

Call for tenders' details

Title: Managed Print and Ancillary Services

Start date: 29/03/2019

Time limit for receipt of tenders: 02/05/2019

Contracting authority: European Medicines Agency (EMA)

Status: Closed

Call for tenders question list

#	Submission date	Publication date	Question subject	Question	Answer
1	08/04/2019 08:20	09/04/2019 11:16	Equipment and Infrastructure	The list of equipment on page 6 contains no furniture (desks, chairs, tables, sorting cabinets, and so on). Will this be supplied by EMA or does Contractor has to include it in its bid?	09/04/2019 The Agency will provide desks, chairs, tables, sorting cabinets and other furniture items required to organise the work of the team in an efficient manner. These should not be included in the tender response.
2	08/04/2019 08:20	09/04/2019 11:17	Annex II, page 4, point 3 of table	Can EMA provide information on the amounts per size of the wide format prints (A0, A1, A2) as well as information on the required paper to be used?	09/04/2019 Due to low volume of wide format prints, the Agency maintained statistics only on the overall quantity. Wide format print volumes for 2018: 400 mono prints and 700 colour prints. Depending on the nature of requests, papers typically used were 80g/m2 and 120g/m2.

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3	08/04/2019 08:20	09/04/2019 11:23	Third bullet page 14	"All equipment installed on the Agency premises at the beginning of the contract should be brand new." Do we understand correctly that this remark mainly applies to the printers and for instance not for finishing devices?	09/04/2019 All multifunctional devices (MFD), wide format printer and finishing equipment deployed by the successful tenderer to support the provision of services under the contract, should be brand new. The Agency foresees that the EMA-owned equipment listed on page 6 of the technical specifications, currently used in the department, might be migrated to the new premises and utilised during the contract. During the contract term the Agency may require replacement of the existing equipment or additional reprographics production and/or finishing equipment. Also the replacement equipment should be brand new.
4	09/04/2019 08:55	09/04/2019 11:25	Wide format printing	Section 3.1.1, document production and processing requirements, page 7 does not specify a wide format printer, so Contractor has to provide such a machine. Is there a need for Wide format scanning as well?	09/04/2019 Tenderers will be required to quote for the provision of a wide format printer as specified in the Annex II – Costing sheet. The successful tenderer will be required to provide and maintain a wide format printer. Wide format scanning functionality is not required by the Agency.

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#	Submission date	Publication date	Question subject	Question	Answer
5	09/04/2019 13:51	10/04/2019 09:48	At current X-ray scanning of incoming goods and mail pieces is in place.	Is this still mandatory and does the Contractor have to provide a new X-ray scanner or will this be transferred from the current location?	10/04/2019 The provision of an X-ray scanner is not in the scope of this procurement procedure.
6	09/04/2019 12:51	10/04/2019 10:56	EN-Annex III - Declaration of honour VI – Evidence upon request "For situations described in (a), (c), (d) (f), (g) and (h).."	Does a "Gedragsverklaring Aanbesteden" constitute sufficient proof?	10/04/2019 The Gedragsverklaring Aanbesteden, known as Declaration of Conduct for Tendering, will constitute sufficient proof for the situations as described in Annex III under points (a), (c), (d), (f), (g) and (h), provided it covers the legal entity, as well as the natural person(s) who is/are authorised to sign the contract.

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#	Submission date	Publication date	Question subject	Question	Answer
7	09/04/2019 08:50	12/04/2019 11:13	New building	Can EMA provide information with regard to the new building: size, number of floors, location of loading bay/mailroom/printroom, and so on?	<p>12/04/2019</p> <p>The EMA building will consist of sixteen office floors and three conference floors. As specified in the technical specifications, the personnel present in the building consist of EMA staff, EMA external contractors, visitors and delegates attending meetings at EMA. The loading bay will be external to the building. All vehicles will be unloaded under the loading bay canopy, with direct access to loading office and scanning facilities. A private back expedition road will lead to the loading bay. The size of trucks permitted to enter the expedition road and loading bay area will be limited to vehicles specified in the CROW 2004 NL regulations. Tenderers should note that as specified in Annex VIII - Contractor guidelines and house rules; all unloading of vehicles will be done by the delivery companies arriving to the EMA building. Reprographics and mailroom will conduct their operations from the mezzanine floor just above the ground floor. The mailroom and reprographics areas will be furnished by the Agency. A stationary supply point and print room will be located on each office floor and will be equipped with storage cupboards and mail distribution racks. It is estimated that on average two multifunctional</p>

