

## **ENCLOSURE T.3 – PRE-FINANCING GUIDELINES**

**Procurement procedure:** EMSA/CPNEG/1/2019

**Title:** Service Contracts for Stand-by Oil Spill Recovery Vessel(s)

Phase II – Invitation to Tender

### **Introduction**

EMSA can pre-finance up to 100% of the total net (without VAT) cost linked to the oil pollution response equipment. This includes the purchasing, servicing and transportation for the equipment. In addition EMSA will pre-finance up to 80 % of the costs linked to pre-fitting of vessel(s). The amount to be pre-financed is limited by the price ceilings for equipment and pre-fitting as stipulated in the Contract. The remaining 20% of the costs linked to pre-fitting will have to be first paid by the Contractor using his/her funds. This 20% will then be a part of clearance process and, if properly evidenced, will be reimbursed by EMSA.

EMSA can make two pre-financing payments. The first will be for equipment and will equal to 100% of the value of the offers for equipment as approved by EMSA. The second will be for pre-fitting and will equal to 80% of the offers for pre-fitting as approved by EMSA. Both payments will be made to a specific nominated bank account of the Contractor. The aim of this pre-financing payment is to provide the Contractor with the necessary cash float so that he is able to purchase equipment and pre-fit vessel(s). The Contractor must use the pre-financing for these purposes only.

After all equipment has been purchased and the vessel(s) have been pre-fitted in accordance with the Contract, the Contractor will send to EMSA the supporting documents so that EMSA is able to “clear” the pre-financing payment. These supporting documents are the copies of invoices from suppliers of equipment/pre-fitting and associated copies of bank statements proving the payment by the Contractor. Based on these documents EMSA will establish the total acceptable price of equipment/pre-fitting works which in any case cannot be higher than the price ceilings stipulated in the Contract for equipment/pre-fitting. If this price exceeds the amount already paid as pre-financing, EMSA will pay the Contractor this difference, however only up to the Contract ceilings. If this price is lower than the amount already paid as pre-financing, EMSA will recover the difference.

In order to ensure smooth processing by EMSA of supporting documents both for pre-financing payment and “clearing” stage, it is important that these documents fulfil some mandatory requirements and that they are presented to EMSA in a transparent way. For this reason EMSA has prepared this document. Accordingly, the Contractors are requested to follow closely the requirements detailed on the subsequent pages.

## **1. Pre-financing documents to be included in the bid**

1. Pre-financing documents should be presented to EMSA in two parts:
  - Equipment
  - Pre-fitting
2. The bid must include a signed summary sheet at the beginning of both parts (see the appendix to Enclosure T.4 - Bid Template (per lot)), summarising the quotations (indicating at least supplier, technical description, unit price, number of ordered units, VAT amount separately when applicable and the overall price).
3. The bid must also include dated quotations from suppliers of equipment/pre-fitting works fulfilling the following conditions:
  - The price must be fixed at a maximum (estimation will not be acceptable) and quoted in EUR (offer in other currency will not be acceptable);
  - Name of the company supplying the equipment or carrying out the pre-fitting works must be indicated;
  - It must be valid until 31 March 2020;
  - It must be clearly indicated on the offer that the amount is without VAT or the VAT must be shown separately;
  - There must be a detailed breakdown of offered items (price, including unit price where applicable, VAT amount separately when applicable and technical description);
  - The delivery time after the order is placed must be indicated on the quotation;
  - When the total price of the quotation (including VAT) is above 50,000 Euro, it should also be signed by the supplier representative;
  - If a quotation comprises more than 1 item, the calculation of the total amount must be clear and unambiguous.
  - Where an offer contains alternative options the Contractor must indicate which option he will order.
  - In the case where the Contractor intends to order only some items indicated in a quotation, they must be clearly indicated. The total amount of items which the Contractor intends to order must be clearly indicated.
4. EMSA will not include into the pre-financing calculations an offer which does not fulfil the above mentioned requirements.
5. It is important that offers are correctly categorised, i.e. equipment (as per requirements in Annex V to the VAC) or pre-fitting (as per requirements in Annex IV to the VAC).
6. The Contractor should verify calculations to avoid any mistake in the pre-financing. Any unclear calculation will result in the exclusion of related quotation from pre-financing.

## **2. Pre-financing documents to be submitted following the signature of the contract**

1. The contractor must open a new bank account dedicated only to pre-financing. The relevant original Financial Identification Form must be sent to EMSA.
2. Any missing or corrected quotation from the bid must be submitted. These quotations must fulfil all the conditions indicated in the previous point.
3. If there is any change in price, items or suppliers between the quotation provided by the Contractor in the bid and the quotation presented after the signature of the contract, a detailed justification must be attached to the relevant quotation. Quotations will in particular not cover less or lower quality works and equipment and not trigger a higher price of the pre-fitting and equipment purchase compared to what was presented in the bid. In any case, such changes must be expressly approved by EMSA in writing.
4. If there is any change in the quotations submitted with respect to the ones included in the bid, the contractor must submit updated signed Summary Sheets for Equipment and/or Pre-fitting.
5. Original bank guarantee to cover the total pre-financing amount must be presented according to the Template included in Annex IX to the Vessel Availability Contract. The text in this Template cannot be modified unless expressly agreed by EMSA. It is recommended to send first a draft to EMSA to avoid any potential problem with pre-financing.
6. In case the bank providing the guarantee is not registered in the EMSA accounting system, EMSA will require the Legal Entity Form of this bank. No payment can be made until this document is validated.

