

**Annex I**

**Call for tenders: EIOPA-CP-143-2022**

**Financial market data, for the calculation of Risk-free Interest Rates Term Structures, Symmetric Adjustment to Equity Risk and for other needs**

**COMPETITIVE PROCEDURE WITH NEGOTIATION**

**TeNDER SPECIFICATIONS**

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# GLOSSARY

Call for tenders: a public procurement procedure

Economic operator: any natural or legal person, including a public entity or group thereof that offers supplies, services or works on the market

Request to participate: the first step in two-step procurement procedures

Candidate: any economic operator who submits a request to participate in a two-step procedure

Tender: offer, bid

Tenderer: an economic operator who has submitted a tender

Contractor: an economic operator who contracts to perform the services

# GENERAL INFORMATION

## General Information on EIOPA

The European Insurance and Occupational Pensions Authority (“EIOPA” or “Contracting Authority”) was established by Regulation (EU) No 1094/2010 of 24 November 2010 of the European Parliament and the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC.

EIOPA started to be operational on 1 January 2011 with its seat in Frankfurt am Main, Germany. As of January 2021, EIOPA has a total of approximately 165 staff.

EIOPA’s main goals are:

* Better protecting consumers and rebuilding trust in the financial system;
* Ensuring a high, effective and consistent level of regulation and supervision taking account of the varying interests of all Member States and the different nature of financial institutions;
* Greater harmonisation and coherent application of rules for financial institutions and markets across the European Union (EU);
* Strengthening oversight of cross-border groups;
* Promoting coordinated European Union supervisory responses.

Further information about EIOPA can be found on the Authority’s website: <https://eiopa.europa.eu/>.

## Additional Information

In the general implementation of its activities and for the processing of procurement procedures in particular, EIOPA observes the following legal acts:

* Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC;
* Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and **Commission documents.**

# Specific Information

## Subject of the Contract

The subject of this call for tender is: financial market data, for the calculation of Risk-Free Interest rates term structures, symmetric adjustment to equity risk and for other needs are described in detail in the document: Annex I.A – Tender specifications – Terms of Reference, hereafter referred to as Terms of Reference.

Variants (alternatives to the model solution described in the tender specifications) are not allowed. The Contracting authority will disregard any variants described in a tender.

## Type of Contract

EIOPA may conclude a framework service contract (contract) with the selected tenderer(s) on the basis of the contract model (Annex IIof the procurement documents) (hereinafter “Draft Contract”).

FWC establishes a mechanism for future repetitive purchases by the Contracting authority to be awarded in the form of specific contracts. The signature of a framework contract does not impose an obligation on the Contracting authority to conclude specific contracts with the framework contractor.

FWC lays down the legal, financial, technical and administrative provisions concerning the relationship between the contracting authority and the contractors during their periods of validity.

FWC will be concluded with one contractor. Specific contracts shall be awarded on the basis of the terms laid down in the framework contract, refined or, in duly justified circumstances, supplemented to reflect the particular circumstances of the specific contract. The details are set out in Article I.4.3 of the draft contract.

Preferably, economic operators shall accept EIOPA’s Draft Contract.

Should another contract model be used, it shall conform to the Financial Regulations applicable to EIOPA. In addition, the following relevant clauses of the General Conditions for Framework Contracts (Annex II of the procurement documents) should be included:

• Payments to be made within 30 days after receiving an invoice;

• Processing of Personal Data (General Conditions Article I.9 and Article II.9);

• VAT exemption clause (General Conditions/ Article II.19.1);

• Checks and audits (General Conditions/ Article II.24);

The General Conditions of the Draft Contract (Annex II) will apply in situations not regulated by the main contract, and therefore any other contract model than the Draft Contract provided shall be amended accordingly.

The contract proposed by the economic operator will be submitted to EIOPA’s legal services and will be negotiated in the context of the above-mentioned Financial Regulations with the economic operator’s legal department. The failure of the negotiations between the two legal services concerning the alternative contract proposed by the economic operator will result either in the application of the Draft Contract proposed in Annex II, or no award being made under this procurement procedure.

The absence of an annexed draft contract from the economic operator in the tender will result in the use of EIOPA's Draft Contract.

## Lots

This call for tenders is not divided into lots.

## Volume and value of the contract

An indicative estimate of the volumes to be ordered over the whole duration of the framework contract is given in the financial model in Annex I.J. These volumes are estimates only and there is no commitment as to the exact quantities to be ordered. The actual volumes will depend on the quantities which the *Contracting authority* will order through specific contracts. In any case the *framework contract ceiling*, i.e. the maximum amount to be spent under the framework contract, shall not be exceeded.

The *framework contract ceiling* shall be determined by the total amount of the successful tenderer's financial offer for the overall estimated volume of purchases, corresponding to the maximum duration of the framework contract, increased by a reserve of 10 % to cover price indexation.

## Duration

The contract shall be concluded for the initial period of 12 (twelve) months, with renewals up to 6 (six) times, each time for the period of 12 (twelve) months, up to the total maximum of 84 (eighty four) months.

## Contract Terms

**Important:** Economic operators should refer to the provisions of the Draft Contract or the Terms of Reference which are not included in these tender specifications and which specify the rights and obligations of the contractor, particularly those on payments, performance of the contract, intellectual property, confidentiality, data protection, and checks and audits.

## Electronic exchange system: can exchanges under the contract be automated?

For all exchanges with the contractor during the implementation of the contract as well as for future possible subsequent proceedings for the purposes of EDES ([European Union's Early Detection and Exclusion System](http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm)) the *Contracting authority* may use an electronic exchange system meeting the requirements of Article 148 of [Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=uriserv:OJ.L_.2018.193.01.0001.01.ENG&toc=OJ:L:2018:193:TOC) 1. At the request of the *Contracting authority* the use of such a system shall become mandatory for the contractor(s) at no additional cost for the *Contracting authority*. Details on specifications, access, terms and conditions of use will be provided in advance.

