

Call for tenders' details

Title: PROC/2014/22 - Application development, maintenance and service desk (ADM & SD).

Start date: 10/06/2015

Time limit for receipt of tenders: 31/07/2015

Contracting authority: European Securities and Markets Authority (ESMA)

Status: Closed

Call for tenders question list

#	Submission date	Publication date	Question subject	Question	Answer
1	10/06/2015 13:36	11/06/2015 16:15	Single Operator FC or Cascade?	In the tender notice, it is mentioned that the contract represents a Framework agreement with a single operator. However, "Annex XVII Ad-hoc & Business Support SLA" includes numerous references to a Cascade. Could you please clarify?	11/06/2015 This was clerical error by ESMA and all references to cascading have been removed. This tender concerns a framework contract with a single contractor (for each lot). (A new version of Annex XVII has been published on e-tendering, with track changes).
2	10/06/2015 13:37	11/06/2015 16:17	Annex XIV Financial Offer Form	Could you please clarify the meaning the "key" to be filled by the Tenderer?	11/06/2015 The 'key' is simply an explanation as to what the colour of the cell means. For each colour the 'key' explains what the tender must do for cells matching the colour (specifically an instruction as to which colour cells the tenderer must fill in).

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#	Submission date	Publication date	Question subject	Question	Answer
3	10/06/2015 13:36	11/06/2015 16:19	CVs for Lot3	<p>Unlike the other Lots, there is no specific requirement for CVs in Lot 3.</p> <p>It is mentioned however that the tenderer must demonstrate maintenance, development & integration experience in each middleware technology listed in Annex XI – ‘ICT Systems Inventory’ - under the tab of the ‘Middleware’.</p> <p>a) Should we include a number of CVs enough to cover the required experiences?</p> <p>b) If answer to a) is yes, could you please provide additional details on the profiles, number of CVs and particular profile requirements that should be provided by Tenderers in order to cover the abovementioned requirement?</p> <p>c) In addition, could you please further elaborate on what other forms of information (if any) would be acceptable in order to demonstrate the experience requested (e.g. project references, number of staff experienced in each middleware technology, etc.)?</p>	<p>11/06/2015</p> <p>Tenderers, on submission of a Non-disclosure agreement, as specified in the tender specifications, will receive the IT Systems Inventory (Annex XI as well as Annexes VII, VIII and X). In this annex, you will find the 'list of technologies'.</p> <p>The tenderer can meet this selection criterion by demonstrating in any of the following ways experience in each of the technologies:</p> <ul style="list-style-type: none"> •The tenderer (or member of the tendering group) is a Certified Partner in that technology; •The Company has implemented a significant project in that technology; •Employees of the tenderer (or member of the tendering group) are certified in that technology.

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#	Submission date	Publication date	Question subject	Question	Answer
4	19/06/2015 14:36	19/06/2015 14:38	Email address in the tender specifications appears wrong.	On page 7 of the tender specifications document, the email address to which NDAs must be sent appears wrong.	<p>19/06/2015 The email address in the tender specifications page 7 APPEARS as procure-ment@esma.europa.eu</p> <p>This appears this was as the document was converted from word doc to PDF before publication.</p> <p>The correct email address to send NDAs to is procurement@esma.europa.eu</p>
5	19/06/2015 16:04	19/06/2015 16:32	Annex XI ICT Systems Inventory	Annex XI is referred to in the Tender Specifications, but it is nowhere to be found among the tender documents. Could you please clarify this point?	<p>19/06/2015 Please refer to page 7 of the tender specifications where the instructions can be found for the accessing of several annexes.</p> <p>(The email address to send the non-disclosure agreement is procurement@esma.europa.eu)</p>
6	19/06/2015 16:05	23/06/2015 13:25	Lot 3 - CVs	Could you confirm or clarify our understanding that no CVs are required to be submitted under Lot 3 (although a remark says to use the Europass format "for any submitted CV").	<p>23/06/2015 This question has been answered already. Question3</p>

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#	Submission date	Publication date	Question subject	Question	Answer
7	02/07/2015 14:56	02/07/2015 14:58	ESMA standard business hours	The Tender Specifications document, section 2.6. mentions standard business hours from 9 AM – 5:30 PM, MO-FR. The Incident Management Procedure mentions standard business hours for the first level support from 8:30 AM – 6:30 PM. Please clarify which times the contractor should consider as the standard working hours of the support staff.	<p>02/07/2015 ESMA's standard working hours are as specified in the tender specifications (08:30 AM - 5:30 PM). However, for Lot1 and Lot2, the 1st Level Support (SL1), the hours of coverage required by ESMA are 8:30 AM – 6:30 PM, as specified in the SLRs.</p> <p>09/07/2015 For Lots 3 please refer to Section 4.5.2 of Annex IV.</p>
8	02/07/2015 14:59	02/07/2015 15:00	Opening session time.	The Tender Specifications document, section 1.2 mentions that the opening session will take place in Paris on August, 7th. Please confirm whether it takes place at 10 AM or 12 PM local time.	<p>02/07/2015 The opening session will be held at 10:00 AM Paris time (GMT+1).</p>

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#	Submission date	Publication date	Question subject	Question	Answer
9	02/07/2015 15:04	02/07/2015 15:06	Sealed envelopes for submission.	The Letter for Invitation requests the tender to be submitted in 2 sealed envelopes. As the tender consists of 1 original and 2 copies and an electronic version, each containing 3 offers (administrative, technical, financial), we kindly ask you to exactly state which parts of the offer shall be placed in which envelope.	02/07/2015 The entirety of the contents of the tender (originals + copies + electronic version) shall be put inside two envelopes. First, the whole tender shall be placed in one sealed envelope. And that sealed envelope shall be placed inside another sealed envelope. This is in order that the tender may still be admissible and un-tampered if the first envelope is accidentally opened by the mail service. The parts of the tender do not need to be separated into different envelopes.
10	02/07/2015 15:08	02/07/2015 15:10	Annex XIV 'customer facing staff'	Please define which profiles mentioned in Annex XIV are classified as „customer facing staff“ and necessarily need to have a English Level C1 qualification or above, as requested in the Tender Specifications, section 2.6.	02/07/2015 The following profiles in all lots should be are classified as 'customer facing staff': - Service desk manager - Helpdesk manager - Helpdesk analyst
11	02/07/2015 15:12	02/07/2015 15:13	Tender specifications incorrect reference at section 2.6.	Section 2.6 of the Tender Specifications is referring to Annex XX. This document has neither be part of the initially published documents, nor the documents provided under NDA afterwards. Please clarify whether the reference is correct.	02/07/2015 This is a clerical error. The correct annex reference is Annex X.

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#	Submission date	Publication date	Question subject	Question	Answer
12	02/07/2015 15:14	02/07/2015 15:16	Audits on contract.	Section 2.6 of the Tender Specifications mentions the possibility to conduct audits on the framework contract, provided by third parties. Are these audits intended to be ordered and priced by the vendor or is ESMA going to initiate these audits? What kind of auditing possibilities shall be described in the offer documents?	02/07/2015 This is NOT something to be proposed by the tenderer, but rather a contractual requirement, to be initiated by ESMA if deemed necessary. The purpose is, if absolutely necessary, to be able to check the proper carrying out of the contractual terms by the successful tenderer.
13	02/07/2015 15:17	02/07/2015 15:18	Certificate of good conduct	Shall the certificate of good conduct for each member of the team accompany the tender documents already (section 2.6., Tender Specifications)?	02/07/2015 No, this shall only be necessary for the successful tenderer under the resultant contract.
14	02/07/2015 15:19	02/07/2015 15:19	Certificates of language skills	Is it required to provide official certificates of a certain authorized institute as an evidence of language skills of the respective team members (section 2.6, Tender Specifications)?	02/07/2015 The tenderer does not need to provide language certification as evidence of language skills. The tenderers statements are submitted as true, and any misrepresentations discovered may lead to serious sanctions (exclusion from tender or termination of contract, for example).

