

## **Tender Specifications**

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

## **Invitation to tender No. EMSA/NEG/23/2024 for Provision of insurance broking services**

### **1. Introduction**

The European Maritime Safety Agency (EMSA) was established under Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>1</sup> for the purpose of ensuring a high, uniform and effective level of maritime safety. The Agency's main objective is to provide technical, operational and scientific assistance to the European Commission and EU Member States in the proper development and implementation of EU legislation on maritime safety, pollution by ships and security on board ships. To accomplish this, one of EMSA's most important tasks is to improve cooperation with, and between, Member States in all key areas.

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<sup>2</sup> 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**

#### **2.1 Objective**

The objective of this procurement procedure is to establish a Framework Service Contract for a period of four (4) years to ensure professional insurance coverage through insurance broking and consulting services for the following:

- Contents of the EMSA building;
- EMSA's ICT equipment (fixed and mobile IT equipment, office automation equipment, audio-visual equipment);
- Contents of the EMSA garage;
- Automobile insurance for the car owned by EMSA;
- Personal accident insurance with occupational risk for non-statutory staff of EMSA.

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<sup>1</sup> 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.).

<sup>2</sup> Which can be found at <http://emsa.europa.eu/about/environmental.html>

The Framework Service Contract will be implemented through order forms, each one representing the yearly total insurance cost (premium cost including brokerage fee) for the five (5) insurance categories mentioned above and further described in section 2.3 below.

## 2.2 Scope

The successful tenderer is expected to use its knowledge of the insurance market and its professional experience to deliver best value for money with regard to the insurance cover for EMSA, bearing in mind the objectives set out under point 2.1 above.

The successful tenderer will be expected to deliver the following services:

- a) Independent professional advice on all insurance related matters, in particular:
  - the insurance programme suitable to EMSA;
  - the current status of the insurance market and market security;
  - the suitability and status of proposed insurers.
- b) Marketing of EMSA's insurance requirements;
- c) Placement of EMSA's insurance requirements with suitable insurers;
- d) Ongoing management of EMSA's insurance cover and safeguarding of the Agency's interests;
- e) Claims assessment and claims handling.

Any insurance claim of EMSA shall be professionally and quickly dealt with.

Advice should be given regarding any possible reduction of EMSA's risk exposure beyond the contracted insurance cover, e.g. information about useful insurance services not yet contracted or advice on possible process or building improvements which could lower the Agency's risk exposure.

## 2.3 Requested insurance coverage

The insurance shall cover the contents of the EMSA building, EMSA's ICT equipment, the contents of the EMSA garage, the automobile insurance for the car owned by EMSA and the personal accident insurance for non-statutory staff, under the conditions stated below.

### 2.3.1 Contents of the EMSA building

CONTENTS EMSA BUILDING	
<b>Contents to be insured</b>	<p>All goods and the whole of fixed or mobile elements constituting equipment, furniture, cargo lifting and cleaning gear whatsoever, materials, stocks of materials, office supplies, records and archives, furniture arrangements, fixtures and furniture installations of all kinds.</p> <p>Exclusions from coverage:</p> <p>Please note that ICT equipment shall not be covered by this policy.</p>
<b>Insured value (blanket cover)</b>	<p>Acquisition value: <b>€ 639,813.00</b></p> <p>N.B.: A complete asset list will later be provided to the contractor awarded the contract.</p>
<b>Loss settlement</b>	New replacement cost
<b>Location</b>	EMSA premises (indoor)
<b>Loss history</b>	To date, EMSA had no loss claims
<b>Other</b>	The content of the EMSA building is regularly maintained and renewed
<b>Minimum required cover</b>	<p><u>Total or partial damages as a result of:</u></p> <ol style="list-style-type: none"> <li>1. Fire and/or smoke - explosions of any kind - gas – steam</li> <li>2. Electrical hazards</li> <li>3. Falling equipment of air or space transport</li> <li>4. Sound barrier</li> <li>5. Vehicle collisions</li> <li>6. Damages from water or oil spilling out</li> <li>7. Labour disputes and attacks - riots - popular movements - acts of terrorism - sabotage - vandalism – malevolence</li> <li>8. Theft / robbery and attempted theft / robbery</li> <li>9. Broken windows</li> <li>10. Machinery breakdown - consequential damage</li> </ol> <p>N.B.: The machines concerned are 1 constant-current generator, 3 entrance turnstiles and 1 bi-directional entrance turnstile; the capital to be insured in this context is € 50,000.00.</p> <ol style="list-style-type: none"> <li>11. Atmospheric conditions (rain, etc.)</li> <li>12. Storms (incl. lightning strike), flood and inundation, earthquake (incl. landslide) and</li> </ol>

