of a large range of drugs in correctional institutions and prisons, that is available 24/7, does not cause delays in internal processes, does not require minimal) human intervention, and is GDPR compliant.

DrugDetect is addressing a need that is widely shared by prisons throughout Europe and in this context the project has gathered a representative, geographically balanced consortium of 4 public buyers (KEMEA, DJI, DG-EPI, ESMIR) from 4 European countries with together an average inmates population of 40.000. Based on the EU Agenda and Action Plan on Drugs (2021-2025), disruption of the channels that supply drugs and as a result, their precise and accurate detection before they have been smuggled inside prisons or before they have been used by inmates are crucial prerequisites for keeping prison personnel and inmates safe in any prison.

The misuse of drugs in prisons, in addition to the direct damage it causes to the inmate, creates both security risks because of bullying, violence, self-harm, debt, and health risks due to illness and overdose and generally destabilises the prison environment, with inherent risks to those working in and visiting. It also severely hampers efforts to rehabilitate inmates, following release from prison, due to the physical and psychological damage caused by drug abuse (see the EU Action Plan on drugs 2017-2020 and the EU Drug Strategy 2013-2020).

In this regard, the DrugDetect Buyer's Group will put themselves at all-time in the driving seat of the innovation process and will act as launch customers for an innovative solution to tackle their stringent needs for automatic, accurate and precise drug detection in a rapidly evolving drug market.

DrugDetect is an innovation procurement which is conducted through a Procurement of Innovative Solutions (PPI). This entails that the Drug Detect Buyers' Group is planning to act as launching customers for innovative solutions.

The solution proposed by the market parties must therefore comprise one or more innovative components or one or more architectural innovations. The Drug Detect procurement does not include the procurement of research and development (R&D).

In particular, the proposed solution must comprise new or significantly improved components or architecture that have already been (partially) demonstrated on a small scale and may be nearly or already available in small quantities on the market, but which have not been widely adopted yet. Typically, owing to the residual risk or market uncertainty, these innovative components or architecture have not been produced at a large enough scale. This also includes existing solutions that are to be utilised in a new and innovative way.

For the consideration of innovative solutions that could fulfil the end-users' needs, during July 2022, the consortium organized an open market consultation (OMC). The partners had the opportunity to contact companies that, in response to the requirements have presented several products that can meet those requirements and present innovative features. The majority of the proposed products have been considered useful by the partners.

Some of the presented solutions are already in use with the police, airports or border forces (of third countries). However, they can introduce a component of innovation, improving or allowing a greater adaptation to the prison context. Several innovative features were presented, such as improving the accuracy of the image detection (localization of anomalies) with the help of smart algorithms, integrating technologies leading to increased safety for prison staff and reduced time for performing security inspections.

Following the identified needs and the market analysis, the DrugDetect Buyer's Group decided to pursue the following Lot during the present procurement procedure:

Lot 3 – Detection of drugs on the body.

The present call should be read with its Annexes:

Annex Ia ESPD

Annex Ib Technical offer template

Annex Ic Financial offer template

Annex II User requirements and technical specifications

Annex III Evaluation methodology

Annex IV Lot Contract

This PPI procurement is part of a project that is funded by the European Union's COSME programme under grant agreement No 101036225.

The contracts are therefore subject to additional rules based on the EU GA No 101036225.

Attention: The EU (and/or any of its services, such as EISMEA) is not participating as a Contracting Authority in this procurement.

1.2 Definitions

Lead Procurer The Lead Procurer, namely KEMEA, is the public buyer appointed to coordinate and lead the joint PPI, in its name and on behalf of the other procurers in the Public Buyers' Group.

Conflict of Interest The concept of conflicts of interest shall at least cover any situation where staff members of the Buyers' Group or of a procurement service provider acting on behalf of the Buyers' Group who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure. (Definition from Article 24 of Directive 2014/24/EU).

License A right given by an IPR owner to another person to use such rights (Licensee) in exchange for an agreed payment (fee or royalty). Licenses can be exclusive or non-exclusive. An Exclusive License means that no person or company other than the named Licensee can exploit the relevant intellectual property rights. A Non-Exclusive License grants to the Licensee the right to use the intellectual property but means that the licensor remains free to exploit the same intellectual property and to allow any number of other Licensees to also exploit the same intellectual property.

Results (i.e., foreground) Any tangible or intangible output, such as data, knowledge or information, that is generated during the DrugDetect PPI contract, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights ('attached IPRs' or 'IPRs attached to the results').

Tender The formal and commercial proposal/bid/offer submitted by the Tenderer, as well as any documents and/or information submitted by the Tenderer on the basis of the Tender Documents.

Tenderer An economic operator that has submitted a Tender.

1.3 Public Procurers & legal framework

The procurement of Lot 3 involves three public procurers (located in three different countries working together in a joint procurement):

KEMEA (Lead Procurer) Center for Security Studies, is a think tank on homeland security policies and an established research center since 2005 (L. 3387/2005) within the Hellenic Ministry of Citizen Protection. KEMEA is heavily involved in innovation procurement projects mainly PPIs where the organisation acts as the Lead Procurer. It has close cooperation due

to its constitutional position with the General Directorate for Fight against Crime and Terrorism which is responsible for the prison management.