# 2. GENERAL INFORMATION ON TENDERING

## Procurement Procedures

This call for tenders is governed by the provisions of [*Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union*](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.193.01.0001.01.ENG&toc=OJ:L:2018:193:TOC) (the Financial Regulation).

EIOPAhas chosen to award the contract resulting from this call for tenders through a competitive procedure with negotiation pursuant to Article 164(1) (f) of the Financial Regulation due to the specific circumstances related to the nature, the complexity and the legal and financial make-up attached to the subject matter of the contract. In a competitive procedure with negotiation, any interested economic operator (any natural or legal person who offers to supply products, provide services or execute works) may submit a request to participate.

A competitive procedure with negotiation runs in two steps:

* **Step 1**: An invitation is issued for economic operators[[1]](#footnote-2) to submit a request to participate;
* **Step 2**: An invitation to tender is sent to eligible economic operators that fulfil the exclusion and selection criteria.

Please note that only those economic operators that pass the first step will be asked to submit a tender in the second step. Interested parties should carefully read the following information on eligibility and information requirements. In addition:

Economic operators that are successful to pass step one must inform EIOPA on submission of a subsequent tender of any changes to its situation as presented in the original request and subsequent integrations.

## Access to the Market and Eligibility

Participation in procurement procedures is open on equal terms to all natural and legal persons (economic operators) falling within the scope of the [Treaties](https://europa.eu/european-union/law/treaties_en). This includes all legal entities registered in the EU and all natural persons having their domicile in the European Union (EU). Participation is also open to all economic operators registered or having their domicile in a non-EU country which has an agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. The Contracting Authority can therefore accept tenders from:

a) the countries, which are parties to the Agreement on the European Economic Area (EEA) (the 27 EU Member States, Lichtenstein, Norway and Iceland),

b) Stabilisation and Association Agreements (SAA) countries (North Macedonia, Albania, Montenegro, Serbia, Bosnia and Herzegovina, Kosovo).The rules of access to the market do not apply to subcontractors.

The rules on access to procurement do not apply to subcontractors. Subcontracting may not be used with the intent to circumvent the rules on access to procurement.

To enable EIOPA to verify the access, each economic operator must indicate its country of establishment (and in case of joint request – the country of establishment of each group member) and must present the supporting evidence normally acceptable under the law of that country/-ies. The same document(s) could be used to prove country/-ies of establishment and the delegation(s) of the authorisation to sign as described in [Section II.2.3](#_Documents_Signature_policy).

## Registration in the Participant Register

Any economic operator willing to submit a tender for this call for tenders must be registered in the [Participant Register](https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/participant-register) - an online register of organisations and natural persons participating in European institutions’ calls for tenders or proposals (participants).

On registering each participant obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the Participant Register. A participant needs to register only once – the information provided can be further updated or re-used by the participant in other European Institutions’ calls for tenders or calls for proposals.

**Please provide information about the SME status of the participant in the Participant Register by filling in the SME Declaration section in the Participant Register. The section becomes available only when updating/modifying the details of the registered organisation.**

## Organisation for submitting a request to participate

Economic operators can request to participate and subsequently submit a tender (if selected) either as a sole economic operator or as a group of economic operators. In either case subcontracting is permitted.

In order to fulfil the selection criteria set out in [Section III.4](#_Selection_Criteria) the economic operator can rely on the capacities of subcontractors or other entities.

The role of each entity involved in a request to participate and subsequent tender (hereafter referred to as involved entity) must be clearly specified: sole economic operator, member of a group or group leader, subcontractor or an entity on whose capacities the economic operator relies.

### Joint requests to participate/tender

A joint request to participate/tender is a situation where a request to participate/tender is submitted by a group (with or without legal form) of economic operators regardless of the link they have between them. The group as a whole is considered a candidate/tenderer.

All members of the group assume joint and several liability towards EIOPA for the performance of the contract as a whole.

Group members must appoint a group leader and a single point of contact authorised to act on their behalf in connection with the submission of the request to participate/tender and all relevant questions, clarification requests, notifications, etc., that may be received during the evaluation, award and until the contract signature. The model Power of Attorney attached in Annex I.C is to be used.

The joint request to participate/tender must clearly indicate the role and tasks of each member and of the group leader who will act as EIOPA's contact point for the contract's administrative or financial aspects and operational management. The group leader will have full authority to bind the group and each of its members during contract execution. If the joint tender is successful, EIOPA shall sign the contract with the group leader, authorised by the other members to sign the contract on their behalf via the Power of Attorney drawn up in the model attached in Annex I.C.

Changes in the composition of the group during the procurement procedure (after the submission deadline of the request to participate and before contract signature) shall lead to rejection of the tender except in case of a merger or takeover of a member of the group (universal succession), provided that the new entity has access to procurement (see [Section](#_Access_to_the) I.3) and is not in an exclusion situation, (see [Section](#_Exclusion_Criteria) III.3).

In any case the selection criteria must be still fulfilled by the group and the terms of the originally submitted request may not be altered substantially, i.e. all the tasks assigned to the former entity must be taken over by the new entity member of the group, the change must not make the subsequent tender non-compliant with the tender specifications, and the evaluation of award criteria of the originally submitted tender may not be modified.

**Important:** For groups/consortia the exclusion criteria (see [Section](#_Exclusion_Criteria) III.3 below) will be applied for each member individually. The selection criteria (see [Section III.4](#_Selection_Criteria) below) will apply to the group/consortia as a whole.

### Sub-contracting

Sub-contracting is allowed, provided that the subcontractor(s) and his/their scope of work is clearly indicated in the request to participate/tender. Nevertheless, the responsibility for the full execution of the contract rests with the contractor, as EIOPA has no direct legal commitment with the subcontractor(s).

