



European Securities and
Markets Authority

Technical Specifications and monitoring

Cleaning Services and Supply of Cleaning Products
Invitation to tender OJ/20/04/2012 -PROC/2012/001

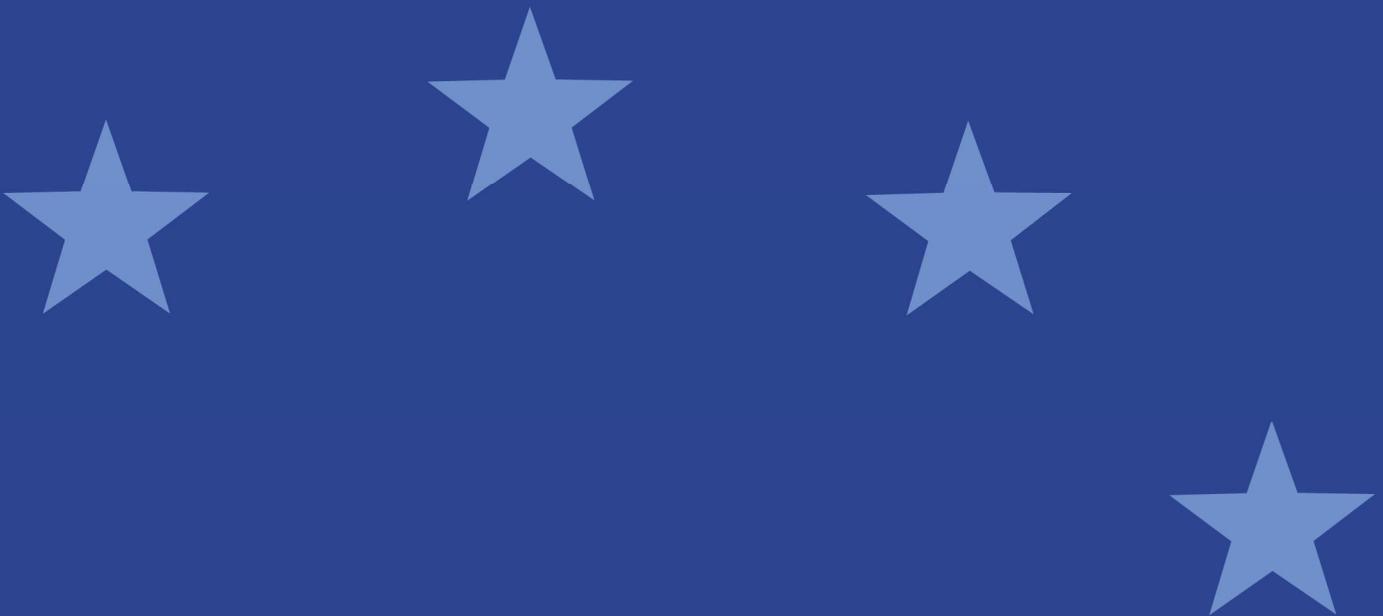


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Introduction to ESMA

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 about 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 ESMA to guarantee the widest possible participation, on equal terms in tender procedures and contracts

1. Overview of this tender

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.

1.1. Timetable

Activity	Date	Comments
Launching of tender	20/04/2012	Dispatch of contract notice to the OJ
Site visit or clarification meeting (if any)	22/05/2012	At 09:00 local time
Deadline for request of clarifications from ESMA	25/05/2012/	
Last date on which clarifications are issued by ESMA	30/05/2012	
Deadline for submission of offers	06/06/2012	At 16:00 local time if hand delivered
Interviews (if any)	-	Not applicable to this tender
Opening session	12/06/2012	At 10:00 local time
Date for evaluation of offers	Opening date plus 1 week	Estimated
Notification of award to the selected Tenderer	Evaluation date plus 3 weeks	Estimated
Contract signature	Notification date plus 2 weeks	Estimated

1.2. 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 or any other country covered by the WTO Government Procurement Agreement.¹

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.

1.3. 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.

1.4. 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.

¹ More information can be found at the following link: http://www.wto.org/english/docs_e/legal_e/legal_e.htm#procurement

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.

