

Lisbon, 17 JAN 2014

PUBLIC SALE: INVITATION TO BID and SALE SPECIFICATIONS

No. EMSA/SALE/01/2014

(Public Sale of assets of the Agency)

Dear Sir/Madam,

1. Introduction

The European Maritime Safety Agency (EMSA) is launching an invitation to bid regarding the public sale of six oil/water separators to aid in the separation of oil from water in contaminated aquatic areas.

These oil/water separators were acquired during the years 2006 and 2007 and were originally installed on-board the EMSA vessels contracted as part of the pollution response at sea oil recovery service available through the Agency¹. This equipment subsequently was replaced by marine oil/water monitor devices and is currently stored in the EMSA stockpiles located in different geographical areas along the European coastline.

The public sale of assets of the Union is governed by: Articles 33 and 37 of the Commission Regulation (EC) N° 2909/2000 of 29 December 2000 on the accounting management of the European Communities' non-financial fixed assets laying down the rules for the sale of property belonging to the Union; Article 5 (Legal Status, Regional Centres) of the EMSA Founding Regulation (EC) N° 1406/2002 of the European Parliament and of the Council of 27 June 2002 granting EMSA the capability to "acquire or dispose of movable or immovable property"; and Articles 115-117 of the EMSA Implementing Rules.

2. Contract objective and technical requirements

2.1. Contract Objective: Sale and Transfer of Call Option

The scope of this public procedure is to sell six oil/water separators.

¹ More information about the Pollution Response Services provided by EMSA is published on the Agency's website: www.emsa.europa.eu.

The oil/water separators are currently owned by four different EMSA contractors providing pollution response services and can be recovered by EMSA, for the purpose of this sale, through a one Euro call option.

In line with the existing contracts for stand-by oil spill recovery services signed between the Agency and the contractors owning this equipment, EMSA has the right to purchase (Call Option) the oil water separators from the current owners for the price of 1 Euro each. Accordingly, the primary objective of this public sale is to transfer the Agency's right to purchase this equipment to the bidder(s) offering the highest price.

At the end of the sale procedure, the call option associated to a specific oil water separator indicated in the table below will be transferred to the highest bidder(s).

The oil/water separators are located in different stockpiles as indicated in the following table:

Table 1

Quantity	Model of oil/water separator	EMSA vessel contractor (owner)	Stockpile location
1	STETFIELD 3SEP 96 m ³ /h	Remolcanosa	Vigo (Spain)
1	SRC 100 SLANT RIB OWS 23 m ³ /h	Mureloil	Sines (Portugal)
2	JOWA 3SEP OWS m ³ /h	Ship Management Company Limited (Falzon Group)	Valletta (Malta)
2	STETFIELD 3SEP 15 m ³ /h	Tankship Management	Valletta (Malta)

The oil/water separators will be delivered by EMSA at the above locations in case of sale.

2.2. Technical specifications

All the oil water separators have been regularly maintained. They have never been used during oil recovery activities and are fully functional with the exception of the model STETFIELD 3SEP 96 m³/h. This is the only equipment that is reported as not functional since it is not complete with all the necessary components.

A description of the different oil/water separators is available in the Technical Report (Annex 3).

2.3. Visit to the stockpile

Interested buyers are offered the possibility to attend a visit to the stockpile(s) between 17 and 28 February 2014 at the locations where the oil/water separators are stored.

Should you wish to attend, please send a request at the latest on 7 February 2014 indicating the name of the attending person and the bidder he/she represents to the following e-mail: SALE012014@emsa.europa.eu. Personnel attending, as identified in the email, will be provided with precise logistical details in due time.

2.4. Different Lots

The public sale is divided into nine lots as described in the table below:

Table 3

Lot No.	Call Option	Quantity	Oil/Water separator
1	A	1	STETFIELD 3SEP 96 m ³ /h
2	B	1	SRC 100 SLANT RIB OWS 23 m ³ /h
3	C	1	JOWA 3SEP OWS-10 m ³ /h
4	D	1	JOWA 3SEP OWS-10 m ³ /h
5	E	1	STETFIELD 3SEP 15 m ³ /h
6	F	1	STETFIELD 3SEP 15 m ³ /h
7	A&B	2	Combined offer for both oil/water separators under Lot 1 and lot 2
8	C&D	2	Combined offer for both oil/water separators under Lot 3 and lot 4
9	E&F	2	Combined offer for both oil/water separators under Lot 5 and lot 6

Interested buyers may submit a price offer for one or more equipment.

The scope of the sale procedure is to sign the Sales Contract (Annex 1) in order to transfer the Agency's right to purchase the oil/water separator(s) from one of the vessel contractor (identified in point 2.1) to the successful bidder.

With regard to lots 7, 8 and 9 interested buyers may submit a price to purchase the two oil water separators identified in each of them.

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 sales.

4. Terms of payment

After completion of the sale procedure, EMSA shall issue a *Debit note* to the successful bidder with the request for payment of the agreed price(s).

The call option(s) shall be transferred to the successful bidder from the moment the amount of the price has been deposited on EMSA's bank account.

After the amount of the price has been deposited on EMSA's bank account, EMSA shall send the buyer a Letter of Confirmation that will serve as proof of payment. Copy of this Letter of Confirmation shall be also sent to the relevant vessel contractors.

5. Timetable

The estimated date for signature of the contract is April 2014.

From the moment of the signature of the contract the major milestones are shown in the table below:

Table 4

Event	Comment	Indicative time
Debit Note	The Agency will officially request the buyer to execute the payment.	Within 14 days after the signature of the contract.
Execution of the payment	The buyer will have to deposit the payment on EMSA's bank account.	7 calendar days after the receipt of the Debit Note.
Letter of Confirmation	EMSA will send the buyer a letter as proof of the payment. Copy of this letter will be also sent to the vessel contractor.	7 days after the execution of the payment.
Transfer of the call option(s)	The buyer may contact directly the vessel contractor(s) to arrange the equipment transportation.	After receiving EMSA confirmation about the payment.