DJI On behalf of the Dutch Minister of Justice and Security, the Custodial Institutions Agency (DJI) ensures the execution of sentences and custodial measures imposed after a court decision. With 38 branches spread across the country and around 15,000 employees, DJI is one of the largest organizations in the Netherlands. Every year, the DJI houses about 37,000 offenders for a shorter or longer period of time.

ESMIR The Secretariat of State for Security (SES) falls under the Spanish Ministry of Interior and is responsible for ensuring the free exercise of the constitutional rights, to direct and supervise the police forces, coordinate the international police cooperation, to execute the government's policy about organized crime, terrorism, human trafficking, and money laundering and related crimes. Part of the SES are four main departments: the Directorate-General of the Police, the Directorate-General of the Civil Guard, the General Secretariat for Penitentiary Institutions and the Directorate General for International Relations and Immigration. The General Secretariat for Penitentiary Institutions is the department participating in this proposal according to his expertise in prison security technologies and requirements, with the support of the SES in innovation public procurement issues.

The procurement is conducted by KEMEA, acting as the Lead Procurer in the name of and on behalf of the four above-mentioned contracting authorities ("Lead Procurer", singularly, or "Buyer's Group", together).

The procurement procedure is organized as a joint procurement as defined in Articles 42 and 43 of L. 4412/2016 (Greek Government Gazette A 147 / 08.08.2016) on Public Works, Procurement and Services (adaptation to Directives 2014/24 / EU and 2014/25 / EU) and Article 38 of Directive 2014/24/EU of 26 February 2014 on public procurement.

The procurement procedure is entirely subject to Greek law and is conducted in accordance with specific provisions of L. 4412/2016, only when explicitly reference is being made.

The execution of the contracts, including subcontracting, is subject exclusively to the national law of the each public procurer. In case of early termination of one of the local contracts, in compliance with the national law to which the contract is subject for its performance, the relevant public procurer may decide to organize a new tender procedure that will be subject to national law.

2. Conditions of the procurement procedure

2.1 Procurement procedure: open call

Considering that a competitive dialogue process has been completed and no contract award for Lot 3 has been decided, the current procedure used is an open tendering procedure and participation is on equal terms to all types of operators, according to Article 27 of Law 4412/2016.

2.2 Principles of process

Equality

Each candidate is heard during the process under strictly equal conditions.

The Buyer's Group cannot provide candidates with information that would give them an unfair advantage over other candidates.

Confidentiality

The Buyer's Group maintains confidentiality of the Proposals of the Candidates and undertake not to reveal to another Candidate any information contained in any other proposal. The qualified candidates undertake to keep confidential all information contained in the documents of the procurement procedure and not to disclose any information to third parties, except for the sole purpose of preparing their proposals.

2.3 Execution of the process

2.3.1 Description of the process

The solution described in the technical offer will be verified on the 5th –6th of October 2023 during a technical verification that will take place in the Netherlands at the premises of DJI (prison Schiphol). The aim of the technical verification is to assess whether the solution offered by the qualified candidates complies with several mandatory and desirable requirements (as submitted by the tenderer in its offer).

The best value for money proposal will be evaluated in accordance with the evaluation methodology described in Annex III.

The Buyers' Group have designated an Evaluation Committee (EvC) for this lot.

Each Buyer designated members to the EvC for the lot it participates, composed at least of legal adviser, procurement adviser, project manager, external technical expert and organisation security expert.

The DrugDetect Contracting Board consisting of representatives of each buyer, will oversee the implementation of the joint procurement procedure.

2.3.2 The tendering package

The tendering package will be uploaded by the Lead Procurer in the Greek National System of Electronic Public Procurement (ESIDIS).

DrugDetect Buyer's Group reserves the right to make additions and/or modifications to the tendering package sent to the candidates, including the present tendering rules, provided that the equality of candidates is maintained and that there is sufficient time before the deadline for the submission of their proposals to learn of such additions and/or amendments and to adapt their proposals accordingly. In this case, modification of the tendering package will be sent by the Public Procurer to the candidates.

The tenderers should submit their tenders via the ESIDIS platform.

2.3.3 Deadline for the validity of the proposals

The period of validity of the final proposals shall be one hundred and eighty (180) calendar days from the deadline for the receipt of the final offers.

3. Tender profile

3.1 Description of solutions to be procured

The Drug Detect consortium decided to pursue one Lot during the upcoming procurement procedure:

Lot 3 – Detection of drugs on the body.

3.2. Tender closing time

The closing time for the submission of their offers is the 01/09/2023, 14:00 EEST.

3.3 Duration

The estimated duration of each contract will be up to 15 months.

3.4 Total budget and estimated budget distribution

The total budget of the present procurement is 2.480.000,00 EUR, included VAT and taxes.

The estimated budget distribution per buyer is as following:

Lot 3	Estimated Budget (VAT incl.)
KEMEA	1.000.000,00€
DJI	1.200.000,00€
ESMIR	280.000€
Total	2.480.000,00€

As of the VAT regime applicable, the VAT regime of each Buyer is the following:

KEMEA: EU rules and the valid Greek VAT legislation will be applied¹.

KEMEA may be entitled to a deduction for input VAT. In case of suppliers from EU Member States, the reverse charge process, i.e., invoicing without VAT will be applied.

For contractors from Greece (in the case of joint consortia, the consortium coordinator's headquarters are of relevance) national VAT procedures apply.

