



European Securities and
Markets Authority

Technical Specifications

ICT SYSTEMS SOFTWARE AND FUNCTIONAL MAINTENANCE SERVICES
Invitation to tender n° OJ/11/12/2012-PROC/2012/007



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Introduction to ESMA

ESMA is an independent EU Authority that contributes to safeguarding the stability of the European Union's financial system by ensuring the integrity, transparency, efficiency and orderly functioning of securities markets, as well as enhancing investor protection. In particular, ESMA fosters supervisory convergence both amongst securities regulators, and across financial sectors by working closely with the other European Supervisory Authorities competent in the field of banking (EBA), and insurance and occupational pensions (EIOPA).

ESMA's work on securities legislation contributes to the development of a single rule book in Europe. This serves two purposes; firstly, it ensures the consistent treatment of investors across the Union, enabling an adequate level of protection of investors through effective regulation and supervision. Secondly, it promotes equal conditions of competition for financial service providers, as well as ensuring the effectiveness and cost efficiency of supervision for supervised companies. As part of its role in standard setting and reducing the scope of regulatory arbitrage, ESMA strengthens international supervisory co-operation. Where requested in European law, ESMA undertakes the supervision of certain entities with pan-European reach.

Further information on the Authority can be found on the ESMA website www.esma.europa.eu.

The tender process

The purpose of competitive tendering for awarding contracts is two-fold:

- to ensure the transparency of operations;
- to obtain the desired quality of services, supplies and works at the best possible price.

The applicable regulations, namely directives **92/50/EEC**, **93/36/EEC** and **93/37/EEC**, oblige the ESMA to guarantee the widest possible participation, on equal terms in tender procedures and contracts.

I. Overview of this tender

1.1 Description of the contract

The services required by ESMA are described in the section “Terms of reference” of the present tender specifications.

In drawing up a tender, tenderers should bear in mind the provisions detailed in the draft contract in **Annex I**. Attention should be particularly paid regarding the methods and conditions of payment which can be found in this draft contract.

Tenderers are expected to examine carefully and respect all instructions and standard formats contained in these specifications and the invitation to tender. An offer which does not contain all the required information and documentation may be rejected.

1.2 Timetable

Activity	Date	Comments
Launching of tender	11/12/2012	Dispatch of contract notice to the OJ
Deadline for request of clarifications from ESMA	11/03/2013	-
Site visit or clarification meeting (if any)	-	Not applicable to this tender
Last date on which clarifications are issued by ESMA	18/03/2013	<i>[Five working days before deadline]</i>
Deadline for submission of offers	25/03/2013	At 16:00 local time if hand delivered
Interviews (if any)	-	Not applicable to this tender
Opening session	03/04/2013	-
Date for evaluation of offers	<i>[Opening date plus 1 week]</i>	Estimated
Notification of award to the selected Tenderer	<i>[Evaluation date plus 3 weeks]</i>	Estimated
Contract signature	<i>[Notification date plus 2 weeks]</i>	Estimated

1.3 Participation in the tender procedure

This procurement procedure is open to the legal person wishing to bid for the assignment and established in the EU, the EEA.

Tenderers must not be in any situation of exclusion under the exclusion criteria indicated in section 3.1 of these tender specifications and must have the legal capacity to allow them to participate in this tender procedure (see section 3.2.1).

Please note that any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or ESMA during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of his tender and may result in administrative penalties.

1.4 Participation of consortia

A consortium may submit a tender on condition that it complies with the rules of competition.

A consortium may be a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure. Such grouping (or consortium) must specify the company or person heading the project (the leader) and must also submit a copy of the document authorising this company or person to submit a tender. All members of a consortium (i.e., the leader and all other members) are jointly and severally liable to the Contracting Authority.

In addition, each member of the consortium must provide the required evidence for the exclusion and selection criteria (see section 3 of these tender specifications). Concerning the selection criteria 'technical and professional capacity', the evidence provided by each member of the consortium will be checked to ensure that the consortium **as a whole** fulfils the criteria.

The participation of an ineligible person will result in the automatic exclusion of that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

1.5 Subcontracting

If subcontracting is envisaged, the tenderer must clearly indicate in the tender which parts of the work will be subcontracted. The total value of the subcontracted part of the services cannot represent the total value of the contract value.

Subcontractors must satisfy the eligibility criteria applicable to the award of the contract. If the identity of the intended subcontractor(s) is already known at the time of submitting the tender, all subcontractors must provide the required evidence for the exclusion and selection criteria.

If the identity of the subcontractor is not known at the time of submitting the tender, the tenderer who is awarded the contract will have to seek ESMA's prior written authorisation before entering into a subcontract.

Where no subcontractor is given, the work will be assumed to be carried out directly by the tenderer.

1.6 Presentation of the tender

Tenders must comply with the following conditions:

a) Double envelope system

Offers must be submitted in accordance with the **double envelope system**:

The outer envelope or parcel should be sealed with adhesive tape and signed across the seal and carry the following information:

- the project title: **ICT SYSTEMS SOFTWARE AND FUNCTIONAL MAINTENANCE SERVICES- OJ/11/12/2012-PROC/2012/007**
- the name of the tenderer;
- the indication “**Offer - Not to be opened by the internal mail service**”;
- the address for submission of offers (as indicated in the invitation to tender letter)
- the date of posting (if applicable) should be legible on the outer envelope

The outer envelope must contain three inner envelopes, namely, Envelopes A, B and C.

The content of each of these envelopes shall be as follows:

1. Envelope A – Administrative documents

- The signed, dated and duly completed **Tender Submission Checklist** using the template in **Annex IX**;
- The duly filled in, signed and dated **Exclusion Criteria and Non-Conflict of Interest Declaration(s)** as requested in section [3.1](#) and using the standard template in **Annex II**;
- The duly filled in, signed and dated **Legal Entity Form(s)** as requested in section [3.2.1](#) and using the standard template in **Annex III** as well as the requested accompanying documents;
- The duly filled in, signed and dated **Financial Identification Form** using the template in **Annex IV**;
- Financial and economic capacity documents as requested in section [3.2.2](#);
- The technical and professional capacity documents as requested in section [3.2.3](#);
- A statement containing the name and position of the tenderer’s **authorised signatory**; and
- In case of consortia, a **consortium agreement** duly signed and dated by each of the consortium members specifying the company or person heading the project and authorised to submit a tender on behalf of the consortium (please see section [1.4](#) of these tender specifications).

2. Envelope B – Technical proposal

- One original (unbound, signed and clearly marked as “Original”), two copies (bound and each marked as “Copy”) and one copy in electronic form (on CD ROM or USB key) of the Technical Proposal (included all requirements detailed in the service lines –expected answer chapter- and in the deliverables section), providing all information requested in section 4. Some details are given below :
 - Annex XI – SLA
 - Draft of the reversibility plan
 - Annex XIII ESMA PQP (Project Quality Plan) updated with tenderer specific items (tools, processes...)

- Internal organization on how the tenderer plans to assure the continuity of service regarding the portfolio he could be in charge of.
- Internal organization process and workload dispatching per profile
- Methodology to be applied by the tenderer
- Operational and technical processes involving ESMA
- Organisation plus the flowchart and CVs of the profiles for the good execution of this contract
- Plan to maintain his staff competitiveness around the technologies deployed at ESMA.
- Requisites to achieve successfully this transition.

3. Envelope C – Financial proposal

- One signed original, two copies and one copy in electronic form (on CD ROM or USB key) of the Financial Proposal, based on the format in found in **Annex VII Financial Proposal**.

b) Language

Offers must be submitted in one of the official languages of the European Union. ESMA prefers, however, to receive documentation in English. Nonetheless, the choice of language will be not play any role in the consideration of the tender.

1.7 Confirmation of offer submission

In order to keep track of offers due to arrive, tenderers who do not hand deliver their offers are requested to complete and return the form found in **Annex VIII**.

