

Tender Specifications

Attached to the Invitation to tender

Invitation to tender No. EMSA/NEG/12/2024 for Feasibility Study on the data reuse within the European Maritime Single Window environment

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 assists the Commission in the implementation of (EU) 2019/1239 establishing a European Maritime Single Window environment (EMSWe).

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.

1.1 The EMSWe Regulation

The EMSWe Regulation (EU) 2019/1239² includes a set of measures to achieve harmonisation and simplification in maritime reporting. The new technical and legal framework is based on a decentralised network of Maritime National Single Windows (MNSW) per Member State which act as single entry-points for the fulfilment of reporting obligations for ships arriving at, staying, and departing from a port of the Member States. On top of this, the EMSWe Regulation provides for the adoption a common data set, the development of a harmonised Reporting Interface Module to be included in the MNSWs and the enhancement of data sharing and data re-use within and between MNSWs. These measures will allow a more efficient flow of information between maritime operators, authorities, port service providers and logistic operators, increasing the overall competitiveness of the maritime transport.

The EMSWe data set was established by Delegated Regulation (EU) 2023/205³. The EMSWe data set will be applied in all MNSWs, thus ensuring that the same data can be reported regardless of the port and MNSW system used. The Delegated Regulation as well provides the list of reporting obligations in scope of the EMSWe and stemming from legal acts of the Union, international legal instruments, such as the FAL Convention, and national legislation and requirements.

According to Article 8 (Once-only principle) of the EMSWe Regulation, Member States shall ensure that the data elements of the EMSWe data set provided at departure from a port in the Union are made available to the declarant for the purpose of fulfilling the reporting obligations at arrival to the next port in the Union. According to the same Article 8, any relevant data elements of the EMSWe data set received in accordance

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.).

² <https://eur-lex.europa.eu/eli/reg/2019/1239/oj>

³ https://eur-lex.europa.eu/eli/reg_del/2023/205/oj

with this Regulation shall be made available to other MNSWs via the SafeSeaNet. The EMSWe Regulation requires that the Commission adopts implementing acts laying down the list of relevant data elements referred to in Article 8.

According to Articles 14 of the EMSWe Regulation, an EMSWe Ship Database (ESD) will be established and made available to each EU Member State's MNSW. The ESD will contain a list of ship identification information and particulars, to be provided by the Member States on the basis of the data submitted by declarants to the MNSWs. The technical specifications, standards and procedures of the ESD are provided under Annex V of Implementing Regulation (EU) 2023/204⁴. According to these technical specifications, ship information and particulars may be reported by the Member States to the ESD either directly from the MNSW or through SafeSeaNet.

The implementation plan for the EMSWe Regulation including an overview of its ICT architecture can be found in the Communication from the Commission C/2023/100⁵ and its corrigendum C/2023/90008⁶.

An overview of the EMSWe and EMSA's involvement can be found on EMSA's website at:

<https://www.emsa.europa.eu/emsw.html>

1.2 SafeSeaNet

SafeSeaNet (SSN) is the Union Maritime Information and Exchange Platform established by Directive 2002/59/EC and operated by EMSA. It supports EU and Member States' activities for the purpose of maritime safety, port and maritime security, marine environment protection, and the safety and efficiency of maritime traffic. SSN is composed of a network of national SSN systems which are operated by the Member States and a central SSN system operated by EMSA.

In accordance with Directive 2010/65/EU, the information reported in a MNSW related to waste, dangerous goods and ship security are shared amongst Member States via the central SSN system. The system context of SSN and MNSWs is depicted in the diagram below. Other features of SSN which are not related to MNSW information, and which are out of scope of the study, are not depicted.