	other extreme weather conditions
<b>Advantageous cover</b>	<ul style="list-style-type: none"> <li>▪ Cost of debris removal and demolition of damaged items</li> <li>▪ Occasional transportation: damage or burglary during move, or occasional ground transportation</li> <li>▪ Salvage costs: costs incurred by EMSA for urgent measures taken to prevent or mitigate damage which is covered by the insurance in place</li> </ul>
<b>Admissible deductibles</b>	<p>€ 100.00 per insured event</p> <p>10% with € 100.00 as minimum for the theft/robbery or vandalism covers</p> <p>10% with € 750.00 as minimum in case of earthquakes (incl. landslide)</p>

## 2.3.2 EMSA ICT equipment

EMSA ICT EQUIPMENT	
Content to be insured	<ul style="list-style-type: none"> <li>▪ <u>Fixed and mobile IT equipment (hardware)</u>: PBX, automatic data processing equipment information, installation of network, server, computer, word processing, printer, modem, laptop, notebook, memory expansion, CD-ROM, scanner, etc.</li> <li>▪ <u>Office automation equipment</u>: all electronic office equipment for professional use, e.g. fax machine, copier, small offset machine, telephone equipment, dictaphone, alarm system, detection and access control, system core, etc.</li> <li>▪ <u>Audio-visual equipment</u>: any audio-visual electronics such as projectors, screens, hearing aids for interpretation, recording, sound and image transmission, combined broadcasting, signalling devices, etc.</li> </ul> <p>Exclusions from coverage: pagers and mobile phones</p>
Insured value (blanket cover)	<p>Acquisition value: <b>€ 7,048,246.81</b> (of which € 1,519,811.00 are located in the Madrid datacenter).</p> <p>(N.B.: Complete asset lists will later be provided to the contractor awarded the contract.)</p>
Loss settlement	New replacement cost
Locations	<p>EMSA premises (Lisbon), indoor</p> <p>Datacenter premises (Madrid), indoor</p>
Loss history	To date, EMSA had no loss claims
Other	The equipment is regularly maintained and renewed
Minimum required cover	<p><u>Total or partial damages as a result of:</u></p> <ol style="list-style-type: none"> <li>1. Fire and/or smoke - explosions of any kind - gas - steam</li> <li>2. Electrical hazards</li> <li>3. Falling equipment of air or space transport</li> <li>4. Sound barrier</li> <li>5. Vehicle collisions</li> <li>6. Damages from water or oil spilling out</li> <li>7. Labour disputes and attacks - riots - popular movements - acts of terrorism - sabotage - vandalism – malevolence</li> <li>8. Theft and/or attempted theft</li> </ol>

	<p>9. Machinery breakdown - consequential damage</p> <p>10. Atmospheric conditions (rain, etc.)</p> <p>11. Storms (incl. lightning strike), flood and inundation, earthquake (incl. landslide) and other extreme weather conditions</p>
<b>Advantageous cover</b>	<ul style="list-style-type: none"> <li>▪ Cost of debris removal and demolition of damaged items</li> <li>▪ Occasional transportation: damage or burglary during move, or occasional ground transportation between EMSA premises and datacenter premises</li> <li>▪ Salvage costs: costs incurred by EMSA for urgent measures taken to prevent or mitigate damage which is covered by the insurance in place</li> </ul>
<b>Admissible deductibles</b>	<p>€ 1,000.00 per insured event</p> <p>5% of the insured amount in case of earthquakes (incl. landslide)</p>

