

Annex 1: Tender Specifications

Attached to the Invitation to Tender No.EMSA/NEG/28/2016 for storage of oil pollution response equipment in Bulgaria

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. Among its tasks, the Agency shall “work with the Member States to support on request with additional means, in a cost efficient way, the pollution response actions in case of pollution caused by ships as well as marine pollution caused by oil and gas installations” (Art. 2 (3) d of Regulation 1406/2002/EC as amended).

In line with the Oil Action plan as up-dated through the Agency’s Annual Work Programme, EMSA has developed in recent years several operational pollution response services including the establishment and maintenance of a network of stand-by oil spill response vessels and associated specialised equipment stockpiles along the European coastline.

Further information about the at-sea oil recovery services provided by the EMSA vessel Network is available on the Agency’s website: www.emsa.europa.eu.

2. Objective, scope and description of the contract

The objective of the contract resulting from this procurement procedure is the provision of storage for oil pollution response equipment with the characteristics listed in Appendix 1 to these Specifications (‘Equipment list’) including the obligations to provide maintenance services and insure the equipment during storage. There may be a need to transport the equipment to the storage facilities contracted as an outcome of this procurement procedure. The new storage location should be in an area within a maximum distance of 50KM from the current storage location (in Topoli, Varna municipality, Bulgaria).

2.1. Detailed project description and minimum service requirements

Performance of the contract includes the provision of the following types of services relating to the oil pollution response equipment:

- If needed, equipment transportation;
- Storage;

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.).

- Maintenance;
- Insurance.

The service requirements are detailed in the paragraphs below.

a. Transportation (including insurance)

Transportation of the equipment by land may be needed from the current storage location to the new storage premises (see requirements under b) below). The current equipment storage area is easily accessible by transport means with direct access to the gate for trucks.

Note that certain equipment items might need oversized transportation (e.g. 2 sweeping arms frames, 2 cranes for sweeping arms and the weir boom reel). Please consult Appendix 1 to these Specifications ('Equipment list') for further information regarding the equipment and more particularly items 2.1 (LAMOR Stiff Sweeping Arms LSS 15) and 2.8 (Vikoma Weir Boom 180). The tender shall also include all necessary services related to the loading and unloading of the equipment.

The equipment will be protected ready for transportation. Any additional need for wrapping or protection during transportation and insurance during transportation will have to be addressed by the contractor. When preparing their bid, under transportation, tenderers should therefore also consider the costs of associated logistics, loading and unloading capacities, insurance during transportation and additional appropriate wrap up and protection.

For the purpose of insurance during transportation, the insured value of the equipment shall be equal to EUR 2,400,000 (EUR two million four hundred thousand).

b. Storage

The storage area should already be built and complying with the minimum requirements detailed in these Tender Specifications when the bid is submitted. The storage facilities should comply with the following minimum requirements:

- Within maximum 50 km from the current storage location of the equipment;
- Available to EMSA as from 1 November 2016;
- The storage space must consist in one single location;
- The storage space must be of minimum overall 500m² composed of minimum of 200 m² indoor for storage of the smaller and sensitive pieces of equipment (e.g. oil slick detection system, power packs, skimmer heads, spare parts etc.) and minimum 300m² of storage space covered by a roof for the storage of the large equipment (cranes, sweeping arms, containers and platforms). Within the overall minimum of 500m² storage space, bids offering more square meters of indoor storage will be **preferred**;
- Have a minimum height of 4 meters;
- With easy access to large transport means and close to main transport routes;
- With a gate entrance allowing movement in/out of 10/20 feet containers and of heavy and large equipment as described in the Appendix 1-"Equipment List". This movement could be performed either on trailers or by suitable handling machinery (i.e. forklifts, cranes). The contractor will be responsible for providing the necessary handling machinery and support within the price of this contract;
- Fenced, including 24/7 security service (e.g. video surveillance, alarms) and with restricted access;
- Provided with electricity and fresh water;
- Lighted adequately;
- Be built on hard ground allowing movement of trucks and heavy cargo;
- Flat levelled surface;
- With an internal ambient temperature between -5°C and +50°C.

The equipment should be stored in such a way that there is sufficient space to handle it safely and with adequate access for means of transportation and maintenance services.

