

ENCLOSURE 1 - TENDER SPECIFICATIONS

Attached to the Invitation to tender No EMSA/OP/13/2016 for the supply of two single point inflation (SPI) boom sections for oil pollution response at sea

(Open procedure)

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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, EMSA received the mandate to “*work with the Member States to support 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, when a request for assistance has been presented*” (Art. 2 (3) d of Regulation (EC) No 1406/2002 as amended).

EMSA's Action Plan for Oil Pollution Preparedness and Response (2004), as well as the Action Plan for Response to Marine Pollution from Oil and Gas Installations (2013), as updated by the annual Work Programmes, identify how to implement these tasks. These documents are available on EMSA's website, <http://www.emsa.europa.eu> under 'Publications'.

In the context of this mandate, EMSA has contracted a Network of Oil Pollution response vessels² that are on stand-by along the EU coast, pre-fitted and equipped with specialised oil pollution response equipment. Two containment booms on board of one of these EMSA stand-by contracted vessels, *Monte Anaga*, with port base in Algeciras (Spain), were purchased new in 2006 but have since then suffered aging and some damage during drills and exercises. EMSA intends therefore to replace parts of these booms in order to ensure their performance at least for the next four years on board the vessel *Monte Anaga*.

2. Objective, scope and description of the contract

2.1 Overall objective

The overall objective of this open procedure is to conclude a supply contract to purchase two single point inflation (SPI) boom sections (2x250m) to replace the sections which are part of the boom set on-board the vessel *Monte Anaga*.

The contractor shall deliver the equipment (two boom sections, ancillaries and spare parts) to the EMSA stockpile located in Algeciras (Spain) and provide related installation and commissioning services as well as dismantling the replaced equipment.

2.2 Specific objectives and tasks

Performance of the contract includes the following supplies and tasks:

- the provision of the two new SPI boom sections, ancillaries and spares as per minimum requirements listed under point 2.3 of these Tender Specifications, including technical manuals of the replaced parts of the equipment in electronic format (on a USB memory stick or a CD) and a hard copy;

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).

² Information about the Network of EMSA contracted vessels is available on EMSA's website at <http://emsa.europa.eu/oil-recovery-vessels.html>

- Equipment transportation (including packing) and, if needed, storage until installation and commissioning (including insurance during transportation and storage and any customs duty to clear the equipment for export and import purposes such as VAT);
- Dismantling, transportation and disposal of the boom sections and ancillaries of the equipment replaced on board the vessel *Monte Anaga*;
- Assembling, installation and commissioning of the SPI boom sections and ancillaries on board the vessel *Monte Anaga* (at the location where the equipment is currently stored, i.e. Algeciras, Spain). Therefore, the cost for transportation of spare parts or materials, travel and accommodation expenses for technicians and handling/stevedoring services on the spot should be foreseen in the bid;
- Attendance to the Acceptance Test with the presence of EMSA;
- Any administrative action necessary for the completion of the above tasks.

Performance and price of the contract resulting from this procurement procedure does not include:

- Costs of mobilisation of the vessel: the mobilisation and availability of the vessel will be coordinated by EMSA with the current vessel contractor (Naviera Altube);
- Supply of booms platform, guiding rollers, twist lock supports, rotating boom reels, power pack, hydraulic system and air compressor for the boom operation (the existing ones should be reused).

2.3 Minimum requirements regarding the supply of the two boom sections

1. The new boom sections offered must be a Single Point Inflation (SPI) type (250 mt approximately).

2. These new boom sections must allow to maintain unchanged the existing tailor-made pre-fitting and the rotating reels, as currently installed on board of the vessel to keep the achieved experience and the operational comfort and to restore the system efficiency at the lowest cost whilst minimising the technical and operational impact for the vessel contractor i.e. no off hire costs and no pre-fitting costs.

The two SPI boom sections to be provided as a result of this procurement must therefore be fully compatible with the actual mechanical components and engines of the existing boom set already on board the vessel *Monte Anaga* which comprises tailor-made designed booms platform, guiding rollers, twist lock supports, rotating boom reels, power pack, hydraulic system and air compressor.

