

ENCLOSURE T.1 - TENDER SPECIFICATIONS

Procurement Procedure N° EMSA/CPNEG/2/2021

Service contract for stand-by oil spill recovery vessels

Phase II – Invitation to Tender

1. Note to Candidates/Tenderers

Following Phase I (Request to participate Phase) pre-selected candidates for EMSA/CPNEG/2/2021, will be invited to submit a bid to this Competitive procedure with negotiations in accordance with the rules set out in the Invitation to Tender and associated Enclosures and Annexes.

The **present Tender Specifications and relative Enclosures are published in the Request to participate Phase.**

Requirements therein will only have to be addressed by those pre-selected candidates invited to tender.

Such invitation to tender is expected to take place around mid-June 2021.

2. Procurement Procedure in the Phase II, Tender Phase

In this Tender Phase the tenders submitted will be assessed against the following:

a) Grounds for rejection of the tender as established by the **Request specifications:**

- Respect of the objectives and scope of the service (points 3.1, 3.2 and 3.3);
- Respect of the minimum requirements regarding service contract type and project phases (points 3.4 and 3.5);
- Respect of the minimum requirements regarding the proposed arrangement and the vessel(s) (point 3.6);
- Respect of the minimum requirements regarding the equipment and pre-fitting (point 3.7);
- Respect of the maximum budget globally and per category of costs (point 7).

b) As established by these Tender specifications:

- Evaluation of the tender against the Award criteria (see point 13) – the admissible bids (those from pre-selected candidates that have passed the evaluation against the grounds for exclusion and selection) will be evaluated according to the criteria identified in point 13 of these Tender Specifications.

EMSA will provide feedback to the companies/grouping concerned, in accordance with the principles of equal treatment and non-discrimination, to adapt, if required, the tenders to the requirements set in these Tender Specification and associated Enclosures.

The pre-selected candidates may request to attend “clarification meetings” where different aspects of the services required will be reviewed. Following the completion of the meetings, a consolidated “Clarification Questions and Answers” document will be sent to the tenderers.

This will ultimately result in the identification of the tender offering the best value for money (based on quality and price) for the Agency.

Inclusion on the list of pre-selected candidates does not entail any obligation on the part of the Agency concerning the award of the contract.

3. **Contract objective and scope**

Overall objective, specific objective, scope of the service, minimum requirements regarding the service contract, project phases, tasks, arrangement, vessel(s) and equipment are defined in the Request specifications (Enclosure R.1. - Request Specifications, paragraphs 3.1 to 3.7).

The areas of operation remain the same as referred to in paragraph 3.3 of Enclosure R.1. - Request Specifications.

Additional requirements regarding the service, the arrangement, the vessel(s) and the crew are to be found in Enclosure T.2 - the Draft Vessel availability Contract (VAC) and respective technical annexes, in particular:

- **Annex III** - Incident Response Contract-Vessel-Requesting State;
- **Annex IV** - Technical Specifications for the Vessel/Pool of Vessels;
- **Annex V** - Technical Specifications for equipment;
- **Annex VI** - Technical Specifications for mobilisation procedures
- **Annex VII** - Technical Specifications for the quality of the crew;
- **Annex VIII** - Guidelines on Conducting Drills and Exercises;
- **Annex XI** - Incident Response Contract-Vessel-Private entities.

4. **Contract management responsible body**

EMSA– Unit 1.1, in charge of Sustainability, will be responsible for managing the contract.

5. Project Planning and timetable

The indicative date for signature of the contracts is November 2021.

