



Tender Document

Invitation to tender in accordance with the European open procedure for the execution of services “Boosting local capacity to manage land conflicts and protect customary rights” in Mali.

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Definition of terms

Contracting authority	The State of the Netherlands, represented by the Minister of Economic Affairs and Climate Policy, who concludes the Contract with the Contractor on behalf of the Tendering authority.
Contractor	The party with which the Contracting authority concludes the contract.
Contract	The written agreement between the Tendering authority and the Contractor in which the conditions applicable to the public contracts that will be awarded via this tendering process (Further Agreements) will be recorded within a specific period
Exclusion Criterion	A circumstance applicable to the Tenderer or a person affiliated with the Tenderer that results in exclusion of the Tenderer from participating in the tendering process.
European Single Procurement Document	Statement in which the Tenderer declares their compliance with the requirements specified in the annexes of the Uniform Single Procurement Document by means of filling in and signing this European Single Procurement Document.
General Government Terms and Conditions	General Government Terms and Conditions for Public Service Contracts 2018 (ARVODI-2018: <i>Algemene Rijksvoorwaarden voor het verstrekken van Opdrachten tot het verrichten van Diensten</i>).
IUC-EZK	The Procurement Office (IUC) of the Ministry of Economic Affairs and Climate Policy (EZK) – part of the Netherlands Enterprise Agency (RVO.nl), which in turn is part of the Ministry of Economic Affairs and Climate Policy – will serve as process manager during this tendering process.
Memorandum of Information	A document containing all questions asked and answers given, in anonymised form and, if applicable, additional information. This includes the questions and answers submitted via TenderNed.
Most Economically Advantageous Tender	The Tender that achieves the highest definitive total score based on the best price-quality ratio.
Public Procurement Act	The Public Procurement Act 2012 (<i>Aanbestedingswet 2012</i>)
Processing Agreement	An agreement signed by the Tendering authority and the Contractor concerning the processing of personal data by the Contractor.

Suitability requirements	The requirements with which Tenderers must comply in order to be eligible to win the tender.
Tenderer	An entrepreneur or entrepreneurs who have submitted a Tender or is/are planning to submit a Tender. In this document, the word 'you' is taken to mean the Tenderer.
Tender	A quotation submitted by the Tenderer in response to this Tendering Document.
Tendering authority	The Netherlands Enterprise Agency (RVO), an agency of the Ministry of Economic Affairs and Climate Policy of the Netherlands.
Tender Document	This document and all of its annexes.

1. Introduction

The Tender Document at hand contains information regarding this invitation to tender conducted in accordance with the European open procedure for the service “Boosting local capacity to manage land conflicts and protect customary rights” in Mali.

You are hereby invited to submit a Tender based on this Tender Document.

1.1 Tendering Authority and IUC-EZK

This tendering process is being conducted on the instructions of the Netherlands Enterprise Agency (RVO.nl), an agency which is part of the Ministry of Economic Affairs and Climate Policy. IUC-EZK will act as process manager during this tendering process.

1.2 Reason for this invitation to tender

This tender takes place within the framework of the LAND-at-scale program of the Ministry of Foreign Affairs, carried out by the Netherlands Enterprise Agency (RVO.nl). The program supports the realization of ideas by sharing knowledge and awarding assignments and tailor-made grants.

Fair, inclusive and sustainable land rights are necessary to achieve many of the United Nations' Sustainable Development Goals (SDGs). The LAND-at-scale program contributes to this by institutionalizing improved land rights in developing countries. Representatives of Dutch embassies and agricultural attachés can submit ideas for this.

Better land rights have a positive impact on peace and stability, human rights, social justice, food security, economic development, gender equality, quality of life, climate change prevention and coping, and the sustainable use and management of natural resources.

The Netherlands Embassy in Bamako, Mali submitted a proposal that was positively evaluated by the advisory Committee. Together with the Embassy RVO further developed this idea and consulted with the relevant authorities in Mali, which results in the following invitation to tender;

‘Project’ hereafter refers to the assignment in Mali which is described in the following chapters, for which RVO started this tender procedure. This project is part of the LAND-at-scale program, which consists of several projects in various countries.

1.3 Time schedule

The schedule below applies to this tendering process.