3. The SPI booms must be easily operated to minimise the man-power necessary for deployment and retrieval operations.

4. The SPI boom sections supplied must include the ancillaries necessary for its autonomous operation on board the vessel (i.e. towing lines, bridle, net for cross bridle, bridle for U formation, etc.) and new air hoses compatible with existing boom reels, air connectors and air compressor. Should the tenderer need to change any other component of the boom set to maintain the compatibility with the existing pre-fitting, hydraulic or air supply systems (eg. hydraulic hoses), the technical proposal and associated costs should be detailed in the proposal and respect the overall price ceiling of the contract.

5. If the SPI boom fabric is divided in segments, the joins must be welded and not only glued.

6. Every stainless steel fittings must be hot galvanized and properly protected with cold applicable anti-corrosion and sealing tape.

7. The SPI booms must be designed for operation and towing in open sea. Minimum information regarding design, dimensions and materials of oil booms must be provided by the manufacturer (preferably referenced in accordance with ISO standards ISO 17325-1:2014(E) Part 1). The material used for the SPI booms shall be resistant to oil, seawater, UV radiation and not be susceptible to deterioration during long term storage on board. The test results for strength and performance requirements shall be documented by individual component manufacturers' certificates (preferably referenced in accordance with ISO standards ISO 17325-1:2014(E) Part 2).

8. The SPI booms shall be easily maintained and repaired when damaged during regular use.

9. A minimum warranty of 2 years on the main segment, ancillaries and spares must be provided by the contractor

Additional information about the existing boom set technical characteristics and its arrangement on board the vessel *Monte Anaga* is available in the following Appendixes attached to these Tender Specifications:

- Appendix A: Technical Specifications of the SPI boom system on board *Monte Anaga*, with indication of the different components of the boom set to be replaced;
- Appendix B: General arrangement of the boom set on board the vessel.

2.4 Description of the main requirements in the contract

The supply contract will lay down the overarching legal, financial, technical and administrative provisions governing the relationship between EMSA and the contractor during the period of validity of the supply contract.

The supply contract will foresee the terms for the supply of the equipment to be delivered under the Delivered Duty Paid (DDP) Incoterm clause. Accordingly, the contractor shall carry out all customs formalities and clear the equipment for export and import purposes and pay any relevant duty (such as VAT).

The contractor will be responsible for delivering the equipment from their own factory to the EMSA's warehouse located in Algeciras (Spain).

The contractor shall be responsible for timely dismantling, transportation and disposal of the boom set parts that are replaced and are currently on board the vessel *Monte Anaga*. The contractor shall communicate to EMSA when the current boom set parts are to be dismantled (indicatively no later than two weeks after installation of the new boom sections).

Additional services (such as dismantling, transportation and disposal of the old boom sections, as well as assembling, installation, commissioning and Acceptance Test of the new supplies) are also foreseen amongst the contractor's obligations to be performed on board the vessel *Monte Anaga*. Both commissioning and Acceptance Test will be performed in the vicinity of Algeciras (Spain). The Acceptance Test will include a full deployment and functionality test in open seas.

3. Contract management responsible body

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

4. Project implementation overview

The maximum delivery time shall not exceed six months from the signature of the supply contract by the last contracting party. The SPI booms should be delivered by April 2017 at the latest.

The commissioning of the equipment shall take place within maximum one month from the delivery of the equipment and the Acceptance Test shall be organised within maximum one month from the date of commissioning. Dates for commissioning and Acceptance Test shall be coordinated by EMSA between the supplier and the vessel contractor.

The contractor should ensure that all the additional services: dismantling, transportation and disposal of all replaced parts of the old equipment are completed no later than two weeks after installation of the new boom sections and ancillaries.

Within two weeks from the performance of the additional services, the contractor shall send to EMSA the Final Technical Report, including a detailed description of the type of activities performed and attaching pictures as evidence.

EMSA shall have four weeks from receipt to approve the report with or without comments or reservations.