5.1 Project milestones

A range of project milestones are identified in the table below. These milestones are indicative and relate to actions to be taken by both the contractor and the Agency:

	Event	Comment	Indicative date
Preparation phase	Signature of the contract	This starts the Preparation Phase of the contract.	November 2021
	Kick-off meeting	At the date of the signature by both parties of the contract or shortly thereafter.	The earliest date is that of the contract signature
	Request for pre-financing	Proof of pre-financing guarantee and offers for Equipment and Pre-fitting Works should be submitted to EMSA by Contractor.	Maximum 10 working days after contract signature
	Transfer of the oil pollution response equipment	Equipment to be serviced - after the signature of the contract the equipment will be transferred to the new contractors as follows:	The date will be agreed between EMSA and the new contractor. More details in point 3.1 of Annex V
	Preparation of the vessel and the equipment	The contractor will undertake all necessary pre-fitting as well as receipt of the transferred equipment; servicing of the equipment, purchasing and installing the new additional equipment. In addition, the initial training will also take place.	Lot 1 - Aegean Sea: 30 June 2022 Lot 2 - Atlantic North: 15 September 2022
	Interim visits to contractor/vessel(s)	Agency visit to contractor and vessel(s) concerning progress of preparation phase.	
	Completion Report submitted by Contractor	Contractor to submit Completion Report and invoices to EMSA at the end of the Preparation Phase.	
	Vessel Inspection & 1 st ("Acceptance") Drill	EMSA (or representatives) to inspect vessel(s) and/or observe 1 st ("Acceptance") drill* within 14 days of receiving the Completion Report.	Within 14 Days of Completion Report submission

	Event	Comment	Indicative date
	EMSA's assessment of Completion Report finalised		Within 10 days from Vessel Inspection
	Request for Clearing and balance payment for pre-fitting costs and equipment	Following approval by EMSA of Completion Report, 1 st Drill and Vessel Inspection and when the net storage capacity is met.	Conditioned to acceptance by EMSA
	Stand-by Phase of contract starts		
Stand-by Phase	Quarterly drills		Once per quarter
	Availability Fee Payment Request	Contractor to submit payment request for the Availability Fee.	After the end of each quarter
	Stand-by Phase of Contract ends	End of the Contract.	45 months after stand-by phase starts (48 months in case no pre-fitting is required)
	Potential renewal of the stand-by phase	Following evaluation by EMSA and by mutual agreement, respecting initial conditions.	4 additional years
Closure Phase	Storage and maintenance. Hand-over of equipment to following contractor, if applicable		Within 3 months following the end of the stand-by phase

5.2 Kick-off meeting

The implementation of the contract shall start from the date of the signature of the contract. The kick-off meeting will be organised at the initiative of EMSA, at the date of the signature of the contract or shortly thereafter. The meeting will take place at EMSA premises. The purpose of the kick-off meeting is to enable both contracting parties to discuss the project, as well as to settle all the details of the works to be undertaken. It is expected that the project manager of the contractor will be present at the kick-off meeting. EMSA will not reimburse the costs for attending the kick-off meeting.

5.3 Reports and documents to be submitted within the project

5.3.1. Completion Report and Supporting Documentation

At the end of the Preparation Phase the contractor will have to submit a Completion Report (per vessel in case of a pool). When the Completion Report is presented to the Agency, it should cover as a minimum the following elements:

- General description of the vessel and oil pollution response arrangements;
- Modifications performed to the vessel and the associated costs;
- Installation of on-board pollution response equipment and the associated costs;
- Oil pollution response equipment storage and maintenance plan and inventories;
- Relevant training activities undertaken for staff and crew;
- Description and evaluation of drills performed during preparation phase;
- Drill plan for the stand-by phase of the contract;
- Relevant emergency/ notification procedures covering the stand-by phase;
- Proof that all necessary certificates of the relevant authorities and/or classification societies have been issued covering the new and/or additional installations and purposes of the vessel.

In addition, the following documentation should, as a minimum, also be provided in the Completion Report:

- A General Arrangement Plan illustrating the configuration of the vessel when undertaking at-sea oil spill response services;
- Diagrams presenting the at-sea oil recovery arrangement of the vessel, decanting arrangement, discharging arrangement and piping for heating arrangement;
- Technical Manuals for the equipment that has been pre-financed by the Agency. Where available, such technical documentation must be in English;
- Insurance certificates including full risk insurance for the oil pollution response equipment, Hull and Machinery insurance, Protection and Indemnity or Marine Liability insurance (including Specialist Operations cover), General Third-Party Liability Insurance, Workmen's Compensation and Employer's Liability insurance for Employees, Liability for observers on behalf of EMSA and/or an Institution;

Both the contents of the Completion Report and the supporting documentation required will be further clarified by EMSA at the kick-off meeting with the contractor.