March 22, 2021	Issuing of publication, start of tendering period.
April 12, 2021 12:00 CEST	Closure of round of questions: deadline for the Tenderer to submit questions regarding this Tender Document and the Contract (including the general terms and conditions) and/or proposals for textual amendments to the draft Contract (including the general terms and conditions).
April 21, 2021	Issuing of Memorandum of Information
May 6, 2021 12:00 CEST	Deadline for the receipt of Tenders and opening of new Tenders by the Tendering Authority.
Week 18 up to and including week 20 2021.	Assessment of Tenders.
May 19, 2021	Announcement of the award of the Contract.
June 2, 2021	Deadline for the winning Tenderer to provide the evidence requested by the Tendering Authority
June 23 th , 2021	Deadline for asking questions and/or filing an application for a preliminary injunction in relation to the announcement

	of the award of the Contract.
Juli 1 st , 2021	Starting date of Contract.

If – in the opinion of the Tendering Authority – circumstances provide cause to do so, the Tendering Authority is entitled to amend the specified period(s). In such a case, timely notification of the new period(s) will be provided digitally.

2. Description of assignment

2.1 Description and objective of the assignment

2.1.1 Summary

Background

In Mali, farmers and pastoralists need land tenure security to sustainably manage and collectively use natural resources and to undertake investments with long-run pay-offs needed for climate smart investment in productivity, diversification and resilience. Over 90% of these farmers and pastoralists depend on customary tenure systems to access land and natural resources.

The goal of the intervention is to promote stability, food security, climate resilient agricultural development and natural resources management by strengthening security of access to and rights over land and natural resources, with special attention for inclusivity (especially women and pastoralists), through establishing and capacitating Land Commissions.

By reinforcing customary land rights, this project contributes to sustainable development and improved tenure security. This is done via the strengthening of rural communities' capacity for conflict mediation and integrating inclusive innovations towards customary tenure security through Land Commissions¹. Operational and inclusive Land Commissions are a key structure in the Agricultural Land Act- *Loi sur le Foncier Agricole* (LFA). The Land Commissions contribute to the establishment of a transparent and sustainable legal and institutional framework for a customary land tenure system.

The intervention objective aims at an effective and sustainable (multi-stakeholder) approach that results in establishing capacity for building effective, inclusive and transparent Land Commissions. These Commissions are responsible for implementing the LFA in support of conflict mediation and local tenure security for all. A second objective aims at promoting innovations in customary tenure systems adjusted to local needs and circumstances. Establishment of functional, inclusive, legitimate and accountable Lands Commissions at local government and village level will expand capacity for conflict mediation and customary land tenure management.

2.1.2 General context

Since 2012, Mali has become a country experiencing violence and conflict, triggered by a coup d'état and the collapse of Libya, fanned by grievances that already provoked conflict in the early 1990s and widespread corruption. State presence in the North was already weak, with human trafficking, drugs trafficking and other illicit trade widespread. The conflict is most prominent in the North and centre of the country, with attacks occurring also in the capital Bamako. Militants have attacked and killed also traditional leaders and elders, like village chiefs and elected councillors. The conflict has deepened inter community and inter-ethnic tensions and distrust, and undermined trust in government and its ability to provide services.

In Mali, most smallholders access land via customary tenure systems (men 92% and women 94%; EACI, 2017), which provide most with enough incentives to invest in the productivity of their fields. For most smallholders, customary systems provide the tenure security required for investments in agricultural production, diversification and climate adaptation and resilience, all essential for food security. Migrants, non-autochthon, and women may face constraints (some investments not allowed, duration user right). These tenure systems also cover the commons and provide user rights to groups, like pastoralists. Livestock systems depend on mobility, with herds moving between grazing areas, water points, salted areas (*terres salées*) and livestock markets, mainly in response to rainfall patterns and resource availability. Pastoralists rely fully on customary tenure systems and local support for pastoral infrastructure to sustain the mobility that is essential for their livestock systems, given the ecological circumstances in Mali. Therefore, legal

¹ Land Commission is the translation of *Commission Foncière* (CoFo)

recognition of customary rights and empowerment of local institutions is essential for tenure security and addressing fragility.

Competition over land and natural resources is growing, and so are land-related disputes. Preventing land conflict and strengthening mediation capacity is important for productivity and investments. Contested fields and pastoral resources cannot be used, while conflict resolution is costly and undermines social cohesion. Resolving conflicts is time and resource intensive, particularly when it reaches the courts.

Mali is faced with growing instability, fragility and conflicts. Disputes over lands and natural resources can easily become a driver of more tensions and inter community violence in the current climate of insecurity and distrust. Enhancing local capacity for mediation and prevention of conflict over land and pastoral resources (grazing land, water points, livestock corridors), forests and wetlands has become more urgent given the context of growing fragility, instability, decline in social cohesion and less presence on the ground of the state.