In case of Contractors from third countries, the VAT is calculated and reported by KEMEA. If the Contractor upon import is obliged to report VAT according to the rules of the home country and the invoice contains VAT, that VAT is non-deductible in Greece. Instead, VAT amount is to be considered as a cost of the service.

DJI: EU rules and the valid Dutch VAT legislation will be applied².

DJI may be entitled to a deduction for input VAT. In case of suppliers from EU Member States, the reverse charge process, i.e., invoicing without VAT will be applied.

1 See indicatively, VAT Council Directive 2006/112/EC and Law No 2859/2000 Greek VAT Code. According to the later, the 24% VAT applies.

2 See indicatively, VAT Council Directive 2006/112/EC and Dutch VAT Act 1968 (Wet op de omzetbelasting 1968). According to the later, the 21 % VAT applies. For more information: VAT in the Netherlands (belastingdienst.nl)

For contractors from the Netherlands (in the case of joint consortia, the consortium coordinator' headquarters are of relevance) national VAT procedures apply.

In case of Contractors from third countries, the VAT is calculated and reported by DJI. If the Contractor upon import is obliged to report VAT according to the rules of the home country and the invoice contains VAT, that VAT is non-deductible in the Netherlands. Instead, VAT amount is to be considered as a cost of the service.

ESMIR: EU rules and the valid Spanish VAT legislation will be applied

The Council Directive (Directive 2006/112/Ce of the Council, of November 28, 2006, the common system of value added tax) and the valid Spanish VAT legislation (Law 37/1992, of December 28, on Value Added Tax) will be applied.

ESMIR applies the current legislation on VAT, which in the case of contracting for the purchase of equipment is 21 percent.

In the case of purchase of equipment for Penitentiary Centres located in the Canary Islands, the Royal Decree 2538/1994, of December 29, is applied, which establishes development regulations related to the General Indirect Canary Islands Tax and the Excise Tax on production and Importation in the Canary Islands, created by Law 20/1991, of June 7.

ESMIR applies the current legislation on GIC, which in the case of contracting for the purchases of equipment is 21 percent.

3.5 IPR issues

Ownership of results (foreground)

Each contractor will keep ownership of the Intellectual Property Rights (IPRs) attached to the results they generate during the PPI implementation. The tendered price is expected to take this circumstance into account.

The ownership of the IPRs will be subject to the following:

- the Buyer's Group has the right to:
 - access the results, on a royalty-free basis, for their own use.
 - grant upon notification of the contractors (or to require the contractors to grant) non-exclusive licences to the Greek Ministry of Citizen Protection to

exploit the results under fair and reasonable conditions (without the right to sub-license).

- Due to the fact that DrugDetect is a EU funded project and wide impact beyond the project should be ensured, the Buyer's Group has the right to require the contractors to transfer ownership of the IPRs that results from the execution of the DrugDetect contract, back to the Buyer's Group if the contractors fail to comply with their obligation to commercially exploit the results or use the results to the detriment of the public interest (including safety and security interests).

All in all, the Contractor shall provide each of the members of the Buyer's Group an irrevocable, non-transferrable, royalty-free and non-exclusive License to use all Results for free.

Declaration of pre-existing rights (background IPRs)

The ownership of pre-existing rights will remain unchanged.

In order to be able to distinguish clearly between results and pre-existing rights (and to establish which pre-existing rights are held by whom), Tenderers are requested to list the pre-existing rights for their proposed solution in their Innovation Plan.

Subject to pre-existing obligations that may apply to background IPRs, the Tenderer grants the members of the Buyer's Group a royalty-free, non-exclusive, irrevocable and non-sub-licensable license to use its background IPRs for the execution of the contract.

If applicable, subject to pre-existing obligations that may apply to background IPRs, the members of the Buyer's Group grant the Contractor a royalty-free, non-exclusive, irrevocable and non-sub-licensable license to use its background IPRs for the performance of the contract.

Protection of the results

The Contractor shall be responsible for the management of all the rights on the Results that it holds and shall bear any associated costs including for the protection, examination, grant, maintenance, defense and litigation of the rights on the results.

The Lead Procurer shall be entitled to monitor the management of all rights on the results held by the Contractor. The Contractor shall respond at any time to requests for information from the Lead Procurer about the handling of the rights on the results.

4. Eligible tenderers, joint tenders and subcontracting

Participation in the tendering procedure is open on equal terms to all types of operators, regardless of their size or governance structure.

Please note that participation in the OMC is not a condition for submitting a tender.

Requests to participate may be submitted by a single entity or in collaboration with others. The latter can involve either submitting a joint tender or subcontracting, or a combination of the 2 approaches.

However, please note that this PPI involves security aspects and its development and functioning might require the exchange of security sensitive information. I.e., the scope of the procurement affects essential security interests of the Member States involved.

This means that the participation in this Call is open on equal terms only to nationals (natural persons or legal entities) that are established or deemed to be established in EU Member States and COSME countries and other countries with which the EU has an agreement in the field of public procurement.

Participation is also open to tenderers from States that have ratified WTO Government Procurement Agreement.

The above nationals should be ultimately controlled by the above countries and/or nationals of the above countries. Nationals (natural persons or legal entities) that are established in the above countries but that are controlled by third countries that are not one of the above countries and/or by nationals of third countries, are not eligible for participation DrugDetect PPI.

