

## **Tender Specifications**

### **Attached to the Invitation to tender**

#### **Invitation to tender No. EMSA/NEG/09/2017 for the assessment of the development, management and operation of a European Maritime Single Window**

##### **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>. One of its objectives is that the Agency shall contribute to the overall efficiency of maritime traffic and maritime transport, so as to facilitate the establishment of a European Maritime Transport Space without Barriers.

In accordance with the above-mentioned objective, the Work Programme 2017 establishes that the Agency shall assess the technical, human and financial resources required to develop, manage and operate a European Maritime Single Window (EMSW) for the fulfilment of reporting formalities for ships arriving in and/or departing from ports of the Member States.

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

###### **2.1 Objective**

The objective of the contract is to elaborate a project plan for the development, management and operation of the European Maritime Single Window and to evaluate the necessary human, technical and financial resources, liabilities and time involved in developing, maintaining and operating it. The expected deliverables are listed in paragraph 4.1 of this document.

###### **2.2 Scope**

In order to achieve the above objectives, the assessment shall cover the following tasks:

- 1) Refine the operational scope and objectives of the EMSW provided by EMSA,
- 2) Refine and develop the EMSW's system requirements specifications using as basis the high-level requirements drafted by EMSA,
- 3) Develop different potential technical solutions for developing the EMSW taking into account the scope, objectives and requirements of the EMSW and the systems already in place in the Member States, the European Commission and in EMSA,
- 4) Evaluate the impacts of each technical solution on EMSA's horizontal ICT services and hosting infrastructure.
- 5) Provide cost estimations for designing and developing the EMSW and a cost-benefit analysis for each technical solution,

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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.).

- 6) Draw recommendations for leading the development of the project,
- 7) Define the organisational set-up and resources (financial, human, etc) for operating and maintaining the system,
- 8) Define the helpdesk requirements based on the expected volume of users and data,
- 9) Assess the issue of liability related to loss of data or delayed data.

As regards to point 3 above, the assessment shall evaluate the impacts on MS and European Commission's systems, but shall neither provide an effort estimation nor define a technical solution for such systems.

## **2.3 Requirement**

The operational scope and objectives of the EMSW as well as its high-level requirements shall be provided by EMSA at the date of signature of the contract. Draft versions of these documents are provided in Appendices B and C. Additional supporting documentation on the EMSW and the ICT infrastructure in EMSA are provided in Appendices D, E and F.

The contractor shall assess the different potential technical solutions for developing the EMSW in accordance with the identified scope, objectives and high-level requirements. In doing so it shall define the detailed system's non-functional requirements and identify the resources required to develop, manage and operate the different solutions. The contractor is also required to carry out a Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis and a cost-benefit analysis of each option in order to be in a position to present recommendations on the best possible approach and strategy to be followed to develop, manage and operate the EMSW.

The contractor shall use as input the experience gained from EMSA's EMSW Prototype project, existing NSW systems in MS, relevant international and EU standards and recommendations, EU legal acts and guidelines, as well as input from EMSA and Commission experts.

The tasks and issues to be further explored by the contractor for each of the requirements are elaborated in Appendix A to the tender specifications.

## **2.4 Conditions for the Provision of Services**

### Language

The working language of EMSA is English. The English language shall be used throughout the duration of any activities associated with this Framework Contract for all deliverables, communication, reports and other documentation.

### Place of work

The place of work for the tasks shall be the contractor's premises, except when meetings are held in Lisbon or Brussels.

### Project team

EMSA reserves the right to evaluate any change or new nomination of members to the contractor's project team. CVs and appropriate documentation of each person foreseen to take up duties shall be presented to

EMSA for approval with respect to Specific Requests for Services but in any case at least 15 days before the schedule start date of a specific task of the contract. All replacements shall be compliant with the requirements set under the Tender Specifications (Article II.4.7 of the General Conditions for Service Contracts).

### Quality

During the duration of the project the contractor shall maintain a high level of quality in its work in order to ensure adherence to the:

- overall contract objectives and the project plan;
- expected content of the deliverables and the services provided; and
- delivery approach.

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

EMSA – Unit C.2, in charge of Vessel and Port Reporting, is responsible for managing the contract.