2.1.3 Baseline situation

Law & Legislation

The legal protection of customary lands is ambiguous. However, the adoption in 2017 of the agricultural land act or LFA (*Loi sur le Foncier Agricole*) strengthens the legal recognition of customary land and establishes local institutions (Land Commissions) to strengthen local capacity for land and natural resource conflict mediation and protection of land acquired via customary rights. The LFA was developed with broad stakeholder participation, including farmer organizations, civil society and universities. The law includes provisions to increase access to land for women and youth, subsidiary legislation on Land Commissions also regulates participation of representatives of women and youth organizations, which is an innovation as traditional customary structures are patriarchal and led by the elders.

The law introduces three complementing levels: village, local government and cercle² level, each specializing in a specific type of land conflict.

1. Village level Land Commissions focus on conflicts within communities that cannot be solved by customary authorities, like disputes over boundaries, ownership, inheritance, user rights, renting or women's access. Conflict prevention is via byelaws for strengthening user rights (women, youth, migrants, pastoralists), procedures for land sales to outsiders (risk assessment, transparency, consultation, etc.).
2. Land Commissions at the local government level deal with conflicts between villages and groups, over farmland and intercommunity commons (forests, firewood, timber, fruits; grazing areas; water points and fisheries). They deal with most conflicts involving farmers and pastoralists, traders in firewood, land claims between villages. Conflict prevention examples are local conventions for land and natural resource use, formalized in byelaws; marking of livestock corridors; bye laws for community management and monitoring of grazing lands, water points, controlled grassland burning, etc.).
3. Land Commissions at the district or "cercle" level will handle conflicts between local government and land use at the cercle level.

By law, each level of Land Commissions must prepare a *procès-verbal*³ for each conflict mediated (successful or not) and send these to the courts, with copy to the administration and local government. The LFA also stipulates that local government, administration, and courts to first propose mediation by a Land Commission before formally engaging with a land/natural resource conflict (via administration, courts).

The regulatory framework for recognition of customary tenure is thus set out in the LFA and an umbrella law, the 2000 *Code Domaniale et Foncier* (CDF) under revision since 2018. The cabinet of ministers submitted in March 2018 to parliament a proposed *Loi portant le Domain et Foncier*. Ensuring consistency between LFA and the new law is important for the protection of customary

² The *Cercle* was the lowest level of the French colonial administration chaired by a European (the commander de *cercle*). A *cercle* consisted of cantons, each containing several places. The *cercle* existed in the French African colonies between 1895 and 1946.

³ Written report on the outcome of the conflict mediation

tenure. The coalition of stakeholders involved in the LFA process are now engaged in active dialogue with the parliament on the new law and adjustments needed (such as the definition of state land). Other key laws regulating land and natural resource use are the *Code Forestier* and the *Chartre Pastorale*. The legal framework around decentralization also has implications for local level land and natural resource management, while gender issues are also regulated in the family code.

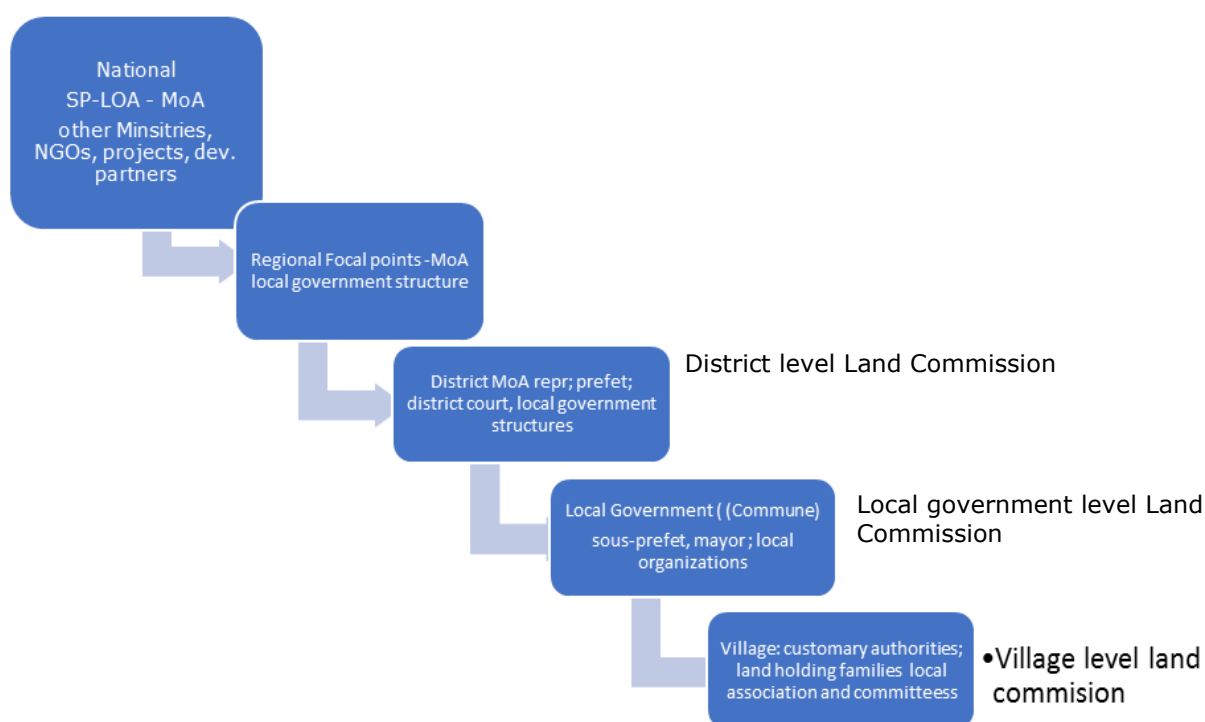
Progress with LFA Implementation has been rather modest. Priority are development of subsidiary legislation, instruments mobilizing support within government (budget, implementation capacity at regional and district level) and establishing institutions, in particular the Land Commissions. A Land Commission was established in only 30% of the local governments, with only 70% operational.