However, the following relationships between legal entities shall not in themselves constitute controlling relationships: (i) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50% of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates, (ii) the legal entities concerned are owned or supervised by the same public body.

Moreover, the Contractors must ensure that any cooperation with nationals of third countries [listed above] or that are controlled by such a country and/or by a national of such a country does not affect the security interests and avoids potential negative effects over

security of supply of inputs that are critical to the procurement. In a contrary case, the Buyers may decide to exclude the respective tenderers from the procurement procedure or to terminate the contract.

Joint Tenderers-Consortia Tenders

A Consortium (a combination of firms) may submit a joint Tender. Any type of natural or legal persons (including non-profit entities properly registered, such as Universities) shall be entitled to submit Tenders either individually or by way of an association or consortium comprising several Tenderers set up temporarily for the purposes of this PPI.

The following requirements apply for joint Tenders:

- The members of a Consortium must assume joint and several liability for the performance of the contract.
- The members of a Consortium must jointly appoint a Lead Contractor as a party authorized to act in the name and on their behalf, who will deal with all the matters regarding the PPI (including the signing of each Phase Contracts) and to whom all communications will be directed. The Lead Contractor will carry overall responsibility for the Contracts, irrespective of whether tasks are to be performed by a Subcontractor or by another Consortium member or not.
- This will be indicated in the ESPD, which will have to be filled, signed – by a duly authorised person – and submitted in any joint Tender.
- All members of a Consortium have to fill in, sign – by a duly authorised person – and submit the ESPD.
- The members of the Consortium must jointly meet the Selection Criteria.

Each Tenderer may submit no more than one Tender. This means that the Tenderer may only submit a Tender on his own or in one (temporary) Consortium. Failure to do so leads to the automatic exclusion of the bids.

Subcontracting

Subcontracting refers to any contract or agreement between the Tenderer and a Third Party, whereby that Third Party agrees to provide services to the Tenderer or assist the Tenderer to provide the Services or any part thereof to the members of the Buyer's Group.

Subcontracting is permitted. However, no essential parts of the Contracts can be subcontracted, nor the management of the PPI.

In case a Tenderer wishes to rely on the resources of a Third Party for the fulfilment of the requirements to participate in the PPI, this Third Party should be part of the Consortium (unless it is a hosting environment). I.e., if hardware or software from a third party is needed for the solution, they do not need to be part of the Consortium, but the Contractor needs to demonstrate that these resources will be available to him (e.g., by providing a licensing agreement).

The Tender that wishes to subcontract any part of the services to be provided or to rely on the capabilities of Third Parties must fill in also the specific parts, sign – by a duly authorised person – and submit the ESPD.

Each of the Subcontractors and/or Third Parties participating must fill in, sign – by a duly authorised person – and submit the ESPD.

The subcontractor on whose experience the Contractor has relied on to satisfy the technical competence is obliged to perform the relevant work. This means that the execution of tasks assigned to a subcontractor may not be subject of further subcontracting.

Subcontractors cannot participate in more than one tender. Failure to do so leads to the automatic exclusion of the bids in which it participates, irrespective of its role in the bids.

Due to the short duration of the PPI, no changes on consortia or in subcontractors will be allowed unless exceptional reasons that could not be foreseen apply.

5. Exclusion criteria

The exclusion criteria are as follows:

Exclusion criteria	Definition	Evidence
A) Conflict of Interest	A conflict of interest covers both personal and professional conflicts. Personal conflicts can arise in any situation where the impartial and objective evaluation of tenders and/or implementation of the contract is compromised for reasons relating to economic interests, political or national	ESPD (Annex Ia)

	<p>affinity, family, personal life (e.g., family of emotional ties) or any other shared interest.</p> <p>Professional conflicts might occur in situations where the contractor's (previous or ongoing) professional activities affect the impartial and objective evaluation of tenders and/or implementation of the contract.</p> <p>If there is a potential conflict of interest affecting the Tenderer, a member of the Consortium, a subcontractor or a Third Party on whose resources the Tenderer relies upon (if applicable), Tenderers must immediately notify the Lead Procurer in writing.</p> <p>If an actual or potential conflict of interest arises at a later stage (i.e., during the implementation of the contract), the contractor must contact the Lead Procurer, who is required to notify the EU and take all necessary steps to rectify the situation. The EU may verify the measures taken and require additional information to be provided and/or further measures to be taken.</p>	
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	<p>If the situation cannot be rectified, the Tenderer will be excluded from further participation in the PPI.</p>	
<p>B) Breach of obligations relating to the payment of taxes or social security contributions</p>	<p>A Tenderer or Contractor, a member of the Consortium, a subcontractor and/or a Third Party on whose resources it relies upon (if applicable) can be excluded from further participation in the PPI if it is in breach of its obligations relating to the payment of taxes or social security contributions and where this has been established by a judicial or administrative decision having final and binding effect.</p>	<p>ESPD (Annex Ia)</p>
<p>C) Bankruptcy & professional misconduct</p>	<p>A Tenderer or Contractor, a member of the Consortium, a subcontractor and/or a Third Party on whose resources it relies upon (if applicable) can be excluded from further participation in the PPI in any of the following situations:</p> <ul style="list-style-type: none"> • Where the Contracting Authority can demonstrate by any appropriate means a violation of applicable obligations referred to in Article 18(2) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014. 	<p>ESPD (Annex Ia)</p>

