

Method of working within the Framework Agreement

National Road Traffic Data Portal

NOTE: This document has no legal status. The legally binding information about this tender you will find in the document *Beschrijvend Document* published in TenderNed.



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Authors: Jilt Reitsma and Farhad Qayoumi

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Data Portal

✉ info@ndw.nu

🖥 www.ndw.nu

☎ 088 797 34 35

🏠 Archimedeslaan 6
3584 BA Utrecht

✉ PO Box 24016
3502 MA Utrecht



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Partners in NDW:

NDW is a partnership of Rijkswaterstaat, all provinces, the Rotterdam The Hague metropolitan region, the Amsterdam transport region and the city councils of Amsterdam, Rotterdam, The Hague and Utrecht.

Contents

1	Framework Contractors as 'Partners for Traffic data from non-road bound systems'	5
2	Entering into Agreements under the Framework Agreement	5
	Request for Proposals	5
	Proposal	5
	Evaluation of Proposals and Award of Supplementary Agreement(s)	6
	Opportunity for questions and corrections to the Proposal	6
	Suspensive period	6
	Complaint handling	6
	Consortium formation and use of subcontractors	7
	Advance notice	7
3	Evaluations within the Framework Agreement	7
	Considerations	7
	Issuing procedure	8
	Retraction procedure	8
4	Possible changes to documents	8

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This document describes the way in which NDW intends to work with the parties within the TDNRS Framework Agreement. This document forms part of the Descriptive Document and explains the method of working as set out in the Framework Agreement and the resulting Agreements.

The following topics are discussed:

1. Framework Contractors as 'Partners for Traffic data from non-road bound systems'
2. Entering into Agreements
3. Quality measurement within the Framework Agreement
4. Possible changes to technical documents

1 Framework Contractors as 'Partners for Traffic data from non-road bound systems'

The purpose of the Framework Agreement is for NDW to be flexible in meeting its partners' requests for data provision. NDW thereby wants to retain access to innovations in the market and at the same time purchase legitimately.

Another important objective for NDW is to maintain a dialogue with the parties to the Framework Agreement about developments and needs at NDW and its partners, developments in the market and technological developments. NDW also wants to use this to stimulate innovations and maximise the 'public-private' partnership by entering into a partnership with the market in the area of Traffic data from non-road bound systems.

NDW is asking all the parties to the Framework Agreement to contribute (pro)actively and constructively to this partnership by attending meetings organised by NDW. NDW plans to organise a general meeting once a year, possibly supplemented by a number of theme meetings.

In the preparation of Supplementary Agreements, NDW foresees the desirability of consulting with contractors about the content and feasibility of requirements. One result could be that, based on input, dialogue or negotiation, this can be part of a Request for Proposals (in line with the competition-oriented dialogue or competitive procedure with negotiation).

2 Entering into Agreements under the Framework Agreement

Within the Framework Agreement, all assignments to be awarded by NDW on behalf of one or more partners relating to Traffic data from non-road bound systems will be procured in accordance with the provisions of Article 2.47(2) of the Procurement Act 2012 (Aanbestedingswet 2012). A Request for Proposals is sent to all parties within the Framework Agreement, inviting parties to submit a Proposal. After the Proposals have been evaluated, the assignment will be awarded. A so-called Supplementary Agreement is then entered into with the Contractor for this purpose.

Request for Proposals

NDW prepares a Request for Proposals (Supplementary invitation to compete) for assignments, including appendices. Generally speaking, the Request for Proposals consists of:

- the specifications of the assignment, including the required quality, method of delivery, data specifications and additional requirements;
- specific information about the assignment, such as location, timetable, etc;
- the awarding criteria on the basis of which the Proposals will be evaluated;
- a draft of the Agreement.

Proposal

Parties can submit a Proposal based on the Request for Proposals. This Proposal must meet the requirements set out in the Request for Proposals. The Proposal generally consists of:

- a proposal for the solution offered, including substantiation;
- an implementation plan with a plan of action, schedule of activities, risk analysis and control measures, etc;
- timetable for the work to be carried out with interdependencies;
- a substantiated costing.

