TENDER REGULATIONS

DEVELOPMENT AND DEMONSTRATIONS OF CMEMS DOWNSTREAM SERVICES CONTRIBUTING TO IMPLEMENTATION OF THE EU MARINE STRATEGY FRAMEWORK DIRECTIVE

Procedure provided for under article 67 of Decree n°2016-360 of 25 March 2016
Open call for tender

Deadline for receipt of bids

28 September 2016 at 12.00 midday

No bid will be admissible if received after the above date and time.
If applications are remitted in hardcopy (paper) form, each candidate is responsible for end-to-end delivery, via surface mail or courier.

This document explains how the procedure functions and how candidates should answer.
To be read carefully.

MOTIVATION AND STRATEGY

The Copernicus Marine Environment Monitoring Service (CMEMS –marine.copernicus.eu) has been operational since May 2015.

The excellent CMEMS user response (+7000 subscribers today) is a real incentive to pursue and boost a strategy built on an open and free service and support to the development of downstream services. The CMEMS users and more specifically "intermediate users", service providers themselves, are key to the success of the service. They bring an expert added-value to specialised markets to leverage the existing economic activity.

With the User Uptake, Mercator Ocean aims to reinforce its relationship with its intermediate users, to explain and enhance the CMEMS service and the services of these key players. This is based on their direct involvement to ease the CMEMS use and promote inspiring exemplary cases which will contribute to the development of the whole chain.

In practice, Mercator Ocean wishes to identity the successful elements of the service relationship between CMEMS and its users, to display and bring visibility to the services of its users and on CMEMS. The illustration with concrete examples will raise interest of new users and allow communities to exchange on a specific topic and propose relevant evolutions to the current European service.

This User Uptake component will accompany CMEMS during all its operations and evolutions and will take the shape of several successive markets. For this first wave, a thematic priority is been set on the coastal area. Other themes will be addressed during the following stages to continue answering user needs.

CONTEXT

A Delegation Agreement has been signed between the European Commission and Mercator Ocean for the Copernicus Marine Environment Monitoring Service (CMEMS) implementation. The Copernicus Marine Service provides regular and systematic reference information on the physical state and dynamics of the ocean and marine ecosystems for the global ocean and the European regional seas. This capacity encompasses the description of the current situation (analysis), the prediction of the situation a few days ahead (forecast), and the provision of consistent retrospective data records for recent years (re-analysis).

CMEMS provides a sustainable response to European user needs in four areas of benefits that are:

- coastal and marine environment,
- maritime safety,
- marine resources,
- climate, seasonal and weather forecasting.
-

The areas of benefits and their sub-categories are listed in the CMEMS registration form, paragraph 2.2 (http://marine.copernicus.eu/web/56-user-registration-form.php)

The delegation agreement between the European Commission and Mercator Ocean requires the development and the implementation of a User Uptake strategy to firstly secure the loyalty of its users and secondly to attract new user communities. This component is complementary to the long term "service evolution" which allows for R&D evolutions according to users' needs and applications. These two components feed the CMEMS service by proposing evolution and innovation both on the upstream and downstream aspects that can then be an integral part of the service.

The first User Uptake contracts focus on demonstrations of coastal and operational downstream CMEMS services, including those linked to the EU Marine Strategy Framework Directive (www.msfd.eu) and an inventory of mobile application that use CMEMS products.

Forthcoming User Uptake tenders will require other demonstrations of coastal and open sea downstream services targeting geographical domains and areas of benefits not provided for in previous tenders, as well as tool development, always taking into account user needs.

CMEMS will mention the names of the organisations at the origin of the demonstrations or the tools, purchased by Mercator Ocean, which will be displayed on its own website in different pages, including the one that will be created to increase the visibility of the chosen services, tools and applications, object of the User Uptake tenders.

DEFINITIONS

Service: the making available of ocean products or information, meeting one or several user needs.

CMEMS downstream service (or downstream service): a service delivering ocean products and/or information, with added value, or derived products, developed from information from CMEMS.

Valued added product: is a product created from the transformation of a CMEMS product, which preserves the original structure of CMEMS products in a recognizable way.

Derived product: is a product developed and modified irreversibly from CMEMS products or added value products from CMEMS, which do not preserve the original structure of CMEMS products.

Coastal service: a service whose geographical field partially or totally includes the maritime coastal space of one or several countries.

