

ENCLOSURE 1 - TENDER SPECIFICATIONS

Enclosed to the Invitation to Tender No EMSA/OP/13/2014

Service Contract for Aerial Dispersant Application Service

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1 INTRODUCTION

The European Maritime Safety Agency (EMSA) was tasked 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 for assistance has been presented’ [Art. 2 (3) d of Regulation (EC) No. 1406/2002 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, identify how to implement these tasks. These documents are available on EMSA’s website, www.emsa.europa.eu under ‘Publications’.

2 OBJECTIVE, SCOPE AND DESCRIPTION OF THE CONTRACT¹

2.1 Overall objective

In accordance with EMSA’s Founding Regulation (EC) No1406/2002 as amended, the primary objective of this procurement procedure is to ‘top-up’ the capabilities of coastal European Union (EU) Member States and coastal European Free Trade Association (EFTA) Member States, in a cost efficient way, primarily in the field of response to oil pollution from oil and gas installations, but also in the event of ship-sourced pollution. EMSA therefore intends to provide additional response capacity to that of the pollution response mechanisms of the above-mentioned states.

2.2 Specific objective

The specific objective of this procurement procedure is to provide the means for a timely and effective aerial dispersant application service, available at short notice, in the event of a request for assistance by any European Union (EU) Member State, European Free Trade Association (EFTA) Member State or the European Commission (hereafter referred to as ‘Requesting State’) that requires this service during an actual oil spill.

EMSA aims to establish such a service with a private or public entity, or grouping thereof, for an initial period of two years (which can be renewed twice for an additional period of 12 months for each renewal). The aerial dispersant application service will be provided via an arrangement consisting of one or more airplanes, fitted with dispersant application systems (hereinafter referred to as ‘equipment’) and manned with qualified aircrew.

2.3 Scope of the work

‘Top-up’ principle

In accordance with Regulation (EC) No 1406/2002 as amended, EMSA is tasked to provide additional pollution response capacity to that of Member States. The scope of the procurement is to set up a European tier service for aerial dispersant application, which can be quickly mobilised, upon receipt of a request from a Requesting State to perform dispersant spraying during oil spill response operations and support the existing capacities at local, national or regional level.

¹ A full set of relevant definitions is included in the Draft Service Contract, attached as Enclosure 2 to the Invitation to Tender.

Area of operation

It is impossible to predict the location of future oil spill incidents in European waters with any certainty. The area of operation for the aerial dispersant application service shall be within the maritime areas under jurisdiction of the coastal EU Member States and coastal EFTA Member States.

Duration of operations

In case of mobilisation, the aerial dispersant application service shall take place during daylight hours only, as during the night time the low visibility does not allow spraying operations to be conducted in a safe and efficient manner. The number of dispersant spraying flights (referred to as 'sorties') per day may vary depending on the available daylight hours, the distance between the operational base and the location of the spill, as well as the weather conditions. It is envisaged that the airplane may perform on average three to four sorties per day. The service shall be available for a maximum period of 21 consecutive days. This period can be extended if agreed by the successful tenderer and the Requesting Party (as specified in the Airplane Incident Response Contract).

2.4 Description of the contract

EMSA will conclude a service contract² with the successful tenderer for the provision of an aerial dispersant application service.

The Draft Service Contract is attached as Enclosure 2 to the Invitation to Tender and details the main elements of the required service. The service contract shall be composed of the following:

- The Airplane Availability Contract (AAC) is the contract signed between the tenderer awarded with the contract (hereinafter referred to as 'contractor') and EMSA to guarantee the availability of the arrangement(s), consisting of the airplane, the equipment and the aircrew, for the performance of the aerial dispersant application service;
- The Airplane Incident Response Contract (IRC-A) is the contract signed between the contractor and the Requesting Party in the event of an oil spill. It sets the terms and the conditions for the performance of the service in case a Requesting State requests assistance in the context of an incident response mobilisation. The IRC-A Contract Form is the part to be signed between the contractor and the Requesting State and shall include pre-agreed terms, conditions and tariffs for the provision of assistance in order to reduce the airplane's mobilisation time. In exceptional cases, and only upon mutual agreement between EMSA and the contractor, the contractor may also enter into contract with any third party, not being an EU Member State or an EFTA country, which requires the assistance of an equipped airplane.

² EMSA reserves the right to award two contracts, following the award methodology of point 15 below and conditioned to the maximum budget under point 6 being sufficient to award the two first ranked offers.

2.5 Project phases and related tasks

a) In the Airplane Availability Contract (AAC)

The AAC includes three implementation phases:

The Preparation Phase (phase 1)

The Preparation Phase is the preparatory period that starts immediately after the signature of the contract by both parties. It is expected to last for a maximum of nine months.

During the Preparation Phase, prior to the acceptance by EMSA, the contractor shall:

- Pre-fit and adjust the airplane within the time limits set in the contract in order to ensure that the equipment can be efficiently installed, stored, deployed and operated;
- Ensure that the airplane is certified by a relevant authority to perform the services in the defined area of operation;
- Ensure that the equipment is available for the service, as well as surveyed, tested, and its function and installation in the basic airplane type is approved and certified to comply with the applicable airworthiness and operational requirements by a relevant authority;
- Ensure that the aircrew have received or will receive the appropriate training before the beginning of the Stand-by Phase and that this training has been approved by the competent authority;
- Finalise all amenities, facilities and conditions required for the receipt and storage of the equipment;
- Finalise all amenities, facilities and conditions required for the receipt, storage and management of dispersants (if the storage of dispersants is included as an option in the bid);
- Obtain all certificates and authorisations required;
- Send a **Monthly Report** to EMSA to provide information about the activities that have been undertaken as well as about any event or occurrence that might delay the finalisation of the Preparation Phase;
- Send a **Status Report** in case the Preparation Phase cannot be completed within the time limits set in the contract in order to report on the activities that have been carried out and draw attention to those that have not been completed as expected;
- Issue a **Completion Report** within the time limits set in the contract when all the preparatory activities have been performed;
- Deliver to EMSA a scale model of the airplane and the equipment.

EMSA will compensate the contractor for the initial Preparation Phase by paying a compensation fee as stipulated in Article V.1 of the AAC.

The content of the Completion Report should cover, as a minimum, the following elements:

- General description of the airplane (including the definition of type and model of the basic airplane and airplane state of registry) and of the equipment;
- Description of additional airplane modifications and equipment installations supporting the operational use in aerial dispersant application services (including the associated Minor/Major Change Approvals and/or Supplemental Type Certificates) and the associated costs (if any);
- The equipment storage and maintenance plan;

- Relevant training activities undertaken for staff and aircrew including the operational approval from the competent authority;
- Plan for the drills during the Stand-by Phase of the contract;
- Relevant emergency/notification procedures covering the Stand-by Phase;
- Proof that all approvals/certificates from relevant airworthiness authorities have been issued, covering the Type Certification of the basic airplane and the new and/or additional installations and purpose of the airplane.

In addition, the following documentation should, as a minimum, also be provided:

- A general layout illustrating the configuration of the airplane when undertaking dispersant spraying operations;
- Diagrams presenting the equipment in the airplane, with the dispersant storage, pumping and spraying arrangements;
- Technical manuals for the equipment. Such technical documentation shall be in English;
- Confirmation of the compliance with the insurance provisions as per Article XIV of the AAC (including full risk insurance for the dispersant if the storage of dispersants is as an option included in the bid).

EMSA will analyse the Completion Report and will either accept or reject the report. If the Completion Report is rejected, a new report shall be submitted within 14 days of the date of EMSA's request. On the other hand, if the Completion Report is accepted by EMSA, a first oil pollution response drill ('**Acceptance Drill**') will be performed. The Acceptance Drill is performed with the scope of demonstrating that the arrangement is ready to perform the service. During the execution of the Acceptance Drill the following elements shall be verified:

- Preparation of the airplane,
- On board installation and functioning of the equipment,
- Performance of the aircrew, including flying the airplane and operating the equipment.

EMSA requires that a minimum of one Acceptance Drill is performed for each equipment set included in the tenderer's offer. Tenderers that offer two or more equipment sets must perform a number of Acceptance Drills equal to the number of equipment sets included in the offer.

