

Tender Specifications attached to the Invitation to tender

Invitation to tender N° EMSA/NEG/18/2016 for Works in EMSA's building

1. Introduction

The European Maritime Safety Agency (EMSA) was established under Regulation 1406/2002 for the purpose of ensuring a high, uniform and effective level of maritime safety and prevention of ship-sourced pollution. The European Council Decision of December 13, 2003 established the final headquarters of the European Maritime Safety Agency in Lisbon, Portugal.

Article 15.2c of Regulation 1406/2002 establishes that the Executive Director “shall take all necessary steps (...) to ensure the functioning of the Agency in accordance with provisions of this Regulation.”

2. Objective, scope and description of the contract

The objective of this procurement is to establish a framework service contract for the execution of construction works in the premises of EMSA in Lisbon.

EMSA intends to establish a framework contract through which it can request the execution of construction works that are found necessary to be performed in its premises as the buildings are naturally depleted by time and permanent use.

Since the premises are composed of different types of areas, a quite broad array of work categories may be needed and are therefore the subject of this procurement.

Given the unpredictable needs of EMSA, it is not possible to foresee all kinds of works that may be required throughout the full duration of the framework contract. The following list of works is therefore not the full list of what might be requested, but rather tries to detail the types expected to be most commonly necessary.

- a) Protection of the areas to be refurbished with corrugated cardboard or plastic roll.
- b) Transportation, assembly and dismantling of scaffolding for works from 3 to 8 meters in height.
- c) Repair of walls and ceilings in plaster (traditional or projected) including the filling of cracks, correction of deformations and all the work necessary for surface levelling.
- d) Delivery and application of primer aqueous sealer to interior walls and ceilings with traditional stucco features or plasterboard.
- e) Delivery and application of aqueous primer sealer to walls and exterior ceilings.
- f) Application of two coats of water-based paint to interior walls and ceilings with traditional plaster or plasterboard characteristics.
- g) Supply and application of two coats of acrylic-based paint to exterior walls and ceilings.
- h) Sanding of wood surfaces, supply and application of two coats of synthetic varnish.
- i) Sanding of wood surfaces, supply and application of two coats of cellulosic varnish.
- j) Supply and installation of acoustic insulation, 3.5cm thick, respecting existing lighting sternotomy (STIER-Baswaphon Classic or ROCKFON-Monoacoustic material).
- k) Removal of dropped- ceilings in micro-perforated plates, including the ceiling support structure.

- l) Construction of ceilings in plasterboard with metal structure.
- m) Construction of single partition walls with glass wool insulation 4mm thick, in plasterboard with the metal structure for the partition walls.
- n) Construction of double-sided partition walls with glass wool insulation 4mm thick, in plasterboard with the metal structure for the partition walls.

Whenever there is a need for the performance of construction works, EMSA shall contact the contractor, asking for a site visit and a quotation for the necessary works.

The contractor will be required to appoint a staff manager responsible for the supervision of the works and to act as a contact point with EMSA. This manager shall be physically present, at least, at the site visits necessary for providing the quotations and at the start and end of each construction work.

Upon acceptance of the quote, an Order Form shall be issued for the execution of the respective construction works.

The bidders are therefore requested to fill in Appendix 1 with the prices per square meter for the above mentioned construction works, which will be the basis for the calculations for the Order Forms implementing the contract.

The price offer must be all inclusive (include the costs of transport, all workmanships and materials to be used).

For the purpose of Evaluation, the bidders are also requested to fill in Appendix 2 with the deadlines proposed (in number of days) for the start of the listed works after an Order Form has been sent by EMSA.

All works shall include: the protection of the areas to intervene, removal of damaged and loose materials, cleaning the area of intervention, and removal of surplus materials.

The contractor shall also ensure that tasks are carried out without detriment to the general functioning of EMSA services and shall be responsible for any damage caused to the buildings and external areas. Some tasks may have to be carried out on weekends or outside the Agency's working hours.

3. Contract management responsible body.

EMSA – Unit A.2.3, in charge of Facilities and Logistics - will be responsible for managing the contract.

4. Project Planning

Not applicable

5. Timetable

The estimated date for signature of the contract is July 2016.

6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 135,000 excluding VAT.

7. Terms of payment

Payments will be made in accordance with the provisions of the draft framework contract available in the Procurement Section under the call to tender EMSA/NEG/18/2016 on EMSA's website (www.emsa.europa.eu).

8. Terms of contract

When drawing up a bid, the tenderer should bear in mind the terms of the draft contract.

EMSA may, before the contract is signed, cancel the award procedure without the tenderers being entitled to claim any compensation.

