

Tender Specifications

Attached to the Invitation to tender

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Invitation to tender No. EMSA/OP/27/2020 for RPAS Services for multipurpose maritime surveillance

1. Introduction

The European Maritime Safety Agency (EMSA) was established under Regulation (EC) No 1406/2002 of the European Parliament and of the Council¹ for the purpose of ensuring a high, uniform and effective level of maritime safety, as amended. Among its tasks, the Agency provides technical, operational and scientific assistance to the European Commission and Member States in the proper development and implementation of EU legislation on maritime safety, pollution by ships and security on board ships. To accomplish this, EMSA's most important supporting task is to foster cooperation with, and between, Member States in all key areas and to build-up capacity of national competent authorities.

The Explanatory Memorandum of the European Commission (COM(2015)667, Proposal for amending the Regulation of EMSA, p.6) stipulates: *The Agency will organise and provide, as an institutional service provider, RPAS [Remotely Piloted Aircraft Systems] services operations in support of European Border and Coast Guard Agency and border control authorities. This technology has a multipurpose character and can be used for a variety of public tasks at sea (border control, safety of navigation, Search and Rescue, pollution detection, fishery control, law enforcement actions). Strengthening the cooperation between the Agencies will further enhance synergies and multipurpose use of the same assets.*

These RPAS operations consist of EMSA providing a full-scale service including aircraft provision, piloting services, communication means and data dissemination and integration with the maritime data available in the other EMSA systems.

The provision of RPAS services for maritime surveillance further increases the real time maritime situational awareness of Member States by enhancing the maritime picture with additional sources of data. RPAS services will be offered to cover any coast guard function, budget permitting. This new service will facilitate Member States with carrying out their coast guard tasks at national or EU level.

This procurement aims to complete the portfolio of RPAS services that EMSA already started setting up since 2016.

Throughout this document and related appendixes, the term “tenderer” refers to those organisations submitting a tender, proposal, or bid in response to this invitation to tender. Tenderers shall address the requirements in their proposal as requested in the procurement documents. The term “contractor” refers to the successful tenderer with whom a final Framework contract (FWC) has been signed and who shall perform the requested services and shall fulfil the requirements during the execution of the contract. The terms “bid” or “tender” or “proposal” will be considered equivalent. Also, the term “contracting authority” refers to EMSA who is responsible for the FWC for these services.

¹ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p.1.).

2. Objective, scope and description of the contract

2.1 Objective

The objective of this call for tenders is to contract Remotely Piloted Aircraft Systems (RPAS) services in the civil maritime domain in support of EU and EFTA Member States and Agencies Authorities (the “users”) performing their general maritime surveillance and coast guard functions and further improve an integrated and real time maritime operational awareness picture.

The implementation of the services will reflect a regional or sea basin-based approach, whereby the service will be concentrated on maritime geographical areas with common operational interest for more than one Member State, or for EU operations involving the European Fisheries Control Agency (EFCA) or the European Border and Coast Guard Agency (Frontex).

Further description of the service will be found in the Appendix II to the Tender Specifications – Service and Technical Specifications.

2.2 Scope

The RPAS Services for multipurpose maritime surveillance foreseen in this tender are divided in **two lots, and target therefore the provision of services through two different contracts**, as follows:

- **LOT 1 RPAS for maritime surveillance in Open Sea areas with long endurance and long range**
- **LOT2 RPAS for maritime surveillance for Ship-Based operations**

In order to comply with the operational availability requirements (see section 4.3 of Appendix II to the Tender Specifications – Service and Technical Specifications), the contractor shall make available both the system and staff to run **at least two deployments in parallel (per lot)**.

For each deployment, the system will have to include **at least one Ground Control Station (GCS) and two aircraft** (RPAs) fully equipped and authorised to fly, all of which will have to be located at the deployment site from the beginning of the operation. The contractor shall also make available necessary staff for each deployment to ensure a continuous provision of service.

Under each FWC per lot the following **modules of services** can be activated via Specific Contracts:

- Mobilization Alert and Preparation (Module 1)
- Transportation and on-site set-up, including readiness test (Module 2),
- On-site activities (Module 3),
- Flight operations/missions (Module 4)
- Emergencies response services (Module 5).
- Setting up of Interfacing with the RPAS Data Centre for the transmission of RPAS Data (Module 6)
- Capability Test prior to mobilisation (Module 7)

Further explanation on the requirements for these services can be found in the Appendix II – Service and Technical specifications.

2.2.1 Geographical scope of the service

Areas of operation can be all sea areas surrounding the EU or EFTA countries, with a vessel positioned in one of these sea areas one of these countries being starting point of the service. If requested by governmental users, the service could be extended outside EU/EFTA adjacent seas upon common agreement with the contractor. Multinational and cross-border operations can be requested as well by the contracting authority.

The Contractor shall support the preparation of these operations and ensure that restrictions or constraints such as

- customs clearances in the countries in which they are operating or transporting their RPAS through,
- export licenses from countries where equipment is manufactured, or
- ITAR restrictions

do not hinder them.

2.2.2 Lot 1 RPAS for maritime surveillance in Open Sea areas with long endurance and long range

The objective of this Lot is to provide additional capacity for EMSA RPAS maritime surveillance services in high sea areas which should be served in Beyond Radio Line of Sight (BRLOS) conditions. The RPAS shall:

1. Have long endurance to be able to reach and cover the open sea area of interest;
2. Have an integrated satellite-based communication infrastructure onboard (Satellite communication – SATCOM).

The contractor will offer two possibilities regarding SATCOM: without SATCOM service, in that case EMSA will be providing the SATCOM service and with a SATCOM service as part of the contracted services.

EMSA has a portfolio of contracted SATCOM service providers which might be made available to the RPAS service provider contracted under Lot 1. Thus, should EMSA SATCOM services be available and activated under the services contracted for Lot 1, the associated SATCOM costs shall be born directly by EMSA if this proves to be the more cost-efficient solution. In any case, tenderers are required to offer their own SATCOM solution for Lot 1 and the corresponding SATCOM price as explained in section 13 below and in the Financial Tender template in Appendix III to these Tender Specifications.

