

Enclosure 1 - Tender Specifications

Attached to the Invitation to tender No EMSA/OP/10/2016 for the supply of portable dispersant application systems, tank containers and loading system for dispersants

1.	Introduction.....	3
2.	Objective, scope and description of the contract	3
2.1	Overall objective.....	3
2.2	Division into lots	3
2.3	Specific requirements.....	4
2.4	Description of the contract system	4
2.4.1	Framework supply contract	4
2.4.2	Specific Contract	5
2.4.3	Request for quotation	5
2.5	Testing, Delivery and Acceptance.....	6
2.5.1	Factory Acceptance Test (applicable only for lot 1, 2 and 3).....	6
2.5.2	Delivery of the equipment and Certificate of Conformity	6
2.5.3	Additional services	6
3.	Contract management responsible body	7
4.	Contract implementation overview	7
5.	Timetable.....	8
6.	Estimated Value of the Contracts	9
7.	Terms of payment	9
8.	Terms of contract	9
9.	Financial guarantees	9
10.	Subcontracting	9

11. Requirements as to the tender.....	10
11.1 General requirements	10
11.2 Content of the tender	10
12. Price	11
13. Joint Offer.....	11
14. Information concerning the personal situation of the service provider and information and formalities necessary for the evaluation of the minimum economic, financial and technical capacity required	12
14.1 Legal position – means of proof required.....	12
14.2 Grounds for exclusion - exclusion criteria	12
14.3 Economic and financial capacity – Selection criteria	13
14.4 Technical and professional capacity – Selection criteria	13
14.5 Legal and regulatory capacity – Selection criteria	14
14.6 Evidence to be provided by the tenderers.....	14
15. Award criteria	15
16. Rejection from the procedure	16
17. Intellectual Property Right (IPR)	16

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. Among its tasks, the Agency EMSA received the mandate to “work with the Member States to support with additional means, in a cost efficient way, the pollution response actions in case of pollution caused by ships as well as marine pollution caused by oil and gas installations, when a request for assistance has been presented” (Art. 2 (3) d of Regulation (EC) No. 1406/2002 as amended).

EMSA's Action Plan for Oil Pollution Preparedness and Response (2004), as well as the Action Plan for Response to Marine Pollution from Oil and Gas Installations (2013), as updated by the annual Work Programmes, identify how to implement these tasks.

These documents are available on EMSA's website, www.emsa.europa.eu under 'Publications'.

2. Objective, scope and description of the contract

2.1 Overall objective

The primary objective of this open procedure is to conclude four framework contracts for the supply of three seaborne portable dispersant application systems types, and one for the supply of tank containers together with the loading system for dispersants.

The contractor shall deliver the equipment to one of the EMSA stockpiles located in selected European Union or European Free Trade Association (EFTA) countries as identified by EMSA within each specific contract. The equipment provider may also be requested (where applicable) to provide additional services, such as training on the operation of the equipment, commissioning and performance of an Acceptance Test.

2.2 Division into lots

The open procedure is divided into four lots. Tenderers may decide to submit an offer for one or more lots. Similarly, tenderers may submit more offers for the same lot if these are for different technical solutions.

For each lot the equipment's technical requirements, as well as other elements relevant for the evaluation of the tenders, are presented in the Annexes attached to these Tender Specifications as indicated in the table below:

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.).

Lot No	Type of system	Description of the system	Relevant Annex with detailed specifications to be used as bid template
1	Single nozzle spraying concept	Portable seaborne dispersant application spraying system by means of a set of 2 single-nozzles able to spray from each side of a “vessel of opportunity”	Annex 1
2	Spraying arms with multiple nozzles	Portable seaborne dispersant application system by means of a set of 2 spray-arms, fitted with multiple nozzles, able to spray from each side of a “vessel of opportunity”	Annex 2
3	Spraying arms with multiple nozzles (ATEX certified)	Portable seaborne dispersant application system ATEX certified by means of a set of 2 spray-arms, fitted with multiple nozzles, able to spray from each side of a “vessel of opportunity”	Annex 3
4	Tank containers and loading system for dispersants	ISO tank containers (10 and 20 feet) for the storage, transport and operation of dispersants, and system consisting in pumps, hoses and manifold to load dispersants simultaneously from several IBCs into the tank containers	Annex 4

2.3 Specific requirements

For each type of equipment or lot (as mentioned in point 2.2 of these Tender Specifications) the technical requirements are presented in the correspondent Annex (Annexes 1 to 4 to these Tender Specifications).