Outermost Regions of the European Union (ORs): these are territories of the European Union but which are located outside the European continent. There are currently 9 ORs, the Canary Islands (Spain), Guadeloupe, Guyana, Martinique, Mayotte, La Réunion, Saint-Martin (France), the Azores and Madeira (Portugal).

Operational service: this is an on-going or re-activable service. It can be provided continuously or on an ad hoc basis, depending on user expectations.

Demonstration: this is a presentation and detailed description of a service developed by the candidate which shows integration and usefulness of CMEMS, and arouses interest with future CMEMS users.

1. PRESENTATION OF THE CONSULTATION

1.1. Aim of the consultation

The aim of the contract is to enhance the usefulness and use of CMEMS, develop user loyalty and attract new users.

The aim of the consultation is to promote **demonstrations of coastal, operational and CMEMS downstream services and contributions to the EU Marine Strategy Framework Directive.**

Candidates shall supply demonstrations of coastal downstream services, maintain them for at least one year after the end of the contract, if possible to end March 2021, and promote them to Member States which benefit from the service.

In particular, the candidate is reminded of the fact that the coastal characteristic of requested demonstrations will not limit downstream services to the sole "Marine Coastal Environment" CMEMS area of benefit. Other CMEMS areas of benefit may also be covered.

In addition, the demonstrations requested shall present a coastal service, be attached to a CMEMS geographical region, enhance integration of CMEMS products from observations, models or a combination of both, stipulate the integration of CMEMS information and its usefulness in the coastal, operational downstream service presented.

Demonstrations will also make it possible to enhance the visibility of coastal CMEMS downstream services, contribute to the comprehension of the use of CMEMS, arouse the interest of future users for CMEMS and for the services covered by the demonstrations, through different areas of benefit, the solutions provided, the quality of services offered and their simplicity.

1.2. Procurement procedure

This contract is awarded in line with the procedure for open tenders for which provision is made under article 67 of Decree n° 2016-360 of 25 March 2016.
(*https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032295952&fastPos=1&fastReqId=2017150570&categorieLien=cid&oldAction=rechTexte*).

1.3. Allotment

This consultation is divided into 4 lots.
The EU Marine Strategy Framework Directive covers a broad spectrum of very complex indicators. Having a variety of examples of services in accordance with it is important. This diversity of technical possibilities will be demonstrated by buying demonstrations from candidates of various know-how

For that reason, this consultation is made up of 4 covering the same need, each lot leading to the conclusion of a contract.

The candidate who is selected for lot 1 cannot be selected for lot 2. The candidate who is selected for lot 3 cannot be selected for lot 4.

Candidates are consequently advised to propose one or several offers identical for each lot. However, Mercator Ocean informs the candidates that, because various demonstrations and know-how are needed, only one lot will be allocated to the same candidate.

1.4. Form of the contract

The contract is a simple contract.

1.5. Term of the contract

The Contract is entered into for a term of 18 months as from the date of notification of the contract materialized by sending the deed of commitment.

1.6. Language of the contract

The language for procurement of the contract is French.

Candidates are, however, authorized to tender their application dossier and bid in English, subject to their producing, in the event of their being awarded the contract and within one month, a translation in French, certified as being compliant with the original, by a sworn translator.

The language of performance of the contract is English.

1.7. Place of performance of the contract

The place of performance of the contract is at the candidate's establishment where the work will be carried out.

In addition, it is specified that work meetings can be organised in Toulouse or by videoconference.

1.8. Amount of the contract

As an indication, the contract is for an amount of 600,000 euros.

1.9. Terms and conditions of financing and payment

The contracting authority will finance this contract from European funds (regulation n°377/2014 of the European Parliament and Council of 3 April 2014 establishing the Copernicus programme and repealing EU regulation n°911-2010 and in particular article 8).

Contract services shall be settled under the terms and conditions fixed in the schedule appended to the SCC on remittal of an invoice and shall be paid by transfer, within 30 days maximum as from the date of receipt of the duly remitted invoice.

1.10. Currency of the contract

Candidates are informed that MERCATOR OCEAN will conclude the contract in Euros.

1.11. Term of validity of proposals

The term of validity of proposals is 180 days as from the deadline fixed for receiving bids.

1.12. Variants

Variants are not authorized.

1.13. Options

Recourse to negotiated service contracts in order to provide services similar to those in the contract is provided for under article 30 I 7° of Decree n°2016-360 of 25 March 2016 determining the rules applicable to contracts awarded by the contracting authorities mentioned in article 10c of order n°2015-899 of 23 July 2015 relating to contracts entered into by certain public or private persons not subject to the public procurement code.

