

## **Tender Specifications**

### **Attached to the Invitation to tender**

## **Invitation to tender No. EMSA/NEG/33/2019 for Banking 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 for the purpose of ensuring a high, uniform and effective level of maritime safety.

The EMCDDA is one of the EU decentralised agencies and was established by Council Regulation (EEC) No. 302/93 of 8 February 1993 which was recast in the form of Regulation (EC) No 1920/2006 of the European Parliament and of the Council of 12 December 2006. The EMCDDA is the reference point for drug information in the European Union. Based in Lisbon, the EMCDDA aims at contributing to a healthier and more secure Europe by providing sound evidence for policies and actions on drugs. More information about the agency, its structure and activities can be found on the EMCDDA Web site at [www.emcdda.europa.eu](http://www.emcdda.europa.eu).

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

The subject of this call for tenders is the selection of a bank for the execution of payments in EUR mainly within the SEPA area to support EMSA and EMCDDA daily operations.

The result of the procedure will be the conclusion of two contracts for the provision of banking services for EMSA and EMCDDA in Lisbon. The tender is divided into two Lots and will result in the award of one contract per Lot. The contract (service contract) for Lot 1 will be signed between the winning contractor and EMSA. The contract (service contract) for Lot 2 will be signed between the winning contractor and EMCDDA.

#### **Lot 1 – EMSA and Lot 2 – EMCDDA:**

The main requirements of the EMSA and EMCDDA concerning the execution of the payments are:

- \* maximise the control over value dates of payments to beneficiary bank accounts,
- \* one unique contact point + back-up for all financial operations,
- \* electronic execution of Swift orders on a daily basis
- \* full transmission of the information to the beneficiaries
- \* no charges and commissions on EMSA and EMCDDA transactions,
- \* competitive remuneration (deposit interest rate) and clear information about this,
- \* automatic reconciliation of all EMSA and EMCDDA bank accounts.

The contractor will be expected to make payments in EUR and occasionally in other currencies.

Most of the EUR payments requested by the EMSA and EMCDDA will be directed to beneficiaries holding an account within the EU.

As a general rule, the Contracting Authority will send the payment instructions to the selected bank on any given date (D) with the following value dating:

- D or D+1 or exceptionally D+2

where D, D+1, D+2 is the date on which the Contracting Authority's account(s) will be debited, and the payments executed from them.

The bank accounts will be funded by the Contracting Authority via transfers from other accounts or direct payment from the European Commission contribution(s) or other Non-EU Member states like Norway and Turkey (EMCDDA contributors), in order to cover for payment needs.

The contractor will process all EMSA and EMCDDA payments to beneficiaries.

The EUR payments instructed by the Contracting Authority will mostly be directed to beneficiaries holding an account within the SEPA area.

However, the Contracting Authority could also ask the selected bank to process payments in EUR to beneficiaries outside the SEPA area as well as, exceptionally, payments in other currencies. Occasionally, and only on specific request of the Contracting Authority, the selected bank will also be expected to process other kind of operations (e.g. foreign exchange transactions, etc.).

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

On the part of EMSA, Unit A.2 in charge of Executive Bureau will be responsible for managing the contract for Lot 1.

On the part of EMCDDA, the Directorate will be responsible for managing the contract for Lot 2.

### **4. Project Planning**

Not applicable.

### **5. Timetable**

The estimated date for signature of the contract is November 2019.

### **6. Estimated Value of the Contract**

The maximum budget available for this contract is EUR 15000 excluding VAT.

- 10000 € for Lot 1 (EMSA) for the maximum duration of 5 years (including renewals);
- 5000 € for Lot 2 (EMCDDA) for the maximum duration of 5 years (including renewals)

### **7. Statistical figures**

The following statistics are provided for information purposes only, without any commitment for future years.

The volumes / amounts provided, for both payments and balances, are purely indicative.

