

*Our internal ref. HRS/CS/2024*

**Mr Johan Van Overtveldt**  
Chair of the Committee on Budgets  
European Parliament

Dear Mr Van Overtveldt,

I would like to provide you with an update on the approval process for the Frontex Permanent Premises Project, as well as to reintroduce the Building Questionnaire for the European Parliament approval.

Following an endorsement by the Frontex Management Board on the 22<sup>nd</sup> of November 2024, the Agency sought approval on the draft General Construction Contract and the Financing Plan from the European Parliament and the Council through the letter Ares (2024)8396314 dated 26 November 2024. Following discussions with the Legal Service of the Council on the 3<sup>rd</sup> of December 2024 and the need to address its concerns regarding the possibility of financing the project through a loan, the Agency made the necessary amendments to the Draft General Construction Contract.

The amendments to the General Construction Contract (“GCC”) respond to the concerns by the Legal Service of the Council related to the possibility of the Frontex Permanent Premises Project to be financed through a loan pursuant to Article 272(6) of the EU Financial Regulation (FR)<sup>1</sup>. In particular, the amendments clarify that the future Contractor will act as the dependent possessor of the Property once the Property is taken over by the Contractor in accordance with Section 7.4 of the GCC. As the construction progresses, the Contractor will be the dependent possessor of the individual parts of the Building and ultimately of the entire Building. Upon the completion of the project, the Contractor will transfer possession back to Frontex against the remuneration for the works.

It is the opinion of the Agency that the GCC (as amended) aligns closely with requirements set by Article 272(6) of the FR while respecting the legal framework applicable to this contract (i.e. Polish Civil Code). We would like to underline that the Frontex situation whereby a plot of land was donated by the host state with a sole purpose of constructing the Permanent Premises, is unique.

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<sup>1</sup> REGULATION (EU, Euratom) 2024/2509 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast)

The case does not constitute a precedence for any Agency to finance the construction of a building on a purchased plot of land by a loan.

Please find attached the Questionnaire Buildings Frontex Permanent Premises along with the updated General Construction Contract for the approval by the European Parliament in accordance with article 272(3) of the FR which applies to Frontex pursuant to Article 110 of the Frontex Financial Regulation and Article 115(13) of the Regulation 2019/1896. Furthermore, the Agency is seeking approval for a loan as detailed in the financing plan, as per Article 272(6) of the FR.

Additionally, following the possibility foreseen in the article 272(3) of the FR, Frontex requests to treat documents submitted relating to the building project confidentially.

Should you, or your services, require any further information on the project, please do not hesitate to contact me.

Yours sincerely,

*Electronically signed*

Hans Leijtens  
Executive Director

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Annex: Questionnaire Buildings Frontex Permanent Premises

## Questionnaire Buildings

### Frontex Permanent Premises

#### I. Planning Phase

- General Information on the Building project

The Project	A Design and Execution Contract for the Headquarters of Frontex Ul. Raławicka 136 02-634 Warsaw Poland
Institution/Agency	European Border and Coast Guard Agency (Frontex)
Contact person at the Agency	Uku Särekanno Deputy Executive Director for Administration and Information Management <a href="mailto:Uku.Sarekanno@frontex.europa.eu">Uku.Sarekanno@frontex.europa.eu</a> +48 785 102 374

**Please provide information on:**

- the project

It concerns the construction of Frontex Permanent Premises on the plot of land donated by the Polish Authorities. The General Construction Contract (GCC) foresees the design and execution of an office building with a net internal area of 63.161sqm for 2.000 workplaces together with a meeting and training environment for 1.800 visitors and trainees reinforcing the coordination and monitoring capabilities of the European Border and Coast Guard community.

The design and execution are estimated to take 40 calendar months from the contract signature, followed by a two-year maintenance period (counting from the date of provisional acceptance) to verify and confirm the environmental and energy parameters of the design.

The cost analysis is based on a 15-year life cycle costing (LCC) integrating operation and maintenance costs (OPEX). The financing of the project will be a combination of Frontex's own budget and external financing via a loan (see art. 272(6) of the FR<sup>1</sup>).

- the needs assessment/justification

On the basis of the European Border and Coast Guard Regulation (EU) 2019/1896<sup>2</sup> (EBCG 2.0 Regulation) and the ETIAS Regulation 2018/1240<sup>3</sup> (ETIAS Regulation), Frontex has seen its mandate expanded, leading to an increase of its activities and size. Therefore, Frontex requires the infrastructure and tools to improve the situational awareness as well increase support to the reaction capability at the external borders by enhancing its operational capacities.

<sup>1</sup> Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union.

<sup>2</sup> Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p.1).

<sup>3</sup> Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226.

The new Permanent Premises is part of a global reinforcement of the functioning of the Agency. The delivery of the necessary physical infrastructure will increase the efficiency of the mandate implementation. This does not only include monitoring and reporting for the purpose of risk analysis, situational awareness and vulnerability assessments, but also the effective functioning of control at the external borders. The latter will be enabled thanks to increased technical and operational assistance to Member States and third countries through joint operations, return and (rapid) border interventions. All the above core functions require a central hub with the technical and physical structure to coordinate and conduct these interventions centrally, as well as develop the capabilities for its own command and control structures.

Based on Article 7 of the ETIAS Regulation, the Agency should also ensure the setting up and the operation of the ETIAS Central Unit in line with the requirements for critical infrastructure.

While Member States retain the primary responsibility for the management of their external borders, the Agency must be in the position to support the coordination of the Member States' actions. This requires the necessary space for supporting staff and technical equipment both in the Agency's Headquarters and in the field.

The effective implementation of European integrated border management by the European Border and Coast Guard Agency should be ensured through close cooperation with relevant partners, including third countries and institutional parties, as appropriate by conducting coordination visits and confidential (high level) meetings.

Sufficient technical and physical infrastructure should be made available to plan safely and securely between the Member States and the Agency for border and return operations, for contingency planning and for coordinating the long-term development of capabilities, both in terms of recruitment and training and in terms of the acquisition and development of equipment; also ensuring that the Agency's and the Member State authorities' personnel receive the necessary level of training appropriate for their tasks and responsibilities.

The Agency further needs to develop and comply with the technical standards for information exchange as provided by the EBCG 2.0 Regulation. In addition, for the effective implementation of Regulation (EU) 2016/399<sup>4</sup>, common minimum standards for external border surveillance must be developed. As the Agency should monitor and support research and innovation activities in this area, these capacities should be supported by physical infrastructure where standards for border equipment can be independently tested and demonstrated.

Finally, Frontex as an EU Justice and Home Affairs (JHA) agency requires a well-secured infrastructure and communication network that at the same time protects critical functions of the EU and provides secured information exchanges within the European Border and Coast Guard. The level of accreditation of the communication network will be increased to the classification level of CONFIDENTIEL UE/EU CONFIDENTIAL. This requires an upgraded and independent Building, fulfilling the necessary strict requirements concerning security and business continuity compliant with the physical requirements for Critical Infrastructure (article 59 of the ETIAS Regulation).

Currently, Frontex HQ is spread over three Buildings and two locations. At Plac Europejski, the Agency occupies all 14 floors of Spire B and an additional 8 floors in the adjacent Wronia 31 building with a total of 28.500sqm. In addition, the Agency leases three floors for the ETIAS Central Unit and Alternative Office Facilities (ETIAS CU/AOF) in Marynarska Business Park (outside the Warsaw business district) with a total of 3.775sqm. The rental contracts for the Buildings at Plac Europejski are guaranteed until the end of 2026, while at Marynarska Business Park until the end of May 2027.

The growth of the Agency foresees a total of 1.000 staff in Frontex HQ by 2027<sup>5</sup>. In addition, the Agency should house the staff of the ETIAS Central Unit (ETIAS CU) together with a part of the supporting staff for the Standing Corps (4% of 10.000) and the Member States Liaison Officers.

Due to this growth, parts of the current Conference and Training Centre are used for operational activities such as the Frontex 24/7 Operations Centre and the Situational Assessment and Crisis Management Unit (SCU). Hence, Frontex HQ is not able to host all meeting and training facilities

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<sup>4</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).

