

Tender Specifications

Attached to the Invitation to tender

Invitation to tender No. EMSA/NEG/2/2020 for Study to support the amendment of the “Guidelines for brief sampling of anti-fouling systems on ships” to include controls on Cybutryne

1. Introduction

The European Maritime Safety Agency (EMSA) was established under Regulation (EC) No 1406/2002 of the European Parliament and of the Council¹ for the purpose of ensuring a high, uniform and effective level of maritime safety. Among its tasks, the Agency upon the request of the European Commission provides technical and scientific assistance to the Commission and the EU Member States in the field of prevention of pollution caused by ships and promotion of sustainable shipping. This includes the development, implementation and enforcement of existing or proposed international and EU legislation including anti-fouling systems applied on the ship's hull.

Following the EU submission to the International Maritime Organization (IMO) to amend Annex 1 of the Anti-Fouling Systems (AFS) Convention to include controls on cybutryne, the relevant guidelines, hereinafter “the Guidelines” (MEPC.104(49) Guidelines for Brief Sampling of Anti-Fouling systems on ships (Appendix I to the Tender Specifications) need also to be revised for providing the necessary tools to support the effectiveness of survey and inspection and ensuring that the ships anti-fouling systems comply with the AFS Convention. anti-fouling

2. Objective, scope and description of the contract

2.1 Objective

The objective is to conclude a Service Contract with a contractor that will develop a study to support the amendment of the Guidelines for brief sampling of anti-fouling systems on ships containing cybutryne. In particular, the study will cover new methodologies or modify the existing methodologies that are described in the Guidelines, for the sampling of anti-fouling systems to support the survey and inspection and ensuring that ships anti-fouling system is in compliance with the AFS Convention. The methodologies that will be developed will need to identify whether the anti-fouling systems applied on ships is containing cybutryne that is acting as biocide.

2.2 Scope

The scope of the contract is to carry out research studies including the necessary experimental and computational work that will provide the results that are required to amend the Guidelines, in order to include cybutryne and in line with the project planning in Point 4. The research study in order to be considered complete must include as a minimum the following:

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.).

1. An explanatory report with regards to paragraph 4 of the Guidelines containing the textual changes that need to be made to this paragraph in order to be suitable for the anti-fouling systems containing cybutryne.
2. A report that contains additional requirements for paragraph 4 of the Guidelines (Sampling and Analysis) in order for this paragraph to apply to anti-fouling systems that contain cybutryne. The additional requirements that need to be added under the existing sub-paragraphs:
 - Sampling Methods,
 - Technical aspects,
 - Sampling strategy and number of samples,
 - Analysis.
3. A report with the thresholds and tolerance values that need to be specified for cybutryne including any additional requirement or technical information that must be added in paragraph 5 of the Guidelines.
4. A report that contains the leaching rates for cybutryne in the marine environment. The leaching rates need to be calculated or estimated using a reliable method with the necessary correction factors (ex. ISO 10890:2010). This report should also include a thorough review of the methodology and assumptions made.
5. A report that contains the effectiveness of existing sealing coatings in order to seal coating systems containing cybutryne. The sealing coatings that should be tested first should be those that have been used to seal Organotin compounds. The report must also include information on whether the existing sealing methods are effective for sealing coating systems containing cybutryne.
6. A report on the higher mass of cybutryne concentration that could be present per mass of dry paint in order for the coating system to remain in compliance with the AFS Convention.
7. A report on whether the methods: Method 1 and Method 2, described in the Appendix of the Guidelines can be adjusted in order to be used for identifying the anti-fouling systems that containing cybutryne. Furthermore, this report has to include possible changes that need to be made in order for these methods to become suitable detecting the anti-fouling systems containing cybutryne.
8. A report that will include the amendments to the record sheets that are contained in the appendices of the two methods (Method 1 and Method 2) in the Guidelines in order to be adjusted to the anti-fouling systems that contain cybutryne as biocide.
9. A report proposing possible new methodologies that can be used to supplement, simplify or improve the existing methodologies (Method 1 and Method 2) which are described in the Guidelines and could ideally apply to anti-fouling systems for detecting both cybutryne and Organotin compounds.

