

Annex I

Tender specifications

Attached to the Invitation to Tender N° EMSA/OP/05/2014 for multiple framework contracts in cascade for the supply of oil dispersant

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 received the mandate "to work with the Member States to support with additional means, in a cost efficient way, the pollution response actions in case of pollution caused by ships as well as marine pollution caused by oil and gas installations, when a request has been presented" (Art. 2 (3) d of Regulation 1406/2002/EC as amended).

EMSA's Action Plan for Oil Pollution Preparedness and Response (2004), as well as the Action Plan for Response to Marine Pollution from Oil and Gas Installations (2013), as updated by the annual Work Programmes of the Agency, identify how to implement these tasks. These documents are available on the Agency's website: www.emsa.europa.eu under the link "Publications".

2. Objective, scope and description of the contract

2.1. Objective and scope

The primary objective of this procurement procedure is to conclude four years multiple framework contracts in cascade with dispersant manufacturers or authorised dealers for the supply of oil dispersant (hereinafter referred to as "dispersant") to be used in marine oil pollution response operations.

The following tasks, at least, will be performed, on request, by the successful tenderers within that multiple framework supply contract:

- provision of the dispersant in appropriate packaging (IBC- Intermediate Bulk Containers);
- provision of empty IBGs;
- transport and delivery to any pre-agreed location within Europe, within agreed timeframes.

The requirements presented in parts 2.2, 2.3 and 2.4 below, are split into two distinct categories as follows:

1. **Mandatory requirements**, indicated with a '**must**': only the tenders meeting the mandatory requirements, as well as the exclusion and selection criteria, will be evaluated in terms of quality and price;
2. **Other "non-mandatory" requirements**, indicated with a "should" or as "preferred" options by EMSA, which are non-mandatory but will be taken into

account for the evaluation of the offer when applying the quality award criteria under point 15 below. The tenders meeting such requirements will be evaluated higher.

2.2. Requirements regarding the type of dispersant

a) General requirements

The dispersant **must** be a product manufactured for the dispersion of oil at sea.

The dispersant **must** be a concentrated dispersant (commonly named 'type 3' dispersant), that could be efficiently applied either undiluted or in a diluted solution.

b) Composition

The dispersants that are free of hydrocarbon based solvents are the preferred option. For that purpose, the dispersant should not contain benzene, carbon tetrachloride or other chlorinated hydrocarbons, phenol, cresols, caustic alkali, or free mineral acid.

However, if hydrocarbon solvents are used in the manufacturing of the dispersant, they should be low in aromatic hydrocarbons, with an upper limit of 3% total aromatics as determined by gas chromatography/flame ionisation detection, infrared spectroscopy or fluorescence detection. The surfactants should be wholly soluble in the solvent and should remain uniformly distributed at all temperatures. In addition, the surfactants should be biologically degradable.

c) Physical properties

The dispersant **must** be in liquid form and contain no solid material, suspended matter or additional liquid phases.

As a minimum, the flash point of the dispersant **must** be above 60°C.

The following requirements are preferred and the dispersant meeting them shall be evaluated higher:

- Flashpoint: a flash point above 70°C will be evaluated higher.
- Cloud Point: the cloud point of the dispersant should not be higher than -5°C. The dispersant should not separate into layers at temperatures higher than -10°C.
- Viscosity: the dispersant viscosity at 0°C should not be more than 250 centistokes.

Other physical characteristics data to be provided by the tenderer for information purposes only are the density, pour point, water miscibility and solubility.

The relevant information regarding the physical properties of the tendered product should be provided in the form of documentation issued by nationally recognised/accredited testing laboratories within the EU Member States and EFTA countries.

d) Efficiency testing¹

It is preferred by EMSA that the dispersant has been tested for dispersal efficiency, using a recognised and approved method by nationally recognised/accredited testing laboratories within the EU/EFTA countries, and it is more than 60% efficient when tested by standard efficiency/efficacy performance tests in Europe (e.g. NF T90-345, WSL LR 448).

¹ Efficiency of the dispersant is considered as the ratio, expressed as a percentage, of the volume of oil dispersed to the total volume of oil treated with dispersant.