On the basis of statistical figures, the overall annual number / amount of payments instructed by the Contracting Authority is estimated to be the following:

**Lot 1 : EMSA**

Type of Payment	Number	Related Amount (EUR)
SEPA Credit Transfers (XML Format)	7 500	80,000,000
Other EUR payments within the SEPA Area <sup>1</sup> (SWIFTNet FIN)	400	10,500,000
EUR Payments outside the SEPA Area (SWIFTNet FIN)	165	9,000,000
Payments in Currencies other than EUR (SWIFTNet FIN)	215 (CZK, GBP, HUF, RON, USD)	400,000
Cheque <sup>2</sup>	0	0

EMSA will transmit all its payment instructions with SWIFT MT103 or MT101 via the SAP system of the European Commission in Brussels.

Most of the payment instructions for SEPA credit transfers are transmitted in XML format based on standard ISO 20022 via SWIFTNet FileAct. All the other transactions (other payment instructions in EUR or in other currencies, transfers to other Contracting Authorities' accounts, etc.) are instructed via SWIFTNet FIN messages.

---

<sup>1</sup> Either SEPA compliant payments instructed for big amount (>Eur 5 Mn) which are, due to Contracting Authority parametrization, sent via SWIFTNet FIN, or other payments including a correspondent / intermediary Bank.

<sup>2</sup> Cheques issued should be sent either by recommended letter or via the bank's branch in the country of the beneficiary.

## **Lot 2 : EMCDDA**

<b>Type of Payment</b>	<b>Number</b>	<b>Related Amount (EUR)</b>
SEPA Credit Transfers (XML Format)	3900	17 330 000
Other EUR payments within the SEPA Area <sup>3</sup> (SWIFTNet FIN)	32	19 000
EUR Payments outside the SEPA Area (SWIFTNet FIN)	114	179 000
Payments in Currencies other than EUR (SWIFTNet FIN)	105	130 000
Cheque <sup>4</sup>	0	0

The EMCDDA will transmit all its payment instructions with SWIFT MT103 or MT101 via the SAP system of the European Commission in Brussels.

Most of the payment instructions for SEPA credit transfers are transmitted in XML format based on standard ISO 20022 via SWIFTNet FileAct. All the other transactions (other payment instructions in EUR or in other currencies, transfers to other Contracting Authorities' accounts, etc.) are instructed via SWIFTNet FIN messages.

### **8. Terms of payment**

Payments will be made in accordance with the provisions of the draft Service Contract per lot available in the Procurement Section under the call to tender EMSA/NEG/33/2019 on EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)).

### **9. Terms of contract**

When drawing up a bid, the tenderer shall bear in mind the terms of the draft Service Contracts.

EMSA and EMCDDA may, before the contracts are signed, cancel the award procedure without the tenderers being entitled to claim any compensation.

### **10. Subcontracting**

If the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners it shall indicate in its offer which part will be subcontracted, as well as the name and qualifications of

---

<sup>3</sup> Either SEPA compliant payments instructed for big amount (>Eur 5 Mn) which are, due to Contracting Authority parametrization, sent via SWIFTNet FIN, or other payments including a correspondent / intermediary Bank.

<sup>4</sup> Cheques issued should be sent either by recommended letter or via the bank's branch in the country of the beneficiary.

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>5</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>6</sup> However, the selection criteria may apply individually where it is relevant in view of their nature.

## 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 Contracting Authorities is English, bids should preferably be submitted in English. 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>7</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) it shall indicate it in its offer by completing the form "Statement of Subcontracting / Joint Offer". This document is available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)).

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 names and email address to be used for contacts during the procurement procedure.
- b) **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 requested if such a form has already previously been completed and sent either to EMSA, EMCDDA or any EU Institution.

**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 and 14.2 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 Technical and professional 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 **Award Criteria** set out under point **16** of these specifications;

---

<sup>5</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>6</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>7</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 D:** Setting out **prices** in accordance with point **12** of these specifications.