2. CONTENTS OF THE CONSULTATION FILE

The consultation dossier may be downloaded electronically from the Mercator Ocean website at the following URL:http://www.mercator-ocean.fr/en/mercator-ocean/tenders/appel-doffre-user-uptake-33-uu-do-cmems-dem3/.
It may also be requested from the following e-mail address : cmemstenders@mercator-ocean.fr

The consultation file is made up of the following documents:

1. Tender regulations
2. Technical proposal guidelines
3. Deed of commitment
4. The individual candidate's application letter
5. The co-contractor's application letter (candidate as a consortium)
6. Candidate's declaration of capacities
7. Subcontracting declaration
8. Subcontractor's declaration of capacities
9. Price note
10. Specific Conditions of Contract and Payment Schedule in appendix (SCC)
11. General Conditions of Contract applicable to public contracts of Information & Communications Technologies (GCC ICT).
12. Statement of Work (SoW) and appendices

3. REMITTAL OF FILES

3.1. Conditions for remittal of files

- Each candidate shall remit a complete bid in French or English, subject to their producing, in the event of being awarded the contract and within one month, a translation in French, certified as being compliant with the original, by a sworn translator. The documents enclosed with the bid come under the same regime;

- Candidates shall supply a complete file comprising all the documents stipulated by article 3.4 and in the formal conditions indicated therein.

3.2. Subcontracting and consortia

3.2.1. Subcontracting

Candidates may subcontract performance of certain parts of the contract, subject to complying strictly with the provisions of Law n°75-1334 of 31 December 1975 relating to subcontracting. Each subcontractor, as well as its terms and conditions of payment, shall be accepted by Mercator Ocean in the conditions set out under article 134 of Decree n°2016-360 of 25 March 2016.

In the event of intending to justify their financial, technical and professional capacity for performing this contract for which they are submitting their application via the capacities of one or several subcontractors, candidates shall submit their file in the terms and conditions set out in article 3.4.1 of these consultation regulations.

If they do not consider it necessary to avail themselves of the financial, technical or professional capacity of one or several subcontractors but envisage, on remittal of the bid, subcontracting services within the scope of this contract for which application is presented, candidates shall present their bid file in the terms and conditions stipulated under article 3.4.2 herein.

3.2.2. Ad hoc consortia of economic operators

Subject to rules on the freedom of prices and competition, candidates may present their application and bid in the form of an ad hoc consortium of economic operators, in the terms and conditions set out in article 45 of Decree n°2016-360 of 25 March 2016.

The consortium has joint-and-several liability when each of the members is financially committed for the whole of the contract. The consortium has joint-liability-only when each of the members of the consortium undertakes to perform services which may be awarded to him within the scope of this contract.

Candidates may present their application and bid in the form of a joint-liability-only or a joint-and-several liability consortium. If the contract is awarded to a consortium that presented its application and bid in the form of a joint-liability-only consortium, transforming the said consortium into a joint-and-several liability consortium is nevertheless required under the terms and conditions stipulated in the SCC.

Designated in the deed of commitment of consortium members, the consortium representative represents all members with regard to MERCATOR OCEAN and co-ordinates their services throughout the entire duration of the contract.

Candidates' attention is drawn to the fact that the same economic operator may not be representative of more than one consortium that is candidate for the consultation. Candidates' attention is also drawn to the fact that, within the scope of this consultation, the same economic operator is not authorized to remit several applications in his capacity as member of a consortium and individual candidate.

The make-up of a consortium may only be modified between the date of remittal of the bids and the date of signature of the contract for which the consortium is candidate, if the consortium can prove that one of its members is being wound up by the court or that it is impossible for him to accomplish his task for reasons which are beyond his control. In such case, the consortium may request MERCATOR OCEAN authorisation to continue participating in the consultation without the defaulting

operator, by proposing if needs be one or several subcontractors to be approved by MERCATOR OCEAN.

MERCATOR OCEAN shall decide on such request after examining the financial, technical and professional capacity of all consortium members thus transformed and of any subcontractors presented for its acceptance.

3.3. Remitting the file

The candidate may remit his bid electronically or via surface mail in line with methods set out in article 3.6. All documents of the file shall be provided by the same mean (digital or paper).

The file remitted by the candidate will take the form of a file identified as **Marché (Contract) 33-UU-DO-CMEMS-DEM3**.