EMSA may decide to reject the report if any failure is noted during the performance of the Acceptance Test. In this case, the Acceptance Test should be rescheduled at another time and place agreed by the parties.

EMSA shall issue the Certificate of Conformity (as per Article II.4.9 of the supply contract, Enclosure 3 to the Invitation to Tender) after the acceptance of the Final Technical Report.

The ownership of the old boom sections will be transferred from EMSA to the contractor after the payment of the balance is executed by EMSA (as per Article I.12 of the supply contract, Enclosure 3 to the Invitation to Tender).

The major events along with the execution of the supply contract are shown in the table below:

Article in the Supply Contract	Event	Comment	Indicative time	Documents from the contractor	Payment scheme
	Signature of the supply contract by both parties	End of the open procedure	Beginning of November 2016		
I.5.1	Invoice for pre-financing and bank guarantee (if requested by EMSA)	On request EMSA will pre-finance up to 30% of the total value of the equipment	Contractor's request to be sent within 30 days from signature of the supply contract	Invoice for pre-financing (and bank guarantee if applicable)	Pre-financing 30%
I.3.4	Delivery of the	The contractor will	Maximum delivery	The contractor	

	equipment	deliver the equipment in Algeciras (Spain)	time is 6 months from the date of entry into force of the supply contract	shall carry out all customs formalities and clear the equipment for export and import purposes: paying any duty (such as VAT)	
I.3.5	Additional services	Date and time of the additional services to be performed on board the vessel <i>Monte Anaga</i> are to be agreed between the contractor and EMSA	<u>-Assembling, installation and commissioning</u> to be performed within maximum one month from the delivery of the equipment. <u>-Acceptance Test</u> to be organised within maximum one month from the date of Commissioning		
	Dismantling, transportation and disposal of all replaced parts		No later than two weeks after installation of new boom sections and ancillaries		
I.3.5	Submission of the Final Technical Report		Within 2 weeks from the performance of the additional services	Final Technical Report	
I.5.3	Certificate of Conformity issued by EMSA and invoice request	After acceptance of the Final Technical Report	Within 4 weeks from acceptance of the Final Technical Report		
I.5.3	The contractor will send the invoice for payment of the balance	Upon receipt of the Certificate of Conformity	EMSA will pay within 30 days from receipt of the invoice	Invoice for balance payment	Balance payment
I.12	Transfer of property for the dismantled and replaced parts	Upon payment of the balance			

5. Timetable

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

6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 220,000 excluding VAT.

7. Terms of payment

Payments shall be issued in accordance with the provisions of the draft supply contract (Enclosure 3 to the Invitation to Tender) available in the Procurement Section under the call to tender EMSA/OP/13/2016 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 supply contract (Enclosure 3 to the Invitation to Tender).

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

9. Financial guarantees

In case of request of pre-financing, EMSA, based on risk assessment, may request the contractor to provide a pre-financing guarantee equal to at least 30% of the total price of the supply contract. A model of the required pre-financing guarantee is included in Annex III to the draft supply contract (Enclosure 3 to the Invitation to Tender letter).

10. 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 criteria³. 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.

³ 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

11.1 General requirements

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 14.3 and 15 of these 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.⁴

11.2 Content of the tender

When drawing up their offers, tenderers must fill in the Bid Template (Enclosure 2 to the Invitation to Tender) by including in the tables highlighted in grey a description of the proposed system, as well as reference to specific documentation or any other information that is deemed to be necessary for evaluation purposes.

Tenders that meet the minimum requirements described in the section “Selection criteria- Minimum Requirements” (point 1 of the Bid Template, Enclosure 2 to the Invitation to Tender) will be further considered for the evaluation of the quality award criteria (point 15 of these Tender Specifications).

The tenderer shall complete the Tenderer's Checklist (Enclosure 6 to the Invitation to Tender).

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 to 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 should simply indicate on the cover letter the bank account number to be used for any payment in case of award.

⁴ 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).

