

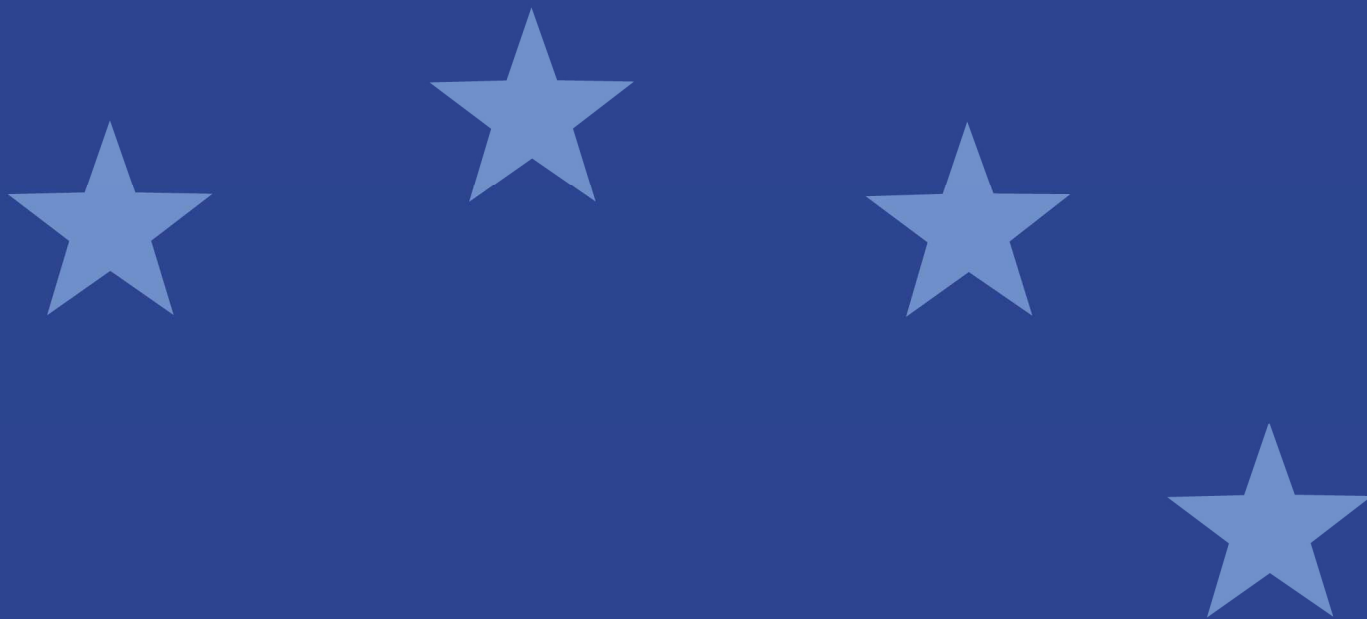


European Securities and  
Markets Authority

# Technical Specifications and monitoring

**ESMA REGISTERS**

Invitation to tender OJ/26/06/2012-PROC/2012/004



## Table of Contents

1.	OVERVIEW OF THIS TENDER	5
1.1	<i>Description of the contract</i>	5
1.2	<i>Timetable</i>	5
1.3	<i>Participation in the tender procedure</i>	6
1.4	<i>Participation of consortia</i>	6
1.5	<i>Subcontracting</i>	6
1.6	<i>Presentation of the tender</i>	6
	a) <b>Double envelope system</b>	7
	b) <b>Language</b>	8
1.7	<i>Confirmation of offer submission</i>	8
1.8	<i>Contacts between ESMA and the tenderers</i>	8
	1.8.1 <b>Written clarification before the deadline for submission of offers</b>	8
	1.8.2 <b>After the closing date for submission of tenders</b>	8
1.9	<i>Visits to ESMA premises</i>	9
1.10	<i>Interviews</i>	9
1.11	<i>Division into Lots</i>	9
1.12	<i>Variants</i>	9
1.13	<i>Confidentiality and public access to documents</i>	9
1.14	<i>Contractual details</i>	9
1.15	<i>Guarantee of the proper functioning of software developed, maintained, configured or implemented</i>	10
1.16	<i>Use of existing software</i>	10
1.17	<i>Ownership of source codes</i>	10
1.18	<i>User manuals and documentation</i>	10
1.19	<i>Interfaces and compatibility</i>	11
1.20	<i>Source programs</i>	11
2.	TERMS OF REFERENCE	11
2.1	<i>Introduction: Background to the invitation to tender</i>	12
2.2	<i>Description of the goods/services &amp; scope of the contract</i>	12
	2.2.1 <i>Contract objectives and scope</i>	12
	2.2.2 <i>Description of the work/tasks</i>	13
	2.2.3 <i>Deliverables, reporting and project schedule</i>	18
2.3	<i>Duration of the contract</i>	20
2.4	<i>Place of performance of the contract</i>	20
2.5	<i>Reference documents</i>	20
2.6	<i>Prices</i>	21
	2.6.1 <i>Currency of tender</i>	21
	2.6.2 <i>All-inclusive prices</i>	21
	2.6.3 <i>Price revision</i>	21
	2.6.4 <i>Costs involved in preparing and submitting a tender</i>	21
	2.6.5 <i>Protocol on the Privileges and Immunities of the European Union</i>	21
	2.6.6 <i>Payments</i>	21
	2.6.7 <i>Financial guarantees</i>	21
3.	EXCLUSION AND SELECTION CRITERIA	22
3.1	<i>Exclusion criteria</i>	22
3.2	<i>Selection criteria</i>	23
	3.2.1 <i>Legal capacity</i>	23
	3.2.2 <i>Economic and financial capacity</i>	23
	3.2.3 <i>Technical and professional capacity</i>	24
4.	AWARD OF THE CONTRACT	25
4.1	<i>Technical proposal</i>	25
4.2	<i>Technical evaluation</i>	26
4.3	<i>Financial proposal</i>	27

