

Tender Specifications

Attached to the Invitation to tender

Invitation to tender No. EMSA/NEG/9/2024 for Supply of personal protective equipment (PPE) 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 Council¹ for the purpose of ensuring a high, uniform and effective level of maritime safety. Among its tasks, the Agency needs to ensure the efficient internal functioning of the organization; in this scope it is important to assure simple and swift channels to acquire personal protective equipment for EMSA staff, required for inspections on ships, shipyards and missions.

EMSA is applying the environmental management systems ISO 14001:2015 and EMAS (Environmental Management and Audit Scheme of the EU), aiming to continuously improve its environmental performance. EMSA complies with all applicable legal requirements relating to the environment and endeavours to ensure that suppliers comply with its environmental policy within the remit of the activities carried out for the contract. EMSA invites tenderers to consult the document and consider it when preparing tenders.

2. Objective, scope and description of the contract

The objective of this tender is to conclude a framework contract with a single contractor to supply personal protective equipment – PPE (including the regular protective clothing and the equipment from the list below – and ad hoc equipment) as well as associated services, i.e. maintenance of purchased equipment, namely multi-gas monitors, personalisation of the personal clothing etc.

2.1 Regularly requested PPE

The range of PPE the Agency is looking to purchase over a four-year period shall include, but is not limited to, the below items:

- a) Safety boots or shoes
- b) Boiler Suits
- c) Light weight Boiler Suit
- d) Shirts
- e) Polo shirts
- f) Trousers
- g) Anoraks
- h) High visibility vests
- i) Gloves (two types)
- j) Safety Glasses

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.).

- k) Safety Glasses to fit over prescription spectacles
- l) Ear Protectors (two types)
- m) Helmets
- n) Respiratory Filters
- o) Multi-gas monitors
- p) Flashlights
- q) Disposable protective coverall
- r) Holdall for PPE

In order to simplify the evaluation and requests, the regularly requested PPE items are grouped as described in Annex C:

- General PPE
- Maintenance services

The proposed PPE must meet the minimum mandatory requirements outlined in Annex B as well as the additional requirements outlined below:

- Technical sheets/description of: safety glasses; ear protectors; helmets; respiratory filters; multi-gas monitor; flashlight and disposable protective overall must be supplied per product.
- For the selected items, the printed EMSA logo according to EMSA corporate logo guidelines, must be prepared (please refer to the Annex A and Annex B).
- For the personal protective clothing, the in house visit to take measurements for every order is requested. The exact date and time of the visit will be agreed before each specific request (Order Form).

The requirements set out in Annex B and above are minimum requirements for participating in the call for tender. Any bids failing to meet these requirements will be rejected.

2.2 Ad hoc PPE

In addition to the above, the tenderers are requested to provide, upon request, an offer for a one-off purchase of any other item of PPE:

- a) that will be chosen from the contractor's catalogue.

The tenderer shall include in its offer a catalogue (paper version and /or electronic version) which shall contain a large range of items with a full description, mentioning the model, characteristics and price. During contract implementation, each year the contractor shall provide EMSA with an updated version of the catalogue.

OR, for items not included in the catalogue:

- b) the contractor shall provide a quotation upon request from the Agency.

2.3 Maintenance

The tenderer must ensure that all of the supplied PPE will be properly maintained in accordance with the manufacturer's instructions (price for spare parts to be quoted upon EMSA request).

In detail, for multi-gas monitors it should include:

- Sensor calibration according to the manufacturer instruction (for current EMSA equipment it is 2 times per year)
- Maintenance, including sensors exchange and upgrade on request
- Possibility to customize the gas meter according with EMSA request

The tenderer shall also provide technical assistance and advice upon EMSA request, without any additional cost to the Agency.

2.4 Delivery

The Contractor shall deliver any ordered PPE within a maximum of six (6) weeks from the signature of the Order Form by the last contracting party, unless a different date will be specified in the Order Form.

The goods shall be delivered, to a pre-agreed location, on any EMSA working day during the Agency's normal working hours (Monday – Friday from 09:00 to 17:00h). The exact date of delivery shall be confirmed by the contractor four (4) days in advance of the delivery. All deliveries shall be accompanied by delivery notes and shall include the Order Form number, the model reference and the quantities delivered.

2.5 Warranty

The tenderer shall offer a minimum warranty period of two (2) years, valid for all supplied items, against issues arising from manufacturing defects and faults.

3. Contract management responsible body

EMSA Unit 4.2 in charge of Legal, Finance & Facilities - will be responsible for managing the contract.