Accordingly:

* EIOPA shall treat all contractual matters (e.g. payment) exclusively with the main contractor, whether or not the tasks are performed by a subcontractor;
* Under no circumstances can the main contractor avoid liability towards EIOPA on the grounds that the subcontractor is at fault.

If subcontracting is envisaged in the request to participate/tender it shall include a complete documentation that:

* defines clearly the roles, activities and responsibilities of subcontractor(s);
* specifies the volume / proportion of the tender being subcontracted for each subcontractor; (see Annex I.D) and
* contains a Commitment Letter signed by each subcontractor stating its intention to collaborate in case the contract is awarded (see Annex I.E).

Multiple-level subcontracting (e.g. subcontracting of subcontracting) is not permitted.

**Important:** All subcontractors must meet the exclusion criteria set out in [Section](#_Exclusion_Criteria) III.3. and must therefore also provide the relevant documentation as explained in [Section](#_Exclusion_Criteria) III.3

Any change in subcontracting during the procurement procedure may lead to the rejection of the tender. Any change in subcontracting after the signature of the contract without prior approval from EIOPA will lead to the termination of the contract.

### Entities on whose capacities the economic operator relies to fulfil the selection criteria[[2]](#footnote-3)

In order to fulfil the selection criteria an economic operator may also rely on the capacities of other entities, regardless of the legal nature of the links it has with them. It must in that case prove that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment letter in the model attached in Annex I.F, signed by the authorised representative of such an entity, and the supporting evidence that those other entities have the respective resources.

If the contract is awarded to an economic operator intending to rely on another entity to meet the minimum levels of economic and financial capacity, EIOPA may require the entity to sign the contract or, alternatively, to provide a joint and several first-call financial guarantee for the performance of the contract.

With regard to technical and professional selection criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required (i.e. the latter will assume the role of subcontractors).

## Cost of Preparing Requests to Participate and Tenders

The invitation to participate in a procurement procedure does not constitute any commitment on behalf of EIOPA to award the contract to an economic operator. EIOPA shall not reimburse any costs incurred by economic operators in preparing and submitting requests to participate/tenders.

# EVALUATION AND AWARD

The evaluation of the requests to participate/tenders that comply with the submission conditions will consist of the following elements:

## Step 1 - Evaluation of requests to participate

* Check if the candidate has access to procurement procedures (see [Section I.3](#_Access_to_the));
* Verification of administrative compliance (if the request to participate is drawn up in one of the official EU languages and the require documents signed by duly authorised representative(-s) of the candidate);
* Verification of non-exclusion of economic operators on the basis of the exclusion criteria (see [Section III.4](#_Exclusion_Criteria));
* Selection of tenderers on the basis of the selection criteria (see [Section III.5](#_Selection_Criteria)).

For the purposes of the evaluation related to exclusion and selection criteria EIOPA may also refer to publicly available information, in particular evidence that it can access on a national database free of charge.

## Step 2 Evaluation of Tenders

* Verification of administrative compliance (if the tender is drawn up in one of the official EU languages, if the tender is signed by duly authorised representative(-s) of the tenderer, if the tender is received within the specified deadline);

A tender received after the deadline indicated in the procurement documents will be rejected.

* Verification of compliance with the minimum requirements defined in these tender specifications and their annexes (Terms of Reference (Annex I.A);
* Evaluation of tenders on the basis of the award criteria (see [Section](#_Award_Criteria) III.6)

The technical evaluation shall also be based on a trial. Therefore tenderers are requested to grant EIOPA an access to their tools and software. Access to the tools and the data is required only for 4 members of the Evaluation Committee (all EIOPA staff) during the period 15 September 2022 at 9:00 CET till 21 September 2022 at 18:00 Frankfurt am Main local time.

Tenderers shall not charge EIOPA for the trial, meaning that tenderers will provide the data and tools to EIOPA free of charge for quality evaluation purposes only. It is necessary to evaluate the tools in a trial environment against the requirements set out in the Terms of Reference (Annex 1.A to these tender specifications) and in accordance with award criterion “User friendliness and efficiency of the tools to access the data” as further specified in [Section III.6.1](#_Technical_Evaluation) below. Without this access the Evaluation Committee will not be able to evaluate this criterion and therefore no points will be given under this criterion.

The submitted tenders can be negotiated, more specifically the technical and financial offers. The contract may also be awarded on the basis of the initial tender without negotiations.

Tenders deviating from the minimum requirements or not covering all the requirements may be rejected on the basis of non-compliance and not evaluated further.

There is no specific order for evaluation of the abovementioned elements. If the evaluation of one or more elements demonstrates that there are grounds for rejection, the tender will be rejected and will not be subjected to further full evaluation. The unsuccessful tenderers will be informed of the ground for rejection without being given feedback on the non-assessed content of their tenders. Only tenderer(s) for whom the verification of all elements did not reveal grounds for rejection can be awarded the contract.

The evaluation will be based on the information and evidence contained in the tenders and, if applicable, on additional information and evidence provided at the request of EIOPA during the procedure. If any of the declarations or information provided proves to be false, EIOPA may impose administrative sanctions (exclusion or financial penalties) on the entity providing the false declarations/information.

## Step 1: Exclusion Criteria

The objective of the exclusion criteria is to assess whether the tenderer is in any of the exclusion situations listed in Article 136(1) of the Financial Regulation.

Tenderers found to be in an exclusion situation will be rejected.

As evidence of non-exclusion each tenderer needs to submit with its tender a Declaration on Honour in the model available in Annex I.H. The declaration must be signed by an authorised representative of the entity providing the declaration.

