

Tender Specifications

Attached to the Invitation to tender

Invitation to tender No. EMSA/NEG/11/2021 for Verification and validation under EMAS

1. Introduction

The European Maritime Safety Agency (EMSA) was established under Regulation (EC) No 1406/2002 of the European Parliament and of the Council¹ for the purpose of ensuring a high, uniform and effective level of maritime safety.

EMSA decided to work towards the certification under the European Eco-Management and Audit Scheme (EMAS) as provided by the revised Regulation (EC) No 2017/1505 ("EMAS III") and ISO 14001 as an additional step in its overarching commitment to the protection of the environment.

2. Objective, scope and description of the contract

The objective of the contract is to audit and verify EMSA's compliance to the EMAS and ISO14001 regulations and to get the related certification with the relevant authorities. Before this audit can take place, an internal audit will be conducted by another contractor and its outcome addressed by EMSA.

This is EMSA's initial registration/ verification process in environmental matters. An initial Environmental Management System has just been developed during 2020 and started to be implemented. It is not yet certified.

The contractor shall do, in accordance with the EMAS Regulation (EC) No 1221/2009, the verification of EMSA's initial Environmental review, Environment Management System, internal audit procedure and its implementation, and EMSA's Environmental Statement.

Included and parallel to this shall be the necessary steps for the ISO14001 certification.

EMSA's business falls under NACE Code O.84 - NACE O.84.11 is most applicable, aspects of NACE O.84.21 and O.84.24 are related.

EMSA operates one single premise, its office building in Lisbon, at Praça Europa, Cais do Sodré.

Usually (before the COVID pandemic) EMSA's building in Lisbon is frequented by up to 250 personnel.

This building, staff, and all EMSA's activities, areas and items come under the foreseen scope of the EMAS registration / ISO14001 certification. This includes inspections, trainings, information networks and operational services for the maritime community, also when conducted abroad from Portugal.

Information on EMSA's business can be found at: <http://www.emsa.europa.eu/>

¹ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1.).

EMSA's work language is English, whilst the EMAS registration must be done in Portugal through the Portuguese environmental authority responsible for EMAS implementation, in Portuguese. The entire process will have to be bilingual; English and Portuguese will be required to deal with documents and staff and resulting documents, including reports, must be produced in both languages.

3. Contract management responsible body

EMSA Unit 4.2 in charge of Legal, Finance & Facilities Support - will be responsible for managing the contract.

4. Project Planning

The service is planned to be requested in October 2021. Dates for document access, handovers, deliveries, and verification/ validation/ audit days will be discussed between EMSA and the contractor upon signature of the contract; precise planned dates shall be agreed by 15 September 2021.

5. Timetable

The estimated date for signature of the contract is August 2021.

6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 5,000.00 excluding VAT.

7. Terms of payment

Payments will be made in accordance with the provisions of the draft **Purchase Order** available in the Procurement Section under the call to tender **EMSA/NEG/11/2021** on EMSA's website (www.emsa.europa.eu).

8. Terms of contract (purchase order)

When drawing up a bid, the tenderer shall bear in mind the terms of the draft Purchase Order.

EMSA may, before the contract is signed, cancel the award procedure without the tenderers being entitled to claim any compensation.

9. Financial Guarantees

Not applicable.

10. Subcontracting

If the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners it shall indicate in its offer which part will be subcontracted, as well as the name and qualifications of the subcontractor or partner. It should be noted that the overall responsibility for the work remains with the tenderer.

The tenderer must provide required evidence for the exclusion and selection criteria on its own behalf and, when applicable, on behalf of its subcontractors. The evidence for the selection criteria on behalf of subcontractors must be provided where the tenderer relies on the capacities of subcontractors to fulfil

selection criteria². The exclusion criteria will be assessed in relation to each economic operator individually. Concerning the selection criteria, the evidence provided will be checked to ensure that the tenderer and its subcontractors as a whole fulfil the criteria. However, the selection criteria may apply individually where it is relevant in view of their nature.

11. Requirements as to the tender

Bids can be submitted in any of the official languages of the EU. However, as the main working language of the Agency is English, bids should preferably be submitted in English and shall in particular include an English version of the documents requested under points 13.5 and 14 of the present Tender Specifications. The tenderer must comply with the minimum requirements provided for in these Tender Specifications. This includes compliance with applicable obligations under environmental, social and labour law established by Union law, national law and collective agreements or by the international environmental, social and labour law provisions listed in Annex X to Directive 2014/24/EU of the European Parliament and of the Council.³

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) it shall indicate it in its offer by completing the form "Statement of Subcontracting / Joint Offer". This document is available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website (www.emsa.europa.eu).