When drawing up their offers, tenderers must fill in the Annex relevant for a specific lot by including in the tables highlighted in grey a description of the proposed system, as well as reference to specific documentation or any other information that is deemed to be necessary for evaluation purposes.

Tenders that meet the minimum requirements described in the section “Minimum Requirements” (point 1 of the relevant Annex) will be further considered for the evaluation of the quality award criteria (point 15 of these Tender Specifications).

For Lots 1, 2 and 3, tenders may include in their offers “**other ancillaries**” different from the components that are considered to be necessary for the functionality of the system. Where other ancillaries are offered, each individual price shall be specified in the relevant Annex. Nevertheless, the “other ancillaries” will not be considered for evaluation purposes, but they might be ordered by EMSA if requested in the specific contract (see point 2.4.2 of these Tender Specifications).

2.4 Description of the contract system

2.4.1 Framework supply contract

At the conclusion of this open procurement procedure EMSA intends to sign with the successful tenderers (hereinafter referred to as “contractor”) one individual framework supply contract for each of the four lots. For each lot the award will be done in accordance with the award criteria set in point 15 of these Tender Specifications.

The duration of each framework supply contract will be of four years. The signature of framework contracts does not constitute order *per se* and does not entail any obligation on the part of EMSA to purchase.

The framework supply contract will lay down the overarching legal, financial, technical and administrative provisions governing the relationship between EMSA and the contractor during the period of validity of the framework supply contract.

On its own initiative or on request by EMSA, the Contractor might, if agreed by EMSA, update the items in the equipment and ancillaries list of supplies once a year to adjust to production changes in the models and their options at a price whose relationship to the prevailing market price for equivalent items remains constant. In updating its price list, prices may be reduced at any time, but never increased as indicated in Article I.3.5 of the draft framework supply contract (Enclosure 2).

2.4.2 Specific Contract

Actual ordering of supplies will be placed after the framework supply contract has entered into force through specific contracts concluded upon EMSA's initiative.

EMSA may decide either to purchase a whole equipment set or selected equipment components. Accordingly, EMSA will identify both type and number of components to be purchased in each specific contract.

The specific contracts will be in line with the conditions laid down in the relevant framework supply contract itself, in particular regarding prices, and will set the specific terms for the supply of the equipment (i.e. time and place of delivery, and exact quantity of equipment components to be supplied).

With regard to equipment to be purchased under Lots 1, 2 and 3, if it is requested by EMSA, in the specific contract the parties may also agree on the terms and conditions for the performance of the following additional services:

- commissioning of the equipment,
- two day training for the technicians designated by EMSA and
- Acceptance Test of the equipment at the place identified by EMSA.

The provision of additional services may be included in the same specific contract for the purchase of equipment. Nevertheless, if requested by EMSA, a specific contract for the provision of additional services only may also be signed between the parties.

The prices of the equipment as well as the cost of the additional services in the specific contract shall reflect the prices included in the contractor's tender and will not be subject to negotiation.

Each specific contract will indicate if the contractor has required a pre-financing and if EMSA has imposed a bank guarantee to it.

Additional services are not applicable to specific contracts concluded for the supply of tank containers and loading system for dispersants (Lot 4).

2.4.3 Request for quotation

Before each specific contract is signed by both parties, EMSA will send a request for quotation to define the following terms and conditions that might form part of the specific contract:

- Cost to transport the equipment from the contractor's factory to the delivery place specified by EMSA in accordance with the price (EUR/Km) offered in the tender;

- Maximum number of weeks that are estimated for delivering the equipment from the moment the specific contract is signed;
- Request for pre-financing as per Article I.6.1 of the draft framework supply contract and need or not for a bank guarantee.

EMSA will set the quantity of the individual components to be purchased in the Draft Order Summary (Annex A to Specific Contract) that is attached to the request for quotation.

The contractor shall provide a reply within the maximum period of two weeks from the receipt of EMSA request. EMSA may decide to offer a specific contract within four weeks from the receipt of the quotation.

2.5 Testing, Delivery and Acceptance

2.5.1 Factory Acceptance Test (applicable only for lot 1, 2 and 3)

For each specific contract the Contractor shall be obliged to notify by e-mail on the exact date and location of the Factory Acceptance Test (FAT) at least 4 weeks in advance. The contractor shall also provide EMSA with a schedule for the FAT indicating timing and sequence of testing.

During the test the equipment design, manufacturing and performance should be assessed. EMSA representative may witness the FAT. Following one week from the FAT, the contractor shall submit the FAT Report and will provide EMSA with a detailed testing check list and drawings. If any discrepancies and/or non-conformities have been noted during the performance of the FAT, the contractor will report them by filling in a Non Conformities List. If it is deemed appropriate, the FAT may be rescheduled at a date and time agreed by the parties.