The initial verification of non-exclusion of tenderers will be done on the basis of the submitted declarations and consultation of the European Union's [Early Detection and Exclusion System](https://ec.europa.eu/info/strategy/eu-budget/how-it-works/annual-lifecycle/implementation/anti-fraud-measures/edes_en). The documents mentioned as supporting evidence in the Declaration on Honour need to be provided whenever requested and where this is necessary to ensure the proper conduct of the procedure within a deadline given by EIOPA.

Annex I.B specifies which of the involved entities participating in a tender need to provide the Declaration on Honour and, when requested by EIOPA, the supporting evidence.

Before the award decision, EIOPA may request documentary evidence on compliance on the exclusion criteria set out in the present tender specifications. All tenderers are invited to prepare in advance the documents related to the evidence, since they may be requested to provide such evidence within a short deadline. Failure to provide valid documentary evidence within the deadline set by EIOPA shall lead to the rejection of the tender for the award of the contract, unless the tenderer can justify the failure on the grounds of material impossibility.

If the successful tenderer cannot submit the documents requested and cannot prove that he is not in any situation of exclusion, his tender will be rejected and EIOPA reserves the right to sign the contract with another tenderer.

**Important:** Please note that a request for evidence in no way implies that the tenderer has been successful.

## Step 1: Selection Criteria

The objective of the selection criteria is to assess whether the economic operator has the legal, regulatory, economic, financial, technical and professional capacity to perform the contract.

The selection criteria for this call for tenders, including the minimum levels of capacity, the basis for assessment and the evidence required, are specified in the following subsections.

Requests to participate submitted by economic operators not meeting the minimum levels of capacity will be rejected.

When submitting its request to participate each economic operator shall declare on honour that it fulfils the selection criteria. The model Declaration on Honour available in Annex I.H shall be used.

The initial assessment of whether a tenderer fulfils the selection criteria will be done on the basis of the submitted declaration(s).

The Annex I.B below specify which selection criteria evidence must be provided with the request to participate or may be requested later, at any time during the procurement procedure[[3]](#footnote-4). In any case, to the extent that there is no ground for a waiver, the evidence must be provided, upon request and within a deadline given by EIOPA. The evidence must be provided in accordance with the applicable basis for assessment of each criterion: in case of a consolidated assessment – only by the involved entities who contribute to the fulfilment of the criterion, and in case of individual assessment – by each involved entity to whom the criterion applies individually.

Before the award decision, EIOPA may request documentary evidence on compliance with the selection criteria set out in the present tender specifications. All tenderers are invited to prepare in advance the documents related to the evidence, since they may be requested to provide such evidence in a short deadline. In any event, the tenderer proposed by the evaluation committee for the award of the contract, will be requested to provide such evidence.

Failure to provide valid documentary evidence within the deadline set by EIOPA shall lead to the rejection of the tender for the award of the contract, unless the tenderer can justify the failure on the grounds of material impossibility.

### Legal and Regulatory Capacity

Economic Operators must prove that they have the legal capacity to perform the contract and the regulatory capacity to pursue the professional activity necessary to carry out the work subject to this call for tenders.

The legal and regulatory capacity shall be proven by the evidence listed below:

* Proof of enrolment in a relevant trade or professional register;
* Proof of authorisation that the tenderer is authorised to perform the contract in its country of establishment.

### Economic and Financial Capacity

Economic operators must comply with the following selection criteria in order to prove that they have the necessary economic and financial capacity to perform the contract.

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| Criterion F1 |
| Minimum level of capacity | An average total turnover, realised over a period of the past three years, or for the period the company has been trading (if less than three years) of at least **300,000** EUR per annum |
| Basis for assessment | This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out. |
| Evidence[[4]](#footnote-5) | 1. Balance sheets or summaries thereof and profit and loss accounts for the past three financial years for which accounts have been closed, where publication of balance sheets is prescribed under company law in the country in which the economic operator is established.

Where the company has been trading for less than three years the following documents shall be provided:* + Balance sheets, or summaries and profit and loss accounts for the period for which the company has been trading,
	+ A statement of the company’s cash flow forecast for the current year and a bank letter outlining the current cash and credit facility position
 |

### Technical and Professional Capacity

Economic operators must comply with the following selection criteria in order to prove that they have the necessary technical and professional capacity to perform the contract.

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| **Criterion T1** |
| Minimum level of capacity | More than 5 years of experiencein index design, administration calculation and distribution |
| Basis for assessment | This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out. |
| Evidence | 1. A brief description of the company, including the scope of activities, experience in providing market yield indices of corporate bonds, number of personnel and period of operating on the market.
2. Evidence of having more than 5 years of experience in index design, administration, calculation and distribution.
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| **Criterion T2** |
| Minimum level of capacity | Providing similar services to those described in the Terms of Reference (ToR) for at least 10 companies in the past 3 years all over the world. |
| Basis for assessment | This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out. |
| Evidence | Declaration/document demonstrating that the candidate has provided similar services to those described in the Terms of Reference for Lot 1 for at least 10 companies in the past 3 years, in the form of declaration/document describing the type and the volume of services. |

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| **Criterion T3** |
| Minimum level of capacity | Has at least one EEA insurer and reinsurer as a client. |
| Basis for assessment | This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out. |
| Evidence | Number of clients with particular reference to the number of EEA insurers and reinsurers; |

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| **Criterion T4** |
| Minimum level of capacity | Has as at least one public institution in the EEA, in particular National Supervisory Authorities of financial institutions and central banks, as a client. |
| Basis for assessment | This criterion applies to the tenderer as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out. |
| Evidence | Number of clients with particular reference to the number of EEA insurers and reinsurers; |

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| **Criterion T5** |
| Minimum level of capacity | Has a management procedure put in place to minimise the environmental impact of the service. |
| Basis for assessment | This criterion applies to all involved entities. |
| Evidence | The management procedure or a declaration indicating that the default settings that minimise energy consumption of the electronic equipment (for example double-side printing set by default) are applied. |

## Step 2: Compliance with the minimum requirements

By submitting a tender a tenderer commits to perform the contract in full compliance with the terms and conditions of the procurement documents for this call for tender. Particular attention is drawn to the minimum requirements specified in the Terms of Reference (Annex I.A).