Tenderers that include in their offer a pool of airplanes (i.e. a larger number of airplanes than the number of equipment sets for an efficient mobilisation) shall perform one Acceptance Drill for each airplane that is part of the pool (with different crews if applicable) in order to prove the compatibility of the airplane with the equipment. However, for those airplanes that have already received an official statement and/or documentation (e.g. certificate, approved project documentation, approved flight test) from a relevant airworthiness authority, demonstrating that the on board installation and operation of the equipment has been tested, EMSA shall accept this as equivalent proof and will not request any additional Acceptance Drills other than the minimum Acceptance Drill(s) required for each equipment set included in the offer.

EMSA may attend the Acceptance Drill as observer in order to verify that the contractor has achieved suitable and sufficient response capacity in accordance with the contract requirements.

Subject to no deficiencies during the Acceptance Drill and the provision of a **Drill Report** by the contractor, EMSA will issue the **Acceptance Note** within 10 days after the date of the drill. Otherwise, if any deficiencies are

identified during the Acceptance Drill or in the Drill Report, EMSA may request a new Drill Report (within 10 days after the date of the drill) and/or set a date for a new Acceptance Drill.

In the event that the Preparation Phase extends beyond the duration committed within the offer, EMSA may reduce or recover payments in proportion to the scale of delay in accordance to Article VII of the AAC (Enclosure 2 to the Invitation to Tender).

The Stand-by Phase (phase 2)

The Stand-by Phase begins on the day following the acceptance of the arrangement and lasts for a period of 24 months. The Stand-by Phase can be followed by a maximum of two renewals for additional period of 12 months each subject to an amendment agreed by the two parties.

During the Stand-by Phase the contractor, while continuing to perform the usual activities with regard to the airplane, shall ensure that the arrangement is always ready for use in case of an emergency pollution response request.

The contractor will be requested to perform a minimum of one **Pollution Response Drill**, every six months, with a foreseen duration of one day. If two or more equipment sets are included in the offer, then the contractor will be requested to perform a minimum of one Pollution Response Drill for each equipment set every year. In case of two or more equipment sets, crews and airplanes, the contractor should endeavour to involve all these resources in the drills in order to be compliant with a minimum level of tests and training. Furthermore, the contractor will be requested to participate in one or two **Operational Exercises** per year, for a maximum of six days in total. Specific reports on the Operational Exercises shall be submitted to EMSA within two weeks.

For the entire duration of the Stand-by Phase, the contractor shall provide the storage of the equipment, and the storage of the dispersant if this is included in the offer, in accordance with the manufacturer's requirements.

The contractor shall have all the capabilities in place for safely and efficiently handling the equipment for installation on board the airplane. The contractor shall also be responsible for undertaking maintenance of the equipment as recommended by the manufacturer.

The contractor shall provide comprehensive **Quarterly Reports** at the end of each calendar quarter, summarising all the activities carried out in relation to the implementation of the contract including actual oil pollution response operations. The Quarterly Reports should include, as a minimum:

- **Drill Report** (if performed in that quarter) in accordance with guidelines agreed in the kick-off meeting;
- Summary of the exercise(s) (if any performed in that quarter) and performed aerial dispersant application (in case of actual mobilisation);
- Reference to identified deficiencies and/or incidents relevant to the performance of the contract;
- Description of other activities performed by the contractor under the contract (including regular maintenance/verification of the equipment as well as of dispersants if foreseen in the contract).

Furthermore, the contractor shall report to EMSA any maintenance work, damage or losses sustained by the airplane and/or the equipment, as well as any unforeseen event (e.g. incidents, accidents), force majeure, action or omission with the potential to directly or indirectly affect the execution of the service.

EMSA or its representatives may, at any time, conduct an inspection of the airplane/equipment and review any document pertaining to the airworthiness of the airplane. EMSA will notify the contractor in writing if any deficiency that might affect the safety of the airplane is reported during an inspection.

The contractor has to submit a **Final Report** within 30 days after the termination of the Stand-by Phase, along with relevant documents or procedures developed during the implementation of the contract. An evaluation of the performance of the contract must also be provided together with this Final Report to point out any lessons learned and any proposals for improving the service.

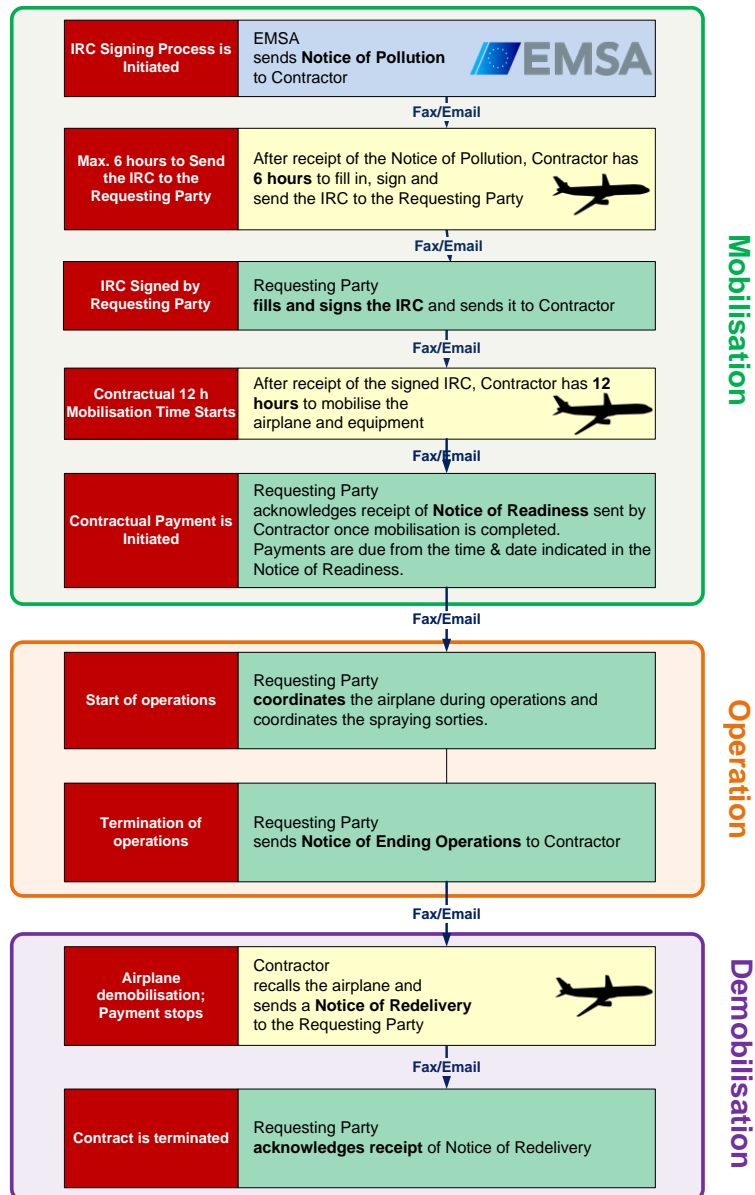
Closure Phase (phase 3)

At the end of the initial Stand-by Phase the service contract may definitively expire or may be renewed. In the event that dispersant is stored by the contractor, she/he may be required to store the dispersant for a period up to three months after the end of the Stand-by Phase. EMSA will, by written notice, require the contractor to make available and ready for transportation any remaining stock of dispersant. This written notice must be given prior to or within one month of the expiration of the contract or of the date of early termination of the contract.

b) In the Incident Response Contract for the Airplane (IRC-A) **(In case of a request for operational services)**

The conditions for the performance of the service in case of a request to respond to an incident are set by the IRC-A. The IRC-A shall enter into force when the contractor receives the IRC-A Contract Form signed by the Requesting Party and ends once the airplane is demobilised and ready to resume its normal activities. The IRC-A shall be in force for a maximum duration of 21 consecutive days, which can be extended should it be agreed by both parties. The parties will agree on the estimated duration of the aerial dispersant application operations taking into account an estimate on the number of payloads necessary to treat a slick and the distance between the spill location and the operational base.