1.8 Contacts between ESMA and the tenderers

Contacts between ESMA and tenderers are prohibited throughout the procedure, except in the following circumstances:

1.8.1 Written clarification before the deadline for submission of offers

Requests for clarification regarding this procurement procedure or the nature of the contract should be done **in writing only** and should be sent by mail, fax or email to:

ESMA
Attn: Procurement Office
CS 60747
103, Rue de Grenelle
75345 Paris, CEDEX France
email: procurement@esma.europa.eu

Each request for clarification sent to ESMA should indicate the publication reference and the title of the tender.

The deadline for clarification requests is indicated in the timetable under section [1.2](#). Requests for clarification received after the deadline will not be processed.

At the request of the tenderer, ESMA may provide any additional information or clarification resulting from the request for a clarification on the ESMA Procurement webpage.

ESMA may, on its own initiative, inform interested parties of any error, inaccuracy, omission or other clerical error in the text of the contract notice or in the tender specifications by publishing a corrigendum on its website.

Tenderers should regularly check the ESMA website for updates.

1.8.2 After the closing date for submission of tenders

If, after the tenders have been opened, some clarification is required in connection with a tender, or if obvious clerical errors in the submitted tender must be corrected, the ESMA may contact the tenderer, although such contact may not lead to any alternation of the terms of the submitted tender.

1.9 Visits to ESMA premises

No site visits at ESMA's premises are deemed necessary for this procedure'.

1.10 Interviews

The Evaluation Committee will not conduct interviews for this procedure.

1.11 Division into Lots

This tender is divided into 2 lots.

[“Lot 1 Software Application Maintenance”](#) is ruled by a multiple (maximum three) operator framework contract with reopening of the competition for each specific contract for new applications entering in the scope of this framework contract.

[“Lot 2 Maintenance Supervision and Support of business owners”](#) is ruled by a single operator framework contract with specific agreements driven by Lot 1 specific agreements.

In order to effectively manage any possible conflicts of interest between the different software maintenance activities, the separation of duties concept applies for services and tasks covered by Lot 1 and Lot 2. Thus it is not possible to award the same tenderer for both Lot 1 and Lot 2; in case a contractor would be selected in both lots, he will be asked to choose the lot he wants to perform. Then his immediate following competitor would be chosen for the withdrawn lot.

1.12 Variants

Not applicable.

1.13 Confidentiality and public access to documents

All documents presented by the tenderer become the property of the ESMA and are deemed confidential.

In the general implementation of its activities and for the processing of tendering procedures in particular, ESMA observes the following EU regulations:

- Council Regulation (EC) No. 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents; and
- Council Regulation (EC) No. 45/2001 of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

The tender process will involve the recording and processing of personal data (such as a tenderer's name, address and CV). Such data will be processed pursuant to Regulation (EC) No. 45/2001.

Unless indicated otherwise, a tenderer's replies to questions and any personal data requested by ESMA are required to evaluate the tender in accordance with the tender specifications and will be processed solely for that purpose by ESMA. A tenderer is entitled to obtain access to their personal data on request and to rectify any such data that is inaccurate or incomplete.

1.14 Contractual details

A draft contract is attached to these technical specifications as **Annex I**.

This framework contract will establish the terms governing specific contracts to be awarded during a given period, in particular, with regard to price.

Signature of the framework contract imposes no obligation on the Authority to order services. Only the implementation of the framework contract through specific contracts is binding for ESMA.

Each specific contract will contain details of deliverables and timelines for particular services to be provided.

II. Terms of reference

The terms of reference will become an integral part of the contract that may be awarded as a result of this tender procedure.

2.1 Introduction: Background to the invitation to tender

This tender is related to the ESMA's software applications maintenance and to the business users (end-user) support services related to those applications.

Thus, the framework contract resulting from this tender will be an important cornerstone to enable the ESMA's capabilities in terms of corrective, adaptive and preventive software maintenance for IT applications (Lot 1). It will also include the professional support and consultancy services required for ESMA business applications operation and maintenance (Lot 2).

One of the main business activities of ESMA is to enable data collection and exchange between the National Competent Authorities (NCA), European Supervisory Authorities (ESAs) and Credit Rating Agencies (CRAs). Therefore, during the last years, ESMA has built several applications related to its core business that should be maintained and updated continuously. These applications are used by hundreds of people in 50-80 different entities (NCAs, ESAs and CRAs) and ESMA provides helpdesk and support services to all these entities in their daily use of the systems.

In order to enable the corrective, adaptive and preventive software maintenance, the Lot 1 contractors will ensure the provision of computer services for the development, analysis, design, graphic design, testing and installation of information systems, as well as the related technical documentation and training.

The Lot 2 contractors will ensure the provision of professional services, including support, technical and business expertise, related documentation and training related to the daily operation and the functional maintenance for these systems.

2.2 Description of the services & scope of the contract

2.2.1 Contract objectives and scope

ESMA expects from this call for tender that the technical operations regarding our business systems are outsourced.

To do so, this call for tender has been drafted in 2 lots:

- Lot 1 Software Application Maintenance
- Lot 2 Maintenance supervision and support to business owners

The following diagram summarizes the scope of the tender and how the requested services integrate into the overall ESMA’s governance model:

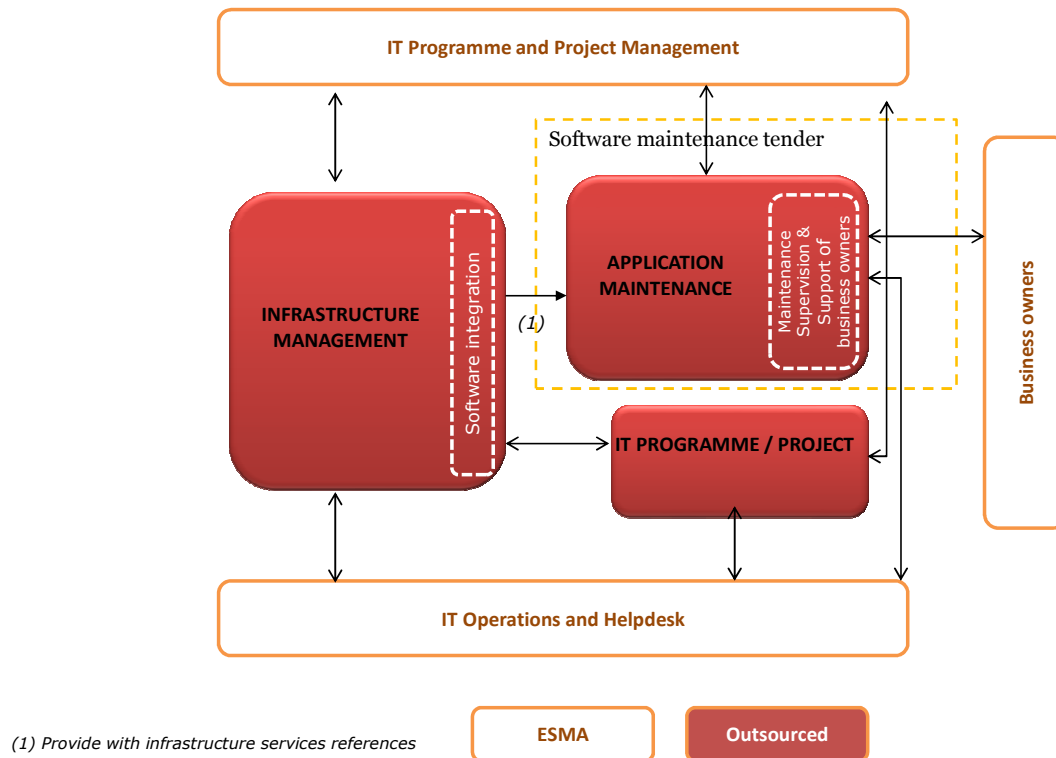


Figure 1

The tenderer is requested to supply the following lines of services:

Lot 1 Application Maintenance

Fixed price services

- Governance
- Corrective Application Maintenance
- Small Adaptive and Preventive Application Maintenance (when duration is <=2 days of development per request).

On demand requests based on quoted time and means services

- Big Adaptive and Preventive Application Maintenance.

Lot 2 Maintenance Supervision and Support of business Owner

Fixed price services

- Communication and governance
- Service Desk.