5.3.2. Other reports

Other reports will have to be submitted by the contractor during Preparation and Stand-by phases, the content of which will be discussed at the Kick-off meeting. These reports include as a minimum:

- Bi-weekly report on works during the Preparation Phase;
- Monthly maintenance reports;
- Drills and exercises reports;
- Comprehensive Annual Report;

- Information on shipyard/dry dock periods;
- Ad hoc reports – to be submitted by the Contractor within 5 days either following the mobilisation of the equipment, containing information on the cargo movements and the remaining inventories, or following any events that might affect the storage area as well as the integrity or the availability of the stock.

6. Estimated Value of the Contract

The maximum budget available, excluding VAT, is indicated in point 7 of the Request specifications. Such maximum budgetary ceilings are indicated in the Bid template section for tenderers to cross check their financial offer against them.

Please note that all costs incurred during the preparation and the submission of tenders are to be borne by the tenderers and will not be reimbursed.

7. Terms of payment

Payments shall be issued in accordance with the provisions of the draft VAC (Enclosure T.2).

8. Terms of contract

When drawing up a tender, the tenderer shall 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. Financial guarantees

EMSA can pre-finance, if requested, the equipment and the pre-fitting works according to the rules set-up in the draft VAC. A model of the required pre-financing guarantee is included in Annex IX of the VAC. In addition, guidelines summarising the pre-financing process and requirements are provided in Enclosure T.3 – Pre-financing Guidelines. The tender(s) shall propose with the offer a suitable bank acting as Guarantor. The Guarantor's Long-Term credit rating must be above or equal to BBB- (S&P or equivalent) with at least two registered or certified rating agencies (of which at least one should be S&P, Moody's or Fitch) at the time of the submission of the offer.

10. Subcontracting

Changes in subcontractors between the Request to participate Phase and the Tender phase will be acceptable but:

- The pre-selected candidate shall remain the same;
- A new statement of "Statement of Subcontracting / Joint Offer" must be completed and submitted together with the tender;
- In case the change involves a subcontractor the pre-selected candidate was relying on to fulfil selection criteria as specified in point 11.3 (Economic and Financial capacity) or 11.4 (Technical and Professional capacity) of the Request to Participate, then each new subcontractor must provide the

required evidence for the exclusion criteria and the selection criteria in question as per Request to participate phase.

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

11. Requirements as to the tender

- Only pre-selected candidates invited to tender can submit a tender through the company and person authorised to head the project.
- Tenders can be submitted in any of the official languages of the EU. However, as the main working language of the Agency is English, tenders should in particular include an English version of the documents requested under point **13** of the present tender specifications.
- The tender, including prices, must be presented following the structure of Enclosure T.4: “**Bid Template**” (**NOTE: Bid Template should be completed only during Phase II – Tender phase**). This template will help tenderers in ensuring that all the required documentation is submitted as well as aiding the evaluation process by the Agency.
- Each submission needs to be treated as an individual/unique bid and, accordingly, a full set of all relevant supporting documentation must be submitted with each bid.
- If the tenderer does not include any of the requested documents, a clear and thorough justification must be provided. Where the criterion is not applicable (e.g. due to vessel size/type) the tenderer must explain why this is the case.
- Note that documents sent during the Request to participate Phase do not need to be re-submitted.

The tenderer should note the following important points:

- Variants (meaning technically or economically equivalent solutions for service) are not permitted.
- Failure to submit relevant information by the tenderer might be a ground for rejection of their tender from the procurement process.
- The responsibility lies with the tenderer to verify that all documentation requested in this Tender Specifications is provided.
- Tenderers who would like to notify changes (in the legal form or bank account references notified during the Request to participate phase) are requested to complete and enclose in their bid the new Financial Identification Form. This form is available on the Procurement Section - Financial Identification Form- of EMSA’s website www.emsa.europa.eu. Please note that only one Financial Identification Form must be submitted even if the tenderer is a grouping (joint offer).

