

## **Tender specifications**

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

#### **Invitation to tender N° EMSA/OP/01/2015 for RuleCheck Enhancement and Maintenance**

#### **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 has been entrusted with the project management and operation of the information system RuleCheck in order to help the Member States of the Paris Memorandum of Understanding (Paris MoU) to strengthen, harmonise and significantly improve the standards of the Port State Control (PSC) inspections, in line with the Directive 2009/16/EC on PSC and the PMoU inspection regime. In addition, under the SAFEMED III and TRACECA II projects, EMSA will also provide the beneficiary countries an adapted and dedicated version of RuleCheck.

The objective of RuleCheck is to serve as an information source of PSC related documents and procedures from IMO, ILO, Paris MoU Mediterranean MoU, Black Sea MoU and EU Legislation, to support PSC activities.

The development of RuleCheck was assigned to the first Contractor in 2007. The system was ready and went live fully operational in 2008. Since the go-live date, the first Contractor has been providing on-going maintenance and enhancement of the system. During the execution of the project and until now, the development and testing has been performed at the first Contractor's site, while acceptance testing and final production are performed at EMSA premises by EMSA personnel, in conjunction with representatives from the Member States and *intra muros* consultants.

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

##### **2.1 Objective and scope**

The objective of this procurement is to establish a Framework Contract to enhance and maintain the system RuleCheck as an on- and offline version.

##### **2.1.1 Enhancement**

Enhancement covers the services for additions, changes or deletions of the content, technical or functional features of the system, including the development of stand-alone sub-systems.

##### **2.1.2 Maintenance**

Maintenance includes the content update of the system, and covers the services for modifications of the system to correct or prevent problems.

These services will also apply to enhancements once delivered under this Framework Contract.

### 2.1.3 Requirements

Detailed information about the requirements to be considered and adhered to in the performance of the contract is specified in the Appendixes attached to these tender specifications:

Appendix 1: RuleCheck Technical Report

Appendix 2: Mediterranean MoU Content

Appendix 3: IdM Guide

Appendix 4: Example of Target System Webservice Specification

Appendix 5: Working Procedures and Service Requirements

The Appendixes and a user login to the RuleCheck online version will be provided upon an explicit request and must be used only for the purpose of answering the current call for tender.

The documents relating to Paris MoU, Mediterranean MoU and EU Legislation will be provided to the Contractor by EMSA. All the other documents originating from ILO and IMO are to be obtained and provided by the Contractor.

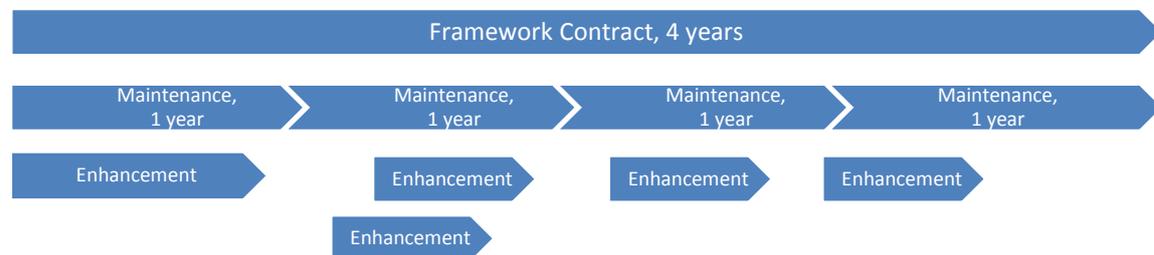
### 2.4 Description

The framework contract will be implemented by specific contracts:

- Specific contract(s) for maintenance: each for a period of one year;
- Specific contract(s) for enhancements for a period to be specified in each specific contract.

Specific contracts for enhancements, in principle, will be conducted in sequence. However there might be the case of specific contracts for enhancements to run in parallel.

An example of duration and sequence of contracts is illustrated below, without prejudice of the actual contract dates.



## 3 Contract management responsible body

The European Maritime Safety Agency – Unit B.3, Marine Environment & Port State Control – will be responsible for managing the contract.