The dispersant **must** be efficient, as a minimum, for light to medium crude oil, with an API gravity higher than 20° API and low paraffin content. The dispersant that is efficient to a broader range of oils than the minimum requirement will be evaluated higher.

e) Ecotoxicity testing

It is preferred by EMSA that the dispersant has been tested for ecotoxicity using a recognised and approved method by nationally recognised/accredited testing laboratories within the EU Member States and EFTA countries (e.g. NF T90-349, 'Sea Test' and 'Rocky Sea Test'). The detailed ecotoxicity test results should be submitted to EMSA as part of the supporting documentation.

The dispersant with no or lowest ecotoxicity will be evaluated higher.

f) Biodegradability testing

It is preferred by EMSA that the dispersant has been tested for biodegradability. The detailed biodegradability test results, if available, should be submitted to EMSA as part of the supporting documentation. Results of tests performed by nationally recognised/accredited testing laboratories within the EU Member States and EFTA countries are the preferred option.

Tenders that offer dispersant with high biodegradability testing performance will be evaluated higher.

2.3. Requirements regarding production, delivery and storage of dispersant

a) Quality Assurance

It is preferred by EMSA that in the manufacturing process of the proposed dispersant the successful tenderer has appropriate quality control and assurance systems in place, and ensures that each batch of dispersant to be delivered is of the same formulation and quality as the one tendered and that it meets the requirements of this document.

Tenders that have certified quality/production management systems will be evaluated higher.

b) Packaging

The dispersant **must** be provided in Intermediate Bulk Containers (IBCs) of 1 m³ capacity each. The containers **must** be new and suitable for use in a marine environment.

If the dispersant requires any classification for transport, then the IBCs **must** be suitable for the transport of the dispersant by all transport modes (land, air and sea) and **must** therefore meet the packaging requirements of the following transportation codes:

- the International Maritime Dangerous Goods Code
- the International Air Transport Dangerous Goods Code
- the European Agreement concerning the International Carriage of Dangerous Goods by Road (the ADR Treaty).

For each order of dispersant, EMSA may also request empty IBCs with 1 m³ capacity to be delivered. The empty IBCs **must** be new and of the same type and standard as the IBCs containing the dispersant. The empty IBCs will always be ordered and shipped in conjunction with full (dispersant-filled) IBCs.

c) Labelling

The IBC containers **must** be marked with the following information as a minimum: product name and type, manufacturer (including contact details), batch number, date of manufacture, expiry date if applicable, container volume or weight, list of main or active ingredients, warnings as applicable (e.g. handling, storage, mixing the dispersant with other products), recommended storage instructions, basic safety instructions or caution and any appropriate chemical hazard signs. In addition, the applicable transportation codes as per paragraph b) above **must** be provided when performing the contract. It is preferred by EMSA that the label is weatherproof, UV stable, permanent and not affected by the product.

d) Delivery

The successful tenderer **must** fulfil the minimum delivery and quantity requirements. When an order of dispersant is placed, the delivery time to be set in the order form **must** not exceed 4 weeks for an order of up to 400 m³ as per table under point 4.

Tenderers that propose to reduce the maximum time set in the table under point 4 for signature of the order form and the delivery time, when an order is placed by EMSA to cope with an emergency situation, are preferred and will be evaluated higher (e.g. for a quantity of up to 400 m³ of dispersant the delivery time should be within 2 weeks from the signature of the order from by EMSA).

It is also preferred by EMSA if the successful tenderer can nominate a contact person that will provide technical guidance to EMSA, if requested, in case the dispersant is used in pollution response operations.

The dispersant may be delivered to any destination within the coastal EU/EFTA countries. The recipient of each order of dispersants at destination will be identified in the order form as "designated recipient". The delivery should be accompanied by at least the Material Safety Data Sheet (MSDS) as per point e) below, and two originals of the consignment note to be signed by the designated recipient.

e) Material Safety Data Sheet

A Material Safety Data Sheet (MSDS) **must** accompany the dispersant and as a mandatory requirement it must be submitted with the tender as part of the supporting documentation for information purposes. It is preferred by EMSA if the format of the MSDS conforms to the regulatory frame set by the REACH Regulation [Regulation (EC) No 1907/2006].

f) Warranty, storage requirements and shelf life²

The dispersant **must** be guaranteed against all defects in the manufacturing process for a minimum of two years. The duration of the warranty will be specified in the offer.

The following requirements are preferred by EMSA, and the dispersant meeting them shall be evaluated higher:

- while in storage, the dispersant does not separate into layers, gel or solidify;
- the dispersant, when stored in containers at ambient temperatures between -5°C and +50°C should have a shelf life of not less than 4 years;
- the dispersant should be non-corrosive to storage containers and contain no substances that are considered to be toxic to humans;

² Shelf life is the length of time that the dispersant may be stored without becoming unfit for its intended use.

