

## Tender Specifications

### Attached to the Invitation to tender

## Invitation to tender No. EMSA/NEG/18/2018 for Provision and installation of window films

### 1. Introduction

The European Maritime Safety Agency (EMSA) was established under Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>1</sup> for the purpose of ensuring a high, uniform and effective level of maritime safety.

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

#### 2.1. Contract objective and technical requirements

The objective of this procurement is to establish a framework service contract for the provision and installation of protective films to be applied on EMSA building’s windows.

The main types of expected window films are different (depending on location and function), and they are as follows:

Type of film		Function	Application	Approx. area*
<b>A</b>	Safety and security film	Bomb blast mitigation, deterring forced break and entry, protection against accidental breakage	internal	<b>800 m<sup>2</sup></b>
<b>B</b>	Solar control film	Rejection of solar energy, reduction of glare, reduction of UV rays, heat protection, increasing of the comfort in the building, light silver mirror effect	external	<b>1.200 m<sup>2</sup></b>
<b>C</b>	Solar control film with limited visual transparency	Higher protection of privacy in rooms located on the ground floor - silver mirror effect (one-way vision), increased scratch and abrasion resistance	external	<b>400 m<sup>2</sup></b>

\*The final film application area may be different depending on needs.

In some areas it will be required to apply two types of films (A+B or A+C) – on internal and external surfaces of the windows.

<sup>1</sup> 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.).

The films will be applied on the existing glazed facade, external windows, and doors. These surfaces are flat (apart from the cylindrical main entrance, where revolving doors are installed). Standard, double-glazed, laminated units, on which the relevant films will be applied, consist of:

- V1: Ariplak N1T DAG 50/28 Duglass 8mm;
- C: Perfil 14mm (Argon);
- V2: Stralami 5+5 2 PVB Acústico.

Before the application of the external film on windows it will be required from the contractor the removal of the existing anti-solar film. The total area of glazing, where the film should be removed from, is estimated at approximately **1.300 m<sup>2</sup>**.

The areas of application of the new films (types A, B and C) spread over the five floors of the building. Location, height, way of access and dimensions should be verified by parties interested in participating in the tender procedure. For this purpose, it is recommended that all tenderers visit the site/building before presenting their proposal (please see details in the Invitation to Tender).

The scope of the expected services also includes some additional services, ordered on an ad hoc basis, related to the (eventual) replacement of newly applied external windows films (mainly on ground level), in case the newly applied would be damaged (for example by vandals -deeply scratched and destroyed, permanently marked with graffiti, etc.) or in other cases where EMSA identifies this need, throughout the duration of the contract.

These are the minimum technical requirements for the main products to be offered. Proposed products shall comply with all of them. It is mandatory to present the technical data sheet of the product proposed in the tender. Before placement, all materials will be verified to check compliance with the required specifications.

Products specifications (minimum requirements):

	<b>Product parameters</b>		<b>Film – type A (safety and security film)</b>
1	Colour		Optically clear
2	Construction		Multi micro-layered
3	Thickness		Min. 0,15mm
4	Tensile strength (norm EN 527-2/1B/50)	machine direction	Min. 190MPa
		transverse direction	Min. 190MPa
5	Visible light transmitted (norm EN 410)		Min. 85% on 6mm clear glass
6	UV block (norm EN 410)		Min. 98%
7	Class (norm BS EN 12600)		1B1

	<b>Product parameters</b>	<b>Film – type B (solar control film)</b>	<b>Film – type C (film with limited visual</b>
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			<b>transparency)</b>
1	Colour	Light silver (mirror effect)	Silver (mirror effect)
2	Visible light reflected (norm EN 410)	interior	Min. 35%
		exterior	Min. 35%
3	Visible light transmitted (norm EN 410)	Between 25-35% on double glass	Between 10-20% on double glass
4	Rejected solar energy (total) (norm EN 410)	Min. 70%	Min. 75%
5	Heat gain reduction (norm EN 410)	Min. 50%	Min. 75%
6	Reduction of glare (norm EN 410)	Min. 35%	Min. 80%
7	UV block (norm EN 410)	Min. 98%	Min. 98%

Tenderers shall add the full price catalogue of available window films to their bid as EMSA may also request other items from the full catalogue. Throughout the duration of the FWC, such catalogue may be updated on a bi-yearly basis, following the written agreement of EMSA.

