

Low-Value procurement procedure Tendering Conditions

1. Introduction

The European Maritime Safety Agency (EMSA) was established under Regulation 1406/2002/EC of the European Parliament and of the Council to contribute to the enhancement of European maritime safety.

Any interested service provider may submit an offer in response to the publication of invitation to tender.

2. Bid submission

A bid can be submitted either through e-mail (option 1) or through registered post, hand-delivery, private courier (option 2). The option applicable for the procurement procedure is indicated in the **Invitation to tender**.

The bids must be perfectly legible so that there can be no doubt as to words and figures.

2.1 Option 1 – Submission by e-mail

In case the **Invitation to tender** indicates that the bid should be sent to EMSA electronically, the date and hour of deadline shall be the one indicated in the Tender Specifications. The hour is stated in Lisbon time. The offer should be duly signed by the authorised representative, scanned and submitted by e-mail to the e-mail address stated in the **Invitation to tender**. The size of the mail may not exceed 12 Mb per one email. Please note that an original hard copy of the offer including all accompanying documentation will be requested from the company to which the contract is awarded.

2.2 Option 2 – Submission by registered post, hand-delivery or private courier

In case the **Invitation to tender** indicate that the bid should be sent to EMSA by registered post, hand-delivery or private courier, tenderers who wish to submit an offer should send to EMSA **a bid duly signed** by their authorised representative, together with **three (3) copies** of their bid, strictly identical to the original bid (total: 1 original and 3 copies). Bids can be submitted in three different ways:

- a) either by registered post

in this case the bid should be posted not later than the deadline stated in the **Invitation to tender** (the stamp of the **post office** acting as proof).

- b) or by hand-delivery

in this case hand delivery should be made not later than the deadline stated in **Invitation to tender**, hour 16h00 (Lisbon local time). A dated and signed receipt issued by an official of EMSA has to be requested by the person delivering the bid as proof of delivery of the bid.

- c) or by private courier service to the European Maritime Safety Agency
in this case the bid should be 'deposited' with the private courier service not later than the deadline stated in the Invitation to tender (the slip issued by the private courier services acting as proof).

3. **Validity tender**

Period of validity of the tender, during which tenderers may not modify the terms of their tenders in any respect shall be 12 months as from the submission deadline stated in the **Invitation to tender**

4. **Acceptance EMSA conditions**

Submission of a bid implies full acceptance of the Purchase Order available at <http://emsa.europa.eu/work/procurement/calls.html> and, where appropriate, waiver of the tenderer's own general or specific terms and conditions. These requirements are binding on the tenderer to whom the contract is awarded for the whole duration of the contract.

5. **Supporting evidence**

The specification, listing all the documents that must be produced in order to tender, including supporting evidence of economic, financial, technical and professional capacity and the Purchase Order are available under the Procurement Section relevant to the present call to tender on the EMSA website at the following address <http://emsa.europa.eu/work/procurement/calls.html>

6. **Contact between EMSA and interested tenderers**

Contacts between the contracting authority and tenderers are prohibited throughout the procedure save in exceptional circumstances and under the following conditions only:

6.1 Before the final date for submission of tenders:

At the request of the tenderer, EMSA may provide additional information solely for the purpose of clarifying the nature of the contract.

Any requests for additional information must be made in writing and sent to the e-mail address stated in the **Invitation to tender**.

Requests for additional information received less than five working days before the closing date for submission of tenders will not be processed.

EMSA may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other clerical error in the text of the call for tenders.

Any additional information including that referred to above will be published on EMSA website <http://emsa.europa.eu/work/procurement/calls.html>

6.2 After the opening of tenders

If clarification is required or if obvious clerical errors in the tender need to be corrected, EMSA may contact the tenderer provided the terms of the tender are not modified as a result.

EMSA may negotiate with tenderers the offers they have submitted, in order to adapt them to the requirements set out in tender specifications or any additional document and in order to find the tender offering best value for money. During negotiations equal treatment of all tenderers will be ensured.

7. Subcontracting

If the tenderer intends to either sub contract part of the work or realise the work in co-operation with other partners he shall indicate in his offer which part will be subcontracted, as well as the name and qualifications of the subcontractor or partner. (NB: overall responsibility for the work remains with the tenderer).