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| | <ul style="list-style-type: none">• Where the Tenderer is bankrupt or is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under national laws and regulations.• Where the Lead Procurer can demonstrate by appropriate means that the Tenderer is guilty of grave professional misconduct, which renders its integrity questionable.• Where the Lead Procurer has sufficiently plausible indications to conclude that the Tenderer has entered into agreements with other economic operators with the intention of distorting competition.• Where the Tenderer has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting | |
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	<p>entity or a prior concession contract which led to early termination of that prior contract, damages or other comparable sanctions.</p> <ul style="list-style-type: none">• Where the Tenderer has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.• Where the Tenderer has undertaken to unduly influence the decision-making process of the Lead Procurer, to obtain confidential information that may confer upon it undue advantages in the procurement procedure, or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.• Where the Tenderer has failed to maintain relevant licensing or membership of an appropriate trading or professional organisation where required by law.	
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<p>D) Criminal offences</p>	<p>The Tenderer, or a representative of the Tenderer, a member of the Consortium, a subcontractor and/or a Third Party on whose resources it relies upon (if applicable) will be excluded from the PPI it has been convicted by final judgment for a criminal offence listed below:</p> <ul style="list-style-type: none"> • Participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA. • Corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (2) and Article 2(1) of Council Framework Decision 2003/568/JHA as well as corruption as defined in the national law of the contracting authority or the economic operator. • Fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests. • Terrorist offences or offences linked to terrorist activities, as 	<p>ESPD (Annex Ia)</p>
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	<p>defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA respectively, or inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision.</p> <ul style="list-style-type: none"> • Money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council. • Child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council. 	
<p>E) Compliance with GDPR</p>	<p>The Tenderers shall comply with the legislation and regulations applicable to the processing of personal data in Europe.</p> <p>In particular and if applicable, the Tenderer, members of a Consortium, subcontractors and Third Parties if applicable will have to ensure compliance with Article 28(7) of Regulation (EU) 2016/679 of the European Parliament and of the Council and Article 29(7) of Regulation (EU) 2018/1725 of the European Parliament and of the</p>	<p>ESPD (Annex Ia)</p>

	Council (on standard contractual clauses between controllers and processors).	
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 Attention:

- Tenderers that do not comply with these criteria will be excluded.
- In case of joint tenders, all members of the Consortium or group of Tenderers must fill in, sign and submit ESPD signed by an authorised representative
- In case of subcontracting, all subcontractors must fill in and submit ESPD
- All the documents must be signed by a duly authorised person with the powers to bind the legal/natural person.
- Should there be a missing document, the Lead Procurer has the right (but is not obliged) to ask for the missing information. If the Tenderer does not submit the necessary information within five (5) days from the written request of the Lead Procurer, it will lead to automatic exclusion.
- Should there be any doubt as to any of these criteria, Tenderers may be requested to provide additional information.

6 Award criteria

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.

The Buyer’s Group set the user requirements and technical requirements (see Annex II) based on the needs formulated by each partner (prison experts, legal experts and procurement experts) and on the information acquired during the open market consultation.

Some of the user requirements and technical requirements will be used for testing and validating the outcomes of the procurement.

The requirements are distinguished as “mandatory” or “desirable”. Any tender that does not comply with a mandatory requirement will be excluded. Any tender that does not address a

desirable requirement, will be awarded a lower score during the evaluation process, in accordance with the evaluation methodology described in Annex III below.

 Attention:

- Tenderers that do not comply with mandatory requirements will be excluded.
- The Contractor, all the partners of a Consortium (if applicable) and all the subcontractors (if applicable) must each comply with these award criteria.
- Should there be a missing document, the Lead Procurer has the right (but is not obliged) to ask for the missing information. If the Tenderer does not submit the necessary information within five (5) days from the written request of the Lead Procurer, it will lead to automatic exclusion.
- Should there be any doubt as to any of these criteria, Tenderers may be requested to provide additional information.

7. Evaluation procedure: Opening of tenders & evaluation

7.1 Opening of tenders

Opening of the envelopes will take place at 15:00h (EEST) on 08.09.2023.

Opening of the envelopes will be carried out by the DrugDetect - KEMEA Administrative Committee.

7.2 Evaluation procedure

For the purpose of the evaluation of the received Tenders, the Lead Procurer shall appoint the following Committees:

- 1 The Contracting Board (CB) composed of at least one representative of each member of the Buyer's Group, chaired by the Lead Procurer representative and is responsible to supervise the overall execution of the procurement procedure and contract execution in line with the procurement strategy and the legal framework. It is responsible for defining the terms and conditions of the tendering process, including, but not limited to the procurement specifications, the evaluation and award criteria, the awarding and contracting of the selected contractors and the contract monitoring procedure. The CB will meet at least twice per year following the contract award. For these meetings, mainly electronic means will be used instead of physical meetings.