4.4	Choice of the selected tender	27
4.5	No obligation to award	27
4.6	Notification of outcome	27
<b>List of Annexes</b>		<b>28</b>
<i>Annex I</i>	<i>Draft contract</i>	29
<i>Annex II</i>	<i>Exclusion criteria and non-conflict of interest declaration</i>	30
<i>Annex III</i>	<i>Legal entity form</i>	32
<i>Annex IV</i>	<i>Financial identification form</i>	33
<i>Annex VI</i>	<i>Curriculum Vitae template</i>	35
<i>Annex VII</i>	<i>Financial proposal form</i>	36
<i>Annex VIII</i>	<i>Confirmation of offer submission</i>	38
<i>Annex IX</i>	<i>Tender submission checklist</i>	39
<i>Annex X</i>	<i>Draft Business Requirements MIFID</i>	40
<i>Annex XI</i>	<i>Draft Business Requirements PROSPECTUS</i>	40
<i>Annex XII</i>	<i>ESMA website graphic standards</i>	40
<i>Annex XIII</i>	<i>Data model entities</i>	40

## 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 about the Authority can be found on the ESMA website [www.esma.europa.eu](http://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

## 1. Overview of this tender

### 1.1 Description of the contract

The services required by ESMA are described in the terms of reference in [section 2](#) of the present tender specifications.

In drawing up a tender, tenderers should bear in mind the provisions of the draft contract in **Annex I**. In particular, the draft contract indicates the method and the conditions for payments to the contractor.

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	26/06/2012	Dispatch of contract notice to the OJ
Deadline for request of clarifications from ESMA	30/07/2012	
Site visit or clarification meeting (if any)	-	Not applicable to this tender
Last date on which clarifications are issued by ESMA	21/08/2012	
Deadline for submission of offers	<b>27/08/2012</b>	At 16:00 (local time Paris 12.00h, GMT + 1) if hand delivered
Interviews (if any)	-	Not applicable to this tender
Opening session	03/09/2012	At 10:00 local time
Date for evaluation of offers	10/09/2012	Estimated
Notification of award to the selected Tenderer	01/10/2012	Estimated
Contract signature	15/10/2012	Estimated

### **1.3 Participation in the tender procedure**

This procurement procedure is open to the natural or 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: **ESMA Registers OJ/26/06/2012-PROC/2012/004**;
- 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, providing all information requested in section 4.
3. Envelope C – Financial proposal
  - One signed original and two copies of the Financial Proposal, based on the format in **Annex VII**.

## **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 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 **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](mailto: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 not divided into lots. The tenderer must be in a position to provide all the services requested.

### **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**.

A 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.

The development, integration, testing, maintenance (and transition if applicable) of specific registers, as described in Article 2 Terms of reference, will be requested via these specific contracts.

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

The Contractor must have sufficient capacities to execute in parallel several individual specific contracts.

The Contractor must be capable of providing the services ordered rapidly and with a high degree of quality.

The foreseen total budget for the maximum duration of the contract of four years (including renewals) is 1,500,000 €.

#### **1.15 Guarantee of the proper functioning of software developed, maintained, configured or implemented**

With the exception of latent defects, for which the Contractor shall be liable indefinitely, the Contractor shall guarantee the proper functioning of software for the contractual guarantee period of twelve months from the official date of receipt. The Contractor shall be responsible for rectification, without delay and at his/her own expense, of all failures occurring within the contractual guarantee period, insofar as he/she cannot prove that such failures are attributable to causes other than defective performance, manufacturing defects or design faults in that part of the services performed by the Contractor.

