The ICMPD would like to confirm the following update in the tender dossier documents:

I. The performance guarantee clause reflects the same percentages (ten percent, 10%) on the following three files:
   1. Contract Notice
   3. Instructions to Tenderers
   4.1. Special Conditions

II. A pre-finance guarantee clause was added under paragraph 1, point 12 pre-finance and performance guarantee of the file “1. Contract Notice”. It now reflects the compliance requirement of forty percent (40%) pre-finance guarantee, inter alia with paragraph 26.5 of the file “4.1 special conditions”;

III. The timetable displayed in this document is a copy of the updated table of section 2 of the instructions to tenderers, in both French and English versions, displaying the current deadlines as follows:

Timetable*

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clarification meeting / site visit (if any)</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Deadline for requesting clarifications from the contracting authority</td>
<td>17 May 2019</td>
<td>13:00 local time</td>
</tr>
<tr>
<td>Last date on which clarifications are issued by the contracting authority</td>
<td>28 May 2019</td>
<td>13:00 local time</td>
</tr>
<tr>
<td>Deadline for submission of tenders</td>
<td>7 June 2019</td>
<td>16:00 local time</td>
</tr>
<tr>
<td>Tender opening session</td>
<td>11 June 2019**</td>
<td>10:00 local time</td>
</tr>
<tr>
<td>Notification of award to the successful tenderer</td>
<td>28 June 2019**</td>
<td>-</td>
</tr>
<tr>
<td>Signature of the contract</td>
<td>26 July 2019**</td>
<td>-</td>
</tr>
</tbody>
</table>

* Timetable updated on the 30.04.2019
** Provisional date

Kindly refer to these dates for your tender submission documents and clarifications
The Technical Specifications have been updated in both French and English versions.

All changes done under this clarification number five are reflected in the files updated together with this clarification. Previous versions of the updated files were deleted to avoid confusion.

The following questions of general interest to all prospective tenderers have been raised in the course of the tender procedure. The technical questions gathered have been answered with the revision on the revised/enhanced technical specifications. The answers to administrative-related questions are hereby disseminated to all prospective tenderers.

Question 1 – Declaration of Honour:

Declaration of Honour states that “the person is not required to submit the declaration on exclusion criteria if the same declaration has already been submitted for the purposes of another award procedure of the same contracting authority, ….”. Our company provided a declaration of honour to European Marine Safety Agency (EMSA) in 2018. Is EMSA considered as “same contracting authority”, meaning that we do not have to fill out a new declaration of honour?

Answer 1
NO. ICMPD and EMSA are not the same contracting authority.

Question 2 – Performance Guarantee:

The Performance Guarantee is stated to be forty percent (40%) of the amount of the contract in Contract Notice § 12. However, in Instruction to Tenderers § 22.8 and Special Conditions Article 11.1 the Performance Guarantee is set at ten percent (10%). What is correct?

Answer 2
Performance Guarantee is equal to ten percent (10%). An amendment to the Tender Dossier documents is included to this clarifications so that it reflects the right percentages.

Question 3 – Varying of quantities:

In § 22.5 of Instruction to Tenderers you state: “The contracting authority reserves the right to vary quantities specified in the tender (our comment: fifteen (15) units) by +/- 100% at the time of contracting and during the validity of the contract. The total value of the supplies may not, as a result of the variation, rise or fall by more than 25% of the original financial offer in the tender. The unit prices quoted in the tender shall be used.”

How can these two sentences correspond, e.g. if the quantity varies by – 100% (to zero!), how can the value of the supplies only fall by 25% as a maximum?

Answer 3
This applies for when we are purchasing several items, we can vary one single item quantity up to +/100%, however the total price of the contract cannot be superior to 25% of the initial offer.
Question 4 – Financial capacity:

Contract Notice § 16 state four selection criteria regarding economic and financial capacity of the tenderer (based on i.a. item 3 of the tender form). In item 3 we read “any clarification or explanation which is judged necessary may also be provided.”

To show the necessary economic and financial capacity, will ICMPD accept funding through export credit as a valid evidence?

Answer 4

NO

Question 5 – DDP Incoterm:

Article 12 in Special Conditions state DDP delivery of the supplies, but with no place of destination. The article reads: - “the seller delivers the goods when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport ready for unloading at the named place of destination. The seller bears all the costs and risks involved in bringing the goods to the place of destination and has an obligation to clear the goods not only for export but also for import, to pay any duty for both export and import and to carry out all customs formalities. The transfer of risks and costs occurs at the place of unloading of the goods at the agreed place of destination.”