### 2.3.3 Contents of the EMSA garage

CONTENTS EMSA GARAGE	
<b>Content list to be insured</b>	<p>All vehicles in the property of EMSA or EMSA staff members which are parked inside the EMSA garage: 103 cars with an estimated total value of € 3,000,000.00; 10 motorbikes with an estimated total value of € 50,000.00; 40 bicycles with an estimated total value of € 20,000.00. The total estimated value of all vehicles combined is therefore: € 3,070,000.00.</p> <p>Exclusions from coverage:</p> <p>The insurance needs to be applicable ONLY if and in so far as the individual proprietary insurance of the vehicle is missing or is insufficient.</p>
<b>Insured value (blanket cover)</b>	The maximum capital insured may be limited to <b>€ 1,000,000.00</b> per year and per claim.
<b>Loss settlement</b>	<p>New replacement cost OR current, effective value on the day of the damage event.</p> <p>The maximum indemnity per vehicle may be limited to € 25,000.00.</p>
<b>Location content</b>	EMSA premises (indoor)
<b>Loss history</b>	Up to date, EMSA had no loss claims
<b>Other</b>	The garage is closed. There is a CCTV system in place: cameras control the access from the street to the garage and the accesses from the garage to the attached buildings (8 doors).
<b>Minimum required cover</b>	<p><u>Total or partial damages as result of:</u></p> <ol style="list-style-type: none"> <li>1) Fire and/or smoke - explosions of any kind - gas – steam</li> <li>2) Electrical hazards</li> <li>3) Falling equipment of air or space transport</li> <li>4) Sound barrier</li> <li>5) Collisions with solid objects</li> <li>6) Damages from water or oil spilling out</li> <li>7) Labour disputes and attacks - riots - popular movements - acts of terrorism - sabotage -vandalism – malevolence</li> <li>8) Theft and/or attempted theft or robbery of whole cars</li> <li>9) Broken windows</li> <li>10) Atmospheric conditions (rain etc.)</li> </ol>

	11) Storms (incl. lightning strike), flood and inundation, earthquake (incl. landslide) and other extreme weather conditions
<b>Advantageous cover</b>	<ul style="list-style-type: none"> <li>▪ Theft and/or attempted theft of single parts of cars</li> <li>▪ Theft and/or attempted theft of any goods left inside a car or on a motorbike or bicycle (e.g. a helmet, gloves, dress)</li> <li>▪ Theft and/or attempted theft or robbery of bicycles or motorbikes</li> <li>▪ A higher maximum insured capital than € 1,000,000.00 per year and per claim</li> <li>▪ Salvage costs: costs incurred by EMSA for urgent measures taken to prevent or mitigate damage which is covered by the insurance in place</li> </ul>
<b>Admissible deductibles</b>	<ul style="list-style-type: none"> <li>- Strikes, riots, civil disturbance, vandalism and acts of terrorism: 10% with minimum € 750.00</li> <li>- Theft or robbery and attempted theft or robbery of whole cars: 10% with minimum € 750.00</li> <li>- 5% in case of earthquakes (incl. landslide)</li> </ul>



### 2.3.4 Automobile insurance for EMSA car

AUTOMOBILE INSURANCE	
<b>Vehicle to be insured</b>	BMW i5 eDrive40 Berlina (limousine) <ul style="list-style-type: none"> <li>- Full electric 290 kW (394 CV)</li> <li>- Year of production: 12/2024</li> <li>- Alarm</li> <li>- Parked in the EMSA garage</li> <li>- Matricula: to be issued</li> </ul>
<b>Insured value (blanket cover)</b>	The value stated in Eurotax/Automobile Guide or the calculated value based on the data published by the Portuguese Insurers Association (APS)
<b>Loss settlement</b>	The insured capital
<b>Parking location</b>	EMSA garage in Lisbon (indoor)
<b>Loss history</b>	Up to date, EMSA had no loss claims
<b>Other</b>	The car is undergoing scheduled maintenance
<b>Minimum required cover</b>	A) Third Party Liability: € 50,000,000.00  B) Own damage insurance:  Occupants: <ul style="list-style-type: none"> <li>- Death and permanent disability (minimum € 10,000.00)</li> <li>- Treatment expenses (minimum € 1,000.00)</li> <li>- Funeral Expenses (minimum € 1,000.00)</li> <li>- Legal protection</li> <li>- Glass breakage</li> <li>- Crash, collision and rollover</li> <li>- Theft or robbery</li> </ul>

