

European Stability Mechanism



## **Pre-Qualification Document**

**PQD Ref. No.: IT/06/OS/MC/24**

**IT Onsite Services**

**19/08/2024**

# Table of Contents

- INTRODUCTION ..... 3
- 1. CONTENT OF THIS PQD ..... 3
- 2. OVERVIEW OF THE PROCUREMENT REQUIREMENT ..... 4
  - 2.1. *Type of Procurement Procedure* ..... 4
  - 2.2. *Procurement Process Steps and Timelines* ..... 4
  - 2.3. *The ESM Contact Details* ..... 4
  - 2.4. *Clarification Matters* ..... 5
  - 2.5. *Application Structure and Response Instructions* ..... 5
  - 2.6. *Coordinates and Guidelines for Submission of Applications* ..... 6
  - 2.7. *Eligibility and Selection Criteria* ..... 7
- 3. TERMS AND CONDITIONS OF THIS PQD ..... 8
  - 3.1. *Rights of the ESM* ..... 8
  - 3.2. *Cost of Participating in the Procurement Process* ..... 8
  - 3.3. *Trade Name, Logo and Marks* ..... 8
  - 3.4. *Confidentiality* ..... 9
  - 3.5. *Involvement of/Reliance on Third Parties* ..... 9
  - 3.6. *Transfer of Undertakings* ..... 10
  - 3.7. *Notification of the ESM’s decision* ..... 11
  - 3.8. *Validity of the Application* ..... 11
- ANNEX 1 TERMS OF REFERENCE ..... 12
- ANNEX 2 ELIGIBILITY CRITERIA..... 12
- ANNEX 3 OTHER REQUIRED INFORMATION AND DOCUMENTS..... 12
- ANNEX 4 SELECTION CRITERIA ..... 12

## Introduction

The European Stability Mechanism (the “ESM”) is a permanent crisis resolution mechanism established by the euro area Member States as an intergovernmental organisation under public international law. Its purpose is to ensure the financial stability of the euro area as a whole, and of its Member States experiencing severe financing problems, by providing financial assistance through a number of instruments.

More background information about the ESM may be found on the website: <https://www.esm.europa.eu/>

**Neither Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 nor Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 (as amended) apply to the ESM. The ESM procures supplies, services and works on its own behalf and for its own account pursuant to the ESM Procurement Policy as published on the ESM website. Please refer to the ESM website for more information.**

This Pre-Qualification Document (the “PQD”) sets out the eligibility, exclusion and selection criteria, as part of a pre-qualification stage (“Stage 1”) of the two-stage procurement procedures of the ESM (i.e. Restricted Procedures and Negotiated Procedures), in order to assess the suitability of a Candidate to participate further in this procurement procedure. Candidates, which are successful at Stage 1 (pre-qualified Candidates) and, if applicable, chosen by the ESM among the eligible and suitable Candidates, will be invited to participate in the subsequent Request for Proposal stage of the procurement procedure (“Stage 2”).

For the purposes of this PQD, economic operators who wish to apply to this procurement procedure are referred to as “Candidate” or “Candidates” and their response is referred to as an “Application” or “Applications”.

Unless otherwise defined in this PQD, all capitalised terms used in this PQD have the meanings ascribed to them in the ESM Procurement Policy.

## 1. Content of this PQD

The PQD consists of the following documents:

No.	Document Title	Comment
1.	Prequalification Document – Core Document	This document
2.	Annex 1 – Terms of Reference	Attached
3.	Annex 2.1 – Eligibility Declaration Annex 2.2 – Non Collusion Declaration	Attached
4.	Annex 3.1 – Cover Certification Form Annex 3.2 – Consortium Declaration Annex 3.3 – Subcontractor commitment letter	Attached
5.	Annex 4 – Selection Criteria Appendix A – Economic and Financial Standing	Attached

## 2. Overview of the Procurement Requirement

The ESM intends to establish a framework agreement (the “**Framework Agreement**” or “**Contract**”) for the provision of IT Onsite Services.

The Framework Agreement to be awarded as a result of this procurement procedure will have a four (4) year term with the option to extend for a further 2 years.

