

Tender Specifications

Attached to the Invitation to tender

No. EMSA/2026/NP/0003 for Provision of services in support of the Transposition, Implementation, and Enforcement following the Ratification of International Conventions – TIE(R) for ENP Beneficiary Countries

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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, as amended.

Among its tasks, the Agency upon the request of the European Commission (EC) to European Neighbourhood partner countries (under the “European Neighbourhood Policy” – ENP). This technical assistance largely contributes to building up the national capacity necessary for the implementation of relevant legislation of the European Union (EU), where applicable, as well as international maritime conventions adopted either by the International Maritime Organization (IMO) or by the International Labour Organization (ILO).

When a new or amended EU or International legal act enters into force, the competent authority of a state should be in a position to implement and enforce its provisions through appropriate national legislation. This means that the state should have the ability to timely promulgate laws and the legal basis for their enforcement, including the associated investigative and penal measures.

In order to strengthen the national capacity for transposing EU and international maritime legislation in European Neighbourhood (ENP) partner countries, and pursuant to the respective grant agreements with DG NEAR (ENEST and MENA as from 2025), EMSA is offering technical assistance specifically intended for supporting the transposition, implementation, and enforcement of both EU maritime legislation and international conventions, the latter following their ratification.

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 policy² 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 overall aim of the activities subject to this procurement procedure is to incentivise the transposition and ratification of the international conventions and, where applicable, the alignment of the national legislation of the beneficiary countries to the EU maritime *acquis* by providing services in support of the transposition, implementation, and enforcement of EU Legislation and International Conventions, the latter after their ratification, for ENP Countries.

A single Framework Contract for Services (FWC) will be signed after the conclusion of the procurement procedure.

2.2 Scope

The countries for which services will be requested under the FWC are the following:

¹ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p.1.).

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

- **ENP SOUTH countries**, currently Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, and Tunisia.
- **ENP EAST countries**, currently³ Azerbaijan, Georgia, Kazakhstan, Moldova, Turkmenistan, Türkiye and Ukraine.

EMSA reserves the right to make changes to the above list of countries pursuant to any modifications to the grant agreements covering the assistance provided by EMSA. The assistance under the contract/s may also cover future similar projects in favour of the countries listed above, financed by the European Union under different financing instruments.

2.3 References

References such as “Chapter”, “Section”, or “Paragraph” refer to this document only unless other reference documents are identified explicitly.

References in this document such as “Bidder” or “Tenderer” are to be understood as related to the economic operators who submit a tender in response to this Invitation to Tender. The “Contractor” is the company or consortium that will be awarded the contract. Any references to Bidder or Tenderer shall be understood as referring to the tendering phase, whereas any references to the Contractor shall be understood as related to the contract implementation phase.

The requirements hereunder apply to any request for services under the FWC(s). More specific requirements (e.g. detailed time plan, payment conditions, reporting, and meeting, etc.) may be introduced within the context of each Specific Contract.

2.4 Description of services

The services to be provided within the context of the FWC shall correspond to the objective and scope as described in Chapters 2.1 and 2.2 above. The services will be provided in three separate but interconnected phases.

- Phase I “Assessment” – a gap analysis of national legislation required for the transposition and effective implementation of applicable EU and international maritime legislation is carried out; identifying missing legislation related to revised or recast EU legislation or related to amendments to international conventions; missing or inadequate administrative procedures in their order of priority. Due consideration must be given to the legislative and administrative processes in the BC, including any identified gaps and bottlenecks⁴.
- Phase II “Implementation” – Based on the results of Phase I or upon other recognised sources, missing national legislation for transposition of international and EU maritime legislation, and administrative procedures are to be drafted.
- Phase III ‘Amendments’ – Based on the results of Phase I or upon other recognised sources, missing national legislation to incorporate revised or recast EU legislation or amendments to international

³ The list of current Beneficiaries under the ENP Projects also includes Iran, however there are no activities with this Beneficiary at present and therefore it is not expected that the services would include Iran.