The file comprises several parts: several electronic sub-files or several envelopes for the paper versions.

In order to be complete, the candidate's file must necessarily include:

- An administrative part: "part n°1 application – **Marché 33-UU-DO-CMEMS-DEM3**, bearing the candidate's name,

- One part per lot for which a bid is submitted "part n°2 bid – **Marché 33-UU-DO-CMEMS-DEM3** - lot n°**X**, bearing the candidate's name,

3.4. Documents required in each sub-file

The candidate's file shall contain documents listed hereafter, in digital or paper format in one copy, except for the Deed of Commitment of which two original copies are required.
If the candidate chooses a paper version, these documents will also be supplied on an electronic support (one support per envelope: USB stick or CD Rom). In the event of any differences between electronic and paper supports, those on the paper support shall be binding.

3.4.1. Sub-file "part n°1 – Application" (1 copy)

The "part n°1 – application" sub-file/envelope contains elements for judging the admissibility of the candidate and assessing his professional, technical and financial capacities.

The application file is made up of the following documents:

3.4.1.1 Documents to be supplied by individual candidates

Situation specific to economic operators

1. **An application letter** dated and signed by a person authorized to commit the candidate,

   - indicating:

   - the **name, address, telephone and fax numbers of the candidate's headquarters**,

   - the **company name, legal form and any number of registration at the registry for trade and commerce** or SIREN number of the candidate, or, for foreign companies, the

registration number at a professional registry,

- as well as the **name, first name and capacity of the signatory**, to which, for each signature, will be appended **a document certifying that the signatory has the authorized capacity to sign and commit the candidate**.

➢ and including:

- a sworn statement, dated and signed by the person having the power to commit the candidate, certifying that the latter:

  ✓ is not affected by any of the mandatory cases of prohibition from remitting bids for which provision is made under articles 45 and 48 of order n°2015-899 of 23 July 2015 or, for public defence or security contracts, is not affected by any of the mandatory cases of prohibition from remitting bids for which provision is made under articles 45, 46 and 48 of order n°2015-899 of 23 July 2015

  ✓ is in compliance with articles L. 5212-1 to L. 5212-11 of the labour code concerning employment of disabled workers.

➢ with which shall be enclosed:

Documents justifying the capacity of the signatory to commit the candidate. These are as follows:

- If the signatory is the legal representative of the economic operator:

  - documentary proof of registration at the professional registry or the registry of trade and commerce, which clearly indicates his identity,

  - or any other document (companies articles of association etc.) duly justifying the signatory's capacity to legally represent the company,

- If the signatory is not the legal representative of the economic operator:

  - a currently valid power-of-attorney, certifying the signatory's capacity to represent the economic operator with which will be enclosed documentary proof of registration at the professional registry or the registry of trade and commerce, which clearly indicates the identity of the signatory of the power-of-attorney (mandator), duly justifying the capacity of mandator of the signatory's company,

➢ If the candidate is in receivership, the **copy of the judgment(s) authorizing him to continue his activity throughout the term of the contract**;

Candidates may duly use the form included in the consultation file.

The headings in question on the said form must be filled in and completed in such a way that the above-requested information is clearly supplied.

2. Declaration of the capacities of economic operators

- Economic and financial capacities

- The candidate must provide a declaration concerning global annual turnover for the last three financial years available (2013-2014-2015); if the candidate is objectively unable to produce this information, and in particular when the company has been created recently, he can prove his capacity by any other document considered as being equivalent and in particular by producing an appropriate declaration from banks or proof of insurance for professional risks.

- Technical and professional capacities for all economic operators

- The candidate must provide a declaration indicating mean annual headcount and the quantity of executive staff for the past three years (2013 – 2014 - 2015).

Where information for assessing the candidate's financial, professional and technical capacities is concerned, candidates may duly use the consultation file form.

To justify their professional, technical and financial capacities, candidates, even as a consortium or subcontractor, may also ask for the professional, technical and financial capacities of other economic operators to be taken into account, regardless of the legal nature of any links existing between such operators and candidates. In this case, they shall justify the capacities of such economic operator(s) and provide the proof that this will be available for the performance of the contract.