It will be the decision of EMSA which option is technically and economically more advantageous for a particular operation.

EMSA is interested in services which would allow to take off from one base of operation and land in a different location in order to foster regional RPAS services. The tenderers who can offer this additional capability shall include a price covering this type of operation as explained in section 13 below and in the Financial Tender template in Appendix III to these Tender Specifications. EMSA reserves the right to activate this capability should such service be requested by the user(s) and it is considered operationally and economically efficient.

2.2.3 Lot 2 RPAS for maritime surveillance for ship-based operations

The objective of this lot is to provide additional capacity for RPAS maritime surveillance services with a vertical take-off and landing (VTOL) aircraft which can be operated from a patrol vessel. The VTOL RPAS contracted under this lot will have a low logistical footprint (external/auxiliary equipment is not needed neither for take-off or landing) and enough range (Beyond Visual Line of Sight - BVLOS) and endurance to be able to support Coast Guard functions from patrol vessels. Operations from land could be possible with this aircraft if the logistical and availability requirements make it the most appropriate VTOL RPAS to respond to a particular request.

2.3 Description of the contracts

Two FWCs (refer to the draft template attached to the Invitation to tender) will be signed (one per lot) with the successful tenderer(s) to which the contracts are awarded subject to the condition precedent that full compliance with the selection criteria defined in section 15 is demonstrated, including the performance of an initial configuration test within 8 weeks of the award, as part of the demonstration of the availability and maturity of the offered RPAS. The initial configuration test is described in section 3.1. of Appendix II – Service and Technical Specifications.

Failure to meet these terms, will result in the amendment of the award decision and award of the FWC to the tenderer ranked next in the evaluation of that particular lot. Through this mechanism, the contracting authority ensures that at least a first complete system as being offered per lot/ contract (with the offered payload), is immediately ready to fly upon entry into force of the FWC.

The duration of the FWC for each lot will be two years with a possible first renewal for a further one-year period and then a possible second and final renewal for another one-year period.

As explained in section 2.2 above, at least 2 deployments may run in parallel using the same FWC. **For each deployment**, the system will have to include **at least one GCS and two RPAs** fully equipped and authorised to fly, all of which will have to be located at the deployment site (presumably a patrol vessel for Lot 2) from the beginning of the operation. Additionally, the contractor shall make available necessary staff for each deployment to ensure provision of the service.

Within 3 months of the entry into force of the FWC, the first system will perform a capability test, including ground and flight demonstrations as described in section 3.3 of Appendix II – Service and Technical Specifications.

The second complete system, including two fully equipped RPAs as well, all payloads and one CGS shall be available and ready for operations the latest within 6 months after the signature of the FWC (see section 3.2 of Appendix II – Service and Technical Specifications). In case of failure to meet these terms, the contracting authority may terminate the FWC of that particular lot.

The FWCs will be implemented for each RPAS operation (a specific country or region (encompassing more than one country), flight area, and purpose) through the signature of 5 types of **specific contracts** (SC):

- **SC for Mobilization Alert and Preparation (Module 1)**
EMSA may initiate with the contractor the signature of a SC for the Mobilization Alert and Preparation following a request by a user or users to EMSA for a specific RPAS operation in a specific location that can be addressed with the capabilities under this contract.
- **SC for Operations (Modules 2 to 4)**
If the mobilization alert and preparation (including the issuing of an authorisation to fly) are successful, EMSA may issue an additional SC for Operations to cover the costs of transportation and on-site set-up (Module 2), on-site activities (Module 3) and flight operations/missions (Module 4). However, there is no guarantee that the SC for Module 2, 3 and 4 will be signed immediately after the reception of the authorisation to fly; this will still depend on the EMSA budget planning and the RPAS operations already running in parallel. At the beginning of each deployment, (under Module 2) a readiness test as described in section 3.4 of Appendix II – Service and Technical Specifications will be performed in order to document if the contractor is ready for operations and the capabilities offered are available for the deployment. Additional capability tests may be performed as necessary (please refer to 3.5 of Appendix II to the Tender Specifications – Service and Technical Specifications).
- **SC for emergency response services (Module 5)**
It will be the decision of EMSA to activate the emergency response services (Module 5).
- **SC for Setting up of Interfacing with the RPAS Data Centre for the transmission of RPAS Data (Module 6)** Additionally, within each FWC, the contracting authority will also issue a SC to cover the costs to integrate the RPAS data streams in the maritime surveillance applications of EMSA and in particular into the RPAS Data Centre (RPAS-DC).
- **SC for Capability Test (Module 7)** This SC will also be issued within each FWC and shall cover ground and flight demonstrations needed to fully test and demonstrate multipurpose maritime surveillance operation can be provided. EMSA will cover the costs of the first capability test. All costs associated to additional capability tests will be fully paid by the tenderer. The templates for each SC are part of the draft FWC.

Appendix II – Service and Technical Specifications provides the detailed definition of the services to be provided under these contracts for each module.

3. Contract management responsible body

EMSA – Unit 2.2, in charge of Surveillance, will be responsible for managing the contract.

4. Project Planning

A complete list of deliverables (reports, documents, etc.) is provided in Sections 5.4 and 6 of Tender Specifications Appendix II – Service and Technical specifications. The foreseen timeline for the milestones of the project is provided in the section below.

5. Timetable

The estimated date for signature of the contract is May 2021.