The tender must be presented as follows and must include:

- a) A signed **cover letter** indicating the name and position of the person authorised to sign the contract/purchase order, the bank account on which payments are to be made and the email address to be used for contacts during the procurement procedure.
- b) **The Financial Identification Form completed**, signed and stamped. This document is available on the Procurement Section (Financial Identification Form) of EMSA's website (www.emsa.europa.eu).
- c) **The Legal Entity Form** completed, signed and stamped along with the requested accompanying documentation, including recent proof of that authorisation (not more than one year old). This document is available on the Procurement Section (Legal Entity Form) of EMSA's website (www.emsa.europa.eu)

Tenderers are exempt from submitting the Legal Entity Form and Financial Identification Form requested if such a form has already previously been completed and sent either to EMSA or any EU Institution. In this case the tenderer shall 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 the contracting authority for the appraisal of tenders on the basis of the points 10, 13 13 and 14.2 of these specifications (exclusion criteria).

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 14.4 of these specifications.

² To rely on the capacities of a subcontractor means that the subcontractor will perform the works or services for which these capacities are required.

³ 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 (OJ L 94, 28.3.2014, p. 65).

Part C: 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 1616 of these specifications;

Part D: Setting out prices in accordance with point 12 of these specifications.

12. Price

- a) Price must be quoted for Verification and validation under EMAS and shall include all the elements described under Point 2.
- b) Prices must be fixed amounts and non-revisable.
- c) Prices must be quoted in euro.
- d) Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Union, 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.

13. 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 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 group must provide the required evidence for the exclusion and selection criteria. The exclusion criteria will be assessed in relation to each economic operator individually. Concerning the selection criteria, the evidence provided by each member of the group will be checked to ensure that the group as a whole fulfils the criteria. However, the selection criteria may apply individually where it is relevant in view of their nature.

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

14. Information concerning the personal situation of the tenderer and information and formalities necessary for the evaluation of the minimum economic, financial, technical and professional capacity required.

14.1 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 of EMSA's website (www.emsa.europa.eu).

14.2 Grounds for exclusion – Exclusion criteria

To be eligible to participate in this contract award procedure, a tenderer must not be in any of the exclusion situations listed in the Declaration of Honour.

For this purpose, the Declaration of Honour available on the Procurement Section of EMSA's website (www.emsa.europa.eu) shall be completed and signed.

14.3 Legal and regulatory capacity – Selection criteria

14.3.1 Standards / Prerequisites

The tenderer must have the legal and regulatory capacity to pursue the professional activity needed for performing the contract.

In particular, the tenderer shall be accredited by the *Instituto Português de Acreditação, I.P. – IPAC* for conducting external audits under EMAS Regulation (*Verificadores Ambientais EMAS*).

14.3.2 Evidence

Copy of IPAC accreditation for EMAS audits.

14.4 Economic and financial capacity – Selection criteria

14.4.1 Standards / Prerequisites

The tenderer must be in stable financial position and must have the economic and financial capacity to perform the contract.

14.4.2 Evidence

Not applicable.

15. Declaration of Honour (DoH)

Please note that the tenderer shall provide information with regards its situation and on the natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control and beneficial owners.

Upon request and within the time limit set by EMSA, the tenderer shall provide the following evidence concerning itself, the natural or legal persons as listed under the first paragraph, and concerning the natural or legal persons which assume unlimited liability for the debt of the tenderer:

For the exclusion situations described in points (a), (c), (d), (f), (g) and (h) of the Declaration of Honour, production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the tenderer showing that those requirements are satisfied.

For the exclusion situations described in (a) and (b) of the Declaration of Honour, production of recent certificates issued by the competent authorities of the country of establishment is required. These documents must provide evidence covering all taxes and social security contributions for which the tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The successful tenderer must provide the documents mentioned as supporting evidence before signature of the contract and within the deadline given by EMSA. This requirement applies to each member of the group in case of joint tender.

If the tenderer already submitted such evidence for the purpose of another procedure, its issuing date does not exceed one year and it is still valid, the person shall declare on its honour that the documentary evidence has already been provided and confirm that no changes have occurred in its situation.

16. Award criteria

The contract will be awarded to the tenderer that offers the lowest price.

17. Rejection from the procedure

Contracts will not be awarded to tenderers who, during the procurement procedure, are in one of the following situations:

- A. are in an exclusion situation;
- B. have misrepresented the information required as a condition for participating in the procedure or have failed to supply that information;
- C. were previously involved in the preparation of procurement documents used in the award procedure where this entails a breach of the principle of equality of treatment, including distortion of competition that cannot be remedied otherwise.

18. Intellectual Property Right (IPR)

Please consult the contract for IPR related clauses.

If the results are not fully created for the purpose of the contract this shall be clearly pointed out by the tenderer in the tender. Information shall be provided about the scope of pre-existing rights, their source and when and how the rights to these rights have been or will be acquired.

In the tender all quotations or information originating from other sources and to which third parties may claim rights have to be clearly marked (source publication including date and place, creator, number, full title etc.) in a way allowing easy identification.