3.4.1.2 Documents to be supplied in the case of a service provision subcontractor

Candidates may subcontract the performance of certain parts of the contract if they envisage subcontracting. For each of the subcontractors, the following documents are mandatory:

- A declaration of subcontracting, dated and signed by the people competent to commit the candidate contractor and the subcontractor. This shall mention :

  - the nature of the subcontracted services, without any indication relating to the amount thereof;

  - a written undertaking by the subcontractor(s), or the subcontracting contract with no reference to anything that does not have to be communicated at the application stage, in particular with regard to prices;

  - a document indicating the name, first name and capacity of the person competent to commit the operator on whose behalf he is acting, as well as the company name, legal form and any registration number at the registry for trade and commerce or the candidate's SIREN number;

  - a sworn declaration, in application of articles 45, 46 and 48 of order n°2015-899 of 23 July 2015;

  - and, if need be, if the operator is in judicial re-organisation, copy of the judgment(s) authorizing him to pursue his activity.

- A declaration of the subcontractor's capacities dated and signed by the people competent to commit the candidate contractor and subcontractor.

- Documents mentioned in point 2 of the above article 3.4.1.1.

3.4.1.3 Documents to be supplied by co-contractors (members of the consortium)

In the case of a consortium, the following documents are mandatory:

1. **An application letter from the co-contractor** dated and signed by a person competent to commit the candidate,

➢ indicating:

- the **name, address, telephone and fax numbers of the candidate's headquarters**,

- the **company name, legal form and any number of registration at the registry for trade and commerce** or SIREN number of the candidate, or, for foreign companies, the registration number at a professional registry,

- as well as the **name, first name and capacity of the signatory**, to which, for each signature, will be appended **a document certifying that the signatory has the authorized capacity to sign and commit the candidate**.

➢ and including:

- a table of the consortium members and services performed

- if the co-contractor is not the representative, the authorization of the representative by the co-contractor

- if the co-contractor is the representative, acceptance of the mandate received

- the co-contractor's bank references

- a sworn declaration, dated and signed by the person having power-of-attorney to commit the candidate certifying that the latter:

  ✓ is not affected by any of the mandatory cases of prohibition from remitting bids for which provision is made under articles 45 and 48 of order n°2015-899 of 23 July 2015 or, for public defence or security contracts, is not affected by any of the mandatory cases of prohibition from remitting bids for which provision is made under articles 45, 46 and 48 of order n°2015-899 of 23 July 2015

  ✓ is in compliance with articles L. 5212-1 to L. 5212-11 of the labour code concerning employment of disabled workers.

➢ with which shall be enclosed:

- A RIB/IBAN (SEPA)

- the documents justifying the capacity of the signatory to commit the candidate. These are as follows:

- If the signatory is the legal representative of the economic operator:

    - documentary proof of registration at the professional registry or the registry of trade and commerce, which clearly indicates his identity,

    - or any other document (company's articles of association etc.) duly justifying the signatory's capacity to legally represent the company,

- If the signatory is not the legal representative of the economic operator:

    - a currently valid power-of-attorney, certifying the signatory's capacity to represent the economic operator with which will be enclosed documentary proof of registration at the professional registry or the registry of trade and commerce, which clearly indicates the identity of the signatory of the power-of-attorney (mandator), duly justifying the capacity of mandator of the signatory's company,

➢ If the candidate is in receivership, the **copy of the judgment(s) authorizing him to continue his activity for the whole duration of the contract**;

2. Documents mentioned in point 2 of the above article 3.4.1.1.

Candidates may duly use the form included in the consultation file.

The headings in question on the said form must be filled in and completed in such a way that the information requested above is clearly supplied.

3.4.2. Part(s) n°2 - Bid (1 copy)

The "part n°2 – Bid Lot X" sub-files/envelope(s) (1 per lot) contains elements for judging the admissibility of the candidate's technical bid and is broken down into the following elements:

- **The Deed of Commitment** drawn up in duplicate, dated and signed by a person duly authorized to this end.

  In the case of an ad hoc consortium of economic operators, the deed of commitment shall be signed by the representative if authorized; it shall be signed by the representative and each of the other members of the consortium if the representative is not authorized.

- A **Price Schedule**, drawn up in line with the document enclosed herewith, duly completed, dated and signed by a person duly authorized for this purpose.

  Prices take the form defined on the Price Schedule and are drawn up in line with SCC provisions. Candidates' attention is drawn to the fact that, under penalty of irregularity of their bid, they are not authorised to submit prices in another form or in another way than those expressly set out in the Price Schedule.