The main steps and sequence for the mobilisation of the service and execution of the IRC-A are presented in the following flowchart:



During the execution of the IRC-A, the contractor's arrangement shall perform under the instructions of the Requesting Party, which will be in charge of and coordinate the aerial dispersant application operations and will put in place the necessary logistical arrangements to facilitate and support the aerial dispersant application operations.

The contractor shall provide the fully equipped airplane together with sufficient aircrew qualified for performing dispersant spraying operations. The airplane should also be fitted with all accessories/supplies required to load dispersant and to contain accidental dispersant spills on board the airplane. The contractor, through its own aircrew or a contracted agent, may be in charge of loading the dispersant onto the airplane. Furthermore, the contractor shall ensure that the airplane shall not act against the orders of the Requesting Party or its nominee, except when the orders may be in violation of applicable laws or endanger the airplane, equipment or aircrew.

Dispersant may be supplied by EMSA and/or by the Requesting Party. The contractor shall not have any responsibility with regard to the transport of the dispersant, as the Requesting Party alone shall bear such responsibility as well as all associated costs.

The Requesting Party may provide a spotter airplane together with qualified aircrew in order to support the airplane in performing the spraying operations. Alternatively, should the spotter airplane be part of the contractor's offer, the Requesting Party may decide to contract it by filling in the appropriate box of the IRC-A Contract Form. The spotter airplane will fly in conjunction with the dispersant spraying airplane and will provide it with the necessary assistance to target more precisely the oil slick to be treated with dispersant.

The disposal of all wastes and dispersant contaminated items generated during the dispersant spraying operations shall be under the sole responsibility of the Requesting Party.

2.6 Specific requirements regarding the dispersant payload

The more time a spraying arrangement (i.e. airplane plus equipment plus aircrew) needs for refilling with dispersant and flying to and from the operational base, the less time it will spend performing spraying operations. Furthermore, an arrangement providing a higher dispersant payload can ensure the application of dispersants over a larger sea surface area. In view of these considerations, the minimum dispersant payload capacity for each airplane part of the arrangement shall be 4 tonnes³. The airplanes with a greater dispersant payload are preferred by EMSA, and shall be scored higher in accordance with the scoring table presented in point 15.3.1 of this document.

2.7 Specific requirements regarding the arrangement

Each tender can include one or more arrangements. Each arrangement offered by the tenderer for the provision of the aerial dispersant application service should be a combination of the following elements:

- One or multiple airplanes for dispersant spraying;
- One or more sets of equipment to be fitted on the airplanes for dispersant spraying;
- Aircrew.

2.7.1 Specific requirements regarding the airplane

The airplane(s) to be offered for the provision of the aerial dispersant application service must comply with the requirements set up in this document. If an airplane does not initially comply with these requirements, the airplane provider may foresee in its time plan the necessary adjustments (or pre-fitting works) to be performed for meeting them.

³ The dispersant payload is different from the airplane's maximum payload as the dispersant is to be loaded as part of equipment. The dispersant payload is dependent on the type and design of the equipment to be fitted, which influences the number and capacity of the dispersant storage tanks. As a general example, for an airplane with a maximum payload of nine tonnes, the dispersant payload may only be six tonnes.

The on board installation of the equipment during dispersant spraying operations should be done safely, in accordance with the applicable airworthiness requirements.

Cruising speed

The minimum cruising speed that the airplane shall achieve in order to ensure good transit time during mobilisation and/or operations is 245 KCAS⁴ (approx. 454 km/h). An airplane with a speed higher than 245 KCAS is preferred by EMSA. Airplanes that can transit to the operational areas in pressurised flight are preferred. The bid offering the airplane with the highest true air speed shall be scored highest in this regard.

Operational range

Oil and gas installations as well as ships often operate in waters that are not near the coast, and therefore the travel distance to a spill location could be a limiting factor depending on the operational range of the airplane⁵. The airplane shall have a minimum operational range of 350 nautical miles (approximately 648 km) at maximum payload (equipment plus aircrew plus dispersant), considering that it needs to travel to the spill location, spray dispersants and be capable of returning to the operational base for refill and refuel. However, for the safety of the operations and for ensuring more operational flexibility, an operational range of 1000 nautical miles (1852 km) and above is preferred by EMSA. The bid offering the airplane with the highest operational range shall be scored highest in this regard.

Flight altitude during dispersant spraying operations

The dispersant needs to be applied in such a way that it reaches the floating oil slick and is not carried away by wind. It also needs to take the form of a uniform 'carpet' of spray that hangs in the air and then settles slowly onto the oil slick. For this reason, a low altitude is required as this will minimise the influence of the wind factor. Consequently, the offered airplane should be capable of performing dispersant spraying operations at appropriate altitudes. Airplanes able to perform dispersant spraying operations at altitudes of approximately 50 metres (164 feet) or less above the sea surface are preferred by EMSA. This may require a review of the airplane type design characteristics, of the crew training, of the airplane maintenance programs (e.g. extended operation in salty atmosphere) and operational authorisations.

On board aircrew capacity

The airplane shall have the capacity to accommodate the pilots and the operating crew for performing the dispersant spraying operations.

Furthermore, because the Requesting Party, during an oil spill, may choose to place a liaison officer on board each airplane that is mobilised, and because EMSA may decide to send an observer on board, it is preferred that the airplane has capacity and is permitted to also accommodate these two additional people during the aerial dispersant application operations.

Age

The age of the airplane will be considered in the evaluation. For this purpose, an airplane which is less than 20 years old is preferred by EMSA.

⁴ Knots Calibrated Air Speed

⁵The majority of the oil and gas installations that are located in the European waters are within 160 nautical miles (300 km) from the nearest airport that could be used as operational base during a spill incident.

Maintenance

The contractor shall be required to maintain, to service, to repair and to overhaul the airplane and associated equipment, using the services of adequately qualified personnel, with the purpose of ensuring the continued airworthiness of the subject airplane.

In this regard, the contractor shall perform all routine/scheduled and unscheduled maintenance (including but not limited to A, B, C level checks) in compliance with the applicable regulations. The contractor shall be entitled to a total Allowable Down Time (ADT) of 10 days per calendar year during the Stand-by Phase of the contract, for performance of maintenance in accordance with the manufacturer's/contractor's approved schedule for the airplane, and without any reductions of the Annual Availability Fee. In case the total down time per calendar year caused by scheduled and unscheduled maintenance exceeds the ADT, then this may constitute failure to perform contractual obligations. In accordance with Article VII of the AAC, EMSA may reduce or recover payments *pro rata temporis* in proportion to the scale of failure. The contractor shall provide at the beginning of each year the planning of the scheduled maintenance programme for each airplane included in the offer. In addition, the contractor shall inform EMSA without delay each time when the need for an unscheduled maintenance has been identified for one of the airplanes included in the offer. In this case EMSA should be informed about the start of the down time and the estimated duration. Upon completion of the unscheduled maintenance the contractor shall confirm the airplane's availability to EMSA.

Nevertheless, an arrangement that does not require any airplane down time is preferred by EMSA (e.g. pool of airplanes or equalised maintenance programme).

Communication

Besides the mandatory communication systems for normal operation of the airplane as requested by the aviation regulations, the necessary external communication tools shall be in place to exchange information with other assets such as surveillance/spotter airplanes, pollution response vessels and/or onshore coordination centres involved in the pollution response operations.

2.7.2 Specific requirements regarding the equipment

The equipment needs to be installed on the airplane in order to provide aerial dispersant application capability. Furthermore, the equipment including its installation on the relevant airplane type needs to be approved by the competent authority before it can be installed and utilised.

Aerial equipment usually has the following three main components:

- Dispersant storage tanks:
The number of storage tanks can vary depending on the type of airplane used. The tanks should be provided with arrangements that allow easy and quick loading of dispersant.
- Pump:
The pump model should be an electrically powered centrifugal pump with flow control and control panel, especially designed to ensure the required flow rates.
- Spray arms/nozzles:
The spraying component shall consist of spray arms/nozzles capable of ensuring the required flow rate and swath width as mentioned below.

The system should also be provided with an appropriate set of spares to ensure smooth and uninterrupted operations, as well as ground support equipment for the loading, installation and maintenance of the equipment.