<sup>5</sup> Revised Legislative Financial Statement Annex to Proposal COM (2018)631

required, especially for the theoretical classes and professional development courses for the Standing Corps officers.

- any relevant background information

Together with the signature of the Headquarters Agreement between Poland and Frontex in 2017, the Republic of Poland donated to Frontex a plot of land of 2,9 ha on Raławicka Street 136. On 13 May 2019 Frontex and the Polish Authorities signed a hand-over protocol for the cleaned and cleared plot of land, accepting the demolition and other preparatory works on the plot.

Article 10 of the Headquarters Agreement stipulates that in case the Raławicka plot should 'cease to serve as the Agency's headquarters or the construction process not commence within 5 years from the day on which the construction permit for the headquarters Building(s) on the land area referred to in paragraph 1 is final, the Agency shall transfer its ownership of the land area and of the Building(s), if any, to the State Treasury of the Republic of Poland. The transfer of the ownership of the land area shall be free of charge, while the Polish Party shall reimburse the Agency for the value of any existing Building(s) as of the date of transfer. Such value shall be established objectively by a commonly agreed upon third party in accordance with standard market practice.'

Following the plot transfer, the Budgetary Authority was informed via the Early Information Note on the Frontex Permanent Premises dd. 27 September 2021<sup>6</sup> on the intention of the Agency to design and construct its headquarters Building(s) in accordance with EU and Polish law. The Agency informed about its wish to implement a project focusing on a sustainable, flexible, energy efficient and well-secured building that supports a healthy work environment. The Note also referred to negotiations with the European Investment Bank to obtain a loan financing part of the investment. The Early Information Note was discussed in the European Parliament Budgets Committee on 27 October 2021.

- the current state of play/project schedule

Once the approval of the Budgetary Authority has been obtained, the Frontex Executive Director as Authorising Officer will be able to sign the General Construction Contract (see Annex 1) with the successful Consortium.

Based on the Award Decision of the Executive Director, the EIB Project Department (PJ) started the appraisal on the budget and the technical solution of the project. It is estimated that the technical appraisal by EIB will last approximately three months. Based on the approval by the Budgetary Authority, the EIB will be able to finalise its assessment and present the project for financing to the EIB Management Committee and Board of Directors, if necessary.

However, in case of non-approval by the EIB or without any decision before the deadline of validity of the offer by the Candidate i.e. end of April 2025, the Agency will finalise the alternative loan structure via the commercial market based on a Negotiated Procedure without publication (point 11.1(j) of Annex I to the EU Financial Regulations).

- **Medium / long-term Building strategy**

- What is/are the next Building project(s) of the institution?

During the design and construction period of Frontex Permanent Premises project, the Agency will need to bridge its housing needs until the project's provisional acceptance i.e. the move-in date.

In case of approval by the Budgetary Authority and after the signature of the General Construction Contract (GCC) defining the timeline for the design and construction execution of the Frontex Permanent Premises, the Agency will execute the contractual options in its existing lease agreements to extend the lease periods on the current terms and conditions. In certain cases, Frontex has the right to initiate the renegotiations of the terms and conditions of the lease contract. Therefore, the Agency will launch a market prospection comparing the conditions of the current leases with the market situation. This approach follows the information delivered in the request for approval of the Building file for 'a 24-month renewal of the real estate lease agreement of Warsaw Spire Building B on Plac Europejski 6' dd. 19 October 2023 and as announced in the Early Information Note on the Frontex Permanent Premises dd. 27 September 2021. The request for extension of the current leases

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<sup>6</sup> Early Information Note on the Permanent Premises for the Headquarters of the Agency in accordance with art 266 para 2 (TFBUILD/PECH/9189/2021)

in the Spire premises (Spire B & Wronia 31) should be announced by written notice not later than 30 June 2025. As the new lease contract should be signed 12 months before expiry of the lease term, the Agency will introduce a Building file on the extension of these leases before the end of 2025.

- How does this project fit in with the medium/long-term Building strategy of the institution?
  1. The administrative area of the project (offices) is designed in accordance with the concept of Activity-Based Working, offering a range of functional spaces (team spaces with individual workplaces, single rooms, meeting rooms, focus rooms, social rooms, flexi-desking areas etc.) that the staff use during a typical workday, depending on the task at hand. This flexibility of the physical infrastructure will be ensured in anticipation of possible fluctuation in the Agency's internal structure; the grid-based layout will allow to adapt the office space in a quick, clean and noise-free manner, reducing the time and cost of re-fitting.
  2. The masterplan of the project considers the possibility of expanding the current footprint with 30% on the existing plot. Such an extension is not included in the design of the current project, but such addition or additional buildings is spatially possible.

Finally, the Agency will revisit the opportunity of continuing the lease of the Marynarska Business Park premises as Alternative Office Facility. Hence, the ETIAS CU/AOF initial leasing contract is planned for the period of 5 years, with three possible renewals lasting one year each, resulting in a maximum duration of eight years. This interim leasing period will accommodate the planned move to the new Permanent Premises for the ETIAS CU. The possibility of a three-year extension gives the Agency the possibility to upgrade its needs in the frame of a Business Continuity Policy adapted to the actual situation.

For the institutions having adopted a medium/long-term strategy including the “to own rather than to rent” principle, the rationale behind this renting project.

The Early Information Note on Frontex Permanent Premises included (in its Project Description under article 6.1 ‘Different Construction Scenarios versus Leasing’) a comparison by Price Waterhouse Coopers Polska (PwC) of the construction scenarios against a leasing scenario, over a project horizon of 15 years. The assessment indicated an overall favourable budgetary impact for the Agency of any of the construction scenarios over the leasing scenario over the timeframe between 2021 and 2040, even with a budget increase of 30% against the initial estimation.

Given the time elapsed since the above-mentioned financial implications of the project were first estimated and in light of the original solutions proposed to Frontex in the frame of the tender procedure on 12 September 2023, the Agency conducted a second assessment in view of the up-to-date functional, financial and legal implications of the project. All assumptions were once again based on a life cycle costing (LCC) of 15 years. This to avoid that due to a low quality, reduced or postponed investments these costs are occurring later during the project's lifetime.

To compare the different scenario's, the yearly cash flows were discounted towards today at a discount rate of 4%<sup>7</sup>. In addition to make the disbursement as realistic as possible, VAT was included in the yearly payment but with assumed reimbursement after one year in line with the Frontex Headquarters Agreement. Finally, the loan conditions for the commercial loan were defined by PwC based on market research. The EIB loan parameters are the same however without a margin on top of the EURIBOR 1Y interest rate. The model was used to assess three scenarios:

1. Design and Construction partially financed from EIB loan.
2. Design and Construction partially financed from a commercial loan.
3. Rental of a similar Building in Warsaw.

This resulted in a financial modelling based on a discounted free cash flow to equity (FCFE) or Net Present Value for the above scenarios of:

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<sup>7</sup> Article 19 of COMMISSION DELEGATED REGULATION (EU) No 480/2014.

Scenario (CAPEX)	(EUR) with discount rate of 4%
Design and Construction partially financed from EIB loan.	168.519.900,00
Design and Construction partially financed from a commercial loan	193.692.580,00
Rental of a similar Building in Warsaw	210.340.130,00

The Net Present Value is used to support the investment decision financially. The detailed scenario analysis for the expenditure for the different scenarios was assessed by PwC in their financial model<sup>8</sup>.

The financially most beneficial scenario is to finance the Building either with a debt from EIB or from commercial banks, rather than to leasing.

## • Description of the current situation

Currently the Agency's Headquarters is spread over three Buildings in Warsaw, Poland. Two Buildings adjacent to each other, are located on the Warsaw Spire compound at Plac Europejski i.e. Spire B and Wronia 31. A third Building i.e. Diuna is located in Marynarska Business Park in another part of Warsaw.

**Please provide information on:**

### **Condition of the Building(s)**

- the age of the Building(s)

Frontex moved to the then newly built Warsaw Spire B in 2015. In 2017, the Agency moved to Wronia, built in the same year as Warsaw Spire B.

In July 2023 ETIAS CU moved to the Diuna Building originally developed in 2008.

