

**Tender Specifications
attached to the Invitation to tender**

**Invitation to tender N° EMSA/NEG/05/2014
for the provision of ships' agency services**

1. Introduction

The European Maritime Safety Agency (EMSA) was established under Regulation 1406/2002/EC for the purpose of ensuring a high, uniform and effective level of maritime safety. Among its tasks, the Agency provides Member States with technical and scientific assistance and a high level of expertise in order to help them to apply Community legislation properly in the field of maritime safety, prevention of pollution by ships and recently, maritime security. The Agency also monitors its implementation and evaluates the effectiveness of the measures in place. Within the framework of technical assistance, EMSA organises workshops and training in response to requests from Member States and EEA countries in the fields of port state control, Flag State control, port reception facilities, classification societies, marine equipment and others. Based on specific agreements with the EU Commission technical assistance can be also provided to candidate, potential candidate and the EU Neighbourhood partner countries.

Since 16th June 2013, EMSA is implementing the SAFEMED III project for the provision of technical assistance in the field of maritime safety, maritime security and marine pollution prevention, preparedness/response to project's beneficiaries (Algeria, Egypt, Israel, Jordan, Libya, Lebanon, Morocco, Palestine, Syria and Tunisia).

In this framework EMSA is organising from 3rd to 5th June 2014 a practical exercise in Sines (Portugal) on response to an at sea oil spill with deployment of booms and skimmers. The event will be attended by representatives from the SAFEMED III beneficiary countries as observers. The m/v "Bahia Tres", EMSA Stand-by Oil Spill Recovery Vessel based in Sines, two support tugs and an observers' boat will take part to the exercise.

2. Objective, scope and description of the contract

2.1 Objective of the contract

The objective of this call for tender is to award a contract to a specialized company who shall provide shipping agent services during the practical exercise from the 3rd June 2014 until 5th June 2014.

2.2 Description of the contract and planning

2.2.1 Provision of support tugs

- On 4th June 2014 the contractor shall:

- Provide one support tug for duration of four hours to assist the m/v "Bahia Tres" at the location of the exercise indicated in point 3 below, for the deployment, operation and retrieving of booms and skimmer in J-formation;
- The support tug should be equipped, as a minimum, with: a main pulling winch; one 6 Tons deck crane; a main engine of at least 650 HP; and a bollard pull of 10 Tons.

- On 5th June 2014 the contractor shall:

- Provide two support tugs that shall work simultaneously to assist the m/v "Bahia Tres" at the location of the exercise indicated in point 3 below, for the deployment, operation and retrieving of two booms in open-U formation, as follows:

- a) A first support tug shall be provided for duration of four hours and shall be equipped, as a minimum, with: a main pulling winch; one 6 Tons deck crane; a main engine of at least 650 HP; and a bollard pull of 10 Tons.
- b) A second support tug shall be provided for duration of two hours and a half, and shall be equipped, as a minimum, with: a towing hook; a main engine of at least 350 HP; and a bollard pull of 6 Tons.

The overall time period of use of the support tugs on both days (4th and 5th June) shall not exceed ten hours.

2.2.2 Provision of observers' boat

On 4th and 5th June 2014 the contractor shall also:

- Provide one observers' boat for both days for an overall duration of four hours per day.
- The observers' boat shall have a minimum capacity of 20 passengers and shall be properly certified according to the applicable legislation to carry out its activity within a distance of 6 nautical miles from the coast.
- For each day, the observers' boat shall take the passengers on board whilst alongside in the Port of Sines, shall sail to the exercise location identified in point 3 below and return to Port to disembark the passengers.

2.2.3 Fees and dues

The contractor shall arrange for the port services and cover the fees and dues in the Port of Sines due by m/v "Bahia Tres" from 3rd to 5th June 2014, in relation with the exercise on oil pollution response organised by EMSA.

2.2.4 Insurance policy

The successful Tenderer shall take out an insurance policy for the days of the exercise (4th and 5th June 2014) in order to cover its liability, including in the event of subcontracting, for any loss or damage relating to the performance of the Contract in accordance with art. II.3.3 and II.3.5 of the draft service contract. This includes total loss or damage to the boom during deployment as supported by the tug/support boats. In this regard please note that the booms value for insurance purpose is 547,825.00 Euro.

The tenderer should indicate in its bid the precise insurance conditions and any applicable deductibles. A copy of the proposed insurance policy including terms and conditions should be included in the tender. The copy of the final insurance policy taken out by the company to which the contract is awarded will be requested upon signature of the contract by EMSA.

In the event that the tenderer already has an appropriate insurance policy in place, copy of the policy should be provided or any other documentation providing sufficient information to verify that the tenderer complies with the insurance requirements.

2.2.5 Provision of administrative support

The Tenderer should provide administrative support and management of the permits and security clearance to facilitate the entrance/exit of the observers and a bus in the Port of Sines, and any other administrative support deemed necessary.