If the tenderer relies on the capacities of subcontractors to fulfil selection criteria as specified in the **Invitation to tender** (technical and professional capacity) then each subcontractor must provide the required evidence for the exclusion and selection criteria. To rely on the capacities of a subcontractor does not mean that the contractor has to use deliveries or services of another company but that this company and its special capacity is central to the capacity of the contractor to fulfil the contract and that it cannot be easily changed or replaced. The exclusion criteria and the selection criteria for "economic and financial capacity" will be assessed in relation to each economic operator individually. Concerning the selection criteria for "technical and professional capacity", the evidence provided will be checked to ensure that the tenderer and its subcontractors as a whole fulfils the criteria.

8. Joint Offer

Groupings, irrespective of their legal form, may submit bids. Tenderers may, after forming a grouping, submit a joint bid on condition that it complies with the rules of competition. Such groupings (or consortia) must specify the company or person heading the project and must also submit a copy of the document authorising this company or person to submit a bid.

Each member of the consortium must provide the required evidence for the exclusion and selection criteria. The exclusion criteria and the selection criteria for "economic and financial capacity" will be assessed in relation to each economic operator individually. Concerning the selection criteria for "technical and professional capacity", the evidence provided by each member of the consortium will be checked to ensure that the consortium as a whole fulfils the criteria.

If awarded, the contract will be signed by the person authorised by all members of the consortium. Tenders from consortiums of firms or groups of service providers, contractors or suppliers must specify the role, qualifications and experience of each member or group.

9. Requirements as to the tender

Bids can be submitted in any of the official languages of the EU. The working language of the Agency is English.

The tenderer shall complete the Tenderer's checklist

If the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners (Join Offers) he shall indicate in his offer by completion of the form – Information regarding joint offers and subcontracting.

The tender must be presented as follows and must include:

Signed cover letter indicating the name and position of the person authorised to sign the contract/order form and the bank account on which payments are to be made.

Financial Form completed, signed and stamped; available on the Procurement Section (Financial Form) on the EMSA Website at the following address: <http://emsa.europa.eu/work/procurement/calls.html> **Legal Entity Form** completed, signed and stamped and requested accompanying documentation, available on the Procurement

Section (Legal Entity Form) on the EMSA Website at the following address:
<http://emsa.europa.eu/work/procurement/calls.html>

Tenderers are exempt from submitting the Legal Entity Form and Financial Form requested if such a form has already been completed and sent either to EMSA or any EU Institution previously. In this case the tenderer should simply indicate on the cover letter the bank account number to be used for any payment in case of award.

Part A: all the information and documents required by EMSA for the appraisal of tenders on the basis of the point **11.3 (Exclusion criteria)** if required by the **Invitation to tender**

Part B: all the information and documents required by the contracting authority for the appraisal of tenders on the basis of the **Economic and Financial capacity** (part of the Selection criteria) set out under point **11.4** and in the **Invitation to tender** if required by **Invitation to tender**

Part C: all the information and documents required by the contracting authority for the appraisal of tenders on the basis of the **Technical and professional capacity** (part of the Selection Criteria) set out under point **11.5** and in the **Invitation to tender** if required by **Invitation to tender**

Part D: all the information and documents required by the contracting authority for the appraisal of tenders on the basis of the **Award Criteria** set out under point **10** and in **Invitation to tender**.

10. Price

- Price must be quoted for the subject in the **Invitation to tender** and shall be all-include.
- Prices must be fixed amounts and non-revisable.
- Prices must be quoted in euro.
- Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Communities, the latter is exempt from all duties, taxes and other charges, including VAT. This applies to EMSA pursuant to the Regulation 1406/2002/EC. Therefore price and the amount of VAT must be shown separately.

11. Information concerning the personal situation of the service provider and information and formalities necessary for the evaluation of the minimum economic, financial, technical and professional capacity required (if applicable)

11.1 Legal position – means of proof required

When submitting their bid, tenderers are requested to complete and enclose the **Legal Entity Form** available on the Procurement Section on the EMSA Website at the following address: <http://emsa.europa.eu/work/procurement/calls.html>

11.2 Grounds for exclusion – Exclusion criteria

To be eligible to participate in this contract award procedure, tenderers must not be in any of the following exclusion grounds:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity;
- (f) following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

11.3 Evidence to be provided by the tenderers

For this purpose the Declaration on Honour available on the Procurement Section on the EMSA Website (<http://emsa.europa.eu/work/procurement/calls.html>) shall be completed and signed.

