

## Tender Specifications

### Attached to the Invitation to tender

#### **Invitation to tender No. EMSA/NEG/03/2017 for a study on the two Hazardous Materials (PFOS and HBCDD) included in the Annexes of Regulation (EU) 1257/2013 on Ship Recycling**

##### **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. Among its tasks, the Agency, under Article 2 of this regulation, shall assist the Commission in the effective implementation of relevant binding legal acts of the Union and in the performance of any other task assigned to the Commission in legislative acts of the Union regarding the objectives of the Agency. In addition, the Agency shall work with the Member States to develop technical solutions and provide technical assistance, to the building up of the necessary national capacity for the implementation of relevant legal acts of the Union.

At the present time EMSA is assisting the Commission in its work on the proper and timely implementation of the Regulation (EU) 1257/2013 of the European Parliament and the Council on ship recycling<sup>2</sup> with particular focus on the development and maintenance on board ships of an Inventory of Hazardous Materials. In this respect, the Agency has already developed and published a document providing “Best Practice Guidance on the Inventory of Hazardous Materials”.

One of the issues that has been raised during this work, is the lack of substantial, objective and ship-related information on two Hazardous Materials namely Perfluorooctane sulfonic acid and its derivatives/PFOS and Brominated Flame Retardant/HBCDD included in the list of items for the Hazardous Materials (in Annex I or in Annex II of the Ship Recycling Regulation respectively).

##### **2. Objective, scope and description of the contract**

###### **2.1 Objective and scope**

Keeping an up-to-date Inventory of Hazardous Materials on board a ship throughout its life-cycle is a key requirement laid down in both the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships and the EU Ship Recycling Regulation. The Regulation’s requirements for the development of the Inventory are in fact almost entirely based on the respective requirements of the Convention.

---

<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.).

<sup>2</sup> OJ L 330, 10-12-2013, p.1-20.

Nevertheless, EU legislation sets additional requirements for the Inventory compared to those foreseen by the Convention. One of these requirements is the inclusion of two additional substances, namely Perfluorooctane sulfonic acid and its derivatives/PFOS and Brominated Flame Retardant/HBCDD in the list of items for the Hazardous Materials (in Annex I or in Annex II respectively) which are not foreseen by the relevant list in the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships.

Whereas a wealth of experience and information exists with regard to the other Hazardous Materials identified both in the Hong Kong International Convention and the EU Ship Recycling Regulation, the same does not hold true, in the maritime field, regarding PFOS and HBCDD. Therefore, the objective of this tender is a development of a study to facilitate the implementation of the relevant requirements of the EU Ship Recycling Regulation, providing more in-depth and comprehensive knowledge on both substances and a better understanding of the present situation in the maritime industry as regards readiness for complying with these requirements.

In this context, the tenderers shall propose a methodology for an analysis to meet the objective of this tender as described in details hereunder (see section 2.2/Description). The methodology shall at least provide the work plan for conducting the study, the principles of the intended research, the potential sources of information and the intended method for liaising with the industry.

The analysis shall address both new and existing ships within the scope of the EU Ship Recycling Regulation.

## **2.2 Description**

PFOS and HBCDD are both Hazardous Materials regulated by the international and the EU law. However, their installation, use and control on-board ships would need to be clarified in the light of the Regulation (EU) 1257/2013 of the European Parliament and the Council on ship recycling.

Therefore, the objective of the contract is defined as follows:

i). The Contractor shall provide a detailed review of the two substances aiming at acquiring in-depth and comprehensive knowledge on PFOS and HBCDD which will result in:

- Detailed identification of the properties and specificities of the two substances and their applications on board ships;
- Compilation of an inclusive list of materials and components that can be found on board ships and may contain one or both of the two substances;
- Detailed description of the existing International and EU legislation and the control measures related to the two substances and their applicability on ships;
- Detailed description of the regulatory requirements that establish threshold levels for detection and reporting of the two substances;
- Description of the detection and reporting thresholds used by the industry to govern substance content disclosures;
- Detailed description of the existing standards, protocols and analytical methods for sampling, screening and analysis of the two substances accompanied by an overview of the technologies that can be used;
- Detailed description of the respective health and safety measures for the sampling and handling of the two substances;
- Detailed bibliography of all references cited in the final report of the study.

ii). Through research and liaison with ship owners, shipbuilders, suppliers, classification societies, HazMat experts and laboratories the Contractor shall provide a review of:

- Current practice in relation to the two substances and their interaction with the Materials Declaration and Supplier's Declaration of Conformity for products from tier I and tier II suppliers as they referred

to in the “2015 IMO Guidelines for the development of the Inventory of Hazardous Materials<sup>3</sup>” (industry awareness, credibility and reliability of the MDs, products which may need particular attention);

- The present situation in the maritime industry regarding the development of Inventories of Hazardous Materials which include (or will include) the two substances.

iii). The Contractor shall provide recommendations on the basis of the outcomes of (i) and (ii) so as to enhance quality assurance procedures and to optimize the collection of information, the assessment of the risks before and during a sampling campaign, the representativeness of the samples taken, the selection of the location (checkpoints) for sampling, the preservation of the integrity of samples during transport and storage and the reporting and integration of the two substances in the ships’ Inventories of Hazardous Materials. The contractor will also give a presentation of the results of the study to the Ship Recycling Committee in Brussels if requested by the European Commission.

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

EMSA– Unit B.3, Environment & Capacity Building will be responsible for managing the contract.

### **4. Project Planning**

The results of the study shall be presented in a final report in an electronic format. In addition, the Contractor shall provide to the Agency two hard copies of the report. The project shall also require a presentation of the results to be given by the contractor to the Ship Recycling Committee in Brussels if requested by the European Commission. The meeting will be arranged by EMSA/European Commission and the cost for the tenderer’s participation shall be covered within the bid.