	<ul style="list-style-type: none"> <li>- Fire, lightning or explosion</li> <li>- Strikes, riots, civil disturbance, vandalism and acts of terrorism</li> <li>- Natural disasters and aircraft fall</li> </ul>
<b>Advantageous cover</b>	<ul style="list-style-type: none"> <li>- Damage to clothing and footwear</li> <li>- Deprivation of use due to an accident</li> <li>- Deprivation of use due to a fault</li> <li>- Daily allowance for medical treatment</li> <li>- Luggage and transported objects</li> <li>-Travel assistance</li> </ul>
<b>Admissible deductibles</b>	<ul style="list-style-type: none"> <li>- Crash, collision and rollover: 3% with minimum € 200.00</li> <li>- Strikes, riots, civil disturbance, vandalism and acts of terrorism: 3% with minimum € 200.00</li> <li>- Natural disasters and aircraft fall: 3% with minimum € 200.00</li> </ul>

### 2.3.5 Personal accident insurance with occupational risk for non-statutory staff of EMSA

PERSONAL ACCIDENT INSURANCE	
<b>Persons to be insured</b>	<ul style="list-style-type: none"> <li>▪ <u>Group A: 20 seconded national experts</u> who are temporarily working for the Agency in its Lisbon offices and on missions abroad, but do not have the status of regular staff members. Their work consists of administrative tasks and during missions also of the inspection of vessels docking in ports.</li> <li>▪ <u>Group B: 10 trainees</u> who are temporarily working for the Agency in its Lisbon offices, but do not have the status of regular staff members. Their work consists of administrative tasks.</li> </ul>
<b>Insured risk</b>	<p>For group A: Occupational and extra-occupational risk</p> <p>For group B: Occupational risk</p>
<b>Loss settlement</b>	The maximum indemnification <u>for each of the two groups</u> may be limited to €1,000,000.00 per year and per claim
<b>Territorial ambit</b>	<p>For group A: the whole world</p> <p>For group B: Portugal</p>
<b>Claim history</b>	Up to date, EMSA had no claims
<b>Other</b>	n/a
<b>Minimum required cover</b>	<p>1) Death (minimum € 100,000.00)</p> <p>2) Permanent invalidity (minimum € 100,000.00)</p> <p>3) Treatment and repatriation expenses (minimum € 15,000.00)</p>
<b>Advantageous cover</b>	n/a
<b>Admissible exclusions</b>	<p>Benefits where the insured person receives or is entitled to receive compensation under workers or transport accident compensation legislation or any other insurance policy specifically covering the same risk. Provided that this policy will provide the difference in benefit where the benefits under this policy exceed the other benefits to which the insured person is entitled.</p> <p>Death or bodily injury arising from:</p> <ul style="list-style-type: none"> <li>- strikes, riots</li> <li>- acts of terrorism</li> <li>- war, invasion, act of foreign enemy, hostilities or a warlike operation or operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped</li> </ul>

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- the participation in military, naval or air force service or operations
- ionising radiation or radioactive contamination from nuclear waste or the radioactive, toxic, explosive or other dangerous properties of explosive nuclear equipment.
- the presence of asbestos
- storms (incl. lightning strike), flood and inundation, earthquake (incl. landslide) and other extreme weather conditions or natural disasters
- suicide, attempted suicide or deliberate self-inflicted injury
- reckless and deliberate exposure to known danger (except in an attempt to save human life)
- engaging in wrestling, underwater activities, mountaineering, cliff or rock-climbing, abseiling, flying fox/giant swings, white water rafting/canoeing (above class 2 rapids), water skiing, power boating, snow skiing/boarding, hunting, polo, snow or ice sports, parachute jumping, sky diving, hang gliding, skateboarding, ice skating, leap of faith/pamper pole activities, archery, sea-kayaking, paintball/skirmish, ropes courses, surfing, horse riding, riding or driving in any kind of race, caving, rifle/firearms shooting, quad-bike riding, paragliding, dune buggy riding, vertical and horizontal bungee jumping, hot air ballooning, gladiator games, go-karting, boxing or martial arts
- participation in, practice or training for any sport as a professional sportsperson
- participation in or acting as an accessory to any crime or attempted crime
- travelling in any unlicensed aircraft or flying or engaging in any other aerial activity as part of an aircraft's crew
- being in control of a motor vehicle and acting in a dangerous or reckless manner
- consumption of alcohol to an extent that they suffer mental or physical impairment, which is the main cause of the accident, or results in them doing something uncharacteristically reckless or dangerous
- drink or drug driving
- use of drugs
- acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV)
- highly pathogenic avian influenza in humans
- any pandemic or epidemic, as declared as such by the World Health Organisation
- pregnancy, childbirth, miscarriage or the complications of these conditions
- any type of hernia suffered by an insured person
- known side effects where medicines are taken correctly under medical supervision or guidance
- medicines taken incorrectly

