

Enclosure 1 - Tender Specifications

Attached to the Invitation to Tender No EMSA/OP/13/2017 for the supply of single point inflation (SPI) boom sections for oil pollution response at sea

(Open procedure)

Table of Contents

1. Introduction	3
2. Objective, scope and description of the contract	3
2.1 Overall objective	3
2.2 Division into lots	4
2.3 Description of the mandatory tasks in the supply contract	4
2.4 Provision of disposal of the old equipment components	5
2.5 Minimum requirements regarding the supply of the boom sections	6
3. Contract management responsible body	7
4. Project implementation overview	7
5. Timetable	9
6. Estimated Value of the Contract	9
7. Terms of payment	9
8. Terms of contract	9
9. Financial guarantees	9
10. Subcontracting	10
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	12
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	12
14.1 Legal position – means of proof required	12
14.2 Grounds for exclusion - exclusion criteria	12
14.3 Legal and regulatory capacity – Selection criteria	13
14.4 Economic and financial capacity – Selection criteria	13
14.4.1 Requirements	13

14.4.2 Evidence	14
14.5 Technical and professional capacity – Selection criteria	14
14.5.1 Requirements	14
14.5.2 Evidence	14
14.6 Declaration of Honour	14
15. Award criteria	15
16. Rejection from the procedure	16
17. Intellectual Property Right (IPR)	16
18. Special negotiated procedure under Article 134(1)(e) RAP	17

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 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, <http://www.emsa.europa.eu> under 'Publications'.

In the context of this mandate, EMSA has contracted a Network of Oil Pollution response vessels that are on stand-by along the EU coast, pre-fitted and equipped with specialised oil pollution response (OPR) equipment². EMSA regularly monitors the condition and performance of the OPR equipment and, if it is necessary, replaces any deteriorated system component.

Two sets of single point inflation (SPI) boom (2x250m) on-board the vessels *Brezzamare* and *Aktea OSRV*, with port base respectively in Genoa (Italy) and Piraeus (Greece), have been identified for replacement.. EMSA intends therefore to replace selected parts of these boom systems in order to maintain the high quality of the oil pollution response services provided by the two vessels.

2. Objective, scope and description of the contract

2.1 Overall objective

The overall objective of this open procedure is to conclude two separate supply contracts to purchase two single point inflation (SPI) boom sections (2x250m) per contract, including ancillaries and spare parts, to be delivered at the EMSA stockpiles located in Genoa (Italy) and Piraeus (Greece) and installed on board the vessels *Brezzamare* and *Aktea OSRV*.

The supply contract for the replacement of the boom sections on board the vessel *Brezzamare* shall also foresee the provision of a compatible air compressor.

Both supply contracts shall also set the terms and conditions for the provision of “additional services” namely transportation (including packing and insurance), dismantling the old equipment components, assembling, installation, commissioning and acceptance test to assess the functionality of the system in open seas.

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).

² Information about the Network of EMSA contracted vessels is available on EMSA's website at <http://emsa.europa.eu/oil-spill-response/oil-recovery-vessels/vessel-technical-specifications.html>

EMSA may also decide to contract “optional services” to dispose the old components that need to be dismantled and removed from the two vessels.

2.2 Division into lots

The open procedure is divided into two lots. Tenderers may decide to submit an offer for one or both lots.

A description of the technical characteristics of the equipment to be replaced and of the arrangement on board the vessels is available in Appendix A (*Brezzamare - SPI Boom Set*) and Appendix B (*Aktea OSRV - SPI Boom Set*) attached to these Tender Specifications. For each lot, tenderers shall complete the Bid Template (Enclosures 2A for lot 1 and 2B for lot 2) by providing a description of the proposed technical solution, as well as other elements relevant for the evaluation of the tender.

General information about the two lots are summarised in the table below:

Lot No	Name of vessel	Type of system	Equipment to be replaced	Technical specifications	Bid Template	Maximum budget
1	<i>Brezzamare</i>	Markleen Uniboom X1900	2 x 250m self-inflatable boom sections made of PVC, including ancillaries, spare parts and one air compressor (UNIAIR 5000/8)	Annex A	Enclosure 2 A	EUR 240,000 (excluding VAT)
2	<i>Aktea OSRV</i>	Markleen Uniboom X1900	2 x 250m self-inflatable boom sections made of PVC, including ancillaries and spare parts	Annex B	Enclosure 2 B	EUR 220,000 (excluding VAT)

2.3 Description of the mandatory tasks in the supply contract

For both lots one single supply contract will be awarded at the end of this open procedure. The 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 contract.