In the event of an ad hoc consortium of economic operators constituted in application of article 45 of Decree n°2016-360 of 25 March 2016, the Price Schedule shall be signed by the sole representative if authorized by the other consortium members to sign the consortium's bid; the Price Schedule shall be signed by the representative and each of the other consortium members if the representative is not authorized by the other consortium members to sign the consortium's bid.

In this case also, each consortium member shall supply a price schedule corresponding to the services he executes personally or via one or several of the subcontractors.

- The candidate's **Technical Proposal**, submitted in line with the Technical proposal guidelines

The candidate is reminded that, in his bid, he shall describe the tasks scheduled to develop the service present and promote his demonstration, prove the accordance with the EU Marine Strategy Framework Directive provide examples of attractiveness of the future demonstration and show concretely his capacity to activate or re-activate an operational service, maintain and update it.

3.5. Precisions

Candidates recognize that they have been perfectly informed that, in the event of having to draw up any document as part of the application file or bid dossier in line with a document enclosed in this consultation file, they are free either to directly complement the corresponding documents enclosed with the consultation file or draw up their own reply supports, provided they exhaustively supply the information requested.

3.6. Transmitting the file

3.6.1. Electronic transmission

The electronic file must arrive **BEFORE the deadline date and time stipulated on the first page, which, as a reminder, is 28/09/2016 at 12.00 midday** (PARIS time), and shall be sent via e-mail to the following address:
cmemstenders@mercator-ocean.fr

The file must be in a PDF format (.pdf extension) or Word format (.doc or .docx extensions). The file must not exceed 4Mbytes.

Mercator Ocean undertakes to acknowledge receipt by e-mail of the date and time of receipt. Such acknowledgement of receipt shall not be binding with regard to conformity of file contents.

3.6.2. Transmission by surface mail or hand delivery

The paper version of the candidate's file must arrive **BEFORE the deadline date and time stipulated on the first page, which, as a reminder, is 28/09/2016 at 12.00 midday** (PARIS time), and shall be:

- either delivered by hand against acknowledgement of receipt on working days, from Monday to Friday, from 09.00 to 17.00 at **MERCATOR OCEAN** company's reception desk,

- or sent by surface mail to the **MERCATOR OCEAN company** by registered letter with acknowledgement of receipt (or any other equivalent means which makes it possible to determine the exact date and time of its receipt), to the following address:

MERCATOR OCEAN

Bâtiment C

8-10 Rue Hermès,

Parc Technologique du Canal

31520 RAMONVILLE-SAINT-AGNE

France

Files arriving AFTER the above deadline date and time, as well as those arriving in an unsealed envelope will not be selected. Each candidate is responsible for the end-to-end transit time of files, either by surface mail or courier.

3.7. Requests for additional information

Any request for additional information formulated by candidates shall be necessarily transmitted in writing before **16 September 12.00 midday** (Paris time), failing which, no reply shall be given. It is up to the candidate to transmit any questions he deems necessary to finalise his bid within a timeframe adapted to the complexity of his request.

They must necessarily and exclusively be sent to the MERCATOR OCEAN company by surface mail to the following address: 8/10 Rue Hermès, 31520 RAMONVILLE-SAINT-AGNE – France or by e-mail to the following address CMEMStenders@mercator-ocean.fr.

MERCATOR OCEAN undertakes to acknowledge receipt of each of the requests formulated within a period of four working days.

Answers to requests for additional information will be sent either by surface mail or e-mail, to all candidates except where confidential elements specific to the candidates are concerned, at least six days prior to the deadline for receipt of bids.

EXAMINING APPLICATIONS AND BIDS

3.8. Selection criteria for applications

Examining applications covers documents required under article 3.4.1 with regard to:

- admissibility, in application of article 45 of order n°2015-899 of 23 July 2015,
- the candidate's professional, technical and financial capacity as mentioned in article 3.4.1 herein.

Applications are not admissible if they are not in line with article 45 of order n°2015-899 of 23 July 2015 or which do not sufficiently fulfil professional, technical or financial capacities.

Candidates recognize that they have been perfectly informed that, in the case of a consortium of economic operators constituted in application of article 45 of Decree n°2016-360 of 25 March 2016, the capacity to perform contracts is assessed globally, for all members of the consortium.

If the MERCATOR OCEAN company notes that documents requested are missing or incomplete, all candidates concerned may be requested to complement their application file within a timeframe that is identical for all and which may not be more than **ten calendar days**. Candidates whose file is complete shall also be informed of such and may add precisions thereto if they so wish, within the same timeframe.