Flow rate

The equipment is intended for use during response to large scale spills caused by offshore installations and for this reason it should have the capability of ensuring good application rates⁶ in conjunction with the appropriate airplane. Therefore a good flow rate is important as it ensures that more oil can be treated on a daily basis. A system providing a flow rate higher than 500 litres/minute is preferred by EMSA. The bid offering the equipment with the highest flow rate shall be scored highest in this regard.

Swath width

The swath width represents the width of the spray pattern, and is another important factor that influences the quantity of oil treated on a daily basis, as it has a direct influence on the area treatment rate⁷. For EMSA's purposes, the preferred effective swath width of the equipment should be of at least eight metres.

The tenderers shall provide appropriate proof of testing the equipment (e.g. flight test results, technical manuals) in terms of efficiency and working parameters (e.g. spray pattern, droplet size, flow rate, swath width, etc.).

2.7.3 Specific requirements regarding the aircrew

In order to provide a high quality service, the tenderer shall supply all the necessary aircrew for the specific type of airplane in respect of composition, experience, qualifications and training in accordance with the applicable regulations and standards set by its respective National Aviation Authority.

The contractor's aircrew performing tasks in relation to the contract shall possess the professional qualifications and experience required for the execution of the service, and should have attended or should attend an appropriate training program on aerial dispersant application and all aspects related to the preparation for such operations.

In this regard, the tenderer shall address the following requirements when drawing up the offer:

Manning

The contractor is expected to perform airplane operations in accordance with the national 'aerial work' regulations. Tenderers shall submit a table justifying that with the usual aircrew plus the additional personnel required for pollution response (if applicable) it will be possible to work in pollution response mode for the entire period of time as stipulated in the contract.

For ensuring the proper management and supervision of the airplane, the equipment and associated aircrew, the contractor shall nominate a designated manager and an alternate.

⁶ The **application rate** is the volume of sprayed dispersant divided by the surface area covered by the spray and is expressed in litres/km².

⁷ The **area treatment rate** is the amount of polluted surface that is being chemically treated with dispersants in a given time frame (km²/h). This rate is a function of swath width and airplane speed so that a wide swath width and/or fast airplane leads to an increased area treatment rate.

Any information such as the number of daily working hours per aircrew member and the overall weekly (or monthly) working hours per aircrew member, or an operations manual, which establishes flight time and flight duty time period limitations for flight aircrew and which makes provisions for adequate rest in accordance with the appropriate national and European regulations can be part of the documentation in the bid to prove compliance with requirements regarding manning.

The tenderer shall provide a minimum number of pilots qualified to fly the specific type of airplane, which shall not be less than specified in the flight manual or in other documents associated with the relevant certificate(s).

Training

During a spill response operation, the tenderer's aircrew or the contracted agent may be required to load the dispersants on board the airplane and operate all the associated equipment including that required for the dispersant spraying activities. It is not necessary that the aircrew (and/or replacement aircrew) have already been trained for dispersant spraying operations at the time of the tender submission. However, the tenderer shall provide relevant flight crew training programme supporting the operational use in aerial dispersant application services, and the associated approvals from the competent authority (if already available) or the planning how an operational approval is planned to be obtained. Due proof of successful attendance of the trainings shall be provided to EMSA in line with the training schedule. The training programme shall include the following as a minimum:

- Training regarding flight operations, such as the aerial dispersant application; including sustained very low level flight and failure recovery at low altitude; and
- Training regarding use of the equipment.

If aircrew is already significantly experienced in very low altitude maritime operations, it will be taken into account for the award. Practical experience in dispersant spraying operations will be an advantage for the award.

When operating under an international command and control structure the aircrew on board the airplane may be required to exchange information with other surveillance airplanes, ships and onshore stations. Good command of English language will be needed for these purposes.

2.8 Requirements regarding the logistics for the mobilisation

Taking into consideration the oil weathering process, it is very important for the airplane to arrive on-site as soon as possible. The sooner an airplane is on-site the more effective the dispersant spraying operations can be. The completeness and quality of the logistical arrangements will be evaluated based on the degree of flexibility of the proposed arrangement (airplane plus equipment plus aircrew), as well as on the mobilisation time and mobilisation plan and on the conditions proposed for the equipment storage (and for the storage of dispersants if this option is included in the bid).

Flexibility of proposed arrangement

Tenderers may propose one or multiple arrangements (airplane(s) plus equipment plus aircrew) to be activated and used simultaneously in case of a request. The more arrangements that are proposed for a simultaneous mobilisation (e.g. two airplanes, each fitted with different equipment sets and aircrew, activated to perform spraying operations at the same time), the more flexible the service will be as more alternatives for mobilisation

and deployment of resources will be possible. Accordingly, tenders offering the possibility for simultaneous mobilisation of multiple arrangements are preferred and shall be evaluated higher.

Mobilisation Time

The time required to mobilise an airplane has a direct link to its rapid arrival to the location of the spill. Consequently, the mobilisation time will be evaluated. It is expected that the airplane concerned will normally be engaged in other activities. In the event of an oil spill and following a request for assistance, the airplane is to cease its normal activity, load the equipment and operate as a dispersant spraying airplane. The time required to undertake this transformation from its normal day-to-day activities to dispersant spraying airplane will, in part, be determined by the situation and status of the airplane at the moment when it is 'activated' for spill response. Another key element is how a tenderer intends to ensure that the aircrew and equipment are on board the airplane in a timely manner.

As stipulated in Article IV.3.13 of the AAC, after receipt of the Notice of Pollution from EMSA, the contractor shall be entitled to a maximum of six hours to sign the IRC-A and send it to the Requesting State for countersignature. The target then for the maximum mobilisation time of the airplane is **12 hours** from the moment the contractor receives the IRC-A signed by the Requesting Party, as stipulated in Article III.2 of the IRC-A.

Within the targeted mobilisation time as mentioned above (i.e. 12 hours) or less, the airplane is expected to end its normal activities, fly to the location where the equipment is stored, load the equipment and make all other necessary arrangements in order to be ready to fly to the operational base indicated by the Requesting State. It is preferred by EMSA if the tenderer commits in its offer to have the airplane not only 'ready to fly' within 12 hours or less of receiving the signed IRC-A from the Requesting Party, but also already in the operational base indicated by the Requesting Party, ready to commence the aerial dispersant application operations.

In order to evaluate the mobilisation time proposed, tenderers shall include in the Bid Template the maximum estimated mobilisation time to each of the following five hypothetical operational bases in Europe, starting from the moment when the IRC-A signed by the Requesting Party is received:

- Aberdeen (UK);
- Hammerfest (Norway);
- Limassol (Cyprus);
- Lisbon (Portugal);
- Valletta (Malta).

If multiple airplanes are offered as part of the arrangement, the tender shall provide the estimated mobilisation time separately for each airplane, or the maximum for the entire arrangement if it is not possible to provide individual estimates per airplane.

Tenderers shall propose in their bids the location(s) for the storage of the equipment, as well as the procedure to handle, transport and install the equipment on board when the airplane is mobilised. The proposed locations shall be chosen bearing in mind the need for a minimum mobilisation time, in accordance with the mobilisation time targeted by EMSA. In this regard, the tenderers may take into consideration, for the storage of the equipment, locations that are within or in close vicinity of the airplane's common operational area/routes during the normal activities, including the airplane's base in case the airplane is operating in its vicinity. A location that is distant from the airplane's common operational area/routes may cause an increase of the time required for the

mobilisation of the arrangement, as the airplane may need to fly longer to reach the location where the equipment is stored. The tenderer offering the flexibility that allows EMSA to select the location(s) for the storage of equipment shall be evaluated higher in this regard.

The tenderers that include in their bid the option for the storage of dispersant should also propose location(s) for the storage of dispersant supplied by EMSA. Dispersant may be stored in the same area as the equipment.