All administrative and operational activities needed for the management of the project should be ensured by the storage contractor. In addition, EMSA, or third party authorised by EMSA is entitled to visit the equipment storage location at any time with one week prior notice. The tenderer shall also take these activities and these visits and the associated costs into account when presenting his financial offer for the tender.

In order to evidence compliance with the above listed minimum requirements, the tenderers should as a minimum include in their bids:

- address of the storage facilities available;
- description with pictures (from inside and outside) of the proposed storage facilities;
- layouts of the storage facilities identifying the space offered to EMSA;
- completed, dated and signed compliance matrix (Annex 6 to the Invitation to Tender).

Tenderers may include in their bids any other relevant information regarding the storage facilities and the space dedicated to EMSA's equipment.

c. Maintenance

The company awarded the contract resulting from this procurement procedure will ensure the equipment maintenance in accordance with Appendix 2 "Maintenance plan". The company awarded the contract will be required to complete this maintenance plan on a monthly basis and attach it as part of the performance report to be submitted to EMSA (please see under point 4 below). Maintenance activities comprise, for example clean-up, lubrication, replacement, or replenishment (of consumables) to prevent from equipment breakdown, and keep it capable of performing its intended function within its design specifications.

A minimum of 2 days per month should be allocated to the equipment maintenance.

Before expiration of the contract resulting from this procurement procedure, EMSA or any third party designated by EMSA will come to pick-up the equipment. The Contractor will be informed in advance of the date for handing over the equipment. On that date, the equipment should be packed, placed outside the storage space and ready for transportation. The contractor shall co-operate for the purpose of handing the equipment over including labour force, cargo handling equipment in order to place all equipment items outside of the storage space ready for loading on the receiving transport mean.

d. Insurance during storage

The company awarded the contract resulting from this procurement procedure will have to take out insurances against risks and damages relating to the performance of the Contract including as a minimum: aall risks insurance for the oil pollution response equipment covering any damage, loss, theft or liability during storage (including as a minimum damage or loss caused by: burglary, theft, robbery; water damages; fire and/or smoke, explosions of any kind from gas or electrical hazards). EMSA shall be indicated as additional assured. For insurance purposes, the value of the equipment is EUR 2,400,000. Loss settlement should be the agreed insured value

Deductibles should be max. EUR 8,000 per incident for the account of the Contractor.

Each policy shall contain a provision confirming that the policy is primary without right of contribution and the liability of the insurers will not be affected by any other insurance of which any assured has the benefit so as to reduce the amount payable to or on behalf of the assured under such policies.

Each policy shall contain a waiver of subrogation by the insurers in the Contractor's or any third party's rights against EMSA.

Within one week following signature of the contract, the company awarded the contract will be requested to provide a quote from an insurer or insurance broker for the all risks insurance cover to the equipment including

insurance policy terms and conditions for verification by EMSA of compliance with the abovementioned minimum insurance requirements. The insurance policy terms should show as a minimum what are the included and excluded risks as well as any sufficient information to verify that the contractor is compliant with the insurance requirements.

3. Contract management responsible body

EMSA – Unit C.1, in charge of Pollution Response Services - will be responsible for managing the contract.

4. Project Planning and reporting

Activity	Dates
Award procedure and signature of contract	August / September 2016
Provision of a quote from an insurer or insurance broker for the all risks insurance cover to the equipment including insurance policy terms and conditions for verification by EMSA of compliance with minimum insurance requirements	Within one week of the signature of the contract
Equipment handover statement template provided by EMSA	One month before handover of equipment
<u>Start of performance of the tasks</u> including preparing all amenities for the storage of the equipment, and, where applicable, transporting the equipment	Between 1 November and 15 November 2016 at the latest
All equipment items, transported where applicable, and stored in the storage facilities contracted under the contract resulting from this procurement procedure.	15 November 2016 at the latest
Submission to EMSA of a copy of the equipment handover statement for receipt before transport and storage signed by contractor	Within 1 week of transportation
Submission of performance report 1 and first invoice (invoice includes storage and transport costs where applicable)	Within 2 weeks after first month of performance of tasks
Submission of performance report 2 & second invoice	Within 2 weeks after second month of performance of tasks
Submission of performance report 3 & third invoice	Within 2 weeks after third month of performance of tasks
Handover of equipment to EMSA or third party designated by EMSA	Before expiration of contract
Expiration of Contract (no renewal foreseen)	Four months after start of performance of tasks
Submission of equipment handover statement for delivery after storage signed by contractor and performance report 4	Within 1 week after handover

Activity	Dates
Submission of fourth invoice (for payment of the balance)	Within 60 days after contract expiration

Payment of invoices is subject to the provision and acceptance by EMSA of a performance report. The performance report should as a minimum include the following:

- Equipment handover statement for receipt (for the first report) or delivery (for the fourth report);
- Information regarding the condition of the equipment;
- Completed, dated and signed maintenance plan covering maintenance actions undertaken on each equipment item during the past month, accompanied by dated pictures and/or video supporting such maintenance actions;
- Any event related to the contract performance.