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#	Submission date	Publication date	Question subject	Question	Answer
15	02/07/2015 15:21	02/07/2015 15:22	Current support staff	Can you specify how many people are currently providing the support that should be taken over by the contractor (number of people onsite / offsite) and whether it is provided by ESMA staff or by a third party?	02/07/2015 ESMA currently has two internal staff members that shall be taken into consideration by the future contractor and integrated into the proposed team. The two team members can be considered as SL1 Helpdesk Analysts at 0.6 FTE each.
16	02/07/2015 15:23	02/07/2015 15:24	Take over employment contracts.	May it be an option to take over the employment contracts of the entire / parts of the current onsite team?	02/07/2015 ESMA can not make any firm statements on this possibility. The assumption should be made that all of the current onsite outsourced team will be replaced.
17	02/07/2015 15:25	02/07/2015 15:26	Extended availability team.	How many CVs are expected for the profiles of the extended availability team?	02/07/2015 The technologies must all be covered by one or more CVs. The certifications can be shared between a number of CVs, however the tenderer must demonstrate that each certification is present.
18	02/07/2015 15:27	02/07/2015 15:28	Incident numbers	May you provide an indication of the average number of incidents (SL 1 / SL 2) that are currently occurring in respect of the number of users and related to the systems that need to be supported as described in the systems inventory?	02/07/2015 The necessary information is contained in Annex XI Systems Inventory.

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#	Submission date	Publication date	Question subject	Question	Answer
19	02/07/2015 15:29	02/07/2015 15:29	Current versions.	Can you provide as an addition to the systems inventory an overview of the current version of each system? It would facilitate the planning of the Migration-In period, if it would be clear which systems have not been updated so far.	02/07/2015 The tenderer should assume that all applications have had at least one update within the last year and most applications are less than 3 years old. 09/07/2015 ESMA have updated Annex XI – ICT Systems Inventory in tab Systems to add another column that states the number of releases the systems have had in the last year.

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#	Submission date	Publication date	Question subject	Question	Answer
20	03/07/2015 18:27	06/07/2015 11:12	Financial Offer Forms for all lots	<p>Referring to the Article 138 of the implementation rules of the financial regulation (COMMISSION DELEGATED REGULATION (EU) No 1268/2012 of 29 October 2012), the award criteria shall be clearly weighted.</p> <p>Due to the fact that there is no weight for each profile in the financial offer from, we understand that:</p> <ul style="list-style-type: none"> - Either, (a) each profile has the same weight in the financial award formula and that the ratio between onsite and offsite is also the same. - Either, (b) each profile has a different weight and the ratio between onsite and offsite also vary but this information has not been published in the tender specification. <p>Could you please clarify which (a) or (b) is the correct understanding? If the answer is (b), could you please disclose the logic behind the financial award criterion by explaining this one is calculated including the weight for each profile for onsite and offsite work. Thanks in advance.</p>	<p>06/07/2015 Tenderers can find the exact financial award weighting/subweightings by reading the tender specifications, point 6.2. This includes the weightings applicable to the profiles. ESMA is in full compliance of its transparency obligations according to the applicable legal framework.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
21	03/07/2015 18:29	06/07/2015 11:16	Financial Offer for Lot 3	Could you please provide the expected volume for each "Productivity Category" that has to be taken into account in the Financial award formula ? Thank in advance	06/07/2015 The tenderers can find the answer to this question in the tender specifications, point 6.2. The 'financial award formula' is clearly stated for all aspects, including the formula applicable to the productivity categories (pages 23 and 24 tender specifications).
22	15/07/2015 16:04	15/07/2015 16:07	Lot 1 Financial Offer Annex XIV	Concerning Lot I: The Annex XIV Financial Offer Form contains a request for prices per user per year for the SL1 / SL2 Support. Do you expect the vendor to provide a dedicated team that is paid on the basis of the user amount? The reason for the question is, that due to our experiences, a shared service concept with payments based on the number of tickets per month / quarter is economically more efficient for the customer that providing a dedicated team without taking to account the use to capacity.	15/07/2015 We expect the tenderer to answer the tender specifications and meet the Service Level Requirements specified in the tender specifications. This may be via a dedicated team, a partly dedicated and partly shared or all shared team. This will be financed by the pricing model specified. There shall be no alternate pricing models proposed.

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#	Submission date	Publication date	Question subject	Question	Answer
23	15/07/2015 16:13	15/07/2015 16:14	Lot 1. Additional information for Q and A #17	Concerning Lot I: Additional question on question no. 17: Do the “technologies” referred to, only include the respective technologies per profile listed in Annex XVI, or also other technologies of the tender specifications / further Annexes?	15/07/2015 The skills and technologies for the profiles listed in Annex XVI are for the Ad-Hoc services. For the context of Question 17, the technologies referred to are only those as specified in section 3.2.3 of the tender specifications i.e. Those in Annex XI ‘ICT Systems Inventory’ under the tab ‘Office Automation’.
24	15/07/2015 16:16	15/07/2015 16:17	Ticket system	Concerning Lot I: Given that the tenderer needs to provide access to the ticket system for the internal IT of ESMA – are all 270 technical users intended to have access to that systems and what kind of interactive functionalities should be provided to them? In the system?	15/07/2015 The tenderers are kindly asked to refer to section 3.2 Annex IV.

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#	Submission date	Publication date	Question subject	Question	Answer
25	14/07/2015 15:11	15/07/2015 16:46	Clarification 1	With reference to 'Annex V – lot 2 Technical Specifications; Section: 4.1.2.The Provider and the Service Manager' and 'Tender specifications; Section 3.2.3: Technical and professional capacity', we understand that the Service Manager (having “at least 8 years of experience”) will be overall responsible for the Framework Contract and its Specific Contracts and will undertake the service management, whereas the Service Delivery Manager (having “at least 6 years of experience”) will be overall responsible for the execution of the services, including the follow-up of the service teams and the service delivery. Could you please confirm that our understanding is correct or else clarify?	15/07/2015 Correct. All lots must have a: -Service Manager (with a minimum of 8 years experience) who will be overall responsible for the Framework Contract and its Specific Contracts and will undertake the service management. -A Service Delivery Manager (with a minimum of 6 years experience) who will be overall responsible for the execution of the services, including the follow-up of the service teams and the service delivery.

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#	Submission date	Publication date	Question subject	Question	Answer
26	14/07/2015 15:11	15/07/2015 16:48	Clarification 2	With reference to 'Annex XVII – Ad-hoc study & Business Support SLA; Section: 2.2. Interfaces, roles and responsibilities', it is mentioned that 'The Contractor has to designate a contact person, and at least a back-up person in case of absence, who will take care of all requests addressed by ESMA.' We understand that the term 'requests' refers to the 'service requests forms' received by the Contractor from ESMA. If our understanding is correct, then the term 'requests' does not refer to any other requests/issues received by the Contractor from ESMA and which will be addressed by the Contractor's Service Manager. Could you please confirm that our understanding is correct or else clarify?	15/07/2015 Confirmed.