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					on average two multifunctional devices (MFD) will be installed per floor.
8	12/04/2019 11:50	12/04/2019 11:51	Update to the delivery address for delivery of tenders by hand or courier service.	Please note the following update to the delivery address for delivery of tenders by hand or courier service (page 3 of the invitation letter refers).	12/04/2019 Please note that in the case of delivery by hand or by courier service of tenders, delivery must be made to the following address: European Medicines Agency Loading Bay, Piarcopein no. 75, 1043 DW Amsterdam, The Netherlands
9	11/04/2019 12:58	12/04/2019 14:03	Requested attachments	As stated in section 14.2 EMA requests proof oconcerning the financial and economic criteria in the form of Financial Statements and a Statement of overall Turnover for the last 2 years. Our financial results are presented in the group annual report (~200 pages). With regard to points 1 to 4 on pafge 3 of the invitation Letter: does EMA want to receive physical copies of these reports or is a link to the information sufficient?	12/04/2019 If the document is publicly available, the Agency will deem the link to be sufficient.

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10	11/04/2019 11:56	12/04/2019 14:05	Invoicing	Regarding the finishing materials / supplies such as wire-0 binding strips, how can we invoice these kinds of materials?	12/04/2019 The Agency will be purchasing items such as for example wire-0 binding strips as non-standard stationery items. Please refer to Scenario 5 in the Annex II – Costing sheet to the technical specifications for this tender. Payments for standard and non-standard stationery items will be paid monthly in arrears.
11	11/04/2019 11:56	12/04/2019 14:07	Technical Specifications paragraph 15.2	Referring to paragraph 15.2, the listed evidence requirements, is tenderer required to provide this evidence at submission of tender or after submission upon request by EMA?	12/04/2019 As specified in paragraph 15.2 the documents listed should be provided by the tenderer as part of its tender response i.e. at submission of tender stage. Point 17 – Tender to be submitted of the technical specifications further stipulates that tenderers are required to provide evidence of Selection Criteria (points 13.2; 14.2 and 15.2).
12	11/04/2019 11:57	12/04/2019 14:08	Large format printer	What is the brand and type of the current large format printer?	12/04/2019 The wide format printer used by the Agency under the scope of the previous contract was Canon iPF755. The device was not migrated to the Netherlands.

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#	Submission date	Publication date	Question subject	Question	Answer
13	11/04/2019 11:58	12/04/2019 14:11	Print room / Mail room	Are there offices available bordering the logistic center (docking bay location) for services (e.g. storage, print room)?	12/04/2019 Suitable facility will be provided for loading bay crew. The Agency also foresees an installation of a multifunctional device (MFD) in the area.
14	11/04/2019 11:58	12/04/2019 14:12	Print room / Mail room	Are there floorplans available for the new building?	12/04/2019 The Agency is working on finalising the layout and other operational aspects. Therefore, only the information provided in answer to question no. 7 can be provided at this point in time. Please refer to question 7 for further details.
15	11/04/2019 11:58	12/04/2019 14:14	Print room / Mail room	Where are the print room and mail room located in the new building at the Zuid-As in Amsterdam?	12/04/2019 The Agency is working on finalising the layout and other operational aspects. Therefore, only the information provided in answer to question no. 7 can be provided at this point in time. Please refer to question 7 for further details.
16	11/04/2019 11:59	12/04/2019 14:15	Technical Specifications paragraph 3.1.4 collections / delivery of mail	It is stated (on page 10) that the Agency uses a Track & Trace mailing system for incoming consignments. What is the brand and type of that system?	12/04/2019 The Track and Trace system the Agency is referring to in the section 3.1.4 of the technical specifications to this tender is called Netcourier and it was developed by a company called Metafour.

