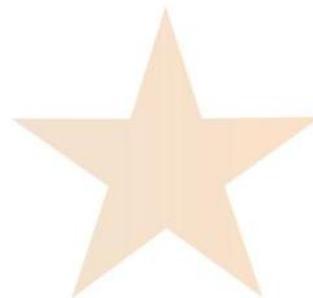


## Annex I: Tender Specifications

Open Procurement Procedure for the  
Supply of Office Stationery



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# Tender Specifications

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## Section A – Introduction

### A.1 Summary

Awarding authority	European Banking Authority (hereafter referred to as EBA).
Purpose	The purpose of this procurement procedure is to conclude a framework contract for the supply of a range of high quality office stationery to the EBA Office.
Lots	This procurement procedure is <u>not</u> divided into lots.
Estimated maximum value excluding VAT	The maximum value of the framework contract over the maximum possible duration of 48 months is estimated at: <b>GBP £350,000 (three hundred and fifty thousand pounds).</b>
Contract	EBA will sign a framework supply contract with the successful tenderer. The framework supply contract is included in Annex VII. The provisions of the draft contract are subject to minor modifications for the Special Conditions only.
Submission of offers	Each tenderer can only submit one offer.
Duration of framework contract	12 months, renewable up to three times, each time for a 12 month period, thus the maximum possible contract duration is 48 months.
Variants	Not permitted.
Joint offers	Permitted.
Subcontracting	Permitted. However, any intention to sub-contract must be clearly announced in the offer.

### A.2 What is EBA?

The European Banking Authority (EBA) was established by Regulation (EC) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010.

The EBA officially came into being as of 1 January 2011 and took over all existing and ongoing tasks and responsibilities from the Committee of European Banking Supervisors (CEBS).

The EBA acts as a hub and spoke network of EU and national bodies safeguarding public values such as the stability of the financial system, the transparency of markets and financial products and the protection of depositors and investors.

The EBA has some quite broad competences, including preventing regulatory arbitrage, guaranteeing a level playing field, strengthening international supervisory coordination, promoting supervisory convergence and providing advice to the EU institutions in the areas of banking, payments and e-money regulation as well as on issues related to corporate governance, auditing and financial reporting.

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### A.3 What is procurement?

Procurement covers public contracts as well as procurement procedures. Public contracts are defined as purchases by a public authority of services, goods or works. A procurement procedure is the structured way that leads to the conclusion of a public contract.

The purpose is:

- (i) to guarantee the widest possible participation of economic operators,
- (ii) to ensure the transparency of operations, and
- (iii) to obtain the desired quality of services, supplies and works at the best possible price.

Offers submitted in the context of a procurement procedure are designated “tenders”.

An economic operator who has submitted a tender is designated a “tenderer”.

Procurement procedures in EBA are governed by the following:

- **Part 1, Title V of Regulation (EU, EURATOM) No 966/2012** of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002;
- **Title V of Commission Regulation (EC, Euratom) No 2343/2002** of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, as amended;
- **Part 1, Title V of COMMISSION DELEGATED REGULATION (EU) No 1268/2012** of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union;

### A.4 Confidentiality and public access to documents

In the general implementation of its activities and for the processing of tendering procedures in particular, EBA observes the following rules:

- Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, and;
- Council Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

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## Section B – Specific Information on this Procurement Procedure

### B.1 Objective, scope and description of the contract

The scope of this procurement procedure is to award a framework supplies contract with a maximum total duration of 4 years for the provision of a range of high quality office supplies in an efficient, timely and dependable manner for a value of approximately £350,000.

### B.2 Overview of the current situation

The following products can be mentioned as representative of EBA's requirements and are ordered on a regular basis: copier paper, A4 punched pockets, open sided plastic wallets, lever arch files, notepads, pens, highlighters, post-it notes, file dividers.

### B.3 Description of the products and services required

#### B.3.a General requirements

The complete list of office supplies and consumables required by EBA on a regular basis can be found in Annex III - "Technical Specifications".

Purchase orders, as found in Annex VII - "Model Supply Framework Contract" will be used for ordering supplies via email and it is therefore desirable that the tenderer has a central email address for receipt of purchase orders.

EBA requires an automatic returns policy to be applied to all goods which are damaged in transit or not supplied to the quality or exact type ordered by EBA.

EBA requires that there is no minimum order value.

Packaging should be adapted to the size of the delivered article and be environmentally friendly.

EBA will designate a contact point to administer office supplies and expects the tenderer to designate at least one account manager to act as a (single) point of contact for all EBA needs in respect of the Framework Contract.

Quality of products and reliability of service must remain consistent throughout the duration of the contract.