The tenders must comply with applicable data protection, environmental, social and labour law obligations established, national legislation, collective agreements or the international environmental, social and labour conventions.

To that regard, tenderers must declare their conformity with the above mentioned legislation. Failing to do that, tenderers may not be awarded the contract and will be excluded from further consideration. A template of the Declaration on Honour on Compliance with Environmental, Social and Labour Law Obligations is available in Annex I.I.

The minimum requirements shall be observed throughout the entire duration of the contract. Compliance with these requirements is mandatory and cannot be subject to any assumptions, limitations, conditions, or reservations on the part of a tenderer.

Tenders that are not compliant with the applicable minimum requirements shall be rejected.

The Checklist of minimum requirements contains the following questions:

|  |
| --- |
| **Scope of data** |
| 1.1 General financial market dataDoes the data provided by you match the minimum requirements described in section II.1.1 of Terms of Reference (Annex I.A) in terms of content (type of data), coverage, data history and timeliness? |
| 1.2 Specific financial market data |
| 1.2.1 Risk-free interest rate project requirements:Does the data provided by you match the minimum requirements described in section II.1.2.1 of Terms of Reference (Annex I.A)? |
| 1.2.2 Specific market data – Symmetric adjustment of the equity capital charge for Solvency II requirementsDoes the data provided by you match the minimum requirements described in section II.1.2.2 of Terms of Reference (Annex I.A)? |
| **Other data** |
| 2.1 Macroeconomic indicatorsDoes the data provided by you match the minimum requirements described in section II.2.1 of Terms of Reference (Annex I.A) in terms of content (type of data), geographical coverage, frequency and timeliness? |
| 2.2 Insurance and banking industry intelligence data and informationDoes the data provided by you match the minimum requirements described in section II.2.2 of Terms of Reference (Annex I.A) in terms of content (type of data), coverage and timeliness? |
| 2.3 Insurance, reinsurance and banking individual company information and dataDoes the data provided by you match the minimum requirements described in section II.2.3 of Terms of Reference (Annex I.A) in terms of content (type of data), coverage and timeliness? |
| **News monitoring**Are you able to provide indexed and searchable database of regularly updated news items?Does the solution provide news items covering insurance-specific, pension-specific, financial market, regulatory, economic and political news in English? |
| **Place of execution**Will you supply all the data identified in chapter II at the EIOPA premises?Will you perform all set-up tasks and the training services set out in section V of Terms of Reference (Annex I.A) at the EIOPA premises? |
| **User friendliness and efficiency of the tools to access the data** Does the market data provider provide a tool (interface/platform/program) which enables the access of information and databases required without any intermediate calculations?Has the file extracted from the tool a structured electronic format Excel or CSV?Does the market data provider provide an additional Excel plugin?Can simple data transformations such as but not limited to currency conversions or frequency change be performed through the Excel plugin?Does the market data provider include a detailed description market of all the data series (metadata/explanation)? |
| **User-support**Do you provide support for both the data content and its interfacing IT tools?Are you able to provide an easily contactable Customer Services Support?Are you able to provide a substantive response, according to its definition in the Terms of Reference (Annex I.A) within a maximum of 36 hours after an issue has been raised by EIOPA? |
| **Training**Are you reflecting in the price offer any training necessary to use the license? |
| **General IT and security requirements**Will you meet the general IT and security requirements described in Section VI of Terms of Reference (Annex I.A)? |
| **Licensing conditions**Are all the modes of exploitation listed in Section VII of Terms of Reference (Annex I.A) covered by your licencing conditions? |
| **Language**Will all the documentation, the access to data as well as the user support and trainingbe provided in English? |

All the above questions require an unconditional affirmative answer in order to be evaluated further. If no answer is given or if an affirmative answer is qualified in any way (e.g. a “yes, but…” answer), the offer will be rejected and not evaluated further.

Please note also that only an answer “Yes” without reflection in the technical offer will not be accepted. In such cases your tender will be rejected and not evaluated further.

## Step 2: Award Criteria

The award criteria serve to identify the most economically advantageous tender. The quality of each tender will be evaluated in accordance with the award criteria and the associated weighting. No award criteria and sub-criteria other than those detailed below will be used to evaluate the offer.

### Technical Evaluation

The Technical Offers will be evaluated as follows:

1. The technical score will be awarded on the basis of the following quality-related criteria and scoring system:

|  |  |
| --- | --- |
| **Criteria** | **Maximum points** |
| **Financial Market data**The market data provider supplies the additional **data set out in section II of Annex I.A**, through the access to an end-user oriented website: | 65 (min pass points 45) |
| **General financial market data**Geographical coverage with the countries included in List 2 of Annex I.A.1Data history longer than 10 yearsAvailability of data specified in section II.1.1 xvi. – xxv. | 15 |
| **Risk-free interest rate project requirements**Level of matching of data provided by the tenderer in the sample data with the appropriate interest rates.Possibility of supplying additional and regular information for all maturities where the market for the financial instrument is deep, liquid and transparent as set out in section II.1.2.1 of Terms of Reference Annex I.A Availability of the composition of Government Bonds Indices listed in Annex I.A.2 RFR\_DATA\_NEEDS\_SWAPS\_GOVBOND\_OISAvailability of the data series set out in section II.1.2.1 of Terms of Reference Annex I.A from 1999 onwards | 15 |
| **Symmetric adjustment of the equity capital charge for Solvency II requirements**Level of matching of data provided by the tenderer in the sample data with the appropriate equity indices values.Availability of longer data history (before January 2000) | 6 |
| **Macroeconomic indicators**Availability of data for the countries included in List 2 of Annex I.A.1 | 8 |
| **Insurance and banking industry intelligence data and information.**Geographical coverage of companies that are included in List 2 of Annex I.A.1Coverage of companies based in Jersey, Bermuda and Gibraltar Details on merger and acquisition transactions that took place over for at least the last 15 years | 8 |
| **Insurance, reinsurance and banking individual company information and data**Geographical coverage for companies included in List 2 of Annex I.A.1Coverage of companies based in Jersey, Bermuda and Gibraltar  | 8 |
| **News Monitoring**Structure of the information | 5 |
| **User friendliness and efficiency of the tools to access the data**Level of end-user orientation of the tool: How easy it is to extract and download the data Maintenance requirements of the tool | 10 |
| **User-support and training**Support is required from the data market provider for both the data content and its interfacing IT tools. The data market provider shall have an easily contactable Customer Services Support and must provide a substantive response, within a maximum of 36 hours after an issue has been raised by EIOPA. The appointment of a service manager as a contact person to support EIOPA if needed is considered a plus.The resolution of critical issues within 48 hours after an issue has been raised with the contractor is considered a plus.The immediate notification to EIOPA in case any problems related to the data content or its interfacing IT tools occur is considered a plus.The communication of data updates by the contractor to EIOPA as soon as they are applied is considered a plus.Any training necessary to use the licenses must be reflected in the price offer. The availability of online documentation or online help to end-users at no additional cost is considered a plus. | 10 |
| **Licence conditions**Extent to which the provider grants EIOPA a non-exclusive, non-transferable, royalty-free and irrevocable license to use the results for all the modes of exploitation described in section VII of Terms of Reference. | 5 |
| **Contractual conditions**Extent to which the provider accepts the contractual conditions provided in Annex II of the Draft Framework Contract | 10 |
| **Total maximum** | **100** |

Points will be allocated according to the following system:

|  |  |
| --- | --- |
| **Points awarded[[5]](#footnote-6)** | **Definition** |
| 0% | No evidence / total failure: The tender totally fails to address the criterion under examination, or cannot be assessed due to missing evidence. |
| 20% | Very poor: The criterion under examination is addressed in an incomplete and unsatisfactory manner; serious concerns. |
| 40% | Poor: The criterion under examination is partly addressed but with a few major gaps or issues. |
| 60% | Fair: The criterion under examination is generally addressed with minor issues. |
| 80% | Good: The criterion under examination is fully addressed. |
| 100% | Excellent: The criterion under examination is fully addressed and the tender offers some added value. |

The criterion “Contractual conditions” shall be assessed on terms and conditions submitted by the tenderers comparing to EIOPA’s Draft Contract. When assessing the proposed changes or additions, EIOPA shall take into account the extent to which these changes or additions negatively impact EIOPA’s interest of performance of the contract and provision of the agreed services, in particular its rights in case of non-performance and the allocation of risks between the parties. The comments shall be evaluated on the basis of a scoring system from zero to five points as follows:

|  |  |
| --- | --- |
| **Points awarded** | **Definition** |
| 0 point | The Tenderer does not accept EIOPA’s draft contract model and /or comes up with his own draft contract model. |
| 1 point | The Tenderer proposes several fundamental[[6]](#footnote-7) changes or additions to EIOPA’s draft contract model or proposes several fundamental terms and conditions which negatively impact the criteria mentioned in the paragraph above. |
| 2 points | The Tenderer proposes one fundamental change/addition or several substantial[[7]](#footnote-8) changes/additions to EIOPA’s draft contract model or proposes one fundamental or several substantial terms and conditions which negatively impact the criteria mentioned in the paragraph above. |
| 3 points | The Tenderer proposes one substantial change to EIOPA’s draft contract model or proposes one substantial term and condition which negatively impacts the criteria mentioned in the paragraph above. |
| 4 points | The Tenderer proposes only minor[[8]](#footnote-9) changes to EIOPA’s draft contract or proposes only minor terms and conditions which negatively impact the criteria mentioned in the paragraph above. |
| 5 points | The Tenderer accepts EIOPA’s contractual terms and conditions without any reservations or proposes only minor terms and conditions which negatively impact the criteria mentioned in the paragraph above. Clarifications or comments of editorial nature do not lead to deductions. |

1. The technical score will be calculated as follows:

Q= $\frac{Q\_{tender}}{Q\_{max}}×100$

$Q\_{tender}$ - Quality mark (total number of points) of the tender

$Q\_{max}$ - Quality of the tender with the highest quality mark (total number of points)

Offers that do not reach a minimum total number of 60 points will be eliminated from further evaluation.

### Financial Evaluation

The financial evaluation will be performed on the basis of the total amount offered for a four-year period.

The financial score will be calculated as follows:

F=$\frac{P\_{ min}}{P\_{ tender}}×100$

$P\_{min}$ – Price of the tender with the lowest total price for four years.

$P\_{tender}$ – Reference price offer of the tender

### Most economically advantageous tender

The most economically advantageous tender will be determined according to the best price-quality ratio i.e. by taking into consideration technical quality and price or cost of each tender.

Technical quality (technical score) and price (financial score) are given the following weighting: the quality ratio weighting will be 60 % and the price ratio weighting will be 40 % as well.

The award will be based on the following formula:

Total score of a tender = (Q X 60 %) + (F X 40 %)

Q= technical score of the tender

F = financial score of the tender

Should the outcome of this formula lead to two or more tenders with the same result, the tenders with lower price will be ranked higher than the tenders with higher price.

On the basis of application of the above formula tenders will be ranked in descending order and the top ranking one will be considered to offer the best price-quality ratio.

The contract will be awarded to the highest scoring Tenderer.

