

Tender specifications

Attached to the Invitation to tender

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Invitation to tender No. EMSA/OP/21/2017 for Provision of Interim Services for the European Maritime Safety Agency (EMSA) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)

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. More information is available at: <http://www.emsa.europa.eu>.

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) was established by Council Regulation (EEC) No. 302/93 of 8 February 1993, as recast by Regulation (EC) No. 1920/2006 of the European Parliament and of the Council of 12 December 2006. The EMCDDA is the central reference point for drug information in the European Union. More information is available at: <http://www.emcdda.europa.eu>

Both agencies are situated in Praça Europa, Cais do Sodré, 1249-289 Lisbon (Portugal).

2. Objective, scope and description of the contract

2.1 Objective of the contract

The European Maritime Safety Agency together with the European Monitoring Centre for Drugs and Drug Addiction (hereafter “the Agencies”) are launching an invitation to tender in order to find a suitable contractor for the provision of interim services.

With this call for tender, EMSA and EMCDDA aim to conclude two framework contracts covering interim services for each agency: Lot 1 - EMSA and Lot 2 – EMCDDA. In the case of EMSA, these services may cover tasks falling directly under the EMSA budget, or the budget of projects financed by other Institutions or Agencies.

The tenderers can apply for only one Lot or to both Lots (Lot 1 – EMSA and/or Lot 2 – EMCDDA).

EMSA and EMCDDA are multicultural and multilingual European Agencies. EMSA currently has around 240 staff and the EMCDDA 100 staff members. Staff employed by both Agencies are subject to the Staff Regulations and the Conditions of Employment of Other Servants of the European Communities (Council Regulation Nr. 259/68 of 29 February 1968, as amended).

Both Agencies may need interim personnel, in addition to their staff, for the following reasons:

- to replace staff absent;
- to cope with peak periods which require an additional workforce for a limited period of time;
- to carry out, on a temporary basis, additional tasks resulting from specific projects;
- to carry out, on a temporary basis, tasks which require specific competencies which are not available within the Agency.

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.).

The overall objective of the tender is to provide EMSA and EMCDDA with the necessary interim personnel in a timely manner and in line with the job profiles requested.

The contractor/s shall comply with all the relevant national laws on employment, taxes, health insurance, social and pension contributions. The contractor shall ensure the fulfilment of all legal and financial obligations towards the worker, which include the gross salary and all social and pension contributions foreseen by the law for the employer.

In the event that the tenderer has any additional contractual documentation which they require to be signed by the Agency in order to recruit an interim staff member, such documentation should be provided with their bid.

All service-related expenses, such as salaries of contracted personnel including social security, holiday allowances, sickness allowances and untaken leave payments², insurance, and all other administrative costs should be covered by the Contractor.

Interim personnel shall work according to the calendars of the Agencies, the public holidays for the Agencies for 2018 are provided in Appendix II. This means that interim staff working for the Agencies must come to work on the working days of the Agencies and follow the public holidays of the Agencies. Tenderers should take this into consideration in the preparation of their bids.

2.2 Scope of the contract

The variety of activities for which EMSA and EMCDDA might request interim personnel in the context of this tender may include, but not be limited to, the following categories:

- Receptionist and switchboard operator
- General administrative/ secretarial support
- Filing and archiving assistance
- Data input assistance
- Support to the organisation of meetings, conferences and events
- Financial and human resources support
- Clerical support
- IT infrastructure assistance
- Technical and operative assistance

Should further needs be identified by the Agencies, the contractor may be requested to provide other types of profiles in addition to the ones listed above.

The working language used in the Agencies is English. The interim personnel will thus be requested to have a very good command of English (written and spoken). For specific activities, the knowledge of other EU languages might also be required.

² For example "subsídio de férias" in Portugal

2.3 Description of the contract/s

The Agency will request the contractor to propose possible candidates for an assignment. The requesting Agency will specify the job description, the skills required and the expected timeframe (starting date and duration) of the assignment.

Within five working days, the contractor shall provide the requesting Agency with a proposal submitting appropriate candidates' CVs whose profile matches to the profile requested. The requesting Agency reserves the right to invite for interview one or more of the proposed candidates. The requesting Agency shall then confirm to the contractor its choice of the candidate for assignment.

A point of contact for the provision of interim personnel will be appointed for each of the Agencies (EMSA and EMCDDA). The contractor should also provide a point of contact, a dedicated e-mail and a telephone number for the contacts with the Agencies.

2.4 Contract duration

The contract concluded under Lot 1 with EMSA will be awarded for a period of one year with the possibility of renewal up to three times each time for an additional period of 12 months.

The contract concluded under Lot 2 with EMCDDA will be awarded for a period of two years with the possibility of one renewal for an additional period of 24 months.

3 Contract management responsible body

Lot 1: The European Maritime Safety Agency: Unit A.1 in charge of Human Resources & Internal Support will be responsible for managing the contract

Lot 2: The European Monitoring Centre for Drugs and Drug Addiction: ADM unit – HR management sector will be responsible for managing the contract.

4 Project Planning

n/a

5 Timetable

The estimated date for signature of the contract for Lot 1 and Lot 2 is January 2018.

6 Estimated Value of the Contract

The maximum budget available for each Agency for the maximum duration of 4 years per each contract is as follows:

LOT	Agency	Ceiling (excluding VAT)
Lot 1	EMSA	400.000 EUR
Lot 2	EMCDDA	255.000 EUR

7 Terms of payment

Payments shall be issued in accordance with the provisions of the **draft contracts** available in the Procurement Section under the call to tender EMSA/OP/21/2017 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 contract.