#### B.3.b Specific requirements concerning all the office supplies

As and when required by EBA, the tenderer will provide the office supplies listed in Annex III - "Technical Specifications" attached to these tender specifications. .

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The tenderers must be able to supply all the items specified in the Annex III - “Technical Specifications” and the technical specifications of the proposed items shall substantially meet the specifications required by EBA in Annex III - “Technical Specifications”.

All office supplies shall be delivered to the Office Manager on Floor 20 of EBA.

EBA will mainly order office supplies specified in the Annex III - “Technical Specifications” and according to the prices specified by the tenderer in the Annex IV - “Costing Sheet”

However, occasionally EBA may order office supplies and consumables which are not specified in the Annex III - “Technical Specifications” and therefore the tenderer is expected to have the capacity to source any related product requested even if it is not listed in the Annex III - “Technical Specifications”. Examples of such additional items are the replacement of a product by a new one on the market or, exceptionally, an additional item, provided it remains within the strict scope of the framework contract.

Tenderers are invited to specify a standard discount, if applicable, off the catalogue price which will apply to purchases outside the Annex III - “Technical Specifications” and Annex IV - “Costing Sheet”. This discount should be entered into the appropriate box (“standard discount”) on the Annex IV - “Costing Sheet”. During the course of the evaluation the offered discount will be taken into account only in the event of two technically compliant offers having the same total price in the Price Simulation Scenario.

Tenderers must provide access to a regularly updated online and printed catalogue of all the office supplies and consumables supplied by the tenderer, including their prices. This catalogue should have current and regularly updated pricing for each listed item.

Please note that the requirement regarding a regularly updated online and printed catalogue as described above is a minimum requirement. Tenderers failing to comply with this requirement will be rejected.

### B.3.c Specific requirements concerning an online catalogue

The online catalogue system must respond to the following functional requirements:

- The online catalogue must allow access to one or more designated EBA users by means of a personal login and password;
- When the designated EBA user logs in to the system he/she will be able to see the products offered by the tenderer in Annex III - “Technical Specifications”;
- The price of such products shall be as indicated in Annex IV - “Costing Sheet”;
- The system should also allow the user to see all the other products available in the general catalogue of the tenderer;

- 
- The price of such products shall be the catalogue price less the standard discount offered by the tenderer in Annex IV - “Costing Sheet” (if any). The discounted amount (if any) should be clearly shown;
  - There should not be any possibility of any users being able to order via the online catalogue.

#### B.3.d Specific requirements concerning all the office supplies

##### (i) Delivery

The tenderer must provide “**next day delivery**” to the EBA’s offices for the items listed in Annex III - “Technical Specifications”, if items are ordered by 5 pm.

Please note that the requirement regarding delivery as described above is a minimum requirement. Tenderers failing to comply with this requirement will be rejected.

Tenderers should demonstrate how their delivery policy will be applied in the performance of the contract. For example, minimum order values, as well as information on the methods used for transport e.g. using own vehicle or the use of a courier service etc.

##### (ii) Returns

The tenderer will accept returns, free of charge in the following instances:

- Goods damaged in transit;
- Items delivered which are not to the quality or exact specification required by EBA.
- 

Please note that the requirement regarding returns as described above is a minimum requirement. Tenderers failing to comply with this requirement will be rejected.

#### B.3.e Product replacement

The products proposed by the tenderer in the Annex III - “Technical Specifications” may be replaced during the contract duration with similar products of equivalent or higher quality. Any proposed change of the Annex III - “Technical Specifications” must be communicated to EBA beforehand in writing and must be agreed by both parties before implementation. Such product replacements must not lead to the increase of the unit prices specified by the tenderer in the Annex IV - “Costing Sheet”. A decrease of the unit prices will be acceptable.

#### B.3.f Reporting

The tenderer will provide twice per year written reports/statements detailing the products supplied during the reporting period, the quantities, the prices and the total amount of the purchases. Each report will be submitted in one paper copy and one electronic copy in Excel format.

#### B.3.g Invoicing

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Only one invoice should be generated after the delivery of each order. The invoice should list:

- Description of the item, the quantities and unit prices of the items ordered;
- Purchase order number in full

If more than one invoice is issued per purchase order, the invoices will be rejected and a new single invoice will be requested.

Please note that the requirement regarding the invoicing as described above is a minimum requirement. Tenderers failing to comply with this requirement will be rejected.

## B.4 Variants

Variants are alternatives to any technical or financial aspects, or to any contractual conditions described in invitation to tenders.

Variants are **not** permitted in this invitation to tender.

EBA will disregard any variants described in an offer, and reserves the right to reject such offers without further evaluation on the grounds that they do not comply with the tendering specifications.