Institutional context

The government agency responsible for implementation of the LFA and the Land Commissions is the *Secrétaire Permanent de la Loi d'orientation Agricole* (SP-LOA) in the Ministry of Agriculture. Implementation at the local level is through the representative of Ministry of Agriculture at the cercle or local government level and the administration (prefet/ sous-prefet) who are also responsible for Land Commission and will coordinate with local governments and the local courts.

The figure below shows the location of land commission and the responsibility of the national level (through SP-LOA) and regional level (through regional focal points at the Ministry of agriculture) to establish and support land commissions, in coordination with other branches of government (technical ministries, administration courts) and the devolution to elected local governments (tiers at regional, district (cercle) and local government level – with the latter being the most important for service delivery and interface with citizens (and directedly elected). Although the village is recognized as an administrative unit, it is not part of the formal local government system.

Figure 1: Position Land Commission in the Malian decentralization framework



Note that APCAM (*Assemblée Permanente des Chambres d'Agriculture du Mali*) delegates are members of District and Local government level Land Commissions.

Other stakeholders are customary authorities (no centralized structure), farmer organizations (organized at the national level in CNOP (*Coordination Nationale des Organisations Paysannes*) and AOPP (*Association des Organisations Professionnelles Paysannes*) in particular) local CSO and associations and national CSO networks around protection customary land and prevention of land grabbing), Non-Governmental Organizations (NGOs) (in particular SNV, Diakionia, Tenure Facility, Helvetas, NEF etc.). Projects supporting Land Commissions include the *Projet Régional d'Appui au Pastoralisme au Sahel* (PRAPS) and the *Projet d'Appui à la Sécurité Alimentaire et la Résilience des Populations aux Crises Climatiques et Sociales* (PASARC-II- supported by the Embassy of Kingdom of the Netherlands).

The *Université de sciences politiques et juridiques de Bamako* – is engaged in research on customary tenure, Land Commissions, piloting with NGOs and projects, trains judges and provide advice on laws.

Use and management of land and other resources

Customary tenure systems in Mali are mostly organized at the village level under leadership of the village chief and in consultations with the heads of the families that founded the village. Most smallholders and pastoralists in Mali access land via customary tenure systems and rely on local institutions for tenure security and conflict mediation. Farmers and pastoralists need land tenure security to sustainable manage and collectively use natural resources and to undertake the investments with long-run pay-offs needed for agricultural productivity increase, diversification and climate change resilience. For most smallholders, customary systems provide the tenure security required for investments.

Preventing land and natural resource conflict is important for productivity and investments. Contested fields and pastoral resources cannot be used, while conflict resolution is costly and undermines social cohesion. Resolving conflicts is time and resource intensive, particularly when it reaches the courts and can aggravate tensions between communities. Enhancing local capacity for mediation and prevention of conflict over land and pastoral resources (grazing land, water points, livestock corridors), forests and wetlands has become more urgent given the context of growing

fragility, instability, decline in social cohesion and less presence on the ground of the state. Grievances over loss of land or access to natural resources can easily provoke more violence. Therefore, legal recognition of customary rights and empowerment of local institutions is essential for tenure security and addressing fragility. The possibility of registering customary rights is included in the LFA and will be implemented through the Land Commissions, but not actively supported yet. No vision, strategy or institutions have been developed. The priority for the Land Commission is conflict mediation and prevention.