## 4 Project Planning

### 4.1. Meetings

The project shall respect the planning as described in section 2.4. The following meetings are envisaged:

- **Kick-off meeting:** Within one week after the signature of the Framework Contract and each specific contract for enhancements other than content update, a Kick-off meeting will be held in order to define the details of the work to be undertaken.
- **Final meeting:** Prior the end of the framework contract a final meeting shall be held to enable the contracting parties to discuss the work accomplished.

- **Regular management meeting:** occurring every three months.

EMSA may call for additional meetings if this should be considered necessary for the better execution of the project.

Meetings will be held in EMSA premises in Lisbon, Portugal, although some meetings could take another form (e.g. virtual) if mutually agreed by EMSA and the Contractor.

#### **4.2. Agenda and minutes of the meetings**

The Contractor is responsible for providing to EMSA the agenda 3 days before the meetings. The Contractor shall draw up the minutes of the meetings and provide them within 2 working days. The minutes of the meetings should include at least the topics discussed, decisions taken and action items with indication of responsible person and deadline of the actions. Should the minutes of the meetings be rejected by EMSA, the Contractor shall have 2 working days to revise the minutes according to the comments provided.

#### **4.3 Deliverables**

This section provides an indicative, non-exhaustive list of the deliverables for maintenance and enhancements. The Contractor shall adhere to EMSA standards and requirements in terms of system landscape, project delivery, working procedures and services detailed in the tender specifications and Appendixes.

The language of working and of all deliverables must be in English.

##### **4.3.1. Deliverables for enhancements**

For each enhancement requested the Contractor shall provide:

- Project management documentation:
  - Project charter,
  - Project plan,
  - Gantt chart,
  - Project duration,
  - Work breakdown of the effort in person days per profile,
  - Allocation of tasks to team members,
  - Risks registry and risk management procedure,
  - Project status reports and flash reports,
- Design documentation: technical and functional,
- Test documentation: test requirements, cases, scripts, plan, results and reports,
- System documentation: operational and maintenance documentation, system building procedures, infrastructure (HW and SW) documentation, description of system design and architecture,
- User documentation,
- Software releases and release notes,
- All source code and configuration files,
- Installation, configuration and deployment manuals,
- Any other element needed to build/install/operate/maintain the system and its components.

##### **2.3.2. Deliverables for maintenance**

For maintenance requested the Contractor shall provide:

- Change Management Documents for each change submitted to the Change Management Process. It must include at least evaluation of the change, planning and acceptance,

- Updated versions of the deliverables specified in 4.3.1 except the project management documentation (the first bullet point) for each change implemented and submitted to the Release Management process,
- Monthly Service Level Reports described in the context of Service Level Management,
- Every 6 months a new release of the on- and offline version to bring the system and its content up to date by incorporating the latest documents published since the last update for all folders in the Tree View. The update should be reflected in the Tree View and in all other functionalities available in the system, e.g. Check Deficiencies, Word Search, etc.,
- 6 months overview report of maintenance activities.

## **5 Timetable**

The estimated date for signature of the contract is May 2015.

## **6 Estimated Value of the Contract**

The maximum budget available for this framework contract is of EUR 600.000 € (six hundred thousand Euro) excluding VAT.

The maximum estimated budget available for 1 year specific contract of maintenance is EUR 90.000 € (ninety thousand Euro) excluding VAT.

## **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/01/2015 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 contract. EMSA may, before the framework 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).

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>1</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.

## 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 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 **15.1** of these specifications;

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

## 12 Price

Prices shall include all costs, e.g. travelling, cost of software licenses etc.

Prices shall be provided in the following manner:

- Price for maintenance: A fixed price for one year maintenance;
- Price for enhancement: Fixed price for the following profiles:

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<sup>1</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.

Profile	Price per person day
Project Manager	
Technical Manager	
Business Analyst	
System Architect	
Software Architect	
Designer	
Senior Developer	
Developer	
Test Manager	
Tester	

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**

Tenderers shall provide documentary evidence of technical and professional capacity detailed in paragraph 14.5.1 and 14.5.2, including a list of comparable, relevant projects and systems in which the tenderer has participated and worked. This must include a description of the services with indication of the objectives, contracting parties, duration and budget.