- the current state of the Building(s)

All Building(s) are state-of-the-art Buildings with a BREEAM Excellent certification.

### **In the case of a rent/lease contract:**

- the duration of the rent/lease contract

The lease contracts for Warsaw Spire B and Wronia 31 are due to expire at the end of 2026, while the lease contract for Diuna expires at the end of May 2027.

- Is there any possibility for renewal/prolongation of the rent/lease contract?

Both the lease contract of Warsaw Spire B and Wronia 31 were signed with a contractual option to negotiate the renewal of the lease. Any extension should be notified to the landlord before the end of June 2025 and signed before the end of December 2025.

The lease contract of Diuna is also signed with the contractual option of possible renewal(s).

The Agency wishes to negotiate an extension until the provisional acceptance of the new Permanent Premises project, preferably with the same or better conditions.

Frontex will introduce a detailed Building File at the beginning of 2025.

### **Building surface:**

- the current surface (sqm) available

	Warsaw Spire B	Wronia 31	Diuna	Total HQ
Sqm*	20.473,29	8.003,14	3.777,72	<b>32.254,15</b>
Lease End Date	31-Dec-26	31-Dec-26	28-May-2027	

\*Usable Area

<sup>8</sup> Report on the scenario analysis for the construction of the new Frontex headquarters dd. 31<sup>st</sup> October 2023

### Staff situation:

- the actual staff number

In October 2024 the total number of Frontex staff is 2.546, divided as follows:

- Pillar A<sup>9</sup> = 1.144 staff, of which:
  - 46 are Fundamental Rights Monitors
- Pillar B<sup>10</sup> = 1.402 staff, of which:
  - 1.231 are standing corps deployable team members, of which 286 are attributed to horizontal functions at HQ in line with Frontex Management Board Decision 18/2024 of 27 March 2024 on operational horizontal functions within the European Border and Coast Guard.
  - 77 are ETIAS staff (including 1 Data Protection Officer and 3 ETIAS staff working in the Security and Information Management Division/Digital Services Unit),
  - 94 are ETIAS staff temporary re-allocated to entities in Pillar A.

- the foreseen development in the staff number

In accordance with the Legal Financial Statement for the EBCG 2.0 Regulation and for the ETIAS Regulation the total foreseen staff number for the whole Agency during the current MFF results in:

		October 2024	2027
Pillar A		1.144	1.400
Pillar B	ETIAS	171	254
	SC Category I	1.231	2.346
TOTAL		2.546	4.000

In addition, Liaison Officers and their support staff, contractors, intra-muros (ICT) consultants, and trainees will also make use of the building. Furthermore, Frontex Standing Corps Category II & III although not Frontex statutory staff will visit on regular basis Frontex HQ.

- the number of square meters/staff, detailing separately for open space offices

The initial planning for the current HQ occupied since 2015, had an overall density (including operational and conference area) of 35 sqm/workplace (GLA). To accommodate the growth of the Agency and in view of the new Permanent Premises, the Agency pursued a strategy of leasing adjacent and available additional space in combination with the densification of both existing and newly leased space. This resulted in space reduction from 35 sqm/workplace (GLA) to 26 sqm/workplace (GLA) in 2022.

Since 2020 the Agency implements Activity-Based Working that includes team spaces in different arrangements, ranging from an individual team space of 14 sqm/workplace, through a focus team space of 7sqm/workplace, to a face-to-face team space of 4,4 sqm/workplace. The latter is also used for shared workplaces (flexi-desking or hot desking) which should further reduce the density below 20 sqm/workplace (GLA).

### Cost/Price situation:

The current rents and costs for the current HQ are presented below:

Total office space HQ	sqm	32.254,15
Total non-office space	sqm	1.356,21
<b>Total HQ Area</b>	<b>sqm</b>	<b>33.610,36</b>
Rent	€/month	850.210,96
Service charges	€/month	236.848,79

<sup>9</sup> Pillar A = Headquarters staff, including SC operational support staff

<sup>10</sup> Pillar B = Operational staff



Utilities (average)	€/month	67.688,18
<b>Total costs:</b>	<b>€/month</b>	<b>1.154.747,93</b>

- the price/rent/leasing per m<sup>2</sup><sup>11</sup> its evolution over the last years and its expected evolution over the coming years in the area concerned

The price/rent/leasing per sqm per month for the current Frontex HQ is € 25,30/sqm/month overall (including non-office space i.e. storage).

- the maintenance costs per m<sup>2</sup><sup>12</sup>

The maintenance cost (service charges) per sqm is € 7,05/sqm/month (including non-office space).

- the permanent operating costs per m<sup>2</sup><sup>13</sup>

The permanent operating cost (utilities) per sqm is estimated for 2024 at € 2,01/sqm/month (including non-office space).

- the total costs for the current Building

The total cost of the current Building(s) arrives at € 1.154.747,93/month or € 13.856.975,16/year for 2024.

- the price/rent/leasing per m<sup>2</sup> evolution over the last years and its expected evolution over the coming years in the area concerned

According to reports published by Savills (*Warsaw Office Market June 2024*), headline rents in Q1 2024 in Warsaw City Centre and Central Business District (CBD) ranged on average between EUR 17,50 and 26,00/sqm/month. However, in several Buildings located in central zones rents quoted higher, exceeding EUR 27,00/sqm/month for the most attractive premises. The vacancy rate in the Warsaw central zones was 9,1% (80 bps lower y-o-y) which is significantly lower compared to Poland's average vacancy rate of 17,7%. At the end of June 2024, the total supply of office space in Warsaw was at 6,25 million sqm and ca. 45% of total supply is located in central zones with 1,01 million sqm in CBD and 1,81 million sqm in City Centre zone. The current office supply gap visible in Warsaw is likely to continue over 2024, with a slow rebound in new completions levels expected from 2025 onwards.

According to JLL, the price evolution over the last years, as well as the expected evolution during the coming years in Warsaw shows steady growth:

Rental Band (€/sqm /month)	2023	2024	2025	2026	2027	2028
Central Business District	20,00-26,00	21,00-27,00	21,50-28,00	21.50-28.50	22,00-29,00	22,00-30,00
City Centre	18,00-23,50	18,00-24,50	18,50-25,50	19,00-26,50	19,50-27,00	19,50-28,00
Non-Central	12,00-17,00	12,00-17,00	12,00-17,50	12,50-18,00	13,00-18,50	13,00-19,50

The price indexation assumed by JLL in the coming years (JLL Real estate advisory for market prospection Warsaw, 18<sup>th</sup> October 2023):

2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037
1,80%	1,90%	1,94%	1,96%	1,98%	2,00%	2,00%	2,01%	2,02%	2,02%	2,02%

<sup>11</sup> Please specify what the price/value/rent/leasing does include.

<sup>12</sup> **Maintenance costs** = all costs required to conserve the condition of a Building e.g. all costs of maintenance and repair (e.g. maintenance costs for elevator(s) etc.)

<sup>13</sup> **Permanent operating costs** = all monthly or regular costs like heating, electricity, energy costs, water, taxes, duties, fees and any other permanent costs or charges incurred. Please be aware of the fact that this list is by no means complete.

Please answer the following questions:

**Contamination/pollution:**

- Is there any contamination/pollution?  
(e.g. existence of asbestos, radioactivity or other harmful substances on the grounds, in the Building(s), in the soil)
- Is there any proof of absence of contamination/pollution?

**If applicable please specify:**

- Is the measures and the kind of measures taken to remove harmful substances/pollution

There has not been any contamination/pollution identified within the Frontex HQ (i.e. Spire B, Wronia 31 or Diuna buildings).

**Third Parties:**

- Is/are there any subtenant(s)/third party(ies)?

**If the answer is yes please specify**

Since 2019, the Agency has been the sole Tenant of the Spire B Building.

In the case of Wronia 31, the Agency is sharing the premises with other Tenants/third parties occupying the other floors. One floor used by Frontex is also partially occupied by a third party.

In the Diuna Building the Agency is only occupying 3 complete floors out of 10.

**Security:**

- Are there any specific security requirements or security related issues?

Due to the spread of Frontex over three buildings, its security concept is compromised.