6. Terms of sales contract

In drawing up a bid, the bidder should bear in mind the terms of the **draft Sales Contract** attached to this document as **Annex 1**.

Please note that EMSA may, before the contract is signed, either abandon the sale procedure or cancel the award of the contract without the bidders being entitled to claim any compensation.

7. Requirements as to bid

Bids can be submitted in any of the official languages of the EU. The working language of the Agency is English.

The tender must be presented as follows and must include:

- Signed cover letter: indicating the name and position of the person authorised to sign the sale contract.
- Part A: all the information and documents required by EMSA for the appraisal of bids on the basis of **legal position** and the **Exclusion criteria** set out under **point 9.1 and 9.2** of this Invitation to Bid and Sale specifications respectively.
- Part B: Bid Form (Annex 2) with **price offer** in accordance with **point 8** of this Invitation to Bid.

8. Price

- Price must be quoted for one or more oil/water separators (depending on the lot targeted) delivered at the current stockpile. It shall therefore take into account that any transport costs from the current location to the bidder's storage is to be borne by the bidder.
- Prices must be fixed amounts.

- Prices must be quoted in euro.
- According to Article 13 of the Council Directive 2006/112/EC on the common system of value added tax of 28 November 2006 the Agency is not regarded as a taxable person, meaning that the public sale of second-hand goods (and rights as a Call Option) is not a taxable transaction, and therefore not subject to VAT.

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

9.1. Legal position – means of proof required

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

9.2. Grounds for exclusion

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

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's 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.

9.3 Evidence to be provided by the tenderers

For this purpose the **Declaration on Honour** available on the Procurement Section on the EMSA Website must be completed and signed by a duly authorised person. (<http://www.emsa.europa.eu/work/procurement/calls.html>).

10. Criteria for the award of the contract

10.1. Award of the contract

For each specific lot, the contract will be awarded to the tenderer who submits the highest bid.

With regard to lots 7, 8 and 9, the Sales Contract shall be concluded where the highest offer received for the relevant combination of assets is higher than, or equal to, the sum of the highest offers for the relevant two individual lots.

This condition is as expressed here below:

$\text{€ [highest Offer Lot 7]} \geq \text{€ [(highest Offer Lot 1) + (highest Offer Lot 2)]}$

$\text{€ [highest Offer Lot 8]} \geq \text{€ [(highest Offer Lot 3) + (highest Offer Lot 4)]}$

$\text{€ [highest Offer Lot 9]} \geq \text{€ [(highest Offer Lot 5) + (highest Offer Lot 6)]}$

In case no offer has been received for one of the lots 1-6, the value of the highest offer for that lot will be 0 for the purpose of the formula.

10.2. Contracts will not be awarded to tenderers who during the sales 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.

11. 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 point 10 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.

12. Data Protection

Processing your reply to the invitation to tender will involve the recording and processing of personal data (such as your name, address and CV). Such data will be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate your tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by Mr Bernd Bluhm, Head of Pollution Response Services. Details concerning processing of your personal data are available on the privacy statement "[Information on personal data protection in procurement procedures](http://www.emsa.europa.eu/about/personal-data-protection.html)" at: <http://www.emsa.europa.eu/about/personal-data-protection.html>. Bidders will be informed by the Agency whether or not their bids have been accepted.

Your personal data may be registered in the Central Exclusion Database (CED) by the Accounting Officer of the Commission, should you be in one of the situations mentioned in the Commission Regulation 2008/1302 of 17.12.2008 on the Central Exclusion Database (for more information see the Privacy Statement on http://ec.europa.eu/budget/library/explained/management/protecting/privacy_statement_ced_en.pdf).

13. Submission of the bids

Bidders who wish to submit an offer are invited to conclude the Bid Form, attached to this document as Annex 2, and send it to the Agency before **10 March 2014, 12h00 (Lisbon time)**. The offer must be duly signed by the authorised representative, scanned and submitted by e-mail to the following address: SALE012014@emsa.europa.eu. Please note that an original hard copy of the offer including all accompanying documentation related to supporting the Declaration on Honour will be requested from the company to whom the contract is awarded.

Submission of a bid implies full acceptance of the draft sales contract attached to this invitation to bid.

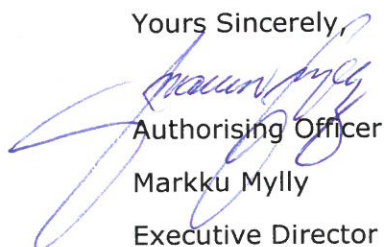
The Agency will notify Bidders of the bids received. Bidders will be informed by the Agency whether or not their bids have been accepted. Period of validity of the bid(s) shall be until 31 December 2014.

During the procedure, any direct contact between the contracting authority and the tenderers is prohibited. However any additional information deemed necessary for preparing an adequate bid can be asked for by e-mail at the latest four calendar days before the deadline for submission of the bids, to the following e-mail address: SALE012014@emsa.europa.eu. The Agency will respond to such requests for additional information in strict compliance with the equal treatment principle. Any additional information including that referred to above will be published on EMSA website in the Procurement section. Company details and personal details will not be disclosed.

14. Intellectual Property Right (IPR)

Please consult the contract for Intellectual Property Right (IPR) related clauses.

Yours Sincerely,



Authorising Officer
Markku Mylly
Executive Director

Annex 1: Draft Sale Contract
Annex 2: Bid Form
Annex 3: Technical Report
Annex 4: Bidder Check list