1.5. 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: “ **Cleaning Services and supply of cleaning products- Invitation to tender OJ/20/04/2012 -PROC/2012/001** “
- 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:

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**.
- 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).

Envelope B – Technical proposal

One original (unbound, signed and clearly marked as “Original”) and four copies (bound and each marked as “Copy”) of the Technical Proposal, providing all information requested in section 4.

Envelope C – Financial proposal

One signed original and four copies of the Financial Proposal, based on the format in found 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 French or English. Nonetheless, the choice of language will not play any role in the consideration of the tender.

1.6. 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**.

1.7. Contacts between ESMA and the tenderers

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

1.7.1. 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
103, Rue de Grenelle 103
75007 Paris, France
email: procurement@esma.europa.eu
Tel : +33 1 58 36 43 30

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.

1.7.2. 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.

1.7.3. Visits to ESMA premises

Where a site visit at ESMA's premises or a meeting is deemed necessary to clarify certain aspects of the tender, ESMA shall make the necessary arrange-

ments and inform or invite tenderers. The costs incurred in attending shall be borne by the tenderer.

ESMA may, however, decide that the query would be more efficiently dealt with by means of a written clarification.

In the event that a site visit or meeting takes place, the dates are indicated in the timetable under section 1.2

Site inspection of offices to be cleaned

The Facility Manager of ESMA will be organising a compulsory site visit on Tuesday 22/05/2012 at 09:00, where drawings/plans of the premises (103 rue de Grenelle , 75007 Paris) are distributed. Please note that possible specific questions about the premises can be asked during this site visit. Any contractor who does not attend the compulsory site visit will be excluded from consideration. Meet at reception 6th floor

1.7.4. Interviews

The Evaluation Committee will not conduct interviews for this procedure.

1.8. Division into Lots

Not applicable

1.9. Variants

Not applicable

1.10. 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.

1.11. Contractual details

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

ESMA wishes to conclude a framework contract to provide Cleaning Services, Maintenance and Handling for ESMA premises for a period of four years. A framework contract will establish the terms governing specific contracts to be awarded during a given period; in particular, with regards to price.

Signature of the framework contract imposes no obligation of ESMA 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.

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

ESMA has currently a contract for cleaning services on 103 rue de Grenelle- 75007 Paris, France which actually includes 3 floors and a half in 1 building, approx , 2696.80 square meters .The contract is for one year and will end in June 2012 The cleaning is executed by 4 agents from 6h to 8h30 a.m. and 1 agent from 12h30 to 14h30 from Monday to Friday . There is a project for extension of the premises starting from beginning of 2013 with growing ESMA staff for the next four years

ESMA working force : approximately 101 staff at the end of 2012 , and 250 in four years

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

2.2.1. Contract objectives and scope

The contractor will provide Cleaning Services, maintenance and handling for ESMA premises in accordance with terms of reference and framework service contract model.

2.2.2. General

ESMA pays attention to ergonomic, environmentally-friendly cleaning and the use of environmentally-friendly cleaning products.

ESMA also pays major attention to results-oriented, quality services which allows for varying needs for cleaning, maintenance and handling of, for example, meeting rooms, cafeterias, office areas, storage spaces, printer areas, lunch areas for meetings etc., to ensure cleaning and tidiness.

Products used must not contain substances likely to damage fitted carpets, marble surfaces, tiling, linoleum, metals, resins, etc. Their formulation must be such as to preserve the surfaces treated satisfactorily. Products must comply with the rules in force on environmental protection and preference will be given to products offering the best guarantees in this regard. Wooden floors must be cleaned and regenerated in accordance with specific instructions.

In the event of damage to surfaces resulting from failure to comply with these rules the contractor must make good the damage as soon as possible and at its own expense.

Environmental, safety and health criteria

The contractor must comply with European and national rules on environmental protection, safety and health.