- medicines for treating drug addiction
- known risks associated with a medical or surgical procedure
- a cause not being a direct result of an accident
- illness except where caused directly as a result of the bodily injury

Please note:

The proposed solutions by the tenderer fulfilling the requirements set out in these Tender Specifications will be subject to evaluation (see point 15 below). However, any offer for insurance coverage that does not meet the “minimum required cover” as described in sections 2.3.1, 2.3.2, 2.3.3, 2.3.4 and 2.3.5 may be rejected. For tenderers which do meet the “minimum required cover”, the “advantageous cover” will be taken into consideration for the evaluation of the award criteria and will allow a better score if it is offered as part of the overall bid without adding additional costs. If, on the contrary, the “advantageous cover” has an additional price attached, it will not be considered as favourable.

As for how any deductibles (“franquia”) will be taken into consideration for the evaluation of the award criteria please see section 12 (Price) of these Tender Specifications.

In accordance with Article 167(4) of the Financial Regulation EMSA reserves the possibility to award a contract on the basis of the initial tender without negotiation.

## 2.4 Safety and security features of EMSA's premises and the datacenter premises

Both the EMSA premises in Lisbon and the datacenter premises in Madrid are maintained in good order and are equipped with high standard safety and security features. All systems are monitored on a 24 hours / 7 days basis. The buildings are in conformity with the requirements of the applicable norms, both EU wide and in accordance with the Portuguese legislation, and with the standards in this area.

For more detailed information please request the **Appendix A -Safety and security features of the EMSA premises** and **Appendix B - Datacenter premises Madrid** by sending an e-mail to the dedicated email address [NEG232024@emsa.europa.eu](mailto:NEG232024@emsa.europa.eu).

## 2.5 Place of performance of services

The services under the Framework Contract can be performed at the contractor's premises. Exceptionally, when deemed necessary for the execution of the contract, the contractor shall be available for meetings (at EMSA's premises or via video conference) at any time at the request of EMSA.

## 3. Contract management responsible body

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

## 4. Timetable

The estimated date for signature of the Framework Contract is mid-March 2025.

## 5. Estimated Value of the Contract

The maximum budget available for this contract is EUR 140,000.00 excluding VAT.

## 6. 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/23/2024** on EMSA's website (<https://emsa.europa.eu/procurement.html>).

Order forms for the purchase of services shall be established based on the prices indicated in the financial offer. However, EMSA may request the contractor to propose supplementary services to be ordered on the basis of a quote provided by the contractor as per Article I.5.1 of the FWC, in order to cover additional insurance needs which may arise during contract implementation.

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

## **7. Terms of the contract**

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.

## **8. Financial guarantees**

Not applicable.

## **9. 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.

All contractual tasks may be subcontracted unless the procurement documents expressly reserve the execution of certain critical tasks to the sole tenderer itself, or in case of a joint tender, to a group member.

By filling in the *List of identified subcontractors* available on the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html><http://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 criteria<sup>3</sup>;
- 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 of EMSA's website (<https://emsa.europa.eu/procurement.html><http://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 criteria on its own behalf, on behalf of any subcontractors identified in the "List of identified subcontractors", and on behalf of any other entities (not subcontractors) on whose capacities is being relied on.

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.

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<sup>3</sup> To rely on the capacities of a subcontractor means that the subcontractor will perform the works or services for which these capacities are required.



## 9.1 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 *Commitment letter by an entity on whose capacities is being relied* available on the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>), 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.