⁴ Gap analyses were performed for almost all current ENP Beneficiaries, during the previous projects’ cycles; therefore, gap analysis will be performed only for new Projects’ beneficiaries or for those beneficiaries that were not served during the previous cycle.

conventions entered into force after the initial transposition of international conventions as well as administrative procedures, are to be drafted.

Separate Specific Contracts (Order Forms) will be issued for each BC covering services under either Phase I, Phase II or Phase III. It is expected that the contractor/s can work in parallel on more than one Specific Contracts (Order Forms) at any given time.

2.4.1 Phase I – Assessment

A separate assessment resulting in a gap analysis report will be conducted for each BC subject to a specific contract.

The gap analysis methodology shall include the following, as a minimum.

- Providing an overview of the legislative and administrative processes in the BC, including identifying the relevant national authorities.
- Identifying missing EU and international maritime legislation (mandatory instruments and their amendments including those coming into force by tacit acceptance) in their up-to-date versions applicable to the BC that has not yet transposed in the national legislative system.
- Identifying missing administrative procedures in the order of priority.
- Proposing a road map to transpose and enact missing legislation based on the priority established by the BC.

EMSA does not prescribe a specific methodology for performing the gap analysis in either form, as long as the above elements are included. However, as a rule, the assessment should be a combination of questionnaires, desk review and onsite visits, unless the latter is impracticable due to legitimate safety or security concerns. In such cases, interviews with the relevant authorities of the BC may be conducted via videoconference.

The Phase I report must include all the required elements of the gap analysis listed above.

2.4.2 Phase II – Implementation

Based on the results of Phase I or upon other recognised sources, in Phase II, the contractor will be tasked with addressing the identified gaps by drafting the missing national legislation to transpose maritime international conventions, Protocols and Codes and EU legislation as well as the necessary administrative procedures for the implementation of the relevant legislation. Depending on the situation, this shall include one or more of the following tasks:

Drafting, in English, the required missing legislation for transposing the identified EU legal acts.

1. Drafting, in English, the required missing legislation for transposing the identified international maritime legislation (mandatory instruments), its Protocols and its amendments in force at the date of signature of the OF (including those amendments entered into force by tacit acceptance). As international instrument is meant each international Convention including Protocols.
2. Developing administrative provisions in order for the State to effectively perform its tasks and to ensure compliance with its obligations under the EU legislation and the international conventions for:
 - 3.1. investigative and penal processes;
 - 3.2. policies which will assist in the implementation and enforcement of the requirements of all safety and pollution prevention conventions;
 - 3.3. appropriate instruments of national law and interpretations thereof giving effect to the provisions of the conventions or specify whether the Administration's standards go beyond convention requirements in any respect.

3. Developing an administrative procedure to monitor developments in the EU and within IMO / ILO thus timely identifying when a new or amended EU legal act (where applicable) or a new or an amended instrument has been accepted by IMO / ILO and appropriate legislative action is taken.

EMSA does not prescribe a specific methodology for performing the drafting tasks, as long as the contractor/s are able to produce the required documents and drafts. However, as a rule, the drafting will include the use of questionnaires and be a combination of a desk review and onsite visit, unless the latter is impracticable due to legitimate safety or security concerns. In such cases, interviews with the relevant authorities of the BC may be conducted via videoconference.

The draft text for transposing the mandatory International Instrument or EU law (where applicable) shall include the following, as a minimum:

- Identification of the competent authority or authorities for implementation and enforcement.
- Elaboration of any national requirements for implementation and enforcement, where required.
- Investigative and penal processes.
- Policies which will assist in the implementation and enforcement of the requirements of relevant EU (where applicable) and international mandatory instruments.
- Administrative instructions to implement relevant EU (where applicable) and international rules and regulations, as well as the development of any interpretative national regulations that may be needed.
- Appropriate instruments of national law and interpretations thereof given effect to the provisions of the conventions or specify whether the Administration's standards go beyond the legal requirements in any respect. The latter should be defined by the BC before the legislative process is initiated.
- A draft transposition table⁵.
- The text of the mandatory instrument or EU law (where applicable), in English.