12. Price

12.1 General requirements regarding Price

- Prices for the service contracts for Stand-by oil spill response vessels shall include all the elements identified in part H of the Bid Template (Enclosure T.4 - to be completed only during Phase II – Tender phase).
- Prices must be quoted in Euro using (except for the countries within the EURO zone) the conversion rates published in the C series of the Official Journal of the European Union on the day when the Contract Notice was published.
- Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Union, EMSA is exempt from all duties, taxes and other charges, including VAT. This applies to EMSA pursuant to the Regulation 1406/2002/EC. These duties, taxes and other charges can therefore not enter into the calculation included in the bid. The amount of VAT must be shown separately.
- Following the negotiations stage the tenderer is not allowed to change or replace the offer that will be presented in the final bid unless otherwise agreed with EMSA.

12.2 Price of the “Availability”

It is appreciated that a range of factors contribute to the overall cost of the contract to the Agency. Accordingly, the Agency expects this overall cost, which is to be evaluated, to include the following three elements:

a) Availability Fee

This is the fee that the Agency will pay to the contractor to have the vessel and oil pollution response equipment ready continuously in case of emergency. When calculating the fee, tenderers should consider that it covers any cost linked to the following services:

- Maintain the arrangement on stand-by to respond positively to all requests, passed on by the Agency, to provide assistance as an oil spill response vessel to a Requesting Party on the basis of the “Incident Response” contract with pre-determined fees;
- Establishing arrangements for emergency mobilisation following a request for at-sea oil recovery operations;
- Performance of four drills per year (one per quarter) to maintain the readiness of the arrangement, in accordance with Annex VIII of the VAC. Tenderers should consider that to deploy the booms during a drill an auxiliary boat or tug will be needed. In addition, the Contractor will be requested to perform an extended drill once per year over a period of minimum 2 days. During an extended drill, in addition to the performance of the practical deployment of the equipment, the Contractor will provide a theoretical training for all crew members involved in the pollution response activities (see Annex VIII of the VAC for more information);
- Training of crew, including refreshment courses;
- Storage and maintenance of pollution response equipment;

- Insurance for equipment;
- When applicable, cleaning of equipment after pollution response exercise(s).

b) Cost of equipment and transportation

This cost includes, as per requirements in Annex V of the VAC:

- the price of the additional equipment to be purchased including commissioning and transportation, when applicable;
- the transportation of the transferred oil pollution response equipment, including travel insurance. Tenderers must note that the cost of transportation will not be considered for the evaluation;
- the servicing of the transferred oil pollution response equipment.

Tenderers must clearly differentiate in their offers these three elements by filling appropriately Enclosure T.4. The sum of the costs of all the three elements must be within the established budget ceiling. As indicated earlier, the cost of the training related to the equipment is covered by the Availability fee and accordingly cannot be included in the equipment quotation.

Tenderers should note that the Agency can pre-finance up to 100% of the cost of the oil pollution response equipment. The offers/quotations on which this cost is based must be attached to the bid. The summary table (included in appendix to the Bid Template) with a breakdown of the items together with the associated prices must be filled in appendix to Enclosure T.4 - Bid Template (to be completed only during Phase II – Tender phase). The offers/quotations must include the Technical Specifications of the item concerned.

c) Cost of Pre-fitting the Vessel or the Pool of Vessels

This cost includes the pre-fittings on the ship as per requirements in Annex IV of the VAC.

Tenderers should note that the Agency can pre-finance up to 80% of the cost of pre-fitting vessel(s). In order to treat a single vessel and variations of a pool of vessels on an equal basis, the Agency will consider the average price per vessel. The offers/quotations on which this cost is based must be attached to the bid. The summary table/sheet (included in appendix to the Bid Template) with a breakdown of the items together with the associated prices must be included as well. The offers/quotations must include the Technical Specifications. It is appreciated that the pre-fitting quotations may be more difficult to get within a short period. However, in case of award, such quotations must be submitted before the pre-financing. The offers/quotations must be in line with the Pre-financing guidelines (Enclosure T.3).