ESMA shall inform the Contractor of the type and extent of the failure as soon as it occurs. If the Contractor does not proceed, without delay, to restoring the system to proper working order, ESMA may have recourse to a third party to this end, the risks and cost of which shall be borne by the Contractor.

The parties shall define jointly any major problems which may affect the software or the system. The contractual guarantee period shall be extended by a period equal to the time between notification of a major problem to the Contractor and acceptance of its rectification by the ESMA.

#### **1.16 Use of existing software**

If the Contractor uses software of which he/she is the proprietor or which is owned by a third party, or if the software provided incorporates software of which the Contractor is the proprietor or which is owned by a third party, the Contractor shall:

- mention this software explicitly in the tender submitted in response to the invitation to tender;
- indicate whether the use thereof by the Office gives rise to the payment of development or user licences, and provide an estimate of the cost;
- specify whether the use thereof by third parties (for example, the Member

States or other institutions) would give rise to the payment of development or user licences.

ESMA shall give its agreement in writing to the use of such software within the framework of the Specific Agreement on software development.

ESMA reserves the right to disseminate and/or distribute the results of any software development to third parties, even where this includes existing software, subject to compliance with licensing rights as regards any software owned by the Contractor or a third party mentioned in the tender submitted in response to the invitation to tender.

#### **1.17 Ownership of source codes**

ESMA shall become the proprietor of the sources, objects, documentation and test decks corresponding to payments already made.

#### **1.18 User manuals and documentation**

The Contractor shall draw up the manuals and documentation necessary for the satisfactory and proper operation of the software and shall place these at the disposal of ESMA. In drawing up these documents, the Contractor shall comply with the norms and standards in force.

In general, these documents shall include:

- an installation manual;
- an administration manual;
- a user manual;
- installation documentation.

The Contractor shall, as necessary, update and replace the user manuals.

### **1.19 Interfaces and compatibility**

Where mention is made in the Specific Agreement of interfaces to be complied with, any changes to such interfaces by the Contractor shall be subject to the prior written agreement of ESMA.

Where the software provided uses the software of a third party which is subsequently upgraded, the Contractor shall ensure that the software concerned is adapted in accordance with the functional and technical arrangements agreed jointly between the Contractor and ESMA.

The Contractor shall ensure that all software supplied under the contract is compatible and operates with all other software provided for in the contract through the interfaces.

### **1.20 Source programs**

In the event that one of the scenarios provided for in article 3.1 Exclusion criteria should arise, the Contractor shall:

- insofar as he/she is legally entitled to do so, immediately place in a safe location a copy of the source programs, and of any other information or documentation necessary for maintenance of the software supplied. In the event that ESMA needs the source programs or if it exercises its right to terminate the contract, the access codes and any other information or documentation shall be provided immediately to ESMA, at no cost and free of charge;
- at the request of ESMA, supply, at no cost, any diagrams and source programs for the software necessary for ESMA to ensure the satisfactory operation of this software.

## **2. 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

The central registering, updating and publishing of large amounts of European financial data is one of ESMA's core responsibilities. These data can be related to all specific fields falling under European regulations in the Securities and Financial markets segment which are, in cooperation with the National Competent Authorities in the European Member States, supervised by ESMA.

ESMA is inviting tenderers to submit an offer for the development and integration of a **data registering and web display portal**.

In the first stage of the contract the following registers are considered to be implemented at ESMA:

Under Directive 2010/78/EU, the so called OMNIBUS Directive:

- the register of European investment firms under MIFID
- the register of European management companies under UCITS
- the register of European prospectuses under PROSPECTUS

Under Directive 2011/61/EU, the so called AIFMD Directive:

- the register of European alternative investment funds managers

Under Regulation 2012/236/EU, the so called Short Selling Regulation:

- the register of shares identified as having their principal trading venue located in a third country

Under the draft EMIR Regulation:

- the register of Trade Repositories
- the register of CCPs
- the register of penalties and fines
- the register of classes of derivatives subject to the clearing obligation

At later stage of the contract the implementation of other registers will be requested:

- all new registers with similar (public) nature, required to be implemented at ESMA under upcoming European Directives or Regulations and currently in drafting or political decision phase
- the integration of already existing registers into the new IT functionality, namely the MIFID database <http://mifiddatabase.esma.europa.eu/>, and probably others.

The data to be registered and displayed will be in all cases provided by ESMA or the European National Competent Authorities in charge of financial markets supervision and authorization on EU Member State level.

## 2.2 Description of the goods/services & scope of the contract

### 2.2.1 Contract objectives and scope

The tenderer is requested to develop and integrate the full functionality of the ESMA registers portal.