In Phase II, separate contracts will be issued for each BC based on the results of Phase I and the specific needs of the BC. Each order form will detail the drafting tasks to be undertaken by the contractor and the legal instrument(s) they pertain to. When a piece of international maritime legislation (mandatory instrument) is the subject of the order form, Conventions and the Code(s) made mandatory under a specific Convention will be treated as separate legal instruments.

The Phase II report must include all the required documents and drafts in annex.

2.4.3 Phase III – Amendments

Based on the results of Phase I or upon other recognised sources, if missing amendments to national transposition legislation and administrative procedures are identified after the transposition of International Instrument/s into the national legislation, or when a transposed EU legal act has been amended or recast, the contractor may be tasked to draft transposition instruments to address and implement the amended texts of the international and EU instruments⁶.

Depending on the situation, this shall include all or some of the tasks as described in Phase II.

⁵ A table indicating which article of the draft national legislation is meant to transpose where each article or regulation of the international or EU maritime legislation.

⁶ The identified amendments to be transposed shall be reflected in a table indicating which article of the draft national legislation is meant to transpose where each article or regulation of the international or EU maritime legislation.

EMSA does not prescribe a specific methodology for performing the drafting tasks, as long as the contractors are able to produce the required documents and drafts. However, as a rule, the drafting will include the use of questionnaires and be a combination of a desk review and onsite visit, unless the latter is impracticable due to legitimate safety or security concerns. In such cases, interviews with the relevant authorities of the BC may be conducted via videoconference.

If Phase III is activated, separate contracts will be issued for each BC based on the specific needs of the BC. Each order form will detail the drafting tasks to be undertaken by the contractor and the legal instrument(s) they pertain to.

The Phase III report must include all the required documents and drafts in annex.

2.5 Language

Services under the FWC shall be delivered and all communication with EMSA shall take place in the English language.

2.6 Place of work

The place of work for the execution of tasks under each Phase shall be the Contractors' premises, without prejudice of having in-person meetings at the EMSA's premises if such need should arise. The Contractor is expected to carry out part of the work in the BCs, unless it is impracticable due to legitimate safety or security concerns. In those cases, EMSA shall be informed well in advance and approve the travel of the contractors' staff.

2.7 Project team

EMSA reserves the right to evaluate any change or new nomination of members to the Contractor's project team. CVs and appropriate documentation of each person foreseen to take up duties shall be presented to EMSA for approval with respect to Specific Requests for Services but in any case, at least 15 days before the scheduled start date of a Specific Contract and before its signature.

2.8 Implementation of the Contract

The FWC will be implemented via Specific Contracts (Order Forms). Based on a request for services by EMSA, the contractor must submit, within 10 working days, a project plan for the implementation of the Specific Contract (Order Forms), including milestones, the final date for the implementation of the OF and, in case of travel to the BC, the number of travelling staff and the number of necessary overnight stay per each of them. For time spent in the BC, EMSA will pay travel and subsistence expenses in line with the rates provided in the Tenderer's Financial Offer.

3 Contract management responsible body.

EMSA – Unit 1.3, in charge of Capacity Building will be responsible for managing the contract.

4 Project Planning

The following milestones are planned for the implementation of Specific Contracts (Order Forms).

Reports

Phase I, Phase II and Phase III reports, reflective of the tasks as detailed in the Specific Contracts (Order Forms) and meeting the requirements of points 2.4.1., 2.4.2 and 2.4.3, respectively, shall be delivered by the Contractors by the agreed date.

Depending on the circumstances, it may be mutually agreed between EMSA and the Contractor/s that draft report(s) be produced before the final deliverable(s).