## **12. Price**

- a) Prices for Lot 1 and Lot 2 must be quoted in accordance with 'Appendix 2 - Financial Proposal' and shall be all inclusive;
- b) Prices must be fixed amounts and non-revisable and remain valid for the duration of the contract;
- c) Prices must be quoted in Euro;
- d) Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Union, the latter is exempt from all duties, taxes and other charges, including VAT. This applies to EMSA and EMCDDA pursuant to the Regulation (EC) No 1406/2002 and Council Regulation (EEC) No. 302/93 respectively. Therefore, price and 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. However, the selection criteria may apply individually where it is relevant in view of their nature.

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, technical and professional 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** available on the Procurement Section of EMSA's website ([www.emsa.europa.eu](http://www.emsa.europa.eu)).

### **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 exclusion situations listed in the Declaration of Honour.

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

### 14.3 Legal and regulatory capacity – Selection criteria

#### 14.3.1 Standards / Prerequisites

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

- a) The tenderer must hold an authorisation proving that it is authorized to perform the contract in its country of establishment: Authorisation to operate

#### 14.3.2 Evidence

- a) Please provide documentary evidence that the establishment of the Bank, where the bank account(s) will be located, meets the operating conditions imposed by the competent supervisory authorities of a Member State of the European Union and has all the authorizations necessary to execute the required services in the country where the account(s) will be located.

### 14.4 Technical and professional capacity – Selection criteria

#### 14.4.1 Standards / Prerequisites

- a) Long term credit rating

The Bank's Long-Term credit rating must be, as a minimum, at the following level with at least two registered or certified rating agencies (of which at least one should be S&P, Moody's or Fitch) at the time of the submission of the offer:

#### 14.4.2 Evidence

Long term credit rating above or equal to A- (S&P or equivalent). Please fill in Appendix 1.

## 15. Declaration of Honour (DoH)

Please note that the tenderer shall provide information with regards its situation and on the natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control and beneficial owners.

Upon request and within the time limit set by EMSA, the tenderer shall provide the following evidence concerning itself, the natural or legal persons as listed under the first paragraph, and concerning the natural or legal persons which assume unlimited liability for the debt of the tenderer:

- For the exclusion situations described in (a), (c), (d), (f), (g) and (h) of the Declaration of Honour, 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 situations described in (a) and (b) of the Declaration of Honour, production of recent certificates issued by the competent authorities of the country of establishment 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 candidate 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 person shall declare on its honour that the documentary evidence has already been provided and confirm that no changes have occurred in its situation.

## 16. Award criteria

Only the bid satisfying all the requirements set out in the Tender Specifications (minimum requirements, exclusion and selection criteria), will be evaluated under the 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 lowest price.

The price considered for the evaluation will be the **Total Price** of the tender, to be calculated on the basis of the data provided by the tenderers in the 'Appendix 2 – Financial offer', and according to the following formula:

$$\text{Total Price} = \text{Annual Cost of payments} - \text{Annual Net Remuneration of the balances on the accounts}$$

For evaluation purposes:

- ✓ The Annual Cost of payments will be calculated based on the statistical figures provided in the Section 7;
- ✓ The Annual Net Remuneration of the balances on the accounts will be calculated considering a maximum balance of Eur 20 Mln.

In case of equal score of two or more tenders, the following additional criteria will be applied:

1. The Tenderer with the best rating;
2. The Tender offering the lowest cost of payments.

## 17. 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 used in the award procedure where this entails a breach of the principle of equality of treatment, including distortion of competition that cannot be remedied otherwise.

## 18. Intellectual Property Right (IPR)

Please consult the contract for IPR related clauses.



