

## **Tender specifications**

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

#### **Invitation to tender N° EMSA /OP/15/2014 for the provision of a “Training on International Ship and Port Facility Security (ISPS) Code”**

#### **1. Introduction**

The European Maritime Safety Agency (EMSA) was established under Regulation 1406/2002/EC for the purpose of ensuring a high, uniform and effective level of maritime safety. Among its tasks, the Agency provides Member States with technical and scientific assistance and a high level of expertise in order to help them to apply Community legislation properly in the field of maritime safety, prevention of pollution by ships and maritime security. The Agency also monitors implementation and evaluates the effectiveness of the measures in place. Within the framework of technical assistance, EMSA organises workshops and training in response to requests from Member States in the fields of port state control, flag state control, port reception facilities, classification societies, marine equipment and others. This also applies for the EEA, candidate and potential candidate countries (Albania, Bosnia and Herzegovina, FYROM, Montenegro, Serbia, and Turkey) as well as the European Neighbouring Partnership (ENP) countries, thus:

The neighbouring countries Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, the Palestinian Authority, Syria, Tunisia and Turkey under the SafeMed project, and Armenia, Azerbaijan, Georgia, Kazakhstan, Moldova, Ukraine and Turkmenistan under the TRACECA project.

On the 1st July 2004, the new maritime security regulatory regime set out in the International Convention for Safety of Life at Sea (SOLAS), 1974 as amended, namely the new Chapter XI-2 on Special measures to enhance maritime security and the International Ship and Port Facility Security Code (ISPS), entered into force, only 18 months after the adoption by the SOLAS Conference in December 2002.

Following the terrorist attacks of 11 September 2001 at the WTC in USA, the International community recognised the need to protect the international maritime transport sector against the threat of terrorism. The IMO responded swiftly and firmly by developing these new requirements, which represent the culmination of co-operation between Contracting Governments, Governments agencies, local administrations and the shipping and port industries.

The purpose of the ISPS Code is to provide a standardised, consistent framework for evaluating risk, enabling Governments to offset changes in threat with changes in vulnerability for ships and port facilities through determination of appropriate security levels and corresponding security measures.

The ISPS Code is implemented through Chapter XI-2 of SOLAS on Special measures to enhance maritime security. The Code has two parts, one mandatory (part A) and one recommendatory (part B). In essence, the Code takes the approach that ensuring the security of ships and port facilities is

a risk management activity and that, to determine what security measures are appropriate, an assessment of the risks must be made in each particular case.

The Regulation (EC) No.725/2004 of the European Parliament and of the Council of 31 March 2004, on enhancing ship and port facility security provides provisions in relation to the ISPS Code and makes some paragraphs of this Code mandatory for EU Member States. Article 9 paragraph 1 of this Regulation requires the Member States to carry out administrative and control tasks pursuant to the provisions of the special measures to enhance maritime security of the SOLAS Convention and of the ISPS Code and to ensure that all necessary means are allocated and effectively provided. Therefore, it is of great importance that duly authorised officers have appropriate knowledge on these issues.

Further security requirements have been implemented in the EU based on Directive 2005/65/EC on enhancing port security. This Directive requires that Member States extend security measures from the ship-port interface (the port facility) to the whole port area. These measures aim to further enhance maritime security across the EU.

A Regulation laying down procedures for conducting Commission inspections in the field of maritime security was adopted by the EU Commission in order to monitor the application of Regulation (EC) No 725/2004 at the level of each Member State and of individual port facilities and relevant Companies. Following the coming into force of Directive 2005/65/EC on enhancing port security, a revised Commission Regulation (EC) No 324/2008 was adopted on 9 April 2008 to incorporate procedures for monitoring Member States' implementation of the Directive jointly with the Commission's inspections under Regulation 725/2004. On the basis of this legislation, inspections are coordinated and prepared by the Commission.

It is of great importance that all personnel dealing with the implementation of the ISPS Code (Ship security related aspects) both at the central maritime administrations and on field have appropriate knowledge on these issues.

Therefore, in accordance with the EMSA Annual Work Programme 2014 (Article 3.9) explicit training in the field of Ship Security for Member States as a task for the Agency, EMSA would like to deliver training sessions for officials from the Member States, the EEA, the candidate and potential candidate Countries, as well as the ENP Countries, providing an overview of the international and European legislation and intended to ensure that participants develop a practical approach to the interpretation and application of the ship related aspects of the ISPS Code.