## 9.2 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.

## 10. 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 of EMSA's website (<https://emsa.europa.eu/procurement.html><http://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 of EMSA's website (<https://emsa.europa.eu/procurement.html>).

## 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 sections 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.<sup>4</sup>

The tenderer shall complete the Tenderer's checklist.

If the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners (Join Offers) it shall indicate it in its offer by completing the relevant forms *List of identified subcontractors / Agreement/Power of attorney (joint tender)*. These documents are available on the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>).

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 (<https://emsa.europa.eu/procurement.html>).

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<sup>4</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

- b) **The Financial Identification Form** completed, signed and stamped. This document is available on the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>).
- 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 (<https://emsa.europa.eu/procurement.html>).

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.

- d) All the information and documents required by the contracting authority for the appraisal of tenderers on the basis of the sections 10, 11 and 14.2 of these Tender Specifications.
- e) 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 section 14.3 of these Tender Specifications, as applicable.
- f) 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 section 14.4 of these Tender Specifications, as applicable.
- g) 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 section 14.5 of these Tender Specifications, as applicable.
- h) 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 section 160 of these Tender Specifications.
- i) Setting out prices in accordance with point 12 of these Tender Specifications.

## 12. Price

- a) Prices for the provision of insurance broking services shall be all inclusive and must be quoted according to **Annex C - Price Quotation** (attached to these Tender Specifications), as follows:

- (1) the annual premium price (for each insurance coverage),
- (2) the price of the brokerage fee in percentage (%) as applied to the premiums, and
- (3) the total annual price (= the sum of all premiums for each insurance coverage, including the brokerage fees).

The percentage (%) of the brokerage fee (which is applied to the premium cost), mentioned under point (2) above must be equal for all the insurance coverages.

No additional expenses incurred in the implementation of the contract will be reimbursed by EMSA. Estimated costs for participation in coordination meetings with the Agency or for performing tasks onsite at EMSA premises must be included in the price of the tender.

- b) Prices must be fixed amounts and non-revisable.

The broker fee (%) on the premium may not be increased during the whole duration of the contract, i.e. four (4) years. However, EMSA is aware of the possibility that the price obtained from insurers may vary from the price and cover quoted prior to placement of any insurance order due to changes in facts that may occur between the initial quotation and the replacement of the insurance order with the recommended provider. Such a variance shall be disclosed to EMSA immediately when the insurance broker (contractor) becomes aware of such a potential or actual price or coverage revision. Any appropriate actions shall be agreed with EMSA prior to the placement of the insurance order with the recommended insurer.

- c) Prices (with the exception of the brokerage fee in %) must be quoted in Euro.
- d) Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Union, EMSA is exempt from all duties, taxes and other charges, including VAT. This applies to EMSA pursuant to Regulation (EC) 1406/2002. These duties, taxes and other charges can therefore not enter into the calculation included in the bid. The amount of VAT must be shown separately.

**The price which will be taken into consideration for the evaluation of the bids under section 16 of these Tender Specifications ("Award Criteria") is the total annual price as quoted in Annex C – Price Quotation.**

Please note: For purposes of the evaluation the price shall be calculated without any deductibles ("franquia") with the exception of the "admissible deductibles" as stipulated under section 2.3 of these Tender Specifications. If the tenderer can only offer an insurance policy including additional or higher deductibles than the "admissible deductibles" stipulated under section 2.3, they will be taken into consideration as unfavourable for the evaluation of the award criteria and will result in a lower score. On the contrary, any deductibles below the "admissible deductibles" stipulated under section 2.3 (or no deductibles) will be taken into consideration as favourable for the evaluation of the award criteria/price criterion and will allow a higher score.

### **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 tender, tenderers are requested to complete and enclose the **Legal Entity Form** available on the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>).

#### **13.2 Grounds for exclusion – exclusion criteria**

To be eligible to participate in this contract award procedure, the tenderers, each member of the group in case of joint tender, any identified subcontractors, and any other entities (not subcontractors) on whose capacities the tenderer is relying on 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 (<https://emsa.europa.eu/procurement.html>) shall be completed and signed].