– If asked to do so, the contractor must provide a list of all products used and their chemical formulation. ESMA reserves the right to ban the use in its buildings of products

which do not in their view offer every guarantee regarding health, safety or protection of the environment;

- Products and materials used must be stored in suitably marked containers and only in premises or cupboards designated for the purpose in ESMA premises;
- Written approval for the storage of flammable products must be sought from the authorised security officer of ESMA. Equipment and methods used must be consistent with the health and safety standards applicable to the office premises being cleaned, according to local regulations;
- Staff of the contractor must alert those in charge of ESMA premises to any problems of water leakage from washing and toilet facilities or any other form of malfunction they discover in the course of their work;
- Staff of the contractor must be trained to use cleaning products economically and in the right quantities. The contractor must be able to prove to ESMA that this training has been given;
- Cleaning products must preferably be concentrated and packaged in recyclable or re-usable containers which come with a measuring device. The appropriate quantities to be used must be shown on the packaging along with instructions for use. Instructions for use must also be shown on the labels;
- Office waste must be collected separately;
- Any waste cleaning products which are toxic must be treated as hazardous waste;
- The contractor must, as far as possible, use products which contain no bleach, EDTA (ethylenediaminetetraacetic acid), formaldehyde, nitro musk-based fragrance or substances classified as carcinogenic, mutagenic and toxic to reproduction;
- The contractor must, as far as possible, minimise the level of energy consumption during its work;
- Products used to clean metal joinery work and aluminium fittings must meet the standards laid down by the association of metal joinery construction firms in France

The contractor must supply and use:

- All cleaning products (detergent, disinfectant, etc.);
- All toiletry supplies (soap, toilet paper, hand towels etc.);
- All kitchenettes supplies (dishwashing products, detergents, dish towels, hand towels, etc.)
- Necessary equipment (vacuum cleaners, stepladders, etc.), suitable large dustbin liners for removal of waste in containers;
- Necessary workwear and safety equipment;

Number of people working in ESMA

The number of people working at ESMA is currently 75. By the end of 2012 the number is expected to increase to 120 and up to 250 in four years.

2.2.3. Description of the work/tasks

Cleaning and maintenance is to be based on the cleaning and maintenance instructions here under. Drawings, plans will be submitted during the presentation of the ESMA premises.

The company has to use only hygienic materials and equipment.

Cleaning instructions

Cleaning of inside areas

- General cleaning of all rooms, hallways, furniture, fittings and textiles
- Mats and carpets: Vacuum cleaning (entrances mats/carpets).
- Floors: Hard floors to be washed thoroughly wall-to-wall.
- Panels: Thorough washing.
- Window frames: Thorough washing.

- Walls: Spots and marks have to be removed (water-soluble).
- Ceilings: Sweeping. Cobwebs have to be removed.
- Doors and frames: Thorough washing.
- Light fittings/lamps and switches: Outer surfaces to be dusted/cleaned.
- Furniture and desks and other tables: Cleaned thoroughly.
- Fittings: Bookcases and shelves have to be cleaned thoroughly when cleared.
- Chairs and other upholstered furniture have to be vacuuming cleaned / cleaned (after consulting the Facility Manager since there are some accepted offices).
- The cleaning of the 5th floor where meetings with external persons are held on a week basis and catering services are supplied ,will include :
 - o Cleaning of the lunch area including :cleaning of chafing dishes, installation and removal of food, transport of the trolley to the canteen on level -1 , in accordance with specific instructions given by the facility manager.
 - o Cleaning and arrangement of the meetings rooms.
 - o Recharge of the meetings room with bottles of water and placement of nameplates and other furnitures needed for the meetings

 - o Recharge of coffee and biscuits for the coffee breaks

 - o Tide up the meeting rooms between each meeting
This area must be cleaned and tidied up in in accordance with specific instructions given by the facility manager

Toilettes/Bathrooms:

- Toilets and all sanitary installations have to be cleaned thoroughly (dissolve salt).
- Toilets and sinks have to be cleaned thoroughly in order destroy or prevent the growth of disease-carrying microorganisms.
- Mirrors have to be polished.
- Walls have to be washed thoroughly.
- Floors have to be washed and disinfected thoroughly.

The provider should ensure installing in all toilets a sheet defining the time at which the toilets have been cleaned. The cleaning staff of the contractor must sign and date every time they clean the toilets and change the consummables in the toilettes to allow proper tracking and information to ESMA staff on the frequency of cleaning.

Kitchenettes:

- Kitchen tables and sinks to be cleaned thoroughly.
- Free shelves and surfaces have to be cleaned.
- Insides of refrigerators have to be cleaned if emptied (to be agreed).
- Cupboards have to be emptied and the insides cleaned and contents replaced correctly.