Security Guards presence is limited to the Frontex main entrance in Spire B. Visitors for Spire B receive a security screening in the entrance hall.

In the Wronia 31 building the access is restricted for Frontex staff and the entrance is shared with other tenants. One floor is shared with a neighbouring tenant and the rented floors are not consecutive.

Both buildings have a parking garage accessible for the public. In addition, given that the two buildings are surrounded by a public square, the building perimeter is difficult to control.

In the Diuna building, the entrance is also shared with other tenants. Entry to the Frontex floors is controlled via access control in the lifts. There is additional access control at the Frontex reception area on the fifth floor. The Frontex Security Guards are present only at the Frontex reception area.

## **II. Public procurement and project phase**

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- **Public procurement process**

- Is/Was there a public procurement procedure?

**If the answer is no, please answer the following questions:**

- What is the reason for the absence of public procurement?
- Please name the legal basis.

**If the answer is yes, please answer the following questions and provide also information on the announcement in the European Union Official Journal:**

- What is subject to the public procurement procedure?
- What kind of public procurement procedure is applied?

- Is the tender open EU-wide? (Are there any obstacles for supplier(s)/company (ies) from other EU countries?)
- Is the tender restricted in any way?

**If the answer is yes, please answer the following questions:**

- In which sense is the procedure restricted?
- What is the reason for the restricted procedure?
- Please name the legal basis.

### **Works contract**

The 'Building project' for the design and execution<sup>14</sup> of the Frontex Permanent Premises is based on a Competitive Dialogue. The submission by the tenderers followed the consecutive phases of the Competitive Dialogue, which is subdivided in:

- Phase I: Economic operators submit their Requests to Participate;
- Phase II: The Dialogue with invited tenderers, selection of solution(s);
- Phase III: Tenderers submit their final tenders (technical and financial);

This resulted in the following steps:

1. A Contract Notice (2022/S 132-375031) was published on 12 July 2022, in the OJ inviting Candidates to introduce a Request to Participate.
2. Via a two-step procedure, Frontex first assessed the six (6) candidates that introduced a Request to Participate (Phase II.1) in relation to the exclusion and selection criteria aiming to select experienced Candidates. Four (4) candidates were invited to Phase II.2 on 22 May 2023.
3. Two (2) candidates introduced an Initial Solution, and both having been best ranked, were invited to the dialogue on 30 October 2023.
4. The tenderers submitted their Improved Solution on 12 February 2024. The Agency conducted several dialogue sessions with the different candidates ensuring confidentiality and equal treatment. The dialogue phase (Phase II.2) was closed on 7 June 2024.
5. Following the relevant legal and procurement assessments, on 23 July 2024 the Contracting Authority invited the tenderers to submit a final offer (Phase III).
6. On 16 September 2024 the Contracting Authority received two Final Offers in line with the identified solution(s).

The evaluation of the Final Offers was carried out in line with the award criteria for the selection of the tender as outlined in the Award Evaluation Grid in the Contract Notice (Appendix III).

The Contract Award presented to the Tender offering the best value for money by weighting quality criteria against price criteria on a 60/40 basis (as per the Evaluation Grid).

### **Financing agreement**

#### **European Investment Bank financing**

The loan with the EIB will be procured by Frontex via a negotiated procedure with one candidate based on the EIB statute and in compliance with the Frontex financial framework. Furthermore, Frontex has justified that the selection of an EIB loan is executed in the light of the principle of sound financial management. A comparison with a commercial loan on similar terms is attached to prove this principle (see Annex 2).

The appraisal by EIB Project Department (PJ) of the budget and the technical solution of the Final Offers including the Financial Offers of the tenderers was sent to the EIB on 28 October 2024. The appraisal includes a visit on the spot that is foreseen for 26-28 November 2024.

Based on the technical appraisal and the approval of the project by the Budgetary Authority, the Management Committee and/or Board of Directors will be able to confirm the loan.

<sup>14</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

## Private Market financing

The procurement of a commercial loan via the private market is based on a Negotiated Procedure without publication (point 11.1(j) of Annex I to the EU Financial Regulations) taking into consideration following stages:

1. Market prospection of the interested parties,
2. Launch of the tender modalities (technical requirements) for introducing a loan offer,
3. Negotiation and selection of a private funding partner.

The Agency received sufficient interest from the private market following a market teaser prepared by Price Waterhouse Cooper for a debt financing opportunity i.e. a commercial loan for Frontex.

Based on the approval by the Budgetary Authority the Agency will be able to launch the tender for financing the selected and approved project. Frontex will be assisted by a legal firm providing comprehensive assistance in closing the project financing resulting from negotiations with one or more private funding partners.

## • Results of the public procurement procedure

- What is the result of the public procurement procedure?
- How many offers have been obtained?
- Which supplier(s)/company (ies) has/have been selected?
- Is/are the selected supplier(s)/company (ies) independent from the body in charge of the Building project?
- Which assessment criteria have been applied?
- What does the selected (final) offer include?
- Is the most economic offer selected?

**If the answer is no, please answer the following question:**

- What is the reason?

The deadline for the submission of Final Offers was set on 2 September 2024. In response to requests from the candidates, the deadline was extended to 16 September 2024.

Two (2) invited candidates submitted a Final Offer:

1. Eiffage Polska Budownictwo S.A. (Consortium Leader), Eiffage Benelux (Consortium Member), Eiffage Construction Grand Projects (Consortium Member)
2. Warbud S.A.

The 2 (two) Final Offers were assessed against the award criteria. The Appendix III of the Contract Notice (CN) for the Award Criteria for selection of the tender, describes in detail the evaluation aspects with the respective weighing for each criterion.

The Evaluation Committee, following the advice from the 3 (three) Expert Teams, concluded its work. The summary grid below outlines the scores for each criterion evaluated.

	Evaluation criteria for evaluation of the Final Offer	Max. score	Score Eiffage	Score Warbud
0	Cost	40	37,67	30,46
1	Building Architecture & Functionalities	20	12,00	11,75
2	Sustainability	15	13,25	13,58
3	Operation and Maintenance	6	1,95	6,00
4	Building Information Modelling (BIM)	4	3,00	4,00
5	Time Schedule, Project & Contract Management	15	8,95	6,40
	<b>Total score</b>	<b>100</b>	<b>76,82</b>	<b>72,19</b>

Based on the above outcome, the Evaluation Committee proposed to the Authorising Officer to award the General Construction Contract to:

1. Eiffage Polska Budownictwo S.A. (Consortium Leader),
2. Eiffage Benelux (Consortium Member),
3. Eiffage Construction Grand Projects (Consortium Member).

Also referenced as “Eiffage”.

## • Description of the future situation

**Please provide information on:**

### **Future Building situation:**

- the age of the selected Building(s)

The Building will be newly constructed for the sole use of the Agency.

- the state of the selected Building(s)

The Building will be a Class A Building in line with the Building Owners and Managers Association International (BOMA) standards. By Obtaining a BREEAM Outstanding certificate, it will set an example in terms of environmental sustainability and durability and will provide conditions for an innovative, attractive, safe, and secure working environment that facilitates connection, communication and collaboration for staff and visitors.

### **Future Building surface:**

- the surface (m2) available

The Net Internal Area available above and below ground is 63.161 sqm.

- the detailed purpose of the surface e.g. office space (differentiating between ‘traditional’ offices and open space offices), archives, parking space (broken down by type of vehicle covered, including for bikes), conference rooms, meeting rooms, sanitary areas etc.

The Building is divided in a public, semi-public, administrative and a secured area separated by a state-of-the-art security control system. A separate security pavilion screens access to the semi-public area.

The semi-public area comprises of the lobby area with a reception facility, health & wellbeing facilities (medical booth & work-out area), a conference and meeting centre including classrooms with adjacent a cafeteria and canteen.

The administrative area consists of the Agency office space only accessible via a separate access control system.

The Special Purpose Areas are in the secured area with the secured room for the purpose of processing EUCI information in a technically secured area. The Special Purpose area consists of the functions specifically attributed to Frontex in the EBCG 2.0 mandate and/or requiring a more specific physical lay-out or fit-out.