## **3. Pre-financing payment by EMSA**

1. EMSA will review all the quotations and will establish the amount due for pre-financing of equipment and pre-fitting. The pre-financing amount for equipment will be equal to the amount of the equipment offers approved by EMSA (EMSA approved offers), within the Contract ceilings for equipment. The pre-financing amount for pre-fitting will be equal to 80% of the amount of the pre-fitting offers approved by EMSA (EMSA approved offers), within the Contract ceilings for pre-fitting.  
The remaining 20% of the costs linked to pre-fitting will have to be first paid by the Contractor using his/her funds. This 20% will then be a part of clearance process and, if properly evidenced, will be reimbursed by EMSA.
2. EMSA will inform the Contractor regarding the established amounts due for pre-financing of equipment and pre-fitting and the reasons for any non-acceptance of offers. At the same time, EMSA will ask the Contractor to submit two invoices covering pre-financing, one for equipment and one for pre-fitting works. Each invoice will indicate:
  - Invoice number;
  - Contract number;
  - Clear concept (Payment request for pre-financing 100% equipment and Payment request for pre-financing 80% pre-fitting respectively);
  - VAT exemption;
  - No reference to the bank account (to avoid potential mistakes with the usual commercial bank account of the contractor)
  - The amount of pre-financing due from EMSA.

3. After receipt of both invoices, EMSA will make pre-financing payments, one for equipment and one for pre-fitting works according to the period set out in the contract.
4. EMSA will make pre-financing payments to the Contractor's dedicated pre-financing current bank account as indicated in the Contract.

The use by the Contractor of pre-financing in order to pay suppliers invoices must not be hindered by any associated bank guarantee for pre-financing, i.e. it must be possible to make payments from the dedicated bank account during the preparation phase. The pre-financing amount received from EMSA cannot be blocked on the contractor's bank account because of the existence of the bank guarantee.

#### **4. "Clearing" by EMSA of pre-financing payments**

1. The Contractor will send to EMSA, on a monthly basis, all suppliers' copies of invoices which have been paid by the Contractor and will attach to each of these invoices the associated copy of bank statement proving that the payment has been made. These documents will be mandatory supporting element for "clearing" the use of pre-financing by the Contractor and also for the remaining 20% of the costs linked to pre-fitting which have been paid by the Contractor using his/her funds.
2. The pre-financing guarantee will not be decreased step by step as payments are made by the Contractor to suppliers using pre-financing funds. The pre-financing guarantee remains valid for the full amount and will be released only on the conditions agreed in the bank guarantee.
3. After all equipment has been purchased and the vessel(s) have been pre-fitted according to the Contract, following the issue by EMSA of the Acceptance Note which marks the start of the stand-by phase, the Contractor will send to EMSA the remaining original invoices and associated copies of bank statements so that EMSA is able to "clear" the pre-financing payments and the remaining 20% of the costs linked to pre-fitting.
4. These invoices must be supported by a copy of a bank statement proving the payment of the invoiced amount;
  - The invoiced price may be lower than the price indicated in the associated quotation. If the invoiced price is higher the difference will not be accepted unless detailed justification is provided by the Contractor. This price increase justification must be expressly approved by EMSA in writing;
  - It must be clearly indicated on the invoice that the amount is without VAT or the VAT must be shown separately;
  - VAT paid by the Contractor to suppliers, if any, will not be included into the total acceptable price of equipment/pre-fitting works.
  - Contract with EMSA does not exempt the suppliers to charge VAT on their invoices to the contractor.
5. The Contractor must submit together with the copies of the paid supplier invoices and copies of bank statements evidencing the payments an updated and consolidated signed Summary Sheet for Equipment and/or Pre-fitting listing each quotation approved by EMSA for the pre-financing and the associated invoice (indicating at least supplier, description, corresponding item, unit price, number of ordered units, VAT amount separately when applicable and the overall price).

6. Following the submission of all copies of supplier invoices paid by the Contractor and associated copies of bank statements, EMSA will calculate the total eligible costs of equipment/pre-fitting works. If the total eligible costs of equipment/pre-fitting is higher than the amount already paid as pre-financing, EMSA will pay the Contractor this difference, however only up to the total Contract ceiling for equipment/pre-fitting works. In this case EMSA will request two invoices for the amounts due for purchase of equipment on one hand and pre-fitting works on the other hand. EMSA will make the payment according to the rules set out in the contract.  
If the total eligible costs of equipment/pre-fitting works are lower than the amount already paid as pre-financing, EMSA will recover the difference.