4. Project Planning

Not applicable

5. Timetable

The estimated date for signature of the contract is Q3 2024.

6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 80,000.00 excluding VAT.

7. Terms of payment

Payments will be made in accordance with the provisions of the draft **Framework Service Contract** available in the Procurement Section under the call to tender **EMSA/NEG/9/2024** on EMSA's website (www.emsa.europa.eu).

Order forms for the purchase of supplies shall be established based on the prices indicated in the financial offer. However, EMSA may request the contractor to propose supplementary supplies to be ordered on the basis of a quote provided by the contractor as per Article I.5.1 of the FWC.

The successful tenderer(s) shall take the appropriate measures to be compliant with the e-invoicing conditions as set out in the draft contract.

8. Terms of contract (purchase order)

When drawing up a tender, the tenderer shall bear in mind the terms of the draft Framework Service Contract.

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

9. Financial guarantees

Not applicable

10. Subcontracting

Subcontracting is the situation where the contractor enters into legal commitments with other economic operators, which will perform part of the contract on its behalf. The contractor retains full liability towards the contracting authority for performance of the contract as a whole.

The following shall not be considered subcontracting:

- a) Use of workers posted to the contractor by another company owned by the same group and established in a Member State ("intra-group posting" as defined by Article 1, 3, (b) of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services).
- b) Use of workers hired out to the contractor by a temporary employment undertaking or placement agency established in a Member State ("hiring out of workers" as defined by Article 1, 3, (c) of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services).
- c) Use of workers temporarily transferred to the contractor from an undertaking established outside the territory of a Member State and that belongs to the same group ("intra-corporate transfer" as defined by Article 3, (b) of Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer).
- d) Use of staff without employment contract ("self-employed persons working for the contractor"), without the tasks of the self-employed persons being particular well-defined parts of the contract.
- e) Use of suppliers and/or transporters by the contractor, in order to perform the contract at the place of performance, unless the economic activities of the suppliers and/or the transporting services are within the subject of this call for tenders.
- f) Performance of part of the contract by members of an EEIG (European Economic Interest Grouping), when the EEIG is itself a contractor or a group member.

The persons mentioned in points a), b), c) and d) above will be considered as "personnel" of the contractor as defined in the contract.

By filling in the List of identified subcontractors available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website (www.emsa.europa.eu), tenderers are required to give an indication of the proportion of the contract that they intend to subcontract, as well as to identify and describe briefly the envisaged contractual roles/tasks of subcontractors meeting any of these conditions (hereafter referred to as identified subcontractors):

- subcontractors on whose capacities the tenderer relies upon to fulfil the selection criteria²;
- subcontractors whose intended individual share of the contract, known at the time of submission, is above 20 %.

Any such subcontractor must provide the tenderer with a commitment letter drawn up in the attached model Commitment letter by identified subcontractor available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website (www.emsa.europa.eu), and signed by its authorised representative.

The above rules apply also where the economic operators, which will perform part of the contract on behalf of a successful tenderer, belong to the same economic/corporate group as the sole tenderer or a member of the group submitting the joint tender.

Changes concerning subcontractors identified in the tender (withdrawal/replacement of a subcontractor, additional subcontracting) during the procurement procedure (after the submission deadline and before contract signature) require the prior written approval of the contracting authority subject to the following verifications:

- any new subcontractor is not subject to restrictive measures, has access to procurement and is not in an exclusion situation,
- the tenderer still fulfils the selection criteria and the new subcontractor fulfils the selection criteria applicable to it individually, if any;
- the terms of the originally submitted tender are not altered substantially, i.e. all the tasks assigned to the former subcontractor are taken over by another involved entity, the change does not make the tender non-compliant with the tender specifications, and the evaluation of award criteria of the originally submitted tender is not modified.

The tenderer must provide required evidence for the exclusion and selection criteria on its own behalf and on behalf of any subcontractors identified under the List of identified subcontractors available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website (www.emsa.europa.eu), and entities (not subcontractors) on whose capacities on whose capacities is being relied. 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. However, the selection criteria may apply individually where it is relevant in view of their nature.

10.1 Entities (not subcontractors) on whose capacities the tenderer relies to fulfil the selection criteria

In order to fulfil the selection criteria a tenderer may also rely on the capacities of other entities (that are not subcontractors), regardless of the legal nature of the links it has with them. It must in that case prove that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment letter in the attached model in Commitment letter by an entity on whose capacities is being relied available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website (www.emsa.europa.eu), signed by the authorised representative of such an entity.