### **4. Project Planning**

#### **4.1 Deliverables**

All deliverables provided by the contractor must be formally accepted by EMSA.

The contractor shall provide the following deliverables as outcome of the undertaken assessment:

1. Project plan,
2. First interim report: scope, objectives and system requirements of the EMSW,
3. Second interim report: implementation options,
4. Third interim report: administrative and operational impact,
5. Final report

The description of the above-mentioned deliverables is provided in Appendix A.

#### **4.2 Meetings**

Meetings shall be held in EMSA premises in Lisbon, Portugal and in the European Commission's premises in Brussels, Belgium, as well as via video or telephone conferences or other fora agreed between both parties. It is expected to have at least one meeting in EMSA premises per key deliverable as identified in article 4.1 above and a maximum of two meetings in the European Commission's premises to discuss issues at EU level. A description of the type of meetings is provided in Chapter 4 of Appendix A.

The price shall include any cost related to travel and subsistence expenses.

The contractor shall be responsible to draft the minutes, within 3 EMSA working days of the date of the meetings, of all meetings including those held remotely. The minutes are considered as final once they have been agreed by both parties.

## **5. Timetable**

The estimated date for signature of the contract is June 2017. The global duration of the tasks should not exceed 5 months. Execution of the tasks shall start from the date of entry into force of the contract.

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

The maximum budget available for this contract is EUR 135,000 excluding VAT.

## **7. Terms of payment**

Payments shall be made in accordance with the provisions of the draft contract available in the Procurement Section under the call to tender EMSA/NEG/09/2017 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 contract.

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

## **9. 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 shall 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 shall be assessed in relation to each economic operator individually. Concerning the selection criteria, the evidence provided shall be checked to ensure that the tenderer and its subcontractors as a whole fulfil the criteria.

## **10. 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 13.4 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.<sup>3</sup>

The tenderer shall complete the Tenderer's checklist.

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<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).

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 it in his offer by completing the form "Statement of Subcontracting/Joint Offer".

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 and the bank account on 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 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.

**Part A:** All the information and documents required by the contracting authority for the appraisal of tenders on the basis of the points 9, 12 and 13.2 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 13.3 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 13.4 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 **14** of these specifications;

**Part E:** Setting out prices in accordance with point 11 of these specifications.

## **11. Price**

- a) Price must be quoted for the Assessment of the development, management and operation of a European Maritime Single Window (EMSW) and shall be all-inclusive, including delivery of the services and any cost related to travel and subsistence expenses.
- 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 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.

## 12. 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 shall be assessed in relation to each economic operator individually. Concerning the selection criteria, the evidence provided by each member of the consortium shall be checked to ensure that the consortium as a whole fulfils the criteria.

If awarded, the contract shall 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.

## 13. 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.

### 13.1 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](http://www.emsa.europa.eu) ).

### 13.2 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.

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

#### **13.3.1 Requirements:**

- a) The tenderer must be in stable financial position and must have the economic and financial capacity to perform the contract.
- b) The yearly turnover for the last 2 years must be above €200,000.00

#### **13.3.2 Evidence:**

- a) Financial statements or their extracts for the last two 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 two financial years.

- 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, it 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 at any moment during the procedure any other document enabling it to verify the tenderer's economic and financial capacity.

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

#### **13.4.1 Requirements:**

##### **13.4.1.1 Relating to tenderers**

###### **13.4.1.1.1 Criteria**

Tenderers (in case of a joint tender the combined capacity of all tenderers and identified subcontractors) must comply with the following criteria:

- The tenderer must have experience of at least 3 years in:
  - Projects related to ICT systems dealing with reporting formalities, similar to those covered by the Reporting Formalities Directive 2010/65/EU,
  - Information Systems architectures based on Web technologies,
  - Drafting similar assessments, including carrying out of cost-benefit analysis.

###### **13.4.1.1.2 Evidence**

Evidence of the knowledge and experience in the fields mentioned above shall be provided on the basis of a list of related services in which the tenderer has participated and worked in. This shall include a description of the services with indication of the objectives, contracting parties, dates, duration and budget. At least two projects shall be related to ICT systems with high availability needs and wide end-users community (more than 100,000 users). In addition all services in the list shall have been carried out since 2010 and with a minimum value for each service of €100,000. The most important services shall be accompanied by certificates of satisfactory execution, specifying that they have been carried out in a professional manner and have been fully completed.