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

The overall objective of this service framework contract is the provision of training on International Ship and Port Facility Security (ISPS) Code.

The participants will be officials from the EU Member States, Iceland, Norway, from the candidate/potential candidate Countries and from the ENP countries' administrations involved in the monitoring and control of compliance of security measures on board ships and companies. The training shall ensure that participants are provided with a combined knowledge on the main elements of ISPS and auditing procedures and develop a practical approach to the interpretation and application of the ISPS Code both for ship and port facility related aspects.

## **2.2 Scope of the training**

### **2.2.1 Training description**

The minimum number of participants for each training session shall be 8 persons. The maximum number of participants for each training session shall be 15 persons. Each training session shall be delivered in 4 working days starting at 09:00 and finishing at 17:30. Each training session shall consist of a minimum of 26 hours and shall cover the following issues:

#### **Legal framework**

##### **1.Introduction**

- The international legislation on security (UNCLOS, SOLAS)
- The ISPS Code and related background information
- Relevant IMO resolutions and circulars including those on piracy and stowaways, EU legislation
- Role of the IMO

##### **2.The European legislation**

- Introduction to the European legislation on security focusing on differences with the international legislation (Regulation (EC) 725/2004, Directive 65/2005/EC, Commission Regulation 324/2008)
- Need and scope of ISPS Code related national legislations
- Importance of the ISPS Code in the supply chain and the concept of the inter-modal security policy
- Role of the EU and EMSA

##### **3.Roles and Responsibilities**

- Link between ISM and ISPS Codes, as well as of the respective 2010 Manila amendments on STCW (emphasizing on the proper certification issue).
- The role, tasks and responsibilities of the flag administrations
- The role, tasks and responsibilities of the Recognized Security Organizations
- Member States responsibilities for monitoring the delegated tasks to RSOs
- The role, tasks and responsibilities of the port (PSCO's – DAO's) and coastal States
- The role, tasks and responsibility of the security personnel
- Company Security Officer
- Ship Security Officer
- Port Facility Security Officer
- Port Security Officer
- Piracy – Issues on using PCASP and the need to have legislation in place

##### **4.Operational issues**

- Declaration of Security
- Verification and certification for ship
- Certification of Compliance for Port Facilities
- Security levels
- Drills and exercises
- Sanctions
- Training requirements

- Auditing (types of audits both for ship and port facility) and inspection in relation to ISPS Code
- Ship and Port facilities:
  - security assessment (for instance: identification of existing security measures, procedures and operations; identification and evaluation of key ship board operations that it is important to protect; identification of possible threats to the key ship board operations and the likelihood of their occurrence, in order to establish and prioritize security measures; identification of weaknesses, including human factors in the infrastructure, policies and procedures; prioritization of the threats)
  - security plan (for instance: contents; plan documentation and control; periodic review procedures; plan security and control; etc.)
- Cyber security
- Control and compliance measures

The training shall consist of lecturing sessions and practical exercises/case studies (to be conducted in the classroom). The contractor should promote a high degree of active participation by all officials attending the course.

Each training session shall start with a thorough assessment of participants' knowledge in the field of maritime security and end with an examination, to verify that the participants have acquired the knowledge delivered during the training

In drafting the course programme, the contractor shall allow twenty minutes per training session for EMSA to provide presentations on logistical issues at the beginning of each training session. In the same way, twenty minutes at the end of each training session shall be allowed to EMSA for evaluation and conclusion. However these two periods shall not be taken into account in the total course time (minimum of 26 hours).

The proposed course syllabus shall be included in the tender.

### **2.2.2 Language of the training**

The training and all training materials shall be delivered in English when delivered at the EMSA's premises in Lisbon and in English or French as chosen by the relevant maritime administration when delivered in one of the neighbouring countries. All training materials, including certificates of attendance shall bear the EU and EMSA logo. The template of the certificates of attendance, has to be approved and signed by EMSA before it is given to the participants. The template shall not give the participant any qualification.

### **2.2.3 Participants**

EMSA will only invite participants with an adequate level of English or French according to language requested for the training session. Participants shall be invited by EMSA from the national administrations of the 27 EU Member States, Norway, Iceland and the candidate and potential candidate Countries and ENP countries. Drafting and sending of the invitation letters will be done by EMSA. The list of all participants shall be sent to the contractor a week before the start of each training session.