- 2 Evaluation Committee (EvC) is the Committee of at least one representative of each member of the Buyer's Group, chaired by the Lead Procurer representative and is responsible to prepare and perform the tendering process for this lot. The Evaluation Committee will prepare, approve the tender specifications, the evaluation criteria and award criteria along with all tender documentation for this lot; evaluate the tenders received and conduct the dialogue, guaranteeing that the evaluation runs according to the scope of the project; decides on possible submitted complaints during the tendering process; assists the Contract drafting and approves the contracts that will be concluded with the selected company; at national level, the EvC will be established by each procurer and will make the formal acceptance of the milestones during the contract execution and gives its permission for the release of the associated payment. The decisions will be made based on the consensus principle.
- 3 KEMEA Administrative Committee (AC) composed by three members of KEMEA procurement department dealing with administrative aspects of the procurement. It passes this opinion to the CB for final decision.

Tenders will be evaluated in a non-discriminatory and transparent manner.

7.3. Evaluation of the submitted Tenders and initial Contract Award

The evaluation process and initial contract award will be carrying out the following steps:

- Step 1 – Checking exclusion criteria per Tenderer. Performed by KEMEA AC. All the related documents shall be submitted in ENVELOPE A.
- Step 2 - For tenderers passing Step 1, evaluation of Technical Offers, including technical verification. All the related documents shall be submitted in ENVELOPE B.
- Step 3 –Opening of the Financial offers. Performed by KEMEA AC. All the related documents shall be submitted in ENVELOPE C.

Formal Approval by CB of the outcome of the three prior steps.

- Step 4 - Technical Verification (in Schiphol prison on the 5-6th of October 2023)
- Step 5 – Final ranking by CB.
- Step 6 - Provisional award decision by CB.

- Step 7 – Signing of Contracts.

The DrugDetect Buyer's Group will proceed with the tenderers' eligibility (if changed) based on the information provided in the Administrative Section of the proposal (all documents related to exclusion and selection criteria submitted in ENVELOPE A). This will be followed by the technical evaluation (all related documents submitted in ENVELOPE B) and financial evaluations (all related documents submitted in ENVELOPE C). Subsequently, several mandatory and desirable requirements will be tested during the technical verification on the 5th-6th of October 2023 in Schiphol prison, the Netherlands.

Then the EvC and CB will proceed to the scoring, according to the evaluation methodology described in Annex III below. At the end of the evaluation procedure, a ranking will be drawn up, in which the tenders will be inserted based on the overall score achieved, in descending order.

In case that tenders of two or more tenderers obtain the same overall score, but with different partial scores for the price and for all the other different evaluation elements, the tenderer who obtained the best score on the Technical Offer will be placed first in the ranking.

 Attention:

- Tenders not complying with the Tender conditions on the content and format will be excluded from the tender evaluation.
- Completeness and formal correctness of the tender procedure will be checked; in case of lack of documents, incompleteness and any other non-essential irregularities of the Tender, the Lead Procurer may request the necessary additions and clarifications. The Lead Procurer may request the information from the Tenderer. If the Tenderer does not submit the necessary information within five (5) calendar days from the written request of the Lead Procurer, it will lead to automatic exclusion
- All the documents must be signed by a duly authorised person with the powers to bind the legal/natural person.
- All cost and risk of preparing and submitting a Tender for the DrugDetect PPI, except for the technical verification for up to 5,000,00 € to be born by the Buyers' Group, are born by the Tenderers.

7.4. Procedures for appeal

The submission of a tender implies unconditional acceptance of all terms and conditions contained in this Call. Under penalty of exclusion, tenders must not contain any reservation in relation to any point in the Tender terms and conditions.

If the Tenderers have any complaints about the contents of the tendering documents – specifically, but not exclusively, regarding exclusion, selection, pass/fail and weighted award criteria – they must submit them to the Lead Procurer within ten (10) days of the publication of the Call on TED. If the dispute is not solved amicably, the Tenderer may bring a legal action before the Greek Civil Court of Athens. Failure to bring a legal action within deadlines foreseen leads to termination of its right (on a later stage and on other grounds) and to participate in the DrugDetect PPI.

All possible complaints during the tendering process will be solely submitted to the Lead Procurer within ten (10) days following the notification of the final decision – as described in step 6 of section 7.3 – of the CB. Complaints will not be addressed to the other members of the Buyer's Group or the EC.

Submission of complaints shall not lead to unreasonable delays in the evaluation and award procedures.

The Lead procurer, the members of the Buyer's Group and/or the EC will not be liable for any loss or damage that the tenderer may suffer in preparing and submitting a bid for this PPI.

The Lead Procurer will forward the complaints to the EvC which is responsible to evaluate the complaints and to submit its opinion to the CB for final decision.

Possible complaints against any final decision of the CB may be reviewed by the Greek Civil Courts of Athens. The tenderers are mandated to notify the Lead Procurer in writing that they are submitting an appeal to challenge a decision of the CB.

Any dispute or claim arising in connection with the execution of the contracts shall be heard by Greek Civil Courts of Athens.

8. Content & format of tenders

8.1 Format

All Tenderers must use the DrugDetect Tender Documents (templates annexed), which can be accessed along with all of the other Tender Documents and related annexes by following the instructions in the Contract Notice on TED.

The Tender Documents are also available to be downloaded upon registration on the DrugDetect website (<https://drug-detect.eu/>)

The tender process will be conducted using the platform of the National Electronic Public Procurement System (Ε.Σ.Η.ΔΗ.Σ.). The tenders should be submitted electronically by the economic operators, via the www.promitheus.gov.gr online portal by the final date and time for the submission of set out in this Tender Notice, in the English language, in an electronic folder.