- the surfactants should be wholly soluble in the solvent and should remain uniformly distributed at all temperatures from -5°C to +50°C.

The tenderer should advise in their tender if any maintenance procedures are recommended or are required in order to achieve the desired storage life of not less than 4 years. Tenderers should document that the storage and shelf life requirements are met by the offered dispersant.

Tenders that propose the continuity of the shelf life in case the dispersant is transferred and stored in other containers/tanks (i.e. tank container, vessel internal tank) are preferred and will be evaluated higher.

In this regard, tenderers may indicate the requirements to ensure the continuity of the shelf life. Such requirements could include for example:

- certificate from an independent surveyor, proving that the tank is free of any contamination;
- specific procedures for transferring the dispersant to other containers/tanks;
- sealing of the new storage containers/tanks;
- any other requirements deemed necessary by the dispersant manufacturer or authorised dealer.

g) Instructions for use

It is preferred by EMSA that the tenderer provides the clear instructions on the recommended dose or application rate in terms of oil volume/product volume/weight per unit area. This information should be provided for both aerial and vessel dispersant application methods. Tenderers that provide this information shall be evaluated higher.

2.4. Requirements for dispersant approval

As a minimum, the dispersant **must** be approved for use in at least one coastal EU/EFTA country. However, it is preferred by EMSA that the dispersant is widely approved for use within the coastal EU/EFTA countries. Dispersants that are more widely approved for use in the coastal EU/EFTA countries will be assessed higher. Tenderers should provide objective proof (e.g. approval certificate, declaration, statement, recognition, letter) issued by the competent national authorities.

For further guidance and support regarding the approval of dispersants, tenderers could refer to the list of approved dispersants in each of the coastal EU/EFTA countries (in appendix A to these Tender specifications) compiled by EMSA based on information received from the relevant national authorities.

2.5. Type of contract

At the end of this open procurement procedure EMSA intends to sign multiple framework supply contracts “in cascade” with the successful tenderer(s) in accordance with the evaluation criteria set in these tender specifications.

The multiple framework supply contract(s) will lay down the overarching legal, financial, technical and administrative provisions governing the relationship between EMSA and the successful tenderer(s) during its period of validity (Annex IV to the invitation to tender). Actual orders will be placed after the multiple framework supply contract has entered into force upon initiative of the Agency.

The order forms will be in line with the conditions laid down in the multiple framework supply contract itself and will set the terms for the supply of dispersant (i.e. quantity, time and place of delivery).

The awarded tenderers will be ranked in descending order based on the final total score obtained when applying the award criteria as per point 15 below. The multiple framework supply contract(s) will specify the ranking position of the tenderer(s) and the countries where the dispersant has been approved for use.

This ranking represents the sequence in which they will be offered an order form for the provision of a specific quantity of dispersants. Each order form will specify the main countries targeted and where the dispersant should be approved for use. If the tenderer ranked first in the list is offering a dispersant that is not approved for one or more of the countries that are targeted with that order, EMSA will not request that company, but evaluate directly the capacity of the next ranked company to provide a dispersant approved for all the countries targeted.

Article I.2.6 of the draft contract (in Annex IV to the invitation to tender) in particular refers to the possibility for EMSA to conduct a mid-term review on the status of approval of the dispersant in the EU/EFTA countries before completion of the second year of contract. After the mid-term review, if the conditions initially laid down have changed, EMSA may, after formal notification to the contractor, amend the contract to adapt the list of countries where the dispersant has been approved for use, without being required to pay compensation. The ranking of the FWC will not be affected but the new list of countries will thereafter be used for evaluating the capacity of the Company to provide a dispersant approved for the countries targeted by each order.

The signature of the framework supply contract does not constitute order *per se* and does not entail any obligation on the part of the Agency to purchase the dispersant.

3. Contract management responsible body

The European Maritime Safety Agency – Unit C.1, in charge of Pollution Response Services – will be responsible for managing the contract.

4. Project Planning

The multiple framework supply contract(s) are planned to be signed for a period of four years.