Further information can be found in Annex 1 to this PQD.

### 2.1. *Type of Procurement Procedure*

This procurement procedure is carried out by the ESM under a Negotiated Procedure in accordance with Article 9.1 (1) and (2) of the ESM Procurement Policy and is referred to in this PQD as a procurement procedure or a procurement process.

### 2.2. *Procurement Process Steps and Timelines*

The ESM plans to carry out the procurement process in accordance with the steps defined in the table below. The ESM reserves, at its sole discretion, the right to vary the steps and timelines.

No.	Procurement Process Steps	Timeline
1.	Contract notice and PQD publication date	19/08/2024
2.	Deadline for submission of clarification questions on the contract notice and the PQD (via <a href="#">the ESM Procurement tool</a> )	06/09/2024 11:00 hrs (local Luxembourg time)
3.	Response to the clarification questions on the contract notice and the PQD (via <a href="#">the ESM Procurement tool</a> )	Regularly
4.	Deadline for submission of Applications (via <a href="#">the ESM Procurement tool</a> ) (the “Applications Deadline”)	18/09/2024 11:00 hrs (local Luxembourg time)
5.	Target date of notification of the ESM’s decision on pre-qualification to unsuccessful Candidates and dispatch of the RFP to the pre-qualified Candidates (via <a href="#">the ESM Procurement tool</a> )	30/09/2024

### 2.3. *The ESM Contact Details*

All communications must be done via [the ESM Procurement tool](#). Only in case [the ESM Procurement tool](#) does not work, candidates will be allowed to contact ESM directly via the following email address: via email at:

[procurement@esm.europa.eu](mailto:procurement@esm.europa.eu)

Attention: Marion Courbis

The ESM shall not be bound by and the Candidates agree not to rely upon any written or verbal statements or representations of any other persons, whether employed by the ESM or not.

## 2.4. Clarification Matters

During the procurement procedure, Candidates are entitled to submit in writing via [the ESM Procurement tool](#) questions to the ESM within the deadline above indicated. The ESM may provide additional information solely for the purpose of clarifying the procurement documents and taking into account the following aspects:

- a) Queries must be raised via [the ESM Procurement tool](#).
- b) Queries can be raised on any matter in the contract notice or this PQD, including the Annexes. However, the ESM reserves the right not to answer any particular query.
- c) The ESM will endeavour to respond to all queries and issue responses in a timely and professional manner. The ESM reserves the right not to answer any queries received after the deadline for submission of clarification questions stated above.
- d) Subject to point e) below, responses to the queries will be published on [the ESM Procurement tool](#) if they are of relevance to all Candidates.
- e) If the ESM receives a query from a Candidate which, in the sole discretion of the ESM, constitutes a query relevant to that Candidate only, the ESM will provide a response to that Candidate only.
- f) The clarification questions aim to clarify the procurement documents. The ESM will not provide a qualitative judgment during the clarification period.

## 2.5. Application Structure and Response Instructions

When preparing Applications, Candidates should observe the following:

- All documents must be submitted in English.
- Note limitations on any page/word limits specified. Any response exceeding the specified limits may be disregarded beyond that limit.
- Answers should be as concise as possible, complete and comprehensive.
- The ESM does not wish to receive any marketing or other promotional materials.
- Responses to the eligibility, exclusion and/or selection criteria will be evaluated independently and cross-references between response elements are not permitted.
- The Candidate should clearly identify in the Application any requirements specified in this PQD that the Candidate cannot satisfy.

