

## Tender specifications

### Attached to the Invitation to tender

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# **Call for tenders EMSA /OP/21/2016 for the provision of “Trainings on International Safety Management (ISM) Code & Auditing Techniques”**

## **1. Introduction**

The European Maritime Safety Agency (EMSA) was established under Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>1</sup> for the purpose of ensuring a high, uniform and effective level of maritime safety. Among its tasks, the Agency organises, where appropriate, relevant training activities in fields which are the responsibility of the Member States, Iceland and Norway. Based on specific agreements with the European Commission this can also apply for Enlargement countries (Albania, Bosnia-Herzegovina, FYROM, Montenegro, Serbia, Turkey) as well as for Southern (currently: Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Tunisia) and Eastern European Neighbourhood Policy (ENP) partner countries (currently: Armenia, Azerbaijan, Georgia, Kazakhstan, Republic of Moldova, Turkmenistan, Ukraine) Starting from 2017, Turkey will be added to the lists of both Southern and Eastern ENP countries; the Islamic Republic of Iran will be added to the list of Eastern ENP countries.

## **2. Objective, scope and description of the contract**

With this call for tenders the Agency aims to conclude a framework service contract for the provision of training sessions on International Safety Management Code and auditing techniques

### **2.2 Scope of the trainings**

#### **2.2.1 Training description**

The course shall contain lecturing sessions and practical exercises/case studies (conducted in the classroom). The contractor should promote a high degree of active participation by all officers attending the course.

Each training session shall start with a thorough assessment of participants' knowledge in the field of ISM Code and end with an examination, to verify that the participants have acquired the knowledge delivered during the training.

The maximum number of participants for each training session will be 15 persons. The training team will consist of two instructors as a minimum. Each training session shall be delivered in 4 working days, starting on Tuesday at 08:30 and finishing on Friday at 17:00. It shall cover the following training programme and consist of a minimum of 28 hours.

### **Content of the training**

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<sup>1</sup> 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.).

## ISM Code and auditing techniques

### 1 – ISM Code (1.5 working days)

- a. Evolution of management systems standards and the ISM Code (including interrelationship of the ISM Code with other management standards);
- b. Requirements of the ISM Code – Part A (Implementation);
- c. Requirements of the ISM Code – Part B (Certification and verification);
- d. Latest amendments to the ISM Code Res MSC.273(85), MSC.353(92) and meaning of the footnotes given in this Code;
- e. Revised guidelines on implementation of the ISM Code by administrations [IMO Res. A.1022(26) A.1071(28)]. Guideline A.1072(28), circulars MSC-MEPC.7/Circ.8, MSC-MEPC.7/Circ.9 and related guidelines, references, including possible future amendments];
- f. IACS PR09 Rev.2 Procedural Requirements for ISM Code Certification;
- g. IACS Rec No.41 Rev.4 Guidance for IACS Auditors to the ISM Code;
- h. Role and responsibilities of parties involved (Flag State, Recognized Organization, Company, Auditor) in assuring compliance with the ISM Code;
- i. Any other future amendments that will enter into force during the duration of the contract.

### 2 – EU legislation – Regulation EC 336/2006 (0.5 working days)

Analysis of the Regulation focusing on the enhanced scope and differences with the relevant international legislation including the impact on vessels not engaged on international voyages and the extra ship type reference on the Document of Compliance (DOC).

### 3 – Auditing techniques (2.0 working days)

- Types and scope of audits (initial, renewal, periodical, additional) and internal audit;
- The auditor;
- Process of planning and organizing an audit;
- Verification of compliance both of the ship and the Company with ISM Code by using the knowledge of:
  - Check Lists and areas of interest,
  - Mandatory rules and regulations and guidelines, and
  - Ship operations focusing on safety and pollution prevention practices;
- Techniques of examining, questioning, evaluating and reporting;
- Criteria for determining a major non-conformity [IMO Res. MSC/Circ.1059], non-conformity or a finding;
- Follow-up corrective actions and root cause analysis.

In drafting the course programme, the contractor shall allow at the beginning of the course one hour per training session for EMSA to provide presentations of the Agency and shall comply with the timing indicated by the Agency for each sub-part of the training Programme. In the same way, half an hour at

the end of the course shall be allowed to EMSA for discussion and conclusion. However, these two time slots shall not be taken into account in the total course time to be given by the contractor (minimum of 28 hours).

The training course can be ordered both in English and French languages; therefore, the proposed course syllabus shall be included in the tender in both languages.

**All offers not respecting the above mentioned minimum requirements for this training in terms of number of trainers, content and language criterion, will not be considered for award.**

#### **2.2.2 Notice of planned events**

**EMSA shall give a 3 month notice of the planned events, their location and the language of the training session, while their precise dates will be decided in agreement with the contractor at a later stage.**

#### **2.2.3 Participants**

Drafting and sending of the invitation letters will be done by EMSA. Only participants with adequate communication skills in English (for training sessions to be delivered in English language) or French (for training sessions to be delivered in French language) shall be invited. The list of all participants shall be sent to the contractor no later than one week before the start of each training session.

#### **2.2.4 Language of the training**

The training and all training materials shall be delivered in English for Member States and Enlargement Countries and in English or French for ENP Partner Countries as chosen by the EMSA beneficiary countries. When delivering the training the contractor shall provide copies of relevant textbooks, technical papers and course syllabi in English or French languages according the language chosen by EMSA for the session.

#### **2.2.5 Location of the training**

The trainings shall be delivered:

- at the EMSA's premises in Praça Europa 4, 1249-206, Lisbon, Portugal.
- in one of the beneficiary countries (Enlargement or ENP Partner countries) at the venue designated by the relevant maritime administration.