Each year, none, one, two or more orders could be signed by EMSA within the multiple framework supply contract(s). For each order the sequence of events would be as follows³:

Event	Responsible	Comment	Maximum time
Request for quotation on transport costs	EMSA	Transportation cost of the dispersant from the dispersant supplier factory to a specific delivery place indicated by EMSA.	On EMSA's initiative
Submission of quotation on transportation cost	Successful tenderer identified in accordance with the ranking position set in		Within seven calendar days from the receipt of EMSA request.

³ In line with Article I.4.1 of the draft framework supply contract (annex IV), in case of emergency the parties may agree to shorten these timeframes.

	the multiple framework supply contract "in cascade"		
Dispatch of the order form	EMSA	The order form will be sent in duplicate to the dispersant supplier.	Within one month from receipt of the quotation
Signature of the order form	Successful tenderer	The dispersant supplier will return the order form to the Agency duly signed and dated.	Within 14 calendar days from the dispatch of the order form or a stricter time frame if so offered by the tenderer.
Request for pre-financing and invoice	Successful tenderer	On request, EMSA will pre-finance 30% of the total value of the dispersant.	Following signature of the order form by EMSA.
Pre-financing	EMSA		Within 30 days following the receipt of the invoice and, where appropriate, the bank guarantee ⁴ .
Delivery of dispersant	Successful tenderer	In the order form the parties will agree on the exact quantity of dispersant, as well as on the place and time of delivery.	The delivery time should not exceed 4 weeks from the signature of the order form or a stricter timeframe if so offered by the tenderer.
Assessment of the conformity of the order	EMSA/designated recipient	Following the delivery of the dispersant, EMSA representative will assess the conformity of the order.	Within 14 days from the delivery at the identified warehouse.
Request for balance payment	Successful tenderer		When the delivery is completed.
Final payment	EMSA	The payment will be subject to positive assessment of the conformity of the order signed by the designated recipient.	Within 30 days from receipt of invoice, and proof of conformity of the delivery (consignment note and signed certificate of conformity).

5. Timetable

The estimated date for signature of the framework supply contract is September 2014. A first order of dispersants can be expected in October 2014.

⁴ The pre-financing will be conditioned to the receipt of a duly constituted financial guarantee when the total value of the dispersant in one order form is above 150,000 EUR.

6. Estimated Value of the Contract

The maximum budget available for this contract for the 4 years duration is of EUR 5,000,000 excluding VAT.

7. Terms of payment

Payments shall be issued in accordance with the provisions of the draft multiple framework supply contract (Annex IV to the invitation to tender).

8. Terms of contract

In drawing up a bid, the tenderer should bear in mind the terms of the draft multiple framework supply contract (Annex IV to the invitation to tender).

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.

9. Financial guarantees

EMSA may pre-finance, if requested, the dispersant according to the rules set-up in Article I.4.3 of the draft multiple framework supply contract (Annex IV to the invitation to tender). A model of the required pre-financing guarantee is included in Annex IV to the draft multiple framework supply contract.

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 14.5 (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, 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 14.5 & 15 of the present tender specifications.

Please note that tenderers should provide one separate bid for each type of dispersant offered. The tender must be presented as follows and must include:

- **The tenderer's checklist** filled and signed
- **Signed cover letter** indicating the name and position of the person authorised to sign the contract, the name and contact details for the contact person for this procurement procedure, and the IBAN of 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.
- 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 – **“Statement of subcontracting/joint offer”** in Annex V to the invitation to tender.
- The **bid template in Annex II** to the invitation to tender including Parts A to D below:
 - Part A:** all the information and documents required by the contracting authority for the appraisal of tenders on the basis of the points **13, 14.2-14.3** of these specifications (**part of the Exclusion criteria**)
 - Part B:** all the information and documents required by the contracting authority for the appraisal of tenders on the basis of the **Economic and Financial 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 **Technical and Professional capacity** (part of the Selection Criteria) set out under point **14.5** of these specifications.
 - Part D:** 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.
- **The financial offer: Prices** in accordance with **point 12** of these specifications and presented in the **“Price Calculation Grid”** in Annex III to the invitation to tender.