Investors currently acquire land for farming either on a leasehold basis from the state, or as *concession rural* (conversion customary land that requires approval also by customary authorities and local administration), although the latest proposal for the CDF proposes to abolish the *concession rural*, and is silent on support on registration of customary rights. The current situation in rural Mali of increasing fragility and conflict, with rights over land being one of the potential tinder boxes, securing customary rights through land registration is a medium to long term goal. Priority is to complete first the legal framework (CDF, LFA regulations, LFA implementation capacity), but even more important the institutional capacity at village and local government level through the Land Commissions and contribute to a dialogue on strategies for strengthening customary tenure, that also explicitly takes into account the demands of marginalized groups and regional diversity and local innovations.

Gender

Unmarried women (girls) will have plots of their own and can keep the harvest to prepare for their marriage. They will receive these plots from their father and have user rights only, often only an annual basis. Rural women generally leave their village to join their new family in-law, and do not retain user rights over land in their parents' village but may receive other type of support. Their new family will assign a plot of land for farming on her own account, on which she can only work when the work on the family field and household chores are completed. Access to animal traction for land preparation is possible, but only when the other fields have been completed. Her rights become stronger when she has children to support her, particularly sons (and their brides). When she is widowed, she may be married to a brother of her husband.

Women's position is different in village with traditional rice cultivation in the lowlands on heavy soils that are difficult to farm. These farming systems tend to be controlled by women, unless part of an improvement scheme or when some men start investing in mechanization and expand their fields to these areas.

The Land Commissions, by law, must include representatives of local women's associations, which is often the first time that women are part of formal decision-making on land tenure

2.1.4 Past and ongoing interventions

Support programs are being established to strengthen legal and institutional frameworks for Land Commissions and making financial resources available for Land Commissions. However, piloting of approaches and tools – which will determine quality of work, inclusivity and governance – is mainly led by NGOs and civil society and completed successfully in a limited set of local governments in the South. **This LAND-at-scale project will play a role in combining the lessons learned from all these projects, by studying them in the inception phase, in order to catalyse the developments already made concerning land commissions.**

Relevant already ongoing projects include:

- PASARC- II an NL Embassy financed program in Mopti – support to Land Commissions dynamization via NEF, the implementing organization;
- *Gouvernance Locale Démocratique* (GLD) - implemented by Diakonia, AEN, Helvetas and SNV in southern Mali, supporting over 50 Land Commissions; (Swedish embassy);
- The Tenure Facility supports 100 Land Commissions (mostly village Land Commissions) in southern Mali, working with Helvetas as implementation agency;
- Sustainable energy and improved service delivery for increased stability development policy financing - World Bank – legal framework; sustainable financing mechanisms for Land Commissions; legal basis monitoring system Land Commissions; Ministry of Finance support for SP-LOA;
- Farmer organizations (e.g. CNOP, AOPP and key networks) also support Land Commissions, and monitor LFA implementation, like regulations required and other aspects;

- FAO supports setting up Land Commission in Kayes regions (VGGT implementation) – closed in June 2019.

Since the LAND-at-scale project is focusing on the establishment and improved effectiveness of Land Commissions, three projects aiming at establishing Land Commissions are of particular interest. It is therefore that **close cooperation with the World Bank and EU is essential during this project, so that upscaling of this proven approach can be realized via e.g. budget support to Mali's Ministry of Finance.**

- World Bank: Regional Sahel Pastoralism Support Project (PRAPS): Financial support to regional governments in Center and north to **set up 160 Land Commissions** (60 in 2019; 100 in 2020).⁴
- World Bank: Mali Development Policy Financing for Sustainable Energy and Improved Service Delivery for Increased Stability aims at direct and indirect budget financing (P167547). The project will only get funds (\$240 million) when all triggers are activated. In addition to integration of the LFA in the *code domanial* and *code foncier*, there are also triggers for the **establishment of Land Commissions, fixed annual financial support from central government (in 2020 this was 300,000 FCFA for 300 Land Commissions)** and a transparent mechanism of payment, accountability, and a monitoring system. This includes information regarding effectiveness (conflict resolution) and inclusivity (women/ pastoralist).
- The European Union will fund a programme focused on land administration in rural areas as well as the financial support of the Land Commissions.

2.1.5 Land governance problem analysis

Agricultural production, food security and stability depend on customary institutions ability to provide security of access to rights over land and natural resources, and their recognition by the State.

In Mali, farmers and pastoralists access land and natural resources and secure their rights mostly through customary tenure systems (over 90%). Security of access and rights, and trust in local customary authorities depends on (i) customary institutions effectiveness and perceived fairness and (ii) capability to be adaptive, innovative and agile to continue serving the changing needs of a range of local land users in a context of growing pressure on natural resources, climate change and increasing fragility. Protection of customary rights also requires recognition of and protection by the State (in law and by administration, courts, local governments and technical agencies at all levels). Absence of such recognition can result in legal ambiguity, tenure insecurity, dispute and even land grabbing.