### **2.2.6 Additional requirements for training**

All training materials shall bear the EU and EMSA logo. EMSA or the hosting country will:

- provide adequate lecturing facilities;
- provide relevant equipment for the delivery of the lectures such as computer, beamer, flipchart, etc. ;
- provide stationery (notepads and pens for each participant).

### **3. Contract management responsible body**

EMSA– Unit B.3, in charge of Marine Environment and Capacity Building, will be responsible for managing the contract.

### **4. Project Planning**

The contractor shall provide EMSA with a training report within three weeks after each training session is completed. The report shall contain, as a minimum, the number of participants, the topics covered, results of the assessment and a detailed course evaluation.

### **5. Timetable**

The estimated date for signature of the contract is mid- April 2017

### **6. Estimated Value of the Contract**

The maximum budget available for this contract is EUR 357,000.00 (three hundred fifty seven thousand) euros excluding VAT over the duration of the service framework contract - 48 months.

### **7. Terms of payment**

Payments shall be issued in accordance with the provisions of the **draft framework contract** available in the Procurement Section under the call to tender EMSA/OP/21/2016 on EMSA's website ([www.emsa.europa.eu](http://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 contract.

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 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 criteria<sup>2</sup>. 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

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 14.5 and 15 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.<sup>3</sup>

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 (Joint Offers) he shall indicate it in his offer by completing the form "Information regarding joint offers and subcontracting".

The tender must be presented as follows and must include:

- a) **A signed 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](http://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](http://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. In this case the tenderer should simply indicate

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

<sup>3</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 (OJ L 94, 28.3.2014, p. 65).

on the cover letter the bank account number to be used for any payment in case of award and the procurement number where the tenderer has previously completed the Legal Entity Form and Financial Form.

**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, 14.2 and 14.6** of these specifications (part of the 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.

**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 **14.5** of these specifications.

**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 **15** of these specifications.

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

## 12. Price

- a) Prices for the provision of International Safety Management Code (ISM Code) Trainings shall include
- b) (P1 = price of the provision of a single ISM training in a Southern and Eastern ENP beneficiary country, and include all the costs of the delivery
- c) P2 = price of the provision of a single ISM training at EMSA's premises in EMSA (to Member States or EEA countries) and include all the costs of the delivery
- d) The total price shall be in accordance to the scenario proposed under Article 15 point 3 (award criteria – price)
- e) Prices must be quoted in Euro.
- f) Prices must be fixed amounts, non-revisable and remain valid for the duration of the contract.
- g) 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 as emended. 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 tenderer 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](http://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 Legal and regulatory capacity – Selection criteria**

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

#### **14.4 Economic and financial capacity – Selection criteria**

##### **14.4.1 Requirements:**

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

##### **14.4.2 Evidence:**

- a) Financial statements or their extracts for the: 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 the provided documents are up-to-date. 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.<sup>4</sup>

#### **14.5 Technical and professional capacity – Selection criteria**

a) The tenderer shall provide evidence of expertise in delivering ISM Code Auditor Training courses. Such evidence of the knowledge and experience in the field referred to in point 2.2.1 shall be provided on the basis of a list of courses which the tenderer has provided in the past three years (detailed list of trainings, certificates of accreditation, etc.).

b) All instructors participating in this training should be professionally and academically qualified in the task and shall have experience in providing lectures on the topics referred to in point 2.2.1. The tenderer shall provide evidence that each instructor proposed to deliver the training in English shall have at least delivered one of the above mentioned courses in English in the last three years, the instructors proposed to deliver the training in French shall have at least delivered one of the above mentioned courses in French in the last three years

c) Tenderers should provide with their bid a detailed curriculum vitae of each Instructor who will be delivering the training under the proposed contract. The curricula vitae shall include the educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills (English or French as relevant).

d) A minimum of two instructors per course has to be ensured. Therefore the tenderer shall propose at least two instructors that fulfil the technical and professional capacity for both languages.

During the 48 months service framework contract the tenderer can propose the replacement of (a) proposed trainer(s) with (a) new one(s) having the equivalent qualification and skills. In such a case the tenderer will provide EMSA with the curriculum vitae including the educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills (English or French as relevant) of the trainer(s) proposed for the replacement. However, trainers can only be replaced upon approval of EMSA.

#### **14.6 Declaration of Honour**

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

#### **15. Award criteria**

The contract will be awarded to the tenderer who submits the most economically advantageous bid (the one with highest score) based on the following quality criteria and their associated weightings:

##### **1. Quality criterion 1 ( $W_1 = 50\%$ )**

Quality of the training programme, methodology for providing the course including the quality of practical exercises/case studies: the bid must include A detailed syllabus, indicating at least the number of lectures and practical exercises (case studies) and/or other forms of providing the

training, including a detailed description on the content and objectives of each topic, a description of the training materials provided;

2. Quality criterion 2 ( $W_2 = 20\%$ )

Quality of the training team: the bid must include a detailed description of the way in which the proposed team is to be organized in order to deliver expected results per topic, its reporting system and the team leader; the teachers involved per topic also have to be indicated in the bid.

and the price criterion and associated weighting:

3. Price of the bid ( $W_{Price} = 30\%$ ).

The price of the bid below is calculated based on the scenario:  $W_{Price} = (7 \cdot P1 + 16 \cdot P2)$

$P1$  = price of the provision of a single ISM training in enlargement country or a Southern and Eastern ENP beneficiary country (maximum 19000€)

$P2$  = price of the provision of a single ISM training in EMSA's premises in Lisbon (maximum 14000€)

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  $Q_1$ , a minimum of 60 % for  $Q_2$ , etc. 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 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.