## Appendix 1 – Technical and professional capacity

Long term credit rating - Please fill in the table below:

Rating Agency	Long-term credit rating	Date (dd-mm-yyyy)
Moody's		
Standard and Poor's		
Fitch		
Any other registered or certified Agency <sup>8</sup> (please specify here below) -----		

---

<sup>8</sup> Full list available at: <http://www.esma.europa.eu/page/List-registered-and-certified-CRAs>

## Appendix 2 – Financial offer

The Financial Offer must provide a detailed breakdown of the costs that your bank will charge, if awarded. Please provide separate figures for each type of payment transaction in the below table.

### 1) Debit transactions

In the table below please specify, for each type of payment transaction, the cost in EUR:

Type of Payment	Unit Cost (in EUR and without VAT)
<b>SEPA Credit Transfers (XML Format)</b>	
<b>Other EUR payments within the SEPA Area<sup>9</sup> (SWIFTNet FIN)</b>	
<b>EUR Payments outside the SEPA Area (SWIFTNet FIN)</b>	
<b>Payments in Currencies other than EUR (SWIFTNet FIN)</b>	
<b>Cheque<sup>10</sup></b>	

For evaluation purposes, the statistical figures provided in the Section 7 of the Tender Specifications will be used.

### 2) Remuneration of the balance on the accounts

The remuneration for the accounts must be calculated monthly or quarterly on the basis of the following formula:

$$\text{Remuneration} = \frac{\sum_{i=1}^n B_i * (R_i + \text{Spread})}{\text{Bank year} * 100}$$

$$\text{Remuneration} = \frac{\sum_{i=1}^n B_i * (R_i + \text{Spread})}{\text{Bank year} * 100}$$

<sup>9</sup> Either SEPA compliant payments instructed for big amount (>Eur 5 Mn) which are, due to Contracting Authority parametrization, sent via SWIFTNet FIN, or other payments including a correspondent / intermediary Bank.

<sup>10</sup> Cheques issued should be sent either by recommended letter or via the bank's branch in the country of the beneficiary.

Where:

- $n$  = Exact number of days in the month/quarter
- $B_i$  = Balance Range on day  $i$
- $R_i$  = Reference rate\* on day  $i$  in %
- Spread = Margin offered by your bank
- Bank year = 360 days (or the corresponding market's days convention)

\*The reference rate should be an official interest rate benchmark.

Please indicate in the field below which calculation period (monthly or quarterly) your bank prefers:

Calculation period

The interest rate will consist of a reference rate and a margin.

Please indicate in the table below the reference rate of your choice +/- the margin offered, if any. Please note that you may also indicate / offer different pricings per amount range. In this case, please indicate in the table maximum three balance ranges (e.g. balance from zero up to EUR 10 Mln, from 10 Mln up to EUR 20 Mln etc.), and, for each of them, the reference rate of your choice +/- the margin offered, if any.

Balance Range (EUR)		Reference Rate	Sign + / -	Margin (bp)
From	To			
0			+	0.2

If you indicate the sign “-”: **the balance on the bank account will be remunerated at a rate higher than the  $R_i$**  (given the sign + of the formula of the remuneration).

Example:  $R_i = 0,5$   : your bank is offering 0,75

If you indicate the sign “+”: **the balance on the bank account will be remunerated at a rate lower than the  $R_i$**  (given the sign - of the formula of the remuneration).

Example:  $R_i = 0,5$   : your bank is offering 0,25

For evaluation purposes, a maximum balance of Eur 20 Mln will be considered and the corresponding rates of 4<sup>th</sup> November 2019 will be used.

### 3) Yearly accounts balances confirmation

For information purposes only, please fill in your bank's price, if any, for providing the standard accounts balances confirmation:

<div style="border-bottom: 1px solid black; height: 1.2em; width: 100%;"></div> <div style="text-align: right; padding-top: 2px;">EUR</div>
---------------------------------------------------------------------------------------------------------------------------------------------

#### **SIGNATURE OF THE BANK'S REPRESENTATIVE(S)**

Company name/forename/surname/function      Company name/forename/surname/function

Signature: .....

Signature: .....

Done at ....., date ...../...../.....

Done at ....., date ...../...../.....