⁴ https://eur-lex.europa.eu/eli/reg_impl/2023/204/oj

⁵ <https://eur-lex.europa.eu/eli/C/2023/100/oj>

⁶ <https://eur-lex.europa.eu/eli/C/2023/100/corrigendum/2023-10-17/oj>

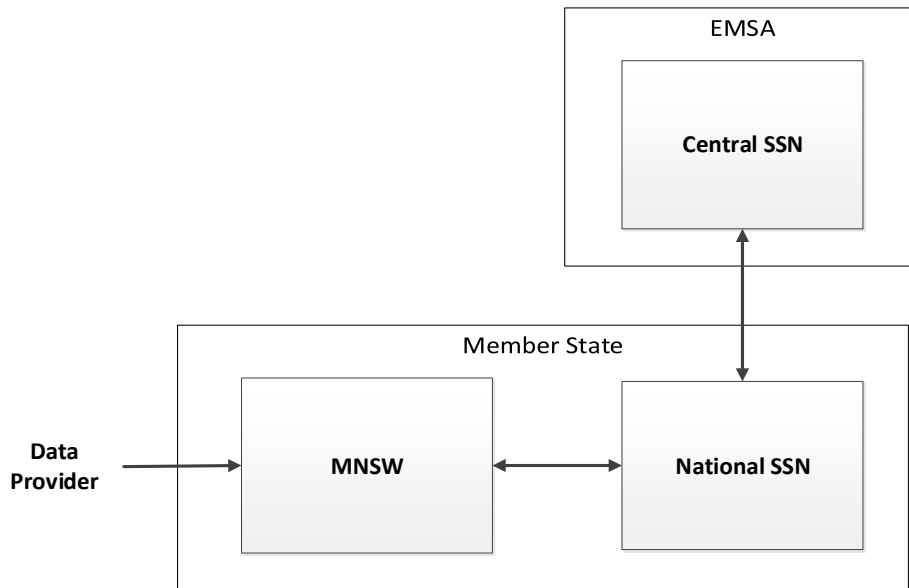


Figure 1: SSN environment's context

As explained in section 1.1 above, the EMSWe Regulation foresees that relevant data reported in an MNSW will be made available to other MNSWs via SSN. When this Regulation will come into force, SSN will need to be upgraded to exchange a larger scope of data.

The documentation on SSN is available at the following address: <http://www.emsa.europa.eu/ssn-main/documents.html>

2. Objective, scope and description of the contract

2.1 Objective and scope of the contract

This call for tenders aims at signing a service contract for carrying out a Feasibility Study for the data reuse within the EMSWe which will identify which data elements of the EMSWe data set provided at the departure from a port in the Union shall be made available at the arrival to the next port in the Union and identify which relevant data elements shall be made available to other MNSWs via SafeSeaNet. The study will as well identify which limitations and conditions should be considered, including limitations defined by the relevant underlying legislation, protection of personal and commercially sensitive data.

The results of the study will be provided to the Commission and will serve as preparatory work for the elaboration of the implementing acts laying down the list of relevant data elements referred to in Article 8 of the EMSWe Regulation.

2.2 Terms of reference

As part of the study, the Contractor shall perform the following activities:

1. Assess which data elements of the EMSWe data set would be beneficial for the declarants to be reused from port to port,
2. Perform an assessment of the data above to identify the limitations and conditions to be considered for its reuse, including limitations defined by the relevant underlying legislation, protection of personal data and protection of commercially sensitive data, as well as usability for the declarant.

3. Considering the results of the tasks above, propose which data elements should be considered relevant to be reused between MNSWs and to be exchanged via SSN, and propose mechanisms to be applied in SSN and in the MNSWs to address the conditions for data reuse, such as e.g. data access authorisation, data retention, data protection, non-repudiation of data,
4. Perform a comparative analysis of the results above with the data already exchanged via SSN, and with the data exchange mechanisms in place in SSN,
5. Assess the overall volume of the identified data elements (e.g. message sequences, sizes of messages, quantity of messages per time periods, messages exchanges peaks) and compare it with data volumes currently exchanged via SSN.

For each of the activities above, the Contractor shall deliver an interim report presenting the results of the activity. The contractor shall deliver a final report which will contain a consolidation of the contents of all interim reports. It will update the interim reports contents taking into account the comments and suggestions made by EMSA and the Commission after the delivery of the interim reports. The final report shall also include a comprehensive executive summary. The interim reports and the final report shall comply with the EMSA template provided in Appendix 1 - Report EMSA format contractors.