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#	Submission date	Publication date	Question subject	Question	Answer
27	14/07/2015 15:12	15/07/2015 16:49	Clarification 3	<p>Section “3.2.3 Technical and professional capacity”, page 14 of the specifications, states that “The tenderer must demonstrate having key resources covering the knowledge in the Business Areas described in Annex XI – ‘ICT Systems Inventory’ - under the tab ‘Systems’ in the column ‘Required Business Skills’.</p> <p>Our understanding is that with regards to this point, it would be sufficient for tenderers to provide a table presenting the number of Tenderer’s own resources with knowledge and experience in each business area of the aforementioned excel sheet. Please confirm that our understanding is correct or clarify if not.</p>	15/07/2015 Confirmed.

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#	Submission date	Publication date	Question subject	Question	Answer
28	14/07/2015 15:12	15/07/2015 16:54	Clarification 5	<p>a) Could you please confirm that the expected Lot2 SL2 support will be provided at ESMA's premises on a Time and Material basis?</p> <p>b) Could you please confirm that the respective toolset needed for the management, operation and provision of the SL2 support in the frame of Lot2 will be provided by ESMA?</p> <p>c) Could you please clarify the toolset that will be provided by ESMA to the Contractor's consultants providing SL2 support in the frame of Lot2?</p>	<p>15/07/2015</p> <p>a) Please refer to Annex V Section 3.6 & 2.1.</p> <p>b) Confirmed.</p> <p>c) ESMA currently uses</p> <ul style="list-style-type: none"> •JIRA ServiceDesk as a service desk tool •JIRA as a ticketing system •Confluence as a KnowledgeBase SharePoint as a DMS (this is currently being rolled-out)

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#	Submission date	Publication date	Question subject	Question	Answer
29	14/07/2015 15:13	15/07/2015 16:56	Clarification 6	<p>a) Since SL1 support will be provided under the scope of Lot1, could you please clarify the interaction/interface between SL1 and SL2 support?</p> <p>b) Will a separate Service Desk Manager (Lot1) be assigned with the responsibility of Lot 1 SL1 and SL2 technical support, while a second Service Desk Manager (Lot2) will be responsible for the provision of SL2 functional support?</p> <p>c) How these Service Desk Managers will cooperate and who will eventually be responsible for the overall monitoring and timely resolution of incidents?</p> <p>d) Supposing that Lot1 Contractor will work off-site while Lot2 SL2 support will be provided on site at ESMA's premises, could you please clarify whether the two lots contractors will be required to use a common Service Desk tool? Could you please provide more details?</p>	<p>15/07/2015</p> <p>a) This will be JIRA</p> <p>b) The answer to this will depend upon the response given to Lot1 and to the workload at any given moment.</p> <p>c) Each Lot will have their respective SLRs which will be closely monitored via the Service Desk tool and ESMA's Contract Manager who will have overall responsibility for the combined Service Desk.</p> <p>d). All Lots are required to use ESMA's Service Desk tool.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
30	14/07/2015 15:13	15/07/2015 16:58	Clarification 7	Could you please elaborate on the process that will be followed for the routing/functional escalation of incidents among the three levels of support foreseen? More specifically, in case on an incident that is routed (by Lot1-SL1) to the Lot2-SL2 functional support and eventually, the incident cannot be resolved but required advanced SL3 support, will Lot2 contractor be responsible for routing the incident to Lot3 Contractor?	15/07/2015 Please refer to Annex XII. Each Lot and Team will use the ESMA's Service Desk tool to manage incidents and requests and able to escalate directly to the appropriate team/Lot to resolve the issue.
31	10/07/2015 16:54	15/07/2015 17:12	Clarification 8	With reference to Legal Entity Form and Financial Identification Form: We understand that the above mentioned Forms will be requested, signed and submitted to ESMA upon a framework contract award to the consortium and should not be provided at this stage. Please confirm that our understanding is correct.	15/07/2015 Confirmed. These forms shall only be required from the winning tenderer/s.
32	10/07/2015 16:53	15/07/2015 17:17	Clarification 7	With reference to Annex III — Authorised signatory form: Could you please clarify whether the above mentioned annex should be filled in and submitted by the Leader only or also by the other members of the consortium?	15/07/2015 Tenderers shall refer to section 1.3 of the Tender Specifications. A consortium must identify the leader, and provide a document from all members authorising the leader to submit a tender on their behalf. Separately, the LEADER must submit a signed Annex III.

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#	Submission date	Publication date	Question subject	Question	Answer
33	15/07/2015 17:21	16/07/2015 09:43	Lot I: existing systems	Concerning Lot I: Are there any existing systems that need to be linked to the ticket system of the tenderer to assure uninterrupted workflows?	16/07/2015 Question24
34	10/07/2015 16:51	16/07/2015 13:08	Clarification 1	With regards to the provision of SL2 support services, could you please provide an estimation of the ratio between the tickets expected to be received by the SL2-Technical Support Line and the tickets expected to be received by the SL2-Business Support Line?	16/07/2015 Out of all SL2 tickets the indicative share is: •70% Technical Support •30% Business Support This ratio is based on a specific time frame and ESMA activity's at that time. During technical projects this ratio can be subject to change based on the evolution of ESMA's activity.
35	10/07/2015 16:52	16/07/2015 13:10	Clarification 2	With reference to 'Annex XI – ICT Systems Inventory', could you please clarify whether the business applications to be supported under Lot2 are those that require a number of business skills as depicted by the relevant column ('Required Business Skills') of the excel file? If this is not the case, could you please specify the business applications that the SL2 of Lot2 FwC will be responsible for providing support?	16/07/2015 Correct. We will also require that internal applications are supported (such as our HR and ServiceDesk) but these do not require specific business skills.

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#	Submission date	Publication date	Question subject	Question	Answer
36	10/07/2015 16:52	16/07/2015 13:12	Clarification 3	With reference to all lots, could you please specify the percentage services' split expected per Lot between the support services (SL1, SL2, SL3) and all other services (i.e. ad-hoc studies for Lot1, Lot2 and Lot3, and development & maintenance for Lot3)?	<p>16/07/2015 Based on ESMA activity for the period from the 1st January 2015 (indicative - could change based on activities) please find the ratio for each Lot and how this is ventilated between SL1 And SL2 among those Lots.</p> <p>Lot 1: 74% •SL1 72% •SL2 28%</p> <p>Lot 2:21% •SL1 92% •SL2 8%</p> <p>Lot 3 :5%</p>
37	10/07/2015 16:52	16/07/2015 13:13	Clarification 4	With reference to Annex XIII- 'Technical offer form'; Section 2.3 Proposed methods; Award question 2: 'The escalation process to activate and follow in case of problems and issues at contractual and technical level', we understand that the 'technical level' is to be regarded as 'operational level'. Would you please confirm whether our understanding is correct?	<p>16/07/2015 Confirmed.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
38	10/07/2015 17:22	16/07/2015 13:39	Financial Offer Form for Lot 3 - Productivity Category N°10	Productivity Category N°10 for Application maintenance is specified as "Low/Small" exactly as Category N°9 ? Could you please explain the difference between Cat 9 and 10?	16/07/2015 This was a clerical error. Category 10 has been removed from the financial offer form Annex XIV.
39	10/07/2015 17:40	16/07/2015 13:41	Annex IX "IFPUG" for Lot 3	"See Annex IV for a full list of application ..." Could you please confirm that Annex XI "ICT system inventory" is the appropriate Annex and not Annex IV "Technical Specification"?	16/07/2015 This was a clerical error. The correct Annex reference is indeed Annex XI. This has been corrected in Annex IX.
40	10/07/2015 17:35	16/07/2015 13:42	Financial Offer Form for Lot 3 and Annex IX - Productivity Category N°10	The Category N°10 is defined as not being classified in the 9 productivity category. Therefore, not being classifiable and not being clearly defined, category N°10 cannot be used as a criterion for a fair evaluation of the Financial offer. In consequence, we kindly ask you to remove this criteria from both the Annex IX and the Financial Offer from. Thanks in advance.	16/07/2015 Category 10 has been removed from Annexes XIV, IX and the tender specifications. Track changes visible.