12.3 Price of Contracting the Vessel(s) to provide assistance

Whilst the previous point identifies the price of the availability of the arrangement, it is also necessary to evaluate the price of contracting the vessel for actual at-sea oil recovery operations by the Requesting Party. Accordingly, it is necessary to evaluate the Incident Response Daily Rate.

Incident Response Daily Rate

Tenderers must propose an Incident Response Daily Rate per vessel for oil recovery services. Tenderers should note that:

- The “Incident Response Daily Stand-by Rate” as defined in the Incident Response Contract-Vessel (Annex III to VAC) is 75% of the Incident Response Daily Rate. This rate will apply for such activities as the vessel returning temporarily to port due to bad weather.
- The “Exercise Daily Rate”, to be paid by the Agency per vessel as defined in the VAC (Enclosure T.2), will be 75% of the Incident Response Daily Rate.
- The cost of vessel fuel (bunkers or equivalent) is not to be priced into the daily rates mentioned above. Only fuel costs for exercises and actual at-sea oil recovery operations will be covered by the Agency or the Requesting Party as a separate element according to the rules of the VAC (Enclosure T.2).

12.4 Additional Information: Fuel Costs

For financial reasons which are related to the Agency’s budgetary planning, tenderers are requested to provide estimates of the elements listed below. It should be noted that these elements will not be included in the award criteria evaluation process. For each vessel identified, the elements are:

- Proven or otherwise estimated fuel consumption (tonnes of fuel) for 24 hours whilst sailing at service speed (approx. 80% continuous rating of the engine).
- Proven or otherwise estimated fuel consumption (tonnes of fuel) for 24 hours whilst sailing at full speed (maximum continuous rating of engine), if different from above.
- Proven or otherwise estimated fuel consumption (tonnes of fuel) for 24 hours whilst sailing during at-sea oil recovery operations i.e. at low speed and manoeuvring.
- Proven or otherwise estimated fuel consumption (tonnes of fuel) for 24 hours whilst in port.
- Proven or otherwise estimated fuel consumption (tonnes of fuel) for the auxiliaries and the boiler, where applicable.

13. Award criteria

The contract will be awarded to the tenderer who submits the most economically advantageous tender (the one with the highest score), based on the following quality criteria and their associated weightings:

- Quality criteria (vessel(s), equipment, logistics and crew), as weighted by percentage (**70%**)

And the price criteria and associated weighting:

- Price of the tender (**30%**).

13.1 Quality Award Criteria (70%)

The table below shows the quality award criteria to be taken into account when evaluating the tenders and their weighting:

Quality Award Criteria (70%)	Weight (%)
Adequacy of Vessel/Pool of Vessels, based on the information	30%

in the bid addressing the requirements in Annex IV of the VAC	
Completeness and Quality of the proposed equipment , based on the information in the bid addressing the requirements in Annex V of the VAC	5%
Completeness and Quality of Mobilisation Procedures , based on the information in the bid addressing the requirements in Annex VI of the VAC	15%
Quality of Crew , based on the information in the bid addressing the requirements in Annex VII of the VAC	10%
Quality of the Environmental performance , based on the information in the bid addressing the requirements of point 13.1.1 below	10%

N.B. Where general and/or specific criteria are identified as “**preferred**” then offers meeting such requirements will be evaluated higher.

13.1.1 Quality of the Environmental performance

EMSA seeks to contract services and works with a reduced environmental impact. Therefore, the Agency integrates environmental considerations into this tender procedure and encourages tenderers who deliver, on a voluntary basis, even higher standards of environmental performance than those already required by law (e.g. IMO Conventions). This is addressed to companies that have established a culture of sustainable business behaviours, developed environmental policies and employed green techniques that will be reflected in the performance of the contract.

Consequently, the tenderers are requested to provide in point G.5 of Enclosure T.4 Bid Template the following information:

- their policies related to minimising the adverse impact to the environment and
- business practices they have adopted to improve environmental performance.

These may include but are not limited to:

- Efficient use of resources (e.g. reduced consumption of energy, fuel and water)
- Reducing waste and having established waste management scheme;
- Reducing pollution (examples for reducing pollution generated by shipping may include: modifications of ship engines and systems related to ballast waters, air emissions, oil spillages, leakage from hull, underwater noise etc);
- Use of alternative energy sources;

- Environmental training programmes (e.g. staff trained in the green policy of the company and the environmental impact of their work).