3. Location of the exercise

The at-sea exercise will take place around 6 nautical miles off the Port of Sines (Portugal) and will consist of oil pollution response training activities at sea with the involvement of the Stand-by Oil Spill Response Vessel "Bahia Tres", and the tugs and observers' boat that will be identified through this service contract. The contractor will be informed at a later stage about the precise time of the practical exercise.

4. Contract management responsible body.

The European Maritime Safety Agency – Department B, B.0.2, in charge of Training & Cooperation – will be responsible for managing the contract.

5. Report of the contract's implementation

The contractor shall provide EMSA with a brief report of the services provided within three weeks after the conclusion of the exercise. The report shall contain, as a minimum, a brief description of the services provided and the time when the support tugs and the observers' boat started and ended their activity.

6. Timetable

The estimated date for signature of the contract is end of May 2014.

7. Value of the Contract

The maximum budget available for all services described by this contract is 18,000 (eighteen-thousand) Euro excluding VAT.

8. Terms of payment

Payment will be made in accordance with the provisions of the draft service contract available in the Procurement Section under the call to tender **EMSA/NEG/05/2014** on the EMSA website at the following address: www.emsa.europa.eu

9. Terms of contract

In drawing up a bid, the tenderer should bear in mind the terms of the draft service contract. EMSA may, before the contract is signed, either abandon the procurement or cancel the award procedure without the tenderers being entitled to claim any compensation.

10. Sub-contracting

If the tenderer intends to either sub contract part of the work or realise the work in co-operation with other partners he shall indicate in his offer which part will be subcontracted, as well as the name and qualifications of the subcontractor or partner. (NB: overall responsibility for the work remains with the tenderer).

If the tenderer relies on the capacities of subcontractors to fulfil selection criteria as specified in section 14.4 (technical and professional capacity) then each subcontractor must provide the required evidence for the exclusion and selection criteria. To rely on the capacities of a subcontractor does not mean that the contractor has to use deliveries or services of another company but that this company and its special capacity is central to the capacity of the contractor to fulfil the contract and that it cannot be easily changed or replaced. The exclusion criteria will be assessed in relation to each economic operator individually. Concerning the selection criteria for "technical and professional capacity", the evidence provided will be checked to ensure that the tenderer and its subcontractors as a whole fulfil the criteria.

11. Requirements as to the tender

Bids can be submitted in any of the official languages of the EU. The working language of the Agency is English. Bids must include an English version of the documents requested under point 14.4 & 15 of the present tender specifications.

The tenderer shall complete Tenderer's checklist.

If the tenderer intends to either sub contract part of the work or realise the work in co-operation with other partners (Joint Offers) he shall indicate in his offer by completion of the form – Information regarding joint offers and subcontracting.

The tender must be presented as follows and must include:

Signed cover letter indicating the name and position of the person authorised to sign the contract/Purchase Order and the bank account on which payments are to be made.

Financial Form completed, signed and stamped; available on the Procurement Section (Financial Form) on the EMSA Website at the following address: www.emsa.europa.eu

Legal Entity Form completed, signed and stamped and requested accompanying documentation, available on the Procurement Section (Legal Entity Form) on the EMSA Website at the following address: www.emsa.europa.eu

Tenderers are exempt from submitting the Legal Entity Form and Financial Form requested if such a form has already been completed and sent either to EMSA or any EU Institution previously. In this case the tenderer should simply indicate on the cover letter the bank account number to be used for any payment in case of award.

Part A: all the information and documents required by the contracting authority for the appraisal of tenders on the basis of the points **10, 13, 14.2-14.3** of these specifications (**Exclusion criteria**)

Part B: all the information and documents required by the contracting authority for the appraisal of tenders on the basis of the **Technical and professional capacity** (part of the Selection Criteria) set out under point **14.4** of these specifications.

Part C: all the information and documents required by the contracting authority for the appraisal of tenders on the basis of the **Award Criteria** set out under point **15** of these specifications;

Part D: setting out **prices** in accordance with **point 12** of these specifications.

12. Price

- The Tenderer should provide one all-inclusive fixed price for the provision of all the ships' agent services as described in point 2 above. This price shall be taken in consideration for the evaluation of the award criteria (point 15.2 – Price of the bid).
- In addition the Tenderer should provide a break-down of the quotation as follows:
 - All inclusive fixed price for the provision of support tugs involved in the exercise as per point 2.2.1 of this document (the price shall include all expenses such as bunker, port fees, etc);
 - All inclusive fixed price for the provision of an observers' boat as per point 2.2.2 of this document (the cost shall include all expenses such as bunker, port fees, etc.);
 - The port fees and dues in the Port of Sines related to the vessel's M/v "Bahia Tres participation to the practical exercise organised from 3rd to 5th June 2014 as per point 2.2.3 of this document;
 - The price of the insurance cost for the days of the exercise as per point 2.2.4 of this document.