The 2017-LFA provides the legal framework for better securing customary rights and alternative dispute resolution of land and resource conflicts (mediation). Implementation of the law at the local government and village level, however, requires Land Commissions to be established and operational. Local government level Land Commissions bring together traditional authorities, CSO, administration, local government and technical agencies (agriculture, forest, livestock). At the village level Land Commissions are composed of traditional authorities and local associations. The law and implementation regulation also include representation by women and youth organizations, which is an innovation for traditional structures.

Civil society at the village level is very active and other customary, project and NGO supported organizations (with overlapping membership) may also be engaged in land and natural resource management (like forests, fire wood, shea nut trees protection, pastoral common resources, fisheries, integrated water management) or with conflict prevention and mediation (intra and inter community). Other community organization as the village and local government level are engaged in health care, schools, drinking water, economic activities, often also organized by gender or age group.

Land Commissions are mainly established in the south, not all functional while a systematic monitoring and evaluation mechanism is not established.

⁴ See also <https://www.worldbank.org/en/news/immersive-story/2020/09/21/where-climate-change-is-reality-supporting-africas-sahel-pastoralists-secure-a-resilient-future>

The Ministry of Agriculture (MoA) is in charge of LFA implementation and Land Commission establishment, which is delegated to the SP-LOA, which nominated focal points at the regional level. This is a national level structure with 4 staff members. SP-LOA has not been able yet to complete the regulatory framework (decrees, instruments), establish the other LFA institutions, facilitate and supervise the process. SP-LOA drafted a few decrees, including on financial support to commissions and is trying to establish *Observatoire Nationale sur le Foncier Agricole*.

SP-LOA establishes Land Commissions via the MoA deconcentrated structure (region, *cercle* and local government). These MoA representatives coordinate with the administration and local government. NGOs and projects also establish Land Commissions independently. SP-LOA has not established an inter-agency/multi-stakeholder steering committee at national or regional level. Ad-hoc coordination with the most active projects, NGOs and experts exists. Land Commission functionality requires capacity building, access to resources as well as coaching, supervision and monitoring/ feedback mechanism.

SP-LOA estimates that 300 Land Commissions exist nation-wide and has some data (like members) for 202 of these, of which 141 are considered functional (organized meetings over the last 12 months). Land Commissions do not always have the information, capacity and tools to do their work correctly. Only 30 percent of interviewed members reported having received training. Most likely, the most active and best trained Land Commissions also receive support from NGOs or projects. The estimated number of village level Land Commissions is around 50 to 100 in total, all established by NGOs. Land Commissions members pay transport costs often out of their own pocket; some commissions received support from local associations, the sous-prefet or the mayor. The Ministry of Finance opened a budget line for Land Commissions in 2020, and about 300 commissions will receive about 450 euro (all in south Mali). Land Commissions reported mediation in 110 land disputes, of which 35 % involved pastoralists vs farmers, 31% of disputes were over farmland, 7% over forests and firewood, 4 % urban expansion and 23% disputes over ownership related to inheritance in the sense of whether land had been allocated temporarily or permanently by parents to the descendants of the current users.

Land Commissions have proven effective in providing an additional mechanism for mediation of land and natural resource conflicts.

Mali has become an increasingly fragile country, particularly in the centre and north. Conflicts over land and natural resources are an important source of grievance, can easily erupt in violence and manipulated. There is also much distrust in central government. There is urgency of more effective local land and conflict mediation, involving customary authorities working with administration and local governments. To rebuild trust, it is important also to facilitate concerted efforts by traditional authorities, (local) government, NGOs and civil society. The LFA introduces alternative dispute resolution through Land Commissions. Land Commissions can play an important role in conflict mediation and bringing together key actors (customary authorities/ government/ civil society).

In 2019, a survey of a random sample of 300 members from Land Commissions found that their main activity is to mediate land and natural resource conflicts. The commissions only engage when requested. They mediated in conflicts that could not be resolved at the family or village level. The survey also found that the mayor and prefect also encourage parties in a conflict to first seek mediation, before going to court. In 2019, Land Commissions were requested to mediate in 110 disputes, of which 35 percent were pastoralists vs farmers conflicts, 31 percent concerned farmland boundaries and 23 percent farmland ownership (often inheritance related), 7 percent forests and firewood disputes, 4 percent urban expansion. For each mediated conflict (successful or not) the commission has to send a report to the district court.

Pilot experiences and lessons learned are not consolidated or reviewed hampering scaling-up.