Application Structure			
#	Section	Template and instructions	Document format
1.	Cover Certification Form	Candidates are requested to provide a cover certification form dated and duly signed by an authorised representative on the Candidate's company letterhead (Annex 3.1)	Fully scanned copy with signature in PDF
2.	Eligibility and Non-Collusion Declarations	Candidates are requested to submit completed, dated and duly signed declarations (Annex 2.1 and 2.2)	Fully scanned copy with signature in PDF
3.	General Response	Candidates are requested to respond to the Selection criteria listed in Annex 4 (including completing Appendix A).	PDF
4.	Attachments	Candidates are requested to include any attachments, as requested in Annex 4.	PDF
5.	Other Declarations if applicable	If applicable, Candidates are requested to submit completed, dated and duly signed declarations Annex 3.2 and 3.3.	Fully scanned copy with signature in PDF

Forms to fill in	Candidate (including Consortium Lead)	Consortium members	Key Subcontractors
Declaration on Eligibility Annex 2.1	To be completed	To be completed	N/A
Declaration of Non-Collusion Annex 2.2	To be completed	To be completed	N/A
Cover Certification form Annex 3.1	To be completed	N/A	N/A
Consortium Declaration Annex 3.2 (if applicable)	To be completed	To be completed	N/A
Subcontractor commitment letter Annex 3.3 (if applicable)	N/A	N/A	To be completed

## 2.6. *Coordinates and Guidelines for Submission of Applications*

Applications shall be submitted no later than the Applications Deadline specified under section 2.2 Procurement Process Steps and Timeline and must be submitted only **via the [the ESM Procurement tool](#)**.

Only Applications received through these means will be accepted.

All digital copies of Applications shall be submitted in compliance with the following guidelines:

- a) One file per section as described above in the "Application Structure" table.
- b) Any supporting or additional files must be clearly named.
- c) All files should be named clearly with a sequential number and a relevant file name, e.g.
  - o Annex 2.1 – Eligibility Declaration
  - o Annex 2.2 – Non-Collusion Declaration

- Annex 3.1 – Cover Certification Form

d) All files must be provided in a standard non-editable format, such as PDF.

## 2.7. Eligibility and Selection Criteria

In order to be eligible to participate in this procurement process, Candidates must be either natural persons or legal persons and state that they are not in one of the exclusion situations listed in the declarations of Annex 2.1 and 2.2.

If such circumstances arise in the course of the procurement process, the Candidate concerned must inform the ESM thereof without undue delay. Candidates may submit evidence to demonstrate their eligibility despite the existence of grounds for exclusion. The ESM may, in its sole discretion, decide whether such evidence is satisfactory.

Candidates must comply with all eligibility and exclusion criteria to be assessed further.

<b>ELIGIBILITY CRITERIA – elements of the evaluation</b>	
Duly executed declarations as requested in Annex 2.1 and 2.2.  * If responding as part of a Consortium, each member of the Consortium must sign these Annexes.	Pass / Fail

In order to assess a Candidate’s capacity to perform the Framework Agreement the ESM will apply the following selection criteria (full information can be found in **Annex 4**).

In the event that the Candidate submits an Application together with a third party/-ies and/or with sub-contractor(s), the combined capacities of the Candidate and all such third party/-ies and/or subcontractor(s) will be assessed for the purpose of meeting the selection criteria.

<b>SELECTION CRITERIA – elements of the evaluation</b>	
Economic and financial standing	Pass / Fail
Technical or professional ability	Pass / Fail
Authorisation and suitability to carry out the relevant professional activity	Pass / Fail

Candidates must achieve a rating of “Pass” for all the “Pass / Fail” criteria to be considered successful at Stage 1 (pre-qualified Candidates).

## 3. Terms and Conditions of this PQD

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### 3.1. *Rights of the ESM*

By submitting an Application, the Candidates confirm that they have taken note and accepted all terms and conditions of this PQD.

Applications must be provided by the closing deadline. The ESM reserves the right, at its sole discretion and in exceptional circumstances only, to accept Applications received after the closing deadline.

After the ESM opens the Applications, it may request Candidates to submit, supplement, clarify or complete information or documentation which is or appears missing, incomplete, inconsistent or erroneous within an appropriate time limit. The ESM reserves the right to reject from further consideration any such Applications.

The ESM reserves the right to request that Candidates provide documentary evidence in support of the statements made in their Applications.

Any effort by the Candidate to influence the ESM in the process of examination, evaluation and comparison of Applications, or in the decision regarding the pre-qualification process may result in the rejection of the Application.

The ESM may decide, at its sole discretion while complying with the general principles set forth in the ESM Procurement Policy, to cancel this procurement process in whole or in part at any time before the Framework Agreement is awarded as a result of this procurement process. The cancellation does not give rise to any form of compensation for Candidates.