# Form and Content of the Request to Participate and Tender

## Form of the tender: how to submit the request to participate/tender

Requests to participate/tenders are to be submitted via the eSubmission application according to the instructions laid down in the respective Invitation letter and the [eSubmission Quick Guide](https://ec.europa.eu/info/funding-tenders/opportunities/docs/esubmission/quickguidepp_en.pdf).

☝ Make sure you prepare and submit your electronic request to participate/tender in eSubmission early enough to ensure it is received within the deadline for receipt indicated in the respective Invitation letter.

## Content of the submission under step 1: what documents to submit with the request to participate?

The documents to be submitted with the request are listed in Annex I.B.

Requests to participate shall be structured as follows:

### Identification of the economic operator

The request to participate must include:

* A cover letter (see Annex I.G) signed by an authorised representative of the economic operator
* Evidence confirming that the person signing the cover letter and other documents on behalf of the economic operator is authorised (e.g. copy of notice/publication of appointment or extract from trade register). Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.
* The economic operator (and each member of the group in case of joint tender) must declare whether it is a Small or Medium Size Enterprise in accordance with [Commission Recommendation 2003/361/EC](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF)[[9]](#footnote-10).

### Evidence of legal existence and status

* The economic operators must provide the Legal Entity Form filled in and signed by an authorized representative of the economic operator including **the supporting** **documents indicated in the form.**

<http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm>

* The candidates must provide the Financial Identification Form filled in and signed by an authorized representative of the economic operator including **the supporting** **documents indicated in the form.**

<http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm>.

Economic operators that are already registered in EIOPA’s accounting system (i.e. they have already been contractors of the European Commission or another EU Body/Agency) must provide the forms but are not obliged to provide the supporting documents.

### Non-exclusion and selection

Submission of the "Declaration on Honour on Exclusion and Selection criteria" (Annex I.H), is sufficient at step 1 as evidence of non-exclusion and fulfilment of selection criteria. The declaration must be signed, filled in and dated by an authorised representative of:

* the economic operator (each member of the group in case of joint request), see [Section I.5.1](#_Joint_requests/tenders) and
* (if applicable) each identified subcontractor (see [Section I.5.2](#_Sub-contracting)), and
* (if applicable) each third party on whose capacity is being relied for fulfilment of the selection criteria (see [Section I.5.3](#_Entities_on_whose)).

## Form and Content of the Tender (Step 2)

The documents to be submitted with the tender are listed in Annex I.B.

The tender is to be accompanied by a cover letter. The letter should confirm that no changes have occurred with respect to the original request provided under the first step of the procedure. If this is not possible, the changes are to be described in detail so that EIOPA can analyse if the tender is still eligible for consideration.

EIOPA has the right to request further information on declared changes with a view to supporting this analysis.

Economic operators are advised that substantive changes to the organisation of the tender may lead to exclusion from further consideration.

### Technical Offer

Economic operators (tenderers) shall provide their Technical Offer in a free format.

The Technical Offer shall be in accordance with the requirements specified in these Tender Specifications, the Terms of Reference (Annex I.A and Annexes I.A.1, I.A.2, and I.A.3), it shall be written clearly and provide all the required information (including information necessary for the application of the award criteria specified in [Section III.6.1](#_Technical_Evaluation) below).

Information about economic operator’s terms and conditions together with temporary, free of charge access details (e.g. URL, login, password) for EIOPA’s temporary access to services should be included here as well.

Tenderers are free to choose where the personal data will be processed or stored as long as they comply with the contractual obligations on data processing (Art.I.9.2 and Art. II.9) and, in particular, with the requirements for transfer of personal data to third countries and international organisations laid down in Chapter V of Regulation (EU) 2018/1725[[10]](#footnote-11).

Tenderers must specify in their technical offer the location where the personal data will be processed and stored only where this location is outside the territory of the European Union or the European Economic Area (EEA). If no location is specified in the tender, EIOPA will consider that the personal data will be processed and stored only within the territory of the European Union or the European Economic Area.

All economic operator’s requirements and/or conditions that are not regulated in our procurement documents should be provided in the offer. Any other information of interest might be included here as well.

The Declaration on Honour on Compliance with Environmental, Social and Labour Law obligations (Annex I.I) (see [Section III.5](#_Compliance_with_the) above) shall also be included.

**Important:**The technical offer must not include any prices or references to any documents featuring prices.

### Financial Offer

The economic operators shall provide their Financial Offer using the template provided in Annex I.J. It shall be:

* expressed in euros. Tenderers from countries outside the euro zone have to quote their prices in euro as well. The price quoted may not be revised in line with exchange rate fluctuations. It is for the economic operator to bear the risks or the benefits deriving from any variation..
* quoted free of all duties, taxes and other charges, i.e. also free of VAT. The economic operator have to indicate the amount of VAT but it must be shown separately.

The European Union Institutions and Other EU Agencies/Bodies are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union of 8 April 1965 annexed to the Treaty on the Functioning of the European Union. Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption.

In case of doubt about the applicable VAT system, it is the economic operator's responsibility to contact his or her national authorities to clarify the way in which the European Union is exempt from VAT.

### Documents Signature policy

Where a document needs to be signed, the signature must be hand-written only. EIOPA cannot accept for the moment electronic signatures.

All documents must be signed by the signatories (when they are individuals) or by their duly authorised representatives.

For the following documents, when signed by representatives, economic operators must provide evidence for the delegation of the authorisation to sign:

- The Declaration on Honour of the tenderer;

The delegation of the authorisation to sign on behalf of the signatories (including, in the case of proxy(-ies), the chain of authorisations) must be evidenced by appropriate written evidence (copy of the notice of appointment of the persons authorised to represent the legal entity in signing contracts (together or alone), or a copy of the publication of such appointment if the legislation which applies to signatory requires such publication or a power of attorney). A document that EIOPA can access on a national database free of charge does not need to be submitted if EIOPA is provided with the exact internet link and, if applicable, the necessary identification data to retrieve the document.