On demand requests based on quoted time and means services

- Qualification, Control and Testing.

The tenderer should prove a solid experience with standard IT development methodologies and with the field of financial markets.

As evidence of this contracts' achievement, ESMA would also like to have improved its maturity into IS/IT methodologies and environments.

ESMA uses both commercial off-the-shelf (COTS) and custom developed systems based on open source products in order to carry out its tasks, as indicated in Annex X - ICT Systems Inventory. These include, but are not limited to Axway Gateway, Exalead CloudView Search platform, Jaspersoft BI suite (JasperReports Server, Jaspersoft ETL, etc.), Drupal CMS etc.

The customization and the deployment of these packages shall be the object of the same line of services on the part of the Contractor as for custom solutions. These must be carried out following the guidelines and recommendations of the commercial vendor or open source community behind the product. This includes the upgrading to supported versions of the product duly and timely, as part of the preventive maintenance activities. It will be the Contractor's responsibility to inform ESMA with due advance notice.

2.2.2 Service Ordering

Services shall be provided on the basis of two different kinds of orders:

- Fixed-price orders
- Quoted Time and Means ordering.

The ordering process is initiated by ESMA via a request sent (by mail, fax or by other means) to the Contractor describing the required service. On receipt, the Contractor must, within a period of 15 working days, make a proposal to ESMA for the execution of the request. The process results in the signature of a Specific Agreement (Purchase Order or Specific Contract).

- The Contractor must have the capacity to carry out in parallel several individual Specific Agreements
- The Contractor must be capable of providing the services ordered rapidly and with a high degree of quality.

A. Submitting a detailed offer and signing a specific Agreement

ESMA will require the Contractor to prepare a technical and financial proposal to carry out a particular work order and will issue a specific agreement for this purpose.

The Contractor must provide within 15 working days a detailed offer including:

- Administrative information concerning this Specific Agreement
- A date of validity for the offer, which is not less than 3 months after its submission to ESMA
- A clear "in scope" section indicating that the detailed offer includes the implementation of every work item that was included in the work order
- An "out of scope" description, where the Contractor may wish to clarify activities which will not be implemented. The out of scope section must not include work that was requested in the work order, or which is necessary for the implementation of the work requested in the work order
- A detailed work breakdown structure

- A detailed allocation of tasks to resources
- A detailed schedule, indicating start of work, intermediate milestones, dependencies and end date. This schedule will include not only the tasks to be implemented by the Contractor, but also tasks that ESMA or a third party may need to carry out for the Contractor to perform its work
- A summary table with resources, their profiles, locations, applicable prices and total costs
- The individual work unit prices from the financial proposal shall be based on a fixed rate defined in Annex VII - Financial Proposal of the framework contract.

Upon acceptance by ESMA of a detailed offer prepared by the Contractor, ESMA will draw a Specific Agreement based on a standard template, the work order and the detailed offer. The Contractor will be requested to sign their copy and return it to ESMA within not more than 3 working days from its reception.

Specific agreement / contracts for recurrent services (e.g. corrective maintenance) shall be renewed automatically up to three times, each time for the same period as initial agreement (typically one year), starting immediately after the end of the previous period, unless written notification to the contrary is sent by one of the contracting parties and received by the other. Renewal does not imply any modification of deferment of existing obligations.

B. Ordering

Fixed-price orders

The following conditions relating to fixed price orders apply:

- The Contractor's offer shall be all costs inclusive and based on a fixed rate defined in Annex VII - Financial Proposal of the framework contract
- The Contractor must present proposals meeting the requirements as specified in the Request Forms (specifications, deliverables, activities, deadlines etc.)
- The deliverables must be on time, and conform to the specifications as described in the specific agreement
- The invoicing is based on the acceptance of the deliverables by ESMA.

Quoted Time and Means ordering

The following conditions relating to quoted time and means orders apply:

- The Contractor must present proposals meeting the requirements as specified in the Request Forms and associated documents (e.g. technical annex with description of activities, etc...)
- The offer must include a technical proposal based on the requirements
- Upon request, the offer may include a project plan
- The Contractor's offer should detail the profiles, roles, activities, responsibilities and workload (activity-days or person-days)
- The Contractor's financial offer shall be based on unit prices per profile proposed, defined in Annex VII - Financial Proposal of the framework contract. The unit prices should include all the general expenses incurred, as well as those directly linked to the performance of the services, such as management and coordination costs, social security contributions, travel and subsistence expenses, etc.
- The contractor's staff must match the requested profile description
- The invoicing is based on the acceptance of the deliverables by ESMA.

2.2.3 Common rules to both lots

A. *Scope to answer*

It is mandatory for contractors to gain productivity and improve their scope; a part of these gains shall come back to ESMA. An estimation of this part shall be included in the financial table answer at Annex VII.

B. *Roles and responsibilities*

ESMA remains in charge of the production and pre-production environments.

The infrastructure services (e.g. environment hosting, hardware, low-level operating system and middleware administration, backups and system monitoring) are under another contractor management (Infrastructure services).

Technical integration of systems and applications is under the responsibility of Infrastructure services.

The contractors are expected to have a pro-active and well-managed relationship with other parties involved in this contract during the run mode (this is especially applicable for the relationship with the contractor in charge of the infrastructure).

The bugs and incidents tracking tool is managed by ESMA (currently MANTIS) and selected tenderers will be requested to know and mandatorily use this tool.

To assist contractors, ESMA provides its Project Quality Plan.

A. *Security Requirements*

The contractor and its staff, when performing tasks in execution of this contract, commit to comply with:

- Regulation (EC) No. 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data;
- Commission decision of 16 August 2006 C(2006) 3602 concerning the security of information systems used by the European Commission;
- Implementing rules adopted on 29/05/2009 and Standards and Guidelines related to the Decision C(2006) 3602.

Any deliverables supplied in execution of this contract must also comply with the security requirements derived from the above mentioned EU regulation and implementing rules.

During the contract execution, specific audits will be conducted by ESMA in order to check the compliance with those security requirements; the designed contractor must implement all security audit recommendations without requesting any additional fees.

2.2.4 Transition OUT

A. *Objectives*

This applies for each specific agreement.

In this phase the contractor must:

- Give back the whole IT systems means, including all binaries, source code and configuration files version and associated documentation(all releases and patches) to ESMA or to a 3rd party contractor designed by ESMA,
- Transfer the technical and functional knowledge gained during the execution of the contract to ESMA or to a 3rd party contractor designed by ESMA,

- Continue its due tasks defined in the current contract until relieved by ESMA.

B. Expected services

During this phase the contractor must:

- Continue to provide contracted services within the defined SLAs until relieved by ESMA,
- Delete permanently and definitely any data owned by ESMA when requested by ESMA,
- Transfer the goods owned by ESMA to the new contractor when requested by ESMA,
- Transfer the knowledge and documentation to ESMA or to the newly designated contractor.

C. Expected answer

The tenderers will detail in their answer how they will comply with the list in “2.2.3 Common rules to both lots” during the whole contract execution.

The tenderer must provide:

- A draft of the reversibility plan,
- The pre-requisites to achieve successfully the transition.

D. Constraints

The tenderer should take into account that they will have to:

- Upon ESMA request host the ESMA or new contractor staff during this period,
- Prepare meetings with the new contractor to achieve successfully this phase.

E. Technical scope

The initial scope can be found in the Annex X - ICT Systems Inventory.

F. Responsibilities

The contractor’s responsibilities are listed in the section “2.2.3 Common rules to both lots”.

G. Financial and Invoice information

Quoted Time and Means ordering and requested through specific contract.

2.2.5 Lot 1 Software Application Maintenance

Initialisation phase

This phase of the project shall for each specific agreement:

- Permit the contractor to appropriate the technical and functional environment,
- Setup the prerequisites and all technical environments to run the service.

During this phase the contractor shall:

- Manage the transition and appropriate the whole ESMA IT systems knowledge,
- Setup his teams and train them when necessary to ESMA technologies in the scope of this maintenance,
- Retrieve and install its own environment for the developments.

