



Framework Agreement (Arvodi 2018) relating to the Weighted Average Cost of Capital for tariff-regulated industries

IUC number: 202101067

The undersigned:

1. The State of the Netherlands, which has its seat in The Hague, represented by the State Secretary of Economic Affairs and Climate Policy, legally represented in this matter by ms. M.R. Leijten MSc, Member of the Board of ACM, 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 the services determining Weighted Average Cost of Capital for tariff-regulated industries, to agree fixed terms for a certain period with three (3) service providers;
2. To this end, the Contracting Authority wishes to conclude a Framework Agreement having a term of two (2) years with two (2) optional extension(s) of one (1) 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 Tender Document and subject to the Public Procurement Act 2012;
4. The Contracting Authority has judged the Contractor's bid, and those of two (2) other Parties, to offer the best price-quality ratio;
5. This Framework Agreement lays down the conditions that apply to all Further Agreements 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 Further Agreements similar to the present contract with the two (2) 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:

Tender Document: the Contracting Authority's document dated [date], ref. 202101067, 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 Further Agreement concluded on the basis of this Framework Agreement in the area of the services determining Weighted Average Cost of Capital for tariff-regulated industries.

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

Further Agreement: the contract between the Contracting Authority and the Contractor in accordance with the request for offer 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.

1. Object of the Framework Agreement

- 1.1 During the term of this Framework Agreement the Contracting Authority may issue Requests for Quotations for Further Agreements 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 Further Agreement 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 Tender Document, the Contractor must perform that Further Agreement in accordance with the conditions of this Framework Agreement. To this end, the Contractor must in that case conclude a Further Agreement with the Contracting Authority.
- 1.2 The following documents are an integral part of this Framework Agreement. In the event of inconsistencies, a higher ranked document takes precedence over a lower ranked document:
 1. this document including schedules;
 2. the Memoranda of Information, [date] and [date];
 3. the Tender Document;
 4. the ARVODI-2018;
 5. the Tender issued by the Contractor to the Contracting Authority on [date], ref
- 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 Further Agreements 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 Further Agreement expressly departs from this Framework Agreement.

- 1.5 A Further Agreement states the specific Services to which it relates and its duration.
- 1.6 The result of the Services performed under each Further Agreement 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 comes into effect on <<date>> and has an initial contract period of two (2) years with two (2) times an option to extend this Framework Agreement, to be exercised unilaterally by the Contracting Authority, under the same conditions, each time with a maximum period of one (1) year. The total duration of the Framework Agreement is therefore maximum four (4) years including extension options. If the Contracting Authority does not wish to make use of an extension option, he will notify the Contractor in writing of this no later than three (3) months before the expiry of the initial or current contract period. In that case, the Framework Agreement will end by operation of law after the initial contract period or the contract period applicable at that time. In the absence of such a message from the Contracting Authority, an option to extend takes effect automatically, if and insofar as such an option is still open.
- 2.2 Termination of this Framework Agreement for whatever reason does not affect rights and obligations resulting from Further Agreements. The terms of this Framework Agreement continue to apply to any Further Agreements remaining in force after this Framework Agreement has ended.
- 2.3 The duration of any Further Agreements awarded to the Contractor under this Framework Agreement will be stipulated in the individual Further Agreements for each contract for the performance of Services.
- 2.4 Contracting authority is entitled to terminate this framework agreement prematurely as soon as the maximum value and/or amount of the contract is reached, without any further compensation. Contracting authority shall inform Contractor as soon as possible if and when he wants to invoke this right and he will observe a reasonable notice period.

3. Awarding further agreements

- 3.1 The Contractor must submit a Quotation, having regard to the provisions of this Framework Agreement, within 10 working days of receipt of a standard Request for Quotations and 5 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 must comply with and may not be less favourable than the Tender submitted.

4. Price and other financial provisions

- 4.1 The maximum value of the Framework Agreement is € 500.000,00 excl. Netherlands VAT.
- 4.2 All Further Agreements will state that the Contractor will perform the Services specified therein for a fixed total price.
- 4.3 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 Further Agreement 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 Invoicing by the Contractor must submit invoices electronically in the manner prescribed in the Further Agreements.
- 4.5 Payment will be made once the Services performed in accordance with a Further Agreement have been received and accepted.

5. Contacts / Project managers

- 5.1 The contact person of the Contracting Authority is [name]
The contact person of the Contractor is [name]
- 5.2 At least once 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)).
- 5.3 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 Further Agreement will be carried out at the place(s) stipulated in the Further Agreement.
- 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 Further Agreement 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 house, security and confidentiality 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 Further Agreement 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 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.
- 7.3 In addition to the provisions of article 22 of the ARVODI 2018, the Contracting Authority may cancel this Contract forthwith out of court by registered letter, without giving any warning or notice of default, in the following cases:
 - a. If 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. If 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. In the cases set out under (a) and (b) the right to cancellation expires three years after the judgment becomes unappealable.

8. 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 Further Agreements 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.

9. Final provisions

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

Done and signed in duplicate.

The Hague,

[place],

[date]:

[date]:

For the State Secretary of
Economic Affairs and Climate Policy,
and commissioned by
ms. M.R. Leijten MSc, Member of the Board of ACM,

[name Contractor]

John J.A. van Pelt,
Team Manager Procurement Office

[signatory's name]

[signatory's position]