The table below, which is applicable individually to each lot, provides a summary of the main milestones, deliverables and main meetings and some of the documents foreseen (days in this time plan are calendar days unless otherwise specified):

	Event/Delivery	Date	Comment
Initial Phase (per lot)			
T0	Contract Award letter is sent to the successful tenderer for each lot	Estimated beginning March 2021	
T1	Initial Configuration Test Plan	T0+4 weeks	Draft already provided with the bid, but initial version should be updated and resubmitted based on awarded offer
T2	Initial Configuration test: Successful Live Flight Demonstration of the first complete system with the RPAS configuration offered by the successful tenderers	0+8 weeks Estimated first week May 2021	At chosen location by the successful tenderer(s). Refer to section 3.1 of Appendix II – Service and Technical Specifications. Initial Configuration Test Report to be submitted 1 week later
T3	Signature of the FWC after successful test of the offered configurations & Signature of SC <i>Mod.6 Interfacing</i> and <i>SC Mod 7 Capability test</i>	0+2 weeks Estimated mid-May 2021	
T4	Kick-off meeting (KOM) Update of the project plan. (final updated one	T3+1 week maximum	KOM at EMSA premises in Lisbon or via VTC in case of travel/meeting restrictions imposed by Covid-19. The

	week following KOM presentation)	Estimated end May 2021	<p>Contractor's project manager, responsible for the work to be undertaken and the Contractor's key technical staff shall be present at the kick-off meeting.</p> <p>Present Project Management Plan including the work breakdown structure roles and responsibilities.</p> <p>Refer to sections 5 of Appendix II – Service and Technical Specifications</p>
T5	Delivery of documentation	Max T3+4weeks	<p>See list of documents under sections 5 & 6 of Appendix II – Service and Technical Specifications.</p> <p>Include updated RPAS portfolio which will be distributed to potential users. The RPAS portfolio shall be based on Appendix IX RPAS and Operational Crew Overview which shall be delivered with the bid.</p>
T6	Module 7 - Capability test	T3+3 months maximum Estimated August 2021	<p>At a site chosen by contractor, shall be performed prior to mobilisation for first deployment</p> <p>Refer to section 3.3 of Appendix II – Service and Technical Specifications Delivery of capability test plan (15 days prior to test)</p>
T7	First delivery of Module 6 service (interfacing)	T3+3 months Estimated August 2021	Refer to sections 2.7 of Appendix II – Service and Technical Specifications

T8	Final Delivery of Module 6 service (interfacing)	T3+6 months Estimated end October 2021	Refer to sections 2.7 of Appendix II – Service and Technical Specifications
T9	Configuration test for second system: Successful Live Flight Demonstration of the second complete system with the RPAS configuration offered by the successful tenderers	T3+6 Months maximum	At chosen location by the successful tenderers. Refer to section 3.2 of Appendix II – Service and Technical Specifications. Configuration Test Report to be submitted 1 week later
Deployment 1 (per lot)			
T10	Mobilisation alert and signature of the SC for Mod.1 for deployment 1	T3+ 2 weeks (tentative)	It is the intention to sign the first SC Mod.1 Mobilisation Alert and Preparation immediately after T3 as soon as a user formalizes a deployment request that corresponds to the capabilities of the contract. Refer to section 2.2 of Appendix II – Service and Technical Specifications
T11	Signature of first SC for Operations: Mod.2 Mod.3 and Mod 4 for deployment 1 Mod.5 could be optionally activated at any moment during the duration of SC for operations	Completion of T10 is a precondition	The permit to fly must be available before the SC is signed for the specific deployment. Refer to sections 2.3, 2.4, 2.5 and 2.6 of Appendix II – Service and Technical Specifications

T12	Readiness test on first deployment site	T11+2 weeks	Contractor must be mobilized and on-site ready to fly. Refer to section 3.4 of Appendix II – Service and Technical Specifications
T13	Start of flight operations / missions for the first deployment	T12 + 2 days	
Deployment 2 (per lot)			
T14	Mobilisation alert and signature of the SC for Mod.1 for deployment 2	The mobilisation for the second deployment might be requested already during the operation of the previous deployment	It is the intention to sign the second SC Mod.1 Mobilisation Alert and Preparation immediately after T3 as soon as a user formalizes a deployment request that corresponds to the capabilities of the contract.
T15	Signature of second SC for Operations: Mod.2 Mod.3 and Mod.4 for deployment 2 Mod.5 could be optionally activated at any moment during the duration of SC for operations	Completion of T14 is a precondition and after T8	The permit to fly must be available before the SC is signed for the specific deployment. Refer to sections 2.3, 2.4, 2.5 of Appendix II – Service and Technical Specifications
Succeeding Deployments N (per lot)			
T16	Deployment N (T10, T11, T12 and T13 will repeat under deployment N)	The mobilisation of the following deployments might be requested already	Will depend on user demand and number of offered RPAS.

		during the operation of the previous deployments	
FWC			
T17	Possible extension of FWC for an additional year.	T3+ 2 years	New deployments foreseen during this period.
T18	Possible extension of FWC for a second additional year.	T3 + 3 years	New deployments foreseen during this period.
T19	Maximum end date of FWC	T3+ 4 years	The execution of tasks as contracted via the SC(s) may last until the end of the FWC plus 6 months.

Table 1 - Timetable

The table above represents an indicative time plan for the implementation of the FWC. If the Contractor must deviate from the given timeframe justification for the deviation(s) must be given. The contracting authority reserves the right to disagree with the deviations and the proposed time plan.

6. Estimated Value of the Contract

The maximum budget available for this contract is EUR 50.000.000 excluding VAT. It covers all modules and services during a maximum period of four years (the two initial years plus the possible first renewal for one year and the second possible renewal for another year).

The distribution of this ceiling per Lot will be as follows:

- EUR 30,000,000 for Lot 1
- EUR 20,000,000 for Lot 2

This value does not indicate that this amount will be spent by the contracting authority under the contract. Actual commitment from EMSA for purchasing of services is performed through the signature of Specific Contracts.

Additional **maximum price ceilings are indicated in the Financial Tender template** in Appendix III to these Tender Specifications² for tenderers to cross check their financial tender against them. Bids that include prices over those maximum ceilings will be rejected and not be considered for award.

Please note that all costs incurred during the preparation and the submission of the bids, as well as costs for the initial configuration test (described in section 3.1 of Appendix II), are to be borne by the tenderers and will not be reimbursed.

7. Terms of payment

Payments shall be issued in accordance with the provisions of the **draft contract** available under the dedicated section of the procurement procedure on the e-Tendering platform at <http://simap.ted.europa.eu/>

8. Terms of contract

When drawing up a bid, the tenderer should bear in mind the terms of the draft contract.