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

9 Financial guarantees

n/a

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.

11 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 14.5 and 15 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.⁴

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 (Joint Offers) he shall indicate it in his offer by completing the form "Information regarding joint offers and subcontracting".

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.

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).

The tender must be presented as follows and must include:

- a) **A signed 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, EMCDDA 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 **10, 13, 14.2 and 14.6** of these specifications (part of the 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 **14.4** 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 **14.5** of these specifications.

Part D: All the information and documents required by the contracting authority for the appraisal of tenders on the basis of the **Award Criteria** set out under point **15** of these specifications.

Part E: Setting out **prices** in accordance with **point 12** of these specifications.

12 Price

- a) Prices for provision of Interim Services shall include all service-related expenses, such as salaries of contracted personnel including social security, holiday and sickness allowances, untaken leave payments⁵, insurance, in particular all social and pension contributions foreseen by the applicable law for the employer and all other administrative costs, please read carefully Section 2.1 above in this regard.
- b) The tenderer must fill in Appendix 1 (Part A and Part B) – “Price Grid per Category of Interim personnel” for each of the lots they are applying for.
Please note that only Part A will be used for the purposes of evaluating the price as per Section 15.4 of the award criteria. The prices given under Part B may be used for ordering the relevant categories of staff during the contract.
- c) Prices must be quoted in Euro.
- d) Prices must be fixed amounts, non-revisable and remain valid for the duration of the contract.
- e) Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Union, the Agencies are exempt from all duties, taxes and other charges, including VAT. This applies to EMSA pursuant to the Regulation (EC) No 1406/2002 and to EMCDDA pursuant to the Regulation (EC) No.

⁵ For example “subsídio de férias” in Portugal

1920/2006. 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 tenderer 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) except if such a form has already previously been completed and sent either to EMSA, EMCDDA or any EU Institution.

14.2 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.

14.3 Legal and regulatory capacity – Selection criteria

14.3.1 Requirements: The tenderer must have the legal and regulatory capacity to pursue the professional activity needed for performing the contract.

14.4 Economic and financial capacity – Selection criteria

14.4.1 Requirements:

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

1.4.2 Evidence:

For lot 1 (EMSA) and 2 and lot 2 (EMCDDA):

- a) Financial statements for the last three years for which accounts have been closed.
- b) Tenderers are exempt from submitting the documentary evidence if such evidence has already been completed and sent to the Agencies for the purpose of another procurement procedure and still complies with the requirements. In this case the tenderer should simply indicate on the cover letter the procurement procedure where the evidence has been provided.
- c) If, for some exceptional reason which the Agencies consider justified, a tenderer is unable to provide one or other of the above documents, he may prove his economic and financial capacity by any other document which the Agencies consider appropriate. In any case, the Agencies must at least be notified of the exceptional reason and its justification in the tender. The Agencies reserve the right to request any other document enabling it to verify the tenderer's economic and financial capacity⁴.

14.5 Technical and professional capacity – Selection criteria

14.5.1 Requirements:

- a) The tenderer must have technical and professional capacity to perform the contract. The tenderers shall provide evidence of expertise in the field of Interim personnel services.

14.5.2 Evidence: Tenderers are required to provide:

- a) a company portfolio presenting the company;
- b) list of companies or organisations (or equivalent) to which the tenderers have provided interim services in the last 3 years.

14.6 Declaration of Honour

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

Please note that **only upon request** and within the time limit set by EMSA the tenderer shall provide the following evidence concerning the tenderer or the natural or legal persons which assume unlimited liability for the debt of the tenderer:

For exclusion situations described in (a), (c), (d) or (f) of point 14.2 above, production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the tenderer showing that those requirements are satisfied.

For the exclusion situation described in (a) or (b) of point 14.2 above, production of recent certificates issued by the competent authorities of the State concerned is required. These documents must provide evidence covering all taxes and social security contributions for which the tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The successful tenderer must provide the documents mentioned as supporting evidence before signature of the contract and within the deadline given by EMSA. This requirement applies to each member of the group in case of joint tender.

If the tenderer (or member of the group in case of joint tender) already submitted such evidence for the purpose of another procedure, provided its issuing date does not exceed one year and it is still valid, the tenderer (or member of the group in case of joint tender) shall declare on its honour that the documentary evidence has already been provided and confirm that no changes have occurred in its situation.

15 Award criteria

For each lot, 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** ($W_1 = 20\%$) **Methodology**; Description of a methodology that the tenderer uses to evaluate the skills (including language skills: English and any other languages) and qualifications of individuals for the different categories of interim personnel.
2. **Quality criterion 2** ($W_2 = 20\%$) **Database**; Number and type of profiles of individuals currently available in the tenderer's database, presented by the categories and periods of relevant experience listed in Appendix 1.
3. **Quality criterion 3** ($W_3 = 10\%$) **Responsiveness**; Description of how the administrative formalities for entry into service, replacement and exit of interim personnel are fulfilled.

and the price criterion and associated weighting:

4. Price of the bid ($W_{Price} = 50\%$) – total of the price:
Per person per day and per month of each compulsory category (categories in PART A of Appendix 1) for each period of experience.

The tenderers shall fill in one grid (PART A) for each of the Lots they are applying.

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 60 % for each quality criterion 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.

18 Special negotiated procedure under Article 134(1)(e) RAP

EMSA may at a later stage exercise the option to increase the estimated value of the contract via negotiated procedure with the successful tenderer in accordance with Article 134(1)(e) of the Rules of Application to the Financial Regulation.