The tenderer should take into account that they could have to manage several current contractors regarding applications maintenance.

A. Governance

Objectives

This service line assures that the good overall quality of the delivery is effective on all service lines during the contract execution.

Expected services

ESMA expects tenderer to:

- Manage Contractor's resources (HR and technical)
- Prepare steering committee agenda and minutes
 - Dashboards
 - SLA indicators (see Annex XI – SLA and Annex XII - SLA Dashboard)
- To perform a continuous service improvement / productivity gains
 - This includes
 - Security recommendations (patches, alerting...)
 - Code quality measurement and improvement
 - Other items proposed by tenderer
- For audits and visits requested by ESMA
 - Enable access to technical premises/environments hosting ESMA environments
 - Permit interviews with relevant contractor staff
 - Provide any documentation related to ESMA
- Update the reversibility plan.

Expected answer

The tenderers will detail in their answer how they will comply with the list in “2.2.3 Common rules to both lots” during the whole contract execution.

Constraints

Steering committees and reporting should be quarterly based; steering committee meetings should be held on ESMA's premises.

A monthly operational meeting should be held to solve issues between this contractor, ESMA and any other 3rd party that would be required for the applications in the scope of this contractor. A weekly maintenance follow-up meeting that can be cancelled if requested by ESMA.

Contractor must comply with the Project Quality Plan in Annex XIII.

The skill progressive improvements based onto the quality management plan shall be detailed in later detailed offers per specific agreement.

Technical scope

The scope of the governance is the scope of the specific agreement.

Responsibilities

Contractor shall be fully responsible for governance, reports production and respecting SLA signed between ESMA and contractor.

Development environment is under the contractor responsibility.

Sources, documentation and installation manuals regarding integration are under the contractor responsibility.

Required Skills

Service/Delivery management.

Financial and Invoice information

This service line should be invoiced through fixed-price orders.

B. Corrective maintenance

Objectives

The corrective maintenance covers defects and deficiencies which affects the usage of an ESMA particular system.

Usually this kind of problems is detected by end-users or by the administrators who assure the operation of the system. The ESMA internal IT Team will contact the Contractor and indicate the problem with a given priority.

The primary task of the Contractor in the event of a system defect or deficiency is to restore operability of the system either by resolving the problem or by providing a workaround. In the event that a workaround was applied, the original problem still must be resolved as soon as possible. Additionally, the Contractor must be available to lend technical support to the production administrators.

ESMA differentiates Critical from Non-Critical Maintenance.

Critical Maintenance

Fixing an urgent incident

An urgent incident has the highest priority of all incidents. It is expected to be fixed within a very short timeframe (this is detailed in Annex XI -SLA).

A specific patch is expected from the Contractor in order to fix the incident. This patch is expected to be installed without prior regression testing, so it should contain as little functionality updates as it is needed in order to fix the issue. The documentation delivered with the patch should be limited to what is necessary for installing: typically short release notes, installation instructions and a brief description of a test case showing it has fixed the incident.

The Contractor is expected to inform proactively, typically once a day, on the progress and/or delays to the fixing of an urgent incident.

Fixing a high-priority incident

A high-priority incident has a smaller impact than an urgent incident. It is expected to be fixed within a short timeframe (this is detailed in Annex XI -SLA). A specific patch is expected from the Contractor in order to fix the incident. This patch is expected to be installed with minimal prior regression testing, so it should contain as little functionality updates as it is needed in order to fix the issue. The documentation delivered with the patch should be limited to what is necessary for installing: typically short release notes, installation instructions and a brief description of a test case showing it has fixed the incident.

The Contractor is expected to inform proactively, typically once a day, on the progress and/or delays to the fixing of a high-priority incident.

Non-Critical Maintenance

Critical and high priority problems solved temporarily through a work-around can enter in this category, such as defects and deficiencies of applications which do not seriously deteriorate the usage of a particular system.

Those issues are expected to be fixed for the next product release.

The scope of a release is closed several weeks before the go-live in order to allow the Contractor for its packaging, internal testing, delivery to ESMA and quality control and end-user acceptance testing by ESMA. The date at which a release scope is fixed is known as the cut-off date which depends on the timing of the packaging, testing and delivering procedures of the Contractor as well as ESMA's quality control and end-user acceptance duration.

In the case where several defects are declared for the same release, the Contractor is expected to bundle the all in one single release and not deliver several ones, one per incident.

Incidents are discovered by users or administrators, as previously described. In the event of such occurrences, ESMA will contact the Contractor and indicate the problem with a given priority. The primary task of the Contractor in the event of a non-critical system defect or deficiency is to resolve the incident as properly as possible, with a high-level of quality.

Non-critical maintenance can be processed through a process of adaptive or preventive maintenance (definitions to be found later in this document).

Expected services

- Provide the applications packages (including installation scripts), all associated source code and necessary documentation for each product release.
- Provide the requested assistance to Technical integration services under the responsibility of ESMA in order to restore operability of the defective systems in respect of the SLA.
- Proposal of actions plan to fix the issues such as preventive maintenance, patching and/or any other mean recommended by the contractor.
- Diagnostic and coordination with other involved parties (ESMA, ESMA contractors, Software editors...) for the system to achieve resolution.
- Handle opened issues processing and resolution.

Expected answer

The tenderers will detail in their answer how they will comply with the list in “2.2.3 Common rules to both lots”; the internal work organisation, tools and methodology on how the tenderer plans to assure the service regarding the portfolio they could be in charge of.

Constraints

Contractor must be familiar with standard development methodologies and with this kind of framework contract and scope.

The winning contractor will have to be prepared to work pro-actively with other contractor specifically in charge of infrastructure.

Technical scope

The scope of this service line is the scope of the specific agreement.

Responsibilities

In case of transverse incident, ESMA requires from its contractors a high level of autonomy but ESMA will keep the leadership until the resolution of the incident.

Contractor will be in charge of updating and sending back information regarding the actions done to solve the incident.

The documentation regarding the deployment of such maintenances should be acknowledged by ESMA.

Operations to be performed onto production and pre-production environment shall be under the responsibility of ESMA (or designated integration contractor).

Required Skills

Software maintenance and development; proven expertise in the ESMA technical environment (see also the Annex X - ICT Systems Inventory and 3.2.3 Technical and professional capacity).

Financial and Invoice information

This should be invoiced through fixed-price orders. The tenderer must provide a fixed price per application type (simple / normal / complex), no variants are allowed.

C. Adaptive and preventive maintenance

Objectives

The objective of such request is to enhance and adapt a current business system in the portfolio of the contractor.

Standard adaptive maintenance

It covers all requests, not exceeding a threshold value of man-days (≤ 2 days of development), for enhancing and adapting existing functionalities to improve the software's usability and applicability, or for extending the application by new functionalities. It also includes all measures to ensure compliance of the application with modifications of the environment and underlying software, such as version upgrades. Perfective maintenance provides enhancements for users, improvements in the documentation and recoding to improve performance, maintainability or other attributes of the software.

Preventive maintenance

This constitutes the modification of the software prior to the manifestation of a latent fault. The contractor will naturally propose this maintenance during execution of the contract at steering committees.

Big adaptive maintenance

That covers all requests, exceeding a threshold value of man-days (>2 days of development), for enhancing and adapting existing functionalities to improve the software's usability and applicability, or for extending the application by new functionalities. It also includes all measures to ensure compliance of the application with modifications of the environment and underlying software, such as version upgrades. Perfective maintenance provides enhancements for users, improvements in the documentation and recoding to improve performance, maintainability or other attributes of the software.