8.2 Administrative section (Envelope A)

The Administrative section of the Promitheus platform contains one (sub-)folder named 'Participation Documents', containing the supporting documents stipulated in the applicable legislation and the contract documents. This (sub-)folder usually contains at least the following:

- The European Single Procurement Document (ESPD-Annex Ia), which is an up-to-date self-certification from the participating Economic Operator, functions as preliminary evidence to replace the certificates issued by public authorities or third parties, confirming that there are no grounds for exclusion for the relevant Economic Operator and that it meets selection criteria set by the contract documents. Economic Operators may, if they wish, prepare the European Single Procurement Document (ESPD) using the National Electronic Public Procurement System (NEPPS) which provides the current free web service (Promitheus ESPDint) for the bidders interested in filling in the ESPD/SSDD electronically. The online form can be filled in, printed and then sent to the buyer together with the rest of the bid. (<https://espd.eprocurement.gov.gr/>).

8.3 Technical section (Envelope B)

The Technical section of the Promitheus platform contains one (sub-)folder named 'Technical Offer' containing the information and supporting documents for the technical bid required under the applicable legislation and the contract documents.

The technical offer must contain:

- The Technical offer template (Annex Ib)
- A Declaration of pre-existing rights (background IPRs) relevant to the tenderer's proposed solution, in order to allow IPRs dependencies to be assessed.
- An excel in order to demonstrate the level of match with the requirements.

 Attention:

- Tenders failing to meet these requirements and submit all the necessary documentation will be excluded.
- Tenderers are recommended to describe their offer in a maximum of 30 pages (not including the summary, the declaration of IPRs and the excel sheet).

8.4 Financial section (Envelope C)

The financial section of the Promitheus platform contains one (sub-)folder named 'Financial Bid' containing the information and supporting documents for the financial bid required under the applicable legislation and the contract documents.

The tender must include a detailed financial offer (Annex Ic) specifying:

- Total price for all the devices that will be delivered (including transportation, import, training installation costs, preventive and corrective maintenance etc during warranty period).
- The number of devices that will be offered within the total price.
- Price for the performance of the Innovation Plan during 9 month after signing the contract.
- Total price for 1000 disposables (also indication of the unit price)
- Total price for preventive maintenance after warranty for the lifetime of the device
- Total price for corrective maintenance after warranty for the lifetime of the device (based on 3 fictive interventions per year)

For the evaluation, the total price will be taken into account, divided by the number of devices offered.

The Tenderer who has offered the lowest price will be awarded the maximum score of 200 points.

 Attention:

- The prices quoted remain binding for the duration of the Lot Contract.
- During the warranty period, both corrective and preventive maintenance should be included in the offered price. After the warranty period the corrective and preventive maintenance should be ensured for the rest of the 7 years lifetime of the product. The costs with corrective and preventive maintenance will be additional to the initial price after the warranty period. We require the bidders to offer a separate yearly price for preventive maintenance after the warranty period as well as yearly price for corrective maintenance after the warranty period based on a fictive calculation of 3 interventions per year.

9. Contracts implementation

9.1 Monitoring

Successful Tenderer will be requested to sign Lot Contract.

Contract implementation will be monitored periodically and reviewed against the expected outcomes.

The Contractor will be assigned a main contact person (their supervisor) appointed by the Lead Procurer. There will be regular monitoring, related to the Innovation plan suggested by meetings between the Contractor and the EvC, based on the Innovation Plan submitted by the contractor.

Monitoring meetings can be held physically or online and will be subject to agreement between the parties. The Contractor will be asked to discuss the results achieved in the preceding period and present an updated work plan. The supervisor, or any party designated by it, is entitled to visit the premises of the Contractor. The EvC and/or supervisor will provide written feedback on paper or electronically to Contractors after meetings or visits. Detailed information on the role of the supervisor will be provided after the award of a Lot Contract.

Monitoring will be carried out in two different steps:

1. Operational validation (OV): Starts with the delivery of 1 device per country. The objectives of the OV phase are to assess the innovative solutions on the different scenarios (use-cases) in daily operations and to measure the level of compliance with the requirements set. This will take place during October/November 2023. For a period of 2 weeks a logbook will be kept by each public procurer and several aspects will be registered:

- each use of the device (date, situation)
- each proven/suspected false positive
- each malfunctioning of the devices
- each deviation from other requirements (warm-up time, need for calibration etc.)
- the use case in which the disfunction appeared

The Buyers will communicate with the winning tenderer the results of the OV phase and will agree on improvements. These improvements will be further be implemented as part of the IV phase described below.

2. Innovation validation (IV): within a period of 9 months from the first award of the contract, the winning tenderer will deliver the innovation in accordance with the Innovation plan submitted as part of the procurement procedure. This leads to the validation of the products and the decision to start full deployment (purchase the full amount of the solution, as possible within the available budget). Subsequently, the full amounts of the solutions will be deployed.

9.2 Payments

Contractor's invoices must provide a price breakdown.

Payments are made after delivery:

Following the signature of the Lot Contract, the operational validation phase will start, when 1 device per country will be delivered for operational validation. Payment will be made for 1 delivered item per country.

Further payments will follow when / if additional orders are placed.