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.

The above rules apply also where the economic operators on whose capacities the tenderer relies to fulfil the selection criteria (that are not subcontractors) belong to the same economic/corporate group as the sole tenderer or a member of the group submitting the joint tender.

10.2 Rules common to subcontractors and entities (not subcontractors) on whose capacities the tenderer relies to fulfil the selection criteria

If a successful tenderer intends to rely on another entity to meet the minimum levels of economic and financial capacity, the contracting authority may require the entity to sign the contract or, alternatively, to provide a joint and several first-call financial guarantee for the performance of the contract.

With regard to technical and professional selection criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required, i.e. the latter will either assume the role of subcontractors or will then assume the role of entities (not subcontractors) on whose capacities the tenderer relies to fulfil the selection criteria.

11. Requirements as to the tender

Tenders can be submitted in any of the official languages of the EU. However, as the main working language of the Agency is English, tenders should preferably be submitted in English and shall in particular include an English version of the documents requested under points 14.5 and 16 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.³

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 relevant forms "List of identified subcontractors" / "Agreement/Power of attorney (joint tender)". These documents are 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], including up-to-date proof of that authorisation, the bank account on which payments are to be made and the email address to be used for contacts during the procurement procedure. The cover letter shall be accompanied by the **Authorised Signatory Form** duly completed and signed. This document is available on the Procurement Section of EMSA's website (www.emsa.europa.eu)
- b) **The Financial Identification Form completed**, signed and stamped. This document is available on the Procurement Section of EMSA's website (www.emsa.europa.eu).
- c) **The Legal Entity Form** completed, signed by the person authorised to sign the contract and stamped along with the requested accompanying documentation, including up to date proof of that authorisation. This document is available on the Procurement Section of EMSA's website (www.emsa.europa.eu)

³ 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 to EMSA. 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 tenderers 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 EMSA for the appraisal of tenderers on the basis of the Legal and Regulatory capacity (part of the selection criteria) set out under point 14.3 of these Tender Specifications.

Part C: All the information and documents required by the contracting authority for the appraisal of tenderers on the basis of the Economic and Financial Capacity (part of the selection criteria) set out under point 14.4 of these specifications.

Part D: All the information and documents required by the contracting authority for the appraisal of tenderers on the basis of the Technical and Professional capacity (part of the selection Criteria) set out under point 14.5 of these specifications.

Part E: 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 16.16 of these specifications;

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

12. Price

- a) Price must be quoted for Supply of personal protective equipment (PPE) and associated services in accordance with Annex C ("Price List/Financial Proposal) and shall cover delivery, transportation costs and logo printing service.

Tenderers must fill in Annex C with the prices for each item. Failure to do so may lead to the rejection of the bid.

- b) Prices must be fixed amounts and non-revisable unless otherwise specified in 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 pursuant to the Regulation 1406/2002/EC. Therefore, price and the amount of VAT must be shown separately.

13. Joint Offer

A joint tender is a situation where a tender is submitted by a group (with or without legal form) of economic operators regardless of the link they have between them in the group. The group as a whole is considered a tenderer.

All group members assume joint and several liability towards the contracting authority for the performance of the contract as a whole.

Group members must appoint from among themselves a group leader (the group leader) as a single point of contact authorised to act on their behalf in connection with the submission of the tender and all relevant

questions, clarification requests, notifications, etc., that may be received during the evaluation, award and until the contract signature. All group members (including the group leader) must sign an Agreement/Power of attorney drawn up in the Agreement Power of attorney (joint tender) available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website (www.emsa.europa.eu).

The joint tender must clearly indicate the role and tasks of each group member, including those of the group leader who will act as the contracting authority's contact point for the contract's administrative or financial aspects and operational management. The group leader will have full authority to bind the group and each of its members during contract execution.

Changes in the composition of the group during the procurement procedure (after the deadline for submission of tenders and before contract signature) shall lead to rejection of the tender, with the exception of the following case(s):

- case of a merger or takeover of a group member (universal succession), provided that the following cumulative conditions are fulfilled:
- the new entity is not subject to restrictive measures, has access to procurement and is not in an exclusion situation,
- all the tasks assigned to the former entity are taken over by the new entity member of the group,
- the group meets the selection criteria,
- the change must not make the tender non-compliant with the procurement documents,
- the terms of the originally submitted tender are not altered substantially and the evaluation of award criteria of the originally submitted tender are not modified,
- the new entity undertakes to replace the former entity for the implementation of the contract, in case of an award.