## B.5 Contract

### B.5.a Type of contract

EBA wishes to conclude a framework supply contract with a single economic operator for the supply of office stationery. Signature of the framework supply contract imposes no obligation on EBA to purchase any minimum quantity of supplies. Only implementation of the framework contract through purchase order forms is binding on EBA.

### B.5.b Contract prices and price revision

#### (i) Contract prices

Prices for the supply of the office stationery shall be given in the tenderer's Annex IV - "Costing Sheet". Prices for the supply of the office stationery not included in the Annex IV - "Costing Sheet" shall be as indicated in the tenderer's catalogue in force at the moment of submitting the order form by EBA, minus the standard discount specified by the tenderer on the Annex IV - "Costing Sheet" (if any).

#### (ii) Price revision

Prices indicated in the tenderer's Annex IV - "Costing Sheet" shall be fixed and not subject to revision for orders placed during the first year of performance of the Framework Contract. At the beginning of the second and every following year of performance of the Framework Contract, the prices may be

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revised upwards or downwards in accordance with the provisions of Article 1.3 of the “Model Supply Framework Contract” (see Annex VII).

#### (iii) Model Framework Contract

A model contract is attached to these Tender Specifications as Annex VII – “Model Supply Framework Contract”. In particular, the model supply framework contract indicates the method and the conditions for payments to the tenderer. The resulting contract with the successful tenderer will be based on this model supply framework contract. Submission of a tender implies acceptance of all the terms and conditions set out in this invitation to tender and in the model framework contract and waiver of the tenderer’s own general or specific terms and conditions. It is binding on the tenderer to whom the contract is awarded for the duration of the contract. EBA reserves the right to decline, without further comment, any tender that does not accept its model framework contract.

#### (iv) Contract Volume

Tenderers should refer to the Annex V – “Price Simulation Scenario” for the current estimated annual volume.

#### (v) Contract duration

The framework contract resulting from the present call for tender will have an initial duration of 1 year as from the date of signature by both parties and may be renewed up to 3 times, each time for additional periods of 1 year. The total duration of the framework contract shall not exceed 4 years. Implementation of the framework contract may not start before the date on which the contract enters into force. The purchase order forms shall be placed before the framework contract expires. The framework contract shall continue to apply to such order forms after its expiry, but no later than six months.

### **B.6 The content of the technical proposal**

The technical proposals must be consistent with the “Objective, scope and description of the contract” (Section B1). In preparing the technical proposal, the tenderers should bear in mind the award criteria against which the tender will be evaluated (Section B.9.a). The technical proposal shall allow EBA to assess the tenders on the basis of the award criteria set out under Section B.9.a “Award Criteria (Technical and Financial Evaluation)” of these Tender Specifications. The tenderers must present a technical proposal using the format found in Annex VI - Technical Proposal Form.

### **B.7 The content of the financial proposal**

The financial proposal shall be prepared using the Annex IV – Costing Sheet. Prices must be:

- Submitted in Pound Sterling (GBP);

- 
- Inclusive of all costs and expenses directly or indirectly involved in the performance of the contract including delivery and insurance;
  - Free of all duties, taxes and other charges (such as VAT), as EBA is, as a rule, exempt from all taxes and duties, and in certain circumstances is entitled to a refund for indirect tax incurred such as value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union. For tenderers to which the exemption does not apply under their national law, the financial proposal shall clearly state the prices exclusive of taxes and any taxes shall be stated separately.

#### B.7.a Price Simulation Scenario

To allow comparison financial proposals will be assessed and compared on the basis of a predefined price simulation scenario. For details please see Section B.9.d.

### B.8 Assessment of tenderers and tenders: Eligibility and Capacity

The assessments of tenderers and tenders will be conducted in accordance with the procedures described in Section B.9.

#### B.8. a Eligibility of the Tenderer

##### (i) Exclusion criteria

Tenderers shall be excluded from this procurement procedure if:

(a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

(b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of *res judicata*;

(c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;

(d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;

(e) they have been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;

(f) They are a subject of an administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a procurement procedure or failing to supply this information, or having been declared to be in serious breach of its obligations under contracts covered by the Union's budget.

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In addition a contract shall not be awarded to a tenderer who during the procurement procedure for this contract:

- is subject to a conflict of interest;
- is guilty of misrepresentation in supplying the information required by EBA as a condition of participation in the procurement procedure or fails to supply this information;
- finds itself in one of the situations of exclusion referred to in Article 93(1) of the Financial Regulation (Council Regulation no 1605/2002) for this procurement procedure.

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

Evidence to be provided:

Each tenderer must provide an original declaration on honour as per the template found in Annex II – “Exclusion Criteria” which must be dated and signed by the legal representative of the tenderer.