The implementation of the supply contract includes the following mandatory supplies and tasks:

- a) The provision of two new **SPI boom sections, ancillaries and spare parts** as per minimum requirements listed under point 2.5 of these Tender Specifications. Supporting documents (such as equipment technical manual, info sheet, and sea trials) shall be also included as part of the tender documentation both in electronic format (on a USB memory stick or a CD) and a hard copy.
- b) The performance of the following **additional services**:
 - Equipment transportation (including packing and insurance) from the contractor's factory to the vessel stockpile (based in Genoa and Piraeus respectively for lot 1 and lot 2). The equipment shall be delivered under the Delivered Duty Paid (DDP) Incoterm clause as per Article I.3.4 of the draft supply contract, Enclosure 3 to the Invitation to tender). The payment of customs duty for export and import

purposes, such as VAT, shall be borne by the contractor as well as any payment for ensuring the storage of the equipment during the customs clearance process.

- Dismantling of the old equipment components to be replaced on board the vessel and transport to EMSA's stockpile (i.e. Genoa for lot 1 and Piraeus for lot 2). The dismantled old equipment will be stored in the stockpile under the responsibility of the vessel's operator.
 - Assembling, installation and commissioning of the new equipment items on board the vessel to be performed in the vicinity of the port areas of Genoa (Italy) for lot 1 and Piraeus (Greece) for lot 2.
 - Attendance to the Acceptance Test with the presence of EMSA that shall include a full deployment and functionality test of the equipment in open seas.
 - Any administrative action necessary for the completion of the above tasks. The costs associated to any administrative action (such as those related to travel and accommodation expenses for technicians and handling/stevedoring services on the spot) are to be foreseen in the bid.
- c) For tenders submitted under lot 1, the conditions for the delivery and acceptance of the boom sections shall apply also for the provision of an **air compressor** compatible with the proposed technical solution to be installed on board the vessel *Brezzamare*. This item shall be packed and delivered together with the boom sections to the stockpile in Genoa (Italy).

EMSA shall be responsible for coordinating all the activities with the vessel's operators and for bearing all the costs associated to the mobilisation and availability of the vessels.

Performance and price of the contract resulting from this procurement procedure does not include the supply of booms platform, guiding rollers, twist lock supports, rotating boom reels, power pack, hydraulic system needed for the boom operation as well as the air compressor on board the vessel *Aktea* (applicable for tenders submitted under lot 2).

2.4 Disposal of the old equipment components

The contractor may also be responsible for the disposal of the old equipment components that have been transferred to the EMSA's stockpile (i.e. in Genoa for lot 1 and Piraeus for lot 2) after dismantling from the vessel. The cost of the disposal, including transport of the old equipment components to the waste management facility, must be foreseen in the tender and will be taken into account for evaluation purposes (see point 3 of the Bid Template – Enclosure 2 A for lot 1 and Enclosure 2 B for lot 2).

Nevertheless EMSA shall not be obliged to order the disposal of the old equipment components. Indeed, this service is optional and might be provided by the contractor conditioned to a preliminary assessment of the operational needs carried out by EMSA.

Should EMSA decide to contract the disposal service at the end of this open procedure, the provision of this service may be foreseen in the supply contract or through a separate purchase order, which is concluded between EMSA and the contractor after the entry into force of the supply contract.

EMSA shall decide which option would be inserted in the contract before its signature is concluded between the parties (see options 1 and 2 in Article I.3.7 of the draft supply contract, Enclosure 3 to the Invitation to Tender). For both options, the price of the service shall always reflect the price included in the contractor's tender and will not be subject to negotiation.

If the disposal of the old equipment is foreseen in the supply contract (option 1), following the issue of the Certificate of Conformity by EMSA (see Article I.5.3 of the draft supply contract, Enclosure 3 to the Invitation

to Tender), the contractor shall transfer the items from the EMSA's stockpile (i.e. in Genoa for lot 1 and Piraeus for lot 2) to the disposal facilities identified in the bid.

