



Framework Agreement (ARVODI 2018) relating to Lot 2

31133408 InSAR based deformation service for the Dutch built environment

The undersigned:

1. The State of the Netherlands, which has its seat in The Hague, represented by the Minister of Infrastructure and Water Management, legally represented in this matter by directeur Inwinning & Gegevensanalyse Rijkswaterstaat Centrale Informatievoorziening, mw.mr. N.C.M. Zeijlemaker, hereinafter referred to as the Contracting Authority,

and

2. [Contractor's full name and legal form], which has its registered office in ..., legally represented in this matter by [and ...] [signatory's name], hereinafter referred to as the Contractor,

WHEREAS:

1. The Contracting Authority wishes, in relation to the performance of Services in the area of InSAR data processing, to agree fixed terms for a certain period with four service providers;
2. To this end, the Contracting Authority wishes to conclude a Framework Agreement having a term of three year(s) with two optional extension(s) of one year, hereafter referred to as 'the Framework Agreement', laying down the conditions applicable to all contracts for the performance of Services to be awarded by the Contracting Authority during the said term;
3. An EU contract award procedure for the selection of Parties to this framework agreement has been conducted on the basis of the Descriptive Document and subject to the Public Procurement Act 2012;
4. The Contracting Authority has judged the Contractor's bid, and those of *three* other Parties, to be the most economically advantageous bid;
5. This Framework Agreement lays down the conditions that apply to all contracts for the performance of Services that the Contracting Authority intends to award during the term of this Framework Agreement and that may or may not be awarded to the Contractor after competition between the Framework Contractors based on the award criterion of the most economically advantageous tender;

6. The Contracting Authority will enter into contracts similar to the present contract with the three other Framework Contractors.

AGREE AS FOLLOWS:

A number of terms in this Framework Agreement are written with initial capitals. These terms are defined in article 1 of the General Government Terms and Conditions for Public Service Contracts 2018 (ARVODI 2018). In derogation therefrom or in addition thereto, the following terms are defined as follows for the purposes of this Framework Agreement:

Descriptive Document: the Contracting Authority's document dated [*date*], ref. ..., which describes and explains participation in the Framework Agreement for the performance of Services during a certain period, the tender procedure to be followed and the selection and award criteria.

Services: the work that the Contractor is to perform for the Contracting Authority under the terms of a Call-off Contract concluded on the basis of this Framework Agreement in the area of *lot 2 as defined in the tender documentation*.

Tender: the tender dated ..., ref. ..., submitted by the Contractor on the basis of the Descriptive Document in the context of the EU contract award procedure dated ..., ref.

Call-off Contract: the contract between the Contracting Authority and the Contractor drawn up in accordance with the model attached as Schedule 3 to this Framework Agreement on the basis of which the Contracting Authority may award the Contractor contracts for the performance of Services during the term of this Framework Agreement.

Quotation: an offer to perform Services submitted by the Contractor to the Contracting Authority in response to a Request for Quotations under this Framework Agreement.

Request for Quotations: an invitation by the Contracting Authority under this Framework Agreement to all Framework Contractors to submit a Quotation for a public service contract.

Framework Contractor: a tenderer selected to be Party to the Framework Agreement relating to the performance of Services in the area of *lot 2 as defined in the tender documentation*.

1. Object of the Framework Agreement

- 1.1 During the term of this Framework Agreement the Contracting Authority may issue Requests for Quotations for contracts to perform Services. In response to the Request for Quotations, the Contractor must submit a Quotation that is not less favourable than the Tender submitted by the Contractor. If the contract referred to in the Request for Quotations is awarded by the Contracting Authority to the Contractor on the basis of the award criteria for

the further award stipulated in the Descriptive Document, the Contractor must perform that contract in accordance with the conditions of this Framework Agreement. To this end, the Contractor must in that case conclude a Call-off Contract with the Contracting Authority.