2.3 Overall Description of the Service Contract

It is expected that the duration of the contract will have a maximum duration of 12 months.

2.4 Quality Assurance

Quality Assurance shall be performed by the Contractor according to industrial best practices. A Quality Management plan shall be provided and discussed during the kick-off meeting. Any Quality Management standard followed by the Contractor shall be specified in its bid and any specific tailoring required by this project should be identified and pointed out.

3. Contract management responsible body

EMSA Unit 1.0 in charge of Sustainability - will be responsible for managing the contract.

4. Project Planning

4.1 Meetings

The following meetings are envisioned at EMSA premises in Lisbon, Portugal:

- Kick-off meeting: after the signature of the Service Contract, a kick-off meeting will be held in order to define the details of the work to be undertaken.
- Intermediate meeting: prior to the submission of the interim report by the contractor, an intermediate meeting will be held to discuss the progress and outline the tasks that need to be complete.
- Final meeting: after the delivery of the final report and prior to the end of the Service contract, a final meeting will be held to enable the contracting parties to discuss the work accomplished.

No separate expenses will be reimbursed to the contractor for attending meetings held outside the Contractor's premises. This should all be included in the price quoted for the study.

In addition, the following remote meetings (e.g. virtual/conference calls) are foreseen:

- Regular management meetings: occurring every two months after the signature of the Service Contract.
- Additional ad hoc meetings: EMSA may call for additional meetings if this should be deemed necessary for the better execution of the project.

4.2 Agenda and minutes of the meetings

The Contractor and EMSA shall agree on the agenda of the meetings one week in advance. The Contractor shall draw up the minutes of the meetings and provide them to EMSA within 2 working days after the meeting. The minutes of the meetings shall include at least the topics discussed, decisions taken and action items with an indication of the responsible person and deadline for the actions. The minutes shall be agreed and approved by EMSA. Should the minutes of the meetings be rejected by EMSA, the Contractor shall have 2 working days to revise the minutes according to the comments provided.

4.3 Deliverables

This section provides the list of the deliverables. The Contractor shall adhere to EMSA standards and requirements in terms of project delivery, working procedures and services detailed in the tender specifications and Appendixes. The language of working and of all deliverables must be English. All deliverables must be submitted electronically (editable version).

For the development of the amended guidelines for the brief sampling of anti-fouling systems the following need to be submitted:

- A project plan and a Gantt chart, to be delivered at the kick-off meeting.
- An **interim report** that will include the proposed amendments to the Guidelines and describe the work that was completed and the future work that will be required. This interim report will be used by EMSA to prepare the relevant documents that will need to be submitted by the European Commission and the EU Member States to the IMO sub-Committee on Pollution Prevention and Response (PPR 8).
- A **progress report** describing the progress covering the items listed in Point 2.2.

- A **final report** containing the proposed amendments to the Guidelines according to point 2.2. This report will contain the results from the experiments and calculations performed providing the protocols that have been followed and an executive summary commenting on the results.

Regular **Status reports** that will describe the progress covering the items listed in Point 2.2.

5. Timetable

The estimated date for signature of the contract is April 2020.

Milestone (M) or Deliverable (D) or Task (T)	Description	Expected Delivery
M1 D1	<u>Kick-Off Meeting</u> Project Plan and the Gantt Chart	T0 + 1-2 weeks
M2	<u>Intermediate Meeting</u>	T0 + 6 weeks
D2	An interim report	T0 + 10 weeks
D3	A status report describing the progress covering the items listed in Point 2.2.	T0+18 weeks
D4	A Progress report	T0+26 weeks
D5	Status report describing the progress covering the items listed in Point 2.2.	T0+31 weeks
D6	Status report describing the progress covering the items listed in Point 2.2	T0+39 weeks
D7	Status report describing the progress covering the items listed in Point 2.2	T0+47 weeks
D8	The final report	T0+50 weeks
M3	Closing <u>Final meeting</u> with the contractor	T0+52 weeks

6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 70000 excluding VAT.

7. Terms of payment

Payments will be made in accordance with the provisions of the draft **Service Contract** available in the Procurement Section under the call to tender **EMSA/NEG/2/2020** on EMSA's website (www.emsa.europa.eu).