**B.8.b Capacity of the Tenderer: Selection Criteria**

The tenderer must have the capacity and capability (technical/professional, economic/financial, and legal) to perform the contract. For proof of the above, except for the cases where original documents are requested, copies of original certificates/documents issued by an official authority in the country of origin or provenance may be accepted.

**(i) Economic and Financial Capacity: Selection Criteria**

The tenderer’s average annual turnover for the last three years (2010, 2011 and 2012) must be at least **GBP £2,000,000 (two million pounds)**.

Evidence to be provided:

- balance sheets or extracts from balance sheets, profit and loss accounts for the last three years for which accounts have been closed, or equivalent documentation (e.g. where company law in the country in which the tenderer is established does not require the publication of the balance sheet);
- the Financial Capacity Form (**Annex X**), in original, duly filled in and signed by an authorised representative of the tenderer.
- Evidence of relevant professional liability insurance. Please provide details of the applicant’s insurance policies in respect of its business and those with particular relevance to this application. In particular state if the applicant holds professional risk indemnity insurance. Where a joint application is proposed, please present the information for each member individually
  - Policy type
  - Name of insurers
  - Policy Number
  - Expiry Date

- 
- Brief details of the level and risks included
  - Policy Type
  - Name of the insurers
  - Policy Number
- If a tenderer relies on the capacities of other entities, a written undertaking - in original - on the part of those entities confirming that they will place the resources necessary for performance of the contract at the tenderer's disposal.

If, for any valid reason, the tenderer is unable to provide the documents requested by the contracting authority, he may prove his economic and financial standing by any other document which the contracting authority considers appropriate.

#### (ii) Legal Capacity: Selection Criteria

The tenderer must prove that he is authorised to perform the contract under national law.

Evidence to be provided:

- a certificate of registration/incorporation in the relevant trade or professional register in the country of establishment/incorporation. If the tenderer is not required or allowed to register in such a register for reasons related to its statute or legal status, EBA shall accept, as satisfactory evidence, a sworn declaration or certificate, membership of a specific organisation, express authorisation or entry in the VAT register.

#### (iii) Technical and Professional Capacity: Selection Criteria

(a) The tenderer must have **at least 3 years of experience in the last 3 years** providing similar supplies;

Evidence to be provided:

- a brief history of the tenderer, including the length of time in business, overall size and description of activities relating to products of the type required in this invitation to tender;
- (b) The tenderer must be able to provide “**next day delivery**” to the EBA's offices (see B.3.d);
- (c) The tenderer must be able to provide access to a **regularly updated online** and **printed catalogue** of all its office supplies (see B.3.b and B.3.c);
- (d) The tenderer must offer a range of **at least 5,000 different products**;
- (e) The tenderer must be able to comply with EBA's **minimum invoicing requirement**;
- (f) The tenderer must be able to comply with the EBA's **minimum requirement** on “**returns**”.

### B.9 Assessment of the tenders

Once the tenderer has demonstrated the appropriate capacity to perform the contract on the grounds of the exclusion and selection criteria its tender will be assessed on the basis of the award criteria.

#### B.9.a Award Criteria (Technical and Financial Evaluation)

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Only tenders which meet the minimum, mandatory requirements will be considered for the technical evaluation. The award criterion which will apply to this tender is as follows: the lowest priced technically compliant offer. The technical evaluation will be carried out by assessing the offered items against the technical specifications set out in Annex III – “Technical Specifications”.

#### B.9.b Technical Evaluation

Tenderers must comply substantially with the detailed technical specification Annex III – “Technical Specifications” in order to be considered **technically compliant**.

#### B.9.c Thresholds

Tenders that comply substantially with the detailed technical specification Annex III – “Technical Specifications” will be admitted to the financial evaluation.

#### B.9.d Financial Evaluation

To allow comparison financial proposals will be assessed and compared on the basis of a predefined price simulation scenario, reflecting volume estimates for the supplies which may be purchased by EBA during a year. From this scenario EBA will calculate an estimated yearly price for the purchased supplies. The cost simulation scenario will not become part of the framework contract, will not be binding on EBA and will be used solely for the purpose of evaluating the financial proposals. Only the prices specified by the tenderer in its Annex IV – “Costing Sheet” will become part of the contract. The financial evaluation will be performed on the total estimated yearly price of the purchased supplies. The tenderer with the lowest total estimated yearly price will be ranked highest. In the event of two technically compliant offers having the same total price in the Price Simulation Scenario, the offer with the highest discount on goods outside of Annex III – Technical Specifications will prevail.

#### B.9.e Award of the contract

The contract will be awarded to the lowest priced technically compliant offer.