The detailed purpose of the surface breakdown of the Building concept design:

Area Description	Sqm (NIA)
Regular Offices	22.284
Special Purpose Areas (Operations & Monitoring Room, Innovation & Technology Centre, ETIAS Central Unit, Centre of Excellence for Document Fraud, Security Pavilion incl. Security Operational Centre, ICT Operational Area, Data Centre & Strong Room)	12.633
Conference/Meeting Area & Classroom Facilities incl. Canteen & Cafeteria	6.542
<i>Subtotal Semi-Public, Administrative &amp; Secured Area</i>	<i>41.459</i>

Central Storage & Archive	1.934
Technical/Miscellaneous Areas	8.288
Underground Parking	11.480
<b>Total Usable Area (NIA incl. circulation &amp; sanitary facilities)</b>	<b>63.161</b>

The underground parking will be offering 400 parking spaces for Frontex staff, especially for the staff working in shift regime. A bicycle parking with 200 spaces and their facilities are available above ground at the main entrance of the Building to incentivise its use.

The office fit-out will be based on the concept of Activity-Based Working in accordance with the Frontex Workplace Concept. The different working functionalities such as focus booths/rooms, meeting spaces, etc. will be used to break up clusters of desks and create semi-open, more private team zones of ideally 8 to 12 desks to provide staff's comfort. Long runs of desks will be avoided. It is anticipated that the vertical plane is also used to create semi-partitions, for example by using planting, whiteboards, furniture, etc. Circulation will be well planned, enabling communication and interaction away from the desk, while assuring sufficient comfort for those seated at nearby desks. All workspaces will not be further than 6m from the window with natural light. Kitchen areas and break out areas will offer employees space for social interaction. Supporting space consists of the switch room, print hub, wardrobe, storage in the team space, enclosed storage on the office floors and lockers for the shared space.

The Special Purpose Areas are required to secure the operational capacities of the Agency. In addition, the Conference/Meeting Area including Classroom Area for specialized meetings supporting the implementation of Frontex mandate, and for theoretical trainings and courses in Integrated Border Management (IBM) related areas.

Linked to this area is the Canteen & Cafeteria to serve the needs of Agency staff as well as visitors, including conference participants and VIP Visitors.

Finally, supporting areas are foreseen with various functions necessary to meet the logistical needs of the Agency as well as provide technical and facility services to the Building.

#### **Future Cost/Price situation:**

- the price/rent/leasing per m<sup>2</sup><sup>15</sup>, its expected evolution over the coming years in the area concerned

The design & construction cost for the entire investment including the plot development and the Building, reflected in the price per sqm of the Building is € 3.443,03/sqm overall (including non-office spaces i.e. storage or technical areas).

According to preliminary data published by Statistics Poland (GUS), in June 2024 the prices of construction and assembly production in comparison with the corresponding month of the previous year increased by 6.0%.

In comparison with June 2023, the increase of prices was noticed in civil engineering — by 6.5%, in specialised construction activities — by 5.7%, and in construction of Buildings — by 5.6%.

Even though compared to double-digit surges in construction costs in 2022 – 2023 the situation in the construction market in 2024 appears to be more stable, the construction cost increase will be amongst driving factors for further rental price increase.

- the average price/rent/leasing per m<sup>2</sup> for other comparable Buildings in this area

The market prospection report by JLL (JLL Real estate advisory for market prospection Warsaw of 18 October 2023 indicates that in Warsaw only four (4) projects are available within the requested size and timeline which could meet Frontex's criteria up to a certain extent: The Bridge, VIBE I & II, Towarowa 22 I & II and Drucianka Campus. The only realistic option out of the four presented is the Bridge project from Ghelamco on Plac Europejski. However, this location has already been proven to have security issues, the tower will not be conducive for creating a common culture, and finally fit-out

<sup>15</sup> Please specify what the price/value/rent/leasing does include

works and adaptations are estimated to cost approximately EUR 100m to comply with functional requirements for Frontex Special Purpose Areas, business continuity and security requirements.

Asking office rent (JLL Q4 2023) for the shortlisted office space:

Project	sqm/month (EUR)
The Bridge	22,5-25,0
VIBE (phase I and II)	22,5
Towarowa 22 (Buildings A and B)	23,5
Drucianka Campus	18,5

The Bridge project was also used to financially compare the Design & Construction scenario with the Renting scenario.

It is important to note that as the market demand for prime locations is dynamic, part of this vacant space is already under lease negotiations and has already been or may soon be removed from the market.

- the maintenance costs per m2<sup>16</sup>

The maintenance cost per sqm is estimated at € 5,52/sqm/month (including non-office space).

- the permanent operating costs per m2<sup>17</sup> (Are there any expected savings compared to the current situation e.g. energy, heating etc.?)

Based on the 2024 utility costs and occupation ratios, the operating cost per sqm is estimated at €1,50/sqm/month. This is a reduction of more than 35% compared to the current situation.

- the total costs for the project<sup>18</sup>

The total project cost (CAPEX) is 217.465.281,01EUR or 931.807.699,92PLN.

Following the indexation mechanism included in art. 10.4 of the GCC, linked with inflation in the construction sector (materials & labour) and the preliminary data published by Statistics Poland (GUS) together with the currency exchange PLN/EUR rate risk, a cost increase over the time of implementation is estimated at 15%. This results in a total estimated project cost of **250.085.073,15EUR**.

The following expenditures (excluding VAT) in nominal terms over 40 months planned timeline for the design and execution. A 15% contingency budget is foreseen for variation orders in line with Appendix E of the GCC.

EUR (mio)	2025	2026	2027	2028	Subtotal
Estimated (Yearly) Total	26,46	61,82	114,69	47,12	<b>250,09</b>
Contingencies (15%)	3,97	9,27	17,20	7,07	<b>37,51</b>
<b>Total Project Budget</b>	<b>30,43</b>	<b>71,09</b>	<b>131,89</b>	<b>54,19</b>	<b>287,60</b>

The project will be financed for 25% through the Frontex administrative budget. The costs will be financed through the budget allocated to the EBCG 2.0 Regulation in the current MFF as defined in the Revised Legal Financial Statement in Annex I to Proposal COM (2018)631.

<sup>16</sup> **Maintenance costs** = all costs required to conserve the condition of a Building e.g. all costs of maintenance and repair (e.g. maintenance costs for elevator(s) etc.)

<sup>17</sup> **Permanent operating costs** = all monthly or regular costs like heating, electricity, energy costs, water, taxes, duties, fees and any other permanent costs or charges incurred. Please be aware of the fact that this list is by no means complete.

<sup>18</sup> Please name investment and financing

The VAT reimbursement will follow the procedure agreed with the Polish Authorities in the Headquarters Agreement as for all other invoices payable by the Agency.

Finally, an Engineering and Supervision Framework Contract will advise during the design phase and supervise the execution of the construction works, costing an estimated amount of 9.222.091EUR. This also includes the obligation, stemming from the Polish construction law, to appoint a Site Supervisors Team (Inspektor Nadzoru Inwestorskiego).

#### **Replacement/abandonment/demolished of Building(s):**

##### **If applicable please specify:**

- the Building(s) and the use of the Buildings to be replaced/abandoned/demolished
- What are the costs involved (e.g. demolition costs for each Building)?

On 13 May 2019, Frontex and the Polish Authorities signed a hand-over protocol for the cleaned and cleared plot of land, accepting the demolition and other preparatory works on the plot.

#### **Contamination/Pollution of the future Building:**

- Is there any contamination/pollution?  
(E.g. existence of asbestos, radioactivity or other harmful substances on the grounds, in the Building(s), in the soil)
- Is there any proof of absence of contamination/pollution?

##### **If applicable please specify:**

- the measures and the kind of measures to be taken to remove harmful substances/pollution from the selected Building(s)

The future Building as well as the plot will be free of any contaminants or pollutants.

As part of the plot hand-over procedure in 2019 the external expert report revealed minor soil contamination associated with the plot's location in the vicinity of heavy traffic routes (Racławicka Street, Żwirki i Wigury Street) and the surrounding urban areas. With reference to the Polish national legislation on the methods of evaluation of soil surface contamination, the report concluded that no activity was carried out on the plot causing historical soil contamination.

