

Procurement procedure: EMSA/NEG/1/2021

Questions and Answers

Number	Question	Date and time	Reply
1.	<p>As mentioned in section 2.1 of the Tender Specifications, this procurement procedure refers to two different lots and tenderers may apply to one lot only or both lots.</p> <p>We understand that if the tenderer wants to present a proposal to both lots it is possible to submit a single tender for both lots. Please confirm.</p>	20/01/2021 20:01 UTC	It is possible to submit a single tender for both lots, as long as the tender clearly identifies which part refers to which lot.
2.	If the answer to the above clarification request is negative, please confirm that tenderers may submit only once the documents that are common to lot 1 and lot 2.	20/01/2021 20:01 UTC	Common documents (such as DoH, LEF, BAF, proof of economic and financial capacity, etc.) only have to be submitted once.
3.	According to paragraph 6 of the Tender Specifications, the maximum budget available for this contract is EUR 135,000.00 excluding VAT, corresponding EUR 120,000.00 to Lot 1, and EUR 15,000.00 to Lot 2.	20/01/2021 20:01 UTC	The indicated maximum value of the procedure and per lot is for the whole duration of the contract, including all possible renewals and, where applicable, reimbursement of expenses.

	Please confirm that the maximum budget referred herein regards the initial duration of both contracts (1 year) and that if there will be any renewal of any of the contracts the maximum budget will also be renewed, at least in the same amount.		
4.	<p>As mentioned in section 11 of the Tender Specifications, the tender must include:</p> <p>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.</p> <p>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).</p> <p>c) The Legal Entity Form completed, signed and stamped along with the requested accompanying documentation, including recent proof of that authorisation (not more than one year old).</p> <p>Please confirm that the tenderers shall also include in the tenders the documents referred to in part A to E.</p>	20/01/2021 20:01 UTC	All documents and information mentioned in Parts A to E must be submitted with the tender.
5.	If the answer to the previous clarification request is positive, please confirm that the documents referred to in part A to E shall be submitted separately.	20/01/2021 20:01 UTC	Please refer to the answer to question No 4.
6.	As mentioned in section 14.3.2. of the	20/01/2021 20:01	A simple copy of the registration at the Bar that is

	Tender Specifications, each member shall prove the respective Bar registration of each team member. Please confirm that this proof can be made by a simple copy of the registration at the Bar that is issued online at the Bar website.	UTC	issued online at the Bar website is sufficient evidence as requested in section 14.3.2 of the Tender Specifications.
7.	<p>As mentioned in section 14.4.2.c) of the Tender Specifications, there may be exceptional reasons that may lead a tenderer to be unable to provide financial statements or their extracts for the last 3 years for which accounts have been closed and a statement of the overall turnover and, where appropriate, turnover relating to the relevant services for the last three financial years.</p> <p>Regarding Law Firms, since they are not subject to auditing and the accounts are not public, how can they demonstrate their economic and financial capacity without jeopardizing the confidentiality of their activity?</p>	20/01/2021 20:01 UTC	<p>Pursuant to Point 12 of the Invitation to Tender, once EMSA has opened the tender, it shall be treated confidentially.</p> <p>Please note that these documents will be solely used for the purpose of evaluating the capacity of the tenderers by the Evaluation Committee members and will not be disseminated.</p> <p>Alternatively, if you are unable to provide such documents, you may state the exceptional reasons and prove your economic and financial capacity by any other means, which will then be assessed by EMSA if acceptable, as per section 14.4.2 c) of the Tender Specifications.</p>
8.	<p>As mentioned in section 14.5.1 of the Tender Specifications, the members of the team to be proposed for lot 1 shall be, at least:</p> <p>1 (one) Senior Lawyer/Project Manager, with University Law Degree, experience of at least 10 years in the areas of EU Contract and Procurement Law and Litigation and an excellent command of English (level C1 or higher), oral and written;</p> <p>2 (two) Lawyers, with University Law Degree, experience of at least 5 years in the</p>	20/01/2021 20:01 UTC	<p>Please note that the statement “For this point, tenderers may either propose only one lawyer expert in all the mentioned areas or more than one lawyer each expert in different areas, provided that all mentioned areas of law are covered” applies only to the third bullet point of section 14.5.1.a).</p> <p>For the first bullet point, tenderers shall propose at least one lawyer with experience in all mentioned areas.</p> <p>For the second bullet point, tenderers shall propose at least two lawyers, each with experience in all</p>