The procurement of initially four registers is initially scheduled, to be followed by a number of additional similar registers in the coming years.

The registers shall consist as general rule in a common central core system which includes the databases of financial data and the data administration functionality and a dedicated portal directly accessible from ESMA's public website <http://www.esma.europa.eu/> which shall permit the user the display of and search in the registers.

The data to be registered are supplied by ESMA or the European National Financial Supervisory Authorities.

### **2.2.2 Description of the work/tasks**

The required system will consist in four basic modules:

#### **A. The data collection module**

The data collection may be performed through two options:

##### **a. The HUB (existing):**

An EXISTING HUB is likely be used for all registers data transmissions between the European National Competent Authorities and ESMA. The HUB is a central file transmission server set up to exchange files with several partners. The IT systems can connect to the HUB in FTPS. The HUB is NOT part of this call for tender.

##### **b. The extranet interface (new):**

The data suppliers (ESMA or the European National Competent Authorities) shall likely have additionally the possibility to upload their data through an uploading service available through a web interface.

#### **B. The core system (new)**

The core system is connected with the HUB and the extranet interface.. It shall process the following incoming data formats: XML, XBRL, PDF, csv, possibly other formats.

At arrival of the data from the data suppliers (ESMA or the European National Competent Authorities), a high level analysis of the incoming report shall be carried out which consists at minimum in the validation of the correct data format and some consistency checks. A feedback file shall be generated and send to the data supplier or the ESMA IT administrator.

The data shall be downloaded into a database. Please see for details the description of frameworks used currently by ESMA.

#### **C. The publication module (new)**

The publication module consists in dedicated portal, accessible from the existing public ESMA web site <http://www.esma.europa.eu/>. The publication module shall provide the user with the search and filter functionalities into the database of the core system, printing functionality and exporting functionality of the registered data.

#### D. The administration/reporting module(s) (new)

This module(s) shall provide all necessary functionalities for the administration of the new system by the ESMA IT administrator, including the core system and the web portal. Additionally it will include a tool to generate reports on the registered data which shall be, on demand of the IT administrator, ESMA internal user or/and periodically scheduled, be forwarded by email to the IT administrator, ESMA internal user or external user. It shall offer upload and update features and the possibility to integrate extended data base search and filter functionalities. The contractor will define an Application Programming Interface (API) for software clients to interact with the portal (search for data, download data) and enable its use through interaction with developers of third-party applications.

The contractor will also provide a tool for collecting and publishing statistics about the operation of the portal, the availability of data and applications and the way in which they are used. The collected access statistics should be directly linked to and drive the communications and development activities of the portal (e.g. functionality and content improvement).

The possible data model for the register of authorised entities (MIFID, UCITS, AIFMD) is shown in the technical annex D, Authorized entities data model.

#### Availability

The exchange system shall :

- (a) Provide at maximum 200 connections (ESMA and National Authorities users).
- (b) Be able to exchange 10 000 reports of 5000 lines on average at minimum (including feedback) daily between NCAs and ESMA.
- (c) Be available at least 95% in time over a monthly timeframe, excluding scheduled system maintenance.

#### Security

The access to the exchange system will be restricted via a secure approved method. All deliverables must comply with the security requirements derived from EU regulation and ESMA Security Policy, at least:

- 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
- ESMA internal Security Policies (will be delivered during the execution of the contract).

Specific security features could include:

- User authentication,
- Network access controls,

- Access control to functions and data of the application module, depending on the nature of the users (i.e. business role),
- Audit functions, enabling with a customizable granularity to keep track of users access to application data and functions.

### Backup

The system must integrate a backup policy. In the case of a system failure, the application must be restored exactly as it was before the break-down. The software should be able to be recovered according to a provided backup/restore procedure and continue to be stable, without lost of data.

### Disaster recovery

The system must integrate a disaster recovery plan. The software should be able to be recovered according to a provided backup/restore procedure and continue to be stable, without lost of data.

### Architectural requirements

The system should smoothly integrate within the ESMA technical infrastructure, which currently includes the following elements:

- Physical environment completely virtualized, based on vSphere 4 virtual servers and SAN / NAS visualized storage. Thus the proposed architecture should be exclusively composed of virtual servers (typically 2 VCPU and 8 Gbytes of RAM for an application server) and the contractor must provide a firm engagement that proposed architecture fulfils expected performance requirements.
- The HUB file exchange platform, based on the Axway Gateway (6.12) software providing standard SFTP/FTPS/HTTPS connectivity (SFTP and / or FTPS preferred for back-end applications).
- Linux Operating System / Environment: Red Hat Enterprise Linux Server 5.x and 6.x for database and Java application servers, Ubuntu for LAMP stack based applications.
- Frontal HTTP / HTTPS reverse proxies (Apache 2.X HTTP server) integration mandatory for any web application.
- Oracle Database 11g server used as the standard relational database engine.
- The Jaspersoft BI platform, including JasperReports Server and Jaspersoft ETL (based on Talend ETL).
- OpenLDAP used as backend for user authentication and access rights.
- Java applications, mainly based on the following components: Java SE (1.6), Apache Tomcat (6.x), Spring Framework (Spring Batch, Spring Security, etc.).
- Drupal CMS (6.x) used for the ESMA website.
- Jasig CAS authentication and web single sign on system.
- Exalead search engine platform.