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17	11/04/2019 12:00	12/04/2019 14:16	Technical Specifications paragraph 3.1.4 collections / delivery of mail	It is stated that in 2018 the mailroom dealt with 5500 incoming mail- and courier shipments. Can EMA provide how many of these shipments are incoming mail items and how many are incoming courier items?	12/04/2019 In 2018 the mailroom dealt with approximately 5,500 incoming mail and courier shipments. Approximately 3000 were incoming mail items and 2500 incoming courier items.
18	11/04/2019 12:00	12/04/2019 14:18	General	With the upcoming Dutch Easter holidays at the end of April this month till beginning of May the current planning for the tender is quite tight. To provide you with a complete and compliant offer (both in quality and price) we would like to request an extension of the submission date until Wednesday May 24th. Can EMA confirm this extension?	12/04/2019 The extension is not granted. Easter holidays were already taken into account when determining the deadline for submissions of tenders.
19	11/04/2019 12:02	12/04/2019 14:22	Technical specifications paragraph 3.1.2	In this paragraph EMA describes the different functions and the numbers of employees delivering the services. In total we counted 9 employees as current staff. Is the number of employees the same as the number of FTE's? If not, how many FTE's deliver the current services?	12/04/2019 All contractor's staff the Agency referred to in the section 3.1.2 of the technical specifications are full time employees (FTE) of the contractor.

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20	11/04/2019 11:58	15/04/2019 16:40	Print room / Mail room	How many m2 is available for both the print room and the mail room in the new building at the Zuid-As in Amsterdam?	15/04/2019 The Agency estimates that the Mailroom will occupy approximately up to 55m2 and the Central Reprographics approximately up to 50m2.
21	11/04/2019 11:59	15/04/2019 16:41	Technical Specifications paragraph 3.1.4 collections / delivery of mail	Is the Track & Trace system the same system that is implemented by the courier service provider as mentioned on page 9 (second alinea) or do we speak about 2 different systems?	15/04/2019 The system is the same. There is only one system in place.
22	11/04/2019 11:59	15/04/2019 16:42	Technical Specifications paragraph 3.1.4 collections / delivery of mail	Is the courier services provider also responsible for delivering and picking up the mail items (mail bags)? Or does EMA have a contract with the local Dutch national PostNL including a franking contract with PostNL?	15/04/2019 The courier services provider will not be responsible for delivering and picking up the mail items (mail bags). The Agency does not have a contract with PostNL. The section 3.1.5 of the technical specifications to this tender indicates that the successful tenderer will be required to provide a franking machine or suitable alternative. Courier services are excluded from this procurement procedure as these are provided to the Agency under a different contract.

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23	11/04/2019 12:01	15/04/2019 16:43	Technical Specifications paragraph 3.1.1	Is Canon provider of the services (including delivery of the employees for the CRD and mailroom) in London as well as the current Sloterdijk building in Amsterdam?	15/04/2019 Canon was not the service provider (including delivery of the employees for the CRD and mailroom) in London and it is not the service provider in the temporary premises in Sloterdijk building in Amsterdam.
24	11/04/2019 12:01	15/04/2019 16:51	Technical Specifications paragraph 3.1.1	Can EMA provide an overview of the daily activities / services of all employees (9 heads), including hours spent for those activities / services?	15/04/2019 The Agency is not in the position to give an overview of the duration for of the activities. It will be the responsibility of the successful tenderer to plan daily activities and rotas for all contractor's staff. The description of services to be delivered under the contract and overview of tasks have been defined in the Section 3 of the Technical Specifications to this tender.
25	11/04/2019 12:01	15/04/2019 16:52	Technical Specifications paragraph 3.1.1	Does the description of services, the number of employees etc., reflect the situation as it was in London (UK) or does it describe the desired situation in the new building on the Zuid-As in Amsterdam?	15/04/2019 The description of services reflects operations whilst the Agency's building was fully occupied and operational. The last such instance was in London, United Kingdom. The Agency estimates that the utilisation of the services in the permanent building will be similar.

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26	16/04/2019 16:07	17/04/2019 11:26	Annex III - Declaration of honour	Is it possible to receive Annex III in word format as well?	17/04/2019 The Agency is not in the position to provide the Annex III as MS Word file. Please use the PDF file provided.
27	16/04/2019 16:07	17/04/2019 11:28	Technical Specifications, par. 14.2	When providing the 2 year statements, will the financial feasibility calculation be applied to each year separately? If so, we assume the minimum score requirement applies for both years.	17/04/2019 With respect to the minimum turnover requirement, the average turnover of the tenderer for the last two financial years must be of a minimum value of EUR 2,000,000 as per Article 14.1 of the Technical Specifications. With respect to the financial ratios analysis, each year will be scored individually.