What is “place of destination”?

Answer 5

DGSN RABAT

Question 6 – End-user of supplies:

Suppliers of material demand name of end-user, e.g. for potential export control/ITAR issues. Who is end-user for this contract?

Answer 6

The Government of the Kingdom of Morocco

Question 7

Section 3 of the Instructions determines that participation is open to bidders (and subcontractors) from EU member states and eligible countries or territories defined in the Regulation (EU) No 236/2014 (the “Regulation”); however, the Instructions do not specify the relevant Article of the Regulation or the financial program standing behind the Tender. As the eligibility of the bidders participation depends on this information, we kindly ask you to inform us which financing program stands behind the Tender or which Article of the Regulation shall apply to this Tender.

Answer 7

Considering the significantly high estimated value for the procurement case number ICMPD/19.012/SUP/BMS/UAV which lies above the thresholds for a possible exemption of the rule of origin and its internationally open tender nature, kindly refer to title III of the EU Regulation No 236/2014 “RULES ON NATIONALITY AND ORIGIN FOR PUBLIC PROCUREMENT, GRANT AND OTHER AWARD PROCEDURES” article 8, class 4 which reads as follows:
“All supplies purchased under a procurement contract, or in accordance with a grant agreement, financed under this Regulation shall originate from an eligible country. However they may originate from any country when the amount of the supplies to be purchased is below the threshold for the use of the competitive negotiated procedure. For the purposes of this Regulation, the term origin is defined in Article 23 and 24 of Council Regulation (EEC) No 2913/92 (1) and other legislative acts of the Union governing non-preferential origin.”

Question 8

Additionally, if Article 11 of the Regulations is applicable to this Tender please confirm that no limitations apply with regard to Article 8 para 7 or Article 11 para 2 of the Regulation.

Answer 8

Kindly refer to the above answer under clarification question 7. Considering the significantly high estimated value for the procurement case number ICMPD/19.012/SUP/BMS/UAV which lies above the thresholds for a possible derogation of the rule of origin and its internationally open tender nature, kindly refer to title III of the EU Regulation No 236/2014 “RULES ON NATIONALITY AND ORIGIN FOR PUBLIC PROCUREMENT, GRANT AND OTHER AWARD PROCEDURES” article 8, para. 4.

Question 9

Is there any regulation applicable in the tender at hand that prohibits the participation of a non-EU company (e.g. from Israel) as subcontractor of an EU entity?

Answer 9

Kindly refer to article 3 “participation”, subclasses 3.3 of the Instructions to Tenderers, which reads as follows:

“The eligibility requirement detailed in subclasses 3.1 and 3.2 applies to all members of a joint venture/consortium and all subcontractors, as well as to all entities upon whose capacity the tenderer relies for the selection criteria. Every tenderer, member of a joint venture/consortium, every capacity-providing entity, every subcontractor providing more than 10 % of the supplies must certify that they meet these conditions. They must prove their eligibility by a document dated less than one year earlier than the deadline for submitting tenders, drawn up in accordance with their national law or practice or by copies of the original documents stating the constitution and/or legal status and the place of registration and/or statutory seat and, if it is different, the place of central administration. The contracting authority may accept other satisfactory evidence that these conditions are met.”
Question 10

Section 4 of the Instructions refer to the Customs Code (Council Regulation (EEC) No 2913/92) and its implementing provisions (Commission Regulation (EEC) No 2454/93). These provisions are outdated and no longer in force. Therefore, we ask for clarification, whether such regulations even apply to the Tender or which Regulations in force shall be deemed applicable for the proceedings at hand.

Answer 10

Kindly refer to the REGULATION (EU) No 952/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 October 2013 laying down the Union Customs Code; Chapter 2 Origin, Articles 59 to 68

Question 11

We want to ask about guarantee for EURO 3.000 in Documentation of content of tender. We can use Insurance instead guarantee?

Answer 11

NO

Question 12

Il est dit dans l’avis de marché (page 5) que les offres doivent être rédigées en français ET en anglais. Or, à d’autres endroits dans la consultation, il semble que l’une OU l’autre des langues soient autorisées. Pourriez-vous confirmer / clarifier?

Answer 12

les offres doivent être rédigées en français OU en anglais

Question 13

How many batteries should we provide per drone?

Answer 13

At least three (3) high-quality replacement battery sets that allow for 3 sessions of data collection of at least 50 minutes of flight time per session are desirable.