Typically for each new application environment the following platforms are provided by ESMA's hosting provider:

- A test platform,
- A production platform,

- A disaster recovery platform (hosted on the same infrastructure as the test environment).

Considering the performance requirements the system should be horizontally scalable relative to:

- Number (and update frequency) of datasets to integrate from the National Competent Authorities and/or other parties.
- Number of users the simultaneously accessing the portal.

### Compliance with standard

Compliance with W3C standards (e.g. XML, XHTML, etc.) is an important element of any technical solution proposed by the Service Provider.

The web interfaces should be compatible with the following web browsers in different operating systems: Internet Explorer (7 and more), Firefox (3.6 and more), Safari (5 and more), Opera (11 and more), and Google Chrome (11.0 and more). It should therefore meet the CSS and XHTML standards to be W3C standards compliant.

The communication protocols must be standard.

### Ergonomic requirements

The technical documentation and functional graphical interfaces are to be built and provided in English (minimum requirement, other EU languages can be offered additionally).

### Maintenance

The Contractor will provide during the contractual period a full maintenance service of all applications developed and delivered by him. The maintenance of the applications will form part of the Contractor's responsibilities and be defined in the specific contracts.

- Services in critical corrective maintenance:

The critical corrective maintenance covers defects and deficiencies which seriously affect the usage of a particular system. Incidents are usually discovered during the use of the productive system by the end-users or by the administrators who assure the operation of the system. End-users will usually detect defects or deficiencies interactively when using the user-interface (related to the user-interface itself, to the execution of functions provided by the interface or to the reaction of the system) or when analysing the results provided. Operators will detect or be informed about malfunctions of the system during operation or by analysing the log files. 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 critical system defect or deficiency is to restore operability of the system either by resolving the problem or by providing a workaround, within the shortest timeframe possible, resulting in the minimum disruption to the business processes. 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.

- 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, typically under 48 hours.



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 updated as 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 its having fixed the incident.

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

The impact of urgent incidents do not allow for the conclusion of a specific contract for each incident before the work can start. Consequently ESMA may request the Contractor to prepare a technical and financial offer to fix a number of such critical incidents, and consume the contract as incidents are declared.

- Fixing a high-priority incident

A high-priority incident has a smaller impact than an urgent incident. It is expected to be fixed for the next go-live weekend, if it is declared before the cut-off date or the following go-live weekend if it is declared after the cut-off date.

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

In the case where several high-priority incidents 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. Should there be other non-critical, small adaptive or big adaptive scheduled for the same release, then all is expected to be bundled and delivered together, in order to attain a maximum of one release per system per go-live (note this does not affect urgent incidents which have their own patch).

Given that high-priority incidents are fixed as part of the normal delivery mechanism, all documentation associated with a release is expected.

The short delays involved in fixing high-priority incidents do not allow for the conclusion of a specific contract for each incident before the work can start. Consequently ESMA may request the Contractor to prepare a technical and financial offer to fix a number of such high-priority incidents, and consume the contract as incidents are declared.

- Services in non-critical corrective/preventive maintenance and small adaptive/perfective maintenance

Non-critical corrective maintenance covers fixing defects and deficiencies which do not seriously affect the usage of a particular system. Incidents are discovered by users or operators, as has been 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. Preventive maintenance constitutes the modification of the software prior to the manifestation of a latent fault.

Small adaptive maintenance covers all requests, not exceeding a threshold value of man-days, 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.

### Reversibility

The contractor will prepare and update whenever necessary a reversibility plan for the case of termination of the contract. The reversibility plan will contain:

- A planning for the reversibility phase
- An updated set of documentation (Installation, configuration and operation)
- Migration strategy to the new provider.

The reversibility/transition of applications concerns the transfer of one or many applications to another contractor or to ESMA. The reversibility/transition of applications will form part of the Contractors responsibilities and be defined in the specific contracts.

- Transition OUT:

At a time during the contract or at the end of the contract, ESMA may request the Contractor to prepare a technical proposal to transfer the IT systems to a third party or to ESMA.

ESMA will request the Contractor to transfer all related software, up-to-date documentation and knowledge to a third party or to ESMA, whereby the time given to carry out the transfer will be determined by ESMA at the given time.

