

Lisbon, 17 OCT 2017

## Invitation to Tender No. EMSA/NEG/35/2017

(Negotiated procedure with a minimum of five, candidate(s))

### Security devices and associated services

Dear Sir/Madam,

1. The European Maritime Safety Agency (EMSA) is planning to award the public contract referred to above. The procurement documents consist of this letter, the tender specifications with its appendixes and the draft contract.
2. Tenderers who wish to submit an offer are invited to send a bid to EMSA no later than 20.00h (Lisbon time) on 10/11/2017. The offer should be duly signed by the authorised representative, scanned and submitted by e-mail to the following address: [neg352017@emsa.europa.eu](mailto:neg352017@emsa.europa.eu). The size of the mail may not exceed 12 Mb per one email. Please note that an original hard copy of the offer including all accompanying documentation may be requested from the company to which the contract is awarded.
3. Tenders must be:
  - (a) signed by the tenderer or their duly authorised representative; and
  - (b) perfectly legible so that there can be no doubt as to the words and figures therein contained.
4. The period of validity of the tender, during which tenderers may not modify the terms of their tenders in any respect shall be until 31/03/2018
5. Submission of a bid implies full acceptance of all the terms and conditions set out in the procurement documents and, where appropriate, waiver of the tenderer's own general or specific terms and conditions. These requirements are binding on the tenderer to whom the contract is awarded for the duration of the contract.
6. All costs incurred during the preparation and submission of tenders are to be borne by the tenderers and will not be reimbursed.
7. The specification, listing all the documents that must be produced in order to tender, including supporting evidence of technical and professional capacity and the draft contract are available under the Procurement Section relevant to the present call to tender on EMSA's website at the following address:  
[www.emsa.europa.eu](http://www.emsa.europa.eu)
8. Contact between the contracting authority and tenderers is prohibited throughout the procedure, save in exceptional circumstances and under the following conditions only:
  - (a) **Before the final date for submission of tenders:**

- (i) At the request of the tenderer, EMSA may provide additional information solely for the purpose of clarifying the procurement documents.

Any requests for additional information must be made in writing and sent to the following e-mail address: [neg352017@emsa.europa.eu](mailto:neg352017@emsa.europa.eu).

EMSA is not bound to reply to requests for additional information made less than six working days before the deadline for submission of tenders.

- (ii) EMSA may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other clerical error in the procurement documents.

- (iii) Any additional information including that referred to above will be published on EMSA's website in the Procurement section.

**(b) After the opening of tenders**

- (i) If clarification is required or if obvious clerical errors in the tender need to be corrected, EMSA may contact the tenderer provided the terms of the tender are not modified as a result.

- (ii) In the case of a negotiated procedure, EMSA may negotiate with tenderers the offers they have submitted, in order to adapt them to the requirements set out in tender specifications or any additional document and in order to find the tender offering best value for money. During negotiations, the equal treatment of all tenderers will be ensured.

9. An on-site visit/information meeting is planned for 6th November at the EMSA premises: Praça Europa 4, 1249-206 Lisbon, Portugal. To schedule an on-site visit, an e-mail should be sent to the dedicated e-mail address: [neg352017@emsa.europa.eu](mailto:neg352017@emsa.europa.eu) no later than 3rd November.

10. Public Procurement rules applying to calls for tender launched by EMSA are contained in the EMSA Financial Regulation under the Financial Regulation section on EMSA's website: ([www.emsa.europa.eu](http://www.emsa.europa.eu)).

11. This invitation to tender is in no way binding on EMSA. EMSA's contractual obligation commences only upon signature of the contract with the successful tenderer.

12. Up to the point of signature, EMSA may either abandon the procurement or cancel the award procedure, without the candidates or tenderers being entitled to claim any compensation. This decision must be substantiated and the candidates or tenderers notified.

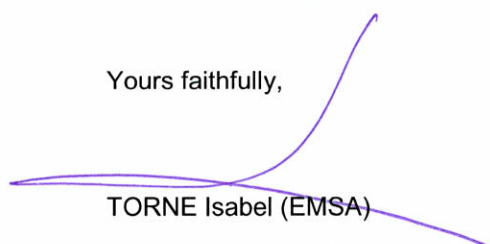
13. Once EMSA has opened the tender, the document shall become the property of EMSA and it shall be treated confidentially.

14. Tenderers will be informed of the outcome of this procurement procedure by email. It is the tenderers' responsibility to provide a valid email address together with their contact details in their tender offer and to check this e-mail address regularly.

15. If your offer includes subcontracting, it is recommended that contractual arrangements with subcontractors include mediation as a method of dispute resolution.