## B.10 Timetable

Milestone	Deadline (*)	Notes
Deadline for sending requests for clarification	<b>Wednesday 22 May 2013 @ 17.00 hrs BST</b>	The modalities for sending requests for clarifications are specified in Section C 5
Deadline for receipt of tenders	<b>Wednesday 5 June 2013 @ 12.00 hrs (noon) BST</b>	The modalities for preparing and dispatching tenders are specified in Sections C 1-C 4
Public opening of tenders	<b>Thursday 13 June 2013 at 14.30 hrs BST</b>	Names of representatives attending the public opening to be submitted to <a href="mailto:tenders@eba.europa.eu">tenders@eba.europa.eu</a> with a copy to <a href="mailto:alison.smith@eba.europa.eu">alison.smith@eba.europa.eu</a> by Tuesday 11 June 2013 at 14.30 hrs BST
Estimated signature of the contract	<b>August 2013</b>	Estimated *

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## Section C – Instructions on How to Tender

### C.1 Contents of your tender

Tenders shall comprise the following three elements:

#### Envelope A: Administrative Documentation

1. 3 copies of a cover letter enclosing the Tender on the official letter headed paper of the Tenderer and signed by an authorised representative of the Tender. The cover letter should contain:
  - The name and the designation of the person who is authorised to sign the contract on behalf of the tenderer;
  - The written statement on the tenderer's acceptance of the EBA's model contract without reservations;
  - Confirmation that the period of validity of the tender is as required in Section C.1.a.
2. Information and documentation about the tenderer's eligibility and capacity including:
  - 3 copies of the original Declaration of Honour on Exclusion Criteria (see Annex II) as specified in Section B.8.a.
  - 3 copies of the Legal Entity Form, duly filled in and signed, together with the required supporting documents (Annex VIII)
  - 3 copies of the Financial Identification Form duly filled in and signed, together with the required supporting documents (Annex IX)
  - 3 copies of the Financial Capacity Form, duly filled in and signed, together with the required supporting documents (Annex X)
3. 3 copies of the checklist of documents which tenderers must submit (Annex XI)

#### Envelope B: Technical Proposal

1. 3 copies of the Technical Specifications duly filled in and signed by the tenderer's authorised representative. Please use the Technical Specifications template provided (Annex III)
2. 3 copies of the technical proposal duly signed by the tenderer's authorised representative on the front page and initialled on each page. Please use the Technical Proposal Form (Annex VI)

#### Envelope C: Financial Proposal

1. 3 copies of the financial proposal duly filled in and signed by the tenderer's authorised representative. Please use the Costing Sheet (Annex IV).

- 
2. 3 copies of the price simulation scenario duly filled in and signed by the tenderer's authorised representative. Please use the Price Simulation Scenario (Annex V)

#### C.1.a Important note

Tenders shall be submitted strictly in accordance with the conditions set out in these Tender Specifications (including the annexes). If any other conditions are attached to or referred to in the tenderer's tender, the tenderer should declare that such conditions are entirely withdrawn.

The period of validity of the tender, during which the tender may not modify the terms of the tender in any respect, must be at least six months following the deadline for dispatching tenders.

EBA reserves the right to decline without further comment any tender that does not accept its model supply framework contract.

#### C.2 Language of your tender

Tenders must be submitted in one of the official languages of the European Union. Since EBA's working language is English, EBA would highly appreciate receiving tenders written in English, although this does not constitute a selection or an award criterion and will be ignored for the purpose of assessing the tenders.

#### C.3 How to package your tender

Tenders must be submitted using the double envelope system – i.e. one outer envelope and one inner envelope – in order to guarantee the confidentiality and integrity of data. Both the **outer** and the **inner** envelopes must carry the following information:

Tender reference:	EBA/2013/002/OPS/SUP/OP
Tender title:	Supply of Office Stationery
TENDER – NOT TO BE OPENED BY THE INTERNAL MAIL DEPARTMENT	
To be delivered to Alison Smith, Office Manager	

If self-adhesive envelopes are used, they must be sealed with adhesive tape and the sender must sign across the tape.

The inner envelope should contain three envelopes properly marked, as follows:

- **Envelope A** containing the **Administrative documentation**
- **Envelope B** containing three signed originals (signed and clearly marked as "original") of the completed **Technical Proposal Form** and **Technical Specifications** and one electronic copy on CD, DVD or USB stick

- 
- **Envelope C** containing three signed originals (signed and clearly marked as “original”) of the **Costing Sheet**, three signed originals of the **Price Simulation Scenario** and one electronic copy of each file on CD, DVD or USB stick

#### C.4 How to dispatch your tender

The tenderer must dispatch its tender by **registered post or by courier service** no later than **12.00 hrs (noon) BST on Wednesday 5 June 2013**, the postmark or the date of the deposit slip with the courier service serving as proof of posting date/time.

If the tender is submitted **by hand** it must arrive at the EBA not later than **12.00 hrs (noon) BST on Wednesday 5 June 2013**.