Meetings

During contract implementation, the Contractors are expected to attend the following meetings:

- Kick-off meeting: a kick-off meeting will be held in order to define the details of the services to be undertaken after the signature of the FWC(s).
- Additional meeting(s): when deemed necessary by any of the parties of the FWC, meetings may be held to discuss issues relevant to the implementation of the contract.

Except where indicated, meetings will be held using videoconferencing technologies and no separate expenses will be reimbursed to the Contractors regarding the attendance at face-to-face meetings held outside the Contractors' premises, unless those meetings take place during the necessary travel to the BCs, as described under point 2.8 above.

5 Timetable

The estimated date for signature of the contract is April 2026.

The following preliminary timetable provides guidance on the tasks that should be completed under the two FWC.

Phase	Name	Description	Deadline
SIGN	FWC Signature	Signature of the FWC between the representative of the contractor and final EMSA's countersignature.	April 2026 (estimated)
KOM	Kick-off Meeting	The kick-off meeting usually takes place during the second week from the signature of the FWC.	SIGN+2 weeks
PHI	Implementation of the FWC by means of Specific Contracts (Order Forms)	EMSA envisages implementing several Specific Contracts (Order Forms) during the Phase I. The demand may vary according to the needs of the BCs.	KOM + 12/16 months
PHII	Implementation of the FWC by means of Specific Contracts (Order Forms)	EMSA envisages implementing several Specific Contracts (Order Forms) during Phase II. The demand may vary according to the needs of the BCs.	PHI + [until expiry date]

Phase	Name	Description	Deadline
PHIII	Implementation of the FWC by means of Specific Contracts (Order Forms)	EMSA envisages implementing several Specific Contracts (Order Forms) during Phase III if the need is identified. The demand may vary according to the needs of the BCs.	PHI + [until expiry date]

* The case may be that in one BC the contractor shall perform gap analysis while in another one drafting transposition legislation as the demand may vary from country to country.

6 Value of the Contract

The maximum budget available for this contract is EUR 400,000.00 excluding VAT.

Non-compliance with the previous paragraph will lead to rejection of the bid.

7 Terms of payment

Payments shall be issued in accordance with the provisions of the **draft contract** available under the dedicated section of the procurement procedure on the F&T Portal at [Funding & tenders \(europa.eu\)](https://funding-and-tenders.europa.eu).

Specific Contract (Order Forms) 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 Framework Service Contract.

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

9 Financial guarantees

Not applicable.

10 Subcontracting

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

The following shall not be considered subcontracting:

- a) Use of workers posted to the contractor by another company owned by the same group and established in a Member State ("intra-group posting" as defined by Article 1, 3, (b) of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services).

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

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

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>), 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 on 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 of EMSA's website (<https://emsa.europa.eu/procurement.html>), 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.

10.1 Entities (not subcontractors) on whose capacities the tenderer relies on 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 on* 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 on 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 on 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 fall within the exceptions listed above (see list under section 10) and will then assume the role of entities (not subcontractors) on whose capacities the tenderer relies on to fulfil the selection criteria.

The tenderer must provide required evidence for the exclusion on its own behalf, on behalf of any subcontractors identified in the *List of identified subcontractors* available on the Procurement of EMSA's website (<https://emsa.europa.eu/procurement.html>), and on behalf of any other entities (not subcontractors) on whose capacities on whose capacities is being relied on.

The tenderer must provide required evidence for selection criteria on its own behalf, on behalf of any subcontractors on whose capacities the tenderer relies on on to fulfil the selection criteria as identified in the *List of identified subcontractors*, and on behalf of any other entities (not subcontractors) on whose capacities is being relied on.

The evidence on 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 / any other entities (not subcontractors) as a whole fulfil the criteria. However, the selection criteria may apply individually where it is relevant in view of their nature, if specified so in selection criteria relevant section of these Tender Specifications.