The study will take into account:

- The relevant legislation referred to in the EMSWe Regulation, Delegated Regulation and Implementing Regulations, and technical documentation such as the EMSWe data set specifications, Message Implementation Guide and the EMSWe Ship Database's System Interface Guide,
- Legal references, standards and guidelines related to the security and protection of data (e.g. Regulation (EU) 2018/1725 and Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market),
- The legislation related to SSN and its technical documentation, such as the SSN XML Messaging Reference Guide which specifies the data exchanges in place, as well as figures on data volumes currently exchanged via SSN,
- Reports of other studies that have been performed in the context of the implementation of the EMSWe Regulation.

Any documentation listed above that is not publicly available will be made available to the Contractor by EMSA at the kick-off meeting.

The contractor will gather input from:

- EMSA,
- the Commission services such as DG MOVE,
- Member States' national EMSWe coordinators, and
- shipping industry associations such as DCSA (Digital Container Shipping Association), ECASBA (European Community Association of Ship Brokers and Agents), ECSA (European Community Shipowners' Associations), ESPO (European Sea Ports Organisation), FEPORT (Federation of European Private Ports Companies and Terminals), IPCSA (International Port Community Systems Association) and WSC (World Shipping Council).

2.3 Language

The required services and deliverables will be provided in English.

2.4 Place of work

The place of work for the execution of tasks shall be the Contractor's premises.

2.5 Project team

EMSA reserves the right to evaluate any change or new nomination of members to the Contractor's project team. Curriculum vitae (CVs) and appropriate documentation of each person foreseen to take up duties shall be presented to EMSA for approval. All new profiles shall fulfil the selection criteria listed in these Tender Specifications and shall be subject to an amendment to the service contract.

3. Contract management responsible body

EMSA Unit 3.1 in charge of Integrated Maritime Traffic Services will be responsible for managing the contract.

4. Project Planning

4.1 Agendas and minutes of the meetings

The contractor shall provide as a minimum the following for all meetings held with EMSA and with stakeholders:

- Agenda for the meetings. Prior to a meeting, a detailed agenda, the content of which shall be agreed with EMSA, as well as drafts of the presentations to be made in a meeting, shall be provided.
- Minutes of the meetings. The minutes must include at least the topics discussed, decisions taken and action items with indication of the responsible person and deadline of the actions.

4.2 Milestones and Meetings

The following meetings are envisioned:

- Kick-off meeting. This meeting will be held after the signature of the contract between the Contractor and EMSA in order to define the *modus operandi* for the contract.
- Progress meetings. These meetings shall be held on a weekly basis to review the progress of the contract, discuss possible bottlenecks of the activities and review the priorities when applicable. The open actions, open issues and risks shall be reviewed at these meetings. These meetings should last 60 minutes at maximum. In some cases, and upon agreement of EMSA and the Contractor, these meetings may be extended to discuss more technical issues.
- Expert meetings. These meetings are meant to collect the input from the experts from EMSA, the Commission services, the Member States and the shipping industry associations. EMSA will ensure the best presence of the right representatives at these meetings.
- Final Review meeting. This meeting is to be held before the end of the contract to review the contract's final conclusions and deliverables.

EMSA and the Contractor may call for other ad-hoc meetings, if this should be deemed necessary for the better execution of the contract.

The meetings will be held using videoconferencing technologies (such as Microsoft Teams or similar).

The meetings may be attended by representatives of the Commission DG MOVE in addition to EMSA.

4.3 Deliverables

The minimum deliverables are those addressing the terms of reference given in section 2.2.

5. Timetable

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

The total maximum duration of the contract shall be 5 months.

6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 120,000.00 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/12/2024** on EMSA's website (www.emsa.europa.eu).

A Specific Contract for the purchase of services shall be established based on the prices indicated in the financial offer.

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

When drawing up a tender, 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. 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 criteria⁷;
- 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:

⁷ To rely on the capacities of a subcontractor means that the subcontractor will perform the works or services for which these capacities are required.

- 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.

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.⁸

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, 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)

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.

⁸ 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).