#### **2.2.4 Location of the training**

The trainings shall be delivered at the EMSA's premises in Lisbon in Praça Europa 4, 1249-206, Lisbon, Portugal or in one of the neighbouring countries at the venue designated by the relevant maritime administration of the countries falling under the SafeMed and TRACECA projects.

#### **2.2.5 Notice of planned events**

EMSA shall give 2 months' notice of the planned trainings, their location and the language of the training session, while their precise dates will be decided in agreement with the contractor at a later stage. .

#### **2.2.6 Additional requirements for training**

When delivering the training the contractor shall provide copies of relevant textbooks, technical papers and course syllabus both in English and French languages (as applicable). All training materials shall bear the EU and EMSA logo.

EMSA or the hosting country will:

- provide adequate lecturing facilities;
- provide relevant equipment for the delivery of the lectures such as computer, beamer, flipchart, etc;
- provide stationery (notepads and pens for each participant).;

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

The European Maritime Safety Agency – Unit B.0.2, in charge of Training & Co-operation – will be responsible for managing the contract.

### **4. Project Planning**

The contractor shall provide EMSA with a training report within three weeks after each training session is completed. The report shall contain, as a minimum, the number of participants, the topics covered, results of the assessment and a detailed course evaluation

### **5. Timetable**

The estimated date for signature of the contract is mid-March 2015

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

The maximum allocated amount for the contract is 292,000 (two hundred ninety two thousand) Euros excluding VAT for a maximum number of 18 training sessions over the duration of the service framework contract (4 years). Out of the 18 training sessions a maximum of 8 may be delivered in the SafeMed and TRACECA beneficiaries.

### **7. Terms of payment**

Payments shall be issued in accordance with the provisions of the **draft framework contract** available on the Procurement Section under the call to tender EMSA/OP/15/2014 on the EMSA website at the following address: [www.emsa.europa.eu](http://www.emsa.europa.eu).

## 8. Terms of contract

In drawing up a bid, the tenderer should bear in mind the terms of the draft framework service contract. EMSA may, before the contract is signed, either abandon the procurement or cancel the award procedure without the tenderers being entitled to claim any compensation.

## 9. Financial guarantees

Not applicable.

## 10. Sub-contracting

If the tenderer intends to either sub contract 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. (NB: overall responsibility for the work remains with the tenderer).

If the tenderer relies on the capacities of subcontractors to fulfil selection criteria as specified in section 14.5 (technical and professional capacity), then each subcontractor must provide the required evidence for the exclusion and selection criteria. To rely on the capacities of a subcontractor does not mean that the contractor has to use deliveries or services of another company but that this company and its special capacity is central to the capacity of the contractor to fulfil the contract and that it cannot be easily changed or replaced. 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 fulfils the criteria.

## 11. Requirements as to the tender

Bids can be submitted in any of the official languages of the EU. The working language of the Agency is English. Bids must include an English version of the documents requested under point 14.5 & 15.1 of the present tender specifications.

The tenderer shall complete the Tenderer's checklist.

If the tenderer intends to either sub contract part of the work or realise the work in co-operation with other partners (Joint Offers) he shall indicate in his offer by completion of the form – Information regarding joint offers and subcontracting.

The tender must be presented as follows and must include:

**Signed cover letter** indicating the name and position of the person authorised to sign the contract and the bank account on which payments are to be made.

**Financial Form** completed, signed and stamped; available on the Procurement Section (Financial Form) on the EMSA Website at the following address: [www.emsa.europa.eu](http://www.emsa.europa.eu)

**Legal Entity Form** completed, signed and stamped and requested accompanying documentation, available on the Procurement Section (Legal Entity Form) on the EMSA Website at the following address: [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 been completed and sent either to EMSA or any EU Institution previously. 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 **13, 14.2-14.3** of these specifications (part of the 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 **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 **15** of these specifications;

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

## **12. Price**

- Prices for the provision of a “Training on International Ship and Port Facility Security (ISPS) Code” shall include per type of training session (P1 = price of the provision of a single ISM training in a Safemed or TRACECA country (identified under point 1 – Introduction), P2 = price of the provision of a single ISM training at the EMSA’s premises; see also point 15 Award criteria
- Must include all costs of delivery (including travel to and accommodation near the training venue)
- Prices must be quoted in Euro.
- Prices must be fixed amounts, non-revisable and remain valid for the duration of the contract.
- 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 1406/2002/EC. 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 service provider 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 on the Procurement Section (Legal Entity Form) on the EMSA Website at the following address: [www.emsa.europa.eu](http://www.emsa.europa.eu)