In case EMSA decides to order the disposal of the old equipment components after the entry into force of the supply contract (option 2), a Request for Quotation shall be sent to the contractor to agree on the following terms and conditions, which will form part of the purchase order:

- Cost to transport the items from the EMSA's stockpile (based in Genoa and Piraeus respectively for lot 1 and lot 2) to the disposal facilities identified in the bid in accordance with the price offered in the tender (point 3 of the Bid Template, Enclosures 2A for lot 1 and 2B for lot 2).
- Indicative time foreseen for transferring the items from stockpile to the disposal facilities identified in the bid. In this regard, unless otherwise agreed by the parties, the maximum time to remove the equipment from the stockpile shall not exceed two months from the entry into force of the purchase order.

The contractor shall provide a reply within the maximum period of one week from the receipt of EMSA Request for Quotation. EMSA may decide to offer a purchase order within two weeks from the receipt of the quotation.

2.5 Minimum requirements regarding the supply of the boom sections

For both lots the proposed technical solution shall be in compliance with the following minimum requirements to be further considered for the evaluation of the quality criteria (point 15 of these Tender Specifications):

1. The new boom sections offered must be a Single Point Inflation (SPI) type (250 mt approximately).
2. The new boom sections shall allow maintaining unchanged the existing tailor-made pre-fitting and the rotating reels, as currently installed on board the vessels to restore the system efficiency at the lowest cost whilst minimising the technical and operational impact for the EMSA's vessel contractors (i.e. no off hire costs and no pre-fitting costs on board the vessels are required).

For each lot, the two SPI boom sections shall be fully compatible with the actual mechanical components and engines of the existing boom set already on board the vessels, which comprises tailor-made designed booms platform, guiding rollers, twist lock supports, rotating boom reels, power pack and hydraulic system.

For tenders submitted under lot 2, the technical solution proposed in the offer shall be compatible with the air compressor already in use on board the vessel *Aktea*.

3. The SPI booms shall be easily operated to minimise the man-power necessary for deployment and retrieval operations.
4. The SPI boom sections supplied shall include the ancillaries necessary for its autonomous operation on board the vessels (i.e. towing lines, bridle, net for cross bridle, bridle for U formation, etc.) and new air hoses compatible with existing boom reels, air connectors and air compressor for the equipment on board the vessel *Aktea* (only applicable for tenders submitted under lot 2). Should the tenderer need to change any other component of the boom set to maintain the compatibility with the existing pre-fitting, hydraulic or air supply systems (eg. hydraulic hoses), the technical proposal and associated costs should be detailed in the proposal and respect the overall price ceiling of the contract (see point 6 of these Tender Specifications).

5. If the SPI boom fabric is divided into segments, the joins shall be welded and not only glued.
6. Every stainless steel fittings shall be hot galvanized and properly protected with cold applicable anti-corrosion and sealing tape.
7. The SPI booms shall be designed for operation and towing in open sea. Minimum information regarding design, dimensions and materials of oil booms shall be provided by the manufacturer (preferably referenced in accordance with ISO standards ISO 17325-1:2014(E) Part 1). The material used for the SPI booms shall be resistant to oil, seawater, UV radiation and not be susceptible to deterioration during long term storage on board. The test results for strength and performance requirements shall be documented by individual component manufacturers' certificates (preferably referenced in accordance with ISO standards ISO 17325-1:2014(E) Part 2).
8. The SPI booms shall be easily maintained and repaired when damaged during regular use.
9. A minimum warranty of two years on the main segment, ancillaries and spares must be provided by the contractor.

3. Contract management responsible body

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

4. Project implementation overview

For both lots following the entry into force of the relevant supply contract to be awarded at the end of this procurement procedure, the maximum delivery time of the equipment shall not exceed six months (indicatively May 2018 at the latest).

Dates for commissioning and Acceptance Test shall be scheduled by EMSA in coordination with the tenderer awarded with the supply contract and the vessel's operator. The commissioning of the equipment shall take place within maximum one month from the delivery of the equipment and the Acceptance Test shall be organised within maximum one month from the date of commissioning.

The contractor should ensure that the dismantling of the old equipment components is completed no later than two weeks after installation of the new boom sections and ancillaries.