The documents must be dispatched to the following address:

Alison Smith, Office Manager  
European Banking Authority  
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**Tenders sent by other means (e.g. by email or fax) or dispatched after the deadline indicated in Section B.10 will be rejected.**

##### C.4.a Important note: proof of dispatch

###### (i) Registered mail and courier service

The tenderer shall dispatch its tender to the postal or courier service by the deadline indicated in Section B.10 at the latest i.e. by Wednesday 5 June 2013 @ 12.00 hrs (noon) BST

As a proof of dispatch, the date and time of dispatch shall be clearly indicated by the postal or courier service on the outer envelope of the tender.

###### (ii) Hand delivery

The tenderer shall hand in its tender to the EBA official taking delivery by the deadline indicated in Section B.10 at the latest.

As proof of delivery, the tenderer shall obtain a receipt, signed and dated by the EBA official taking delivery, clearly indicating the date and time when the EBA official took delivery of the tender.

**In order to ensure hand delivery by the deadline, the tenderer is strongly advised to take into account the time needed for security checks when entering Tower 42 and the EBA premises and for the actual handover of its tender to the EBA official in charge of taking delivery.**

EBA will not be held liable for any delays incurred by the tenderer on arrival and when in EBA's premises; the tenderer alone is responsible for ensuring that its tender is delivered on time.

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## C.5 Contacts between EBA and tenderers

Contacts between EBA and the tenderer may only take place in exceptional circumstances, under the following conditions:

### C.5.a Before the deadline for dispatching tenders

#### (i) Requests for clarifications

Should the tenderer discover any discrepancies in the Tender Specifications or be in any doubt as to their meaning, the tenderer should notify EBA. The tenderer may also request additional information and/or clarifications on the procurement procedure, the tender specifications or the nature of the contract. Such requests should be made in writing only; no telephone queries will be accepted.

The requests should indicate the tender reference number and title in the subject line, and should be sent by email to: [tenders@eba.europa.eu](mailto:tenders@eba.europa.eu) with a copy to [alison.smith@eba.europa.eu](mailto:alison.smith@eba.europa.eu)

All queries should be sent to EBA no later than the deadline indicated in Section B.10. Tenderers should note that EBA is not bound to reply to requests for additional clarifications made less than 5 working days before the deadline for dispatching tenders.

#### (ii) Amendment of the tender specification

At any time prior to the deadline for dispatching tenders, EBA may modify the Tender Specifications by amendment.

In order to allow tenderers reasonable time in which to take the amendment into account in preparing their tenders, EBA, at its discretion, may extend the deadline for dispatching tenders.

Clarifications and/or amendments will be regarded as an integral part of the Tender Specifications. EBA will reply to all requests for clarification in strict compliance with the equal treatment principle.

**Answers to all such requests will be published on the procurement pages of the EBA website.**

To ensure that all tenderers are kept informed of answers to requests for clarification and possible corrigenda, all tenderers are strongly advised to visit the procurement pages of the EBA website at regular intervals throughout the tendering period.

#### (iii) After the deadline for dispatching tenders

If, after the deadline for dispatching tenders, a clarification is needed by EBA or if obvious clerical errors in the tender need to be corrected, EBA may contact the tenderer, although such contacts may not lead to any alterations of the terms of the submitted tender.

### C.5.b Can a Consortium submit a Tender? Is Subcontracting Allowed?

Consortia of economic operators are authorised to submit tenders (joint offers) in compliance with the terms and conditions specified in Section E.

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## Section D – How tenders will be Evaluated.

### D.1 Evaluation

#### D.1.a Public Opening Session

Tenders are opened by an Evaluation Committee, whose members are appointed by EBA on a personal basis under guarantee of impartiality and confidentiality.

##### (i) Formal Opening Requirements

The main aim of the opening session is to check whether the tenders received are compliant with the following formal requirements:

1. the tender was not dispatched later than the dispatch deadline indicated in Section B.10,
2. the inner envelope containing the tender is sealed as specified in Section C.3, in order to guarantee the confidentiality and integrity of data,
3. the tender contains information and documentation indicated in Section C.1,
4. the Technical and Financial proposals are signed on the front page and initialled on each page, as indicated in Section C.1,
5. the tender is submitted in the number of copies required in Section C.2.

If tenders are not compliant with requirements no. 1 and 2, **they will be rejected**.

##### (ii) Modalities to Attend the Public Opening Session

The public opening session will take place at EBA's premises on the date and time indicated in Section B.10. One representative per tenderer is allowed to attend the opening session as an observer. Should a tenderer wish to be present, it should inform EBA of the name of its representative preferably by email to [tenders@eba.europa.eu](mailto:tenders@eba.europa.eu) not later than the date and time indicated in Section B.10.