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28	16/04/2019 14:10	17/04/2019 13:48	Label for the outer envelope	The label specification on page 2 of the invitation differs from the first label on page 7 of the invitation. Which of the two is correct?	<p>17/04/2019</p> <p>Please note that the Agency published an update to the delivery address for courier and hand delivery consignments (see question 25). The following time limits for receipt of tenders as indicated in the invitation to tender letter apply: -if delivered in person (hand delivery) deadline is 12:00 CET on 02 May 2019 -if delivered by courier deadline is 24:00 CET on 02 May 2019. - if sent by Registered Post deadline is 24:00 CET on 02 May 2019 (as per postmark) The correct text for the outer envelope for courier and deliveries in person (hand delivery) should read (commas indicate the end of a line): MANAGED PRINT AND ANCILLARY SERVICES, F.A.O. SZYMON NAJDZIEN, OFFICE OF DEPUTY EXECUTIVE DIRECTOR, PROCUREMENT PROCEDURE REFERENCE: EMA/2019/09/DED, EUROPEAN MEDICINES AGENCY, LOADING BAY, PIARCOPLEIN NO.75, 1043 DW AMSTERDAM, THE NETHERLANDS Tenderers please note that tender responses posted to the Agency using Registered Post service i.e. not courier service or hand delivery; should use the address provided on page 2 of the invitation to tender letter (commas indicate the end of a line): MANAGED PRINT</p>

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					end of a line): MANAGED PRINT AND ANCILLARY SERVICES, F.A.O. SZYMON NAJDZIEN, OFFICE OF DEPUTY EXECUTIVE DIRECTOR, PROCUREMENT PROCEDURE REFERENCE: EMA/2019/09/DED, EUROPEAN MEDICINES AGENCY, SPARK BUILDING/GEBOUW, ORLYPLEIN 24, 1043 DP AMSTERDAM, THE NETHERLANDS

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#	Submission date	Publication date	Question subject	Question	Answer
29	16/04/2019 16:04	17/04/2019 16:05	Finishing capacity CRD	Is EMA okay with a finishing capacity of 3000 sheets for the colour printer in the CRD?	<p>17/04/2019</p> <p>The Agency is not in the position to accept 3,000 A4 as the minimum requirement is 3,500 A4 sheets finishing capacity for a colour CRD device. Please refer to section 3.1.1 of the Technical Specifications to this tender for details on minimum capacities of the equipment for the centralised reprographics area (CRD). The printing equipment currently installed in centralised reprographics area (CRD) consists of: a) Canon Image Runner Advance 8205 PRO - Mono device, 105 pages per minute, 3,500 A4 sheets side paper deck b) Canon Image Runner Advance 8205 PRO - Mono device, 105 pages per minute, 3,500 A4 sheets side paper deck c) Canon Image Runner Advance C9280 PRO - Colour device, 80 pages per minute, 3,500 A4 sheets, side paper deck d) Colour Canon Image Runner Advance C9060 PRO - Colour device, 60 pages per minute, 2,200 A4 and 500 A3 sheets capacity paper cassettes The Agency is not tendering for any specific brand of multifunctional devices. Please note that any hardware suggested by the tenderer for future deployment as part of the provision of the services must meet or exceed all standards and functionalities listed above.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
30	17/04/2019 16:00	24/04/2019 12:59	EN-Annex II - Costing sheet Paper supplies	Rows 3 and 4 are identical. Is it correct that row 4 should read A3 instead of A4? The same holds for rows 5 and 6, they are identical. Is it correct that row 6 should read A3 instead of A4?	24/04/2019 Tenderers please note that for the Scenario 4 - Standard stationery supplies and paper; the following entries are being corrected due to a clerical error: Paper supplies – Row 4 - White A4 80 gsm (500 Sheet Ream) quality grade B should read White A3 80 gsm (500 Sheet Ream) quality grade B Paper supplies – Row 6 - White A4 80 gsm (500 Sheet Ream) quality grade C should read White A3 80 gsm (500 Sheet Ream) quality grade C
31	17/04/2019 20:52	24/04/2019 13:01	Asnwer regarding question 22	In the answer to question 22 it was stated that EMA does not have a contract with PostNL. Does this imply that Contractor will be responsible for contracting PostNL for delivery of the Inbound mail and collection of the Outbund mail?	24/04/2019 The successful tenderer will be responsible for making arrangements with PostNL to organise and manage all collections of the outbound mail and deliveries of the inbound mail. Please refer to section 3.1.5. Management of the Agency's postal services; for further information.