The Contractor will carry out a process of knowledge transfer between him and ESMA or a new Contractor, such that the new Contractor can assume responsibility for maintenance of the IT systems provided by the initial Contractor.

The preliminary work will be based on establishing a solid view of the architecture, including all hardware and software details. This information would be stored in a knowledge base, whereby it can be easily retrieved and changes can be recorded easily.

The knowledge base must be validated by ESMA.

The knowledge base must contain all associated documentation, including but not limited to functional and technical specifications, software architecture documents, database models, integration contracts, test plans, installation instructions, test routines and monitoring routines.

On a system-by-system basis, once ESMA has validated the knowledge base completed by the Contractor for a particular system, the transfer of responsibility for that system from the Contractor to ESMA or to the new Contractor may take place. ESMA will decide which systems will be transferred in what order.

The transfer is expected to take no longer than two or three months. The Contractor must have completed the transfer of responsibility of all systems to be maintained within this time frame,, unless otherwise agreed with ESMA.

After the transition OUT is finished, the Contractor will no longer receive requests for the maintenance service of the systems.

### **2.2.3 Deliverables, reporting and project schedule**

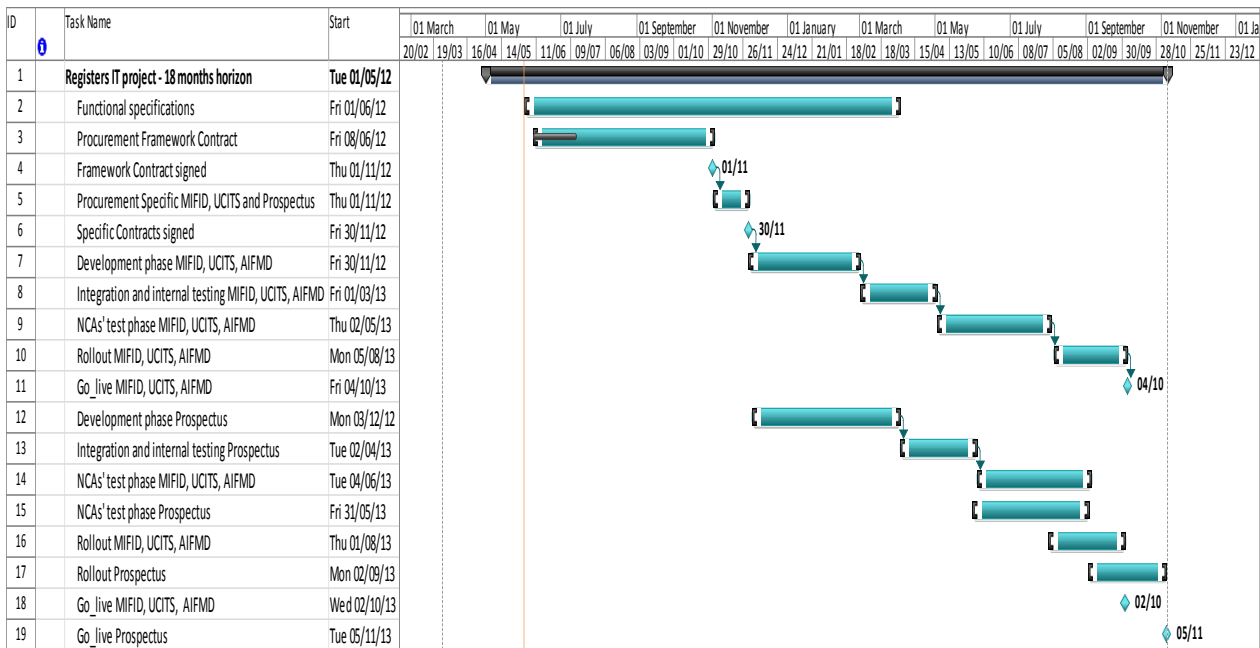
#### Deliverables:

- Adaptation and finalisation of specifications. Drafting of technical specifications and architecture documents
- Development of the Registers portal solutions including the core system, the publication module including its design and the administration/supervision module.
- Integration of the Registers portal including the core system, the publication module including website integration and the administration/supervision module within the existing ESMA IT systems.
- Testing of the Registers portal including the core system, the publication module and the administration/supervision module before handing it over to ESMA, including stress and performance testing in order to verify that the system operates according to their defined response times, and are able to handle the load they are required to handle. The UAT support, providing technical and functional support to acceptance testing is also required.
- Supporting documentation, ESMA administrators and user training.
- Maintenance service of the supplied registers during the contract period as described in chapter 2.2.2 Description of the work/tasks
- Service in the reversibility/transition OUT of applications as described in chapter 2.2.2 Description of the work/tasks.