The ESM will ensure that the information provided by Candidates is treated and stored in accordance with the principles of confidentiality and integrity.

The ESM reserves the right to disclose the contents of Applications to its third party advisors (if applicable) who are bound by the same confidentiality and integrity obligations as the ESM.

If the ESM discovers, before the expiry of the deadline for submissions of Applications, a lack of precision, an omission or any other type of error in this PQD, it will rectify the error and inform all Candidates in writing via [the ESM Procurement tool](#).

### 3.2. *Cost of Participating in the Procurement Process*

All costs relating to the participation in this procurement process, including in particular any costs in relation to the preparation of Applications and of any other documents requested by the ESM and any subsequent follow-up shall be borne exclusively by the Candidate.

### 3.3. *Trade Name, Logo and Marks*

The ESM logo, covers, page headers, custom graphics, icons, and other design elements and words or symbols used to identify the description of the procurement requirement are either trademarks, trade names or service marks of the ESM and its licensors, or are the property of their respective owners. These marks may not be copied, imitated or used, in whole or in part, without the explicit prior written consent of the ESM.



### 3.4. Confidentiality

If the Candidate considers that any part of its Application or other documents/information submitted to the ESM include Confidential Information within the meaning of this section the Candidate must clearly mark such parts of the Application or other documents/information as 'confidential'.

Candidates are advised that their participation in this procurement process constitutes Confidential Information except for the announcement by the ESM of the successful Candidate on the ESM website in accordance with Article 9.17 (3) of the Procurement Policy.

Except if required in a judicial or administrative proceeding, or if it is otherwise required to be disclosed by any law or regulation, or where information is already in the public domain, the ESM will: (a) not disclose the Confidential Information; (b) take all reasonable measures to preserve the confidentiality and avoid disclosure, dissemination or unauthorised use of Confidential Information; and (c) not use such Confidential Information for any purpose other than as is necessary in connection with this procurement process. Confidential Information does not include information which (a) was known to the ESM prior to receiving the information from the Candidate; (b) becomes rightfully known to the ESM from a third-party source not known to the ESM (after diligent inquiry) to be under an obligation to the Candidate to maintain confidentiality; (c) is or becomes publicly available through no fault of or failure to act by ESM; or (d) has been developed independently by the ESM or authorised to be disclosed by the Candidate. Confidential Information may only be shared with third parties (e.g. contractors) that have a need to know the Confidential Information in relation to this procurement process and provided that such third parties comply with the confidentiality obligations provided in this section.

In addition, if the Candidate has signed an ESM confidentiality undertaking the Candidate agrees to comply with all obligations set forth in such confidentiality undertaking. If there is a conflict between such confidentiality undertaking and this procurement procedure, the confidentiality undertaking will prevail.

### 3.5. Involvement of/Reliance on Third Parties

If the Candidate intends to involve a third party in the supply of the services offered to the ESM the Candidate has to ensure that any such third party is bound by the requirements set forth in this PQD.

#### Consortia

In case of a group of economic operators responding together to this procurement procedure ("**Consortium**"), Candidate means the Consortium and the Application must provide the following:

- a. a clear description of the proposed Consortium, its organisational hierarchy and structure, the names of all Consortium members and the roles, activities and responsibilities of the Consortium leader and each Consortium member;
- b. information on whether the Consortium will form a legal entity and if yes, details of the actual or proposed percentage shareholding within such legal entity and other official documents confirming existence of such legal entity. If not, full details of the proposed Consortium arrangement including submission of an executed Consortium agreement.
- c. Signed declarations available in Annex 2.1 (Eligibility Declaration), Annex 2.2 (Non-collusion declaration) and Annex 3.2 (Consortium declaration) from all Consortium members.

If the Contract is awarded to a Consortium, all Consortium members will be jointly and severally liable towards the ESM for all obligations arising of or resulting from the Contract.