16. If processing a reply to the invitation to tender involves the recording and processing of personal data (such as name, address and CV), the data will be processed pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>1</sup>. Unless indicated otherwise, replies to tenderers and any personal data requested, shall be used to evaluate the tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by the Head of Unit A.2 - Legal, Financial & Facilities Support.
17. Details concerning the processing of personal data are contained in the privacy statement "Information on personal data protection in procurement procedures" available at:  
<http://www.emsa.europa.eu/about/personal-data-protection.html>.
18. Personal data may be registered in the Early Detection and Exclusion System (EDES) if a tenderer is deemed to be in one of the situations mentioned in Article 106 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>2</sup>. For more information, see the Privacy Statement available at [http://ec.europa.eu/budget/explained/management/protecting/protect\\_en.cfm](http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm).
19. In addition to economic operators established in the Member States of the Union, only economic operators from the following countries are eligible to participate in the present procurement procedure: Albania, FYROM, Iceland, Liechtenstein, Montenegro, Norway, Serbia and Bosnia and Herzegovina. .
20. For British tenderers - please be aware that after the UK's withdrawal from the EU, the rules of access to EU procurement procedures of economic operators established in third countries will apply to candidates or tenderers from the UK depending on the outcome of the negotiations. In case such access is not provided by legal provisions in force candidates or tenderers from the UK could be rejected from the procurement procedure.

Yours faithfully,



TORNE Isabel (EMSA)  
Head of Corporate Services - Department A

<sup>1</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

<sup>2</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298 of 26.10.2012, p. 1).



## Tender Specifications

### Attached to the Invitation to tender

#### Invitation to tender No. EMSA/NEG/35/2017 for Security devices and associated services

##### 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 needs to assure effective internal functioning of the organisation including the operation of its security access control system.

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

The objective of this call for tender is to establish a framework contract for the provision of goods and services in the area of security, in particular the **maintenance of EMSA's existing access control system, supply and installation of security devices and of security associated services such as security consultancy** for EMSA's premises, located at Praça Europa 4, Lisbon 1249-206, Portugal.

EMSA's access control system is based on software manufactured by "GE/UTC Fire & Security", installed on a server inside the data centre. The system operates with 32 units of card readers securing access to restricted areas - connected with doors, garage gates, road barriers and rotating gates.

Complete technical information shall be disclosed during the on-site visit/information meeting – for details, please see Invitation for Tender.

##### 2.1 Required provision of services:

- a) Preventive maintenance, where the contractor will be requested to carry out one (1) preventative maintenance service per year. The preventative maintenance should include hands on services, including but not limited to: necessary upgrades of security software, control of hardware equipment and transportation of contractor's staff to EMSA's premises. After each visit, a report needs to be provided, including a description of the equipment's conditions and all works undertaken during the maintenance visit;
- b) Corrective & emergency maintenance, to address any defects or breakdown detected in equipment in order to render it fully functional. In the case of emergency maintenance the repairing of defects or breakdown in equipment must be carried out without delay and cannot be subject to the normal planning associated with corrective maintenance;
- c) Installation of new hardware equipment including, but not limited to, proximity readers, additional cards receptors, cabling, etc;
- d) Upgrades and maintenance of existing security software;
- e) Software customisation, programming and training.

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<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.).

2.2 Required provision of new security devices and spare parts:

- a) New equipment: the tenderer should present a catalogue of hardware equipment (including prices) such as proximity readers, additional cards receptors and other security related items;
- b) Security software licences;
- c) Original Equipment Manufactural (OEM) parts and equipment replacement being found to be necessary following the preventative maintenance.

2.3 Provision of Security consultancy:

- Security consultancy services on an ad-hoc basis for new projects.

**3. Contract management responsible body**

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

**4. Project Planning**

- Signature of the contract: Provision of services shall not be started before the signature of the Framework Service Contract.
- Kick-off meeting: After the signature of each specific contract or order form, a kick-off meeting may be held in order to present a work breakdown structure of the tasks and to define the details of the services to be undertaken.
- EMSA may call for additional meetings if this should be considered necessary for the better execution of a project.

**5. Timetable**

- The Framework Contract will have maximum duration of four 48 months.
- The estimated date for signature of the contract is end of December 2017.
- The estimated date for the start of the service, i.e. launch of the first specific contract, is January 2018.

**6. Estimated Value of the Contract**

The maximum budget available for this contract is EUR 134000 excluding VAT, for the maximum duration of 48 months.

**7. Terms of payment**

Payments will be made in accordance with the provisions of the draft Framework Supply Contract available in the Procurement Section under the call to tender EMSA/NEG/35/2017 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 Framework 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.