Expected services

- Handle opened issues processing and resolution.
- Provide the applications packages (including installation scripts), all associated source code and necessary documentation for each product release.
- Provide the requested assistance to Technical integration services under the responsibility of ESMA. While the installation and package integration within the ESMA technical environments (including the backup and monitoring/supervision infrastructure) will be executed by different teams, the Contractor will be expected to assist them with expert knowledge on the developed software in order to perform their duties of testing, integrating and deploying the software.
- Coordination with software editors regarding the support and preventive maintenance.
- Analysis of business requirements :
 - The Contractor may be requested to carry out tasks that go into determining the needs or conditions to meet for a new or altered product, taking account of the possibly conflicting requirements of the various stakeholders, such as administrators and users. At the end, the Contractor must produce a software requirements specifications document which contains a description of the behaviour of the system to be developed. All requirements must be actionable, measurable, testable, related to identified business needs or opportunities, and defined to a level of detail sufficient for system design. The impact analysis shall be included into this analysis.
- Software design, implementation and verification in respect of the standards:
 - The Contractor may be required, based on a software requirements specification document to design a solution, build it and test it before delivering it to the ESMA. The system should be a major modification of an existing system. The purpose is to deliver a system that exhibits the required behaviour, fulfils the required technical attributes, and in general performs according to best practices in areas of:
 - Performance: the amount of system resources it consumes (processor time, memory space, disks, network): the less, the better. This also includes correct disposal of some resources, such as cleaning up temporary files and lack of memory leaks.
 - Reliability: how often the results of a program are correct.
 - Robustness: how well a program anticipates problems not due to programmer error. This includes situations such as incorrect, inappropriate or corrupt data, unavailability of needed resources such as memory, operating system services and network connections, and user error.

- Usability: the ergonomics of a program: the ease with which a person can use the program for its intended purpose or in some cases even unanticipated purposes.
- Maintainability: the ease with which a program can be modified by its present or future developers in order to make improvements or customizations, fix bugs and security holes, or adapt it to new environments.

Expected answer

The tenderers will detail in their answer how they will comply with the list in “2.2.3 Common rules to both lots”, the internal work organisation, tools and methodology on how the tenderer plans to assure the service regarding the portfolio they could be in charge of.

Constraints

Contractor must be familiar with standard development methodologies and with this kind of framework contract and scope.

The winning contractor will have to be prepared to work pro-actively with other contractor specifically in charge of infrastructure.

Technical scope

The scope of the governance is the scope of the specific agreement.

Responsibilities

Contractor will be in charge of all software maintenance activities.

The documentation regarding the deployment of such maintenances should be acknowledged by ESMA.

Operations to be performed onto production and pre-production environment shall be under the responsibility of ESMA (or designated integration contractor).

Required Skills

Software maintenance and development; proven expertise in the ESMA technical environment (see also the Annex X - ICT Systems Inventory and 3.2.3 Technical and professional capacity).

Financial and Invoice information

The method for invoicing will depend on the workload due to this non-corrective maintenance:

Case 1: operation less or equal than 2 days

This shall be included through corrective maintenance service line invoicing.

Case 2: operation greater than 2 days

Quoted Time and Means ordering and requested through specific contract

2.2.6 Lot 2 Maintenance Supervision and Support to business Owner

Initialisation phase

This phase of the project shall for each specific agreement:

- Permit the contractor to appropriate the technical and functional environment,
- Setup the prerequisites and all technical solutions to run the service.

During this phase the contractor shall:

- Manage the transition and appropriate the whole ESMA IT systems knowledge,
- Setup his teams and train them when necessary to ESMA technologies in the scope of this maintenance.

The tenderer should take into account that they could have to manage several current contractors regarding applications supervision and maintenance.

A. Governance

Objectives

The provider will act as an interface and a facilitator between ESMA entities and other contractors. This service line assures that the good overall quality of the delivery is effective on all service lines during the contract execution.

Expected services

- Manage Contractor's resources (HR and technical)
- Plan and report on the systems in the Contractor's scope
- Prepare agendas and minutes of committees
- Coordinate the integration of systems in pre-production environment
- Coordinate the integration and rollout of systems in production environment
- Coordinate all involved parts regarding system operations
- Update the reversibility plan.

Expected answer

The tenderers will detail in their answer how they will comply with the list in "2.2.3 Common rules to both lots" during the whole contract execution.

Constraints

The contractor will be in charge of the knowledge and the hand-over within its teams. Steering committees and reporting should be quarterly based; steering committee meetings should be held on ESMA's premises.

A monthly operational meeting should be held to solve issues between this contractor, ESMA and any other 3rd party that would be required for the applications in the scope of this contractor. A weekly maintenance follow-up meeting that can be cancelled if requested by ESMA. Contractor must comply with the Project Quality Plan in Annex XIII.

Technical scope

The scope of the governance is the scope of the specific agreement.

Responsibilities

Contractor shall be fully responsible for governance, reports production and respecting SLA signed between ESMA and contractor.

Required Skills

Service/Delivery management and communication skills.

Financial and Invoice information

This should be invoiced through fixed-price orders.

B. Service Desk

Objectives

The contractor in charge of business owner's support will act as single point of contact, interface and facilitator between different ESMA entities and other contractors.

Expected services

- To provide a Single Point of Contact ("SPOC") for all users
- To record (logging), to class, and update all incidents and service requests with relevant information
- To process service requests (standard changes) raised and determine the tasks required for proper delivery of services according to pre-defined workflows
- To provide an initial support (investigation and diagnosis) and attempt to resolve on first contact
- To manage all incidents and service requests along their life-cycle, keeping customers informed on request status and progress
- To escalate unresolved incidents to skill centres and/or external suppliers with ESMA support contracts
- To validate resolution/closure of the tickets and measure customer satisfaction
- To communicate planned and short-term changes of service levels to customers
- To contribute to problem identification
- To communicate status of open problems to customers on a regular basis
- To communicate with staff and external stakeholders to understand and qualify the incidents which are discovered during the use of the productive system by the end-users or by the system administrator.

Expected answer

The tenderers will detail in their answer how they will comply with the list in "2.2.3 Common rules to both lots" during the whole contract execution.

The internal organisation on how the tenderer plans to assure the continuity of service regarding the portfolio they could be in charge of.

Constraints

The contractor will be in charge of the knowledge and the hand-over within its teams.

Tenderer will explain in its proposal how they plan

- to setup and train its teams
- to manage the turn-over
- to ensure that knowledge is well disseminated and taken into account by its teams
- to track any change on ESMA systems environment through this service line and report these changes during steering committees.

Technical scope

The scope of this service line is the scope of the specific agreement.

Responsibilities

Contractor will be fully responsible of being exhaustive and accurate regarding all the data entered into the tracking tool.

Required Skills

Service Desk management / Knowledge management.

Financial and Invoice information

This should be invoiced through fixed-price orders.

C. Qualification, Quality control and Application testing

Objectives

Assist ESMA in systems verification and validation testing, notably the UAT (User Acceptance Testing) phase in order to confirm that a system meets mutually agreed-upon requirements. This can include the coordination and execution of testing campaigns with the external systems (such as National Competent Authorities, Credit Rating Agencies).

Assist ESMA in maintaining high-quality data in their systems, in identifying and defining enhancements of existing functionalities in order to improve the software's usability and applicability, or in extending the application by new functionalities.

Expected services

- Functional and validation tests
- Drafting of booklet tests
- Assist ESMA in maintaining high-quality data in their systems
- Communicate with staff and external stakeholders to understand specific system requirements
- Review and update system business requirements and functional specifications in order to assess the technical implementation impacts and contribute to all non-functional requirements (performance, security, sizing, etc.)
- Review and update system design specifications and confirms that the given design meets adequate measures for system robustness, system completeness, and quality of system integration/interface strategies
- Assist the end-users or the system administrator in their daily use and operation of the particular systems
- Act as a liaison between systems development team and infrastructure teams to work through problem solving scenarios, providing advice on the architectural applications and system architecture.

Expected answer

The tenderers will detail in their answer how they will comply with the list in “2.2.3 Common rules to both lots” during the whole contract execution.

The internal organisation on how the tenderer plans to assure the continuity of service regarding the portfolio they could be in charge of.

Constraints

The contractor will be in charge of the knowledge and the hand-over within its teams. Tenderer will explain in its proposal how he plans:

- to setup and train his teams,
- to manage the turn-over,
- to ensure that knowledge is well disseminated and taken into account by its teams.

Technical scope

The scope of this service line is the scope of the specific agreement.