- Is there any proof of absence of contamination/pollution?
- the measures and the kind of measures to be taken to remove harmful substances/pollution from the selected Building(s)

The pollution will be eliminated based on a Remediation Plan approved by the Regional Directorate for Environmental Protection. The remediation process will be part of the preliminary works in the scope of the General Contractor Contract (GCC) and is included in the preliminary works of the Design & Construction.

#### **Accessibility:**

- Are the premises accessible for handicapped persons?

The entire project is compliant with the 'design for all' principles making both exterior and interior spaces fully accessible to individuals with physical or visual disabilities. All elevators are wheelchair accessible, and furniture such as reception counters are adapted for wheelchair users. All pedestrian pathways are marked with tactile paving, enabling orientation in outdoor and indoor public areas. Finally, signage as well as elevator controls will all be translated into braille, meeting all national legislation, standards and norms for people with disabilities.

- Are public transport facilities given?

The project is in an area with well-developed public transportation facilities. There is a public bus stop (1 minute walking distance) serving 3 bus lines and another bus stop serving 6 lines (less than 4 minutes walking distance) in the direct vicinity of the plot. The closest metro station is 2 kilometres away, while a tram line to the city centre is on Wołoska Street (12 minutes walking distance), 1 km to



the east. A sub-urban fast train station is located some 800m to the south-west from the plot (10 minutes walking distance). A bike path, separate from the street runs in front of the plot.

The Chopin International Airport is less than 5 kilometres away and is easily reachable by public transport. Alternatives to public transport are shared mobility systems including a network of city bicycles and various car-sharing services.

#### **Third Parties:**

- Is/are there any subtenant(s)/third party(ies)?

**If the answer is yes please specify**

Frontex does not intend to sublease any part of the Building or parts of the plot.

#### **Security:**

- Are there any specific security requirements or security related issues?

The masterplan of the project consists of a completely independent Security Pavilion in front of the Building. The pavilion is part of the security design based on three layers of defence. The plot perimeter is secured by integrated landscaping elements avoiding access to the plot but simultaneously creating a green and welcoming entrance. For staff, (VIP) guests and deliveries, regardless of the means of transport used, the first access control will be executed at the extremities of the plot, in the separate Security Pavilion.

Internal physical security in the Building will be achieved through an appropriate lay-out of the premises. The key functions of the Agency will be oriented to the centre of the Building, away from external areas directly accessible from public spaces.

Sufficient blast risk mitigation measures, developed via a dedicated study, will be implemented in the plot landscaping and Building facades.

Meticulous consideration was given to deliver resilience in connections to external infrastructure and communication networks that at the same time protect critical functions of the EU and provide secured information exchange. For this reason, the Permanent Premises will fulfil strict requirements concerning business continuity compliant with the physical requirements for the Critical Infrastructure (article 59 of the ETIAS Regulation).

The highest security and 2N business continuity needs are also principles in the design and delivery of in-house Class 4 (as per EN 50600) Data Centre. Own data storage and management will enable safe and uninterrupted services for processing information up to EUCI Restricted level in administrative areas and EUCI Secret level in the Strong Room. The Data Centre will be delivered in modules, starting with Stage 1 of 300kW, aligning its size to Frontex estimated needs and keeping a flexible approach towards a financial and environmental efficient future cost for a larger data centre.

#### **Sustainability:**

- In the framework of the Green Deal, is the sustainability, both in terms of environmental impact and longevity, of the Building ensured?

**If the answer is yes please specify**

In line with the EU Green Deal objectives the project will contribute to decrease the Agency's carbon footprint by reduction of energy produced from non-renewable sources.

The Building will be compliant with the EU Taxonomy in the scope for „Construction and real estate activities” sector referring to „Construction of new Buildings” Activity, as well as in line with the nearly zero energy Buildings (NZEB) principle, which advocates for combining energy efficiency and renewable energy generation so that Buildings consume only as much energy as can be produced onsite.

The Building will reach BREEAM Outstanding level and satisfy additional sustainability requirements, including, but not limited to, water management, biodiversity, energy performance, and monitoring. Advanced dynamic energy modelling will be used as design tool to confirm actual Building loads, optimise plant sizing and the Building carbon footprint. This will result in precise and lower peak

capacities than traditional “static” approaches, leading both to a reduction of the installation cost and improvement of systems efficiency. These in turn will result in the lowering of the operational carbon footprint. Part of the demand for energy consumption will be satisfied with renewable energy systems: photovoltaic panels and ground source energy. Passive design measures that harness environmental conditions will be implemented to meet reduced Building loads, including among others maximisation of natural lighting, taking advantage of the shading and mixed mode ventilation systems.

The overall strategic goal is the sustainability of the Building in terms of operability, maintainability, adaptability and flexibility. The flexibility dimension shall be considered in terms of space, time and technologies resulting in a balance between systems and technologies promoting bio-climate and circularity.

The Primary Energy Demand, defining the energy performance of the Building resulting from the construction, will be at least 30% lower than the threshold set for the NZEB standard as defined in the Polish Building codes at the moment of the request for the Building permit. The energy performance is certified using an as built Energy Performance Certificate (EPC).

#### **Teleworking:**

- The COVID-19 crisis will have long-term consequences for the necessary office space. How has this been taken into account in the present project?

A Workplace Analysis was executed by Cushman & Wakefield on the use of the office space by Frontex staff in 2019 resulting in a Frontex Workplace Concept rooted in the idea of Activity-Based Working and supporting the underlying principles of time and place independent work, diversity of workspaces to accommodate staff's needs during a workday, and an emphasis on cross-entity collaboration and knowledge exchange.

The floors will be fitted out based on the Activity-Based Working concept putting emphasis on concentration, collaboration and team spaces in different arrangements ranging from individual team space of 14sqm/workplace through a focus team space of 7sqm/workplace, to a face-to-face team space of 4.4sqm/workplace.

A smart office solution such as an Integrated Workplace Management Software (IWMS) will support the new workplace experience of staff and provide an overview of the space occupancy. It should also be possible to monitor the use of the premises, which in turn will allow for more efficient use of resources and thus for savings on space, energy, building charges, costs of maintenance, cleaning, etc.

However, working remotely cannot be applied to all entities due to functions in the 24/7 shift regime. Therefore, hybrid working is not foreseen for these functions as they share already their workplace.

Office workspaces will be designed in such a way as to allow – in case of a health crisis - a safe, recommended distance between the staff members when working at their workplace. Diverse meeting and collaborative spaces with adequate AV equipment will support hybrid meetings. In case of necessity, the modularity of the Building will enable changes in partitioning of spaces. Finally, efficient use of space avoiding wasted space and efficient use of conference and meeting rooms will be possible following a data-driven Building operation.

**A comparison of the current situation to the future situation would be favourable especially for the cost situation and the surface (spread sheet).**

#### **• Project Financing**

**Please provide information on the project financing and answer the following questions:**

- How is the project financed?  
(Please name the relevant budget lines and provide the financial plan)
- Are there any financial partners?
- Are there any follow-up costs (financial interest, cost for intermediate companies etc.)?
- Is there a cost-benefit analysis?

- Are revenues used for the financing?

**If revenues are used for the financing, please answer the following questions:**

- What is the origin of the revenues and what are the revenues intended for?
- What is the total amount of revenues received annually?
- What is the total amount of revenues received so far?
- Has information on the revenues been published in the budgetary procedures?

Based on the assessment of the DG BUDG it is possible to qualify a Building that was tendered via a works contract as a Building acquisition project on the condition that:

- the principle of equilibrium is maintained between the acquired asset and the booked inventory,
- the constructor should have a temporary right of use while he performs the works.

Both conditions have been included in the draft General Contractors Contract confirmed by DLA Piper legal advisors.

DG BUDG confirmed that there is no material difference in the accounting treatment of the acquisition of a Building through a loan or the leasing of a Building over a long time, which should be the case for Permanent Premises.

In both cases, the asset value is depreciated over the useful life of the Building; the debt is reduced by the reimbursement of the 'capital' part of the debt or the payment of the 'capital' part of the rent.