##### **14.5.1 Technical capacity**

The tenderer shall have at least 3 years of knowledge and expertise in following fields:

- a) Development of information systems and products based on Web technologies: architecture, development, operation and maintenance and linked with Oracle Identity and Access Management Suite and Liferay Portal.
- b) Use of quality systems.

##### **14.5.2 Professional capacity**

Tenderers shall provide with their bid detailed curriculum vitae of each of the following profiles assigned to the project and their possible substitute: Project Manager, Technical Manager, Business Analyst, System Architect, Software Architect, Designer, Senior Developer, Developer, Test Manager, Tester.

Project Manager shall have at least 3 years of experience in projects referred in paragraph 14.5.1 Curricula vitae<sup>2</sup> should be presented, preferably, in accordance to the Commission Recommendation on a common European format for curricula vitae, published in OJ L390 on 31.12.2004 (Decision No 2241/2004/EC). They must include the educational background, degrees and diplomas, professional experience, research work, publications and linguistic skills. When describing the professional experience of each team member, reference must be made to the sectors in which it has been gained and the areas dealt with.

## **15 Award criteria**

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<sup>2</sup> <http://europass.cedefop.europa.eu/en/documents/curriculum-vitae/templates-instructions>

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:

**Quality criterion 1 ( $W_1 = 20\%$ ):** Quality of the proposed methods and approach to implement the contract requirements as above in this document and its appendixes, the performance of the tasks and the use of supporting tools.

Bids shall detail as a minimum the following topics, tailored to the RuleCheck project:

- Project approach overview,
- Project management methodology and supporting tools,
- Plan to acquire knowledge about the system,
  - Strategy to improve the quality of the system,
- Proposal of how maintenance is addressed,
- Design methodologies and supporting tools,
- Software development methodology and supporting tools,
- Testing methodology and supporting tools,
- Load and stress tests approach and supporting tools,
- Service Level Agreement. The Service Level Agreement should define all services, include proposed service levels and provide a detailed approach for at least the Processes and Management plans as described in the Appendix “Working Procedures and Service Requirements” (Change Management, Release Management & Planning, Incident Management, Problem Management, Service Level Management).

**Quality criterion 2 ( $W_2 = 30\%$ ):** Quality and completeness of the suggested plan for the implementation of the following scenarios 1, 2 and 3 as enhancement projects.

Bids shall present following topics tailored to each of the scenarios 1, 2 and 3, as detailed as possible:

- Project management documentation:
  - Project charter,
  - Project plan,
  - Gantt chart,
  - Project duration,
  - Work breakdown of the effort in person days per profile,
  - Allocation of tasks to team members,
  - Risks registry and risk management procedure,
  - Project status reports and flash reports,
- Design documentation: technical and functional,
- Test documentation: test requirements, cases, scripts, plan, results and reports,
- System documentation: operational and maintenance documentation, system building procedures, infrastructure (HW and SW) documentation, description of system design and architecture,
- User documentation,
- Software releases and release notes,
- Installation, configuration and deployment manuals,
- Impact and changes on the system.

Scenario 1: Improve the access management for the online version and adjust the offline version of the system.

1. The system should be improved in order to allow tailoring the access for the online version to functionalities and content by user groups.

The system should allow users defined as “System Administrator” to:

- define user groups,
- define functionalities and content permissions of user groups,
- define users of user groups,
- define users as “Group Administrator” for each user group.

The system should allow users defined as “Group Administrator” to define users of the same user group, but neither as “Group Administrators”, “System Administrators” nor of another user group.

Users holding to a user group shall have permission to access functionalities and content which is granted for the specific user group only.

Following table is an example on how user groups shall be implemented. For instance, the users of group “Mediterranean MoU” should only have access to content stemming from “Mediterranean MoU”, “EU Legislation”, “ILO Instruments” and “IMO Instruments” and the specified functionalities, for instance “Word Search”, should provide an outcome restricted to the content with granted permission for the specific user group only (i.e. no Paris MoU content).