Reporting and deliverables acceptance:

Project progress will be reported frequently by the contractor, progress on deliverables will be tracked versus the time planning. ESMA will accept payments only after full acceptance of corresponding deliverables.

Indicative project schedule for MIFID, UCITS, AIFMD and Prospectus (18 months time horizon shown):



**Note:**

For the other registers projects to be implemented in 2013 please see chapter 2.1 Introduction. The functional specifications are currently being drafted by ESMA. Draft functional specifications will be submitted at the stage of the procurement for the specific contracts. It is expected that the contractor participates in finalizing the functional specifications for the sake of time efficiency at the development and integration phase.

**2.3 Duration of the contract**

The initial framework Contract will be concluded for one year. The Contract shall be renewed automatically up to three times each one for a period of 12 months, for a maximum duration of 4 years under the same conditions, unless written notification to the contrary is sent by one of the contracting parties and received by the other.

**2.4 Place of performance of the contract**

Tasks will be expected to be performed on the contractor’s premises. Certain tasks might be performed on ESMA’s premises (e.g. during design, implementation and testing). Frequent meetings during the execution of the contract to be held at ESMA’s premises should be foreseen.

**2.5 Reference documents**

The following technical reference documents for part of this tender (Technical Annexes A to D)

- A) Draft Business requirements MIFID
- B) Draft Business requirements PROSPECTUS
- C) ESMA website graphic standards
- D) Data model entities

*NOTE: The draft business requirements Annexes A) and B) are presenting a not finalized status.*

## **2.6 Prices**

### **2.6.1 Currency of tender**

Prices must be quoted in Euro.

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

### **2.6.2 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, subsistence, etc). No expenses incurred in the performance of the services will be reimbursed separately by ESMA.

### **2.6.3 Price revision**

Prices shall be fixed and not subject to revision for the duration of the contract.

### **2.6.4 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 paid by the tenderer.

### **2.6.5 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.

### **2.6.6 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, Article I.4 – Payments and implementation of the contract.

### **2.6.7 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.

### 3. 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) 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) have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
- c) have been guilty of grave professional misconduct proven by any means which ESMA can justify;
- d) have not fulfilled 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 have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' 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 misrepresentation in supplying 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:

- A) 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;
- B) Relevant qualifications in the fields of developing and integrating IT solutions in the field of data portals, data exchange, data storage, data administration and data web publishing 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
- C) The ability to prepare and present clear and concise technical documents in the English language and to work in an European (international) environment;
- D) The ability in building data portals similar to those described in this invitation to tender in terms of size and complexity, in similar business environments as ESMA in Europe (European public bodies or National Government bodies)
- E) 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:

- A) Details of the structure of the organisation (including the number of staff) and relevant subcontractors;
- B) 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;
- C) A list and description of recent activities (in the last 5 years) in the field of developing and integrating IT portal solutions including data exchange, data storage, data administration and data web publishing
- D) 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)
- E) Evidence to have run projects of the size > 1 million over similar timespans as described in this tender.



## 4. 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:

- **NOTE:** Please elaborate your technical proposal based on the implementation case of the sample registers described in the business requirements documents in the technical attachments (MIFID and PROSPECTUS) as for annexes.
- Offers must include a detailed work plan. The work plan should specify the management structure as well as the responsibility of each member of the team, including the main contractor and/or sub-contractors;
- The work plan should include a list of tasks to be performed, with clear and realistic phases and milestones and identification of task dependencies and risk management. Resources should be clearly associated to each task;
- The work plan should clearly identify the software components that will be used to build the ESMA Registers portal and identify the respective software licences;
- Community management plans, including the collection of user requests (for datasets or functionalities) and defect reports and the methodology for correcting defects and honouring requests should be described in detail;
- Offers must include 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.
- Offers must include a description of the technical architecture of the future portal, with a description of the software which will be integrated and the custom modules which will be developed
- Offers must include a description of all user interfaces with provided functionalities (search, visualisation, administration interfaces) and an estimation of their performance parameters
- Offers must include a description of the data integration process
- Offers must include a commitment to ESMA's transition methodology and maintenance methodology as described in Technical Annex E and a description of the contractors standard methodologies at transition and maintenance
- Offers must include an estimation of the hardware sizing for the sample registers described in the business requirements documents in the technical attachments (MIFID and PROSPECTUS)
- Proposals can be based (not obligatory) on the use of Open Data Portals (example: [http://ec.europa.eu/information\\_society/policy/psi/open\\_data\\_portal/index\\_en.htm](http://ec.europa.eu/information_society/policy/psi/open_data_portal/index_en.htm))

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

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.