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. If any failure occurred during the performance of the Acceptance Test, EMSA may decide to reject the report and reschedule the Acceptance Test at another time agreed by the parties. EMSA shall issue the Certificate of Conformity (as per Article II.4.9 of the supply contract, Enclosure 3 to the Invitation to Tender) after the acceptance of the Final Technical Report.

In case the disposal of the old equipment component is ordered by EMSA in the supply contract the ownership of the old parts will be transferred to the contractor after the Certificate of Conformity is issued by EMSA (as per Article I.5.3 of the supply contract, Enclosure 3 to the Invitation to Tender).

The major events along with the execution of the supply contract (applicable for lot 1 and lot 2) are shown in the table below:

Article in the Supply Contract	Event	Comment	Indicative time	Documents from the contractor	Payment scheme
	Signature of the supply contract by both parties	End of the open procedure	Beginning of November 2017		
I.5.1	Invoice for pre-financing (and bank guarantee if requested by EMSA)	Pre-financing up to 30% of the total value of the equipment	Contractor's request to be sent within 30 days from signature of the supply contract	Invoice for pre-financing (and bank guarantee if applicable)	Pre-financing 30%
I.3.4	Delivery (additional service)	Equipment delivery to the EMSA stockpile	Maximum delivery time 6 months from the entry into force of the supply contract	Customs formalities to clear the equipment	
I.3.5	Dismantling (additional service)	Dismantling of the equipment to be replaced on board the vessel and transfer to the stockpile	No later than two weeks after delivery of the new supplies	The outcomes of the additional services will be described in the Final Technical Report	
I.3.6	Assembling, Installation Commissioning (additional service)	To be performed on board the vessel	Within two weeks from dismantling the old equipment components		
	Acceptance Test (additional service)	To assess the completeness and the technical condition of the equipment on board the vessel	Within one month after completing the commissioning		
	Final Technical Report	Outcomes of the additional services to be described in the Final Technical Report	Within 2 weeks from the date of the Acceptance Test	Final Technical Report	
I.5.3	Certificate of Conformity and request for invoice	Issued by EMSA after acceptance of the Final Technical Report	Within 4 weeks from acceptance of the Final Technical Report		
I.3.7	Disposal (optional service)	Disposal of the old equipment components at the facilities identified in the bid	Option 1: If included in the supply contract, to be provided within one month from the receipt of the Certificate of Conformity.	Invoice in accordance with Articles I.5.3 for option 1 or I.5.4 for option 2	

			Option 2: If ordered through a purchase order, to be provided within two months from the entry into force of the purchase order		
I.5.3	Invoice for payment of the balance issued by the contractor	Payment of the balance including the price of the new equipment, additional services (and disposal service if included in the supply contract).	EMSA will pay within 30 days from receipt of the invoice	Invoice for balance payment	Balance payment
I.5.4		Payment of disposal service if ordered in a separate purchase order concluded during the whole duration of the supply contract.			

5. Timetable

The estimated date for signature of the contract is November 2017.

6. Estimated Value of the Contract

The maximum budget available for the supply contract to be signed under lot 1 is EUR 240,000 excluding VAT and for the supply contract to be signed under lot 2 is EUR 220,000 excluding VAT.

7. Terms of payment

Payments shall be issued in accordance with the provisions of the draft supply contract (Enclosure 3 to the Invitation to Tender) available in the Procurement Section under the call to tender EMSA/OP/13/2017 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 contract (Enclosure 3 to the Invitation to Tender).

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, EMSA, based on risk assessment, may request the contractor to provide a pre-financing guarantee equal to at least 30% of the total price of the supply contract. A model of the required pre-financing guarantee is included in Annex III to the draft supply contract (Enclosure 3 to the Invitation to Tender).

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 criteria³. 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 14.5 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.⁴

11.2 Content of the tender

When drawing up their offers, tenderers must fill in the Bid Template (Enclosure 2 A for lot 1 and Enclosure 2 B for lot 2 to the Invitation to Tender) by including in the tables highlighted in grey a description of the proposed technical solution, as well as reference to specific documentation or any other information that is necessary for evaluation purposes.

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

The tender must be presented as follows and must include:

³ To rely on the capacities of a subcontractor means that the subcontractor will perform the works or services for which these capacities are required.

⁴ 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).

- 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.

