

## **Tender Specifications**

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

## **Invitation to tender No. EMSA/NEG/31/2022 for Water Dispensers and associated services**

### **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.

EMSA is applying the environmental management systems ISO 14001:2015 and EMAS (Environmental Management and Audit Scheme of the EU), aiming to continuously improve its environmental performance. EMSA complies with all applicable legal requirements relating to the environment and endeavours to ensure that suppliers comply with its environmental policy within the remit of the activities carried out for the contract. EMSA invites tenderers to consult the document and consider it when preparing bids.

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

The objective of the contract is to establish a Framework Service Contract, for the rental of mains fed countertop water dispensers including delivery, installation, preventive and corrective maintenance, replacement of a unit if a repair cannot be undertaken on site or replacement of parts, for the EMSA premises located at Praça Europa 4, 1249-206, Lisbon, Portugal. The price shall be all inclusive, it shall in particular include transportation of personnel, equipment, products and respective insurances.

#### **2.1 Rental of countertop water dispensers**

The requirements contained in Appendix 1 "Compliance Matrix", shall be considered as minimum requirements for participating in the call for tenders. A tender failing to meet these requirements may be rejected. Please fill in Appendix 1 "Compliance Matrix".

Although EMSA will predominantly request services related to the proposed equipment, tenderers are encouraged to add their full catalogue to their tender, as EMSA may request other items from the full catalogue.

#### **2.2 Preventive maintenance**

The contractor shall perform preventive maintenance of countertop water dispensers at least twice per year. Preventative maintenance shall include:

- a) Filter replacement;

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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.).

- b) General verification.

## 2.3 Corrective maintenance

The contractor shall perform corrective maintenance depending on immediate needs communicated by EMSA or identified by the contractor during the preventive maintenance. Corrective maintenance shall include:

- a) Hands-on corrective maintenance of faulty unit;
- b) Upon a unit failure, delivery of a replacement unit and collection of the faulty one; and/or
- c) Supply of spare parts and/or products necessary to the proper functioning of a faulty unit.

## 3. Contract management responsible body

EMSA Unit 4.2 in charge of Legal, Finance & Facilities will be responsible for managing the contract.

## 4. Project Planning

Each year EMSA will issue one Order Form for the regular maintenance services over the following 12 months. The contractor (or leader in the case of a joint tender) may claim an interim payment equal to 50% of the total price of the Order Form at the beginning of each six (6) months of services.

## 5. Timetable

The estimated date for signature of the contract is December 2022.

## 6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 15,000.00 excluding VAT.

## 7. Terms of payment

Payments will be made in accordance with the provisions of the draft **Framework Service Contract** available in the Procurement Section under the call to tender **EMSA/NEG/31/2022** on EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)). The successful tenderer(s) shall take the appropriate measures to be compliant with the e-invoicing conditions as set out in the draft contract.

## 8. Terms of contract

When drawing up a bid, the tenderer shall bear in mind the terms of the draft Framework Service 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 it shall indicate in its 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. However, the selection criteria may apply individually where it is relevant in view of their nature.

## 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 shall in particular include an English version of the documents requested under points 14.5 and 16 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 (Join Offers) it shall indicate it in its offer by completing the form "Statement of Subcontracting / Joint Offer". This document is available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)).

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], the bank account on which payments are to be made and the email address to be used for contacts during the procurement procedure.
- b) **The Financial Identification Form completed**, signed and stamped. This document is available on the Procurement Section (Financial Identification Form) of EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)).
- c) **The Legal Entity Form** completed, signed by the person authorised to sign the contract and stamped along with the requested accompanying documentation, including recent proof of that authorisation (not more than one year old). 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 Identification 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 shall 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 10, 13 13 and 14.2 of these specifications (exclusion criteria).

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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).

**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 1616 of these specifications;

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

## 12. Price

- a) Price must be quoted for rental of Water Dispensers and associated services and shall include the price for rental of countertop water dispensers, including delivery and installation, preventive and corrective maintenance and replacement of units/parts. **Tenderers shall fill in Appendix 2 - Price list and Price Scenario.**
- b) Prices must be fixed amounts and non-revisable *unless* otherwise specified in the contract.
- c) Prices must be quoted in euro.
- d) Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Union, 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.