	User Groups			
	Paris MoU	Mediterranean MoU	Accident Investigation	...
<b>Permission to functionalities</b>				
Check Deficiencies	Yes	Yes	Yes	
Tree View	Yes	Yes	Yes	
My Ship Tree	Yes	Yes	Yes	
Word Search	Yes	Yes	Yes	
Prospective	Yes	Yes	Yes	
<b>Permission to content</b>				
Paris MoU	Yes	No	No	
EU Legislation	Yes	Yes	Yes	
ILO Instruments	Yes	Yes	Yes	
IMO Instruments	Yes	Yes	Yes	
Mediterranean MoU	No	Yes	No	

For this matter:

The system shall be integrated with the EMSA Identity Management system (please refer to the Appendix “IdM Guide” for technical and integration details):

- Authentication services will be provided by Oracle Access Manager
- User Management (creation, edition, ...) will be provided by Oracle Identity Management

- New users or updated users will be provisioned to RuleCheck via Web Services

The system shall provide specific Web Services for the provisioning activities.

- Web Services specification shall be defined together with EMSA during the design phase of the project. An example of possible web services is provided as Appendix “Example of Target System Webservice Specification”, only for guidance,
- Web Services shall be protected with Basic Authentication,
- Only specific system users belonging to a particular LDAP group (to be defined during the project) shall have authorization to execute the Web Services.

The system shall delegate the functions of creating and editing users to EMSA IdM. The IdM framework is responsible for the User Management functionalities.

- The system shall provide a way (e.g. button) to call EMSA IdM User Management form for the creation of a new user
- Within the list of users, the system shall provide links to:
  - call EMSA IdM User Management form to edit a specific user
  - call EMSA IdM User Management form to change the password of a specific user
  - call EMSA IdM User Management form to disable a specific user
- URLs: the system shall provide a mechanism to configure the aforementioned links. Such configuration shall be possible without rebuild of the system (e.g. using database or properties file)

The system shall provide a way of listing the users registered as RuleCheck users.

- This list shall contain the user attributes provisioned to RuleCheck, for example, userId, first name, last name, assigned user groups. The complete list of attributes shall be defined during the functional specification.

The system shall be able to provide service with acceptable performance to:

- Total number of users: 3000
- Expected number of concurrent users: 300

2. The offline version of the system should be enhanced in such way that it matches the functionalities and content for the Paris MoU user group, as defined above in 1. EMSA shall have the possibility to manage authentication for the offline version, example: protect it with a set of logins/passwords and to offer it unprotected.

#### Scenario 2: Exporting to PDF

The system should allow exporting the displayed content in PDF format.

#### Scenario 3: Addition of “Mediterranean MoU” content

The content of the “Mediterranean MoU” on port State control with all relevant documentation relating to the inspection procedures is to be added to a folder with the same name in the Tree View of the system. It should be implemented as a searchable text, not images. The update should be reflected in the folder of the Tree View and in all other functionalities available in the system, e.g. Check Deficiencies, Word Search, etc. The content to be added can be found in Appendix “Mediterranean MoU Content”.

The scenarios will be used to assess the tenders during the evaluation. Any assumptions taken have to be stated in the project plan.

**Quality criterion 3 ( $W_3 = 10\%$ ): Team composition and distribution of responsibilities for the performance of the services**

Bid shall detail as a minimum the following topics:

- Project team overview and composition
- Roles and responsibilities

and the price criterion and associated weighting:

**Price of the bid ( $W_{\text{Price}} = 40\%$ ).**

The price is calculated as sum of

- price for implementation of scenario 1 as enhancement,
- price for implementation of scenario 2 as enhancement,
- price for implementation of scenario 3 as enhancement and
- 4 \* (price for 1 year of maintenance).

The price shall not exceed the maximum budget if the Framework Contract.

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  $Q_2$ , a minimum of 60 % for  $Q_3$ . 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 70 % for the score  $S$  will be taken into consideration for awarding the contract.

**15 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.

**16 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.

#### **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)(f)**

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)(f) of the Rules of Application to the Financial Regulation