#### **13.3 Legal and regulatory capacity – selection criteria**

##### **13.3.1 Standards / Prerequisites**

- A. The tenderer must have the legal and regulatory capacity to pursue the professional activity needed for performing the contract, i.e. to provide insurance broking services.

Therefore, the tenderer must either be enrolled in a relevant professional or trade register (in Portugal for example the “registo de mediador de seguros” of the Autoridade de Supervisão de Seguros e Fundos de Pensões) or must hold a particular authorisation proving that it is authorized to perform the contract in its country of establishment.

- B. The tenderer, each member of the group in case of joint tender, any subcontractor and any other entities (that are not subcontractors) on whose capacity the tenderer relies on 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)<sup>5</sup> 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.

### 13.3.2 Evidence

- A. The document proving the enrolment in the relevant professional or trade register, or a sworn declaration, or a certificate proving a particular authorisation.
- B. Duly completed and signed Declaration of Honour available on the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>).

### 13.4 Economic and financial capacity – Selection criteria

Not applicable.

### 13.5 Technical and professional capacity – Selection criteria

#### 13.5.1 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.

- a) Organisational capacity to perform the contract as specified in section 2.2 above. At least three years of experience in the provision of services similar to the scope and nature of the services requested in this call for tender.
- b) The team assigned to the contract shall include at least one member with minimum 2 years of experience in the provision of services similar to the scope and nature of the services requested in this call for tender, and be fluent in written and oral English (B1 minimum level).

#### 13.5.2 Evidence

- a) For the company:
- A brief company profile;
  - The naming of at least one contract performed in the past three years similar to the scope and nature of the contract to be concluded as a result of the present procurement procedure, describing the subject, the amount, the dates and the contracting parties. Please note that EMSA may choose to

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<sup>5</sup> Please note that the EU Official Journal contains the official list and, in case of conflict, its content prevails over that of the EU Sanctions Map.

contact any of these contracting parties for reference. The permission of the tenderer to do so will be assumed unless the tenderer states an explicit objection in its tender.

b) For the team:

- The Curriculum vitae of the team members assigned to the contract (describing their qualifications, professional experience, the level of English and anticipated role within the team);

Any change to the team (replacement and/or addition of expert(s)) during contract implementation shall be formally requested to EMSA by the legal representative of the Contractor. The modification will not require an amendment to the Contract, however it will be subject to EMSA's prior approval and will take effect on the date of the email approval sent by the responsible Project Officer to make sure that the expert(s) added or replaced are of equivalent profile as the profile set out in the Tender Specifications.

#### 14. Evidence on Declaration of Honour (DoH)

Not applicable.

#### 15. 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 ( $W_1 = 30\%$ ): The completeness of the insurance coverage as declared by the tenderer in **Annex A - Insurance Coverage**. The evaluation of this criterion is based on the suitability of the proposed insurance policies in order to match the requirements defined under section 2.3 of these Tender Specifications.
2. Quality criterion 2 ( $W_2 = 10\%$ ): The service quality of the insurance broking services as declared by the tenderer in **Annex B - Service Quality** and in the other parts of the tender. The evaluation of this criterion is based on the information the tenderer provides on the administration of the contract and the service delivery for the implementation of the contract.

And the price criterion and associated weighting:

3. Price of the tender ( $W_{Price} = 60\%$ ): The total annual price as provided by the tenderer in **Annex C - Price Quotation**.

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  $Q_1$  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 tenders that have reached a minimum of 60% for the score  $S$  will be taken into consideration for the award of the contract.

## 16. Evaluation and award

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

- Check if the tenderer is not subject to restrictive measures and has access to EU procurement;
- Verification of non-exclusion of tenderers on the basis of the exclusion criteria;
- Verification of the absence of professional conflicting interest;
- Selection of tenderers on the basis of the 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 must pass all the above-listed elements to be awarded the contract.

## 17. Rejection from the procedure

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

- A. are in an exclusion situation;
- B. have misrepresented the information required as a condition for participating in the procedure or have failed to supply that information;
- C. were previously involved in the preparation of procurement documents used in the award procedure where this entails a breach of the principle of equality of treatment, including distortion of competition that cannot be remedied otherwise.

## **18. Intellectual Property Right (IPR)**

Please consult the contract for IPR related clauses.

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.