## 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 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 group 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 group will be checked to ensure that the group as a whole fulfils the criteria. However, the selection criteria may apply individually where it is relevant in view of their nature.

If awarded, the contract will be signed by the person authorised by all members of the group. Tenders from 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, technical and professional 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** available on the Procurement Section 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 exclusion situations listed in the 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.

### **14.3 Legal and regulatory capacity – Selection criteria**

#### **14.3.1 Standards / Prerequisites**

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 Standards / Prerequisites**

- a) The tenderer must be in stable financial position and must have the economic and financial capacity to perform the contract.
- b) The tenderer must not be subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU) substantially affecting the performance of the contract (e.g., asset freezes and/or a prohibition on making funds or economic resources available). The prohibition applies throughout the whole performance of the contract.

#### **14.4.2 Evidence**

- a) Declaration on Honour.
- b) Self-declaration that the tenderer is not subject to restrictive measures (e.g., asset freezes and/or a prohibition on making funds or economic resources available) substantially affecting the performance of the contract.

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 shall simply indicate on the cover letter the procurement procedure where the evidence has been provided.

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 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 Standards / Prerequisites**

The tenderer must have relevant technical and professional capacity to provide the rental of countertop water dispensers, including preventive and corrective maintenance services, as mentioned in point 2 above and proven experience in that field of at least the last two years.

### **14.5.2 Evidence**

The tender must present a list of clients, with the relevant references, for at least the last two years.

## **15. Declaration of Honour (DoH)**

Please note that the tenderer shall provide information with regards its situation and on the natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control and beneficial owners.

Upon request and within the time limit set by EMSA, the tenderer shall provide the following evidence concerning itself, the natural or legal persons as listed under the first paragraph, and concerning the natural or legal persons which assume unlimited liability for the debt of the tenderer:

For the exclusion situations described in points (a), (c), (d), (f), (g) and (h) of the Declaration of Honour, 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 situations described in (a) and (b) of the Declaration of Honour, production of recent certificates issued by the competent authorities of the country of establishment 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.

The successful tenderer must provide the documents mentioned as supporting evidence before signature of the contract and within the deadline given by EMSA. This requirement applies to each member of the group in case of joint tender.

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.

## 16. 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** ( $W_1 = 30\%$ ), Proposed preventive and corrective maintenance plan, including scheduling of preventative maintenance, means of communication, and response time in case of need for corrective maintenance.

and the price criterion and associated weighting:

2. **Price of the bid** ( $W_{Price} = 70\%$ ). The price of the bid for evaluation purposes ("price scenario"): monthly rental fee for 8 countertop water dispensers, all inclusive. **Note: Please fill in table in Appendix 2 - Price list and Price Scenario.**

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

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

Only bids that have reached a minimum of 60% for  $Q_1$ , will be taken into consideration when calculating the score for quality  $SQ$ , score for price  $SP$  and score  $S$ .

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

## 17. 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 used in the award procedure where this entails a breach of the principle of equality of treatment, including distortion of competition that cannot be remedied otherwise.

## **18. 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 shall be clearly pointed out by the tenderer in the tender. Information shall 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.



Appendix 1 - Compliance Matrix		
Countertop water dispensers		
Specifications	Yes/No	Comments
Countertop: 480 (H) x 345 (W) x 367 (D) (10% variation acceptable)		
Dispense area height 215mm (10% variation acceptable)		
Foot pedal operated		
Large drip tray (over 1 litre capacity) (10% variation acceptable)		
Carbon filtration		
Two-stage purification process including in-tank UV technology		
Antimicrobial protection		
Cold, hot, and ambient options		
NSF protocol P231 compliance		
NSF/ANSI 55 class A compliance		
ANSI/UL 399 standard compliance		
NSF/ANSI 42 compliance		
NSF/ANSI 53 compliance		
Bacteriological water analysis report, issued by a medical institute		

Appendix 2 - Price list and Price Scenario		
Rental of water dispensers	Price List (per unit in EUR)	Price Scenario (price per unit x 8 units In EUR)
Monthly rental fee for a countertop water dispenser, all inclusive.		