EMSA may, before the contract is signed, cancel the award procedure without the tenderers being entitled to claim any compensation.

In the framework of this open procedure, the conditions laid down in the draft framework service contract are non-negotiable and bids requesting changes may be rejected and not considered for award.

The ownership of the service derived data (including capability test data and data stored after operations) shall be fully and irrevocably acquired by the contracting authority as stipulated in the draft framework service contract. For the operational data gathered during the RPAS operations, the contracting authority will be acquiring it on behalf of the user requesting the service.

Tenderers are invited to consult in particular Article I.6.2 on the possibility of requesting a performance guarantee and Articles I.15.1 and II.15.1 of the FWC which foresee conditions for applying liquidated damages and which may be applied during the implementation of the contract, The purpose is to prevent contractors to deviate from the initial offered timeline for implementation.

² *Tender Specifications Appendix III Financial tender template*

The FWC provides also for a reduction in price which may be applied during the implementation of the contract (Articles I.15.2 and II.16). The purpose of a reduction in price is to prevent contractors to deviate from the initial offered service level during the implementation of the contract (for example, reduction in price will be applied when the capabilities of the service are lower than the ones accepted as per contract or when the number of flight hours performed is lower than the number requested per month).

9. Performance guarantees

A performance guarantee may be requested in order to ensure compliance with substantial contractual obligations. The guarantee must not exceed 10% of the total value of the specific contract. It may be released partially or fully upon provisional acceptance of the deliverables by EMSA and must be released after final acceptance.

The guarantee may be called (fully or partially) in case of non-compliance with substantial contractual obligations during specific contract performance. The guarantee's portion retained must be proportional to the damage/non-performance. The entire guarantee may be retained if the damage is greater than the guarantee's sum.

10. Subcontracting

If the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners it shall indicate in its offer which part will be subcontracted, as well as the name and qualifications of the subcontractor or partner. A template for a "Statement of Subcontracting/Joint Offer" is available on the procurement section of EMSA's website (www.emsa.europa.eu). It should be noted that the overall responsibility for the work remains with the tenderer.

The tenderer must provide required evidence for the exclusion and selection criteria on its own behalf and, when applicable, on behalf of its subcontractors. The evidences for the selection criteria on behalf of subcontractors must be provided where the tenderer relies on the capacities of subcontractors to fulfil selection criteria³. The exclusion criteria will be assessed in relation to each economic operator individually. Concerning the selection criteria, the evidences provided will be checked to ensure that the tenderer and its subcontractors as a whole fulfil the criteria. However, the selection criteria may apply individually where it is relevant in view of their nature.

Subcontractors may participate in more than one bid submitted to this tender.

Essential services/elements under this tender are not allowed to be subcontracted, which include:

- RPAS (GCS, communications, aircraft and payload);
- RPAS operations (incl. RPAS Operational Team).

Any tender should foresee that the above services/elements are provided by the tenderer as Individual entity or by one of the members of the grouping in case the tender is submitted as a joint offer. In the latest case, all members of the grouping will be liable for all elements of implementation of the contract.

³ To rely on the capacities of a subcontractor means that the subcontractor will perform the works or services for which these capacities are required.

11. Requirements as to the tender

Bids can be submitted in any of the official languages of the EU. However, as the main working language of the Agency is English, bids should preferably be submitted in English and should in particular include an English version of the documents requested under points 15 and 16 of these Tender Specifications.

The tenderer must comply with the minimum requirements provided for in these Tender Specifications. This includes compliance with applicable obligations under environmental, social and labour law established by Union law, national law and collective agreements or by the international environmental, social and labour law provisions listed in Annex X to Directive 2014/24/EU of the European Parliament and of the Council.⁴

The tenderer shall complete the Tenderer's Checklist.

If the tenderer intends to either subcontract part of the work or realise the work in co-operation with other partners (Joint Offers) it shall indicate it in its offer by completing the form "Statement of Subcontracting / Joint Offer". This document is available on the Procurement Section / Calls for Tenders (Documents for tenderer) of EMSA's website (www.emsa.europa.eu).

According to section 19 of the invitation to tender, tenders received from legal entities established in countries listed in section 19 will be admitted, even if their mother company is established in a third country or they are subcontracting to companies in a third country. However, a substantial part of the work must be carried out by a company established in a country listed in section 19 of the invitation to tender.

12. Submission via the e-Submission application

Tenderers shall submit tenders electronically via e-Submission in one of the official languages of the European Union through the e-Tendering website and before the closing date for the tenders reception as described in the Invitation to tender.

The detailed steps on how to access and use e-Submission are provided in Appendix I – *E-Submission Guidelines*, attached to these Tender Specifications.

The tenderer must provide the following information using e-Submission:

- A. **Cover letter** indicating the name and position of the person authorised to sign the contract, the bank account to which payments are to be made and the email address to be used for contacts during the procurement procedure.
- B. **The Financial Identification Form** - completed. This document is available on the Procurement Section (Financial Identification Form) of EMSA's website (www.emsa.europa.eu).
- C. **The Legal Entity Form** - completed, along with the requested accompanying documentation. This document is available on the Procurement Section (Legal Entity Form) of EMSA's website (www.emsa.europa.eu).
- D. All the information and documents required by the contracting authority for the appraisal of tenders on the basis of the points **10, 14, 15.2 and 15.6** of these Tender Specifications (part of the exclusion criteria).

⁴ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

- E. 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 **15.4** of these Tender Specifications.
- F. All the information and documents required by the contracting authority for the appraisal of tenders on the basis of the **Technical and professional capacity** (part of the selection Criteria) set out under point **15.5** of these Tender Specifications.
- G. 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 **16** of these Tender Specifications.
- H. Setting out **prices** in accordance with **point 13** of these Tender Specifications.

Tenderers are requested to follow the structure above when preparing their proposals.

In particular Parts F), G) and H) above must follow the templates under Appendix III to the Tender Specifications.

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

In e-Submission please fill in all mandatory fields (marked with a star *) and other fields as appropriate. All tenders must be clear, complete and consistent with all the requirements laid down in the Tender Specifications including the above instructions. The documentary evidence/documents required in the Tender Specifications must be uploaded in e-Submission. Tenders not uploading the necessary documents may be rejected.