Mobilisation Plan

The mobilisation plan to be presented should be realistic. It should be noted that there is no standard template for the presentation of this plan as each case is different. However, tenderers should submit this plan explaining how they would react in case of emergency, in order to have the airplane ready to fly for pollution response operations with the equipment installed on board. The mobilisation plan should include the following elements:

- Usual or expected routes of the airplane;
- Indication of possible equipment storage locations;
- Consideration of different scenarios depending on the airport of departure: if the airplane engaged in the operations is within or outside the expected routes; the time calculated to discharge the cargo, to end the operations, to fly to the location of the equipment, to load fuel (and the dispersant spraying equipment) and aircrew, ready for wheels up, etc.;
- Indication of the probability of each scenario based on the expected routes of the airplane;
- Cargo discharging arrangements where applicable;
- Equipment handling/loading arrangements where applicable;
- Need for re-fuelling or additional supplies;
- Internal procedures for mobilisation;
- Aircrew considerations – need for additional or different aircrew;
- Mobilisation time for each scenario.

Tenderers shall also indicate if an additional/separate aircrew will be provided to perform the aerial dispersant application service.

Equipment storage conditions

The equipment storage place shall comply with the following requirements:

- Indoor area, fenced, secured, and with adequate lighting;
- Provided with utilities in order to facilitate maintenance of equipment;
- Equipment is stored in such a way that there is sufficient space to handle it safely and with adequate access to means of transportation.

Dispersant storage conditions (if option for the storage of dispersant is included in the bid)

Tenderers may also decide to include in their offers, as an option, the storage of dispersant provided by EMSA. In case of award, EMSA might decide to include in the scope of the contract this storage of dispersants as offered, or not to include it. This option, and the associated costs (see costs for the closure phase under paragraph 12.4 hereunder) will not be taken into consideration in the evaluation of the tender in the award phase.

The maximum quantity of EMSA dispersant to be stored shall be up to 50 tonnes.

The EMSA dispersant will be stored in Intermediate Bulk Containers (IBCs) of 1 m³ capacity each (weighing approximately one tonne), with the following external dimensions: Length 1.2 m x Width 1.0 m x Height 1.16 m.

The storage facility shall comply with the applicable local and/or national legislation with regard to the storage of dispersant and shall be certified in this regard if so required. Furthermore, the facility shall meet the dispersant manufacturer's recommendations in terms of storage, as follows:

- Well ventilated enclosed space with no direct sunlight exposure;
- Flat levelled surface;
- Secure premise with restricted access;
- Internal ambient temperature between -5°C and +50°C;
- Proper access ways and easy access;
- Cargo handling equipment.

In addition, the storage facility would preferably have in place fire-detection systems, fixed fire-fighting systems and water supply for fire-fighting. Access to fire fighting vehicles and personnel should be unrestricted.

The dispersant IBCs shall be marked with labels that will be provided by EMSA.

2.9 Requirements regarding the duration of the Preparation Phase

The Preparation Phase of the service contract is expected to be finalised within a maximum of nine months from the date the contract is signed by both parties. However, the tenderers providing a shorter Preparation Phase are preferred by EMSA and shall be scored higher.

Accordingly, in their bids, the tenderers are required to commit to a maximum duration of the Preparatory Phase for the proposed arrangement, which shall not exceed nine months from the date the contract is signed by both parties.

As the completion of the Preparation Phase is highly dependent on the status of approval of the specific spraying equipment to be installed in the airplane proposed, evidence of the project status should be submitted by tenderers to allow for the evaluation of the risk associated with any pending certification. Such evidence should include for example:

- Certificates already issued by a relevant airworthiness authority (e.g. Supplemental Type Certificates or equivalent certificate/documentation for military airplanes); and/or
- Evidence of the advanced testing and certification project status submitted to a relevant airworthiness authority, including a built equipment prototype and performed official flight tests; and/or
- Evidence of previous projects for the same type and model of equipment (e.g. equipment manufactured and certified for the same type of airplane, for another client).

In case of ongoing certification project(s) for approval of the installation of the dispersant spraying equipment and the dispersant spraying operations on the relevant airplane type, tenderers (and their partners) may allow the relevant airworthiness authority to share the details of the actual project status with EMSA.

2.10 Requirements regarding the spotter airplane (if included in the offer as an option)

In order to provide additional support for the spraying airplane during the operations, the tenderer may choose to include, as an option to its tender, a spotter airplane, together with qualified crew.

The provision of a spotter airplane service in the tender is optional, but tenderers providing the possibility for the Requesting Party to request a spotter airplane might be evaluated higher as an advantageous point, as per point 15.1 of this document (quality criteria Q5).

In accordance with the provisions of the IRC-A and the signed IRC-A Contract Form (Annex 3 of the IRC-A) if it is included in the offer, the spotter airplane shall be mobilised only if requested by the Requesting Party and associated costs will be paid by the Requesting Party

The tenderer shall provide, as part of the spotter airplane's crew, a trained aerial observer (which can also be the pilot/co-pilot). The observer will have the responsibility to monitor the effectiveness of the spraying activities and will assist the pilot of the dispersant spraying airplane in conducting the operations (e.g. when to commence and cease spraying), as well as guide him towards the heaviest concentrations of oil.

The spotter airplane may be mobilised for the entire duration of the dispersant spraying operations, and the initial mobilisation time shall not exceed the mobilisation time of the spraying service, as described in point 2.8 of this document.

3 CONTRACT MANAGEMENT RESPONSIBLE BODY

The European Maritime Safety Agency - Pollution Response Services Unit - will be responsible for managing the contract.

4 PROJECT PLANNING, REPORTS AND DOCUMENTS TO BE SUBMITTED

4.1 Project milestones

A range of project milestones are identified in the table below. **These milestones are indicative** and related to actions to be taken by both the contractor and EMSA:

Event	Comment	Indicative date	Payment scheme
Signature of the contract	End of the procurement procedure.	May 2015	
Kick-off meeting	The project manager of the contractor will attend this meeting at EMSA premises to discuss about the implementation of the Preparation Phase.	At the date of the contract signature by both parties or shortly thereafter	

Pre-financing	If requested by the contractor.	Within 30 days after the receipt of the invoice	EMSA will pay 50% of the compensation for the Preparation Phase (as per Article V.1.2 of the AAC)
Preparation Phase of the contract: Monthly Reports	The contractor will undertake all the necessary activities that are requested to prepare the arrangement for the service.	Within nine months following the contract signature	
Completion Report	To be submitted by the contractor together with the invoices for the payment of the balance of compensation for the Preparation Phase.		
Airplane Inspection & Acceptance Drill(s) ⁸	To be carried out by EMSA representatives & the contractor.	Within 14 days from the acceptance of the Completion Report	
Acceptance Note	To be issued by EMSA subject to the positive assessment of the Acceptance Drill(s) and the provision of the contractor's Drill Report(s).	Within 10 days from the receipt of the Drill Report	EMSA will pay the remaining 50% of the compensation fee for Preparation Phase (as per Article V.1.3 of the AAC)
Beginning of the Stand-by Phase	Following the issue of the Acceptance Note by EMSA.	24 month duration	
Availability Fee Payment Request	To be paid by EMSA following the acceptance of the Quarterly Report and the relevant invoice sent by the contractor within 10 days after the end of each calendar quarter.	EMSA pays within 30 days following receipt of the Quarterly Report and the relevant invoice	

⁸ Separate Acceptance Drills will be conducted for each arrangement in case more than one airplane is contracted.