2.5.2 Delivery of the equipment and Certificate of Conformity

Conditioned to EMSA's approval of the FAT Report, the equipment shall be delivered at the time and place set in the specific contract. However, the maximum delivery time shall not exceed six months from the signature of the specific contract by the contractor.

Following the receipt of the equipment at the delivery place, EMSA, or a representative designated by EMSA, will verify that quantity, quality, price and packaging are conformed to the conditions indicated in the specific contract.

If the conformity of the equipment is confirmed, EMSA will issue the Certificate of Conformity within four weeks from the date of delivery.

2.5.3 Additional services

Additional services such as training, commissioning and Acceptance Test are applicable only for offers submitted under Lots 1, 2 and 3.

When one or more additional services are foreseen in the same specific contract for the purchase of equipment, these services will be performed after the delivery of the equipment.

The commissioning of the equipment and training services shall take place within maximum two months from the delivery of the equipment and the Acceptance Test shall be organised within maximum one month from the date of commissioning and training services.

EMSA may request in the specific contract that the contractor shall provide only the additional services independently from the purchase of equipment. Accordingly, the time and place for the provision of the additional services shall be agreed by the parties in the specific contract.

Within two weeks from the performance of the additional services, the contractor shall send to EMSA the Final Technical Report, including a detailed description of the type of activities performed and attaching pictures as evidence.

EMSA shall have four weeks from receipt to approve the report with or without comments or reservations. When an Acceptance Test is foreseen in the specific contract, EMSA may decide to reject the report if any failure is noted during the performance of the test. The Acceptance Test may be rescheduled at another time and place agreed by the parties.

When additional services are foreseen, EMSA shall issue the Certificate of Conformity after the acceptance of the Final Technical Report.

3. Contract management responsible body

EMSA– Unit C.1, in charge of Pollution Response Services, will be responsible for managing the contract.

4. Contract implementation overview

The four framework contracts are planned to be signed for a period of four years. The major events along with the execution of the framework contracts are shown in the table below:

Article in FWC	Event	Comment	Indicative time	Documents from the contractor	Payment scheme
	Signature of the framework contracts by both parties	End of the open procedure	October 2016		
I.4.3.1	Submission of quotation to EMSA	The contractor will specify transportation cost and delivery time, and will indicate if the pre-financing will be requested	Within 2 weeks from receipt of EMSA request	Quotation	
I.4.3.2	Dispatch of two originals of specific contract to the contractor	Upon EMSA initiative and if the quotation has been accepted	Within 4 weeks from receipt of the quotation		
I.4.3.2	Return of specific contract to EMSA	The contractor will return two originals of specific contract to EMSA signed and dated	Within 2 weeks from its dispatch	Specific Contract	
I.6.1	Invoice for pre-financing and	On request EMSA will pre-finance up to	Contractor's request to be sent	Invoice for pre-financing (and	Pre-financing 30%

	bank guarantee if requested by EMSA	30% of the total value of the equipment	within 30 days from signature of the specific contract	bank guarantee if applicable)	
I.4.3.3	Factory Acceptance Test (FAT)	Equipment design, manufacturing and operation to be assessed	Place and time to be notified to EMSA at least 4 weeks in advance	FAT Report	
I.4.4	Delivery of the equipment	The contractor will deliver the equipment at the place and time agreed in the specific contract	Maximum delivery time is 6 months from the date of entry into force of the specific contract		
I.4.5	If applicable, submission of the Final Technical Report	If additional service(s) are included in the specific contract	Within 2 weeks from the performance of the service(s)	Final Technical Report	
I.4.4 and I.4.5	Certificate of Conformity issued by EMSA and invoice request	Options: a) After delivery, if the equipment is found to be conform with the order, or b) After acceptance of the Final Technical Report, if additional services are included in the specific contract following the equipment delivery	Options: a) Within 4 weeks from equipment delivery, or b) Within 4 weeks from acceptance of the Final Technical Report		
I.6.3	The contractor will send the invoice for payment of the balance	Upon receipt of the Certificate of Conformity	EMSA will pay within 30 days from receipt of the invoice	Invoice for balance payment	Balance payment

5. Timetable

The estimated date for signature of the contract is October 2016.

6. Estimated Value of the Contracts

The maximum budget available for each lot, which will result in a separate framework supply contract, is EUR 1,200.000 excluding VAT, covering their four years duration. Nevertheless, EMSA does not expect to purchase equipment for the maximum amount under each lot.