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#	Submission date	Publication date	Question subject	Question	Answer
41	10/07/2015 17:15	16/07/2015 13:43	Financial Offer Form vs Annex IX IFPUG pricing for Lot 3	In the Annex IX page 5, the productivity matrix shows productivity category N°1 "Low/Small" and N°9 "High/large" while in the financial offer form the Productivity Category N°1 is "High/Large" and Category N°9 "Low/Small". In order to avoid confusion, could you please clarify and align the Financial Offer form with the Annex IX regarding productivity categories ?	16/07/2015 The suggestion is taken on board, and Annex XIV has been updated accordingly to avoid confusion.
42	10/07/2015 16:53	16/07/2015 13:45	Clarification 5	With reference to Annex XIII- 'Technical offer form'; Section 3.2.1. Proposed organisation and infrastructure; Award question 9: 'A description of the infrastructure and tools, deployed/hosted/managed at ESMA that the tenderer proposes to use, including security arrangements.' Could you please clarify whether you mean 'A description of the infrastructure and tools, deployed/hosted/managed at the Tenderer's premises that the tenderer proposes to use'? Otherwise, could you please elaborate on what you expect to be answered to this question?	16/07/2015 This was a clerical error and has been corrected in Annex XIII. Track changes visible.

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#	Submission date	Publication date	Question subject	Question	Answer
43	10/07/2015 16:53	16/07/2015 13:50	Clarification 6	<p>With reference to Annex XIII- 'Technical offer form'; Section 3.3. Proposed methods; Award question 7: 'How the tenderer will implement the architecture methods that will be implemented to ensure coherence between:</p> <ul style="list-style-type: none"> - The business, data, application, service and technical architectures (or equivalents); - The ESMA specific architectures; - The natural architecture segments of ESMA (import, export transit and support processes).' <p>Could you please elaborate on the natural architecture segments of ESMA? Which are the import, export transit and support processes of ESMA?</p>	<p>16/07/2015 This statement has been reworded in Annex XIII (track changes visible). An additional Annex is added to support tenderers 'IT Architecture Roadmap'.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
44	14/07/2015 15:12	16/07/2015 14:18	Clarification 4	<p>According to the Tender Specifications, the Contractor will provide for the needs of the Lot2 Contract SL2 business support and will perform some ad-hoc studies that will depend on the exact needs of ESMA. In “EN-Annex XIV Financial Offer Form” excel, a number of profiles are included for which Tenderers are requested to quote their respective prices. Based on the profiles of the financial sheet, we understand that SL2 service will be provided by the following profiles:</p> <ul style="list-style-type: none"> • Service Desk Manager • Helpdesk Manager • Helpdesk Analyst <p>The additional profiles i.e. the profiles of</p> <ul style="list-style-type: none"> • Programme Manager • Project Manager • Business Architect • Architect • Business Analyst • Tester • Test Manager • UI Designer • Security Specialist • International Expert • Project Management Office • Business Intelligence/ Data Warehouse Expert <p>which are included in Lot2 financial offer will only be involved in the provision of Ad-hoc studies.</p>	<p>16/07/2015 ESMA confirms that this is generally correct. ESMA expects a growth in the area of business support which may, at least in the start-up of the SL2 in these new services, require other profiles than the three listed for an extended period. Some other likely profiles to bolster the SL2 team could be:</p> <ul style="list-style-type: none"> •Business Architect •Business Intelligence/ Data Warehouse Expert •Business Analyst <p>N.B. These indications in no way constitute a commitment from ESMA to order these services as illustrated.</p>

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				provision of Ad-hoc studies. Could you please confirm that our understanding is correct, or clarify if not?	
45	16/07/2015 14:46	16/07/2015 14:54	Required Languages	The Tender Specification document section 2.6 "General Constraints" says that all team members should have English level over B2 and customer facing staff over C1 according to CEFR scale. Do you accept other evidence of sufficient English level such as TOEFL or IELTS exams? If so could you please clarify minimal scores.	16/07/2015 Question already answered Q14.

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#	Submission date	Publication date	Question subject	Question	Answer
46	14/07/2015 15:14	16/07/2015 14:58	Clarification 8	<p>a) Could you please provide us some examples of typical incidents that are in scope of the Lot1-SL2 technical support and respectively some other typical incidents that are in scope of the Lot2-SL2 functional support?</p> <p>b) Could you please provide us with some examples of typical incidents that are in the scope of Lot3 – SL3 support?</p>	<p>16/07/2015 Lot 1/SL2</p> <ul style="list-style-type: none"> •Monitoring alerts on servers (cpu, disk full) oDisk space alerts oCPU usage •Incidents on application level (e.g. Exchange) •Back up errors oBack up failed •Network failures (e.g. routing issue, connection database failures) <p>Lot 2 / SL2</p> <ul style="list-style-type: none"> •Network access incident to application or database oFirewall configuration oIP configuration •Database incident oDB not available oErrors in DB logs •Functionality not available (e.g. embedded mail notification) •Debug performance issue on application <p>Lot 3/ SL3 Identified</p>

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#	Submission date	Publication date	Question subject	Question	Answer
47	16/07/2015 13:13	17/07/2015 13:18	Technical specifications	Could you please share the file/database design document for RDS Database and 'Suspension from Trading' database that are mentioned in functional specifications of scenario 1.	17/07/2015 Tenderers are requested to conduct the Function Point-analysis with what has been provided. They are, however, invited to make all their assumptions explicitly in the event they consider the data is not complete.
48	16/07/2015 13:15	17/07/2015 13:19	5.4 Appendix 4: Reference tables	"5.4 Appendix 4: Reference tables" section has no information in document "2013-ITMG-18 - AIFMD Reporting Exchange Interface Specifications Document_v2 2.docx": could you provide us with these details?	17/07/2015 Tenderers are requested to conduct the Function Point-analysis with what has been provided. They are, however, invited to make all their assumptions explicitly in the event they consider the data is not complete.
49	17/07/2015 12:29	17/07/2015 15:56	Financial Offer form for Lot 1 - Profile	In the scope of Lot 1 "Service desk", could you please explain the role of Project Manager, Business Analyst, UI designer, and International Expert ? As these profiles are unlikely to be used in the scope of Lot 1 (or not to a significant extend) and that their weight is similar to the other profiles, some providers may therefore sacrifice their prices leading to biaise the fair competition by manipulating the Financial award formula. In consequence, could you confirm that those profiles needed to be quoted for Lot 1?	17/07/2015 The tenderer has no basis for an assertion that any profiles will be used more or less than any other profiles in the context of ad-hoc studies. These specific roles will be determined by the ad-hoc study at hand, if and when they are requested by ESMA. Tenderers MUST propose ALL profiles requested in the financial offer form for all lots (the weighting shall remain unchanged), otherwise the tenderer's bids will be excluded.