A range of projects and organizations have experience with establishing, capacity building and coaching of Land Commission at village and local government level. The university of Bamako even successfully experimented with developing customary land tenure innovations to strengthen the rights of land users and renters (many women, migrants, young people) under the umbrella of a village level Land Commission. Farmer organizations are supporting Land Commissions and reviewing LFA implementation and organize from time to time workshops. These experiences are not brought together, curated, reviewed, and disseminated. Gaps are also not identified and thus not addressed. CNOP (Coalition of Farmer Organizations) regularly organizes workshops where all

working on Land Commissions and LFA meet at regular basis. Projects also organize workshops from time to time. Although SP-LOA always participates, these events are ad-hoc and not formalized.

The inventory of existing and completed projects and programs shows that there is in principle enough experience in Mali on how to establish and accompany inclusive, accountable and effective Land Commissions and what tools and other support they need for being effective. However, this is under the condition that all experience gained is shared, discussed, refined and documented, stakeholders meet regularly, and monitoring is assured and results systematically shared and discussed, which is currently not the case.

Monitoring of Land Commission is weak, and no evaluation is taking place.

Not all Land Commissions are functional while systematic monitoring and evaluation is not carried out. SP-LOA has no complete list of functional Land Commissions, compositions, activities, funding, conflicts mediated, nor minutes sent to the courts nor an overview of methods and tools being used by development partners. SP-LOA does not maintain a list of village level Land Commissions⁵.

A support system to enable nationwide establishment, functionality and inclusiveness of Land Commissions is lacking. Piloting of Land Commissions establishment and capacity building was led mainly by NGOs, CSO and a University, in consultation with government (SP-LOA), Inclusiveness and effective participation of women and youth is a key focus on their work. Pilot experience is not shared systematically, and no action plan exist for nation-wide establishment of Land Commissions.

Land Commissions are not supported in sharing experience with peers and building their own networks and platforms.

Land Commissions could benefit significantly from each other's experience (particularly around self- organization and conflict mediation). Networks of land Commission would also create a more level playing field for the interactions with government and projects/NGOs. A local government area may cover up to 30 villages covering an area of at least 50 by 50 km, particularly in the less densely populated areas. There is some ad-hoc project experience with bringing village level Land Commission together and setting up an exchange with the local government level Land Commission. However, no systematic effort exists to set-up cost-effective exchange platforms.

Summarizing the main problems to be focused on by the project:

- **Legal and institutional framework for conflict resolution is still too weak and not well articulated.**
- **Land Commissions have not been rolled out nation-wide but are mainly available in the south.**
- **Land Commissions are not effectively appointed centrally, there is no standardized approach.**
- **Support to the Land Commissions (both methodologically and financially) as well as monitoring and evaluation of Land Commissions' activities is lacking.**
- **Conflicts over land lead to a weakening tenure security position of women and youth and to a decrease in agriculture productivity.**

⁵ No Land Commissions exist at the district level (cercle), which is not seen as priority by SP-LOA or NGOs

2.1.6 Intervention objective

The project activities will focus on firstly, strengthening the performance and effectiveness of the Land Commissions and secondly: sustainability of the structures supporting land commissions. This is done by (i) developing guidance, manuals for setting up and accompanying land commissions, drawing on the completed pilots; (ii) strengthening SP-LOA capacity, the responsible body for the establishment and management of Land Commissions to coordinate and monitor; (iii) strengthening coronation structures and land commission networks; and (iv) consolidating budget allocations and procedures, institutions and regulations. The establishment of the Land Commissions is the mandate of the government, with support from other parties providing technical and financial support. In this sense the establishment of functional and accountable Land Commissions is to be considered as an outcome rather than a direct output of this project. This project has a catalytic, flywheel function: with limited budget, it strengthens the support structures' focus, motivation, division of responsibilities and capacities, and assists SP-LOA with mobilizing government structures and coordinating development partners.

More in detail the following activities are foreseen:

1. Strengthen capacity of government actors and other partners mandated and engaged and strengthened Land Commissions, in their ability to establish and support Land Commissions that are effective and accountable.
2. Inventory of capacity required to establish and support Land Commissions and collaborate with these commissions (local government, administrators, courts).
3. Develop a support structure for government and partners (like tools, instruments, training and advisory support and other resources) that will be consolidated and institutionalized.
4. Help develop and institutionalize coordination structures and networks of Land Commissions
5. Develop monitoring and evaluation system for land commissions that will be institutionalized.
6. Where needed, finance workshops and training events at the central, regional and occasional district level, but always aim for co-funding.
7. Where knowledge is not available in the network, studies can be commissioned.