7. Terms of payment

Payments shall be issued in accordance with the provisions of the draft framework supply contract (Enclosure 2 to the Invitation to Tender) available in the Procurement Section under the call to tender EMSA/OP/10/2016 on EMSA's website (www.emsa.europa.eu).

8. Terms of contract

When drawing up a bid, the tenderer should bear in mind the terms of the draft framework supply contract.

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

9. Financial guarantees

In case of request of pre-financing, for specific contracts with a value of more than EUR 60,000, EMSA may, based on risk assessment, request the contractor to provide a pre-financing guarantee equal to at least 30% of the total price of the specific contract. A model of the required pre-financing guarantee is included in Annex IV to the draft framework supply contract (enclosure 2 to the Invitation to Tender letter).

10. Subcontracting

If the tenderer intends to either subcontract 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. 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.

11. Requirements as to the tender

11.1 General requirements

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 should in particular include an English version of the documents requested under points 14.4 (Technical and professional capacity – Selection criteria) and 15 (Award criteria) 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

11.2 Content of the tender

The tenderer shall complete the Tenderer's Checklist (Enclosure 4 to the invitation to tender letter).

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 and the bank account to which payments are to be made.
- b) The **Financial Form** completed, signed and stamped. This document is available on the Procurement Section (Financial Form) of EMSA's website (www.emsa.europa.eu).
- c) The **Legal Entity Form** completed, signed and stamped along with the requested accompanying documentation. 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 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 should simply indicate on the cover letter the bank account number to be used for any payment in case of award.

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).

- d) **Statement of Subcontracting/Joint Offer** as per Enclosure III to the invitation to tender letter in case the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners (Joint Offers).
- e) **Declaration on Honour** as per Enclosure V to the invitation to tender required by the contracting authority for the appraisal of tenders on the basis of points 10, 13, 14.1 and 14.2 of these Tender Specifications (**Exclusion criteria**).
- f) All the **information and documents** required by the contracting authority for the appraisal of tenders on the basis of the Economic and Financial capacity set out under point 14.3 of these Tender Specifications (**Selection criteria**).
- g) Additional **information and documents** required by the contracting authority for the appraisal of part of the Technical and Professional capacity on the basis of point 14.4 of these Tender Specifications (**Selection criteria**).
- h) 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 15 of these Tender Specifications.
- i) Setting out **prices** in accordance with point 12 of these Tender Specifications. Tenderers shall complete the list of prices in point 3 "Price Offer Template" of the Annex to these Tender Specifications corresponding to the lot(s) they would link to tender for. All price elements should be filled in. Failure to complete a price element may lead to the rejection of the offer.

12. Price

- a) Prices for the supply of portable dispersant application systems, tank containers and loading system for dispersants shall include the prices of the individual items as well as of the additional services (only for Lots 1, 2 and 3) as listed in point 3 "Price Offer Template" of the relevant Annex.
- b) Prices must be quoted in Euro.
- c) Prices must be fixed amounts, non-revisable and remain valid for the duration of the contract.
- d) Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Union, EMSA is exempt from all duties, taxes and other charges, including VAT. This applies to EMSA pursuant to the Regulation (EC) No 1406/2002. These duties, taxes and other charges can therefore not enter into the calculation included in the bid. 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 (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 will be assessed in relation to each economic operator individually. Concerning the selection criteria 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.

14. Information concerning the personal situation of the service provider and information and formalities necessary for the evaluation of the minimum economic, financial and technical 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** and requested accompanying documentation, available in the Procurement Section (Legal Entity Form) 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 following exclusion situations:

- a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations;
- b) it is subject to a final judgement or a final administrative decision establishing that it is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract ;
- c) it is subject to a final judgement or a final administrative decision establishing that it is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:
 - i. fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;
 - ii. entering into agreement with other persons with the aim of distorting competition;
 - iii. violating intellectual property rights;
 - iv. attempting to influence the decision-making process of the contracting authority during the award procedure;
 - v. attempting to obtain confidential information that may confer upon it undue advantages in the award procedure ;
- d) it is subject to a final judgement establishing that the person is guilty of any of the following:
 - i. fraud
 - ii. corruption
 - iii. participation in a criminal organisation
 - iv. money laundering or terrorist financing
 - v. terrorist-related offences or offences linked to terrorist activities
 - vi. child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council
- e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an Authorising Officer, OLAF or the Court of Auditors;

- f) it is subject to a final judgement or a final administrative decision establishing that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;
- g) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the applicant is subject to:
 - i. facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;
 - ii. non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;
 - iii. decisions of the ECB, the EIB, the European Investment Fund or international organisations;
 - iv. decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or
 - v. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.