## 10. Requirements as to the tender

Bids can be submitted in any of the official languages of the EU. However, as the main working language of the Agency is English, bids should preferably be submitted in English and should in particular include an English version of the documents requested under points 13.4 and 14 of the present tender specifications. The tenderer must comply with the minimum requirements provided for in these tender specifications. This includes compliance with applicable obligations under environmental, social and labour law established by Union law, national law and collective agreements or by the international environmental, social and labour law provisions listed in Annex X to Directive 2014/24/EU of the European Parliament and of the Council.<sup>3</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 0, 12 and 13.2 of these specifications (exclusion criteria).

<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> 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).

**Part B:** 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 13.4 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 **Award Criteria** set out under point **14** of these specifications;

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

## **11. Price**

Price must be quoted as follows and submitted together with all the tender documentation:

- Price per preventative maintenance: The tenderer should present a single price per year for the preventative maintenance as described in point 2.1.a) above.
  - The Appendix A, Point 1, field 1/A shall be filled in accordingly.
- Price per man hour for corrective / emergency maintenance as described in point 2.1.b) above.
  - The Appendix A, Point 1, fields 1/B and 1/C shall be filled in accordingly.
- Price per installation of new hardware equipment (equipment + labour) as described in point 2.1.c) above.
  - The Appendix A, Point 2, fields 2/A and 2/B shall be filled in accordingly.
- Price per one man hour for security consultancy service as described in point 2.3.
  - The Appendix A, Point 3, field 3 shall be filled in accordingly.

Prices must be fixed amounts and non-revisable.

Prices must be quoted in euro.

Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Communities, the latter is exempt from all duties, taxes and other charges, including VAT. This applies to EMSA pursuant to the Regulation 1406/2002/EC. Therefore price and the amount of VAT must be shown separately.

## **12. Joint Offer**

Groupings, irrespective of their legal form, may submit bids. Tenderers may, after forming a grouping, submit a joint bid on condition that it complies with the rules of competition. Such groupings (or consortia) must specify the company or person heading the project and must also submit a copy of the document authorising this company or person to submit a bid.

Each member of the consortium must provide the required evidence for the exclusion and selection criteria. The exclusion criteria will be assessed in relation to each economic operator individually. Concerning the selection criteria, the evidence provided by each member of the consortium will be checked to ensure that the consortium as a whole fulfils the criteria.

If awarded, the contract will be signed by the person authorised by all members of the consortium. Tenders from consortiums of firms or groups of service providers, contractors or suppliers must specify the role, qualifications and experience of each member or group.

## **13. Information concerning the personal situation of the 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 Technical and professional capacity – Selection criteria**

#### **13.4.1 Requirements:**

- a) At least 5 years of professional experience on the market in provision of the services listed under section 2.
- b) The tenderer must have a certificate emitted by IMPIC (Instituto dos Mercados Públicos, do Imobiliário e da Construção) related to relevant services.
- c) The tenderer must be accredited by SIGESP (Sistema Integrado de Gestão de Segurança Privada).

#### **13.4.2 Evidence:**

- a) A list of minimum 8 clients to which similar goods and services have been provided in the last 5 years;
- b) Certificate (alvará) of IMPIC;
- c) Registration in SIGESP (Sistema Integrado de Gestão de Segurança Privada).

### **13.5 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

Only the tenders meeting the requirements of the exclusion and selection criteria will be evaluated in terms of quality and price.

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 ( $W_1 = 50\%$ ) - **Quality of preventive maintenance services in accordance with point 2.1.a) above:** For the purposes of evaluation the offer shall include a proposed preventative maintenance plan, including scheduling and means of communication.

and the price criterion and associated weighting:

2. Price of the bid ( $W_{price} = 50\%$ ) – **Total price of all items quoted for in Appendix A:**

Price per one (1) year **preventative maintenance** as quoted for in Appendix A, point 1, field 1/A + Prices per one (1) man hour of **corrective and emergency maintenance** as quoted for in Appendix A, point 1, fields 1/B and 1/C (4 units) + **Installation of new hardware equipment** as quoted for in Appendix A, point 2, fields 2/A and 2/B (4 units) + Price per one (1) man hour of **security consultancy service** as quoted for in Annex A, point 3 (4 units).

**Total Price** = (field 1/A) + 4 x [(field 1/B) + (field 1/C) + (field 2/A) + (field 2/B) + (field 3)] = ..... **euro**

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

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

Only bids that have reached a minimum of 60% for  $Q_1$  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.

#### **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.