13. Price

Prices for RPAS Services for multipurpose maritime surveillance shall include all elements of price as requested in the financial tender template in Appendix III to the Tender Specifications, including travel expenses and daily subsistence allowances. In the financial tender template in Appendix III, tenderers are requested to submit the following prices applicable (see Table 2 and Table 3 below) to the different modules of service.

Prices must be quoted in Euro.

Prices must be fixed amounts, non-revisable and remain valid for the duration of the contract.

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

Lot 1	
Module and Price	Comment ⁵
Module 1 – Mobilisation Alert and preparation	
P_{mod1}	Fixed fee per mobilisation alert/operation
Module 2 – Transport and on-Site Set-up	
P_{mod2}	Fixed fee per operation
Module 3 – On-Site Activities	
$P_{mod\ 3\ 5/7}$	Fixed cost of one calendar day of activities on site with 5/7 operational mode
$P_{mod\ 3\ 7/7}$	Fixed cost of one calendar day of activities on site with 7/7 operational mode
$\Delta P_{mod\ 3\ two\ sites}$	Fixed additional cost to the on-site activities of one calendar day of activities with the set-up to take off and land in two different sites
Module 4 – Flight Operations /Missions	
$P_{mod\ 4\ flight\ all}$	Price per flight hour including all costs (e.g., 4 FHs requested by the user and flown will be paid as: 4 FHs x $P_{mod\ 4\ flight\ all}$ cost per flight hour)
$P_{mod4\ flight\ no\ Satcom}$	Price per flight hour including all costs except for the Satellite communication data transmission cost, in the case this is paid by EMSA
Module 5 – Emergency response	
$\Delta P_{mod\ 5}$	Fixed additional cost to the on-site activities of one calendar day of activities
Module 6 – Interfacing	
$P_{mod\ 6}$	Fixed cost
Module 7 – Capability test	
$P_{mod\ 7}$	Fixed cost

Table 2 – Pricing Scheme for Lot 1

⁵ For more details, please see Appendix III Tenderer's Offer Template, Financial Tender Template sheets for each lot.

Lot 2	
Module and Price	Comment⁶
Module 1 – Mobilisation Alert and preparation	
P_{mod1}	Fixed fee per mobilisation alert/operation
Module 2 – Transport and on-Site Set-up	
P_{mod2}	Fixed fee per operation
Module 3 – On-Site Activities	
$P_{mod\ 3\ 5/7}$	Fixed cost of one calendar day of activities on site with 5/7 operational mode
$P_{mod\ 3\ 7/7}$	Fixed cost of one calendar day of activities on site with 7/7 operational mode
Module 4 – Flight Operations /Missions	
$P_{mod\ 4}$	Price per flight hour including all costs (e.g., 4 FHs requested by the user and flown will be paid as: 4 FHs x $P_{mod\ 4}$ cost per flight hour)
Module 5 – Emergency response	NA
Module 6 – Interfacing	
$P_{mod\ 6}$	Fixed cost
Module 7 – Capability test	
$P_{mod\ 7}$	Fixed cost

Table 3 – Pricing Scheme for Lot 2

⁶ For more details, please see Appendix III Tenderer's Offer Template, Financial Tender Template sheets for each lot.

14. Joint Offer

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

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

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

15.1 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 in the Procurement Section (Legal Entity Form) of EMSA's website (www.emsa.europa.eu).

15.2 Grounds for exclusion - Exclusion criteria

To be eligible to participate in this contract award procedure, a tenderer must not be in any of the exclusion situations listed in the Declaration of Honour.

For this purpose, the Declaration of Honour available on the Procurement Section of EMSA's website (www.emsa.europa.eu) shall be completed and signed.

15.3 Legal and regulatory capacity – Selection criteria

15.3.1 Standards / Prerequisites

The tenderer must have the legal and regulatory capacity to pursue the professional activity needed for performing the contract.

15.4 Economic and financial capacity – Selection criteria

15.4.1 Standards / Prerequisites

- A. The tenderer must be in a stable financial position and must have the economic and financial capacity to perform the contract.
- B. The yearly turnover for the last two years must be minimum 7 (seven) million Euros for Lot 1 and 5 (five) million Euros for Lot 2.

15.4.2 Evidence

- A. Financial statements or their extracts for the last 3 (three) years for which accounts have been closed. The most recent year must have been closed within the last 18 months. In case the accounts of the last year have not been closed the Tenderer may submit draft accounts duly stamped and signed by the authorised representative.
- B. Statement of the overall turnover and, where appropriate, turnover relating to the relevant services for the last 3 (three) financial years available.
- C. Evidence provided must pertain to the economic operators submitting the bid. In case the evidence mentioned under points A and B. relates to the corporate group (parent company) to which the tenderer belongs, the tenderer must provide a statement from its parent company declaring that the latter is jointly liable for the execution of the contract.
- D. 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 the provided documents are up to date. In this case the tenderer should simply indicate on the cover letter the procurement procedure where the evidence has been provided.
- E. If, for some exceptional reason which EMSA considers justified, a tenderer is unable to provide one or other of the above documents, it may prove its economic and financial capacity by any other document which EMSA considers appropriate. In any case, EMSA must at least be notified of the exceptional reason and its justification in the tender. EMSA reserves the right to request at any moment during the procedure any other document enabling it to verify the tenderer's economic and financial capacity.

15.5 Technical and professional capacity – Selection criteria

The tenderer shall demonstrate the proficiency and the operational experience of its staff, as well as the maturity of the offered system as detailed in the following sections.

The tenderer shall complete the Appendix III Tenderer's Offer Template, "Select. Crit. Staff" sheet.

15.5.1 Proficiency of the staff – Selection Criteria

The contractor shall provide proficient and experienced operational staff, who can ensure the availability, operational safety, and reliability of the service. The experience shall be proved at the time of the submission of the bid.