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#	Submission date	Publication date	Question subject	Question	Answer
50	17/07/2015 12:32	17/07/2015 15:57	Financial Offer Form Lot 2 & Profile	In the scope of Lot 2 "Business Support", could you please explain the role of Production engineer, production manager, Service desk manager, Helpdesk Manager, Helpdesk Analyst, Network Engineer and Database administrator? As these profiles are unlikely to be used in the scope of Lot 2 (or not to a significant extend) and that their weight is similar to the other profiles, some providers may therefore sacrifice their prices leading to biaise the fair competition by manipulating the Financial award formula. In consequence, could you confirm that those profiles needed to be quoted for Lot 2?	17/07/2015 The tenderer has no basis for an assertion that any profiles will be used more or less than any other profiles in the context of ad-hoc studies. These specific roles will be determined by the ad-hoc study at hand, if and when they are requested by ESMA. Tenderers MUST propose ALL profiles requested in the financial offer form for all lots (the weighting shall remain unchanged), otherwise the tenderer's bids will be excluded.

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#	Submission date	Publication date	Question subject	Question	Answer
51	17/07/2015 12:34	17/07/2015 15:58	Financial Offer Form and Profile for Lot 3	In the scope of Lot 3 "Application development and maintenance services", could you please explain the role of Production engineer, production manager, Service desk manager, Helpdesk Manager, Helpdesk Analyst, Network Engineer, the international expert and Database administrator? As these profiles are unlikely to be used in the scope of Lot 3 (or not to a significant extent) and that their weight is similar to the other profiles, some providers may therefore sacrifice their prices leading to bias the fair competition by manipulating the Financial award formula. In consequence, could you confirm that those profiles needed to be quoted for Lot 3?	17/07/2015 The tenderer has no basis for an assertion that any profiles will be used more or less than any other profiles in the context of ad-hoc studies. These specific roles will be determined by the ad-hoc study at hand, if and when they are requested by ESMA. Tenderers MUST propose ALL profiles requested in the financial offer form for all lots (the weighting shall remain unchanged), otherwise the tenderer's bids will be excluded.
52	17/07/2015 14:54	17/07/2015 16:05	CV	Are tenderers allowed to submit in the same proposals CVs in different languages, namely French and English?	17/07/2015 CVs submitted in French shall be permissible, however ESMA strongly urges tenderers to submit their offers, including CVs, in English. ESMA's exclusive language is English, and all official documentation and activities in ESMA are conducted in ENGLISH.

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#	Submission date	Publication date	Question subject	Question	Answer
53	17/07/2015 17:10	18/07/2015 13:26	Clarification 1	Tender Specifications, Section 3.2.3 "Technical and professional capacity (see division between Lots)", Lot2 and Lot3, p. 14, "The tenderers must have capacity to draft reports in English. The tender must provide a real technical report of at least 2 pages they have drafted within the past year in English". We understand that a progress report presenting the status of the technical activities of a project or a technical deliverable (e.g. a vision document, feasibility study etc.) demonstrating the level of written English of the Tenderer would be sufficient for this criterion. Please confirm that our understanding is correct or else clarify.	18/07/2015 Confirmed.

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#	Submission date	Publication date	Question subject	Question	Answer
54	20/07/2015 11:57	20/07/2015 14:58	Clarification 1	Annex XI presents the existing ESMA applications that fall under the scope of Lot3 agreement and might be subject to maintenance and support. In view of identifying resources' needs and present our proposal for the infrastructure and tools that will have to be deployed/hosted/managed at the Tenderers premises to support Lot3 contract requirements, could you please provide some more information about the architecture of current development and production environments, including specifications of servers on which the applications are being developed/running and/or minimum hardware requirements per application?	20/07/2015 The answers to these questions can be found in: 1. In Annex XI where you will find the Stacks and Middleware the ESMA is based upon. 2. In Annex XI in Systems you will find Software Architecture and Operating environment and middleware packages In addition a new document has been uploaded containing the hardware specifications requested.
55	20/07/2015 15:06	20/07/2015 15:06	WSO2	Can we propose resources who have experience in other ESB technology which is equivalent to WSO2 for LOT3?	20/07/2015 No, other technologies will not be deemed as equivalent.
56	20/07/2015 15:08	20/07/2015 15:08	Nationality of resources	Is the nationality of the proposed resource important?	20/07/2015 No, the nationality is not important.
57	20/07/2015 15:10	20/07/2015 15:11	database design documentation.	Is there database design document available for documentation?	20/07/2015 Each system will have a documentation set. For most systems this includes a database design.

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#	Submission date	Publication date	Question subject	Question	Answer
58	20/07/2015 15:12	20/07/2015 15:13	function point counting for maintenance	Related to the function point counting for maintenance, what would be the exact scope? Is the intention to count the complete system or a part of the system? Please clarify.	20/07/2015 For AIFMD it is the scope of the added functionality and not the whole system (REGST). For SARIS it is the whole system.
59	20/07/2015 14:57	20/07/2015 16:14	Financial Offer Form for Lot 3	In the new version of the Financial form, the Productivity categories have been aligned with their definitions in annex IX "IFPUG" for application development but not for maintenance: Categories 7, 8 and 9 should be replaced by 1 "Low/small", 2 "Low/Medium" and 3 "Low/Large". Is this understanding correct? If yes, could you please align? Thanks in advance	20/07/2015 The tenderer is correct. The form financial offer form has been aligned.
60	21/07/2015 09:27	21/07/2015 09:49	Annex IX IFPUG Pricing at ESMA Lot 3, Chapter 2 The productivity matrix of the ESMA's IT applications, page 5	In the above Annex we read: "A 10th category has been added for applications and projects that cannot be classified into one of the 9 productivity categories." Questions How should tenderers approach this category in terms of productivity calculation? Should tenderers treat it as a project that is exceedingly complex and large, as a project that is exceedingly vague in its specifications, or as something different?	21/07/2015 Category 10 has been removed. Please refer to question 38 in which this has previously been notified.

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#	Submission date	Publication date	Question subject	Question	Answer
61	21/07/2015 16:54	21/07/2015 17:56	Clarification 4	Could you please clarify what is the expected volume of Ad-Hoc Studies in the frame of Lot3?	21/07/2015 ESMA cannot project any type of expected volume for ad-hoc studies (for any lot). These shall be initiated as and when required, and ESMA does not commit to any volume at all.
62	21/07/2015 16:53	21/07/2015 17:56	Ad-hoc studies lot 2	Could you please clarify what is the expected distribution of volume between SL2 services and Ad-Hoc Studies in Lot 2?	21/07/2015 ESMA cannot project any type of expected volume for ad-hoc studies (for any lot). These shall be initiated as and when required, and ESMA does not commit to any volume at all.
63	20/07/2015 17:42	21/07/2015 17:58	Lot 3 - Full IFPUG analysis related to Annex VIII	Could you please confirm that the scope of the scenario is the update of the AIFMDReporting software from Version 1.3 to 1.4 as described in the "Track changes_AIFMDReporting_v1_4_vs_v1.3" document. Kind Regards,	21/07/2015 This question was partially answered in 58 The scope of the scenario is the whole of the functional specifications up to the latest version for AIFMD Reporting.