These requirements are applicable to the tenderer and to any other subcontractor with significant role in performance of the contract (e.g. shipowner, ship manager, ISM manager, etc).

Those tenderers and subcontractors with a third-party certified environmental management scheme (e.g. ISO 14001) or EMAS (Eco-Management and Audit Scheme) are **preferred**. The relevant certificates shall be provided in the bid.

13.2 Price Award Criteria (30%)

The price award criteria have two main elements:

Price Award Criteria (30%)	Weight (%)
Score for the Price of the “Availability”, as calculated under point 12.2	15%
Score for the Price of Contracting the Vessel(s), as calculated under point 12.3	15%

The overall score for the price award criteria (SP) is the sum of the scores obtained for the Price of Availability and Price for Contracting the Vessels.

13.3 Scoring System

The score for each bid is calculated as follows:

$$S = SQ + SP$$

where SQ is the score for quality and SP is the score for price

13.4 Scoring Quality

For all bids, evaluators will give marks between 0-10 (half points are possible) for each quality award criteria.

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:

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

13.5 Scoring Price

The two scores of the price award criteria are calculated as follows based on the prices submitted by the tenderer in the Bid Template:

The Score for the Price of the “Availability” (maximum 15 points) includes the 3 elements listed below:

1) Availability Fee

Evaluation Methodology:

- Determination of the Availability Fee rate for the duration of the contract in €;
- Comparison of the above-mentioned figure with the Availability Fee rate for the whole contract period of the bid with the lowest price: Availability Fee Rate of tender with the lowest price (€) / Availability Fee Rate of tender under consideration (€) = Max 1.

2) Cost of the oil spill response equipment

Evaluation Methodology:

- Total cost of “Equipment” (€)
- Comparison of the above-mentioned figure with the Total Cost of equipment of the tenderer with the lowest price for the equipment: Total Cost of Equipment for the tenderer with the lowest price (€) / Total Cost of Equipment for the tenderer under consideration (€) = Max 1.

Note: The cost of transportation of the EMSA transferred equipment will not be considered for the evaluation;

3) Cost of Pre-fitting Vessel or Pool of Vessels

Evaluation Methodology:

- The total cost for pre-fitting, as per point 11.2.c) is the total cost of pre-fitting works as per quotations.
- The average Pre-fitting cost per vessel (€) is calculated.
- Comparison of the above-mentioned figure with the Pre-fitting Cost of the tenderer with the lowest price: Pre-fitting Cost for tenderer with the lowest price (€) / Pre-fitting Cost for tenderer under consideration (€) = Max 1

The final score for the Price of Availability is determined as follows:

- Calculation of the sum of the ratios for each element 1), 2) and 3) above where the ratio for the cost of the availability fee (1 above) is added twice (up to 4 points).
- Calculation of proportion of maximum score (15 points) allocated to this criteria corresponding to that sum as follows: $(\text{sum of ratios}/4) \times 15$.

The Score for the Price of Contracting the Vessels is calculated based on the incident response daily rate (maximum 15 points). The evaluation methodology is:

- Determination of the Average Incident Response Daily rate for the arrangement:
 - In the case that only one vessel is offered: Daily Rate (€).
 - In case that arrangement includes more than one vessel: average of the Daily Rates of each vessel.
- Comparison of the above-mentioned figure with the Daily Rate of the tenderer with the lowest price: $\text{Daily Rate for tenderer with the lowest price} / \text{Daily Rate for tenderer under consideration} = \text{Max } 1$.
- Calculation of proportion of maximum score (15 points) for this criterion: score obtained under the previous methodology*15.

The overall score for the price award criteria (SP) is the sum of the scores obtained for the Price of Availability and Price for Contracting the Vessel.

14. Rejection from the procedure

Tenderers that, during the procurement procedure, are in one of the following situations will be rejected from the procedure:

- 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.

15. 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 to these 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.