12. Price

- a) Price must be quoted for Feasibility Study on the data reuse within the European Maritime Single Window environment and shall include all costs related to the fulfilment of the Study, including but not limited to any travel costs related to meetings required for the execution of the contract. No additional costs will be reimbursed by EMSA.
- 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.

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

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

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.

The yearly turnover for the last year must be minimum EUR 200,000.

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.

Tenderers (in case of a joint tender the combined capacity of all tenderers and identified subcontractors) must comply with the following criteria:

- The tenderer must have the capacity to perform and deliver report/studies in English.

- The tenderer must have previous experience in at least two projects related to Maritime Single Windows (MSW) or Port Community Systems (PCS) or Cargo Community Systems (CCS) or import/export customs systems, performed in the past 5 years and with a minimum value for each project of €100,000.

The team delivering the service shall include, as a minimum, the below profiles; the tenderer shall propose at least one resource per profile:

- **Project Manager:** University degree(s) and at least five years of professional experience in project management in areas related to ICT industry, including overseeing project delivery, quality control of delivered service, client orientation and conflict resolution, experience in projects of a similar size (at least €100,000) with experience in management of a team of at least three people.
- **Senior Consultant:** University degree(s) and five years of professional experience in governance, management and legal analysis related to ICT systems, experience in ICT projects dealing with MSW, PCS, CCS or import/export custom systems.
- **Senior Consultant:** University degree(s) and five years of professional experience in business process analysis and data modelling.

All members of the team shall have proficiency level language skills in English, as guaranteed by a certificate (B2 or higher) or past relevant experience in at least three projects/activities performed in English in the last five years.

14.5.2 Evidence

Evidence of the language knowledge and previous experience of the tenderer shall be provided on the basis of a list of related projects in which the tenderer has participated and worked. Each service/project listed shall be detailed with a short description of the objectives, the language of the deliverables, the contracting parties, dates, duration, budget and shall be accompanied by certificates of satisfactory execution, specifying that they have been carried out in a professional manner and have been fully completed.

Evidence of the education and professional experience to substantiate the fulfilment of the above criteria in respect of each member of the team involved in the study. This shall consist in a detailed curriculum vitae (CV) of each member of the team responsible for carrying out the work. The CV shall include the educational background, degrees, diplomas, professional experience (detailing the requested experience), and linguistic skills. When describing the professional experience of each team member, reference shall be made to the areas in which relevant experience has been gained. The CV shall be presented in the EuroPass format. Each CV should indicate the intended function of the expert concerned in the delivery of the project. In relation to the language prerequisite, the offer shall contain the language certificates of the proposed resources or explicit references in their CVs to the past relevant experience as referenced in the previous section.

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 who submits the most economically advantageous tender (the one with highest score) based on the following quality criteria and their associated weightings:

1. Quality criterion 1 ($W_1 = 30\%$), Quality of the proposed methodology

Under this criterion will be assessed how the project, as a whole, will be carried out and how the expected results will be accomplished. The tender shall include a description of how the team will collect and analyse the information that is required to finalise each of the tasks mentioned under section 2.2 above;

2. Quality criterion 2 ($W_2 = 20\%$), Organisation and planning of the work

Under this criterion will be assessed the allocation of time and resources to the project as a whole, as well as to each task or deliverable, and whether this allocation is considered adequate for the performance of the tasks. The tender shall include a schedule of the key milestones, in particular indicating the timeframe for collecting and analysing the required information, when the required tasks and deliverables will be performed/delivered and a timetable of proposed meetings and consultations;

3. Quality criterion 3 ($W_3 = 20\%$), Quality and composition of the team

Under this criterion will be assessed how the roles and responsibilities of the proposed team are distributed for each task. The tender shall include a table listing the assigned team members together with the functions and tasks that each team member will be performing in the project;

and the price criterion and associated weighting:

1. Price of the tender ($W_{Price} = 30\%$).

For all tenders, 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 tenders that have reached a minimum of 60% for Q_1 , a minimum of 60% for Q_2 , and a minimum of 60% for Q_3 will be taken into consideration when calculating the score for quality SQ , score for price SP and score S .

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

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.