5. Procurement Timetable

The estimated date for signature of the contract is August/September 2016.

6. Estimated Value of the Contract

The maximum total budget available for this contract (Total overall price **P**) is EUR 31,000 excluding VAT.

Within that total, the maximum budget for the tasks that are not transportation (i.e. administrative costs, storage, equipment maintenance and insurance during storage services) (**Ps**), for the whole contract period of performance of 4 months, is EUR 18,000 excluding VAT.

Please refer to point 11 hereinafter for the structure of the prices.

7. Terms of payment

Payments will be made in accordance with the provisions of the draft contract available in the Procurement Section under the call to tender EMSA/NEG/28/2016 on EMSA's website (www.emsa.europa.eu) and attached to the Invitation to Tender as Annex 2.

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 criteria. 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.

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 13.4 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.²

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 and the bank account on which payments are to be made.
 - b) **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) and attached to the Invitation to Tender as Annex 3.
 - c) **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) and attached to the Invitation to Tender as Annex 4.
- *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.
- d) **Statement of subcontracting/Joint Offer** (if applicable) completed and signed and stamped. This document is available on the Procurement Section of EMSA's website (www.emsa.europa.eu) and attached to the Invitation to Tender as Annex 5.
 - e) **Compliance matrix** completed, dated and signed, available as Annex 6 to the Invitation to Tender.
 - f) **Declaration on Honour** completed, dated and signed, as per annex 7 to the Invitation to Tender, 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) and Technical and professional capacity (part of the Selection Criteria) set out under point 13.4 of these specifications.

² 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).

g) **List of previous company/grouping experience** 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 13.4 of these specifications.

h) **Description, pictures and/or layouts of the storage facilities** proposed 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;

i) **Setting out prices** in accordance with point 11 of these specifications.

11. Price

- **Total overall price (P)** must be quoted for all the services described under point 2.1 and shall distinguish:
 - **P_T: Price for initial transportation** (if applicable/necessary)
 - **P_s: Price of storage**, including cost of all tasks foreseen by the contract that are not the initial transport P_T (such as storage rental, insurance cover for the equipment during storage and equipment maintenance for the whole performance period **of 4 months** , as well as any other administrative or logistical expense linked to the contract).
- Prices must be fixed amounts and non-revisable.
- Prices must be quoted in euro.
- 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) and attached to the Invitation to Tender as Annex 3.

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 as Annex 7 to the Invitation to tender shall be completed and signed.

13.4. Technical and professional capacity – Selection criteria

Requirements:

1. Experience in similar type of services more particularly storage and maintenance of heavy machinery;
2. Evidence: The storage space offered of minimum 500m² must be owned, rented or in any other way under the control of the tenderer at the tender stage and for the duration of the Contract.

Evidence:

- Regarding Requirement 1: List of previous company/grouping experience identifying work carried out during the last three years that is of relevance and/or analogous to the services to be provided.
- Regarding Requirement 2: Declaration of Honour available in the Procurement Section of EMSA's website (www.emsa.europa.eu) completed and signed.

14. Award criteria

Will only be evaluated in terms of quality and price, the tenders meeting:

- the minimum service requirements (as per Compliance Matrix in Annex 6 to the Invitation to Tender);
- the exclusion and selection criteria;
- the price ceilings under point 6 above.

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 ($W_1 = 30\%$): **Quality of the storage facilities** offered based on the description, pictures and/or layouts of the storage facilities in the bid addressing the requirements under point 2.2 (b) of these specifications.

and the price criterion and associated weighting:

2. Price award criteria ($W_{Price} = 70\%$): the **total overall price (P)**.

For all bids evaluators will give marks between 0-10 (half points are possible) for the 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

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

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.