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 (i.e. Monday to Friday, 09h00 – 17h00).

The works will be executed in phases, based on Order Forms issued for the execution of the respective part of works.

## **2.2. Warranty for the supplies/services**

Tenderers shall provide a minimum period of quality warranty for the purchased products and executed services of **7 years**. The quality warranty shall cover also all damages of the double-glazed units (fractures, cracks, etc.) caused by technically inappropriate application of the subjected window films.

If the tenderer provides a warranty for a longer period, this should be specified in the technical offer and will be considered for evaluation purposes (Appendix 2). Every additional year of warranty presented by the tenderer over the required minimum will be additionally scored in the award (may vary depending on the type of films).

The warranty ensured and covered by the manufacturer of the products (not the service provider under the future contract) will be additionally scored in the award.

## **3. Contract management responsible body**

EMSA Unit A.2 in charge of Legal, Financial & Facilities Support - will be responsible for managing the contract.

#### 4. Project Planning

The estimated date for the first phase of performance of services is 3<sup>rd</sup>/4<sup>th</sup> quarter of 2018. Further services will be requested throughout the full duration of the framework contract on a needs basis.

#### 5. Timetable

The estimated date for signature of the contract is September 2018.

#### 6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 143000 excluding VAT.

#### 7. Terms of payment

Payments will be made in accordance with the provisions of the draft **Supply Contract** available in the Procurement Section under the call to tender **EMSA/NEG/18/2018** on EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)).

#### 8. Terms of contract

When drawing up a bid, the tenderer shall bear in mind the terms of the draft Supply 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<sup>2</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.<sup>3</sup> However, the selection criteria may apply individually where it is relevant in view of their nature.

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<sup>2</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.

<sup>3</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.

## 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 shall 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.<sup>4</sup>

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 Identification Form completed**, signed and stamped. This document is available on the Procurement Section (Financial Identification Form) of EMSA's website ([www.emsa.europa.eu](http://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](http://www.emsa.europa.eu))

Tenderers are exempt from submitting the Legal Entity Form and Financial Identification 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 shall 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 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 **Economic and Financial Capacity** (part of the selection criteria) set out under point **13.4** 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 **13.5** 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** of these specifications;

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

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<sup>4</sup> 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).

## 11. Price

- a) Price must be quoted for the Provision and installation of window films and removal of existing deteriorated films (where necessary) and shall be all inclusive - including the costs of transport (materials and personnel), lifting devices where needed (ropes systems, lifting bucket, scaffolding), all materials (window film, edge sealing if needed, etc.), and installation of new materials, removal of existing materials, the protection and cleaning of the areas of intervention, all workmanships, and all applicable insurances (particularly in terms of safety measures and safety at work).

Assuming the applied window films will be cut from rolls, the price shall include also all costs of waste and materials leftovers.

Tenderers are therefore requested to fill in the Appendix 1 with the prices for the products and services types as specified in Section 2.2.

- 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. However, the selection criteria may apply individually where it is relevant in view of their nature.

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 tenderer 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](http://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 EU or national laws or regulations;
- b) it is subject to a final judgement or a final administrative decision establishing that the person or entity is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law;
- c) it is subject to a final judgement or a final administrative decision establishing that the person or entity is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person or entity 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 or entities with the aim of distorting competition;
  - iii. violating intellectual property rights;
  - iv. attempting to influence the decision-making process of the authorising officer responsible 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 or entity 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 or entity has shown significant deficiencies in complying with the main obligations in the performance of a contract financed by the Union's budget;
- f) it is subject to a final judgement or a final administrative decision establishing that the person or entity 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 candidate is subject to:

- i. facts established in the context of audits or investigations carried out by the Court of Auditors, European Anti-Fraud Office or internal audit, or any other check, audit or control performed under the responsibility of an authorising officer;
- 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 entities and persons implementing Union funds pursuant to point (c) of Article 61(1) of the Financial Regulation or of entities implementing the budget pursuant to Article 62 of the Financial Regulation;
- 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 have the legal and regulatory capacity to pursue the professional activity needed for performing the contract.

#### 13.3.2 Evidence

N/A

### 13.4 Economic and financial capacity – Selection criteria

#### 13.4.1 Requirement

- a) The tenderer must be in stable financial position and must have the economic and financial capacity to perform the contract.

