

Procurement procedure: EMSA/OP/07/2016

Question 01 (dated 10 03 2016, 19.02):

We would be pleased, if we could get more information about the requested study. We intend to apply for the study.

Answer to question 01:

All tender documentation can be found on the Internet at www.emsa.europa.eu in the procurement section related to the tender EMSA/OP/07/2016 and can be downloaded free of charge. You may also sign up to our procurement mailing list on the EMSA website, as above, in order to be kept informed of new procurements. In addition to economic operators established in the Member States of the Union, only economic operators from the following countries are eligible to participate in the present procurement procedure: Albania, FYROM, Iceland, Liechtenstein, Montenegro, Norway, Serbia and Bosnia and Herzegovina. In the case of economic operators from other non-EU member states, EMSA may, only in exceptional circumstances, accept their participation in a particular procurement procedure without creating a precedent or obligation for future participation.

Question 02 (dated 21 03 2016, 12.28):

We have a question regarding the technical and professional capacity requirements of the Project Leader as set out in section 14.5.1 of the Tender Specifications. Should the statement that "Project Leader should have a minimum of 5 years of practical-professional experience related to shipping sector, marine fuels and Fuel Cell applications" be interpreted as a "must" for all 3 areas for the tenderer to be eligible? Or is it acceptable for a minimum of 5 years experience, but not necessarily directly with fuel cell applications for the whole time period, with other team members providing the longer term fuel cell experience?

Answer to question 02:

The statement "***Project Leader should have a minimum of 5 years of practical-professional experience related to shipping sector, marine fuels and Fuel Cell applications***", as written in section 14.5.1 of the Tender Specifications for the subject procedure is to be read as follows:

- **Project Leader should have a minimum of 5 years of practical-professional experience related to the three subjects presented: 1) Shipping Sector; 2) marine Fuels and 3) Fuel Cell applications.**

The minimum 5 years of experience can be distributed through the 3 topics, i.e. the experience with fuel cells, to be included and considered, can be less than 5 years but must be considered cumulatively with the other two subjects.

As an example, we can consider a proposed Project Leader that has 5 years of experience in the shipping sector, of which 3 years were dedicated to marine fuels and 2 years dedicated to fuel cells.

Question 03 (dated 01 04 2016, 06.05):

We would like to know if we are eligible to bid for the tender since we are from a Non-EU state (India).

Note: question was edited to protect the potential tenderers anonymity.

Answer to question 03:

You do not have access to procurement procedures of the European Union due to your place of establishment. As specified in Par.10 of the Invitation to Tender published on EMSA website for the call for tender EMSA/OP/07/2016, the Public Procurement rules applying to calls for tender launched by EMSA are contained in the EMSA Financial Regulation available under the Financial Regulations section on the EMSA Website www.emsa.europa.eu.

In this regard, Article 85 of EMSA Financial Regulation states:

Article 85 General provisions:

1. As regards procurement, Title V of Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 shall apply subject to Article 86.

Art.119 of REGULATION (EU, EURATOM) 2015/1929 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 October 2015 amending Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union states:

Article 119 Rules on access to procurement:

Participation in procurement procedures shall be open on equal terms to all natural and legal persons within the scope of the Treaties and to all natural and legal persons established in a third country which has a special agreement with the Union in the field of public procurement under the conditions laid down in that agreement. It shall also be open to international organisations.

However, India is not amongst the countries that fall within the scope of the treaties mentioned in the above Article.

Question 04 (dated 06 04 2016, 14.17):

Please can you provide clarification on clause I.12 in relation to Contract Number - 2016/EMSA/OP/07/2016.

Can you specifically clarify what is meant by the term “Union law” – is there particular reference to a directive or convention for example.

Answer to question 04:

By ‘Union law’ it is understood all acts of the European Union Institutions which have direct or indirect applicability to either of the parties. In terms of legal acts, amongst those governing the contract are: Regulations, Directives, Decisions etc. complemented where appropriate by the jurisprudence of the European Courts and good administrative practices of those institutions and of the Agency.

Disclaimer: Question 4 was a request for additional information received less than six working days before the closing date for submission. EMSA chose to answer the question despite not having a legal obligation to do so. Tenderers unaware of this answer will not be negatively impacted during the evaluation process

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Requests for additional information regarding this tender should be sent by e-mail to the following address op072016@emsa.europa.eu. Requests for additional information received less than six working days before the closing date for submission of tenders will not be processed.

The deadline for submission of the bids of this tender is 11 04 2016.

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