Computer equipment:

- Cleaning of computer equipment (telephones, pc screens, keyboards and cabinets).
- Upholstered furniture:
- Ventilation: Caps in the ceiling.

Window cleaning:

Notification from the Facility Manager of window cleaning must be given at least 15 days beforehand to the cleaning company.

Glazing bars in window frames, etc., must be cleaned as required when window cleaning.

In addition, it must be expected that minor fixtures and fittings may have to be removed from window frames and put back correctly once the cleaning is done.

The windows have two glazing for each sash, four layers to be clean.

The Window-cleaning's frequency is twice every year for the external layers (indoor and outdoor faces) and one time every year for the internal layers (intra-faces), for all the windows in ESMA, in all the floors.

The following tasks are to be done on a daily basis:

- Cleaning the toilets and other sanitary elements, including toilet cubicles and urinals and check of all products required
- Emptying and cleaning of waste containers and waste-paper baskets and putting them in the designated containers
- Separation of the paper from the ordinary household waste, and replacement of plastic bags if needed, except for the paper basket.
- Mopping and removal of stains of all floors (carpets, wooden floors, stone floors and linoleum floors should be cleaned as appropriate).
- Cleaning of hand basins and related fittings, mirrors, shelves, tiles, etc.
- Refill of paper towel containers, toilet paper and soap, when is necessary.
- Wiping and cleaning of all cafeteria furniture (including chairs, tables and table legs).
- Cleaning and tidying up of kitchens area.
- Filling in the dishwasher (plates, cutlery, glassware, coffee cups, etc.), turning it on and emptying when finished.
- Cleaning of all meeting rooms and furniture.
- Vacuuming of entrance halls including entrance carpets.
- Collecting all the cartoons in the corridors, offices and basement, bringing them in the garbage collection point.

The following tasks are to be done on a weekly basis:

- Vacuuming and washing of all floors.
- Arrangement and distribution of office items and stationary
- Wiping and washing of door surfaces.
- Wiping door handles to remove stains.
- Wiping of skirting boards.
- Removal of cobwebs.
- Removal of stains on internal doors, floors and walls, including entrance areas, both inside and outside.
- Wiping of desk tops and other accessible desks and table-tops (after consulting the Facility Manager since there are some excepted offices).
- Dusting top of computer screens.
- Dusting and wiping of window frames and low-hanging lamps.
- Dusting and wiping of edges of pictures and notice boards.
- Dusting and wiping of shelves, bookcases, cupboards and fire-extinguishing equipment
- Dusting and wiping of chairs, including under-frame and all other parts.
- Dusting of other moveable and fixed furniture and fittings.
- Cleaning of the switches.
- Cleaning inside of the refrigerators.

- Additional cleaning and tidying up of meeting rooms, if requested.

The following tasks are to be done on a monthly basis :

- Using foam cleaning in order to dissolve salt in the sanitary areas.
- Cleaning of all kitchen drawers.
- Washing of kitchen waste bins.
- Washing all the cleaning rooms and storage spaces in all the floors, including the sinks, wc and others.
- Collecting all the recycle bins, separating the different waste and collecting them in the corresponding bins in the garbage collection point.

The following tasks are to be done on a yearly basis:

- Cleaning of beams
- Dusting and wiping of all the lamps, fittings and ventilations grills.
- Periodical maintenance of the floors: stain removal, vacuuming, washing and oil treatment, maintenance oil or similar , to be defined.
- Use of sandpaper when needed.
- Washing and cleaning of windows (inside and outside) and all the glazed areas of the premises, e. g. doors glazed area : few times per year, to be defined
- Washing or dry cleaning of mats and carpets and sofa (including the Management Board Room)
- Cleaning and vacuuming all the upholstered furniture (working chairs, sofas, etc)

Exceptional additional services

For exceptional additional services we want to have a separate price per hour and services should be performed only after ESMA written request:

a) Meeting Rooms:

Cleaning and arrangement of the meeting rooms upon ESMA demande at late hours, inclusive clearance of tableware used, washing up of coffee cups, glassware plates, rearrange tables before or after a meeting etc.

b) Emergency cleaning:

ESMA may demand for additional cleaning urgently. The cleaning team shall be in place within 12 hours after ESMA request.