- 1.2 The following documents together form this Framework Agreement. In the event of inconsistencies, a higher ranked document takes precedence over a lower ranked document:
 1. this document;
 2. the ARVODI 2018;
 3. the Descriptive Document;
 4. the Tender(documents).
- 1.3 The Contracting Authority is entitled but not obliged to award contracts for the performance of Services during the term of this Framework Agreement. The Contractor cannot therefore claim any right whatsoever to be awarded contracts for the performance of Services during the term of this Framework Agreement.
- 1.4 The terms of this Framework Agreement apply in full to all Call-off Contracts concluded during the term of this Framework Agreement between the Contracting Authority and the Contractor concerning contracts for the performance of Services specified in a Request for Quotations, unless a Call-off Contract expressly departs from this Framework Agreement.
- 1.5 A Call-off Contract states the specific Services to which it relates and its duration.
- 1.6 The result of the Services performed under each Call-off Contract must be laid down in the form of a final report. The final report must in any event state that the Contracting Authority is the copyright holder, specify the results achieved, the methods and techniques applied, and the resulting conclusions and recommendations, and contain a list of contents and a summary.

2. Duration of the Framework Agreement

- 2.1 This Framework Agreement enters into force on the date that it is signed by both Parties. It has a term of four year(s), with the option of extension of one year under the same conditions to be exercised unilaterally by the Contracting Authority].

The Contracting Authority must notify the Contractor in writing no later than three months before the expiry of the then applicable term of the Framework Agreement if it intends to exercise its option to extend the Framework Agreement. If the Contracting Authority does not exercise its option to extend the Framework Agreement, it will end automatically upon expiry of the term referred to in the first sentence of the term applicable at that time.

- 2.2 Termination of this Framework Agreement for whatever reason does not affect rights and obligations resulting from Call-off Contracts. The terms of this Framework Agreement continue to apply to any Call-off Contracts remaining in force after this Framework Agreement has ended.
- 2.3 The duration of any Call-off Contracts awarded to the Contractor under this Framework Agreement will be stipulated in the individual Call-off Contracts for each contract for the performance of Services.
- 2.4 If the Services have not been performed in full in accordance with the Contract within the agreed or extended term, the Contractor will immediately pay a penalty of 0.1% of the total or maximum price specified in the Contract for each day that it fails to perform the Services as agreed, up to a maximum of 10% thereof. If, other than through force majeure, the Contractor is permanently unable to perform the Services as agreed, the penalty will be immediately payable in full.

The penalty will be payable to the Contracting Authority, without prejudice to all other rights and claims, including:

- a. the right to demand that the Services be performed as agreed;
- b. the right to damages.

The penalty will be set off against amounts payable by the Contracting Authority regardless of whether the right to such amounts has been assigned to a third party.

3. Further award

- 3.1 The Contractor must submit a Quotation, having regard to the provisions of this Framework Agreement, within ten working days of receipt of a standard Request for Quotations [and five working day(s) in the case of an urgent request from the Contracting Authority]. The Contracting Authority will not be required to pay to obtain a Quotation.
- 3.2 The Quotation, including the fee, must comply with and may not be less favourable than the Tender submitted.

4. Price and other financial provisions

- 4.1 All Call-off Contracts will state that the Contractor will perform the Services specified therein for a fixed total price.
- 4.2 It is expressly agreed that if the Contractor does not charge VAT but some or all of the Services are not exempt from VAT, the Contracting Authority will not be liable to pay the VAT in question.

- 4.3 The price referred to in article 4.1 of this Framework Agreement relates to all Services to be performed by the Contractor under the Call-off Contract in question. It includes the cost of any materials needed for that purpose, any travel and accommodation costs, and any additional costs. It does not include VAT.
- 4.4 The agreed maximum or other rates are fixed and invariable for the duration of this Framework Agreement and Call-off Contracts concluded on the basis of this Framework Agreement.
- 4.5 The Contractor will send the invoice(s) to the central delivery point for invoices, Digipoort, quoting the above-mentioned contract number and purchase order number or any other electronic way accepted by the Dutch Government.
- 4.6 Payment will be made once the Services performed in accordance with a Call-off Contract have been received and accepted.