- d) **Tenderer's Checklist** as per Enclosure 4 to the Invitation to Tender.
- e) **Statement of Subcontracting/Joint Offer** as per Enclosure 5 to the Invitation to Tender in case the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners (Joint Offers).
- f) **Declaration on Honour** as per Enclosure 6 to the Invitation to Tender required by the contracting authority for the appraisal of tenders on the basis of points 10, 13, 14.2 and 14.6 of these Tender Specifications (Exclusion criteria).
- g) Additional information and documents required by the contracting authority for the appraisal of part of the **Financial and Economical capacity** on the basis of point 14.4 and **Technical and Professional capacity** on the basis of point 14.5 of these Tender Specifications (Selection criteria).
- h) Bid Template (Enclosure 2 A for lot 1 and Enclosure 2 B for lot 2 to the Invitation to Tender) with **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 the total price in accordance with point 12 of these Tender Specifications. Failure to indicate the total price may lead to the rejection of the offer. Tenderers shall complete the total price for all supplies and services in point 3 "Price Offer" of the Bid Template (Enclosure 2 A for lot 1 and Enclosure 2 B for lot 2 to the Invitation to Tender).

12. Price

- a) The total price of the offer shall be specified in point 3 "Price Offer" of the Bid Template (Enclosures 2 A for lot 1 and 2 B for lot 2 to the Invitation to Tender) and shall be the sum of the following breakdown of prices:
 P_1 = Price for the supply of two new SPI boom sections (2x250m), including ancillaries and spare parts, and, for offers submitted under lot 1, the price of the an air compressor (points 2.3.a and 2.3.c of these Tender Specifications),
 P_2 = Price for the provision of the additional services (point 2.3.b of these Tender Specifications) and
 P_3 = Price for the disposal of the old equipment components including transport to the waste management facility (point 2.4 of the Tender Specifications).
- 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 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).

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

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 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 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.

14.5 Technical and professional capacity – Selection criteria

14.5.1 Requirements

- a) Experience in the field of manufacturing single point inflation (SPI) booms.
- b) Compliance with the Minimum Requirements described in point 2.5 of these Tender Specifications.

14.5.2 Evidence

1. List of customers and projects concluded in the last five years encompassing delivery of SPI booms and commissioning.
2. Supporting reference (such as equipment technical manual, info sheet and sea trials) to be enclosed to the Bid Template (enclosure 2 to the Invitation to Tender).

14.6 Declaration of Honour

For this purpose the Declaration of Honour (Enclosure 6 to the Invitation to Tender) shall be completed and signed.

Please note that **only 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 minimum requirements set in point 2.5 of these Tender Specifications, the exclusion and the selection criteria (see point 14 of these Tender Specifications) will be evaluated in terms of quality and price.

Tenderers shall describe the technical offer and indicate the relevant prices in the Bid template (Enclosures 2 A for lot 1 and 2 B for lot 2 to the Invitation to Tender).

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

- **Quality criteria ($W_{Quality} = 60\%$)** subdivided into the individual quality criterion applying the following weights:
 - **Quality criterion 1 (Q.1):**
Quality and appropriateness of the SIP boom sections, ancillaries (and air compressor only for lot 1) ($W_1 = 45\%$)
 - **Quality criterion 2 (Q.2):**
Complexity of the maintenance requirements for the SPI boom, including completeness of the repair tools and spares parts ($W_2 = 5\%$)
 - **Quality criterion 3 (Q.3):**
Quality of the plans for commissioning ($W_3 = 5\%$)
 - **Quality criterion (Q.4):**
Quality of the plan for disposal of old equipment components ($W_4 = 5\%$)
- **Total Price of the bid ($W_{Price} = 40\%$)** as calculated in point 3 "Price Offer" of the Bid Template (Enclosure 2A for lot 1 and 2B for lot 2 to the Invitation to Tender).

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

The score is calculated as

$$S = SQ + SP$$

where:

The average quality for quality criterion i is

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

The overall weighted quality is

$$Q = \sum_i Q_i * W_i$$

The score for quality is

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

The score for price is

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

For both lots, only bids that have reached a minimum of 70 % 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 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.

18. Special negotiated procedure under Article 134(1)(e) RAP

EMSA may at a later stage exercise the option to increase the estimated value of the contract via negotiated procedure with the successful tenderer in accordance with Article 134(1)(e) of the Rules of Application to the Financial Regulation.