15.5.1.1 Requirements

- a. The **Project Manager** or lead for the contract must have relevant project and operational management skills having been proven through at least 5 years with other projects/ customers and shall have a good command of English, minimum B2.
- b. The **RPAS Operational team** must have relevant experience in similar RPAS deployments as per below:
 - i. The **RPAS Pilots and Payload Operators** who will be coordinating the deployments for the contract and piloting the RPAS and/or controlling and monitoring the payloads:
 - Must have a minimum of 2-years experience piloting manned aircraft and/or RPAS and this must be demonstrated through previous projects/deployments;
 - Must have a minimum of 1-year experience in similar RPAS Operations, performing the flights as per customer(s) request and following instructions from them on specifics of the flight, as well as coordinated with Air Traffic Control;
 - Shall have a good command of English, minimum B2;
 - Shall demonstrate that they have followed a full RPAS training programme for the offered RPAS and have the required and relevant certifications/ licenses.
 - ii. The **Ground crew**, as operational, logistical and maintenance experts,
 - Must have at least 1-year experience having worked on RPAS deployments or similar operations;
 - The technicians responsible for the maintenance of the systems shall demonstrate that they have followed a full RPAS training programme for the offered RPAS and have the required and relevant certifications/ licenses.
- c. The IT Technical Manager in charge implementing the link to the RPAS DC and define and maintain the procedures and systems on-site. Must have 5 years of experience implementing, maintaining and ensuring the operation of ICT real time operational systems.

15.5.1.2 Evidence

- The tenderer shall complete the summary table in Appendix III to the Tender Specifications related to the professional capacity by staff, including the relevant projects and operations in which each offered staff has participated.
- For each key staff member of at least a full team to be capable of operating the first system available, in accordance with Appendix II – Service and Technical Specifications, the tenderer shall provide:
 - i. a detailed curriculum vitae in the European format or equivalent (<http://europass.cedefop.europa.eu/en/documents/curriculum-vitae>).
 - ii. all required certifications and licences.

In case an expert will be incorporated, the above qualifications shall be fulfilled. In case an expert will be replaced during the lifetime of the contract, a person with at least similar qualifications shall take over the duties. For both cases, a new curriculum vitae must be provided, and the contracting authority must approve the changes.

15.5.2 RPAS maturity (flight hours) – Selection Criteria

The tenderer shall complete the Appendix III Tenderer's Offer Template, "Select. Crit. RPAS Maturity" sheet.

15.5.2.1 Requirements

- a. The tenderer must demonstrate that the offered RPAS, same type and version without major changes (i.e. engine change, changes in airframe, etc.), has undertaken at the time of the bid submission:
 - For Lot 1 – at least 400 proven flight hours, 50% of which at least under Satellite communication.
 - For Lot 2 – at least 300 proven flight hours of which at least 50 flight hours must have been from vessels.
- b. The tenderer must demonstrate through a Flight Test campaign (Initial Configuration Test), that the offered RPAS is mature enough and that it is already equipped with standard minimum payload, as per section 3.1 of the Appendix II – Service and Technical Specifications.

15.5.2.2 Evidence

- The tenderer shall complete the summary table in Appendix III to the Tender Specifications related to the RPAS maturity (Flight Hours). Only flight hours for the offered RPAS type should be reported.
- The tenderer shall provide testimonials, excerpts of the logbook, results of tests, letters from previous users of the services, supporting the declared flight hours for the offered RPAS.
- The successful tenderer(s) to whom the FWCs have been awarded for each lot will be required to perform within 8 weeks of the contract award an Initial Configuration Test, including a live flight demonstration, for the first of the two complete systems (two aircraft and one GCS) being offered per FWC. This shall ensure that only mature systems already equipped with standard minimum payload will be selected for the FWC. Draft Initial Configuration Test Plan shall be provided by the tenderer within the bid. Please refer to section 3.1 of the Appendix II – Service and Technical Specifications additional details.
- Tenderers shall provide in their bids a signed declaration on the maturity of their RPAS configuration as offered and an agreement to perform above indicated test, in the proposed location indicated in the Draft Test Initial Configuration Test Plan, in case of contract award.

The tenderer should note that the signature of the FWC will be subject to the condition precedent that these selection criteria are fulfilled as explained in section 17 below.

15.5.3 Operational experience – Selection Criteria

The tenderer shall complete the Appendix III Tenderer's Offer Template, "Select. Crit. Operational exper." Sheet.

15.5.3.1 Requirements

The tenderer must have experience in providing **similar services** as an RPAS Operator (not necessarily with the offered RPAS, but same type/ size of RPAS), including, at the time of the bid submission:

- minimum of 2-years' experience in similar RPAS surveillance operations;
- with deployments lasting longer than 1 month (flight demos and tests are not considered as sufficient);
- with deployments onboard vessels for Lot 2.

15.5.3.2 Evidence

The tenderer shall complete the summary tables in Appendix III to the Tender Specifications related to the operational experience, including the relevant RPAS operations in which the Tenderer has participated, and its specific role. EMSA reserves the right to require, as an evidence of the operational experience, letters from previous users of the tenderer's services.

15.5.4 RPAS contractual control or ownership – Selection Criteria

15.5.4.1 Requirements

The tenderer must demonstrate contractual control or ownership of the RPAS offered for the duration of the contract, including all the components of the system and payload.

The tenderer shall complete the Appendix III Tenderer's Offer Template, "Select. Crit. Control or Ownership" Sheet.

15.5.4.2 Evidence

- The tenderer shall provide a signed statement in the bid declaring:
 - contractual control or ownership of the RPAS (including all the components of the system and payload), or
 - imminent control or ownership of the RPAS (including all the components of the system and payload);

for the whole duration of the FWC with EMSA. Such statement must be issued by the vendor/supplier of the system or component(s), or, alternatively, by the tenderer in case the tenderer is the manufacturer.

- The successful awarded tenderer shall provide evidence of the above, such as purchase contract and invoices, rent or lease.

The tenderer should note that the signature of the FWC will be subject to the condition precedent of the fulfilment of this selection criterion as explained in section 17 below.