#### D.1.b Tender Evaluation Session

Tenders complying with the formal opening requirements checked during the opening session are evaluated in four stages by an evaluation committee, whose members are appointed by EBA on a personal basis under guarantee of impartiality and confidentiality.

- The evaluation committee first checks the eligibility of the tenderer to participate in the procurement procedure as defined in Section B.3.
- The evaluation committee checks if all the mandatory requirements listed in Section B.3 are met. The tenderers that do not meet the mandatory requirements will be excluded.
- The evaluation committee will then evaluate the technical proposals.
- The evaluation committee will then evaluate only the financial proposals of those tenders whose technical proposals complied with the Technical Specification.

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The evaluation procedure is confidential. The deliberations of the evaluation committee are held in closed session and its recommendations are collective. The members of the evaluation committee are bound to secrecy.

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## Section E – Joint Offers Submitted by Consortia and Subcontracting: Terms and Conditions

Companies can consider two ways of collaborating in a tender: either as joint partners in the tender or through subcontracting. Unless stated otherwise in the contract notice and/or the tendering specifications, both **joint tenders** and **subcontracting** are allowed in response to a call for tenders issued by EBA. Tenders may even combine both approaches. In any case, the tenderer must specify very clearly whether each economic operator involved in the tender is acting as a partner in a joint tender or as a subcontractor (this also applies where the various companies involved belong to the same group, or even where one is the parent company of the other). Please fill in the relevant information in the **Technical Proposal Form (see Annex VI)** for this purpose. The implications of these two modes of collaboration are different. So that you can understand them both fully, they are outlined below.

### E.1 Joint Offers Submitted by Consortia

#### E.1.a Introduction

Groups of economic operators (consortia) are authorised to submit tenders (joint offers). In this case, each member of the consortium shall fulfil the requirements and accept the terms and conditions set out in the Invitation to Tender, the Tender Specifications, the Model Contract as well as all the relevant annexes. The members of the consortium shall designate one member as Consortium Leader with full authority to bind the consortium and each of its members. The Consortium Leader shall act as a single point of contact with EBA in connection with the present procurement procedure. EBA may not demand that consortia must have a given legal form in order to be allowed to submit a tender. However, the consortium selected may be required to adopt a given legal form after it has been awarded the contract and before the contract is signed, if this change is necessary to the proper performance of the contract.

#### E.1.b Documentation/Information to be provided

Each member of the consortium must provide the following documentation:

- Documentation related to its eligibility to tender as specified in **Section B.8**
- Documentation related to the economic and financial capacity of the tenderer and documentation related to its legal capacity as specified in **Section B.8**;

Documentation related to its technical and professional capacity, as specified in **Section B.8**, shall relate to the whole consortium

#### E.1.c Evaluation

Joint offers submitted by consortia will be assessed as follows:

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- The exclusion criteria (**Section B.8.a**) and the selection criteria for the legal capacity (**Section B.8.b (ii)**) will be assessed in relation to each member of the consortium individually;
  - The selection criteria for the economic and financial capacity (**Section B.8.b (i)**) will be assessed as follows:
    - For criteria set as minimum viability standards on financial and economic standing (e.g. by means of appropriate statements from banks or balance sheets), an individual evaluation will be made;
    - For criteria that are deemed to be achieved above a certain level (e.g. overall turnover or turnover with respect to the specific tender), a consolidated assessment – all members of the consortium together – will be made;
  - The selection criteria for the technical and professional capacity (**Section B.8.b**) will be assessed in relation to the combined capacities of all members of the consortium, as a whole;
  - The technical and financial evaluation of the offers (**Section B.9**) will be carried out in relation to the tender.

Since all members of the consortium are jointly and severally liable towards EBA for the performance of the contract, statements included in the joint offer saying the following, for instance, are incompatible with the principle of joint and several liability:

- that each member of the consortium will be responsible only for a specific part of the contract, or
- that a separate contract should be signed with each member of the consortium if the joint offer is successful.

EBA will disregard any such statement contained in a joint offer, and it reserves the right to reject such offers without further evaluation, on the grounds that they do not comply with the Tender Specifications.

**N.B.** If a member of the consortium does not fulfil one of the exclusion criteria the whole consortium shall be excluded.

#### E.1.d Contract Implementation

Once the contract has entered into force, all members of the consortium shall be jointly and severally liable towards EBA for the performance of the contract, they shall comply with the terms and conditions of the contract and ensure the proper execution of their respective share of the services. The Consortium Leader – duly authorised by the other members of the consortium – will be entitled to sign any contractual documents; it shall act as a single point of contact with EBA in connection with the services to be provided under the contract; it shall co-ordinate the provision of the services by the consortium members to EBA; it shall guarantee a proper administration of the contract. The composition of the consortium and the allocation of tasks among the members of the consortium shall not be altered without prior written information to EBA.