Bonus/penalty arrangements may be agreed In the Agreements in specific cases. These Agreements may also include agreements on other delivery methods with corresponding payment schedules.

Evaluation of Proposals and Award of Supplementary Agreement(s)

The submitted Proposals will be evaluated by NDW (and its partner(s)) on the basis of the Best Value for Money. The awarding criteria together with the weighting and scoring method will be announced in more detail in the Request for Proposals. In principle, NDW uses the value for money awarding model. With value for money, the relationship between price and quality is determined. The Proposal which offers the best value for money will be awarded.

With this method, NDW assesses the quality of the proposals and assigns them a score. The total quality is then divided by the price, so that it becomes clear which proposal offers the most quality per euro.

Calculation example with fictitious values:

	Total quality	Tendered amount	VfM (quality x 1000)	Ranking
Quote A	800	€ 800,000	1.00	1
Quote B	200	€ 300,000	0.67	3
Quote C	1000	€ 1,250,000	0.80	2

Opportunity for questions and corrections to the Proposal

The Commissioning Authority expressly reserves the right to ask tenderers for clarification, with due observance of the principle of equality and transparency.

Suspensive period

If a participant who has tendered a proposal objects to the proposed award, it must initiate summary proceedings against the intended award by NDW within 10 calendar days after receipt of the notice by serving a summons.

If summary proceedings have not been initiated within 10 days of the date of dispatch of the proposed award, the successful participants can no longer raise objections to the proposed award and have waived their rights in this regard. NDW is then free to act on its intention to award the assignment and will proceed with the final award.

Complaint handling

NDW has set up a central contact point where businesses can submit complaints. The e-mail address is: klachtenmeldpunt@ndw.nu.

A complaint must be submitted in good time by a business which has an interest in this procurement. The complaint sets out with reasons the aspects on which the business disagrees with the procurement or a part thereof. The complaint must also include the date, name and address of the business and the designation of the procurement.

The complaint must be recognisable as such and relate to aspects of this procurement. Complaints cannot relate to NDW's procurement policy in general.

A business that has submitted a complaint can at any time still bring the matter before the courts in summary proceedings. A complaint that has already been submitted will then not be dealt with until after the court has handed down its judgment. Submitting a complaint does not suspend a procurement procedure. NDW is free to decide whether or not to suspend the procedure. The complaints contact point will immediately confirm receipt of the complaint and forward it to NDW to be dealt with.

The submitted complaint is dealt with by an independent complaints committee that will make recommendations to the director of NDW. The committee shall start the investigation as soon as possible and continue its work expeditiously, taking into account the timetable of the procurement procedure. If the complaint is found to be justified in whole or in part and NDW takes corrective and/or preventive steps, this will be communicated in writing to the business and the other (potential) participants/interested parties as soon as possible. If the complaint is found to be unjustified, this shall be communicated to the business in writing, stating the reasons.

Consortium formation and use of subcontractors

Under the Framework Agreement, parties are permitted to submit a Proposal under the Framework Agreement as a consortium or to use subcontractors for a specific assignment awarded under the Framework Agreement, unless this compromises competition. If the framework contractors and/or subcontractors also have a Framework Agreement themselves for the delivery of Traffic data from non-road bound systems with NDW, no additional requirements apply. If a framework contractor wishes to form a consortium with a business outside the Framework Agreement or wishes to use a subcontractor(s) who was not known at the time of the Tender for the delivery of Traffic data from non-road bound systems with NDW, the requirements as set out in the table below will apply:

No.	Description	Acting as a consortium member	Subcontractors
A1	ESPD	Yes	On request
U1	Entry in the national professional/commercial register	Yes	On request
U2	Declaration of conduct for tendering	yes	On request
G1	Required standards	yes	no

If parties have tendered for the Framework Agreement with Subcontractor(s), the combination of the main contractor with one or more Subcontractor(s) may only be changed with the prior written approval of the Commissioning Authority.

Advance notice

The number and size of the assignments under the Framework Agreement is not known in advance. NDW will endeavour to provide periodic (e.g. annual) advance notice to the parties to the Framework Agreement, listing the assignments expected at that time.

