

Instructions to Tenderers

Air Start Units

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1. CONTRACTING AUTHORITY

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2. INTRODUCTION TO THE TENDER PROCEDURE

The tender procedure is carried out as an open procedure according to the rules of The Public Procurement Act (Act no. 1564/2015 of 15 December 2015) (*hereafter the Public Procurement Act*).

This tender procedure concerns the award of a Contract (*hereafter Contract*) and Annexes hereto (*hereafter Annexes*) regarding the acquisition of 3 (three) Air Start Units.

These Instructions to Tenderers describe the formal rules of the tender procedure regarding the submission of offers, communication between DALO and the tenderers as well as information in general. Furthermore, they serve as an introductory guide to tenderers with respect to the reading and understanding of the tender documents.

If, contrary to expectations, there are inconsistencies between these Instructions to Tenderers and the rest of the tender documents, including the instructive clauses of the individual Annexes to the Contract, the rest of the tender documents take precedence.

The tender procedure consists of the following stages:

1. Completing the offer: The tenderer prepares his offer on the basis of the tender documents, and the tender is completed with submission of the offer within the deadline for submission in clause 5.1. In this period, the tenderer has the opportunity to obtain additional information by submitting questions in writing, cf. clause 4.1.
2. Evaluating the offers: DALO will open and review the offers according to the procedure described in clause 6. DALO will then proceed to evaluate the offers in accordance with the award criteria and the evaluation method in clause 7.
3. Award of the Contract: DALO makes the decision concerning award of the Contract and informs the tenderers hereof. If the winning tenderer has not provided documentation for the information provided in the European Single Procurement Document (ESPD) earlier in the tender procedure, the tenderer must provide such documentation, prior to DALO's decision concerning award of the contract, cf. clause 8.

3. THE INDIVIDUAL ELEMENTS OF THE TENDER DOCUMENTS

The complete tender documents consist of:

- Contract Notice.
- The European Single Procurement Document (available at ETHICS).
- These Instructions to Tenderers.
- Enclosures to Instructions to Tenderers:
 - Enclosure 1: Cover Letter (template) which the tenderer is encouraged to use when submitting the offer
 - Enclosure 2: Evaluation method (award criteria and evaluation method)
- Draft Contract which contains the legal provisions that regulate the relations between the contracting parties during the term of the Contract.
- Draft Annex A-J to the Contract which contains the detailed requirements of the Air Starting Units and which will form part of the Contract when the tender procedure is concluded.

The tender documents are available via ETHICS. The permalink is stated in section I.3) of the Contract Notice.

4. PRACTICAL INFORMATION

4.1 Questions in writing

Tenderers will have the opportunity to obtain additional information regarding the tender documents and the subject-matter of the tender by submitting questions in writing.

Questions must be drawn up in English and submitted in writing using the tab “Communication” on ETHICS web portal. Answers will be posted on ETHICS website.

Information regarding written questions and the answers to these questions will be uploaded to ETHICS website. The name of the tenderer having submitted the question will be anonymised.

Questions received no later than 14. February 2020 will be answered by DALO no later than 6 days before the deadline for submission of the offer.

Questions received later than the date set out above will also be answered unless the nature of the question makes it disproportionately onerous for DALO to answer 6 days before the deadline for submission of the offer.

Answers to questions received later than 6 days before the deadline for submission of the offer cannot be expected.

Consequently, questions and answers will form part of the tender documents which the tenderer accepts in its entirety when submitting the offer.

5. THE TENDERER'S OFFER

5.1 Deadline for submission of the offer

The offer must be submitted electronically through ETHICS' web portal no later than:

Friday, the 28. February 2020 at 13:00 hrs. local time

Offers received after this deadline will not be considered.

The permalink to the ETHICS' web portal intended for the submission of the offer is stated in section I.3) of the Contract Notice. The offer cannot be submitted by any other means than ETHICS' web portal as described above.

The offer is submitted when uploaded and concluded to ETHICS' web portal in accordance with the instructions given by ETHICS. After the offer is uploaded and/or concluded, it is possible for the tenderer to change the content of the offer until the deadline for submission of the offer.

DALO will not have access to the submitted offer until after the expiry of the deadline for submission of the offer.

If the offer contains more versions of the same document, the latest version will prevail. The time indicator within ETHICS will determine which version is applicable.

The tenderer must keep open his offer for a period of 6 months after the deadline. The tenderer may only submit one offer.

5.2 Description of the offer

An offer consists of the following documents:

- A. Cover letter (template), Enclosure 1,
- B. The European Single Procurement Document (available at ETHICS)
- C. Completed Annexes

Re. A) Cover Letter

The tenderer is asked to use the Cover Letter (template), cf. Enclosure 1, when submitting the offer.

Re. B) The European Single Procurement Document (ESPD)

The tenderer must submit the European Single Procurement Document (ESPD) as part of his offer.

The tenderer and, if relevant, the participants in the group of entities or/and entities on which the tenderer relies on, must use the electronic version of the ESPD available at ETHICS' web portal. The ESPD shall be fulfilled and submitted at ETHICS' web portal in accordance with the instructions given by ETHICS.