Each member of the group 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 group will be checked to ensure that the group as a whole fulfils the criteria. However, the selection criteria may apply individually where it is relevant in view of their nature.

If the joint tender is successful, the contracting authority shall sign the contract with the group leader, authorised by the other members to sign the contract also on their behalf via the Agreement Power of attorney (joint tender) available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website (www.emsa.europa.eu).

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 tender, tenderers are requested to complete and enclose the **Legal Entity Form** available on the Procurement Section of EMSA's website (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) shall be completed and signed.

14.3 Legal and regulatory capacity – Selection criteria

14.3.1 Standards / Prerequisites

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

In particular, the tenderer shall comply with Portuguese Legislation and be accredited by ANPC, specifically for the calibration and maintenance of the multi-gas monitors.

- B. In addition, the tenderer, each member of the group in case of joint tender and any subcontractor(s), including those which do not need to be identified in the tender, must ensure that are not subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU) consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze. The prohibition applies throughout the whole performance of the contract.

14.3.2 Evidence

- A. The tenderer must provide proof of registration at the Portuguese ANPC (*Autoridade Nacional de Proteção Civil*).
- B. Duly completed and signed Declaration of Honour available on the Procurement Section of EMSA's website (www.emsa.europa.eu).

14.4 Economic and financial capacity – Selection criteria

14.4.1 Standards / Prerequisites

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

14.4.2 Evidence

Duly completed and signed Simplified Financial Statement available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website (www.emsa.europa.eu), and the following evidence for the period mentioned above depending on the legal form:

- For Profit Organisations (whose primary goal is making a profit): copy of the profit & loss account and balance sheet for which accounts have been closed.

- For non-Profit Organisations (formed for the purpose of serving a public or mutual benefit other than the pursuit or accumulation of profits for owners or investors): copy of the statement of financial activities and statement of the financial position for which accounts have been closed.
- For Public sector entities (including public universities and international organizations), which according to the law of the country in which they are established are NOT required to publish balance sheets: extracts from their last two budgets (including the current one) as evidence of their average budget.
- For Individuals: provide extracts from any available documents (e.g. income tax returns) as evidence on their average income for the period mentioned above financial years.

Tenderers are exempt from submitting the documentary evidence if such evidence has already been completed and sent to EMSA for the purpose of another procurement procedure and the provided documents are up to date. In this case the tenderer shall simply indicate on the cover letter the procurement procedure where the evidence has been provided.

If, for some exceptional reason which EMSA considers justified, a tenderer is unable to provide one or other of the above documents, it may prove its economic and financial capacity by any other document which EMSA considers appropriate. In any case, EMSA must at least be notified of the exceptional reason and its justification in the tender. EMSA reserves the right to request at any moment during the procedure any other document enabling it to verify the tenderer's economic and financial capacity.

14.5 Technical and professional capacity – Selection criteria

14.5.1 Standards / Prerequisites

Tenderers must comply with the following selection criteria in order to prove that they have the necessary technical and professional capacity to perform the contract:

The tenderer must have relevant technical and professional capacity to supply personal protective equipment – PPE (including the regular protective clothing and ad hoc equipment) as well as associated services, i.e., maintenance of purchased equipment, namely multi-gas monitors, personalisation of the personal clothing etc, as mentioned in point 2 above and a proven experience of at least the last four years.

14.5.2 Evidence

The tender must present a list of clients for at least the last four years, including tasks performed.

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 points (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 tenderer already submitted such evidence for the purpose of another procedure, 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

The contract will be awarded to the tenderer that offers the lowest price.

The price of the bid - '**Evaluation price**' - will be evaluated based on the prices proposed in **Annex C – “Financial Proposal”** applied to the following scenario:

	Total price
a) General PPE	
b) Maintenance services	
Evaluation price = a) + b)	

17. Evaluation and award

The evaluation of the tenders that comply with the conditions as per Invitation to tender will consist of the following elements:

- Check if the tenderer is not subject to restrictive measures and has access to procurement;
- Verification of non-exclusion of tenderers on the basis of the exclusion criteria;
- Selection of tenderers on the basis of selection criteria;
- Verification of compliance with the minimum requirements specified in the procurement documents;
- Evaluation of tenders on the basis of the award criteria.

- EMSA will evaluate the above-mentioned elements in the order that it considers to be the most appropriate. The successful tenderer(s) must pass all the above-listed elements to be awarded the contract.

18. 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.

19. 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.