Relying on the capacities of other entities is only necessary when the capacity of the tenderer is not sufficient to fulfil the required minimum levels of capacity. Abstract commitments that other entities will put resources at the disposal of the tenderer will be disregarded.

11 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>).

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 evidence on 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 specified so in selection criteria relevant section of these Tender Specifications.

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>).

12 Requirements as to the tender

Tenders can be submitted in any of the official languages of the EU. However, as English is the main working language of EMSA, tenders should preferably be submitted in English and should in particular include an English version of the documents requested under sections 15.5 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 (Joint Offer) 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 role of each entity involved in a tender must be clearly specified in the e-Submission.

13 Electronic submission

The tenderers shall submit their tender electronically via the e-Submission in one of the official languages of the European Union through the F&T Portal and before the closing date for the tenders' reception as described in the Invitation to tender.

The detailed steps on how to access and use e-Submission are provided in E-Submission Guidelines, which are available on the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>).

The tenderer must provide the following information using e-Submission:

- 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 in the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>) <http://www.emsa.europa.eu/>.

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).

- b) **The Legal Entities and Bank Accounts Form**⁹, completed, stamped and signed by the representative of the tenderer and of each member of the group in case of joint tender, 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.

Tenders must include the following:

Part A: All the information and documents required by the contracting authority for the appraisal of tenderers on the basis of the sections **10, 11, 0** and **15.6** of these Tender Specifications;

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 section **15.3** of these Tender Specifications, as applicable.

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 section **15.4** of these Tender Specifications, as applicable;

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 section **15.5** of these Tender Specifications, as applicable.

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 section **16** of these Tender Specifications;

Part F: Setting out **prices** in accordance with section **14** of these Tender Specifications.

In e-Submission please fill in all mandatory fields (marked with a star *) and other fields as appropriate. All tenders must be clear, complete and consistent with all the requirements laid down in the Tender Specifications including the above instructions. The documentary evidence/documents required in the Tender Specifications must be uploaded in e-Submission.

14 Price

- a) Price for Provision of services in support of the Transposition, Implementation, and Enforcement following the Ratification of International Conventions – TIE(R) for ENP Beneficiary Countries shall be all inclusive and cover:
1. Price for conducting a Gap Analysis for one BC – ceiling EUR 30 000 (Price₁);
 2. Price for conducting Phase II – Drafting national legislation for transposition of one piece of international maritime legislation as adopted - ceiling EUR 40 000.00 (Price₂);
 3. Price for Conducting Phase II – Drafting national legislation for transposition of one piece of EU maritime legislation (Regulation or Directive) - ceiling EUR 20 000.00 (Price₃);

⁹ In case of join tender, if the group is composed of non-Portugues companies, only completion of the information regarding the legal entity is mandatory.

4. Price for Conducting Phase III – Drafting national legislation transposing amendments to one IMO or ILO Convention, Protocol or Code not yet transposed by the relevant beneficiary - ceiling EUR 25 000.00 (Price₄)
 5. Price for Conducting Phase III – Drafting national legislation transposing amended or recast EU Legislation not yet transposed by the relevant beneficiary - ceiling EUR 10 000.00 (Price₅)
 6. Flat rate for travelling to/from Lisbon and to/from each BC. This will not be considered for the evaluation of the price of the tender. Please consult the latest applicable rates under the following [link](#).
- b) Prices must be quoted in Euro.
- c) Prices must be fixed amounts and non-revisable and remain valid for the duration of the contract. Estimated travel and daily subsistence allowance expenses must be indicated separately as indicated under point 6. Above. This estimate shall be based on Articles I.5.3 and II.22 of the draft contract. This estimate will comprise all foreseen travels and will constitute the maximum amount of travel and daily subsistence allowance expenses to be paid for all tasks.
- 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 (EC) No 1406/2002. These duties, taxes and other charges can therefore not enter into the calculation included in the tender. The amount of VAT must be shown separately.