### **14.2 Grounds for exclusion - Exclusion criteria**

To be eligible for participating in this contract award procedure, tenderers must not be in any of the following exclusion grounds:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union financial interests;
- f) they have been the subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

### **14.3 Evidence to be provided by the tenderers**

For this purpose the Declaration on Honour available on the Procurement Section on the EMSA Website ([www.emsa.europa.eu](http://www.emsa.europa.eu)) shall be completed and signed.

Please note that the tenderer to whom the contract is to be awarded shall provide additional proof evidencing eligibility.

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the tenderer is a legal person and the national legislation of the country in which the tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the tenderer.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are 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.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

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 Contractor is required to submit a statement of confirmation that their situation has not changed.

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

Requirements:

- The tenderer must be in stable financial position and the economic and financial capacity to perform the contract

Evidence:

- Financial statements for the last three years for which accounts have been closed.
- Statement of overall turnover and turnover relating to the relevant services for the last three financial years.
- 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 still complies with the requirements. In this case the tenderer should 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, he 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 any other document enabling it to verify the tenderer's economic and financial capacity.

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

The tenderer shall provide evidence of expertise in delivering ISPS Code Training courses. Such evidence of the knowledge and experience in the field referred to in point 2.2.1 shall be provided on the basis of a list of courses which the tenderer has provided in the past three years (detailed list of trainings, certificates of accreditation, etc).

All Instructors participating in this training should be professionally and academically qualified in the task and shall have experience in providing courses on the topics referred to in point 2.2.1 of this document. The tenderer shall provide evidence that each instructor proposed to deliver the training in English shall have at least delivered one of the above mentioned courses in English in the last three years, the instructors proposed to deliver the training in French shall have at least delivered one of the above mentioned courses in French in the last three years.

Tenderers should provide with their bid detailed curriculum vitae of each Instructor who will be delivering the training under the proposed contract. The curricula vitae shall include the educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills (English and French as relevant).

During the 48 months' service framework contract the tenderer can propose the replacement of (a) proposed trainer(s) with (a) new trainer(s) having the equivalent qualification and skills. In such a case the tenderer will provide EMSA with the curriculum vitae including the educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills (English or French as relevant) of the trainer(s) proposed for the replacement. However, trainers can only be replaced upon approval of EMSA.

## 15. Award criteria

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

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 ( $W_1 = 50\%$ )

Quality of the training programme, methodology for providing the course including the quality of practical exercises/case studies: the bid must include detailed syllabus, indicating at least the number of lectures and practical exercises (case studies) and/or other forms of providing the training, including a detailed description on the content and objectives of each topic, a description of the training materials provided;

### 2. Quality criterion 2 ( $W_2 = 20\%$ )

Quality of the training team: the bid must include a detailed description of the way in which the proposed team is to be organized in order to deliver expected results per topic, its reporting system and the team leader; the teachers involved per topic also have to be indicated in the bid.

and the price criterion and associated weighting:

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

The price is calculated as the scenario of the maximum number of training sessions under this framework contract:  $W\_Price = (8 \cdot P1 + 10 \cdot P2)$

P1 = price of the provision of a single ISPS training session in a Safemed or TRACECA country (maximum 19000€)

P2 = price of the provision of a single ISPS training session in EMSA to Member States, EEA or ENP countries (maximum 14000€)

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

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

Only bids that have reached a minimum of 60 % for  $Q_1$ , a minimum of 60 % for  $Q_2$ , etc. 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. Contracts will not be awarded to tenderers who, during the procurement procedure:**

- a) are subject to a conflict of interest
- b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

**17. False declarations**

Without prejudice to the application of penalties laid down in the contract, tenderers and contractors who have been guilty of making false declarations concerning situations referred to in points 14 and 15 above or have been found to have seriously failed to meet their contractual obligations in an earlier procurement or grant shall be subject to administrative and financial penalties set out in Article 145 of Commission Delegated Regulation of 29.10.2012 on the rules of application of Regulation (EU) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union.

**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 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.