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32	19/04/2019 09:01	24/04/2019 13:06	FWC General	Do the questions from the tenderers and answers from the contracting authority form an integral part of the FWC?	24/04/2019 The questions from the tenderers and corresponding answers (Q&A) will be legally binding. Q&A will be incorporated into Annex I of the Framework contract (Technical Specifications) which forms an integral part of the Framework contract.

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#	Submission date	Publication date	Question subject	Question	Answer
33	23/04/2019 12:27	24/04/2019 13:09	Finishing Capacity CRD.	<p>As answered in question #29 of the "Call for tenders questions list", contractors need to offer a finisher with a tray capacity of 3.500 sheets. Tenderer wants to offer three graphical production machines for the CRD, that offer a finisher tray capacity of 3.300 sheets each. In daily operations our CRD customers run smaller jobs that allow the operator to be comfortable with this output capacity. Especially for EMA we offer a workflow software solution that enables the operator to easily divide bigger print jobs over two or three devices. Do you agree on the output capacity of 3.300 sheets and the workflow software solution for smart management of bigger print jobs? As it stands (3500 capacity), this will be a show stopper for several suppliers.</p>	<p>24/04/2019 The Agency is not in the position to accept 3,300 A4 as the minimum requirement is 3,500 A4 sheets finishing capacity for a colour CRD device. Please refer to section 3.1.1 of the Technical Specifications to this tender for details on minimum capacities of the equipment for the centralised reprographics area (CRD). The printing equipment currently installed in centralised reprographics area (CRD) consists of: a) Canon Image Runner Advance 8205 PRO - Mono device, 105 pages per minute, 3,500 A4 sheets side paper deck b) Canon Image Runner Advance 8205 PRO - Mono device, 105 pages per minute, 3,500 A4 sheets side paper deck c) Canon Image Runner Advance C9280 PRO - Colour device, 80 pages per minute, 3,500 A4 sheets, side paper deck d) Colour Canon Image Runner Advance C9060 PRO - Colour device, 60 pages per minute, 2,200 A4 and 500 A3 sheets capacity paper cassettes The Agency is not tendering for any specific brand of multifunctional devices. Please note that any hardware suggested by the tenderer for future deployment as part of the provision of the services must meet or exceed all standards and functionalities listed above.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
34	18/04/2019 15:25	25/04/2019 11:21	Draft - Framework Contract for Services	Can the agency confirm that the MFD and CRD rental agreement is separated from the Framework Contract for Services? As the Agency made the following remarks in: 1) Annex II - Costing sheet: "The annual quote for the rental of the equipment should be based on a six year duration of the rental agreement", 2) Annex XIII - Quality of service questionnaire: Question 7; "Please provide terms and conditions and licensing agreement (if applicable) the tenderer would propose to the Agency for the rental of the fleet of multifunctional devices to be installed across EMA floors and in the CRD which will be installed on the Agency's premises,".	25/04/2019 It is the Agency's intention to conclude a specific contract for rental of the MFD and CRD equipment under the Framework contract. While such specific contract will incorporate successful tenderer's terms and conditions and licensing agreement (if applicable) it will still be governed by the Framework Contract.

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35	19/04/2019 08:45	25/04/2019 11:22	FWC I.11	<p>The tenderer strongly invests in the agreements with the contracting authority and furthermore hires and/or makes employees available for the services as set forth in the agreement with the contracting authority.</p> <p>It should therefore in principle not be possible to terminate the agreement for convenience (with a notice period of 6 months). The tenderer is however willing to accept a termination without cause clause, under the conditions that (i) such termination without cause can only be used after a term of 12 months after the date of the FWC, by giving a 6 months notice period and (ii) the contracting authority shall pay early termination charges. Termination charges to be mutually agreed. Does the contracting authority accept the suggested change?</p>	<p>25/04/2019</p> <p>It is not possible to change provisions of the contract. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response."</p>

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36	19/04/2019 08:46	25/04/2019 11:23	FWC I.12.1	<p>A national legal system should be chosen (to which (European) Union law applies). The “Union” for example does not have a civil code that could be applicable to the contracts. According to the Rome-I treaty, the national law of the country in which the characteristic performance takes place applies in principle to (international) contracts, in case the parties have not chosen a law of a specific country. In order to avoid uncertainties, the contractor wishes to make clear that the contracts are governed by the laws of the Netherlands. Does the contracting authority agree to adjust section I.12.1 as follows? “The FWC and any specific contracts following from the FWC is governed by the laws of the Netherlands.” (The Kingdom of the Netherlands consists of four countries. Curacao has for example different laws. Therefore the contracts should only be governed by the laws of the Netherlands).</p>	<p>25/04/2019 The Agency wishes to clarify that I.12.1 FWC (which reads: The FWC is governed by Union law, complemented, where necessary, by the law of the Kingdom of the Netherlands.) shall be understood that the FWC is governed by Union law, complemented, where necessary, by the law of the Netherlands.</p>