Initial Stand-by Phase of Contract ends	End of the Contract. Final Report to be sent by the contractor.	24 months after Stand-by Phase starts	
Renewal of the contract	If agreed by the parties, the contract may be renewed twice. The existing obligations related to the service cannot be amended.	Additional Stand-by Phase of 12 months for each renewal	
Storage and maintenance of dispersant <i>(If option included in the offer)</i>	The contractor will make available at the existing storage location and ready for transportation the remaining dispersant stockpiles.	Within three months after the end of the Stand-by Phase	

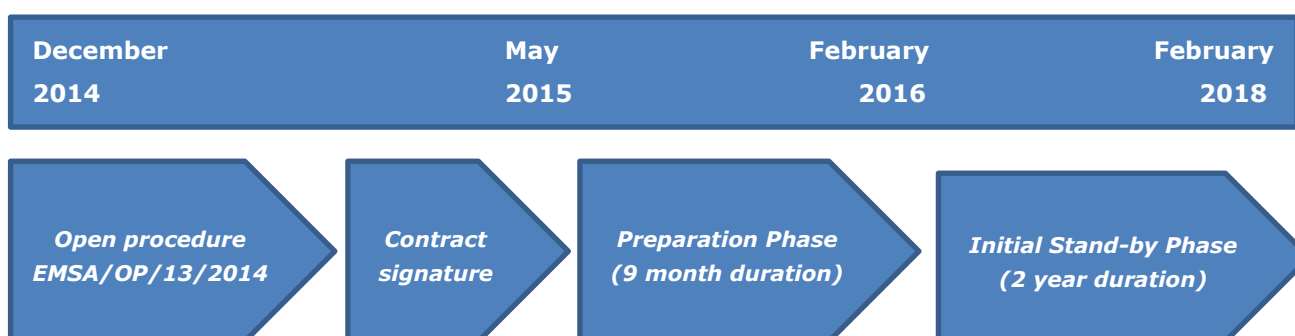
4.2 Kick-off meeting

The kick-off meeting will be organised at the initiative of EMSA at the date of the signature of the contract or after the signature of the contract, at the date to be communicated well in advance. It shall be held at EMSA premises and its purpose shall be to enable both contracting parties to discuss the project, as well as to settle all the details of the work to be undertaken. It is expected that the contractor's project manager, indicated as responsible person for the work to be undertaken, will be present at the kick-off meeting. Costs for attending the kick-off meeting will be covered by the contractor.

5 TIMETABLE

The estimated date for signature of the service contract is May 2015.

The maximum duration of the first term of the contract should be two years and nine months, divided as follows:



This first term could be followed, if agreed by the EMSA and the contractor, by two annual renewals.

6 ESTIMATED VALUE OF THE CONTRACT

The maximum total budget available for the contract for the first term (T_{CV}) is EUR 2,300,000 excluding VAT⁹.

The maximum ceiling for the price of the compensation for the Preparation Phase (P_{CP}) is EUR 50,000 excluding VAT.

The maximum ceiling for the price of the compensation for the Closure Phase (P_{CC}) is EUR 50,000 excluding VAT.

The contractor shall provide detailed evidence for the expenditures foreseen for the Preparation and Closure Phases as justification for the requested compensation(s).

EMSA reserves the right to award two contracts under this procurement. Each contract would correspond to one tender as per these tender specifications and can include an arrangement with one or more airplanes and one or more sets of equipment. In case of award of two contracts, the maximum total budget available above will apply overall for the two contracts.

7 TERMS OF PAYMENT

Payments shall be issued in accordance to the provisions of the draft service contract (AAC and IRC-A) enclosed to the Invitation to Tender.

Tenderers should note in particular that:

- The costs associated with the Preparation Phase shall be covered by the Compensation fee as per Article V.1 of the AAC.
- Costs related to salaries, training, insurance, maintenance, storage of equipment, the Pollution Response Drills and any other costs related to the tasks during the Stand-by Phase shall be covered by the Annual Availability Fee to be paid by EMSA quarterly in accordance with Article V.2 of the AAC.
- Compensation for the participation in an Operational Exercise will be paid by EMSA in accordance with Article V.3 of the AAC.
- Costs linked to emergency operations will be paid by the Requesting State based on the IRC-A payment modalities. The contractor shall receive the payment of the following fixed rates (set under Article IV of the IRC-A):
 - Daily Operational Rate (DOR) for the whole duration of the mobilisation;
 - Hourly Flight Rate (HFR) for the time the airplane is flying;
 - Additional costs associated to the mobilisation of the airplane as stated in Article IV.4 of the IRC-A.
- Costs and/or expenses associated to the storage of dispersants and Closure Phase will be compensated by EMSA as set out in Article V.4 of the AAC (if this option for storage of dispersants is offered in the tender and requested by EMSA to the awarded tenderer).

⁹ EMSA is exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

8 TERMS OF CONTRACT

In drawing up a bid, the tenderer should bear in mind the terms of the AAC, enclosed in the Invitation to Tender. Before signing the contract with the awarded contractor, EMSA will request updated evidence on the status of approval of the specific spraying equipment to be installed in the proposed airplane, to allow for the updated evaluation of the risk associated with any pending certification, as identified under point 2.8 above. EMSA may, before the relevant contract is signed, either abandon the procurement or cancel the award procedure without the tenderers being entitled to claim any compensation.

9 FINANCIAL GUARANTEE

EMSA can pre-finance, if so requested by the company awarded the contract, the preparatory works according to the rules outlined in the contract. A model of the required pre-financing guarantee is included in Annex IV to the AAC (Enclosure 2 to the Invitation to Tender).

10 SUB-CONTRACTING

If the tenderer intends to either subcontract part of the work or realise the work in cooperation with other partners he shall indicate in his bid 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 the selection criteria as specified in point 14.6 and/or 14.7 (technical and professional capacity) of this document, then each subcontractor shall provide the required evidence for the exclusion and selection criteria mentioned in point 14. To rely on the capacities of a subcontractor does not mean that the tenderer has to use deliveries or services of another company but that this company and its special capacity is central to the capacity of the tenderer 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 EMSA is English. Bids must include an English version of the documents requested under points 14.6, 14.7 and 15 of the present tender specifications.

Each tenderer is allowed to present several bids or participate to other bids, providing different arrangements. Each bid will be evaluated separately.

The tender must be presented according to the structure below, 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 bank account including IBAN 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 requested Legal Entity and Financial Forms if such forms have 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 subcontract part of the work or realise the work in cooperation with other partners (Joint Offers), s/he shall indicate this in her/his offer by completion of the form – ‘**Statement of subcontracting/joint offer**’ in Enclosure 4 to the Invitation to Tender;
- The **Bid Template** in Enclosure 3 to the Invitation to Tender including Parts A to E 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 **14.5** 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 points **14.6** and **14.7** 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.
Part E: The **financial offer** has to indicate the **Prices** in accordance with point **12** of these specifications and as presented in the ‘**Price Calculation Grid**’;
Part F: all the information related to the conditions of the storage of dispersant applicable if this option is included in the bid in accordance with point **2.8**.

The tenderers should note the following important points:

- Failure to submit relevant information by the tenderer will be grounds for rejection of the bid from the procurement process;
- The responsibility lies with the tenderer to verify that all documentation requested in the ‘Invitation to Tender’ is provided.

12 PRICE

Prices for the service contract for aerial dispersant application service shall be included in the **Bid Template** (Enclosure 3 to the Invitation to Tender) and shall be split into the following price categories:

- Price for the Compensation of the Preparation Phase (P_{CP}),
- Price for the availability of the service during one year of Stand-by Phase (P_A , see point 12.1),
- Price for contracting the service [Daily Operational Rate (DOR) for each airplane offered and Hourly Flight Rate (HFR) for each airplane offered (as per point 12.3)],
- Price for the compensation of the Closure Phase (PCC) (if the option for storage of dispersant is included in the tender).

Prices and tariffs must be quoted in Euro. If the original prices in the bid are in a currency other than Euro, prices must be quoted in Euro using the conversion rates published in the C series of the Official Journal of the European Union on the day when the contract notice was published. Prices may be revised according to the conditions set under Article III.5 of the draft service contract (Enclosure 2 to the Invitation to Tender).

Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Communities, in connection with Article 7 of Regulation (EC) No 1406/2002, EMSA is exempt from all duties, taxes and other charges, including VAT. These duties, taxes and other charges can therefore not enter in the calculation included in the bid. The amount of VAT must be shown separately.

12.1 Price of the compensation of the Preparation Phase (P_{CP})

When defining the price of compensation during the preparation phase, tenderers should consider costs such as:

- Project management costs (administrative activities to set up the service)
- Commercial immobilisation of the airplane if required;
- Commissioning and acceptance tests;
- Contracting storage for equipment (and dispersant if included in the proposal).

The maximum ceiling for the price of the compensation is EUR 50,000 excluding VAT.