15 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

15.1 Legal position – means of proof required

When submitting their tender, tenderers and each of the group in case joint tender are requested to complete and enclose the Legal Entities and Bank Accounts Form¹⁰ available in the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>).

15.2 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 being relied 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.

15.1 Legal and regulatory capacity – Selection criteria

15.3.1 Standards / Prerequisites

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

¹⁰ In case of joint tender, if the group is composed of non-Portuguese companies, only completion of the information regarding the legal entity is mandatory.

- B. The tenderer, each member of the group in case of joint tender, any subcontractors (including those which do not need to be identified), 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)¹¹, 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.

15.3.2 Evidence

- A. Duly completed and signed Declaration of Honour available on the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>).

15.4 Economic and financial capacity – Selection criteria

15.4.1 Standards / Prerequisites:

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

The yearly turnover¹² for the last three years must be minimum EUR 80 000EUR.

15.4.2 Evidence:

Duly completed and signed Simplified Financial Statement available on the Procurement Section of EMSA's website (<https://emsa.europa.eu/procurement.html>), 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. Complete line 14 (Revenue) of the Simplified Financial Statement only (version for non-profit organisations).
- For Individuals: provide extracts from any available documents (e.g. income tax returns) as evidence on their average income. Complete line 14 (Revenue) of the Simplified Financial Statement only (version for non-profit organisations).

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

¹¹ 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](#).

¹² For individuals and public sectors entities the "turnover" corresponds to the "revenue".

are up to date. In this case the tenderer should 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.

15.5 Technical and professional capacity – Selection criteria

15.5.1 Standards / Prerequisites:

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

The tenderer must have previous experience of at least five years working in the maritime domain and in issues related to:

- A. functioning of Maritime Administrations, especially pertaining their obligations with regard to flag, port and coastal state matters;
- A. policies, legislation, associated rules and regulations and administrative procedures for the implementation and enforcement of the obligations stemming by the international conventions.

The tenderer must include in the offer the following team in charge of implementing the contract:

1x Project Manager (PM) - The Project Manager is in charge of the successful initiation, planning, design, execution, monitoring, controlling, and closure of the FWC.

Education

- University degree in Law, Naval Architecture, Engineering or in a field relevant to the tasks specified in point 2.4.
- Excellent English verbal and writing skills (level B2 or higher).

Professional Experience

- At least 7 years (in the last 10 years) of professional experience (not attendance of seminars) with direct responsibility in managing teams in areas related to maritime law, maritime safety, environment, and/or implementation and enforcement of international legal law.
- At least 5 years (in the last 10 years) of professional experience on how a Maritime Administration works, especially with regard to flag, port, and coastal state matters.

2x Maritime Lawyer (ML) - The Maritime Lawyer supports the project by providing assistance in the tasks of understanding the legal system of the country and drafting the legislative acts in collaboration with the administration of the BC.

Education

- University degree in Law, Maritime Law, International Relations, or Political Science.
- Excellent English verbal and writing skills, (level B2 or higher).

Professional Experience

- At least 5 years (in the last 10 years) of professional experience with projects delivered in English, dealing with international maritime law, implementation, and enforcement of international conventions, transposition of legislation;
- At least 5 years of professional experience in reviewing and recommending public or private entities and/or countries on the operational procedures and management structure in order to abide by the international maritime legal framework.

1x Lawyer (LA) – The Lawyer supports the project by providing assistance in the tasks of understanding the legal system of the BC and drafting the legislative acts in collaboration with the administration of the BC.

Education

- University degree in Maritime Law or Law.
- Excellent English verbal and writing skills (level B2 or higher).

Professional Experience

- At least 5 years (in the last 10 years) of professional experience in any legislative process.

2x Maritime Expert (ME) – The Maritime Expert supports the team with its knowledge of the maritime domain from an operational point of view, as well as having a thorough understanding of the maritime administrations.