15.6 Declaration of Honour (DoH)

Please note that the tenderer shall provide information with regards its situation and on the natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control and beneficial owners.

Upon request and within the time limit set by EMSA, the tenderer shall provide the following evidence concerning itself, the natural or legal persons as listed under the first paragraph, and concerning the natural or legal persons which assume unlimited liability for the debt of the tenderer:

For the exclusion situations described in points (a), (c), (d), (f), (g) and (h) of the Declaration of Honour, production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the tenderer showing that those requirements are satisfied.

For the exclusion situations described in (a) and (b) of the Declaration of Honour, production of recent certificates issued by the competent authorities of the country of establishment is 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. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The successful tenderer must provide the documents mentioned as supporting evidence before signature of the contract and within the deadline given by EMSA. This requirement applies to each member of the group in case of joint tender.

If the tenderer already submitted such evidence for the purpose of another procedure, its issuing date does not exceed one year and it is still valid, the person shall declare on its honour that the documentary evidence has already been provided and confirm that no changes have occurred in its situation.

16. Award criteria

The contract will be awarded to the tenderer who has been selected in view of the exclusion and selection criteria above, fulfils all the minimum technical requirements (as per these Tender Specifications and Appendix II – Service and Technical Specifications) and submits the most economically advantageous bid (the one with highest score) based on the following quality criteria and their associated weightings:

1. Quality criterion 1 ($W_1 = 50 \%$)
2. Quality criterion 2 ($W_2 = 20 \%$)

and the price criterion and associated weighting:

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

Criterion	Title	Weighting	Minimum
Q ₁	Quality of the proposal in terms of RPAS Technical Capabilities	W ₁ = 50%	60%
Q ₂	Quality of the proposal in terms of overall capabilities to provide the service	W ₂ = 20%	60%
Price	Total price for evaluation	W _{Price} = 30%	n/a

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

The score is calculated as

$$S = SQ + SP$$

where:

The average quality for quality criterion i is

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

The overall weighted quality is

$$Q = \sum_i Q_i * W_i$$

The score for quality is

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

The score for price is

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

Only tenders that have reached a minimum of 60 % for Q_1 , a minimum of 60 % for Q_2 will be taken into consideration when calculating the score for quality SQ , score for price SP and score S .

Only tenders that have reached a minimum of 50 % for the score S will be taken into consideration for awarding the contract.

16.1 Quality Award Criteria (70%)

16.1.1 General Considerations

The quality award criteria will be used to evaluate the products and services proposed by the tenderer as detailed below. Please note that the degree of fulfilment of the quality requirements formulated as “Advantage” or “Evaluated” will be used to evaluate the offer against the award criteria.

To facilitate the compilation of the bid, please use the Appendix III Tenderer’s Offer Template, Technical Template Lot 1, and/ or Technical Template Lot 2.

The tenderer is requested to state any non-compliance or incompatibilities of the system or service offered vis-à-vis the tender specifications, and the mitigation measures to meet the requirements.

16.1.2 Quality award criterion Q1: Quality of the proposal in terms of RPAS Technical capabilities (50%)

The contracting authority will evaluate the level of fulfilment of the quality requirements in accordance with the elements of the bid listed in the table below. For each element a reference is made to the most relevant technical specifications in Appendix II against which the evaluation of the bid will be made.

Elements	Link to Appendix II – Service and Technical Specifications	Weight
<i>The sub-bullets below indicate prime elements of the award criterion; however, the award criterion will be evaluated according to the specific configuration offered, taking all relevant aspects for the requested services into consideration.</i>	Please read carefully through the whole technical specifications, as the references listed below refer to the main sections; however, there are relevant information and applicable requirements throughout the Technical Specifications. Additionally, please note that those documents listed under section 5.4 of Appendix II which must be submitted within the bid will be considered for the evaluation.	
Quality of the proposal in terms of RPAS technical capabilities, including among others:		
<ul style="list-style-type: none"> • RPAS performances/ functionalities: <ul style="list-style-type: none"> • range, • endurance, • safety systems 	4.2 - 1 4.2 - 2 4.2 - 3 4.2 - 4 4.2 - 5	35 %

	<p>4.2 - 6</p> <p>4.2 - 7</p> <p>4.2 - 11</p> <p>4.2 - 12</p> <p>4.2 - 13</p>	
<ul style="list-style-type: none"> payload capabilities 	4.2 - 10	
<ul style="list-style-type: none"> communications 	<p>4.2 - 2</p> <p>4.2 - 3</p> <p>4.2 - 13</p> <p>4.2 - 14</p> <p>4.2 - 15</p> <p>4.2 - 16</p>	
<ul style="list-style-type: none"> management/provision of data data analysis and exploitation data security 	<p>4.2 - 17</p> <p>4.2 - 18</p> <p>4.2 - 19</p>	
<ul style="list-style-type: none"> Take- off and landing logistics; environmental limitations, for flights in maritime environment Deployability in vessels 	<p>4.2 - 8</p> <p>4.2 - 9</p> <p>4.2 – 10.31 (applicable to Lot 2)</p>	<p>10% for lot 1</p> <p>15% for Lot 2</p>
<p><u>For Lot 1 this element will be considered advantageous:</u></p> <p>The quality and price conditions for an additional option to take-off and land from/on different sites in the same mission will be evaluated according to the indicated weight</p>	4.3 - 3.9	<p>5% for Lot 1</p> <p>N/A for Lot 2</p>

16.1.3 Quality award criterion Q2: Overall capabilities to provide the service (20%)

The quality of the operational capabilities to perform the tasks under the terms of the contract will be evaluated based on the following elements of the bid below. For each element a reference is made to the most relevant technical specifications in Appendix II against which the evaluation of the bid will be made.