ESMA may also demand for additional cleaning during weekends and bank holidays.

2.2.4. Duration of the contract

The contract length is initially for a period of 1 year, with a possibility of initial extension of two years and a secondary extension of one year. Any extension will be subject to an amendment to the contract.

2.2.5. Place of performance of the contract

All tasks will be expected to be performed on the ESMA premises.

Non Working days in ESMA (2012)

All Saturday and Sunday, plus 18 Bank holidays: defined at the beginning of each year.

Working hours in ESMA

The ordinary cleaning is to be performed from Monday to Friday outside the working hours. The number of persons of the cleaning team is to be defined accordingly to the surface to be cleaned and the ESMA workforce . As per actual figures the surfaces of ESMA premises is

3096m². The cleaning of the extension with the additional surface is to be calculated in prorata of the m²

Cleaning team

The cleaning team has to provide the services as requested on a monthly basis. In case of specialized work (e.g. for cleaning of wooden floors, carpets, curtains, glaziers etc), the staff in charge must have the necessary capacity and skills according to paragraph “Cleaning Instructions”

Security and safety

The contractor is responsible for performing the services stipulated in the contract in a manner which will not impede the smooth running of ESMA’s operations and infrastructure. The contractor must take every precaution to avoid damage to buildings and property and must immediately report any anomalies which are potentially damaging to persons, premises and property of any kind. Services must be performed under the contractor’s responsibility and direction, in accordance with the cleaning instructions in these tender specifications. The personnel of the cleaning company has to respect all the obligations coming from the internal security and safety organization and procedures, and paying attention to avoid to trigger false alarms. If someone from the personnel of the cleaning company will trigger a false alarm, the cost, approximately € 200, will be charged to the cleaning company. All the ESMA internal regulations and procedures concerning safety and security have to be respected and the cleaning company is obliged to consult it before to start the work in ESMA premises. The contractor must, furthermore, provide ESMA with details of its staff which ESMA needs for security purposes under its rules of procedure, and must notify ESMA of any changes to this information within three days. Before starting the work, the contractor has to provide a list giving the surname and first name, nationality, date of birth, full address, and type of work permit (if appropriate) of each person on the contractor’s staff, proposed to perform the services. The contractor undertakes to use the same members of its staff for the office cleaning work and maintenance works. Any change must be notified in advance and in writing. ESMA will, at its earliest convenience, issue entry permits, enabling the staff of the cleaning firm to have access to the buildings covered by this contract. Each person will be given a badge which he/she must wear in a visible manner whilst in the buildings. Badge holders must abide by all instructions given by ESMA, notably concerning entry to certain floors. ESMA reserves the right to deny entry, for their own reasons, to anyone acting for the contractor. All workers, overseers, instructors and other persons acting for the contractor must sign in, whenever they enter or leave the building, in an ad hoc register left at reception

2.3. Prices

2.3.1.1. Currency of tender

Prices must be quoted in Euro.

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

The estimated budget for this 4 year framework contract is in a **range between 300,000 euros and 1,000,000.00 €**. Prices will be indexed as set out in the model contract.

The price offer in **Annex VII** of the Invitation to Tender must be signed and dated. It must comprise two parts:

1. Routine services for which a monthly all-in price should be quoted (see relevant price offer heading I – Routine services);
2. Exceptional additional services requested for which all-in prices per hour and per person must be quoted (see relevant price offer heading II – Exceptional additional services requested);

Prices must be quoted exclusive of all duties, taxes and other charges, including VAT, as the Communities are exempt from such charges under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities. The amount of VAT must be shown separately

2.3.1.2. 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.

2.3.1.3. Price revision

Prices are fixed and not subject to revision for the first year of the contract till 31st of December. With effect from the start of the second year of the contract, prices may be revised upwards or downwards each year on 1st of January, at the request of one of the parties sent by registered letter no later than three months prior to that date. This revision is determined by the movement of the consumer price index and will be calculated using the formula given in the Draft Contract enclosed as Annex III to the Invitation to Tender;

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 indices of consumer prices (HICP) [complete] published for the first time by [the Publications Office of the European Union in the Eurostat monthly 'Data in Focus' publication at <http://www.ec.europa.eu/eurostat/>].