- d) **Statement of Subcontracting/Joint Offer** as per Enclosure 4 to the Invitation to Tender in case the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners (Joint Offers).
- e) **Declaration on Honour** as per Enclosure 5 to the Invitation to Tender required by the contracting authority for the appraisal of tenders on the basis of points 10, 13, 14.1 and 14.2 of these Tender Specifications (**Exclusion criteria**).
- f) Additional information and documents required by the contracting authority for the appraisal of part of the **Technical and Professional capacity** on the basis of point 14.5 of these Tender Specifications (Selection criteria).
- g) 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 Tender Specifications.
- h) Setting out the total price in accordance with point 12 of these Tender Specifications. Failure to indicate the total price may lead to the rejection of the offer.

12. Price

- a) The total price of the offer including two SPI boom sections (2x250m) and additional services as described under point 2.2 of these Tender Specifications (dismantling, transportation and disposal of the old boom sections, as well as assembling, installation, commissioning and Acceptance Test of the new supplies) shall be specified in point 3 "Price Offer" of the Bid Template (Enclosure 2 to the Invitation to Tender).
- b) Prices must be quoted in Euro.
- c) Prices must be fixed amounts, non-revisable and remain valid for the duration of the contract.
- d) 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 (EC) No 1406/2002. 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.

13. 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.

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

14.1 Legal position – means of proof required

When submitting their bid, tenderers are requested to complete and enclose the **Legal Entity Form** and requested accompanying documentation, available in the Procurement Section (Legal Entity Form) of EMSA's website (www.emsa.europa.eu).

14.2 Grounds for exclusion –

14.2.1 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.

14.2.2 Evidence to be provided by the tenderers

For this purpose the Declaration of Honour (Enclosure 5 to the Invitation to Tender) should be completed and signed.

14.3 Technical and professional capacity – Selection criteria

14.3.1 Requirements:

Experience in the field of manufacturing single point inflation (SPI) booms.

14.3.2 Evidence:

List of customers and projects concluded in the last five years encompassing delivery of SPI booms and commissioning.

15. Award criteria

Only the tenders meeting the requirements of the minimum requirements as per point 2.3 of these Tender Specifications, the exclusion and the selection criteria will be evaluated in terms of quality and price.

The technical solution and the additional services (points 2.2, 2.3 and 2.4 of these Tender Specifications) proposed in the offer must be clearly described in the section “Quality criteria” of the Bid template (Enclosure 2 to the Invitation to Tender).

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:

- Quality criteria applying the following weights:
 - Q.1- Quality criterion 1: Quality and appropriateness of the SIP boom sections and ancillaries ($W_1 = 50\%$) based on the information requested and provided in point 2.1 of the Bid template (Enclosure 2 to the Invitation to Tender).
 - Q.2- Quality criterion 2: Complexity of the maintenance requirements for the SPI boom, including completeness of the repair tools and spares parts ($W_2 = 5\%$) based on the information requested and provided in point 2.2 of the Bid template (Enclosure 2 to the Invitation to Tender)..
 - Q.3- Quality criterion 3: Quality of the plans for commissioning ($W_3 = 5\%$) based on the information requested and provided in point 2.3 of the Bid template (Enclosure 2 to the Invitation to Tender).
- Total Price of the bid ($W_{price} = 40\%$), as calculated in the point 3 “Price Offer” of the Bid template (Enclosure 2 to the Invitation to Tender).

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

The score is calculated as

$$S = SQ + SP$$

where:

The average quality for quality criterion i is

$$Q_i = \frac{1}{\text{number of evaluators}} * \sum_{\text{evaluator}} \text{mark of the evaluator for quality criterion } i$$

The overall weighted quality is

$$Q = \sum_i Q_i * W_i$$

The score for quality is

$$SQ = \frac{Q}{Q \text{ of the bid with highest } Q} * 100 * \sum_i W_i$$

The score for price is

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

Only bids that have reached a minimum of 70 % for Q_1 and a minimum of 60% for Q_2 will be taken into consideration when calculating the score for quality SQ , score for price SP and score S .

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

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 where this entails a 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 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 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.