### **5. Timetable**

The estimated date for signature of the contract is early April 2017.

#### **1. Project Planning**

Without prejudice to the delivery of the final results the following timetable shall apply:

Signature of the Contract	Early April 2017
Kick off Meeting (either in Lisbon or via video/telephone conference).	Not later than 1 (one) week after the signature of the contract
Update Report – 1 page progress update	No later than 6 weeks after the signature of the contract
Interim Report	No later than 10 weeks after the signature of the contract
Interim Meeting (tele or videoconference)	At a date agreed conveniently between the contracting parties during the execution of the contract to discuss the interim report
Draft Final Report	No later than 22 weeks after the signature of the contract
Final Meeting (tele or videoconference)	At a date agreed conveniently between the contracting parties

<sup>3</sup> Resolution MEPC.269(68)/15 May 2015.

	during the execution of the contract to discuss the draft final report
Final Report	No later than 25 weeks after the signature of the contract
Presentation in the Ship Recycling Committee in Brussels	(If requested by the Commission, to be decided during the course of the project, having in mind the Ship Recycling Committee meetings scheduled for 2017 or 2018)

## 6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 70,000 including all travel costs that might be necessary.

## 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/03/2017 on EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)).

## 8. Terms of contract (purchase order)

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<sup>4</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>

## 10. Requirements as to the tender

Bids can be submitted in any of the official languages of the EU. However, as the main working language of the Agency is English, bids should preferably be submitted in English and should in particular include an English version of the documents requested under points 13.5 and 14 of the present tender specifications. The tenderer must comply with the minimum requirements provided for in these tender specifications. This includes compliance with applicable obligations under environmental, social and labour law established by Union law,

---

<sup>4</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.

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>5</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 Form** completed, signed and stamped. This document is available on the Procurement Section (Financial 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 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.

**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 **14** of these specifications;

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

## **11. Price**

Price quoted for the study on the two Hazardous Materials (PFOS and HBCDD) included in the Annexes of Regulation (EU) 1257/2013 on Ship Recycling shall be all inclusive.

Prices must be fixed amounts and non-revisable.

---

<sup>5</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).

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 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 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 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.

### **13.4 Economic and financial capacity – Selection criteria**

#### 13.4.1 Requirements:

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

N.B.: The minimum yearly turnover shall not exceed two times the estimated contract value.

#### 13.4.2 Evidence:

Financial statements or their extracts for the last three years for which accounts have been closed.

Statement of the overall turnover and, where appropriate, turnover relating to the relevant services for the last three financial years.

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 should simply indicate on the cover letter the procurement procedure where the evidence has been provided.

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:

i). The Contractor shall have knowledge and minimum 5 years of experience in the area of maritime transport such as:

- Maritime consultancy services;
- Service on board ships;
- Flag or Port State Inspections on board ships;
- Statutory surveys on board ships;
- Ship-building and maritime equipment;
- Ship recycling;
- Hazardous Materials surveys on board ships.



ii). Proven knowledge of the EU and International legislation on the control of Hazardous Materials and knowledge of the Health and Safety risks that may impose on board ships.

iii). Ability to collate information and form conclusions from a wide range of sources.

#### 13.5.2 Evidence:

Evidence to prove the above may include:

- Detailed curriculum vitae of the key member(s) of the team, including their educational and professional background;
- Evidence (e.g. extracts of Inventories of Hazardous Materials they have prepared or recommendation letters from clients) that the Contractor has been involved in successfully completed projects in the area of collecting and analysing data and/or performing visual/sampling checks on board ships for compiling Inventories of Hazardous Materials;
- References to carried out studies related to Hazardous Materials;
- References to carried out studies related to collection, handling and analysis of large amounts of data.

#### 13.6 Declaration of Honour

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

#### 14. 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 1:** Quality and relevance of the proposed methodology set out to meet the objectives and scope of this contract as set out in part 2 of these Tender Specifications ( $W_1 = 30\%$ ).
2. **Quality criterion 2:** Quality of the proposed team (specialisation, structure, priorities, roles) ( $W_2 = 30\%$ ),

and the price criterion and associated weighting:

3. **Price of the bid** ( $W_p = 40\%$ ).

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

The score is calculated as

$$S = S_1 + S_2$$

where:

The average quality for quality criterion  $i$  is

$$Q_i = \frac{1}{m_i} * \sum_{e_i} m_{e_i} \cdot Q_{e_i}$$

The overall weighted quality is

$$Q = \sum_i Q_i * W_i$$

The score for quality is

$$S_Q = \frac{Q}{Q_{\max}} * 100 * \sum_i W_i$$

$$P = \sum_i \frac{P_{e_i}}{P_{\max}} * 100 * W_{p_i}$$

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

Only bids that have reached a minimum of 70 % for the score  $S$  will be taken into consideration for awarding the contract.

## 15. Rejection from the procedure

Contracts will not be awarded to tenderers who, during the procurement procedure, are in one of the following situations:

- a) are in an exclusion situation;
- b) have misrepresented the information required as a condition for participating in the procedure or have failed to supply that information;
- c) were previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise.

## 16. Intellectual Property Right (IPR)

Please consult the contract for IPR related clauses.

If the results are not fully created for the purpose of the contract this should be clearly pointed out by the tenderer in the tender. Information should be provided about the scope of pre-existing rights, their source and when and how the rights have been or will be acquired.

In the tender all quotations or information originating from other sources and to which third parties may claim rights have to be clearly marked (source publication including date and place, creator, number, full title etc.) in a way allowing easy identification.