5. Contacts / Project managers

- 5.1 The Contracting Authority's contact is The Contractor's contact is
- 5.2 At least [...] per year, the contacts of the two Parties will hold consultations on the way in which this Framework Agreement is being implemented (interim evaluation(s)).
- 5.4 Notwithstanding the provisions of article 10.2 of the ARVODI 2018, the contacts cannot make legally binding agreements on the Parties' behalf.

6. Time and place

- 6.1 The work relating to the Services specified in a Call-off Contract will be carried out at the place(s) stipulated in the Call-off Contract.
- 6.2 Each Party undertakes to give the other Party's Staff access to the place where the work relating to the Services specified in the Call-off Contract must be performed and also to enable such Staff to perform the work in working conditions that reflect that Party's usual practice and in normal office hours. The Parties undertake to instruct their Staff to abide by the internal rules applicable at the place where the work is to be carried out.

7. Other Terms and Conditions

- 7.1 This Framework Agreement and a contract for the performance of Services in accordance with a Call-off Contract are governed exclusively by the ARVODI 2018 *already in the Parties' possession*, in so far as this Framework Agreement does not depart therefrom. Any general and special terms and conditions drawn up by the Contractor do not apply.
- 7.2 Notwithstanding article 21.3 of the ARVODI 2018, the liability referred to in that article is limited to 20% per event and 100% per contract.
- 7.3 In addition to article 24 of the ARVODI 2018, the intellectual property rights relating to information obtained from third parties for the purpose of performing a Call-off Contract for the performance of Services will remain the property of the same third parties. The Contractor will make suitable arrangements for the Contracting Authority to make use of the information in question as stated in this Framework agreement and the Call-off Contract.
- 7.4 In addition to article 21 of the ARVODI 2018, the Contractor indemnifies the Contracting Authority against any claims for damages brought by third parties as a result of its failure to

discharge its obligations as referred to in article 21.3 of the ARVODI 2018. The liability amounts set out in article 21.3 of the ARVODI 2018 apply *mutatis mutandis*.

- 7.5 Without prejudice to article 22 of the ARVODI 2018, the Contracting Authority may, within three years of any respective judgment becoming final and unappealable, cancel this Contract forthwith out of court by registered letter, without giving any warning or notice of default, if:
- a. the Contractor has been convicted, by final and unappealable judgment, of discrimination within the meaning of articles 137c to 137g and article 429 quater of the Criminal Code; or
 - b. a member of the Contractor's Staff has been convicted, by final and unappealable judgment, of discrimination within the meaning of articles 137c to 137g and article 429 quater of the Criminal Code and that staff member is on the Contractor's executive, management or supervisory board or has representative, decision-making or audit powers.

8. User rights

- 8.1 The Contractor grants the Contracting Authority of all not transferable rights, a non-exclusive, irrevocable right for an indefinite period to publish or reproduce the results of the Services, or have them published or reproduced, which right the Contracting Authority accepts, such in the widest sense, regardless of the method of use or reproduction and regardless of whether such use or method of reproduction is known when this Contract is signed.

9. Declaration of integrity

The Contractor affirms that it has not offered or given members of the Contracting Authority's Staff any benefit in order to be selected to be party to this Framework Agreement or in order to obtain Call-off Contracts for the performance of Services, nor arranged for them to be offered or given any such benefit, nor will it offer or give any such benefit or arrange for any such benefit to be offered or given. It undertakes not to do so in the future with a view to inducing any members of the Contracting Authority's Staff to perform or refrain from performing any act.

10. Final provisions

- 10.1 Any derogations from this Framework Agreement or a Call-off Contract are binding only if they have been expressly agreed by the Parties in writing.
- 10.2 Any written or oral agreements previously made by the Parties about the award of contracts for the performance of Services, whether under a Call-off Contract or not, are nullified by the signature of this Framework Agreement.

Done on the later of the two dates stated below and signed in duplicate.

The Hague, [*date*]

[*place, date*]

For the Minister of/State Secretary for

For [*Contractor's name*]

[*signatory's name*]

[*signatory's position*]

[*signatory's name*]

[*signatory's position*]

[Schedule(s):]