No	Criteria	Max points	Awarded score
1	<p><b>Rationale, strategy and method:</b></p> <ul style="list-style-type: none"> <li>- Understanding of the terms of reference and general approach to the project, understanding of the business context</li> <li>- Coverage and quality of the required analyses and proposed methods,</li> <li>- Evaluation of the difficulties, limitations and risks as well the proposed mitigations by the tenderer.</li> </ul>	<b>15</b>	
2	<p><b>Quality of the organisation and work plan within the tenderer/consortium:</b> As an evidence we will pay attention to :</p> <ul style="list-style-type: none"> <li>- Description of activities and planning of tasks/work packages (sequence, duration, related inputs and outputs)</li> <li>- Proposed methodologies for all project phases,</li> <li>- Presentation of the data integration process and of the involved human resources,</li> <li>- Proposal of the timing of major milestones in execution of the contract, including in the case of consortium/subcontracting description of the key contributions from each of the consortium members,</li> <li>- Presentation of the subcontracting arrangements foreseen.</li> </ul>	<b>35</b>	
3	<p><b>Quality of the technical solution proposed:</b> As an evidence we will pay attention to :</p> <ul style="list-style-type: none"> <li>- Description of the portal architecture,</li> <li>- Soft and hardware used, Modules and interfaces developed,</li> <li>- Presentation of the performance parameters</li> </ul>	<b>35</b>	
4	<p><b>Quality of transition and maintenance:</b> As an evidence we will pay attention to :</p> <ul style="list-style-type: none"> <li>- Understanding of IN-OUT transition</li> <li>- Evidence of the proposed maintenance methodologies</li> </ul>	<b>15</b>	
	<b>TOTAL</b>	<b>100</b>	

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

### 4.3 Financial proposal

The financial proposal should be presented in the format found in **Annex VII**.

### 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	=	$\frac{\text{cheapest price}}{\text{price of tender}}$	x	40	+	$\frac{\text{Total quality score of tender}}{100}$	x	60
------------------	---	--	---	----	---	--	---	----

### 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.

## 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 – Draft Business Requirements MIFID

Annex XI – Draft Business Requirements PROSPECTUS

Annex XII – ESMA website graphic standards

Annex XIII – Data model entities



**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:

- 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) has not been convicted of an offence concerning professional conduct by a judgment 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;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;
- e) has not been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- f) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

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 133 and 134 b of the Implementing Rules (Commission Regulation 2342/2002 of 23/12/02), 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](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](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](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](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:** \_\_\_\_\_

*NOTE: The estimated budget for this assignment is 1,500,000 Euro for a maximum duration of contract of four years (including all renewals).*

*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** 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.***

**List of prices according to the profiles required**

Prices should be quoted on “per man/day” bases.

The list of unit prices per profile will be used for the specific agreements, should the contract be awarded.

The tenderer is not allowed to create new profiles. Profiles hereunder are compulsory.

**1. Price list of unit prices**

Profiles	Cost per man/day in Euro
Project Manager	
Project Support Officer	
IT Senior Developer/Programmer	
IT Developer/Programmer	
IT Architect	

**2. Work Hypothesis: Cost case for the implementation of the PROSPECTUS register**

Note: the quoted price will be used to evaluate this call for tender and might be used as yard stick (orientation) at the moment of requesting the PROSPECTUS functionality via a specific contract at later stage.

ESMA requests the provider to deliver the full register portal functionality for the PROSPECTUS register, as described in this call for tender and in technical Annex B of this call for tender – PROSPECTUS business requirements.

The provider will work most of the time in its own premises but also occasionally in ESMA’s premises.

a)Work:

Please estimate the workload and quote a price for the involved work:

Profiles	Number of man/days	Cost per man/day in Euro	Total cost per profile in Euro
Project Manager			
Project Support Officer			
IT Senior Developer/Programmer			
IT Developer/Programmer			
IT Architect			
<b>Total Price</b>			

b)Software:

200 users are foreseen for the system.

Please estimate the necessary licence costs and quote a price for the licenses:

(add rows if needed)

Description of software	Number of licenses	Cost per licence	Total cost of licenses in Euro
<b>Total Price</b>			

**Sum Total costs for a)work and b)software licenses:**

This sum will be used for the financial evaluation of the offer.



## **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.

**Title: ESMA registers**

**Publication Reference: OJ/26/06/2012-PROC/2012/004**

Attn: ESMA, Attention to the Procurement Office

Email: [procurement@esma.europa.eu](mailto: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, 2 copies and one copy in electronic form (DVD ROM or USB stick) of the **technical proposal**.

#### Envelope ‘C’ – Financial proposal – must contain

- One original signed copy and 2 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\_Draft Business Requirements MIFID**

**Annex XI\_Draft Business Requirements PROSPECTUS**

**Annex XII\_ESMA website graphic standards**

**Annex XIII\_Data model entities**