14.3 Economic and financial capacity – Selection criteria

Requirements:

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

Evidence:

- a) Financial statements or their extracts for the last three years for which accounts have been closed.
- b) Statement of the overall turnover and, where appropriate, turnover relating to the relevant services for the last three financial years available.
- c) 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.
- d) 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 its 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 at any moment during the procedure any other document enabling it to verify the tenderer's economic and financial capacity.

14.4 Technical and professional capacity – Selection criteria

Requirements:

- a) Experience in the field of seaborne portable dispersant application systems manufacturing (applicable only for tenderers applying for Lots 1, 2 and 3).
- b) Compliance with the Minimum Requirements set in point 1 of the Annex to these Tender Specifications relevant to the lot they are applying to.

Evidence:

1. List of customers and projects concluded in the last five years encompassing delivery of seaborne portable dispersant application systems, commissioning and on-site training service.
2. The equipment technical manual as well as other relevant evidences (i.e. supporting documents and certificates).

14.5 Legal and regulatory capacity – Selection criteria

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

14.6 Evidence to be provided by the tenderers

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.

Please note that **upon request** and within the time limit set by EMSA the tenderer shall provide information on the persons that are members of the administrative, management or supervisory body, as well as the following evidence concerning the tenderer or the natural or legal persons which assume unlimited liability for the debt of the tenderer:

For exclusion situations described in (a), (c), (d) or (f) of point 14.2 above, 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 situation described in (a) or (b) of point 14.2 above, production of recent certificates issued by the competent authorities of the State concerned 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.

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.

If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

When the tenderer to be awarded the contract has already submitted relevant evidence to EMSA, it remains valid for 1 year from its date of submission. In such a case, the reference of the relevant

project(s) should be mentioned and the tenderer is required to submit a statement confirming that its situation has not changed.

15. Award criteria

Only the tenders meeting the requirements of the exclusion and selection criteria will be evaluated in terms of quality and price.

The technical solution, as well as the additional services (point 2.5.3 of these Tender Specifications applicable only for Lots 1, 2 and 3) and the duration of the extended warranty and efficiency of the post-sale service proposed in the offer must be clearly described in the section “Award criteria” of the relevant Annex.

The contracts will be awarded for each Lot, to the tenderer who submits the most economically advantageous bid (the one with highest score) based on the following quality and price criteria and their associated weightings.

For **Lots 1, 2, and 3**, the award criteria will be:

- Quality criteria applying the following weights:

Q.1 Quality criterion 1: Quality of the system design and operation ($W_1 = 35\%$)

Q.2 Quality criterion 2: Completeness of the repair tools and spare parts for the system ($W_2 = 3\%$)

Q.3 Quality criterion 3: Quality of the proposed solution for the storage and transportation ($W_3 = 3\%$)

Q.4 Quality criterion 4: Efficiency of the system ($W_4 = 6\%$)

Q.5 Quality criterion 5: Quality of the factory acceptance test ($W_5 = 3\%$)

Q.6 Quality criterion 6: Quality of the Training plan ($W_6 = 5\%$)

Q.7 Quality criterion 7: Duration of the extended warranty and efficiency of the post-sale service ($W_7 = 5\%$)

- Total Price of the bid ($W_{price} = 40\%$), as calculated in the point 3 of the relevant Annex (1, 2 or 3).

For **Lot 4** the award criteria will be :

- Quality criteria applying the following weights:

Q.1 Quality criterion 1: Quality of the tank-containers ($W_1 = 30\%$)

Q.2 Quality criterion 2: Quality of the pumping system ($W_2 = 25\%$)

Q.3 Quality criterion 3: Duration of the extended warranty and efficiency of the post-sale service ($W_3 = 5\%$)

- Total Price of the bid ($W_{price} = 40\%$), as calculated in the point 3 of Annex 4.

For all bids, evaluators will give marks between 0-10 (half points are possible) for each quality criterion indicated in the relevant Annex to these Tender Specifications.

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

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

For Lots 1, 2 and 3, only bids that have reached a minimum of 60 % for Q_1 will be taken into consideration when calculating the score for quality SQ , score for price SP and score .

For Lot 4, only bids that have reached a minimum of 60 % for Q_1 and a minimum of 60% for Q_2 will be taken into consideration when calculating the score for quality SQ , score for price SP and score.

Only bids that have reached a minimum of 60% for the score S will be taken into consideration for awarding the contract.

16. 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 where this entails a distortion of competition that cannot be remedied otherwise.

17. 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 should be clearly pointed out by the tenderer in the tender. Information should 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.