Responsibilities

Contractor in charge of the applications within this portfolio will pay attention to the following items:

- Planning
- Functional Testing
- Systems analysis, including both functional and non-functional aspects
- Systems Management
 - Change Management
 - Coordination with other IS/IT depts.
 - Assistance to deployment
 - Relationship between ESMA and all involved contractors defined in the scope of the contractor specific agreement
 - Relationship between ESMA and its partners
- Software Test Plan
- Software Test Description and Results
- Software Version Description Document

Required Skills

Software quality control and management, requirements management, software architecture, and software testing skills and knowledge in the area of financial markets.

Financial and Invoice information

Quoted Time and Means ordering and requested through specific contract.

2.4 Deliverables, reporting and project schedule

A. Deliverables

Expected common answering items to be explained for all lots and service lines

- The organisation plus the flowchart and CVs of the profiles for the good execution of this contract
- The methodology to be applied by the tenderer
- The delivery of a first draft of all the contractual documents :
 - ESMA PQP (Project Quality Plan) updated with tenderer specific items (tools, processes...)
 - SLA
 - Dashboards
- Their operational and technical processes involving ESMA
- Their internal organisation process and workload dispatching per profile
- Their plan to maintain its staff competitiveness regarding the technologies deployed at ESMA.

The answer shall respect the following plan:

- Presentation of the tenderer
- Requirement analysis of ESMA requests
- Presentation of the execution of the different phases of the contract and overall planning
- Transitions and migrations
 - Run mode
 - Tenderer's strategy
 - Presentation of the activities
 - Methodology and means
 - Organisation and Risk mitigation, Key success factors
 - Work organisation
 - Roles and responsibilities between ESMA and contractor
 - Processes
 - Expected input from ESMA
 - Involvement of personnel
 - Roles and responsibilities
 - Per service line
 - Tools
 - Internal procedures to fulfil the service lines requirements
 - Compliance with the industry standards (development methodologies)
 - Transition out
 - Organization and typical profiles
 - Planning
 - Methodology to ensure the continuity of service
 - Requisites and key success factors
- Draft of the Management Service plan presentation and methodologies
- List of references
- Financial answers to be found in Annex VII - Financial Proposal and attached to that current call for tender.

B. Project Schedules

The tenderer will describe each big phase in terms of actions and responsible depending on its answer

- Initialisation phase
- Skill Progressive Improvement
- Running
- Transition out.

C. Duration of the contract

This framework contract is 1 year+1 year+1 year+1 year: after the initial duration of 1 year the framework contract shall be tacitly renewed no more than three times, each time for a period of one (1) year and on the same conditions, unless one of the parties informs the other of its intention not to extend the framework contract and such notification is received by the party to which it is addressed, no later than three months before the contract expires. The overall duration of the framework contract may in no event exceed four (4) years.

Specific agreement / contracts for recurrent services (e.g. corrective maintenance) can also be renewed automatically up to three times, each time for the same period as initial agreement (typically one year), starting immediately after the end of the previous period, unless written notification to the contrary is sent by one of the contracting parties and received by the other. Renewal does not imply any modification of deferment of existing obligations.

D. Place of performance of the contract

First lot (namely Lot 1 Software Application Maintenance) shall be executed mainly at contractors' premises. Nevertheless the selected contractor must provide onsite services on ESMA request.

Second lot (namely Lot 2 Maintenance Supervision and Support of business Owner) will be executed on mainly on ESMA's premises. Nevertheless ESMA may request / indicate on the specific agreement Request Form to carrying out the work from contractor's premises.

E. Reference documents

Willing tenderers can be provided with some current existing business requirements of applications.

2.5 Prices

A. Estimated price

The maximum estimated price for the whole duration of the framework contract is 3,000,000 Euros for the Lot 1 and 1,000,000 Euros for the Lot 2.

B. Currency of tender

Prices must be quoted in Euro.

The Financial Proposal Form in Annex VII - Financial Proposal must be used to submit a tender.

C. All-inclusive prices

Prices submitted in response to this tender must be inclusive of all costs involved in the performance of the contract (e.g. to include delivery, supply and installation, maintenance, travel, sub-

sistence, etc.). No expenses incurred in the performance of the services will be reimbursed separately by ESMA.

D. Price revision

Prices submitted in response to this tender shall be fixed and not subject to revision for Specific Contracts concluded during the first year of performance of the Framework Contract.

From the beginning of the second year of performance of the Framework Contract, prices may be revised upwards or downwards each year, where such revision is requested by one of the contracting parties by notice served no later than three months before the anniversary of the date on which the Framework Contract became effective.

Specific Contracts shall be concluded on the basis of the prices in force on the date on which they are signed. Such prices shall not be subject to revision.

This revision shall be determined by the trend in the harmonised consumer price index published for the first time by the Office for Official Publications of the European Communities in the Eurostat New Cronos Database following the formula:

$$\text{New Price} = \text{Past Year Price} + \text{harmonised consumer price index} * \text{Past Year Price}.$$

E. Costs involved in preparing and submitting a tender

ESMA will not reimburse any costs incurred in the preparation and submission of a tender. Any such costs must be supported by the tenderer.

F. Protocol on the Privileges and Immunities of the European Union

ESMA is, as a rule, exempt from all taxes and duties, and in certain circumstances is entitled to a refund for indirect tax incurred, such as value added tax (VAT), pursuant to the provisions of articles 3 and 4 of the Protocol on Privileges and Immunities of the European Union. Tenderers must therefore quote prices which are exclusive of any taxes and duties and must indicate the amount of VAT separately.

G. Payments

Payments under the contract shall be executed only if the contractor has fulfilled all their contractual obligations by the date on which the invoice is submitted, including specified deliverables. Please see for details the draft Framework Service Contract.

H. Financial guarantees

ESMA may require a pre-financing guarantee or a performance guarantee from the Contractor chosen as a result of this tendering procedure. When such guarantee is requested, the specific conditions related to the provision of a guarantee are included in the draft contract (**Annex I**). The costs for the guarantee shall be borne by the Contractor.

III. Exclusion and selection criteria

3.1 Exclusion criteria

Tenderers shall be excluded from participation in procurement procedure if they are in any of the following situations:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they or persons having power of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;
- c) they have been guilty of grave professional misconduct proven by any means which ESMA can justify including by decisions of the EIB and international organisations;
- d) they are not in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of France or those of the country where the contract is to be performed;
- e) they or persons having power of representation, decision making or control over them have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;
- f) following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

In addition to the above, contracts may not be awarded to tenderers who, during the procurement procedure for this contract:

- are subject to a conflict of interest;
- are guilty of misrepresenting the information required by ESMA as a condition of participation in the procurement procedure or fail to supply this information.

Declaration and means of proof

All tenderers must certify that they are not in any of the situations listed above by completing and signing the attached Exclusion Criteria & Non-Conflict of Interest Declaration in **Annex II**.

The tenderer to whom the contract is to be awarded shall provide in addition, within 15 days following the notification of award and preceding the signature of the contract, the following documentary proofs to confirm the declaration referred to above:

- For points a), b) and e), a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied.
- For point d) a recent certificate issued by the competent authority of the State concerned.

Where the document or certificate referred to above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

3.2 Selection criteria

Tenderers must submit evidence of their legal, economic, financial, technical and professional capacity to perform the contract.

3.2.1 Legal capacity

Requirement

A tenderer is asked to prove that they are authorised to perform the contract under the national law as evidenced by inclusion in a trade or professional register, or a sworn declaration or certificate, membership of a specific organisation, express authorisation or entry in the VAT register.

Evidence required

The tenderer shall provide a duly filled in and signed Legal Entity Form (see **Annex III**) accompanied by the documents requested therein.

(Where the tenderer has already signed another contract with ESMA, they may provide instead of the legal entity file and its supporting documents a copy of the legal entity file provided on that occasion, unless a change in his legal status occurred in the meantime).

3.2.2 Economic and financial capacity

Requirement

The tenderer must be in a stable financial position and have the economic and financial capacity to perform the contract.