#### 13.4.2 Evidence

- a) Financial statements or their extracts for the last two years for which accounts have been closed.
- b) 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 the provided documents are up-to-date. In this case the tenderer shall simply indicate on the cover letter the procurement procedure where the evidence has been provided.
- c) If, for some exceptional reason which EMSA considers justified, a tenderer is unable to provide one or other of the above documents, it 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 at any moment during the procedure any other document enabling it to verify the tenderer's economic and financial capacity.

## 13.5 Technical and professional capacity – Selection criteria

### 13.5.1 Requirements

The tenderer must have relevant technical capacity, namely a minimum of five years of previous experience in provision of the required services.

### 13.5.2 Evidence

- a) Certificate confirming at least five years of business activity on the market in an area relevant to the subject of the contract;
- b) List of at least three clients (name of the clients, location of the building, types and area of applied window films) where similar works/services (provision and installation of window films – area minimum 1000m<sup>2</sup>) have been carried out during last five years;
- c) Certificate/statement or equivalent from the manufacturer (producer of the window films) confirming the professional competence of the tenderer to apply its products.

## 14. Declaration of Honour (DoH)

For this purpose, the Declaration of Honour available on the Procurement Section of EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)) shall be completed and signed.

## 15. 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 ( $W_1 = 40\%$ ): Quality of the proposal in terms of warranty

For all bids which offer extra years of warranty besides the minimum requested threshold, the evaluators will give marks between 1 - 8 (half points are possible) for this quality criterion. Attributed score is 8 points for the best offer in terms of extra years of warranty ensured by the tenderer.

If the warranty period is covered and ensured additionally by the window films producer ('YES' indicated in Appendix 2) - additional 2 points will be added, thus the maximum mark for 'Quality criterion' can be 10 points. Supporting evidence towards this indication will be provided together with the offer.

and the price criterion and associated weighting:

2. Price of the bid ( $W_{Price} = 60\%$ ). For evaluation purposes, the tenderer shall fill in the price table in the Appendix 1.

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

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

Only bids that have reached a minimum of 60 % for the score  $S$  will be taken into consideration for awarding the contract.

## 16. 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 used in the award procedure where this entails a breach of the principle of equality of treatment, including distortion of competition that cannot be remedied otherwise.

## 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 shall be clearly pointed out by the tenderer in the tender. Information shall 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.

## Appendix 1 to the Tender Specifications – EMSA/NEG/18/2018

### PRICE LIST

		<b>Proposed type of film (brand, product code)</b>	<b>Price of products  (per m<sup>2</sup>) VAT excl.</b>	<b>Price of services  (per m<sup>2</sup>) VAT excl.</b>	<b>Application area  (m<sup>2</sup>)</b>	<b>Total final price VAT excl.  (d + e) x f</b>
<b>a</b>	<b>b</b>	<b>c</b>	<b>d</b>	<b>e</b>	<b>f</b>	<b>g</b>
1	Provision and installation of the window film <b>type A</b>				800	
2	Provision and installation of the window film <b>type B</b>				1.200	
3	Provision and installation of the window film <b>type C</b>				400	
4	Removal of existing anti-solar film	N/A	N/A		1.300	
<b>TOTAL PRICE OF THE BID</b> sum of [(1d+1e) x 800] + [(2d+2e) x 1200] + [(3d+3e) x 400] + [4e x 1300]						

The total final prices of the bid must be all inclusive - including the costs of transport (materials and personnel), lifting devices where needed (ropes systems, lifting bucket, scaffolding), all materials (window film, edge sealing if needed, etc.) and installation of new materials, removal of existing materials, the protection and cleaning of the areas of intervention, all workmanships, and all applicable insurances (particularly in terms of safety measures and safety at work).

Assuming the applied window films will be cut from rolls, the price shall include also all costs of waste and materials leftovers.

## Appendix 2 to the Tender Specifications – EMSA/NEG/18/2018

### WARRANTY PROPOSAL

		Proposed warranty period ensured by the tenderer (required minimum - 7 years)	Warranty ensured additionally by the manufacturer of the window films (to be chosen)
1	Provision and installation of the window film <b>type A</b>		YES <input type="checkbox"/> NO <input type="checkbox"/>
2	Provision and installation of the window film <b>type B</b>		
3	Provision and installation of the window film <b>type C</b>		
4	Provision and installation of the window films <b>types A + B</b>		
5	Provision and installation of the window films <b>types A + C</b>		