12.2 Price for the availability of the service (P_A)

When defining the price for the availability fee, tenderers should consider costs such as:

- The cost of pre-fitting for the proposed arrangement (if applicable);
- The cost related with transport to the place of delivery and commissioning of equipment (if applicable);
- The cost for the availability of the proposed arrangement for an emergency oil pollution response request (emergency stand-by) as described in point 2.5 b. of this document;
- The cost for the availability of a spotter airplane (if the option is included in the offered arrangement);
- The cost to maintain the arrangement ready and fit for the purposes of the service contract;
- The cost to perform the pollution response drills;
- The cost for arranging annual training programmes, including refreshment courses, on aerial dispersant application for all personnel engaged in performance of the service. The cost of the training program on the use of the equipment shall also be taken into account as described in point 2.7.3 of this document;
- The cost for the storage of the equipment and of dispersant (if applicable);
- The cost for insurance related to the provision of the arrangement and dispersant storage (if applicable);
- The cost for ensuring the necessary logistical arrangements during an emergency mobilisation following a request for assistance;
- The cost to clean the airplane/equipment after a drill or an operational exercise.

12.3 Price for contracting the service (P_{IRC})

EMSA will also evaluate the price for contracting the airplane for actual dispersant spraying operations to be paid by the Requesting Party.

Tenderers should propose a Daily Operational Rate (DOR) and an Hourly Flight Rate (HFR) for the service (airplane offered to perform dispersant spraying operations). If the proposed arrangement consists of multiple airplanes mobilised simultaneously, then the tenderer shall provide the DOR and the HFR for each of the airplanes. Furthermore, if a spotter airplane is also included in the offer as an option, the tenderer shall propose a distinct Daily Operational Rate (DOR) and Hourly Flight Rate (HFR) for it.

The cost of airplane fuel is not to be priced into the rates mentioned above. The fuel costs for exercises and actual dispersant spraying operations will be covered by EMSA (in case of exercises) or the Requesting Party (in case of emergency mobilisation) as a separate element, in accordance with the rules set in the draft service contract (see points (d) and (f) of Article V.3 of the AAC and point (a) of Article IV.4 of the IRC-A).

During emergency mobilisation and operational exercises, the DOR and HFR include the price of a manned and equipped airplane. The costs related to potential accommodation and daily expenses for the crew while the airplane does not fly will be reimbursed by the Requesting State or EMSA as per Article IV.4 of the IRC-A and in accordance with the ceilings set in Annex 2 of the IRC-A, as well as with the International/National Airplane Exercise Participation Agreement and its annex for operational exercises.

For a better explanation of the above cost elements during an actual mobilisation, the table below describes the different phases covered by the IRC-A and the distribution of costs, applicable to the airplane as well as the spotter airplane (if included in the offer as an option):

Costs covered by Requesting Party	Airplane flies to equipment base	Airplane flies to operational base	Airplane on ground operations	Airplane flying on dispersant operations	Airplane on stand-by	Airplanes flies to equipment base (place of redelivery)
	None	DOR HFR* Fuel costs	DOR Fuel costs**	DOR HFR* Fuel costs	DOR Fuel costs**	DOR HFR* Fuel costs

* Paid only for actual hours of flight operations

**Only if fuel is consumed during ground operations/stand-by

The values of the DOR and HFR to be paid by the Requesting Party for each day of operations are dependent on the number of actual hours of availability and on the number of actual hours of operations, respectively, according to the following formulas:

$$\text{DOR} = [\text{DOR value in IRC-A}] \times \frac{[\text{Number of hours of availability}]}{[24 \text{ hours}]}$$

$$\text{HFR} = [\text{HFR value in IRC-A}] \times [\text{Number of hours of operations}]$$

In the event of early termination of the IRC-A by the Requesting Party, the contractor shall receive payment equivalent to one DOR plus the HFR for any flight hours as per Article IV.3 of the IRC-A.

12.4 Price for the compensation of the Closure Phase (P_{cc})

Should the bid include the option for the storage of dispersant, the tenderer shall provide separately the price to be paid as compensation for their storage and for the hand-over of dispersants during the Closure Phase of the contract. The tenderer shall bear in mind that this price shall be within the ceiling of EUR 50 000, excluding VAT.

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. The leader of the consortium, through a coordinator, is the sole interlocutor for all contractual and financial aspect of the service contract and is the only formal contact point between the tenderer and EMSA.

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 consortia of firms or groups of service providers, contractors or suppliers, must specify the role, qualifications and experience of each member or group.

The leader of the consortium shall inform EMSA of any change concerning the consortium members. Any change in the composition of the consortium is subject to the prior authorisation of EMSA, since each member will be party to the service contract. Any change in the administrative data (address, bank account etc.) must be notified to EMSA without delay.

14 INFORMATION CONCERNING THE LEGAL 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 exclusion grounds listed below. The exclusion grounds for tenderers are the following:

- (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

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) in 14.2, above, 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 one 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 Grounds for rejection of bids regarding airplane and budget

EMSA is tasked to provide response capacity in addition to that already under contract to the Member States of the European Union, and to countries which are contracting parties to the European Free Trade Association (EFTA). Consequently, if a bid includes an airplane and/or equipment set that is engaged with such a country to provide pollution response services at the time of publication of this procurement procedure, this will be a ground

for rejection of the bid from the procurement process. EMSA reserves the right to request any documentary evidence it deems necessary or useful in order to verify this important point.

EMSA is tasked to provide response capacity within a specific budgetary framework. Accordingly, EMSA has assigned an overall budget ceiling taking into account the main contract elements (availability fee, equipment and pre-fitting). Consequently, if any bid has a value above the overall budget ceiling this will be a ground for rejection of the bid from the procurement process. A template to include the prices for the different contract elements is included in Enclosure 3 to the Invitation to Tender.

14.5 Economic and financial capacity – Selection criteria

With regard to the economic and financial capacity, the following is required:

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

As support for the above selection criterion, the following evidence shall be provided:

- (a) Financial statements for the last three years for which accounts have been closed;
- (b) Statement of overall turnover and turnover relating to the relevant services for the last three financial years; or, for public entities, the annual budget of the last year;
- (c) 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 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;
- (d) 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 request to participate. EMSA reserves the right to request any other document enabling the verification of the tenderer's economic and financial capacity.

14.6 Technical and professional capacity applicable to the public or private entity submitting a request (Selection criteria)

Tenderers shall provide evidence of their technical and professional capacity to perform the contract as follows:

- (a) Tenderers must have experience in the field of medium to large size airplane operations. A list of up to three major contracts performed in the last three years must be sent indicating the year of contract signature, the service beneficiary, the overall value, and duration.
- (b) Tenderers from the private sector must submit the Certificate of professional or commercial registration issued by the competent authority of the country where they are established, with an indication of its geographical scope.

14.7 Technical and professional capacity applicable to the airplane to be proposed (Selection criteria)

Tenderers must demonstrate the airplane's technical ability to perform the aerial dispersant application service by providing a description of the offered airplane(s) that addresses at least the following points:

- (a) Type and model of the airplane(s) proposed, including the technical characteristics and information on the airplane's state of registry:
- Description of additional airplane modifications and installations (e.g. Major Changes, Supplemental Type Certificates, Minor Changes) supporting the operational use in aerial dispersant application services, and the associated airworthiness approvals/certificates, if already available, or the planning how an airworthiness approval is planned to be obtained.
- (b) Tenderers should have control of the operation of the airplane offered for the service at the time of the contract signature. Accordingly, evidence in the form of an agreement with the airplane owner should be included in the documentation;
- (c) The airplane is able to operate in the area of operation (as defined in this document) in accordance with the relevant regulations, including being compliant with at least the noise certification requirements of Chapter 3 of Volume I of Annex 16 to the Convention on International Civil Aviation. To provide proof of compliance with the noise requirements, the tenderers shall provide a copy of the individual airplane's noise certification documentation issued by the State of registration. For an airplane registered in one of the EU Member States this documentation will be an EASA Form 45 noise certificate issued by the authority of the state of registry. For airplane(s) that do(es) not possess the EASA Form 45 noise certificate or equivalent documentation, proof of compliance may be supported by reference to a record in the EASA noise databases showing EASA approved noise levels for a similarly configured airplane. These noise databases are published on EASA's website (<http://easa.europa.eu/document-library/noise-type-certificates-approved-noise-levels>);
- (d) The airplane has a minimum dispersant payload of 4 tonnes.