Evidence required

Proof of economic and financial capacity shall be furnished by the following documents:

- balance sheets or extracts from balance sheets for at least the last two years for which accounts have been closed (where publication of the balance sheet is required under the company law of the country in which the economic operator is established);
- a statement of overall turnover and turnover concerning services/supplies covered by the contract during the last three financial years.

If, for some exceptional reason which ESMA considers justified, the tenderer is unable to provide the references requested by the contracting authority, he may prove his economic and financial capacity by any other means which ESMA considers appropriate.

The Authority reserves the right to request any additional documentary evidence it deems necessary or useful in order to verify a tenderer's economic and financial standing.

3.2.3 Technical and professional capacity

Requirement(s)

The tenderer's technical and professional capacity will be evaluated using the following criteria:

- Suitability of the organisation and staffing structure available for the activities covered by the contract, especially considering that various specific contracts will have to be implemented in parallel at the same time;
- Relevant qualifications in the fields of developing and integrating IT solutions in the field of data exchange, storage and administration, data portals (web publishing), data reporting and analysing, including subcontractors if any, acquired in the last 5 years; and expertise of key personnel allocated to the project: technical experience, knowledge and capability in the mentioned area
- The ability to prepare and present clear and concise technical documents in the English language and to work in an European (international) environment;
- The ability in working in environments similar to those described in this invitation to tender in terms of size and complexity, in similar business environments as ESMA in Europe (Financial regulatory institutions, European public bodies or National Government bodies)
- The ability and expertise in environments similar to those described in this invitation to tender in terms technologies for both custom developed systems and commercial off the shelf software
- The tenderer, including all consortium members and any proposed subcontractors, shall in no way be subject to a conflict of interest concerning the implementation of the contract.

Evidence required

The following documents or information shall be presented as evidence of compliance with the technical and professional capacity criteria:

- Details of the structure of the organisation (including the number of staff) and relevant subcontractors;
- Professional accreditations or references held by the tenderer and relevant subcontractors; CVs of the key experts to carry out the study (preferably using the template in Annex VI), covering work experience, education and training, organisational and technical skills as well as an excellent level of English, attesting the drafting and presentation skills;
- A list and description of recent activities (in the last 5 years) in the field of developing and integrating IT solutions including data exchange, storage and administration, data portals (web publishing), data reporting and analysing solutions deployed in similar business environments as ESMA in Europe (Financial regulatory institutions, European public bodies or National Government bodies).

- Evidence of recent activities (in the last 5 years) of the proposed tenderer in the business fields of ESMA (detailed in ‘Required Business Skills’ in Annex X - ICT Systems Inventory)
- Evidence of recent activities (in the last 5 years) of the proposed tenderer in the technologies of ESMA Applications (detailed in ‘Required Technical Skills’ in Annex X - ICT Systems Inventory)
- Quality Management Certification - Certificate(s) issued by institutions or official services recognised as competent in quality control and/or verification of compliance with standards applicable, certifying in particular that the tenderer possesses quality assurance certification for the type of services covered by this Invitation to Tender (ISO 9001 or equivalent)
- Evidence to have run projects of the size > 3 million Euros for Lot 1 over similar timespans as described in this tender
- Evidence to have run projects of the size > 1 million Euros for Lot 2 over similar timespans as described in this tender
- A copy of at least one certificate in the following IS/IT domains (or any international and proven certification on the market at the date of this tender) :

✓ Development	Agile, CMMI, MOF, NF Logiciel
✓ Project Management	Prince 2, PMBOK , ISO 10006
✓ Quality	6 Sigma, ISO 9001
✓ Risk Management	VAL IT, M_o_R
✓ Security	ISO 27001
- A copy of a partnership and/or CVs (at least 2 by technology) proving experience in the following technologies (see also the “Required Technical Skills” section in Annex X - ICT Systems Inventory):
 - ✓ AXWAY Synchrony Gateway
 - ✓ EXALEAD CloudView Search platform
 - ✓ Oracle database
 - ✓ Drupal CMS
 - ✓ MySQL
 - ✓ Posgresql
 - ✓ Microsoft SQL Server
 - ✓ PHP
 - ✓ ASP
 - ✓ JEE
- A copy of CVs (at least 2 by business domain) proving experience in required business skills enumerated in the Annex X - ICT Systems Inventory.

IV. Award of the contract

Offers are opened and evaluated by a committee, possessing the technical and administrative capacities necessary to give an informed opinion on the offers. The committee members are nominated on a personal basis by the ESMA under guarantee of impartiality and confidentiality. Each of them has equal voting rights.

Only the tenders meeting the requirements of the exclusion and selection criteria will be evaluated in terms of quality and price.

4.1 Technical proposal

The assessment of technical quality will be based on the ability of the tenderer to meet the purpose of the contract as described in the terms of reference. To this end, the technical proposal shall contain the following information to allow evaluation of the tender according to the technical criteria mentioned in section [4.2](#):

- A description of the approach proposed and the proposed methods to be applied; means to be used to meet the objectives of the terms of reference and assessment of the main issues, limitations, risks of the analyses to be carried out as well as the proposed mitigation measures;
- Work organisation and planning (including major milestones and dates for meetings with ESMA to report on progress, as requested in section 2.2.3 of these tender specifications);
- Description of the roles and responsibilities to execute the planned activities, in particular to cover the key analyses and investigations of the study;
- A description of the degree of involvement of senior staff in the day to day running, and in exception and regular monitoring of the contract.

The information in the technical proposal must be consistent with the terms of reference and must be signed by the tenderer.

4.2 Technical evaluation

4.2.1 Lot 1 Application Maintenance

The quality of technical offers will be evaluated in accordance with the award criteria and the associated weighting as detailed in the evaluation grid below.

Only tenders scoring **70 points** or more (of a maximum of 100) points against the technical award criteria will have their financial proposal evaluated.

Offers scoring less **60 %** for any award criterion will be deemed to be of insufficient quality and eliminated from further consideration.

I. Transition out

Table 1

No	Criteria	Max points	Comments
1	<ul style="list-style-type: none"> • organisation plus the flowchart for the good execution of this contract • methodology to be applied by the tenderer • a planning to achieve successfully this transition • The pre-requisites and requirements to achieve successfully this transition. 	35 30 20 15	
	TOTAL	100	

A. Criteria for Run mode

Table 2

No	Criteria	Max points		Comments
1	Rationale, strategy and method: <ul style="list-style-type: none"> - Understanding of the terms of reference and general approach to the project, - Evaluation of the difficulties, limitations and risks as well the proposed mitigations by the tenderer. 	5	15	
		10		
2	Work organisation within the tenderer : <ul style="list-style-type: none"> - Processes - Roles and responsibilities - Involvement of senior staff 	20	55	
		20		
		15		
3	All service lines <ul style="list-style-type: none"> - Tools and methodology deployed - Internal procedures to fulfil the service lines requirements - Compliance with the industry standards 	10	30	To rate this criteria, each service line has the same weight
		10		
		10		
TOTAL		100		

To evaluate the global offer ESMA will calculate the global technical scoring using the following table:

Table 3

Criteria	
Transition out	15%
Running Mode	85%

4.2.2 Lot 2 Maintenance Supervision and Support to business Owner

The quality of technical offers will be evaluated in accordance with the award criteria and the associated weighting as detailed in the evaluation grid below.

Only tenders scoring **70 points** or more (of a maximum of 100) points against the technical award criteria will have their financial proposal evaluated.

Offers scoring less **60 %** for any award criterion will be deemed to be of insufficient quality and eliminated from further consideration.