Education

- University degree or equivalent in transport, maritime studies (Master Mariner, marine engineer, naval architect) or related fields.
- Excellent English verbal and writing skills (level B2 or higher).

Professional Experience

- At least 7 years of experience and knowledge of international (IMO and ILO) and EU legislation on maritime transport and in particular maritime safety, security and protection of the Environment.
- At least 4 years (in the last 7 years) of experience with Maritime Administrations in their capacity as flag, port, and coastal states.

2x Paralegal (PL) or Legal Experts (LE) – The Paralegal or Legal Expert supports the project by providing legal assistance in the tasks of understanding the legal system of the BC and drafting the legislative acts in collaboration with the administration of the BC.

Education

- University degree in Law or Maritime law;
- Excellent English verbal and writing skills (level B2 or higher).

Professional Experience

- At least 3 years (in the last 5 years) of professional experience as a paralegal and/or legal expert

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 Head of Unit, also responsible to make sure that the expert(s) added or replaced are of equivalent profile as the profile set out in the Tender Specifications.

15.5.2 Evidence:

To prove their technical and professional capacity concerning the standards mentioned above the tenderers shall provide the following proof together with their offer:

Description of at least three (but no more than five) activities (relevant to the tasks specified in points 2.4.1, 2.4.2 and 2.4.3 above), undertaken within the last 5 years in which the services were provided in English. The project description shall include the following information:

- Customers and testimonials (if available it will be considered as an advantage);
- The web address, if the outcome is accessible through the World Wide Web;
- Role of the tenderer;
- Description of tasks performed (max 500 words);
- Solutions/technologies implemented, and the major challenges addressed (max 500 words);
- Lessons learned (max 500 words).

The tender shall include detailed curriculum vitae (CVs) of the team members who will be delivering the services under the contract. The CVs shall be in EuroPass or equivalent format. The Contractor may later-on propose another team composition, in line with Point 2.7 above. The following non-exhaustive list of information shall be included:

- Full Name;
- Role as per Tender Specifications' point 15.5.1;
- Key responsibilities within the team;
- Education level and years of studies;
- Languages' level (as per EuroPass standards)¹³;
- Working experience total (years);
- Working experience (years) in activities similar to those in the role assigned in the team;
- Summary of key skills (incl. professional certificates);
- List of projects/services executed in the past by the team member.

¹³ Level of languages shall be demonstrated either by a certification from an accredited institution or by the participation in international projects whereas the main working language was the language being evaluated.

15.6 Evidence on Declaration of Honour (DoH)

At any time during the procurement procedure¹⁴, EMSA may request the documents mentioned in the Declaration on Honour as supporting evidence on non-exclusion (the documentary evidence), namely:

- For the exclusion situations described in points (1) (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 (1) (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.

EMSA may also request information on natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners, and appropriate evidence that none of those persons are in one of the exclusion situations referred to in Section A point (1) (c) to (f) of the Declaration on Honour.

All tenderers are invited to prepare in advance the documentary evidence, since they may be requested to provide such evidence within a short deadline. In any event, the tenderer(s) proposed by the Evaluation Committee for the award of the contract will be requested to provide such evidence. This requirement applies to 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 being relied on.

If the tenderer does not provide valid documentary evidence within the deadlines set by EMSA, the latter reserves the right to reject the tender. In any event, in case a tenderer proposed for the award of the contract fails to comply with the above evidence requirement, its tender will be rejected, unless the tenderer can justify the failure on the grounds of material impossibility to provide such evidence.

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 ($W_1 = 30\%$) – Approach and Methodology for Phase I – Assessment

¹⁴ The obligation to provide the supporting evidence is waived in the following situations:

- if the same documents have already been provided in a previous award procedure of EMSA, have been issued no more than one year before the date of their request by the contracting authority and are still valid at that date;
- if such evidence can be accessed by the contracting authority on a national database free of charge, in which case the economic operator shall provide the contracting authority with the internet address of the database and, if needed, the necessary identification data to retrieve the document;
- if there is a material impossibility to provide such evidence.

