

Tender Specifications attached to the Invitation to tender

Invitation to tender N° EMSA/NEG/14/2016 for Support and maintenance services of the Actatek terminals and software and provision of consumables

1. Introduction

The European Maritime Safety Agency (EMSA) was established under Regulation (EC) No 1406/2002 of the European Parliament and of the Council¹ for the purpose of ensuring a high, uniform and effective level of maritime safety. More information is available at: <http://emsa.europa.eu>

2. Objective, scope and description of the contract

The objective of this procedure is the procurement of support and maintenance services of the existing Actatek terminals (8 terminals, ACTA3-1K-P-SM/ ACTA3-1K-FLI-SM-C, 250 users) and the related software (ACTatek Access Manager (ACTatek AM)).

EMSA is currently using the following software versions:

For the Interface Core:

- Access Management v1.2.3.80 (2014.08.15 1728)
- Access Core v1.0.55 (2014.07.18 1728)

For the Server Core:

- Access Server v1.2.8 (2014.04.24 1512)
- Agent Server v1.0.10 (2014.01.20 1907)
- Access Core v1.0.55 (2014.07.18 1728)

For the API:

- Access Manager API v1.1.19 (2013.04.26 1824)

¹ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1.).

- Access Core v1.0.55 (2014.07.18 1728)

Software Expiry Date: 2015-09-26

Under the contract, the contractor shall provide the following services::

1. Maintenance services of the existing hardware(terminals)/software (renewal of license and upgrades);
2. Training services to the end users on the hardware/software;
3. Emergency assistance services outside the maintenance;
4. Provision of consumables such as:
 - additional Actatek-Mifare smartcards, fully compatible with the system;
 - terminal for the testing environment and additional terminals (including installation) to replace/modify/increase the current terminals and replacement parts;

The bid shall include a listing and presentation of the services and consumables to be provided together with their related prices. The Price grid (Appendix 1) shall contain all prices that are to be taken into consideration for evaluation purposes. These prices will also be the fixed prices during the implementation of the contract.

3. Contract management responsible body.

EMSA – Unit A.1, in charge of Human Resources - will be responsible for managing the contract.

4. Project Planning

It is foreseen that the first maintenance shall take place within one month of the contract signature.

5. Timetable

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

6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 15000,00 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/14/2016 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).
- 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

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).

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, 13.2 and 13.3 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 **Award Criteria** set out under point 14 of these specifications;

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

11. Price

- a) Price must be quoted for Support and maintenance services of the Actatek terminals and software and provision of consumables and shall include:
 - Price per yearly maintenance;
 - Price per licence of the software;
 - Price per additional Actatek-Mifare smartcard;
 - Price per terminal (including installation);
 - Price per Emergency assistance call during business hours, intervention time of 2 hours.
- 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 criteria. The exclusion criteria will be assessed in relation to each economic operator individually.

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 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 that offers the lowest price. For the purposes of evaluation, the tenderer shall fill in Appendix 1 to these tender specifications (Price grid). The total sum of the individual prices shall be the basis on which the evaluation will be carried out.

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.