Re. C) Completed Annexes

The tenderer must complete the following Annexes:

- Annex B.1 - The Suppliers Offer:
- Annex B.2 - The Suppliers Offer
- Annex C.2 - NATO kodification form (excel-sheet)
- Annex D - Initial Package of Spare Parts
- Annex E - Training programme
- Annex F (F.1 and F.2) - End-User conditions

Before completing the Annexes, the tenderer should carefully read the instructive paragraphs of each draft Annex to the Contract and draw up the Annex with due respect for the preconditions stated herein.

The tenderer should use language suited for legal obligations. Repeated use of phrases such as "we have often successfully made", "one might also imagine" or "this might be solved through" is not acceptable and will, within the framework of the criteria set out in clause 7, be regarded negatively when evaluating the offers.

It is emphasised that the tenderer should respect the format and composition of the tender documents when completing the parts of the tender documents that are presumed to be composed or completed by the tenderer. Hence, the tenderer should not change e.g. the composition of the Annexes and should ensure that all required information is given in the designated form.

The offer must be in the language(s) stated in the Contract Notice section IV.2.4) and VI.3) and should be signed when submitted.

As stated in the Contract Notice, the tenderer is not allowed to submit alternative offers.

5.3 Negotiation

It is emphasised that DALO is not able to negotiate with the tenderers with regard to the offers submitted; however, discussions with tenderers may be held but only for the purpose of clarifying or supplementing the content of their offers or the requirements of the contracting authorities and provided that this does not lead to unequal treatment.

Accordingly, no contractual or price negotiations will be held, and the tenderers should thus ensure that their offer is drafted so as to allow the conclusion of a contract without prior negotiations between the tenderer and DALO.

The offer should therefore be complete, treat all relevant matters, include all necessary information and be accurate in every respect. It is emphasised that it is the sole responsibility of the tenderer that the offer fulfills the requirements set out in the tender documents.

5.4 Confidentiality

The tenderers must observe unconditional confidentiality with regard to any information that may come to the tenderer's knowledge in connection with this tender procedure. The tender documents must be handled with strict confidentiality, and the tenderer is not entitled to use the documents, or the knowledge obtained, in any other context.

The tenderer should be aware that the documents, including any offers received, in this tender procedure may be subject to regulations on the right of access to documents. This means that competitors and others may request access to tender documents submitted by the tenderer. With reference to the practice of the Danish Complaints Board for Public Procurement, requests for access to documents from other undertakings that are also participating in the tender process must be complied with by DALO, depending on the circumstances. When determining which documents should be handed over, it will be taken into account, however, if the tenderer has asked that the offer be treated confidentially and has indicated the part(s) of the offer where this is relevant.

Thus, if a tenderer requests that any information or elements in the offer should be exempted from the right of access to documents (e.g. due to business considerations), the tenderer should state so explicitly in his offer and in the Cover letter, cf. Enclosure 1.

However, DALO is in any event entitled and obliged to give access to documents to the extent required by law.

5.5 Technical specifications and standards

The documents may contain requirements that are expressed in the form of technical specifications, such as an ISO standard. DALO has endeavored to attach the words "or equivalent" to all such technical specifications. If, contrary to expectations, any technical specifications do not include the words "or equivalent", the text should be understood to include the words "or equivalent".

If the offer does not comply with all standards specified by DALO, the tenderer must provide information in Danish or English establishing that the standard used in the offer is equivalent to the standard specified by DALO.

If such information is not provided, DALO will – if not otherwise stated by the tenderer – assume that the offer complies with all standards specified by DALO. Before signing the Contract, DALO will delete the words “or equivalent” in all requirements where the winning tenderer has complied with the standards specified by DALO. In case the winning tenderer has provided sufficient information on the use of equivalent standards (according to the above paragraph) DALO will, before signing the Contract, amend the relevant requirements in order to reflect the winning tenderer’s equivalent standard.

5.6 Reservations and Mandatory Requirements

Reservations cannot be made concerning essential elements or Mandatory Requirements (marked with “M” in the Requirements Specification (Annex A) in the tender documents. A reservation concerning an essential element in the tender documents is a reservation which may lead to serious distortion of the competition if the reservation is allowed.

A number of reservations concerning non-essential requirements may jointly be considered a reservation concerning essential elements.

Non-compliance or partial compliance with Evaluation Requirements (marked with “E”) in the Requirements Specification (Annex A) is not regarded as a reservation. The extent of compliance with the Evaluation Requirements will form part of the evaluation, cf. clause 7.

The tender documents include a number of Mandatory Requirements. A Mandatory Requirement is a requirement that must unconditionally be complied with as deviations from the requirements will not be accepted.

Consequently, offers that do not comply with all the Mandatory Requirements or with reservations concerning essential elements will be considered "non-compliant" offers and will not be taken into consideration, cf. however clause 6 and § 159(5) of the Public Procurement Act.

Regarding the Contract

The provisions in the Contract are Mandatory Requirements with respect to which the tenderer may not make reservations.