A. Transition out

Table 4

No	Criteria	Max points	Comments
1	<ul style="list-style-type: none"> organisation plus the flowchart for the good execution of this contract methodology to be applied by the tenderer a planning to achieve successfully this transition The pre-requisites and requirements to achieve successfully this transition. 	35	
		30	
		20	
		15	
TOTAL		100	

B. Run Mode

Table 5

No	Criteria	Max points	Comments
1	<p>Rationale, strategy and method:</p> <ul style="list-style-type: none"> Understanding of the terms of reference and general approach to the project, Evaluation of the difficulties, limitations and risks as well the proposed mitigations by the tenderer. 	5	
		10	
2	<p>Work organisation within the tenderer :</p> <ul style="list-style-type: none"> Processes Roles and responsibilities Involvement of senior staff 	25	
		25	
		10	
3	<p>All service lines</p> <ul style="list-style-type: none"> Methodology deployed Internal procedures to fulfil the service lines requirements 	15	To rate this criteria, each service line has the same weight
		10	
TOTAL		100	

To evaluate the global offer ESMA will calculate the global technical scoring using the following table:

Table 6

Criteria	
Transition out	15%
Running Mode	85%

4.3 Financial proposal

The financial proposal should be presented in the format found in Annex VII - Financial Proposal.

4.4 Choice of the selected tender

The contract will be awarded to the tenderer offering the best value for money, taking into account the awarding criteria listed above. No award criteria and sub-criteria other than those detailed above will be used to evaluate the offer.

The weighting of quality and price will be applied as follows:

Score for tender X	=	$\frac{\text{cheapest price}}{\text{price of tender X}}$	x	40	+	$\frac{\text{Total quality score of tender X}}{100}$	x	60
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4.5 No obligation to award

Completing the procedure of the call for tenders in no way imposes on the ESMA an obligation to award the contract. The ESMA shall not be liable for any compensation with respect to tenderers whose offers have not been accepted, nor shall ESMA be liable when deciding not to award the contract.

4.6 Notification of outcome

Each tenderer will be informed in writing about the outcome of the call for tender.

If tenderers are notified that a tender has not been successful, tenderers may request additional information by fax or mail. At the discretion of ESMA, this information can be given in a follow-up letter providing further details in writing, such as the name of the tenderer to whom the contract is awarded and a summary of the characteristics and relative advantages of the successful tender. However, ESMA would like to stress that it is not free to disclose any information affecting the commercial interests of other tenderers.

V. List of Annexes

Annex I – Draft contract

Annex II – Exclusion criteria and non-conflict of interest declaration

Annex III – Legal entity form

Annex IV – Financial identification form

Annex V – Authorised signatory form

Annex VI – Curriculum Vitae template

Annex VII – Financial proposal form

Annex VIII – Confirmation of offer submission

Annex IX – Tender submission checklist

Annex X - ICT Systems Inventory

Annex XI – SLA

Annex XII - SLA Dashboard

Annex XIII - ESMA PQP



Annex I – Draft contract

Annex II – Exclusion criteria and non-conflict of interest declaration

TO BE COMPLETED AND SIGNED BY THE TENDERER

The signed: _____ under-

- in his/her own name (if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator)

or

- representing (if the economic operator is a legal person)

official name in full (only for legal person):

official legal form (only for legal person):

official address in full:

VAT registration number:

declares that the company or organisation that he/she represents he/she:

declares that the company or organisation that he/she represents:

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) or persons having power of representation, decision making or control over it have not been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the EIB and international organisations;
- d) is in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of France and those of the country where the contract is to be performed;
- e) or the persons having power of representation, decision making or control over them have not been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;

- f) following another procurement procedure or grant award procedure financed by the Community budget, has not been declared to be in serious breach of contract for failure to comply with their contractual obligations.

In addition, the undersigned declares on their honour:

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract;
- k) that the information provided to ESMA within the context of this invitation to tender is accurate, sincere and complete;
- l) that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above.

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the Tenderer is a legal person and the national legislation of the country in which the Tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the Tenderer.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are 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.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

By signing this form, the undersigned acknowledges that they have been acquainted with the administrative and financial penalties described under art 141 and 145 b of Rules of Applications (Commission Delegated Regulation 1268/2012 of 29/10/12), which may be applied if any of the declarations or information provided prove to be false.

Full name

Date

Signature

Annex III – Legal entity form

Please download and complete the appropriate legal entity form:

For individuals:

http://ec.europa.eu/budget/library/contracts_grants/info_contracts/legal_entities/legEnt_indiv_en.pdf

For private companies:

http://ec.europa.eu/budget/library/contracts_grants/info_contracts/legal_entities/legEnt_privComp_en.pdf

For public entities:

http://ec.europa.eu/budget/library/contracts_grants/info_contracts/legal_entities/legEnt_public_en.pdf



Annex IV – Financial identification form

Please download and complete the financial identification form available at:

http://ec.europa.eu/budget/library/contracts_grants/info_contracts/financial_id/fich_sign_ba_gb_en.pdf

Annex V – Authorised signatory form

Address and contact details

Tenderer Name	
Address	
Post Code	
Tel	
Fax	
Email	
Web Site (if applicable)	
Legal Status	
Contact person for this tender	
Legal signatory(ies)	



Annex VI – Curriculum Vitae template

A template of ESMA's preferred Curriculum Vitae format is available from:

<http://europass.cedefop.europa.eu/europass/home/vernav/Europass+Documents/Europass+CV.csp>



Annex VII – Financial proposal form

Company: _____

Date: _____

Signature: _____

The maximum estimated budget for this assignment is 4 million (3 million for Lot 1 and 1 million for Lot 2).

Prices should be quoted free of all duties, taxes and other charges including VAT, as the ESMA is exempt from such charges under Article 3 and 4 of the Protocol on the Privileges and Immunities of the European Union. (See section 2.3.5).

The total price must be fixed and **include all costs** (project management, quality control, training of the contractor's staff, support resources, etc.) and **all expenditure** (management of the firm, secretarial services, social security, salaries, etc.) incurred directly and indirectly by the contractor in performance of the tasks. In particular, unit prices for services provided on the contractor's premises and in the **Contracting Authorities' premises in Paris must also include travel and accommodation costs.**

All data related to financial proposal are to be filled in the annex XI and called "SimulationProposal.xlsx"



Annex VIII – Confirmation of offer submission

In order to keep track of offers due to arrive, tenderers who do not hand deliver their offers are requested to complete and return this form by fax or email.

SOFTWARE APPLICATIONS AND FUNCTIONAL MAINTENANCE SERVICES
Publication Reference: OJ/11/12/2012-PROC/2012/007

Attn: ESMA, Attention to the Procurement Office

Email: procurement@esma.europa.eu

I have submitted an offer for this call on ____/____/____ using the following delivery service:

- Registered mail
- Express mail
- Courier Service
- Other _____

Tenderer name:

email:

Telephone number:

Annex IX – Tender submission checklist

The checklist must be used to ensure that you have provided all the documentation for this tender and in the correct way. This checklist should be signed and included in **Envelope A** of your offer.

You must submit your offer in one outer envelope which contains 3 separate inner envelopes clearly marked **Envelopes A, B and C**.

Please Tick ✓ the boxes provided

Envelope ‘A’ – Administrative documents – must contain

- The duly completed, signed and dated **Exclusion Criteria and Non-Conflict of Interest Declaration**.
- The duly completed, signed and dated **Legal Entity Form(s)**
- The duly completed, signed and dated **Financial Identification Form**
- The **economic and financial capacity documents** requested in section 3.2.2
- The **technical and professional capacity documents** requested in section 3.2.3.
- The duly completed **Authorised Signatory Form**
- In the case of consortia, a **consortium agreement** and any other documents as requested in section 1.4
- This **tender submission checklist**, completed, signed and dated.

Envelope ‘B’ – Technical proposal – must contain

- One original signed copy and 4 copies of the **technical proposal**.

Envelope ‘C’ – Financial proposal – must contain

- One original signed copy and 4 copies of the **financial proposal**.

You should also ensure that:

- Your offer is formulated in one of the official languages of the European Union.
- Both the technical and financial proposals of the offer are signed by the tenderer or his duly authorised agent.
- Your offer is perfectly legible in order to rule out any ambiguity.
- Your offer is submitted in accordance with the double envelope system as detailed in section 1.6.1.
- The outer envelope bears the information detailed in section 1.6.1.

Name: _____
Signature: _____
Date: _____



Annex X – SLA (see attached document)



Annex XI – SIMULATIONPROPOSAL.xlsx (see attached document)



Annex XII – Management Quality Plan.pdf (see attached document)