If a Candidate considers any changes in the Consortium structure it must immediately notify the ESM in writing via [the ESM Procurement tool](#). The composition of a Consortium (including the roles, activities and responsibilities of the Consortium leader and each Consortium member) cannot be modified or members of the Consortium cannot be exchanged, whether during the course of this procurement process or during the term of the Contract, without the prior written consent of the ESM.

### Subcontractors

If subcontractors will play a significant role in delivering the services offered to the ESM (“**Key Subcontractor**”), the Candidate must provide as part of its Application:

- a. a clear description of the proposed subcontracting arrangement, in particular which tasks the Candidate intends to subcontract and their volume or proportion, the name(s) of the proposed Key Subcontractor(s) and its/their roles, activities and responsibilities; and
- b. a document signed by any Key Subcontractor stating its intention to collaborate with the Candidate should the Candidate be awarded a Contract. The template available in Annex 3 3.3 (Subcontractor Commitment Letter) shall be used for this purpose.

If a Candidate subcontracts some of the services under the Contract to subcontractors, it will nevertheless remain fully liable towards the ESM for the performance of such services and responsible for the Contract as a whole. The ESM will have no direct legal commitments with the subcontractor(s).

Any changes to the proposed Key Subcontractors must be notified immediately to the ESM. Candidates cannot exchange or replace the Key Subcontractors or modify the nature of the subcontracting arrangement (including the subcontracted tasks, their volume or proportion), whether during the course of this procurement procedure or during the term of the Contract, without the prior written consent of the ESM.

Moreover, any additional Key Subcontractor(s), which was/were not assessed by the ESM during this procurement procedure, may only be appointed if the ESM’s has given its prior written consent.

Note: If a SaaS solution is running in the public cloud, the public cloud service provider (AWS, Azure etc.) is a “Key Subcontractor” according to this Section. However, due to the special nature of the public cloud services, it is not required to complete the Subcontractor Commitment Letter (Annex 3 3.3). All other requirements regarding Key Subcontractors continue to apply.

### **3.6. *Transfer of Undertakings***

The Candidates acknowledge and accept the possibility that if they are awarded the Contract, the Contract may in some cases trigger the application of the relevant provisions of Luxembourg law or of a collective labour agreement regarding transfers of undertakings, in particular, but not limited to, Articles L.127- 1 to L.127-6 of the Luxembourg Labour Code as amended from time to time (collectively the “**Regulations**”). Consequently, the Candidates acknowledge and accept the possibility that if they are awarded a Contract the staff employed by the existing service provider performing the services to the ESM (the “**Employees**”) may, if necessary, be taken over and/or transferred automatically, by the virtue of the Regulations.

The Candidates are therefore invited, if deemed appropriate and if not already included in the procurement documents, to request the ESM to provide any necessary information regarding the Employees. The ESM reserves the right to answer questions at a later stage of the procurement procedure if deemed appropriate in the ESM’s sole discretion.

Should the Regulations be applicable, the existing service provider and the successful Candidate will fully comply with all of their obligations under the Regulations and will take all necessary steps to facilitate the takeover and/or transfer of the Employees. Any discussions regarding potential takeover and/or transfer of the Employees will be directly between the existing service provider and the successful Candidate. All the costs incurred by the successful Candidate in relation to the application of the Regulations will be borne solely by such Candidate and will not give rise to any financial compensation from the ESM and will not affect in any way the financial proposal submitted by the successful Candidate.

### ***3.7. Notification of the ESM's decision***

The ESM will notify in writing via [the ESM Procurement tool](#) its decision to advance or not advance the Candidate's Applications. The Candidates whose Applications did not advance can request, in accordance with the ESM Procurement Policy and timelines set within and in the ESM notification, a de-brief addressing the reasons for not advancing their Application. The de-brief will be limited to the reasons related to the unsuccessful Candidate's Application and will not cover any information about other Candidates' Applications.

### ***3.8. Validity of the Application***

By submitting an Application, Candidates acknowledge and agree that their Application will remain valid for a period of 9 (nine) months from the deadline for submission of Applications.

**Annex 1 Terms of Reference**

**Annex 2 Eligibility Criteria**

**Annex 3 Other Required Information and Documents**

**Annex 4 Selection Criteria**