In application of article 53 of Decree n°2016- 360 of 25 March 2016, it is pointed out that candidates are not bound to supply documents and information required at the application stage that MERCATOR OCEAN can directly obtain via an electronic system making information available administered by an official organisation or a digital storage space, or if they supply in the application file all information necessary for consulting the system or space, and providing such access is free of charge.

3.9. Bid selection criteria

Irregular, unacceptable or inappropriate bids in the meaning of the provisions of article 59 of Decree n°2016-360 of 25 March 2016 shall be rejected.

If the deed of commitment is not signed, the bid shall be rejected.

Candidates are informed that bids which are not compliant with one of the following criteria will be declared irregular in the meaning of article 59 of Decree n°2016-360 of 25 March 2016.

	Non-conformity criteria
1	No contribution to the implementation of the MSFD
2	Non-operational service
3	Absence of CMEMS products
10	Exceeding the time limit of 18 months to carry out the demonstration

Subject to these reservations, each lot will be awarded to the candidate submitting the economically most advantageous bid and who has obtained the best mark on the basis of the following criteria:

	Criteria	Maximum mark
1	**CONTRIBUTION TO THE IMPLEMENTATION OF THE MSFD**	
	Contribution to the implementation of the MSFD clearly identified in the bid	20
2	**OPERATIONAL ASPECT OF THE COASTAL SERVICE DEMONSTRATED**	20
3	**USE OF CMEMS PRODUCTS**	
	Diversity of products used in the service demonstrated	5
	Relevance of products and variables to the service proposed	10
	Highlighting of the link between CMEMS offshore products and the service concerned	10
4	**DESCRIPTION OF SERVICE COVERED BY THE DEMONSTRATION**	
	Quality and clarity of the description	5
	Relevance of the service with regard to user's need	10
5	**SCIENTIFIC AND TECHNICAL QUALITY OF THE SERVICE**	
	Description of developments and methods used	10
	Complexity of developments and methods (examples: nested coastal models, combined products, simple extractions, etc.)	20
	Detail and justification of tasks proposed	10
6	**CARE TAKEN IN PRESENTING THE BID**	10
8	**ATTRACTIVENESS OF THE PRESENTATION OF THE SERVICE**	
	Concrete examples enclosed	5
	Quality of enclosed examples	15
9	**CONCRETE ELEMENTS SHOWING THE CAPABILITY OF THE CANDIDATE TO:**	
	Activate or re-activate the service, in its operational and technical aspects or ensure a continuous operational service	10
	Maintain and update the service up to end December 2020	20
	Produce expected statistics	10
10	**COMMITMENT REGARDING THE DEADLINE REQUIRED TO CARRY OUT THE DEMONSTRATION**	
	Commitment to deliver before the final deadline for the Lot	20
	Price	
11	**TOTAL PRICE OF THE PROPOSAL**	40
	Total points	250

3.10. Awarding the contract

Documents to be produced in all cases at the awarding stage; nevertheless the candidate can supply them if he so wishes at the application stage

In application of the provisions of article 51 of Decree n°2016-360 of 25 March 2016 and prior to any notification, the candidate to whom MERCATOR OCEAN envisages awarding a contract is bound to produce the following documents:

➢ For an individual candidate or member of a consortium established in France

- an extract of criminal record,
- a certificate issued by competent administrations and bodies (an order from relevant ministers sets the list of taxes and social contributions for issue of said certificate as well as the list of competent administrations and bodies),
- copy of the documents mentioned in article D. 8222-5 or D. 8222-7 of the labour code,
- a Kbis or D1 extract, or, failing such, an equivalent document issued by a competent legal or administrative authority in the country of origin or candidate's establishment certifying that there is no case of exclusion.

➢ For an individual candidate or member of a consortium established or domiciled abroad

- an extract from a relevant registry or, failing such, an equivalent document issued by the competent legal or administrative authority certifying that there are no sanctions such as those described in points 1 & 4 a and c of article 45 of order n°2015-899 of 23 July 2015 (https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030920376&fastPos=1&fastReqId=708576946&categorieLien=id&oldAction=rechTexte)

- when the legislation of the country of domicile makes provision for such, a document issued by the body administering the mandatory social regime and mentioning that the co-contractor is up to date with his social declarations and payment of related contributions.

- a document certifying the regularity of his social situation with regard to EC regulation n°883/2004 of 29 April 2004 or an international social security agreement (article D 8222-7-1°-b of the labour code).