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#	Submission date	Publication date	Question subject	Question	Answer
64	21/07/2015 09:21	21/07/2015 18:01	Annex XIII technical offer form, Section 3 (Lot 3)	<p>Questions</p> <p>a) Please confirm that only questions 3.1.2.1 and 3.1.3.1 are subject to page and word limits.</p> <p>b) Please also confirm that the table of contents, table of figures, etc. do not count toward the limits, as they make the document more readable by providing an overview of the structure.</p> <p>c) Is it necessary that the Tenderer provides a different document for each question or is it also possible that a document contains the answer to several questions (but each within a separate and clearly indicated part)?</p> <p>d) To avoid repetitions, is it possible while answering a question to make references to the answer to another question?</p>	<p>21/07/2015</p> <p>a) Confirmed. b) Confirmed. c) Either is acceptable, ESMA requests that either way the answers are clearly structured as per the questionnaire structure.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
65	21/07/2015 09:23	21/07/2015 18:03	Annex XIII technical offer form, Section 3.2.1 Proposed organisation and infrastructure	<p>In the above Annex we read: "1: The organisational structure supported by a single structure chart (i.e. in case of a joint-tender, one single chart for the consortium as a whole), that they intend to put into place to support the required services, including functions, roles, responsibilities and lines of reporting, location;. 2: A description of the relationships between the various functions of the tenderer. In the case of a consortium, a description of the governance of the consortium, including the allocation of roles between consortium members is required;"</p> <p>Questions a) With reference to subcriterion 2 above, can you please clarify what is meant by "various functions of the tenderer"? b) Given the fact that subcriterion 1 requests the organisational structure, what should be different in subcriterion 2, especially in cases where the Tenderer is not a consortium?</p>	<p>21/07/2015 a) If there are different functional teams within the tenderer's organisation that are pertinent to the answer to this tender (i.e. those teams may work on managing the framework, specific contract or services offered in the specific contracts) then please explain the relationships between those entities and how they will handover tasks between them and work together. b) Criterion 1 can be seen as the high level, and Criterion 2 as the lower level structure.</p>
66	21/07/2015 09:33	21/07/2015 18:07	Annex XIII technical offer form, Section 3.3 "Proposed methods", page 13	<p>We noticed that after point 5 follows point 7. Is there a point 6?</p>	<p>21/07/2015 Indeed, this is a clerical error. There is no point 6.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
67	21/07/2015 13:42	21/07/2015 18:11	PROC/2014/22 - Paper copies	Invitation Letter, page 1, 1b: "In triplicate, with one unbound original and two bound copies....." Question: Our intention is to submit all paper copies in dossiers with ring binders, allowing easy removal of their content. Please confirm that this arrangement meets your requirement for an "unbound" original paper copy.	21/07/2015 Confirmed.
68	21/07/2015 13:24	21/07/2015 18:18	PROC/2014/22 - Number of copies	In the cover letter it is mentioned: The tenders must be submitted: b) In triplicate, with one unbound original and two bound copies (additional copies of annual statements and professional registrations as part of the administrative offer are not necessary)... Please confirm that the tender Part 1: Administrative offer and all its contents should be submitted in one paper and one electronic copy.	21/07/2015 For the administrative offer - only those parts mentioned in 3.2.1 and 3.2.2 (legal capacity and financial capacity - which are primarily standard official forms, registrations and certifications, and financial reports) may be submitted without copies. These must be submitted in paper form. Tenderers may choose to ALSO submit these electronically.
69	21/07/2015 10:19	21/07/2015 18:19	Tender specifications, section 3.2.3 Technical and professional capacity, Lot 3, page 14	referring to the above, we read: "The tenderer must demonstrate experience, by describing 3 contracts of similar volume to this tender (value and scope) ..." Questions: May we describe more than 3 contracts?	21/07/2015 Yes, tenderers may choose to include more than 3 projects.

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#	Submission date	Publication date	Question subject	Question	Answer
70	21/07/2015 10:09	21/07/2015 18:21	Replies to questions 3, 6 and 25 and Annex XVI	<p>a) We understand that No CVs for the profiles described in Annex XVI - Profile Specifications need to be submitted at this stage. Please confirm.</p> <p>b) Furthermore, we may submit the CVs of the Service Manager and the Service Delivery Manager in order to demonstrate the experience (at least 8 and 6 years respectively), as mentioned in the answer to question 25. Please confirm</p>	21/07/2015 Confirmed.
71	21/07/2015 09:34	21/07/2015 18:22	Answer to question 3	<p>In the answer to question 3 we read: "The tenderer can meet this selection criterion by demonstrating in any of the following ways experience in each of the technologies: •The tenderer (or member of the tendering group) is a Certified Partner in that technology; •The Company has implemented a significant project in that technology; •Employees of the tenderer (or member of the tendering group) are certified in that technology."</p> <p>Question: When meeting this criterion through a significant project, how recent should be this project?</p>	21/07/2015 The projects must be within the last 3 years.

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#	Submission date	Publication date	Question subject	Question	Answer
72	21/07/2015 09:30	21/07/2015 18:27	Annex VII - SARIS - functional specifications, Document 2012-ITMG-68 - Suspension from trading - Functional Specifications_v1 2.docx	<p>We refer to the following parts: Page 102 "My on-going actions (section 3) retrieved with the search function 15." Page 70: "Search function 9: List the on-going actions" Page 72: "Search function 15: Retrieve the list of warning actions". Page 93, it is stated that the consultation part is split in 3 categories, the third one being "Section 3: Warning action" Questions The above reference in page 102 seems inconsistent with pages 70 and 72. Can ESMA please clarify whether: a) "My on-going actions" in page 102 should be replaced by "Warning actions" or b) "Search Function 15" in page 102 should be replaced by "Search Function 9", next to "My on-going actions".</p>	<p>21/07/2015 Tenderers are requested to conduct the Function Point-analysis with what has been provided. They are, however, invited to make all their assumptions explicitly in the event they consider the data is not complete. See questions 47 and 48.</p>
73	21/07/2015 10:22	21/07/2015 18:29	Tender specifications, Section 3.2.2 "Economic and financial capacity", page 12. "- Evidence of professional risk indemnity insurance."	<p>We have a global contract with our insurer and each time we sign a new contract our insurer provides a certificate confirming that the new contract is also covered. We will include the pertinent certificate in our tender confirming this. Could you please confirm that this satisfies the above requirement?</p>	<p>21/07/2015 Confirmed.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
74	21/07/2015 09:25	21/07/2015 18:45	Annex VI Technical specifications Lot 3, Section 2.1. Objectives and scope in conjunction with Annex XIV Financial Offer Form	<p>In the above Annex we read: “Application Maintenance Services - Activities associated with repairing defects and developing minor functional enhancements. Application services are classified as Application Maintenance Services when the work effort is less than 8 Function Points or 2 Person Weeks for production application programs and systems. Small adaptive and perfective maintenance of less than 2 days effort will be included in the fixed price annual maintenance.”</p> <p>Questions The above extract states that annual maintenance will be provided as a fixed-price service. The financial offer relating to maintenance requires quotations for person-hours per function point and then Euros per person-hour. Our understanding is that:</p> <p>a) in the case of application maintenance “hours per Function Point” means the hours per year that we estimate for maintenance per function point of an application. It is not the hours for development of a function point.</p> <p>b) the fixed price for the annual maintenance will be calculated by multiplying the function points of an application, with the hours per FP (depending on year and size) and</p>	<p>21/07/2015 a) Correct. b) This has been further clarified in an update to Annex IX and Annex XIV (minor changes for clarity) c) Correct.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
				(depending on year and size) and then with the Euros per hour. c) in the case of application development, the "hours per function point" means the hours required for development, per function point. Please confirm our understanding or clarify.	