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## E.2 Subcontracting

### E.2.a Introduction

The tenderer may subcontract the tasks specified in Section B.1 to other economic operators, as long as the supplies and/or services are provided in accordance with the Tender Specifications and have no impact on the prices proposed in its financial proposal.

### E.2.b Documentation/Information to be provided

The tenderer shall:

- State which tasks it intends to subcontract and clearly indicate the already identified subtenderer(s), their roles, activities and responsibilities;
- Specify the volume or proportion of the activities likely to be subcontracted;

In addition, if the tenderer intends to subcontract above 50% of the activities specified in Section B.1 to other economic operators, and the subcontractor(s) is/are already identified, the tenderer shall provide the following documentation for each subcontractor:

- Documentation related to the eligibility to tender of the already identified subcontractor(s), as specified in Section B.8
- Documentation related to the economic and financial capacity and documentation related to the legal capacity of the subcontractor, as specified in Section B.8;
- Documentation related to the technical and professional capacity of the subcontractor (documentation to be provided to the extent of the activities that will be subcontracted), as specified in Section B.8.

### E.2.c Evaluation

In case of subcontracting, the tender will be assessed as follows:

- *(if applicable)* the exclusion criteria (Section B.8.a) and the selection criteria for the legal capacity (**Section B.8.b (ii)**) will be assessed in relation to each proposed subcontractor individually;
- *(if applicable)* the selection criteria for the economic and financial capacity (Section B.8.b) will be assessed as follows:
  - For criteria set as minimum viability standards on financial and economic standing (e.g. by means of appropriate statements from banks or balance sheets), an individual evaluation will be made;
  - For criteria that are deemed to be achieved above a certain level (e.g. overall turnover or turnover with respect to the specific tender), a consolidated assessment – tenderer plus subcontractor(s) – will be made, depending on the extent to which the subcontractor(s) will put their resources at the disposal of the tenderer for the performance of the contract;
- *(if applicable)* the selection criteria for the technical and professional capacity (Section B.8.b) will be assessed in relation to the combined capacities of the tenderer and the subcontractor(s), as a

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whole, depending on the extent to which the subtenderer(s) will put their resources at the disposal of the tenderer for the performance of the contract;

- The technical and financial evaluation of the offers (**Section B.9**) will be carried out in relation to the tender.

#### E.2.d Contract Implementation

Once the contract has entered into force, the successful tenderer shall retain full liability towards EBA for the performance of the contract as a whole. EBA will not have any direct legal commitment with the subcontractor(s). During the execution of the contract, the tenderer will need EBA's express authorisation to replace a subcontractor with another subcontractor and/or to subcontract tasks for which subcontracting was not envisaged in the original tender, in compliance with the provisions on subcontracting foreseen in the contract.

### Section F – Signature of the Contract: Provision of Documentation

#### F.1 Eligibility documentation (exclusion criteria)

The **successful tenderer** to whom EBA intends to award the contract will have to provide – within a time limit defined by EBA and preceding the signature of the contract – specific evidence in order to prove that they are not in a case of exclusion. Please see Annex II. However, EBA may decide to waive the obligation of the successful tenderer to submit the documentary evidence if such evidence has already been submitted to EBA for the purposes of another procurement procedure and provided that the issuing date of the documents does not exceed one year and that they are still valid. In such a case, the successful tenderer shall declare on its honour that the documentary evidence has already been provided to EBA in a previous procurement procedure and confirm that no changes in its situation have occurred. **The acceptable proof and supporting documentation for legal and natural persons and public entities from the UK is a declaration on oath from a public notary or commissioner for oaths. Declarations counter-signed by company secretaries, auditors or accountants are not acceptable.**

**N.B.** In case of joint offers submitted by consortia, the above listed documentary evidence shall be provided by each member of the consortium. In case of subcontracting, the above listed documentary evidence shall be provided on EBA's request.

The successful tenderer shall acknowledge that the notification letter sent by EBA to inform him that EBA intends to award him the contract does not constitute the award of the contract itself. This will not be completed until the contract has been signed by the successful tenderer and EBA. Please note that the signature of the contract between EBA and the successful tenderer will be conditional upon provision of the documentary evidence from the successful tenderer.

#### F.2 Capacity documentation (selection criteria)

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On EBA's request, the successful tenderer shall submit, within a time limit defined by EBA and preceding the signature of the contract, the original certificates/documents to EBA for conformity check prior to the signature of the contract. In such case, please note that the signature of the contract between EBA and the successful tenderer will be conditional upon provision of the original certificates/documents from the successful tenderer.