  - in the event of being subject to VAT, his individual VAT identification number in France, allocated by the Public Finance Directorate in application of article 286 ter of the General Tax Code.

OR

  - for the individual candidate or consortium member who is not required to have an individual VAT identification number in France, a document mentioning his identity and address or, if needs be, the contact details of his ad hoc tax representative in France.

OR

any equivalent document.

OR

When the competent authorities of the country of origin or candidate's establishment do not issue the equivalent supporting documents, a sworn statement, or for countries where this procedure does not exist, a solemn statement made by the interested party before a legal or administrative authority, a notary or a qualified professional body from his country of origin or establishment.

After the contract is signed by the person authorized by the contracting authority, it is notified to the beneficiary. Notification consists in sending the deed of commitment by e-mail. The date of notification is that on the deed of commitment for fixed-date contracts and the date of sending by e-mail for contracts beginning on the date of notification.

4. CONFIDENTIALITY

4.1. Candidate confidentiality

Regardless of its nature or form, information made available to candidates by MERCATOR OCEAN during the process of consultation, is of a confidential character. Candidates undertake not to disclose or communicate such to third parties, without prejudice of the candidates' right to effective appeal and production in justice of the said information, not to publish it, nor make it public in any way whatsoever.

4.2. MERCATOR OCEAN confidentiality

Regardless of its nature or form, the confidential character of information transmitted to MERCATOR OCEAN by candidates to this call for tender, will be strictly preserved.

Only people from MERCATOR OCEAN who are authorized to process such within the scope of the current procedure for public contracts will have knowledge thereof. MERCATOR OCEAN undertakes only to use information with a view to analysing the application and bid submitted and undertakes not to disclose or communicate such to third parties, with the exception of control authorities, not to publish, nor make such public in any way whatsoever, except to fulfil the obligation to inform under article 99 of Decree n°2016-360 of 25 March 2016. It is, however, pointed out that, where the public contract to be signed is concerned, this and its relevant documents will become administrative documents that may be communicated in line with Act n°78-753 of 17 July 1978, with the right of communication to third parties being exercised, however, in the respect of secrecy where industrial and commercial matters are concerned in accordance with article 6-II of the said Act.

5. APPEALS

5.1. Body dealing with appeals

Tribunal de Grande Instance de Bordeaux
30, rue des Frères Bonie
33077 Bordeaux Cedex
Telephone: 05.47.33.90.00

5.2. Precisions concerning timeframe(s) introducing appeals

1. Pre-contractual summary proceedings for which provision is made under articles 808 and following of the Civil Procedure Code, and which may be exercised prior to the signing of the contract (article 11 and order n°2009-515 of 7 May 2009 relating to appeal proceedings applicable to public procurement contracts),

2. Contractual summary proceedings in application of articles 1441-1 to 1441-3 of the Civil Procedure Code which may be exercised within the timeframes stipulated in article L 1441-3 of the Civil Procedure Code (articles 11 to 20 of order n°2009-515 of 7 May 2009 relating to appeal proceedings applicable to public procurement contracts),

3. Annulment appeal of the contract in application of the order of the Conseil d'État (Council of State) of 16 July 2007 "Tropic Signalisation Company", within a period of two months as from appropriate publication measures of the decision to award the contract.

Appendix I – Summary of documents

Candidate presenting himself alone

Part n°1 (sub-file or envelope) - application
- Application letter of the individual candidate
- Declaration of the candidate's capacities

If the candidate has subcontractors
- Subcontracting declaration
- Declaration of the subcontractor's capacities

Part n°2 – (sub-file or envelope) Bid Lot n°X
- Deed of Commitment (2 original copies)
- Price Schedule
- Technical Proposal

Candidates presenting a grouped bid

Part n°1 (sub-file or envelope) - application
For each candidate:

- Application letter of the co-contractor (consortium member)
- Declaration of the candidate's capacities

If the candidate has subcontractors
- Subcontracting declaration
- Declaration of the subcontractor's capacities

Part n°2 – (sub-file or envelope) Bid Lot n°X

For the bid:

- Deed of Commitment if the representative is authorized to sign the Deed of Commitment (2 original copies)
- Global Price Schedule
- Technical Proposal

For each candidate:

- Deed of Commitment if the representative is not authorized to sign the Deed of Commitment by his co-contractors (2 original copies)
- Optional: a price schedule per candidate (may be supplied later).