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#	Submission date	Publication date	Question subject	Question	Answer
75	21/07/2015 10:24	21/07/2015 18:47	Tender specifications, Section 3.2.2 "Economic and financial capacity", page 12. "- Evidence of professional risk indemnity insurance."	<p>Please explain the following in relation to section 3.2.2 "Economic and financial capacity" and the requested "- Evidence of professional risk indemnity insurance".</p> <p>Question 1: Since the legislation regarding professional indemnity insurance differs from country to country, could you please explain the type of insurance that ESMA expects?</p> <p>The criterion in question concerns the selection phase and it aims at assuring ESMA that the tenderer has the capacity to implement the contract in question. The role of a professional risk indemnity insurance is to show that if the contractor fails in a mission (in such case ESMA will not compensate the contractor for the failed mission), it will be compensated by its insurer and that the loss of revenues it may face from ESMA will not affect its ability to deliver the contract to ESMA.</p> <p>Question 2: Please confirm that tenderers can present equivalent means to provide assurance about their ability to deliver the contract under the above circumstances.</p> <p>For example, a tenderer who has a</p>	<p>21/07/2015</p> <p>The purpose of the insurance is not correctly understood in the question. The purpose is to ensure that the company is able to compensate ESMA in case of a claim (the purpose of such insurance is to indemnify the contractor against claims made by ESMA or any other party in the execution of the contracts). Therefore, an official insurance of this nature is required as a guarantee.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
				<p>For example, a tenderer who has a cash position and/or credit lines (certified by its banks), exceeding the value of the contract, fulfils the selection criterion related to economic and financial capacity (it is reminded that the professional risk indemnity insurance is a mean to ensure to economic and financial capacity and not an individual criterion per se). This is considered acceptable by EU institutions and contracting authorities.</p> <p>Question 3: Please ensure that these alternatives are acceptable.</p>	
76	21/07/2015 16:54	22/07/2015 13:41	Clarification 5	<p>Could you please clarify which are the expected working hours for the SL2 and SL3 support service of Lot2 and Lot3 respectively?</p>	<p>22/07/2015 Please refer to the answer given in Question 7.</p> <p>For Lot2 all services are by Times and Means and working hours are specified in the Tender Specifications section 2.6.</p> <p>For Lot3 the tenderer must met the Service Level Requirements specified in Annex VI Section 4.8.2</p>

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#	Submission date	Publication date	Question subject	Question	Answer
77	21/07/2015 16:53	22/07/2015 13:43	Clarification 2	<p>In the document named "Track changes_AIFMDReporting_v1_4_vs_v1.3" we understand that the changes that should be counted are described in:</p> <p>1. Points 1), 2), 3) and 4) of "Changes Without Impact on NCAs" of the document "Track changes_AIFMDReporting_v1_4_vs_v1.3" in relation to the "2013-ITMG-18 - AIFMD Reporting Exchange Interface Specifications Document_v1.4.docx"</p> <p>2. Points 1) and 2) of "Changes with Impact on NCAs" of the document "Track changes_AIFMDReporting_v1_4_vs_v1.3" in relation to the "2013-ITMG-65 - AIFMD_reporting_functional-specifications_ANNEX-V1.4.xlsx"</p> <p>Could you please confirm that our understanding is correct?</p>	<p>22/07/2015</p> <p>Tenderers are requested to conduct the Function Point-analysis with what has been provided. They are, however, invited to make all their assumptions explicitly in the event they consider the data is not complete.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
78	21/07/2015 16:53	22/07/2015 13:44	Clarification 1	<p>Questions related to Function Point Count for Maintenance</p> <p>In the document named "Track changes_AIFMDReporting_v1_4_vs_v1.3" we don't understand the last paragraph:</p> <p>"B. Changes without impact on NCAs</p> <p>1. The left part of the excel tables is a copy of the technical guidance revision4. All modifications are described in the change history sheet (see 2013-1358_aifmd_reporting_it_technical_guidance-Revision4.xlsx)</p> <p>2. For consistency check linked to the LEI two-check digits, the official name of the ISO 7064 has been added ("ISO/IEC 7064:2003 Information technology -- Security techniques -- Check character systems")"</p> <p>Regarding point 1 and in relation to the "2013-ITMG-65 - AIFMD_reporting_functional-specifications_ANNEX-V1.4" our question is the following:</p> <p>What is the purpose of the last column in both the excel tabs "Technical guidance AIFM file" and "Technical guidance AIF file"?</p> <p>Should the tenderers count using IFPUG all modifications described in the "Modification Content" column or only those listed in the "Track</p>	<p>22/07/2015</p> <p>Tenderers are requested to conduct the Function Point-analysis with what has been provided. They are, however, invited to make all their assumptions explicitly in the event they consider the data is not complete.</p>

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				only those listed in the "Track changes_AIFMDReporting_v1_4_vs v1.3" document?	
79	21/07/2015 09:32	22/07/2015 13:45	Annex XIII technical offer form, Section 3.2.1 Proposed organisation and infrastructure in conjunction with: Annex XIII technical offer form, Section 3.3 Proposed methods (15% weight for the technical evaluation)	In section 3.2.1 we read: "4. A description of the mechanism to guarantee the business continuity and continuous development of the competence of the delivering team, including the steps taken to mitigate the risk of competence and knowledge regression/attrition. And in section 3.3 we read: "4. Which are the business and IT continuity plans that will guarantee uninterrupted provision of services for the contract;: Question Both the elements above refer to business continuity. Our understanding is that as regards element 4 of section 3.2.1, continuity concerns only continuity related to knowledge and competence. As regards element 4 of section 3.3, it concerns business and IT continuity in general. Please confirm our understanding or clarify.	22/07/2015 Confirmed.

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#	Submission date	Publication date	Question subject	Question	Answer
80	21/07/2015 09:26	22/07/2015 13:46	Annex IX IFPUG Pricing at ESMA Lot 3, Chapter 2 The productivity matrix of the ESMA's IT applications, page 5	In the above Annex we read: "The application functional size is determined by the number of function points (IFP) counted based on the IFPUG FSM methodology (see chapters 3-5)." Question Please, confirm that chapter 5 (Complexity assessment) does not impact the function point count and that the Complexity calculated in chapter 5 does not replace the Value Adjustment Factor defined in the standard IFPUG FSM methodology.	22/07/2015 • Correct, the complexity assessment does not impact the (unadjusted) function point count • The complexity calculated in chapter 5 does not replace the Value Adjustment Factor defined in the standard IFPUG FSM methodology. The FP-count needs to be unadjusted (so without taking into account the General System Characteristics).
81	21/07/2015 09:21	22/07/2015 13:47	Annex XIII technical offer form, Section 3.5 - Structure, clarity and completeness of the proposal (5% weight for the technical evaluation). "The overall presentation will be taken into account in evaluating the response to this criterion."	Could you specify what will be evaluated under this criterion and how tenderers can achieve full points?	22/07/2015 Information is easy to find, well categorised, referenced well and enables information supporting tenderers answers to be easily found (opposite = the evaluation committee would need to search through documentation not referenced adequately to find supporting data easily). Significant ambiguities in any part of the offer may lead to lower scores. All parts of the proposal should be complete, and explanations and elements should be adequate for the Committee's full comprehension.