12. Price

The price for the purchase of dispersant shall be indicated in accordance with the Price Calculation Grid (Annex III to the invitation to tender) and shall include:

- the cost of the dispersant packed in IBCs for each quantity in the order (20, 50, 100, 200, 400 tonnes).
- the cost of empty IBCs (1 m³ capacity).
- Tenderers must fill in the excel version of the Price Calculation Grid available in the EMSA website www.emsa.europa.eu, through the “Procurement” section, under the link identifying the procurement procedure EMSA/OP/05/2014.
- Prices must be quoted in Euro.
- Prices may be revised according to the conditions set under article I.3.2 of the draft multiple framework supply contract (Annex IV to the invitation to tender).
- 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 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 and technical 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** and requested accompanying documentation, available on the Procurement Section (Legal Entity Form) on the EMSA Website at the following address: www.emsa.europa.eu

14.2. Grounds for exclusion - Exclusion criteria

To be eligible for participating 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 Union financial interests;

- f) they have been the subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

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.

Please note that the tenderer to whom the contract is to be awarded shall provide additional proof evidencing eligibility (that can also be already submitted at this stage if available):

- For situations described in (a), (b) and (e), production of a recent extract from the judicial record will be required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the tenderer is a legal person and the national legislation of the country in which the tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the tenderer.
- For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are 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.
- For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

When the tenderer to be awarded the contract has already submitted relevant evidence to EMSA, it remains valid for 1 year from its date of submission. In such a case, the reference of the relevant project(s) should be mentioned and the Contractor is required to submit a statement of confirmation that their situation has not changed.

14.4. Economic and financial capacity – Selection criteria

Requirements:

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

Evidence:

- Financial statements for the last three years for which accounts have been closed.
- Statement of overall turnover and turnover relating to the relevant services for the last three financial years.
- Tenderers are exempt from submitting the documentary evidence if such evidence has already been completed and sent to EMSA for the purpose of another procurement procedure, it is not older than 1 year, and still complies with the

requirements. 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, he may prove his 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 any other document enabling it to verify the tenderer's economic and financial capacity.

14.5. Technical and professional capacity – Selection criteria

To prove their technical and professional capacity, tenderers must prove the following:

- that they have experience in the field of dispersant supply. For that purpose they should provide with their bid:
 - a) Evidence that they are either official manufacturers or authorised dealers of the dispersant. Specifically tenderers shall submit patents, license agreements or license for the distribution of the dispersant.
 - b) Evidence of the accomplishment over the last three years of projects encompassing delivery of dispersant indicating the year of supply, beneficiary and the overall value.
- That they offer a dispersant that complies with the mandatory requirements regarding flash point and efficiency, as specified under point 2.2. For that purpose they should provide sufficient evidence in their bids.

15. Award criteria

Only the tenders meeting the mandatory requirements described in point 2.2, 2.3 and 2.4 above (i.e. indicated with a '**must**'), as well as the exclusion and selection criteria, will be evaluated in terms of quality and price.

Bids shall be evaluated in accordance with the following quality criteria and their associated weightings:

	Quality Award Criteria	
<u>Q1</u>	Quality of the dispersant in view of the other "non-mandatory" requirements under point 2.2 above, based on the description of the dispersant and appropriate supporting evidence.	15%
<u>Q2</u>	Quality of the proposal in terms of production, delivery and storage, in view of the non-mandatory requirements under point 2.3 above, based on the description of the arrangement and appropriate supporting evidence.	5%
<u>Q3</u>	Number of coastal EU/EFTA countries, in which the dispersant offered has been approved, based on appropriate supporting evidence or reference to the Appendix A of this invitation to tender.	40%

And the price criterion and associated weightings:

	Price Award Criterion	
P1	Price of the bid, as calculated using the Price Calculation Grid in Annex III to the invitation to tender.	<u>40%</u>

To be considered for award, tenders will have to achieve a minimum of 60% for quality criterion Q1 and Q2.

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

For Quality criterion Q3 one point will be given for each country where the dispersant has been approved with a maximum of 10 points.

The final total score is calculated as follows:

$$S = SQ + SP$$

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

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

The bids will be ranked in descending order according to the final total score as calculated above. The award process will be in two steps:

- A first multiple multiple framework supply contract "in cascade" will be awarded to the best ranked tenderer considered for award.
- The remaining bids considered for award will then be evaluated, one after the other in order of ranking in function of the "geographical coverage". In the case the next ranked bid offers a dispersant that is approved for use in one country that is not covered by the previously awarded offer(s), EMSA will also award a multiple framework contract in cascade to it.

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 14 and 15 above or have been found to have seriously failed to meet their contractual obligations in an earlier procurement 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 to these rights have been or will be acquired.

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

Appendix A: list of approved dispersants in each of the coastal EU/EFTA countries.