9. Subcontracting

If the tenderer intends to either subcontract 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. 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 criteria². 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.²

10. 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 should in particular include an English version of the documents requested under points 13.5 and 14 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.³

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) he shall indicate it in his offer by completing the form "Information regarding joint offers and subcontracting".

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 and the bank account on which payments are to be made.
- b) **The Financial Form** completed, signed and stamped. This document is available on the Procurement Section (Financial Form) of EMSA's website (www.emsa.europa.eu).

² To rely on the capacities of a subcontractor means that the subcontractor will perform the works or services for which these capacities are required.

³ 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).

- c) **The Legal Entity Form** completed, signed and stamped along with the requested accompanying documentation. This document is available on the Procurement Section (Legal Entity Form) of EMSA's website (www.emsa.europa.eu).

Tenderers are exempt from submitting the Legal Entity Form and Financial 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 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 **9, 12, 13.1** and **13.2** of these specifications (**Exclusion criteria**).

Part B: 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 **13.3, 13.4** and **13.5** 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 **Award Criteria** set out under point **14** of these specifications;

Part D: Setting out prices in accordance with point **11** of these specifications.

11. Price

- a) Price must be quoted for the execution of construction works and shall include the costs of the all works, materials and transport. The bidders are therefore requested to fill in Appendix 1 with the prices per square meter for the work types as specified in section 2.
- b) Prices must be fixed amounts and non-revisable.
- c) Prices must be quoted in euro.
- d) Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Communities, 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.

12. 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.

13. Information concerning the personal situation of the service provider and information and formalities necessary for the evaluation of the minimum economic, financial, technical and professional capacity required.

13.1 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).

13.2 Grounds for exclusion – Exclusion criteria

To be eligible to participate in this contract award procedure, a tenderer must not be in any of the following exclusion situations:

- a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations;
- b) it is subject to a final judgement or a final administrative decision establishing that it is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract ;
- c) it is subject to a final judgement or a final administrative decision establishing that it is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:
 - i. fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;
 - ii. entering into agreement with other persons with the aim of distorting competition;
 - iii. violating intellectual property rights;
 - iv. attempting to influence the decision-making process of the contracting authority during the award procedure;
 - v. attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;
- d) it is subject to a final judgement establishing that the person is guilty of any of the following:
 - i. fraud
 - ii. corruption
 - iii. participation in a criminal organisation
 - iv. money laundering or terrorist financing
 - v. terrorist-related offences or offences linked to terrorist activities
 - vi. child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council
- e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an Authorising Officer, OLAF or the Court of Auditors;
- f) it is subject to a final judgement or a final administrative decision establishing that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95
- g) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the applicant is subject to:
 - i. facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the

- responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;
- ii. non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;
 - iii. decisions of the ECB, the EIB, the European Investment Fund or international organisations;
 - iv. decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or
 - v. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.

13.3 Legal and regulatory capacity – Selection criteria

13.3.1 Requirements: The tenderer must be certified by INPIC - Instituto dos Mercados Públicos, do Imobiliário e da Construção (antigo InCI) - for the performance of the following construction works:

- Masonry, plastering and works on stone
- Cement plasters, paints and other finishing
- Carpentry
- Works in metallic falseworks
- Waterproofing and insulation works

13.3.2 Evidence: Copy of the respective certification from IMPIC or copy of na *Alvará de Construtor Geral* class 1 or superior (also by IMPIC).

13.4 Technical and professional capacity – Selection criteria

13.4.1 Requirements:

- a) The tenderer must have experience of at least four (4) years in the provision of similar services.
- b) The proposed staff manager responsible for the supervision of the works shall be registered in a class association such as: Ordem dos Engenheiros, Ordem dos Arquitectos or Associação dos Agentes Técnicos de Arquitectura e Engenharia.

13.4.2 Evidence:

- a) Information on the provision of comparable services for the last four years (list of clients and references).
- b) Copy of the certificate attesting the registration in the respective class association.

13.5 Evidence to be provided by the tenderers

For this purpose, the Declaration of Honour available in the Procurement Section of EMSA's website (www.emsa.europa.eu) shall be completed and signed.

14. 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** ($W_1 = 30\%$): Proposed **deadlines** (N. of days) for the start of the works **after request** as referred in **Appendix 2**.
and the price criterion and associated weighting:
2. **Price of the bid** ($W_{Price} = 70\%$). The price shall be calculated as follows:

Prices in **Appendix 1**:
 $5 \times a) + 1 \times b) + 5 \times c) + 5 \times d) + 1 \times e) + 5 \times f) + 1 \times g) + 1 \times h) + 1 \times i) + 1 \times j) + 1 \times k) + 1 \times l) + 1 \times m) + 1 \times n) = \text{Total price of the bid}$

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 50% 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.

15. 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 where this entails a distortion of competition that cannot be remedied otherwise.

16. 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 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.