Price revision shall be calculated in accordance with the following formula:

I_o = index for the month [in which the validity of the tender expires] [corresponding to the final date for submission of tenders];

I_r = index for the month [corresponding to the date of receipt of the letter requesting a revision of prices] [in which the revised prices take effect]].

I_r

$$Pr = Po (0,2 + 0,8 \frac{I_r}{I_o})$$

I_o

where:

Pr = revised price;

Po = price in the original tender;

2.3.1.4. 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.

2.3.1.5. 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.

2.3.1.6. Payments

Payment shall be executed once per trimestre only if the contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted to ESMA.

2.3.1.7. Financial guarantees

ESMA may require 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:

- 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;
- have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
- have been guilty of grave professional misconduct proven by any means which ESMA can justify;
- 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;
- 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;
- 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.

3.1.1. 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.

ESMA 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

Technical capacity

Requirements:

The Tenderer must have the following technical capacity to perform the contract:

- Be able to provide professional cleaning services and small works of maintenance and hadling
- Have proven experience in cleaning office premises.
- Have adequate professional cleaning staff and other staff for small works
- Having adequate cleaning equipment and equipment for small works
- Be able to provide the services in accordance with the time schedule indicated in the Terms of Reference.
- Suitability of the organisation and staffing structure available for the activities covered by the contract
- 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 .

Evidences required

Evidence of this capacity must be provided by:

- A certified list of the principle services provided in the last three years including the value dates and recipients of the services provided.
- The CV(s) of the person(s) who will be in charge of supervising the cleaning staff on site during the execution of the services.
- A statement of the specialised cleaning equipment available.
- Details of the structure of the organisation (including the number of staff) and relevant subcontractors;
- A declaration of availability to carry out the services during the timeframe indicated in the Terms of Reference.
-

Professional capacity

Requirements and evidences

Tenderers must provide proof of their professional capacity by enclosing the following information and documents with their tender:

For natural and legal persons:

- Name, address, telephone and fax numbers
- VAT registration number
- Bank account number and bank's name and address
- Certificate of enrolment on the professional trade register in accordance with the legislation of the Member State in which the tenderer is established

For legal persons the following information is necessary in addition to the above:

- legal status
- copy of the company's memorandum and articles of association
- names and duties of managerial staff

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 3.2:

- 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
- Work organisation and planning (including major milestones and dates for meetings with ESMA to report on progress)

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

4.1.1. 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
1	The quality level of the cleaning method on how the service will be organised in compliance with the terms of reference	50
2	Quality of proposed cleaning products and consumables. Products with a fair trade or ecological label shall be privileged	20
3	The quality level of proposed cleaning team in reference to the ability to ensure the service to	30

	be organised	
	TOTAL	100

Evidences

The description of proposed cleaning method on how the service will be organised in compliance with the terms of reference

The description of qualifications and experience for a proposed cleaning team to ensure the service will be organised in compliance with the terms of reference.

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.

4.2. Financial proposal

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

4.3. 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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4.4. 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.

4.5. 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 I – Draft contract

Annex II – Exclusion criteria and non-conflict of interest declaration*TO BE COMPLETED AND SIGNED BY THE TENDERER*

The _____ under-
signed: _____

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:

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;

has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;

has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;

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;

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;

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:

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;

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;

they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;

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;

that the information provided to ESMA within the context of this invitation to tender is accurate, sincere and complete;

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
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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: _____

Type of service	Price in Euro – exclusive of VAT
I Routine services All-in monthly price covering the performance of all the services described under Terms of Reference heading 2	€ _____
II Exceptional additional services requested All-in hourly price (price per person and per hour worked) covering the performance of the service(s) described under Terms of Reference according to whether the service is carried out: II A – on a working day II B – on a Saturday, Sunday or public holiday	€ _____ € _____
Supply of furnitures forfait	€ _____



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: Cleaning Services and supply of cleaning products

Publication Reference: OJ/20/04/2012 -PROC/2012/001

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: _____