8. Terms of contract

When drawing up a bid, the tenderer shall bear in mind the terms of the draft Service 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 it shall indicate in its 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 criteria². The exclusion criteria will be assessed in relation to each economic operator individually. Concerning the selection criteria, the evidence provided will be checked to ensure that the tenderer and its subcontractors as a whole fulfil the criteria.³ However, the selection criteria may apply individually where it is relevant in view of their nature.

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 shall 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, 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 (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).

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, the bank account on which payments are to be made and the email address to be used for contacts during the procurement procedure.
- b) **The Financial Identification Form completed**, signed and stamped. This document is available on the Procurement Section (Financial Identification 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)

² To rely on the capacities of a subcontractor means that the subcontractor will perform the works or services for which these capacities are required.

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).

Tenderers are exempt from submitting the Legal Entity Form and Financial Identification 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 shall 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. 3 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. 4 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 11 of these specifications.

11. Price

- a) Price must be quoted for Study to support the amendment of the “Guidelines for brief sampling of anti-fouling systems on ships” to include controls on Cybutryne and shall include all the prices for all the necessary means to conduct the all tasks defined under Point 2.2.
- b) Prices must be fixed amounts and non-revisable.
- 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 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. 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.

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).

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 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) shall be completed and signed.

13.3 Economic and financial capacity – Selection criteria

13.3.1 Standards / Prerequisites

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

13.4 Technical and professional capacity – Selection criteria

13.4.1 Standards / Prerequisites

The tenderer must have at least five years of recent, relevant experience and knowledge covering the scope of the study in areas such as:

- Coatings and anti-fouling systems applied to ships;
- Characterization of anti-fouling systems and identifying their properties (leaching rates of biocides or active ingredients, mass balance, persistence in the relevant media, bioaccumulation, partition coefficient);
- Sampling methodologies described in the Guidelines;
- Biofouling on materials used by the shipbuilding industry;

The tenderer must have the technical and professional capacity to deliver the services covered in this call. As a minimum each team member must have a related science background University degree, minimum 3 years of experience, and minimum knowledge of English at least B2 level.

13.4.2 Evidence

The tenderers shall provide the following evidence:

- A list of comparable relevant projects and publications which the tenderer has carried out over the past 5 years; including a summary (1-page maximum) of the research and analytical work relevant for this call, budget, technical capabilities required for the project and year of conclusion of the project.
- The CVs of the team members who will be delivering the services under the contract. The CV's should be in EuroPass format. The CV's must include educational background, degrees and diplomas, professional experience, and linguistic skills.

14. 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.

15. 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 ($W_1 = 40\%$),
2. Quality criterion 2 ($W_2 = 20\%$),

and the price criterion and associated weighting:

3. Price of the bid ($W_{price} = 40\%$).

Quality criterion 1 ($W_1 = 40\%$)

Quality of the proposed methods and approach to implement the contract requirements, as outlined above in this document, and the proposed supporting tools (if any). Bids shall detail as minimum the following topics:

- A clear and concise proposal on how the tenderer will fulfil the requirements of the contract and communicate with EMSA during contract implementation.

- Description of the testing methodologies to be used.
- For each task, a detailed draft working plan that will include a clear identification of the milestones and progress of the project.
- Description of the Quality Management standard, if applicable.

Quality criterion 2 (W₂= 20%)

Quality of the team in terms of team composition and the distribution of responsibilities for the performance of the services. The bid shall detail as minimum the following topics:

- Project team overview and composition;
- Roles, responsibilities and breakdown of tasks for each team member.

Price of the bid (W_{price}= 40%)

The price is calculated as requested in point 11.

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 and a minimum of 60 % for Q_2 , will be taken into consideration when calculating the score for quality SQ , score for price SP and score S .

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

16. Rejection from the procedure

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

- a) are in an exclusion situation;
- b) have misrepresented the information required as a condition for participating in the procedure or have failed to supply that information;
- c) were previously involved in the preparation of procurement documents 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.

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 shall be clearly pointed out by the tenderer in the tender. Information shall 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.