15 AWARD CRITERIA

Only the tenders meeting the exclusion and selection criteria indicated in point 14 of this document will be evaluated in terms of quality and price.

Requirements indicated as 'preferred' by EMSA are not mandatory but will be taken into account for the evaluation of the offers when applying the quality award criteria below. The tenders meeting such requirements will be evaluated higher.

The contract will be awarded to the tenderer who submits the most economically advantageous bid (the best value for money), as assessed on the basis of the following criteria:

- Technical award criteria (airplane, equipment, logistics and aircrew) (weighted at **70%**) and
- Price award criteria (weighted at **30%**).

15.1 Quality award criteria

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

	Quality Award Criteria	Weight (W)
<u>Q1</u>	Dispersant payload in view of the requirements under point 2.6, based on the tenderer's description and appropriate supporting evidence.	25%
<u>Q2</u>	Quality of the arrangement in view of the requirements under point 2.7, based on the tenderer's description and appropriate supporting evidence.	20%
<u>Q3</u>	Quality of the logistics for mobilisation and flexibility of the proposed arrangement in view of the requirements under point 2.8 based on the tenderer's description and appropriate supporting evidence.	15%
<u>Q4</u>	Estimated duration and risk associated to the Preparation Phase in view of the requirements under point 2.9, based on the tenderer's description of the project plan and description of required actions to complete preparations.	5%
<u>Q5</u>	Offer of an option for a spotter airplane service, as an advantageous point taking into account if an appropriate option for the services specified under point 2.10 is included in the offer based on the tenderer's description and appropriate supporting evidence.	5%

15.2 Price award criteria

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

	Price Award Criteria	Weight (W)
<u>P1</u>	Price per tonne of payload for the preparation and the first term of the stand-by phase, as described under points 12.1 and 12.2 above, based on the tenderer's offer in the price calculation grid.	15%
<u>P2</u>	Price per tonne of payload for contracting the service in order to provide assistance as described under point 12.3 above, based on tenderer's offer in the price calculation grid.	15%

15.3 Scoring system

The final total score for each bid is calculated as follows:

$$S = SQ + SP$$

where SQ is the final score for quality and SP is the final score for price.

EMSA reserves the right to award two contracts under this procurement (to the two best scored tenders), in case of sufficient budget.

15.3.1 Scoring of the quality criteria

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

To be considered for award, tenders shall achieve a **minimum of 60%** for each quality criterion Q2, Q3 and Q4.

For the quality criterion Q1 scores will be given in accordance with the following table:

Dispersant payload of the proposed airplane (tonnes)	Score (points)
less than 4	Not selected
4 or more, but less than 5	1
5 or more, but less than 6	2
6 or more, but less than 7	3
7 or more, but less than 8	4
8 or more, but less than 9	5
9 or more, but less than 10	6
10 or more, but less than 15	7
15 or more, but less than 20	8
20 or more, but less than 30	9
30 or more	10

If multiple airplanes and multiple sets of equipment are offered as part of the arrangement, the final score to be awarded for the quality criterion Q1 shall be the score corresponding to the total dispersant payload of the arrangement, which is the sum of the dispersant payloads of all airplanes that can be equipped with the number of sets offered as part of the arrangement(s).

The score for each specific quality criterion (Q_i) is calculated as the average score of all evaluators as following:

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

The overall weighted quality (Q) is calculated as follows:

$$Q = \sum_i Q_i \times W_i$$

where W_i is the weight of the specific quality criterion (Q_i)

The overall score for quality (SQ) is calculated as follows:

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

15.3.2 Scoring of the price criteria

Given the fact that there may be a variation in the dispersant payload for arrangements offered by different tenderers, and for ensuring an appropriate and equivalent comparison between the prices offered by the

tenderers, the evaluation of the two price criteria mentioned in point 15.2 of this document, shall be in relation to the dispersant payload for the proposed arrangement. Accordingly, the prices per tonne of dispersant payload, for each of the two price criteria shall be calculated.

Each of the two price criteria will receive marks between 0-15, in accordance with the weight factors identified in point 15.2 of this document and the scoring methodology described below.

Score of the price per tonne of payload for the preparation and stand-by phases (SP1)

For each bid, the score of the price per tonne of payload for the preparation and stand-by phases per tonne of dispersant payload is determined in accordance with the following steps:

Step 1 – Calculating the price per tonne of payload for the preparation and stand-by phases for each bid (**P1_i**), by using the following formula:

$$P1_i = (P_A + P_{CP}) / T_{DPI}$$

where,

- P_A is the price for the availability of the service during one year of Stand-by Phase
- P_{CP} is the price for the compensation of the Preparation Phase
- T_{DPI} is the total dispersant payload of the offered arrangement

Step 2 – Identifying the bid with the lowest price per tonne of payload for the preparation and stand-by phases;

Step 3 – Calculating the score of the price per tonne of payload for the preparation and stand-by phases (**SP1**) for each bid, by using the following formula:

$$SP1_i = \frac{[P1 \text{ with lowest value}]}{[P1_i \text{ under evaluation}]} \times W_i$$

where W_i is the weight of the specific price criterion

Score of the 'Price for contracting the service' (SP2)

For each bid, the score of the price for contracting the service per tonne of dispersant payload is calculated based on the incident response rates (DOR and HFR), in accordance with the following steps:

Step 1 – Calculating the price for contracting the service for each bid (P_{IRCI}), by using the following formula:

$$P_{IRCI} = \frac{\sum [\text{DOR for each airplane}]}{[\text{Total number of airplanes}]} + (6 \times \frac{\sum [\text{HFR for each airplane}]}{[\text{Total number of airplanes}]})$$

Note: For the purpose of evaluating the price for contracting the service (P_{IRC}) as per above, a pre-defined hypothetical duration of operations is used as follows: in one day of operations six hours of flight time are performed.

Step 2 – Calculating the price for contracting the service per tonne of dispersant payload (**P2**) for each bid, by using the following formula:

$$P2_i = P_{IRCi} / T_{DPI}$$

Note: only the airplanes performing dispersant spraying operations shall be taken into account. The spotter airplane, if included in the offer, shall not be included in this calculation.

Step 3 – Identifying the bid with the lowest price for availability per tonne of dispersant payload;

Step 4 – Calculating the score of the price for contracting the service per tonne of dispersant payload for each bid (**SP2_i**), by using the following formula:

$$SP2_i = \frac{[P2 \text{ with lowest value}]}{[P2_i \text{ under evaluation}]} \times W_i$$

where W_i is the weight of the specific price criterion

The overall score for the price award criteria (SP) represents the sum of the scores obtained for the Price of Availability and Price for contracting the service:

$$SP = SP1 + SP2$$

16 ADDITIONAL INFORMATION

Fuel Costs

For financial reasons which are related to EMSA's budgetary planning, tenderers are requested to provide estimates of the elements listed below. It should be noted that these elements will not be included in the award criteria evaluation process. For each identified airplane, the elements are:

- Proven or otherwise estimated fuel consumption (tonnes of fuel per hour) whilst flying at maximum speed, if different from above;
- Proven or otherwise estimated fuel consumption (tonnes of fuel per hour) whilst flying at cruising speed;
- Proven or otherwise estimated fuel consumption (tonnes of fuel per hour) whilst flying during dispersant spraying operations (i.e. at low speed and manoeuvring);
- Proven or otherwise estimated fuel consumption (tonnes of fuel per hour) whilst performing ground operations (e.g. in airport for refilling with dispersant or refuelling, if applicable);
- Proven or otherwise estimated costs per tonne of fuel for the above mentioned types of activities, if appropriate.

17 CONTRACT AWARDING

The service contract 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.

EMSA will sign a contract only with companies holding an Air Operator's Certificate. Any financial arrangements between brokers and airplane operators shall be arranged between those two parties separately.

18 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 the requirements 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.

19 INTELLECTUAL PROPERTY RIGHT (IPR)

Please consult the service 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 must be clearly marked (source publication including date and place, creator, number, full title etc.) in a way allowing easy identification.