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37	19/04/2019 08:48	25/04/2019 11:24	FWC II.4.11	The contractor is willing to immediately inform the contracting authority of any changes in the exclusion situations as declared in the declaration of honour as set forth in Annex III of the tender. The referred regulation is not applicable to this tender. Does the contracting authority agree to amend this section as follows? "The contractor must immediately inform the contracting authority of any changes in the exclusion situations as declared in the declaration of honour as set forth in Annex III."	25/04/2019 The referred regulation is applicable to this tender. It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.

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38	19/04/2019 08:49	25/04/2019 11:25	FWC II.6.3	The liability of the contractor shall not exceed an amount equal to three times the total amount of the relevant specific contract. As such specific contract could have a long term, the maximum liability could be unreasonably high. This is disproportionate in view of the nature of the contract and the risks to which the contracting authority is exposed. In this context, please also see section 3.9.1.1 of the Guide to Procurement Proportionality that is applicable in the Netherlands. Is the contracting authority prepared to limit the total liability in any event following from the FWC or any specific contract, except gross negligence or willful misconduct, to an amount equal to 24 months of the last monthly fee received of the specific contract?	<p>25/04/2019</p> <p>It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.</p>

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39	19/04/2019 08:50	25/04/2019 11:26	FWC II.6.3	<p>The conditions make no distinction between direct and indirect damage. This is disproportionate in view of the nature of the contract and the risks to which the contracting authority is exposed. In this context, see also section 3.9.1.1 of the Guide to Procurement Proportionality. Are you therefore prepared - as is customary in this sector - to limit liability in all cases to direct damage, with the exception of indirect damage and consequential damage, which in any case includes loss of profit, loss of data and business interruption?</p>	<p>25/04/2019 It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.</p>
40	19/04/2019 08:51	25/04/2019 11:27	FWC II.6.3	<p>There is no limitation to the liability of contractor in case of an action brought against the contracting authority by a third party for breach of its intellectual property rights. Tenderer's unlimited liability is uninsurable and, moreover, disproportionate within the meaning of the Proportionality Guide for Tenderers. Are you prepared to limit the concerning liability to an amount equal to 24 months of the last monthly fee received of the specific contract?</p>	<p>25/04/2019 It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.</p>

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41	19/04/2019 08:52	25/04/2019 11:29	FWC II.15.1	The contractor understands that the contracting authority wishes to add a liquidated damages clause. The current clause is however very strict and the concerning 'compensation' is not limited. Is the contractor right to assume that such damage can only be claimed if contractor is in imputable breach of the FWC or specific contract? Does the contracting authority accept (i) a lower multiplier of 0,15 x (V/D) and (ii) a limitation of the liquidated damage to an amount of € 15,000?	25/04/2019 FWC II.15.1 relates to delay in delivery. Please note there is a detailed procedure envisaged in FWC II.15.2 for cases where the contracting authority intends to apply liquidated damages. The procedure envisages that the contractor has 30 days following the date of receipt to submit observations to the notification. If the contractor does so - the contracting authority, taking into account the relevant observations, must notify the contractor: (a) of the withdrawal of its intention to apply liquidated damages; or (b) of its final decision to apply liquidated damages and the corresponding amount. It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.

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#	Submission date	Publication date	Question subject	Question	Answer
42	19/04/2019 08:53	25/04/2019 11:31	FWC II.15.4 and II.16.3	It is not reasonable to claim liquidated damages or a reduction of payment and claim damage(s). In case the contracting authority claims liquidated damages or reduces payments, and contractor has paid such amount or is obliged to pay such amount, the maximum liability of the contractor should be reduced with the concerning amount of the liquidated damages or the reduction of the payment(s). Does the contracting authority agree to this amendment?	25/04/2019 It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.