Therefore, the Agency wishes to seek to finance the project with a 75% Loan to Cost debt financing which results in following cash flow including 23% VAT returns after 12 months during implementation:

EUR (mio)	2025	2026	2027	2028	Subtotal	Contingencies of 15%
Loan	19,85	46,37	86,02	35,34	<b>187,57</b>	28,13
Frontex Budget	6,62	15,46	28,67	11,78	<b>62,52</b>	9,38
Estimated (Yearly) Total	26,47	61,82	114,69	47,12	<b>250,09</b>	<b>37,49</b>
VAT payment (23%)	6,09	14,22	26,38	10,84	<b>57,52</b>	8,63
VAT return (23%)	0,00	-6,09	-14,22	-26,38	<b>-46,68</b>	-8,63
Estimated Subtotal (CAPEX)	<b>32,55</b>	<b>69,95</b>	<b>126,85</b>	<b>31,58</b>	<b>260,93</b>	<b>37,51</b>

The impact on the financial resources of the Agency including financial costs for an EIB loan with a fixed interest rate currently at 2.95% results in:

EUR (mio)		2025	2026	2027	2028	Subtotal	Contingencies of 15%
Frontex Budget	CAPEX	6,62	15,46	28,67	11,78	<b>62,52</b>	9,38
	VAT	6,09	8,13	12,16	-15,54	<b>10,84</b>	0,00
	Financial Costs	0,21	1,21	3,17	4,93	<b>9,52</b>	1,43
Estimated (Yearly) Total		<b>12,91</b>	<b>24,80</b>	<b>44,00</b>	<b>1,17</b>	<b>82,88</b>	<b>10,81</b>

The impact on the financial resources of the Agency including financial costs for a commercial loan on an interest rate 6m EURIBOR + a margin of 0.4% results in:

EUR (mio)		2025	2026	2027	2028	Subtotal	Contingencies of 15%
Frontex Budget	CAPEX	6,62	15,46	28,67	11,78	<b>62,52</b>	9,38
	VAT	6,09	8,13	12,16	-15,54	<b>10,84</b>	0,00
	Financial Costs	0,54	1,09	2,70	4,19	<b>8,52</b>	1,28
<b>Estimated (Yearly) Total</b>		<b>13,24</b>	<b>24,68</b>	<b>43,53</b>	<b>0,43</b>	<b>81,88</b>	<b>10,66</b>

A grace period, i.e. postponing the start of the loan repayments by 4 years results in a yearly loan repayment of EUR12,5 m/year until the end of 2043, excluding financial costs (see Annex 2).

The financial model estimates the residual value at accrual terms at 69.136.174EUR.

Both the concessional loan offer by the EIB as per September 2024 and the market sounding by PwC in July 2024 with commercial banks, are included in the financing plan. The financing plan for the EIB includes an indicative fixed rate of 2.95% for 15 years.

During the market sounding eight banks confirmed their interest and signed NDAs with Frontex. Indicative rating-based financing were tested to allow up to 100% financing of the CAPEX. The banks indicated appetite for providing financing up to 19 years (grace on capital repayment of up to 5 years) and do not require any collaterals (except for few banks which require voluntary submission to enforcement under Polish law).

Indicative preliminary non-binding offers assume:

- Arrangement fee, margin (within the range of 0,4% - 1,5% p.a.),
- Commitment fee (range: 0,0% – 0,38% p.a.) and
- Administration fee (range: 0% - 0,26%).

Commercial loan would be based on EURIBOR 3M or 6M which need to be determined during the finalisation of the Negotiated Procedure.

The financing plan is based on the offer from ING Bank Śląski with an interest rate of EURIBOR 6M with a margin of 0.4%. The total Financing Costs for the Commercial Loan is lower than for the EIB loan due to the Financial Model (see Annex 2) in which the 6M EURIBOR forecast goes under the 2,95% fixed interest rate of the EIB as from March 2026.<sup>19</sup> However, the EIB loan brings due to its fixed rate a lower risk for the budget estimations of the Agency.

The total financing cost for the EIB loan over 15 years is fixed at 50.306.000EUR. For the commercial loan this is estimated at 43.232.000EUR over 15 years.

## • Legal Situation

- Who is currently the owner of the Building(s)?
- Since when is/are the Building(s)/premises/land property of the current owner?
- Has there been a rent- or buy-decision?
- Please provide information on the legal situation /obligations

Frontex is since 10 February 2020 the full owner of the plot of land of 2,9 ha on Racławicka Street 136 registered in the Cadaster under number WA2M/00520624/2.

The decision to own instead of leasing has been taken on the basis of the scenario analysis for the construction of the new Frontex headquarters by PwC. The scenario analysis is based on a 15-year life cycle costing (LCC) integrating operation and maintenance costs (OPEX) both for Design & Construction partially financed by a 75% Loan to Cost (LtC) loan.

<sup>19</sup> Frontex - financial calculator new HQ, dated 24 October 2024 by PwC.

The General Construction Contract, a Design & Execution Contract with two (2) years maintenance will be executed by the consortium Eiffage Polska Budownictwo S.A. as Consortium Leader with two Consortium Members i.e. Eiffage Benelux and Eiffage Construction Grand Projects from France.

The Architects firms Sud Architects S.A.S, SUD Architekt Polska Sp. z o.o. and Jaspers & Eysers s.a. are included as subcontractors together with Arup Polska Sp. z o.o as engineering company.

The consortium passed the selection based on their legal, economic & financial and technical & professional capacity as published in the Contract Notice.

**If applicable please provide information on:**

*Building construction / renovation projects:*

- When will the construction/renovation period start/end?
- Do you expect any problems with the project timetable?
- Why is the renovation/construction considered to be the most favourable option?
- Is/are there any other Building(s) affected by the project?

The Consortium design and execution timeline is fixed at 40 months.

• **Contract**

**Please name:**

- any specific contractual agreements and any discounts, fines, compensations, refunds, etc.

The Agency opted for a design & build approach, combining two usually separate services into a single Tender Process and Contract. The main advantage of this structure is that it integrates the design team and the Contractor from the start of the project.

When the maintenance period of two years covered by the Contract ends, maintenance will be the responsibility of Frontex, outsourced to a maintenance contractor under a separate service contract.

The Contract is a public works contract, as its subject-matter specifically covers the execution of activities listed in Annex II to Directive 2014/24/EU (including construction of new Buildings), even if the Contract covers the provision of other services necessary for such activities.

The draft GCC is the result of consolidated input from external legal consultant (DLA Piper) and Frontex Legal Services based on the analysis of the comments provided by the Candidates during the dialogue (Phase II.2).

The GCC is based on European Union law as governing law regarding public procurement and the legal status of Frontex, and Polish law regarding civil and contract law aspects, construction process regulations, environmental law and copyrights law.

The GCC also includes an expanded two-tier dispute resolution procedure that will effectively compel the Parties to seek for amicable settlement. In first instance a dispute is mediated by a Conciliation Committee, followed by an Independent Expert or Dispute Adjudication Board. The dispute shall be resolved finally under the Rules of Arbitration of the International Chamber of Commerce by an arbitral tribunal consisting of three arbitrators appointed in accordance with them. The seat of arbitration shall be in Warsaw, Poland. The arbitration shall be conducted in English, and the jurisdiction of Polish courts is excluded.

Indexation (valorisation) clauses are used on the Polish market and are a market standard also for design and execution type of contracts. Including such clauses in the Agreement shows the collaborative approach of the investor and should have a positive effect on the cooperation with the Contractor, and therefore on the Project execution. However, as there is no generally accepted standard indexation formula for construction works in Poland, an indexation clause will be based on a valorisation basket including selected weighted percentages published by the President of the Central Statistical Office. Valorisation of the remuneration will be executed once every 6 months with a cap of 15% of the Remuneration for the total value of all changes due to indexation.

On the other hand, Eiffage introduced an offer with Daily Liquidated Damages of 0,1% of the Accepted Contract Amount for each day of delay with a penalty cap of 15%. This cap was accepted and included on the advice of the Legal Advisors as it is rather unlikely that the total value of the penalties will reach the level of 15%. On the other hand, the Performance Bond included in the contract should secure proper performance of the Contract.