	<p>areas of EU Contract and Procurement Law and Litigation and an excellent command of English (level C1 or higher), oral and written; and</p> <p>1 (one) Lawyer(s), with University Law Degree, experience of at least 5 years in Portuguese Law in particular Labour Law, Tax Law, IPR and Construction Law and an excellent command of English (level B2 or higher), oral and written.</p> <p>Our understanding is that tenderers may either propose only one lawyer for all the mentioned areas or more than one lawyer for one or more areas of expertise, provided that all mentioned areas of expertise are covered. Please confirm.</p>		mentioned areas.
9.	<p>As mentioned in section 14.5.1 of the Tender Specifications, the members of the team to be proposed for lot 2 shall be, at least:</p> <p>two (2) lawyers with University Law Degree, experience of at least 5 years in the areas of Maritime Law, Law of the Sea, P&I matters, and Aviation law and an excellent command of English (level C1 or higher), oral and written.</p> <p>Our understanding is that tenderers may either propose only one lawyer for all the mentioned areas or more than one lawyer for one or more areas of expertise, provided that all mentioned areas of expertise are covered. Please confirm.</p>	20/01/2021 20:01 UTC	For lot 2, tenderers shall propose more than one lawyer (at least two) for one or more areas of expertise, provided that all mentioned areas of expertise are covered.
10.	According to Section 14.5.1 of the Tender	20/01/2021 20:01	The mentioned examples are considered acceptable

	<p>Specifications, technical and professional capacity to provide the requested services require an excellent command of English with several different levels that go from C1 to B2 or higher. Please specify appropriate proofs for such an excellent command of English. In general, we would assume that:</p> <ul style="list-style-type: none"> • a self-evaluation as part of the CVs (in European format) without further language certificate and /or • the provision of description of projects undertaken in English for the lawyers who will be part of the proposed team for this • project and/or publications in English <p>are sufficient proofs for the required language skill. Please confirm.</p>	UTC	evidence as requested in Section 14.5.1 of the Tender Specifications.
11.	<p>As mentioned in section 14.5.2.c) of the Tender Specifications, for Lot 1, the tenderer has to include at least four references in English for significant projects setting out the proposed team members' experience in the areas mentioned in section 14.5.1.a) of the Tender Specifications in the past 5 years. Regarding Lot 2, according to section 14.5.2 of the Tender Specifications, for Lot 2, the tenderer has to attach at least two references in English of significant projects setting out the proposed team members' experience in projects, assignments, cases in the past 5 years in each of the following areas: Maritime Law; Law of the Sea; P&I matters; Aviation law.</p>	20/01/2021 20:01 UTC	<p>In line with section 14.5.2 of the Tender Specifications, each of the references requested in c) and d) of that section shall as a minimum detail:</p> <ul style="list-style-type: none"> • the specific tasks of the lawyer(s) proposed for the service; • the year of performance; • the client; • the duration of the assignment. <p>For bullet point three, "the client", you may provide, instead of the name of the client for confidentiality reasons, a description of the client including area of work, dimension, and country of establishment (e.g. mid-sized tech company based in Belgium).</p>

	As a law firm we have a duty of confidentiality about the identity of our clients. Is It possible to present a statement of honour where the law firm declares that all information regarding the experience of the team members is true?		All other bullet points must include the requested information.
12.	If the answer to the above clarification request is negative, please confirm that the references at stake for both Lots can be made through the submission of a description of such projects.	20/01/2021 20:01 UTC	The evidence requested in section in section 14.5.2 of the Tender Specifications must include all elements requested therein.
13.	According to paragraph 2 of the Invitation to Tender the tenders shall be submitted by email and “the size of the e-may not exceed 12 Mb per one email.” Please confirm that tenderers can submit the offer divided in several emails, provided that each of the emails submitted does not exceed 12 Mb.	20/01/2021 20:01 UTC	The tender may be divided in different emails in order to comply with the maximum capacity of the mailbox.

Requests for additional information regarding this procurement procedure shall be sent by e-mail to the following address **NEG12021@emsa.europa.eu**.

Requests for additional information received less than six working days before the closing date for submission of tenders may not be processed.

The deadline for submission of the tenders is 28/01/2021.

The responsibility for monitoring the Agency’s website for replies to queries and/or further information remains with potential tenderers.