The price to provide administrative support as per point 2.2.5 of this document.

- Prices must be quoted in Euro.
- Prices must be fixed amounts, non-revisable and remain valid for the duration of the contract.
- 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 the Regulation 1406/2002/EC. 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.

13. Joint Offer

Groupings, irrespective of their legal form, may submit bids. Tenderers may, after forming a grouping, submit a joint bid on condition that it complies with the rules of competition. Such groupings (or consortia) must specify the company or person heading the project and must also submit a copy of the document authorising this company or person to submit a bid.

Each member of the consortium must provide the required evidence for the exclusion and selection criteria. The exclusion criteria will be assessed in relation to each economic operator individually. Concerning the selection criteria for “technical and professional capacity”, the evidence provided by each member of the consortium will be checked to ensure that the consortium as a whole fulfils the criteria.

If awarded, the contract will be signed by the person authorised by all members of the consortium. Tenders from consortiums of firms or groups of service providers, contractors or suppliers must specify the role, qualifications and experience of each member or group.

14. Information concerning the personal situation of the service provider and information and formalities necessary for the evaluation of the minimum economic, financial, technical and professional capacity required

14.1 Legal position – means of proof required

When submitting their bid, tenderers are requested to complete and enclose the **Legal Entity Form** available on the Procurement Section on the EMSA Website at the following address: www.emsa.europa.eu.

14.2 Grounds for exclusion – Exclusion criteria

To be eligible to participate in this contract award procedure, tenderers must not be in any of the following exclusion grounds:

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or

are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

14.3 Evidence to be provided by the tenderers

For this purpose the Declaration on Honour available on the Procurement Section on the EMSA Website (www.emsa.europa.eu) shall be completed and signed.

14.4 Technical and professional capacity – Selection criteria

Requirements:

- a) The tenderer must have experience in the field of provision of shipping agency services.
- b) The tenderer must have experience in providing service at sea as master of the tugs' masters and the experience of the tugs' master in booms deployment operations.
- c) The proposed support tugs and observers' boat must have appropriate certification.

Evidence:

- a) The tenderer shall provide evidence in a form of a list of the main services provided during the years 2012 and 2013.
- b) The tenderer shall provide appropriate evidence to prove experience in providing service at sea as master of the tugs' masters and the experience of the tugs' master in booms deployment operations.
- c) The tenderer shall provide certificates for the support tugs and the observers' boat.

15. Award criteria

Only the tenders meeting the requirements of the exclusion and selection criteria will be evaluated in terms of quality and price.

The contract will be awarded to the tenderer who submits the most economically advantageous bid (the one with highest score) based on the following quality criteria and their associated weightings:

1. Quality criterion 1 ($W_1 = 70\%$) – Project implementation

The tenderers should provide a project implementation plan in accordance with point 2 of this document. The implementation plan has to include as minimum:

- name and contact details of the person managing the contract
- name, identification details and brief technical description of the two tugs (including the minimum required equipment)
- name, identification details and brief technical description of the observers' boat with the indication of maximum number of passengers that can be boarded
- information about the berth where the observers' boat will board the passengers

and the price criterion and associated weighting:

2. Price of the bid ($W_{Price} = 30\%$)

For all bids evaluators will give marks between 0-10 (half points are possible) for each quality criterion.

The score is calculated as

$$S = SQ + SP$$

where:

The average quality for quality criterion i is

$$Q_i = \frac{1}{\text{number of evaluators}} * \sum_{\text{evaluator}} \text{mark of the evaluator for quality criterion } i$$

The overall weighted quality is

$$Q = \sum_i Q_i * W_i$$

The score for quality is

$$SQ = \frac{Q}{Q \text{ of the bid with highest } Q} * 100 * \sum_i W_i$$

The score for price is

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

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

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

16. Contracts will not be awarded to tenderers who during the procurement procedure:

- (a) are subject to a conflict of interest;
- (b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

17. False declarations

Without prejudice to the application of penalties laid down in the contract, tenderers and contractors who have been guilty of making false declarations concerning situations referred to in points 12 and 13 above or have been found to have seriously failed to meet their contractual obligations in an earlier procurement procedure or grant shall be subject to administrative and financial penalties set out in Article 145 of Commission Delegated Regulation of 29.10.2012 on the rules of application of Regulation (EU) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union.

18. Intellectual Property Right (IPR)

Please consult the contract for IPR related clauses.

If the results are not fully created for the purpose of the contract this should be clearly pointed out by the tenderer in the tender. Information should be provided about the scope of pre-existing rights, their source and when and how the rights have been or will be acquired.

In the tender all quotations or information originating from other sources and to which third parties may claim rights have to be clearly marked (source publication including date and place, creator, number, full title etc.) in a way allowing easy identification.