## Confidentiality of tenders

Once the *Contracting authority* has opened a tender, it becomes its property and shall be treated confidentially, subject to the following:

* For the purposes of evaluating the tender and, if applicable, implementing the contract, performing audits, benchmarking, etc., the *Contracting authority* is entitled to make available (any part of) the tender to its staff and the staff of other Union institutions, agencies and bodies, as well to other persons and entities working for the *Contracting authority* or cooperating with it, including contractors or subcontractors and their staff provided that they are bound by an obligation of confidentiality.
* After the signature of the award decision tenderers whose tenders were received in accordance with the submission modalities, who have access to procurement, who are not found to be in an exclusion situation referred to in Article 136(1) of the FR, who are not rejected under Article 141 of the FR, whose tenders are not found to be incompliant with the procurement documents, and who make a request in writing will be notified of the name of the tenderer to whom the contract is awarded, the characteristics and relative advantages of the successful tender and the price of the offer and/or contract value. The *Contracting authority* may decide to withhold certain information that it assesses as being confidential, in particular where its release would prejudice the legitimate commercial interests of economic operators or might distort fair competition between them. Such information may include, without being limited to, confidential aspects of tenders such as unit prices included in the financial offer, technical or trade secrets[[11]](#footnote-12).
* The *Contracting authority* may disclose the submitted tender in the context of a request for public access to documents, or in other cases where the applicable law requires its disclosure. Unless there is an overriding public interest in disclosure[[12]](#footnote-13), the *Contracting authority* may refuse to provide full access to the submitted tender, redacting the parts (if any) that contain confidential information, the disclosure of which would undermine the protection of commercial interests of the tenderer, including intellectual property.

☝ The *Contracting authority* will disregard general statements that the whole tender or substantial parts of it contain confidential information. Tenderers need to mark clearly the information they consider confidential and explain why it may not be disclosed. The *Contracting authority* reserves the right to make its own assessment of the confidential nature of any information contained in the tender.

## Penalties

Without prejudice to the application of liquidated damages laid down in the contract, candidates, tenderers and contractors who have been guilty of making false declarations concerning situations referred to in [Section III.3](#_Exclusion_Criteria) or have been found to have seriously failed to meet their contractual obligations in an earlier procurement or grant procedure shall be subject to the administrative and financial penalties set out in Article 138 of Regulation No 2018/1046

## Misrepresentation and Corruptive Practices

The contract shall not be awarded to economic operators who, during the procurement procedure:

* are subject to a conflict of interest;
* are guilty of misrepresentation in supplying the information required by EIOPA as a condition of participation in the contract award procedure or fail to supply this information;
* attempt to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or EIOPA during the process of examining, clarifying, evaluating and comparing tenders.

All the above-mentioned circumstances shall lead to the rejection of this request to participate/tender and may result in administrative penalties.

# Annexes:

**Annex I.A** - Terms of Reference

**Annex I.A.1** - Country coverage

**Annex I**.**A.2** - RFR\_DATA\_NEEDS\_SWAPS\_GOVBOND\_OIS

**Annex I**.**A.3 -** Equity\_dampener\_DATA NEEDS\_EQUITY INDICES

**Annex I.B** - List of documents to be submitted with the request to participate/tender or during the procedure

**Annex I.C** -Power of Attorney

**Annex I.D** -List of Identified Subcontractors

**Annex I.E** -Commitment Letter of Identified Subcontractors

**Annex I.F** -Commitment Letter of Entity Capacities Relied

**Annex I.G** - Cover Letter

**Annex I.H** - Declaration on Honour on Exclusion and Selection Criteria

**Annex I.I -** Declaration on Honour on Compliance with Environmental, Social and Labour Law Obligations

**Annex I.J** - Financial Offer Template

1. For simplicity, the term “economic operator” will be used for all steps of this procedure. Please note that an economic operator is categorised as candidate or tenderer depending on the step of the procedure. [↑](#footnote-ref-2)
2. Relying on the capacities of other entities is only necessary when the capacity of the economic operator is not sufficient to fulfil the required minimum levels of capacity. Abstract commitments that other entities will put resources at the disposal of the economic operator will be disregarded. [↑](#footnote-ref-3)
3. The obligation to provide the supporting evidence will be waived in the following situations:

- if the same documents have already been provided in a previous award procedure of EIOPA, have been issued no more than one year before the date of their request by EIOPAand are still valid at that date;

- if such evidence can be accessed by EIOPAon a national database free of charge, in which case the economic operator shall provide EIOPAwith the internet address of the database and, if needed, the necessary identification data to retrieve the document. [↑](#footnote-ref-4)
4. If, for any valid reason, the tenderer is unable to provide the above documents, it may prove its economic and financial capacity by any other document which EIOPA considers appropriate. EIOPA must at least be notified of the reason and its justification. EIOPA reserves the right to request any other document enabling it to verify the economic operator's economic and financial capacity [↑](#footnote-ref-5)
5. 100% equals the maximum number of points achievable per each quality criterion [↑](#footnote-ref-6)
6. i.e. any changes to the General Conditions in EIOPA’s Contract model [↑](#footnote-ref-7)
7. i.e. any changes to the Special Conditions in EIOPA’s Contract model that are subject to negotiations [↑](#footnote-ref-8)
8. i.e. any other changes [↑](#footnote-ref-9)
9. This information is used for statistical purposes only. [↑](#footnote-ref-10)
10. Regulation (EU) 2018/1725 of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295/39, 21.11.2018,

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1725&from=EN> [↑](#footnote-ref-11)
11. For the definition of trade secrets please see Article 2 (1) of DIRECTIVE (EU) 2016/943 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. [↑](#footnote-ref-12)
12. See Article 4 (2) of the REGULATION (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents. [↑](#footnote-ref-13)