In its proposal, the bidder shall describe its approach, methodology, methods, and working arrangements to deliver the services as specified under section 2.4.1. The bidder shall elaborate, in particular, on the best practices, methodologies, and procedures that will be implemented to deliver each of the identified services.

This criterion will be evaluated on the basis of the following:

- a) Description of the proposed methodology to identify EU and international maritime legislation in their latest edition;
- b) Description of the methodology to identify national legislation in place, the legislative and administrative processes in place; the gaps or bottlenecks in the legislative and administrative processes in place and identification of missing legislation;
- c) Description of the methodology on how to conduct the Gap Analysis, including data collection methods/campaign, project plan;

2. Quality criterion 2 ($W_2 = 30\%$) - Approach and Methodology for Phase II - Implementation and the Phase III – Amendments.

In its proposal, the bidder shall describe its approach, methodology, methods, and working arrangements to deliver the services as specified under sections 0 and 2.4.3.

The bidder shall elaborate, in particular on the best practices, methodologies, and procedures that will be implemented to deliver each of the identified services.

This criterion will be evaluated on the basis of the following examples:

- a) Description of the proposed methodology to draft the required missing legislation to transpose an IMO Convention in its up-to-date edition, including the way the contractor will visit and liaise with the BC.
- b) Description of the proposed methodology to draft the required missing legislation to transpose an EU Directive or an EU Regulation in their up-to-date editions, including the way the contractor will visit and liaise with the BC.
- c) Description of the proposed methodology to draft missing legislation to transpose amendments to International Conventions or Revised EU Directives and Regulations, including the contractor's proposal on administrative procedure for monitoring when a new or amended EU legal act (where applicable) or a piece of international maritime legislation (mandatory instrument) enters into force;

3. Quality Criterion 3 ($W_3 = 10\%$) – Project Management

This criterion will be evaluated based on the following:

- a) the simulated project plan, work breakdown structure, description of work packages as well as the estimated effort for each task concerning the Phase I, Phase II and Phase III;
- b) roles, tasks, and responsibilities of each member of the proposed team and description of their involvement and interaction for devising the curriculum;
- c) methods and plan for gathering and clarifying information from EMSA and the BC;
- d) Step-by-step example of how the bidder intends to conduct the Phase I, Phase II and Phase III for at least two BCs in parallel, including a timeline, tasks and agenda – tenders proposing to work in more than 2 BCs in parallel will be scored higher;

and the price criterion and associated weighting:

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

Price shall be quoted in line with Appendix VI – Price Offer Template. Failure to submit this information will lead to the rejection of the tender.

The total price of the bid will be calculated according to the following formula:

$$\text{Total price} = (\text{Price}_1) + (\text{Price}_2) + (\text{Price}_3) + (\text{Price}_4) + (\text{Price}_5)$$

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

$$SP = \sum_i \frac{\text{lowest Price}_i \text{ of all bids}}{\text{Price}_i} * 100 * W_{\text{Price}_i}$$

Only tender that has reached a minimum of 60 % for Q_1 , a minimum of 60 % for Q_2 , etc. will be taken into consideration when calculating the score for quality SQ, score for price SP and score S.

Only tender that has 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 - including each member of the group in case of joint tender, any subcontractors (including those which do not need to be identified in the tender), and any other entities (not subcontractors) on whose capacity the tenderer is being relied on - is not subject to EU restrictive measures and has access to procurement;

- Verification of non-exclusion of tenderers on the basis of the exclusion criteria;
- Verification of the absence of professional conflicting interests;
- 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:

- B. are in an exclusion situation;
- C. have misrepresented the information required as a condition for participating in the procedure or have failed to supply that information;
- D. 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.

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.