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#	Submission date	Publication date	Question subject	Question	Answer
43	19/04/2019 08:54	25/04/2019 11:32	FWC II.16.2	Is the contractor right to assume that it shall always first be able to repair any failure within a reasonable period, after the contracting authority has provided the contractor in writing of such failure before any reduction or recovery of the payments shall be claimed?	<p>25/04/2019</p> <p>In case of underperformance by the contractor - the Agency first communicates informally to the contractor its concerns and its requests for mitigation actions to be carried out by the contractor in order to ensure seamless provision of contracted services. This aims to enable the contractor to improve quality of provided services, including - to repair (if possible) any failure within reasonable time period. If upon informal communication to the contractor the matter of suboptimal performance remains unresolved, a letter of formal notice of suboptimal performance by the contractor (stating any reduction or recovery of payments) would be sent to the contractor. Pursuant to FWC II.16.2 the contractor has 30 days following the receipt of the notice to submit its observations. If the contractor submits observations, the contracting authority, taking into account the relevant observations, shall notify the contractor: (a) of the withdrawal of its intention to reduce payment; or (b) of its final decision to reduce payment and the corresponding amount.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
44	19/04/2019 08:55	25/04/2019 11:36	FWC II.18.1(d), (e) and (g)	<p>Could you please explain why the contracting authority wishes to terminate if the contractor is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law (under B) or the subjects under F, G or H? As long as it does not affect the concerning contracts, the concerning breaches should not be a reason to terminate the agreement. Does the contracting authority agree to delete the reference made to point (b, f, g and h) of Article 136(1) of the Financial Regulation and FWC 18.1(d), (e) and (g)?</p>	<p>25/04/2019 The contractor being in breach of the obligations mentioned in the question is not considered a credible partner to cooperate with. Continuation of cooperation with such a contractor may adversely impact the image of EMA as a European Union public service agency and, thus, the Agency reserves its right to terminate the contract in case of breach of the obligations in question. It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
45	19/04/2019 08:56	25/04/2019 11:36	FWC II.18.1(e)	It is unreasonable to terminate the contract(s) based upon a preliminary classification, as long as a judge or administrator has not made any verdict with regard to the decisions as set forth in clause 136 (2). Does the contracting authority accept that the reference made to clause 136(2) is deleted from this section?	25/04/2019 It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.
46	19/04/2019 08:57	25/04/2019 11:37	FWC II.18.3	It could be that under circumstances, 30 days will not be enough. Does the contracting authority accept to amend the 30 days notice with a reasonable period?	25/04/2019 It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.

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#	Submission date	Publication date	Question subject	Question	Answer
47	19/04/2019 08:58	25/04/2019 11:40	FWC II.18.4	It is not reasonable that the contractor is liable for damage incurred by the contracting authority as a result of the termination of the FWC or specific contract, unless the contracts have been terminated as a result of a material imputable breach. Is the contractor right to assume that the referred liability can only be claimed in case of a material imputable breach?	25/04/2019 Liability claims for compensation for damages upon contract termination under FWC II.18.4 shall be governed by law of the Netherlands (which complements Union law pursuant to FWC I.12.1.)
48	19/04/2019 09:00	25/04/2019 11:41	FWC II.24	The contractor wishes to limit the number of audits to one per year, unless the contracting authority has demonstrable reasons to perform an extra audit in that year. The costs of an audit shall be borne by the contracting authority, unless such audit proves that the contractor is in a material breach of the concerning contracts and it has not fixed such breach within a reasonable period. Does the contracting authority accept these amendments?	25/04/2019 It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.

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#	Submission date	Publication date	Question subject	Question	Answer
49	19/04/2019 09:00	25/04/2019 11:41	FWC II.24.4	It is not acceptable that on the basis of the final audit findings, the contracting authority may recover all or part of the payments made and may take any other measures which it considers necessary. The contracting authority may claim damage(s) in case it has suffered damage. If, due to the findings of an audit, the contractor is in a material breach of the concerning contract, the contracting authority may request the contractor to repair the breach within a reasonable period and if such breach has not been repaired in that period, it might be allowed to terminate the agreement case such breach justifies the termination. Does the contracting authority agree to delete the concerning paragraph?	25/04/2019 It is not possible to change provisions of the contract as they are general terms which apply to all contracts. The submission of a tender in response to the invitation to tender automatically implies the tenderer's acceptance of all the terms and conditions stipulated in the procurement documents. It also implies that the tenderer renounces his own terms and conditions. Tenderer must confirm acceptance of the draft contract and terms and conditions of this tender as part of their response.