Furthermore, with the currency exchange risk on the remuneration being a deal-braker Frontex agreed to a contract in PLN, as is the case for most of its current Contracts.

The contract also foresees a retention of 5% of the total lump sum at the end of the Design & Construction works as a guarantee until the substantial acceptance. After the rectification of the outstanding items 2,5% will be returned.

As for nominated subcontractors, the areas in which such a solution would be desired are outlined (whenever possible) in a non-exhaustive list in Appendix H of the GCC.

Finally, the timeframe of the Construction Guarantee Period counted from the Completion Date is split as follows:

- a. 120 months for the structural elements of the Building construed within the Construction Works; the structural elements of the Building shall be understood as, inter alia: the Building's structural concrete columns, concrete ceilings, load-bearing slabs, concrete structural beams, outer concrete walls, foundations, load-bearing elements and the roof (including the roof steel structure excluding painting, and the roofing weathertightness providing that regular service maintenance shall be performed by the roofing contractor);
- b. 60 months for elements of the Building other than structural construed within the Construction Works;
- c. 24 months for Equipment installed in the Building within the Construction Works, unless its manufacturer or supplier or the Subcontractor has given a guarantee for a longer period in which case the longer period shall apply;
- d. 60 months for the Guaranteed Parameters excluding the Guaranteed Energy Consumption and the Guaranteed Tap Water Consumption;
- e. 24 months for the Guaranteed Energy Consumption and the Guaranteed Tap Water Consumption.)

### **III. Project Finalisation**

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#### Please provide information on the project outcome

Based on the approval by the European Parliament and the Council, the Agency will finalise the negotiations with the EIB and/or the commercial banks based on the approved budget for the project.

Once external financing is finalised in line with the financing model in Annex 2, the Authorising Officer i.e. the Frontex Executive Director will sign the General Construction Contract.

From the Agency's side a governance structure has been set up to guarantee a proper project management approach and adequate quality assurance.

The Engineering & Supervision Framework Contract with Ayesa Polska daughter company of Ayesa International in consortium with ECM Polska, will assist Frontex during the implementation of the General Construction Contract. This Supervision and Quality Management Consultancy will review the detailed design, supervise construction and deliver Contract monitoring.

The available profiles include experts in Project Management, Cost Controlling and Quantity Surveying and a Site Supervisors Team (Inspektor Nadzoru Inwestorskiego) in line with Polish construction law. The Consultancy offers expertise in Project Management with technical and international managerial experience ensuring control of the quality of works during Contract implementation.

The Building permit will be the responsibility of the Contractor following the signing of the Contract. The plot is part of a closed area (within the meaning of Poland's Geodesy Law) (teren zamknięty), giving the Mazovian Voivodship Office (Mazowiecki Urząd Wojewódzki w Warszawie) the authority to deliver the Building permit. Non-objection from the Mazovian Directorate on Environmental

Protection (RDOŚ - Regionalna Dyrekcja Ochrony Środowiska w Warszawie) and a Decision from the Voivodship for establishing the public purpose investment on the plot have already been secured.

Frontex will transfer to the Contractor full rights and responsibilities for the plot as from the signature of the Contract. Provisional acceptance of the premises, commencing the occupancy of the Building, will start after obtaining an occupancy permit from the Regional Building Supervision Inspector (Wojewódzki Inspektor Nadzoru Budowlanego).

In line with the awarded offer, the Agency should be able to start occupying its new Permanent Premises after 40 months from the signing of the GCC.

As from the move-in by the Agency, a two-year maintenance period will start to verify the energy performance criteria of the design.

Any other relevant information

- Please provide any additional information you might consider relevant

The following Annexes are enclosed to provide relevant additional information:

Annexes:

1. Draft General Construction Contract
2. Financing Plan

## Permanent premises Project Financing plan

### EIB

Free Cash Flow to Equity	'25	'26	'27	'28	'29	'30	'31	'32	'33	'34	'35	'36	'37	'38	'39	'40	'41	'42	'43	
CAPEX	(26.5)	(61.8)	(114.7)	(47.1)	(0.0)	(0.0)	(0.4)	(0.5)	(2.1)	(1.9)	(0.7)	(0.1)	(0.8)	(2.1)	(0.9)	(0.4)	(1.5)	(2.9)	(6.3)	(270.9)
Debt drawdown/repaymen	19.8	46.4	86.0	35.3	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(0.0)
Financial Costs	(0.2)	(1.2)	(3.2)	(4.9)	(5.3)	(4.9)	(4.5)	(4.2)	(3.8)	(3.4)	(3.1)	(2.7)	(2.4)	(2.0)	(1.6)	(1.3)	(0.9)	(0.5)	(0.2)	(50.3)
<b>Total FCFE</b>	<b>(6.8)</b>	<b>(16.7)</b>	<b>(31.8)</b>	<b>(16.7)</b>	<b>(17.8)</b>	<b>(17.4)</b>	<b>(17.4)</b>	<b>(17.2)</b>	<b>(18.4)</b>	<b>(17.9)</b>	<b>(16.3)</b>	<b>(15.3)</b>	<b>(15.7)</b>	<b>(16.6)</b>	<b>(15.0)</b>	<b>(14.2)</b>	<b>(14.9)</b>	<b>(15.9)</b>	<b>(19.0)</b>	<b>(321.3)</b>
<b>Residual Value</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	69.1	69.1
<b>FCFE + RV</b>	<b>(6.8)</b>	<b>(16.7)</b>	<b>(31.8)</b>	<b>(16.7)</b>	<b>(17.8)</b>	<b>(17.4)</b>	<b>(17.4)</b>	<b>(17.2)</b>	<b>(18.4)</b>	<b>(17.9)</b>	<b>(16.3)</b>	<b>(15.3)</b>	<b>(15.7)</b>	<b>(16.6)</b>	<b>(15.0)</b>	<b>(14.2)</b>	<b>(14.9)</b>	<b>(15.9)</b>	<b>50.1</b>	<b>(252.1)</b>

### Commercial Loan

Free Cash Flow to Equity	'25	'26	'27	'28	'29	'30	'31	'32	'33	'34	'35	'36	'37	'38	'39	'40	'41	'42	'43	
CAPEX	(26.5)	(61.8)	(114.7)	(47.1)	(0.0)	(0.0)	(0.4)	(0.5)	(2.1)	(1.9)	(0.7)	(0.1)	(0.8)	(2.1)	(0.9)	(0.4)	(1.5)	(2.9)	(6.3)	(270.9)
Debt drawdown/repaymen	19.8	46.4	86.0	35.3	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(12.5)	(0.0)
Financial Costs	(0.5)	(1.1)	(2.7)	(4.2)	(4.5)	(4.2)	(3.9)	(3.5)	(3.2)	(2.9)	(2.6)	(2.3)	(2.0)	(1.7)	(1.4)	(1.1)	(0.8)	(0.5)	(0.2)	(43.2)
<b>Total FCFE</b>	<b>(7.2)</b>	<b>(16.5)</b>	<b>(31.4)</b>	<b>(16.0)</b>	<b>(17.0)</b>	<b>(16.7)</b>	<b>(16.7)</b>	<b>(16.6)</b>	<b>(17.9)</b>	<b>(17.4)</b>	<b>(15.9)</b>	<b>(14.9)</b>	<b>(15.3)</b>	<b>(16.3)</b>	<b>(14.8)</b>	<b>(14.0)</b>	<b>(14.8)</b>	<b>(15.9)</b>	<b>(19.0)</b>	<b>(314.2)</b>
<b>Residual Value</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	69.1	69.1
<b>FCFE + RV</b>	<b>(7.2)</b>	<b>(16.5)</b>	<b>(31.4)</b>	<b>(16.0)</b>	<b>(17.0)</b>	<b>(16.7)</b>	<b>(16.7)</b>	<b>(16.6)</b>	<b>(17.9)</b>	<b>(17.4)</b>	<b>(15.9)</b>	<b>(14.9)</b>	<b>(15.3)</b>	<b>(16.3)</b>	<b>(14.8)</b>	<b>(14.0)</b>	<b>(14.8)</b>	<b>(15.9)</b>	<b>50.1</b>	<b>(245.0)</b>