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#	Submission date	Publication date	Question subject	Question	Answer
82	21/07/2015 09:28	22/07/2015 13:48	Annex IX IFPUG Pricing at ESMA Lot 3, Chapter 5 Complexity assessment, page 8-9	<p>Questions</p> <p>a) Chapter 5 includes several factors to be taken into consideration for the calculation of the involved effort for an application. How should the assessor transform these factors into the predefined complexity categories ("Low", "Medium", "High") for a particular application?</p> <p>b) What are the specific weights of each factor?</p> <p>c) How should each factor be quantified?</p>	<p>22/07/2015</p> <p>The complexity assessment is only relevant at the specific contract stage. At that stage ESMA will work with the contractor to agree the complexity category for that specific contract based upon the given complexity factors.</p>
83	23/07/2015 08:56	23/07/2015 08:58	Information for tenderers from ESMA.	Answering of questions.	<p>23/07/2015</p> <p>The tender specifications provides a deadline for questions of 21/07/2015. However, ESMA informs tenderers that questions received up to 26/07/2015 may be answered where there is an impact on the tender.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
84	22/07/2015 14:00	23/07/2015 09:00	Contract's questions p.4	<p>8. Please consider adding a non-solicit provisions to the FWC, as follows: "Article I.12 - Non-hire and non-solicit. Unless otherwise agreed, during the term of the FWC and 3 years after its expiration/termination a party ("breaching party") shall not solicit for employment, employ or enter into any direct or through third-party contract for services or employment relationship with any individual who is an employee or consultant of the other party or its affiliate ("injured party"). Shall a breaching party become aware of the breach of the term stated above in this Article I.12 and/or receive a notice from the other party with information about the breach, the breaching party shall immediately terminate a relationship with such an employee or consultant. Shall a breaching party fail to immediately terminate a breach, the breaching party shall pay a remedy to the injured party equal to an estimated annual gross services fee or at the discretion of the injured party annual gross salary of the employee or consultant".</p>	<p>23/07/2015 ESMA will not consider the request.</p>

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#	Submission date	Publication date	Question subject	Question	Answer
85	22/07/2015 14:01	23/07/2015 09:01	Contract's questions p.3	<p>6. II.13.1 Suspension by the Contractor Please consider adding additional reason for suspension by the Contractor to cl. II.13.1. as follows: "The Contractor may suspend the performance of the FWC or order form or specific contract or any part thereof if a case of force majeure makes such performance impossible or excessively difficult or in case any of the Contractor's invoices are overdue by more than 10 days. The Contractor shall inform ESMA about the suspension without delay, giving all the necessary reasons and details and the envisaged date for resuming the performance of the FWC, order form or specific contract. Once the circumstances allow resuming performance, the Contractor shall inform ESMA immediately, unless ESMA has already terminated the FWC, order form or specific contract."</p> <p>7. II.14.3 Please consider altering cl. II.14.3. as follows: "In the event of termination, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On</p>	<p>23/07/2015 ESMA will not consider the request.</p>

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				<p>profits for uncompleted work. On receipt of the notification of termination, the Contractor shall take all the appropriate measures to minimise costs, prevent damages, and cancel or reduce its commitments. The Contractor shall have 60 days from the date of termination to draw up the documents required by the special conditions or order forms or specific contracts for the tasks already executed on the date of termination and produce an invoice if necessary. ESMA may recover any amounts prepaid under the FWC for the performance of obligations not dully performed by the Contractor.</p> <p>ESMA may claim compensation for any damage suffered in the event of termination, observing the limits set forth in Article II.3.3. hereof. On termination ESMA may engage any other Contractor to execute or complete the services.”</p>	

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#	Submission date	Publication date	Question subject	Question	Answer
86	22/07/2015 13:15	23/07/2015 09:02	Contract's questions p.2	<p>4. II.3.4 Please consider altering cl. II.3.4. as follows: "The Contractor shall indemnify and hold ESMA harmless for all damages and costs incurred due to any claim brought against ESMA by a third party as a result of damage caused by the Contractor during the performance of the FWC, but only to an amount not exceeding the total amount of the relevant order form or specific contract. The Contractor shall provide compensation in the event of any action, claim or proceeding brought against ESMA by a third party as a result of damage caused by the Contractor during the performance of the FWC, but only to an amount not exceeding the total amount of the relevant order form or specific contract. In the event of any action brought by a third party against ESMA in connection with the performance of the FWC including any alleged breach of intellectual property rights, the Contractor shall assist ESMA. Such expenditure incurred by the Contractor may be borne by ESMA.</p> <p>5.II.7.1 Please consider adding exclusion to the general subcontractors rule for Miratech</p>	<p>23/07/2015 ESMA will not consider the request.</p>

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				subcontractors rule for Miratech affiliates and physical persons employed under civil contract, by updating the wording in cl.II.7.1. as follows: “The Contractor shall not subcontract without prior written authorisation from ESMA nor cause the FWC to be de facto performed by third parties, unless such subcontractors or third parties are Contractor’s affiliates or natural persons employed by the Contractor or its affiliate under a civil contract”.	

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#	Submission date	Publication date	Question subject	Question	Answer
87	22/07/2015 13:12	23/07/2015 09:07	Contract's questions p1	<p>1. I.3.3 Reimbursement of expenses Not applicable Is it possible to describe reimbursable cost in specific contract only or should we also describe it in the Frame contract?</p> <p>2. I.7.1 The FWC shall be governed by Union law, complemented, where necessary, by the national substantive law of France. I.7.2 Any dispute between the parties resulting from the interpretation or application of the FWC which cannot be settled amicably shall be brought before the courts of Paris (France). Please consider replacing Paris courts with a neutral arbitration as a dispute settlement venue, by putting the following wording in cl. I.7.2.: "Any dispute between the parties resulting from the interpretation or application of the FWC which cannot be settled amicably shall be finally settled by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The arbitral tribunal shall be composed of a sole arbitrator. The place of arbitration shall be Stockholm (Sweden). The language to be used in the arbitral proceedings shall be English".</p> <p>3. II.3.3 The Contractor shall be held liable for any loss or damage sustained by ESMA in performance</p>	<p>23/07/2015 ESMA will not consider the request. In reference to the question: 'should we also describe it in the frame'? Tenderers shall not alter the framework contract, and shall explicitly accept it, as is, UNCONDITIONALLY (in accordance with point 1 and 5 of the Invitation to Tender Cover Letter. If tenderers do not fully accept the contract, or submit conflicting terms, ESMA may EXCLUDE them.</p>

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				<p>sustained by ESMA in performance of the FWC, including in the event of subcontracting, and for any claim by a third party, but only to an amount not exceeding three times the total amount of the relevant order form or specific contract. Nevertheless, if the damage or loss is caused by the gross negligence or willful misconduct of the Contractor or of its personnel or sub Contractors, the Contractor shall have unlimited liability for the amount of the damage or loss.</p> <p>Please consider altering cl. II.3.3. as follows:</p> <p>“The Contractor shall be held liable for any loss or damage sustained by ESMA in performance of the FWC, including in the event of subcontracting, and for any claim by a third party, but only to an amount not exceeding the total amount of the relevant order form or specific contract”.</p>	