3 Evaluations within the Framework Agreement

Interim and bi-directional assignment evaluations shall take place during the execution of assignments under the Framework Agreement. In addition to identifying the lessons learned, each assignment will be periodically assessed on a number of specific criteria, including the quality of the provided Traffic data from non-road bound systems. The criteria shall be matched to the size and complexity of the assignment, and will be announced in advance in the Request for Proposals. The criteria relate to the execution quality, but also to more subjective aspects such as the attitude of the Contractor and NDW itself.

The outcome of an assignment evaluation can be grounds for issuing a 'yellow card'¹ in the event of poor performance by an individual Contractor. Poor performance can relate to the quality delivered, but also to more subjective aspects such as attitude. A yellow card will always be substantiated by NDW, and is only issued after NDW has indicated more than once that the performance is insufficient.

In the event of two yellow cards, an individual Contractor will no longer be invited for one or more Supplementary Agreements. The relevant Contractor will only be invited again if the Contractor has demonstrated, to be assessed by NDW, that the problems identified in the substantiation of the yellow cards have been largely resolved. NDW will always make this decision on the basis of reasonableness and fairness. The following considerations and procedures shall be taken into account when issuing and revoking a 'yellow card':

Considerations

- Within the NDW organisation, poor performance will usually be signalled first by the service manager, either from the SLR meetings or from his role as a bridge from Procurement & Supply to Functional Management. In addition, poor performance may already become apparent during the project/implementation phase, in which case the project leader is the initiator. In both cases, the signalling of poor performance is the responsibility of the Purchasing and Contracts Manager.
- Formal decisions on issuing or withdrawing a negative assessment will be made by the NDW Director.
- In view of the nature and impact of the measure, it seems logical that the NDW Director will make such a decision after consulting the Purchasing and Contracts Manager and the MT.

Issuing procedure

1. The Purchasing and Contracts Manager will notify the NDW Director if, in his opinion, there is a poor performance under the Framework Agreement for Traffic data from non-road bound systems. This notification must be substantiated as specifically as possible, and it must also indicate what contact there has been with the supplier about this and what the Contractor may have done or refrained from doing as a result of this contact.
2. The NDW Director will discuss the poor performance with the Purchasing and Contracts Manager and in the MT.
3. The NDW Director will inform the relevant Contractor in writing of the intention to issue a negative assessment, giving the Contractor the opportunity to respond and possibly refute the substantiation.
4. The Contractor will be invited by NDW for a meeting where both parties can explain the situation in more detail.
5. Any response from the Contractor will again be discussed with the Purchasing and Contracts Manager and the MT, after which it will be decided whether the proposed decision will be upheld.
6. The NDW Director will inform the Contractor in writing of the final negative assessment or the fact that it will not take place. This will also indicate under which conditions or after which period the yellow card will be retracted.

Retraction procedure

1. The Purchasing and Contracts Manager will monitor progress on the points mentioned in the substantiation of the negative assessment.
2. If these points have been dealt with satisfactorily and the Contractor expresses the view that this is the case, the Purchasing and Contracts Manager will submit the current position with regard to these points to the NDW Director.
3. This current position will be discussed with the Purchasing and Contracts Manager and in the MT, after which the NDW Director will decide whether or not to retract the negative assessment.
4. The NDW Director will inform the Contractor in writing of the retraction of the negative assessment, or of it not being retracted if the Supplier has requested this.

If a Contractor disagrees with the outcome of a project evaluation, an attempt will first be made to reach a solution through consultation. If this does not work, the parties will attempt to resolve the dispute through mediation. If the dispute cannot be resolved through mediation, the matter will be submitted to the courts unless the parties agree on another form of dispute resolution.


4 Possible changes to documents

For specific assignments, any changes from the documents accompanying the Framework Agreement will be described in the Request for Proposals and Agreement. Parties can take this into account when submitting a Proposal.


If changes only affect future assignments, NDW will consult with the parties to the Framework Agreement to determine what the possible consequences and effects are.


If the changes (also) has consequences for current assignments, the change procedure described in the Agreement will be used to find an appropriate solution. If this does not work, the parties will attempt to resolve the dispute through mediation. If the dispute cannot be resolved through mediation, the matter will be submitted to the courts unless the parties agree on another form of dispute resolution.


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