Regarding Annexes

Apart from the Requirements Specification (Annex A), the tenderer is not allowed to make any reservations. This means that all other Annexes, except for the Requirements Specification (Annex A), are to be considered Mandatory Requirements.

Should there be any uncertainty regarding the completion of Annexes A, or whether a reservation will result in the offer being non-compliant, the tenderer is encouraged to submit written questions, cf. clause 4.1.

6. OPENING AND HANDLING OF OFFERS

DALO will open the offers after the expiry of the deadline for submission of the offer, cf. clause 5.1. Tenderers do not have the opportunity to be present when the offers are opened. DALO is not obliged to return the offer or any tender documents to the tenderer.

DALO will review whether the received offers are compliant with the formal requirements. DALO will check whether the tenderer has completed the European Single Procurement Document, and whether the document has been completed correctly and whether it contains any information which could lead to exclusion of the tenderer from the tender procedure.

DALO may obtain additional information and clarifications in accordance with the procedure stated in § 159(5) of the Public Procurement Act.

DALO will then continue to assess whether the received offers are compliant with the Mandatory Requirements set forth in the tender documents.

The use of the word "shall" in the tender documents does not prevent DALO from remedying or disregarding missing or ambiguous information in the offer. However, DALO is under no obligation to obtain additional information and clarification from the tenderers.

DALO may also clarify any ambiguities or discrepancies in accordance with the Public Procurement Act.

Lastly, DALO will evaluate all compliant offers as described in clause 7.

After DALO has made the award decision, all tenderers will be notified simultaneously. The notification of the unsuccessful tenderers will include a brief statement of the relevant grounds for the decision, including the relative advantages and disadvantages of the successful offer as well as information about the date when the standstill period expires.

6.1 Currency conversion of prices

If the prices offered are stated in another currency than Danish Kroner (DKK), the prices will be converted to DKK on the same day for all tenders. The conversion is done for evaluation purposes only and will be based on a budget exchange rate.

The budget exchange rate is calculated based on the following (calculated on basis of the calendar months preceding the month of the deadline of the submission of the offer):

On the basis of the monthly average exchange rates from the central bank of Denmark ("Danmarks Nationalbank"), DALO will calculate

- a. the average exchange rate between DKK and the foreign currency during the last four (4) months
- b. the average exchange rate between DKK and the foreign currency during the last two (2) months
- c. the average exchange rate between DKK and the foreign currency during the last month (1)

The budget exchange rate is then calculated as an average of these three average exchange rates (a, b and c).

The Contract will be based on the offered currency.

7. EVALUATION

7.1 Award criteria

The Contract will be awarded on the basis of the award criterion the best price-quality ratio. In the evaluation of the offers, DALO will use the following sub-criteria with the specified weighting:

- 1. Price 70 %**
- 2. Functionality 30 %**

The percentages indicate the weighting of each sub-criterion in the evaluation of the offers. The sub-criteria are further specified and described in Enclosure 2 – Evaluation Method.

7.2 Evaluation method

In order to determine which offer has the best price-quality ratio, DALO will use a scoring model with fixed financial frame to compile the sub-criteria “Price” and “Functionality”. The evaluation method is described in detail in Enclosure 2.

8. THE AWARD OF THE CONTRACT AND THE CONCLUSION OF THE PROCEDURE

Prior to DALO’s decision concerning the award of the Contract, the tenderer to whom DALO intends to award the Contract must submit documentation in accordance with § 152 of the Public Procurement Act for the information given in the ESPD, cf. § 151 (1) of the said Act.

DALO may at any time during the procurement procedure require the tenderer to present this documentation, if it is deemed necessary in order to ensure correct performance of the procedure.

DALO may only award the Contract, when DALO has been presented with the documentation for the information stated in the ESPD, cf. §§ 148-151 of the said Act.

When DALO has identified the most economically advantageous tender on the basis of the award criterion set out in clause 7.1, DALO will decide on the award of the Contract.

DALO is not obliged to award the Contract and reserves the right to cancel the tender procedure.

Regardless of whether the Contract is awarded, all tenderers are bound by the terms of their offer until DALO has entered into a contract or the period set out in clause 5.1 has expired.

The notification of the tenderers of the award decision does not mean that the Contract has been entered into. The Contract is not final until it is signed, and the Contract can only be signed after expiry of the standstill period.

Should the Contract be awarded to a joint group of economic operators (a consortium), the participants of such consortium must assume joint and several liability and appoint a representative of the group.

The costs incurred by the tenderer by participating in the tender procedure are of no concern to DALO. This includes a situation where the procedure is terminated without an award.

When the Contract has been signed, DALO will publish a contract award notice in the Official Journal of the European Union (TED), and the tender procedure is then finalised.

9. TIME SCHEDULE FOR THE TENDER PROCEDURE

Event	Date, time
Deadline for submission of questions, cf. clause 4.1.	14. February 2020
Offer submission deadline, cf. clause 5.1.	28. February 2020
Estimated date when the Contract will be awarded.	Week 11 2020
Expected date when the Contract will be signed.	Week 12 2020