##### **13.4.1.2 Relating to the proposed team delivering the services**

###### **13.4.1.2.1 Criteria**

The proposed team delivering the service shall include, as a minimum, the following profiles:

- Project Manager: University degree(s) and at least five years of professional experience in project management, including overseeing project delivery, quality control of delivered service, client orientation and conflict resolution experience in project of a similar size (at least €100,000) and EU wide coverage with experience in management of a team of at least three people.



- Senior consultant/s: University degree(s) in management related subjects and at least five years of professional experience in management, legal, financial and cost-benefit analysis for implementing ICT systems dealing with reporting formalities with a wide end-users community (more than 100,000 users).
- ICT architect: University degree(s) in the IT field, at least five years of professional experience in elaboration of system requirements and system design, experience in reporting formalities ICT systems and experience in the design of high availability systems for wide end-users community (more than 100,000 users).

The tenderer may propose another team composition, using different key persons' profiles than those listed above, provided that they comply with the same or equivalent requirements.

- The proposed Project Manager and Senior Consultant(s) shall be independent users in drafting reports in English (B.2 level).

#### 13.4.1.1.2 Evidence

Evidence of the knowledge and experience shall be provided to prove fulfilment of the above criteria in respect of each member of the team involved in the Assessment. This shall consist in a detailed curricula vitae (CV) of each member of the team responsible for carrying out the work. The CVs shall include the educational background, degrees, diplomas, professional experience, research work, publications and linguistic skills. When describing the professional experience of each team member, reference shall be made to the areas in which relevant experience has been gained. The CVs shall be presented in the EuroPass format. Each CV should indicate the intended function of the expert concerned in the delivery of the project.

Proficiency in English has to be evidenced by providing a certificate with minimum level of B.2 (Independent User) of the Common European Framework of Reference for Languages (CEF) or equivalent.

### 13.5 Declaration of Honour

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

## 14. Award criteria

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

The contract shall 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 ( $W_1 = 30\%$ ), Quality of the proposed methodology

The tender is to include a detailed proposal on how the project, as a whole, would be carried out and how the expected results shall be accomplished. This proposal shall include a description of how the team shall collect and analyse the information that is required to finalise each of the tasks mentioned under section 2.2 Scope, above.

2. Quality criterion 2 ( $W_2 = 20\%$ ), Organisation of the work

This criterion shall assess the allocation of time and resources to the project as a whole as well as to each task or deliverable, and whether this allocation is considered adequate for the work. The tender shall include a schedule of the key milestones, in particular indicating the timeframe for collecting and analysing the required information, when the required tasks and deliverables shall be delivered and a timetable of proposed meetings and consultations, including their location or means of communication.

3. Quality criterion 3 ( $W_3 = 20\%$ ), Quality of the proposed team

This criterion shall assess how the roles and responsibilities of the proposed team and of the economic operators (in case of joint tenders, including subcontractors if applicable) are distributed for each task. To be able to assess the quality of the team the tender shall include a table listing the assigned team members together with the functions and tasks that each team member shall be performing in the project.

and the price criterion and associated weighting:

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

For all bids evaluators shall 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

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

Only bids that have reached a minimum of 50 % for  $Q_1$ , a minimum of 50 % for  $Q_2$ , and a minimum of 50 % for  $Q_3$  shall 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  $S$  shall be taken into consideration for awarding the contract.

### 15. Rejection from the procedure

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

1. are in an exclusion situation;
2. have misrepresented the information required as a condition for participating in the procedure or have failed to supply that information;
3. were previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise.

### 16. 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 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.

### 17. List of Appendices

Below is the list of the Appendices of relevance to this negotiated procedure.

- Appendix A: Assessment requirements
- Appendix B: Draft European Commission's vision paper regarding the EMSW
- Appendix C: Draft EMSW overview and system context description
- Appendix D: Description of the SSN Ecosystem
- Appendix E: EMSA's ICT infrastructure
- Appendix F: System Requirements Specifications of the EMSW Prototype