Elements	Link to Appendix II – Service and Technical Specifications	Weight
<p><i>The sub-bullets below indicate prime elements of the award criterion; however, the award criterion will be evaluated according to the specific configuration offered, taking all relevant aspects for the requested services into consideration.</i></p>	<p>Please read carefully through the whole technical specifications, as the references listed below refer to the main sections; however, there are relevant information and applicable requirements throughout the Technical Specifications. Additionally, please note that those documents listed under section 5.4 of Appendix II which must be submitted within the bid will be considered for the evaluation.</p>	
<p>Quality of the proposal in terms of overall capabilities to provide timely and quality RPAS service, including among others:</p>		
<ul style="list-style-type: none"> • Capacity for scheduled and unscheduled response • Capability for emergency response • RPAS operational team composition and availability 	<p style="text-align: center;">4.3 - 1 4.3 - 3 4.3 - 4 4.3 - 5 4.3 - 6 5.2 - 1</p>	20 %
<ul style="list-style-type: none"> • Ability to obtain the authorisation/ permits to fly for the offered RPAS for the EMSA service; 	4.3 - 6	
<ul style="list-style-type: none"> • For the purpose of facilitating the set-up phase, it will be considered as an advantage if the equipment is ITAR free; 	4.2 – 20	

<ul style="list-style-type: none"> Proposal for the Management and Coordination of the Project; Allocation of tasks within the team to guarantee fulfilment of EMSA service; 	5.3 - 1	
	5.3 - 2	
	5.3 - 3	
	5.3 - 4	
<ul style="list-style-type: none"> Quality Management Plan, including available quality certification 	5.3 - 5	

16.2 Price Award Criterion (30%)

The tenderers are requested to fill in the prices offered in the financial tender template in Appendix III. All prices listed under section 13 above should be inserted in the Appendix III.

These prices will be used to calculate the total price for the evaluation (P) to be used as award criterion for Lots 1 and 2 as described in the scenarios below.

For the purpose of the evaluation of the offers, scenarios have been prepared in the financial tender template in Appendix III that represent the calculation of cost for potential simulated deployments with number of deployments, number of days of flight and number of flight hours varying per lot.

1. For Lot 1

For Lot 1 the total price P_1 to be used for evaluation of price is calculated as follows:

$$P_1 = (P_{Mod1|Lot1} + P_{Mod2|Lot1}) \times M_1 + (P_{Mod3-5/7|Lot1} \times D_{1-5/7}) + (P_{Mod3-7/7|Lot1} \times D_{1-7/7}) + (P_{Mod4|Lot1} \times H_1) + (\Delta P_{Mod5|Lot1} \times D_{1-Mod5}) + P_{Mod6|Lot1} + P_{Mod7|Lot1}$$

The price per flight hour used for the calculation of costs in the scenario will be an average of the price per flight hour with coverage of the SATCOM costs by the contractor and the price of the flight hour with coverage of the SATCOM by EMSA:

$$P_{Mod4} = \frac{(P_{Mod4\ flight\ all} + P_{Mod4\ flight\ no\ satcom})}{2}$$

		Scenario
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M ₁	Number of Deployments for the scenario	2
D _{1-5/7}	Number of days onsite for the 5/7 service	270
D _{1-7/7}	Number of days onsite for the 7/7 service	90
D _{1-Mod 5}	Number of days under Emergency Response (Module 5) - 24/7 Stand-by	60
H ₁	Total flight hours (including all deployments and operation modes)	2300

Note: Please be aware that these price scenarios are calculated for the purpose of the evaluation and comparison of the bids in terms of prices only and do not represent a commitment regarding the minimum number of flight hours/days to be contracted under the FWC.

Note: please be aware that deployments can happen in parallel.

The total price will be calculated automatically in the financial tender template (Appendix III) and will appear on the right bottom corner of the grid when the tenderers have filled in all prices requested in the white cells.

2. For Lot 2

For Lot 2 the total price P₂ to be used for evaluation of price is calculated as follows:

$$P_2 = (P_{Mod1|Lot2} + P_{Mod2|Lot2}) \times M_2 + (P_{Mod3-5/7|Lot2} \times D_{2-5/7}) + (P_{Mod3-7/7|Lot2} \times D_{2-7/7}) + (P_{Mod4|Lot2} \times H_2) + P_{Mod6|Lot2} + P_{Mod7|Lot2}$$

		Scenario
M ₂	Number of Deployments for the scenario	4
D _{2-5/7}	Number of days onsite for the 5/7 service	300
D _{2-7/7}	Number of days onsite for the 7/7 service	60

H ₂	Total flight hours (including all deployments and operation modes)	1100
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Note: Please be aware that these price scenarios are calculated for the purpose of the evaluation and comparison of the bids in terms of prices only and do not represent a commitment regarding the minimum number of flight hours/days to be contracted under the FWC.

Note: please be aware that deployments can happen in parallel.

The total price will be calculated automatically in the financial tender template (Appendix III) and will appear on the right bottom corner of the grid when the tenderers have filled in all prices requested in the white cells.

17. Award Decision and signature of the Framework Contract

An award decision will be issued to nominate the awarded tenderer(s) following evaluation against the above evaluation criteria.

The FWC per lot will be signed with the successful tenderer only after the maturity and availability of the offered RPAS configuration has been demonstrated through the performance of the Initial Configuration Test (refer to section 15.5.2) and the ownership or contractual control of the RPAS for the duration of the contract has been proved (refer to section 15.5.4). If this configuration is not ready for operation and/or this ownership or contractual control of the RPAS is not proved after 8 weeks following the date on which the successful tenderer receives notification of the award of the FWC, the award decision will be amended, and the tenderer ranked next in the evaluation will be awarded the FWC.

18. Rejection from the procedure

Contracts will not be awarded to tenderers who, during the procurement procedure, are in one of the following situations:

- a) are in an exclusion situation;
- b) have misrepresented the information required as a condition for participating in the procedure or have failed to supply that information;
- c) were previously involved in the preparation of procurement documents used in the award procedure where this entails a breach of the principle of equality of treatment, including distortion of competition that cannot be remedied otherwise.

19. Intellectual Property Right (IPR)

Please consult the contract for IPR related clauses.

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

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

20. Special negotiated procedure under point 11.1(e) of Annex I to FR

EMSA may at a later stage exercise the option to increase the estimated value of the contract via negotiated procedure with the successful tenderer in accordance with the provisions of point 11.1 (e) of Annex I to the Financial Regulation.