Payments will be also based on progress and satisfactory results of the Operational Validation and Innovation Validation.

10. Miscellaneous

10.1 Language

All communications (relating to either the tender procedure or the implementation of the contract) must be carried out in English.

Tenders (and all related necessary documents) must be submitted in English. Deliverables must also be submitted in English.

10.2 Tender constitutes binding offer

A signed Tender will be considered to constitute a firm, irrevocable, unchangeable and binding offer from the Tenderer. The Tenderer's signatory must have the proven power and capacity to bind the Tenderer/Contractor.

The signature of an authorised representative will be considered as the signature of the Tender (and will be binding for the tenderer or, for joint Tenders, the group of Tenderers).

10.3 Communications

All questions or requests for clarification must be received by the Lead Procurer in English. by the 28.8.2023. The questions or requests for clarification must be addressed to: drugdetect_procurement@kemea-research.gr and submitted via the ESIDIS platform.

Please mention the DrugDetect Procurement in the subject line of your emails. With each question the correct document reference and page number should be clearly stated.

The summary of all questions and answers will be presented in an anonymized Q&A document that will be published on the project's website in English and on ESIDIS platform.

Unless otherwise instructed, please do not use any other contact addresses or means or contact any other persons in connection with this procurement.

10.4 Confidentiality

Tenderers must keep confidential any information obtained in the context of the tender procedure. All documentation, data, statistics, drawings, information, samples or material disclosed or furnished by the Lead Procurer to Tenderers during the course of this procurement:

- Are furnished for the sole purpose of replying to this PPI only.

- May not be used, communicated, reproduced or published for any other purpose without the prior written permission of the Lead Procurer.
- Shall be treated as confidential by the Tenderer, members of a Consortium (if applicable), subcontractors (if applicable) and Third Parties (if applicable) engaged or consulted by the Tenderer.
- Must be destroyed immediately if the Tenderer decides not to submit a Tender, if the DrugDetect PPI is cancelled or completed, or if the Tenderer is not awarded a Contract.
- In respect of any Trade Secrets such as business plans, R&D maps or trajectories, customer lists, etc. that it may receive from the Tenderer/Contractor, the Lead Procurer undertakes to keep secret and strictly confidential and to ensure that all members of the Buyer's Group will be bound by the same confidentiality obligations towards the Tenderer/Contractor.

10.5 Freedom of Information

The principle of public access to official documents means that public documents and records (with a few exceptions) should be made available to whoever asks for them. The principle is balanced by the obligation of professional secrecy, that stipulates that public authorities are obliged to protect business secrets of others, if disclosure may seriously harm their interests.

Without prejudice to the confidentiality provisions included in the Framework Agreement, Tenderers are asked to consider if any of the information supplied by them in their Tender should not be disclosed because of its confidentiality or commercial sensitivity. If Tenderers consider that certain information is not to be disclosed because of its confidentiality or commercial sensitivity, Tenderers must, when providing such information, clearly identify the specific sections of their Tender containing such information and specify the reasons for its confidentiality or commercial sensitivity.

Tenderers should, however, be aware that the Lead Procurer reserves the right to publish public summaries of the results of the DrugDetect Project. Details that will harm the legitimate business interest of the Contractor involved in the DrugDetect or that would distort fair competition on the market will not be disclosed. The Lead Procurer will also

distribute and publish the following information about the Contractor that is awarded with the contract:

- The name of the organisation
- Their location
- The title of the Project
- A short summary of the Project
- Contract value

10.6 Data processing in EU

The processing of data by the contractor shall meet the requirements of Regulation (EU) 2018/1725 and be processed solely for the purposes set out by the controller.

In case the contractor has to process personal data, the localisation of and access to the personal data processed by the contractor shall comply with the following:

The personal data shall only be processed within the territory of the European Union and will not leave that territory.

The data shall only be held in data centres located with the territory of the European Union. No access shall be given to such data outside of the European Union.

The contractor may not change the location of data processing without the prior written authorisation of the contracting authority.

Any transfer of personal data under the PPI to third countries or international organisations shall fully comply with the requirements laid down in Chapter V of Regulation (EU)2018/17252.

10.7 Data Protection

To ensure compliance with contemporary data protection legislation within the DrugDetect Project, the general principles relating to processing of personal data must be observed:

- lawfulness, fairness and transparency;
- purpose limitation;
- data minimisation;
- accuracy;
- storage limitations;

- integrity and confidentiality;
- accountability.

The Tenderer is expected to understand all the GDPR aspects that the solution will have to comply with once deployed. Having said that, the Tenderer is not expected to act as a (data) controller or processor, but solely as a technology vendor. Moreover, the Tenderer should develop a solution that allows the Public Buyers to be fully compliant with the GDPR and data protection law.

10.8 Cancellation

The Lead Procurer (on behalf of the Buyer's Group) reserves the right to suspend or terminate the procedure in whole or in part, to change the time schedule (with the exception of shortening the legally established minimum) and to revoke and/or revise the award decision stating the reasons without being obliged to pay any compensation before signing the Lot Contract.

The Lead Procurer (on behalf of the Buyer's Group) reserves the right not to award any Contracts at the end of the Tender procedure.

The members of the Buyer's Group and the EU are not liable for any expense or loss the tenderers may have incurred in preparing their offer.