11.4 Economic and financial capacity – Selection criteria

- Tenderers are exempt from submitting the documentary evidence if such evidence has already been completed and sent to EMSA for the purpose of another procurement procedure and still complies with the requirements. In this case the tenderer should simply indicate on the cover letter the procurement procedure where the evidence has been provided.
- If, for some exceptional reason which EMSA considers justified, a tenderer is unable to provide one or other of the above documents, he may prove his economic and financial capacity by any other document which EMSA considers appropriate. In any case, EMSA must at least be notified of the exceptional reason and its justification in the tender. EMSA reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

11.5 Technical and professional capacity – Selection criteria

The Requirements and Evidence as stated in the **Invitation to tender**

12. Contract award scheme

The contract can be awarded either on the basis of the lowest price (option 1), or best value for money basis (option 2). Which scheme applies depends on what is stated in the Depending on what is stated in in the **Invitation to tender**.

In case exclusion and selection criteria are set only the tenders meeting the requirements of the exclusion and selection criteria will be evaluated at this stage.

1.1. Option 1 – Lowest price

The contract will be awarded to the tenderer who submits the bid with the lowest price.

1.2. Option 2 – Best value for money

The contract will be awarded to the tenderer who submits the most economically advantageous bid (the one with highest score) based on the quality criteria and their associated weightings as stated in the in the **Invitation to tender**.

For all bids evaluators will give marks between 0-10 (half points are possible) for each quality criterion.

The score is calculated as $S = SQ + SP$ where:

The average quality for quality criterion i is

$$Q_i = \frac{1}{\text{number of evaluators}} * \sum_{\text{evaluator}} \text{mark of the evaluator for quality criterion } i$$

The overall weighted quality is

$$Q = \sum_i Q_i * W_i$$

The score for quality is

$$SQ = \frac{Q}{Q \text{ of the bid with highest } Q} * 100 * \sum_i W_i$$

The score for price is

$$SP = \sum_i \frac{\text{lowest Price}_i \text{ of all bids}}{\text{Price}_i} * 100 * W_{\text{Price}_i}$$

Only bids that have reached a minimum of 60 % for each quality criterion Q will be taken into consideration when calculating the score for quality SQ , score for price SP and score S .

Only bids that have reached a minimum of 70 % for the score S will be taken into consideration for awarding the contract.

13. Contracts will not be awarded to tenderers who during the procurement procedure

- (a) are subject to a conflict of interest
- (b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

14. False declarations

Without prejudice to the application of penalties laid down in the contract, tenderers and contractors who have been guilty of making false declarations concerning situations referred to in points 12 and 13 above or have been found to have seriously failed to meet their contractual obligations in an earlier procurement procedure or grant shall be subject to administrative and financial penalties set out in Article 145 of Commission Delegated Regulation of 29.10.2012 on the rules of application of Regulation (EU) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union.

15. Other conditions

- Public Procurement rules applying to calls for tender launched by EMSA are contained in the EMSA Financial Regulation under the Financial Regulation section on the EMSA website (www.emsa.europa.eu).

- This procurement procedure is in no way binding on EMSA. EMSA contractual obligation commences only upon signature of the contract with the successful tenderer.
- Up to the point of signature, the contracting authority may either abandon the procurement or cancel the award procedure, without the candidates or tenderers being entitled to claim any compensation. This decision must be substantiated and the candidates or tenderers notified.
- Once EMSA has opened the tender, the document shall become the property of EMSA and it shall be treated confidentially.
- Tenderers will be informed by the Agency whether or not their bids have been accepted.
- If your offer includes subcontracting, it is recommended that contractual arrangements with subcontractors include mediation as a method of dispute resolution.
- Processing your reply to the invitation to tender will involve the recording and processing of personal data (such as your name, address and CV). Such data will be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate your tender in accordance with the **Invitation to tender** and will be processed solely for that purpose by Head of unit responsible for management of the contract specified in the **Invitation to tender**. Details concerning processing of your personal data are available on the privacy statement "[Information on personal data protection in procurement procedures](http://www.emsa.europa.eu/about/personal-data-protection.html)" at: <http://www.emsa.europa.eu/about/personal-data-protection.html>
- Your personal data may be registered in the Central Exclusion Database (CED) by the Accounting Officer of the Commission, should you be in one of the situations mentioned in the Commission Regulation 2008/1302 of 17.12.2008 on the Central Exclusion Database (for more information see the Privacy Statement on http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm#BDC E)