The proposed **project duration is 30 months in 3 phases**, with each phase having a different focus, building on the achievements of the previous phase. Main activities per period are:

INCEPTION (1-3 months): SWOT Assessment (legal/ institutional/financial framework and support structures; stakeholder inventory and coordination structures; inventory pilots/experiences, Monitoring and evaluation systems and experience; capacity building availability and needs; inclusivity and governance); develop agreed action plan, prepare implementation.

IMPLEMENTATION (4-18 months): implement and regular review strategy and action plan; build coordination mechanisms; capacity building, Monitoring & Evaluation and learning systems; prepare priorities for consolidation and institutionalization.

CONSOLIDATION (19-30 months): consolidation, institutionalization and phasing out project interventions.

2.1.7 Project design

This section explains the 5 components this project consists of. Per component a short description is provided as well as a more detailed list of activities and deliverables.

Component 1: Inception phase

The inception phase is crucial in analyzing the causes of land and natural resource management competition, disputes and conflicts, dynamics, and existing mechanisms for dispute resolution, disaggregated by region / gender/ socio-economic groups; lessons learned, SWOT of available training and support materials and approaches, M&E experiences and shortcomings and opportunities in the present situation. Therefore, a complete overview of the current state of affairs needs to be obtained. At least all projects identified in paragraph 2.1.4 need to be reviewed and analyzed. Based on that, propositions for a refinement of the legal framework, improved institutional and financial setting and an optimized process for the establishment and support of Land Commissions (at local government and village level) will be made, which will be discussed with both government, experts, donors and NGOs/projects working on land commissions. Improved training and support materials, based on the findings of the evaluations of the previous projects and pilots, will be tested (listed among others in paragraph 2.1.4).

The aim of this inception phase is also to analyze the regulatory, institutional and financial environment and identify actions required to ensure sustainability of the support structures and ensure inclusive and transparent Land Commissions, supporting LFA implementation, being the basis for the sustainability of the other parts developed as part of the project.

A short- and long-term vision, strategy, capacity/resource requirements and action plan for LFA implementation and effective Land Commissions will also be developed in the inception phase.

Points of departure for the vision and strategy are:

- Multi-stakeholder context and coordination between the core stakeholders: central government, local government, courts, experts, civil society, NGOs and projects and development partners.
- Decentralized context from village to central and the principle of devolution, with communities and local governments in the driver's seat.
- Inclusivity, equity, and good governance, grounded in local reality and regional diversity, and constructive collaboration between customary authorities, elected local governments and state representatives.

The short-term vision and priorities will provide the overall umbrella for the interventions for the project and guide the consolidation strategy. The vision, strategy and action plan will be evaluated over the course of the project.

Main deliverables of the inception phase (minimum):

- Inception report that includes a revised time and budget planning, and a detailed overview of resources and potential subcontract(-ors), such as consultants, knowledge institutes, or NGOs.
- Inventory/ consultations stakeholders/ partners and interest in coordination structure and modalities
- Explore steering structure (with SP-LOA and key partners; and coordination structure with development partners & government
- Stakeholder analysis that provides an overview of all relevant stakeholders and their position (positive or negative) and level of influence towards the intervention.
- Monitoring and Evaluation plan for land commissions that also covers the LAND-at-scale indicators as specified below. The formalized coordination structure will also discuss and develop a measurement/ scoring approach to inclusivity and governance of Land Commissions, that can be applied nationwide and integrated in the M&E
- Conflict sensitivity strategy and report that gives a better insight in the risk, (including a political economy analysis) and especially also the potential adverse effects of the intervention (context specific), as well as a strategy for inventory and monitoring conflict and early warning systems to identify possible negative effects of the intervention.
- Gender strategy developed: how to ensure that women have influence in Land Commissions, and that their services are also accessible by women and that input from women's groups into their evaluation can be included in the measurement of inclusivity of Land Commissions. Grievance redress mechanism established for this project (see also experience PRAPS project funded by the World Bank).
- Review of:
 - Review in 10 Land Commissions to analyze current functioning and explore the fit-for-purpose of the processes, approaches, monitoring and evaluation and the performance of the Land Commissions.
 - Regulatory and institutional framework - SWOT
 - Financial requirements and sustainability of Land Commissions; with particular attention for sustaining the Malian Ministry of Finance's budget line and disbursement mechanisms
 - Inventory government responsibility/mandate/ procedures and resources on local and national levels
 - Review process Local governments PDSEC (plan de développement social, économique et culturel) planning procedure and integration of land commissions into these development plans
 - Analysis of current state of affairs with LFA implementation and Land Commissions in particular; both from governmental, NGOs and projects. This analysis includes the various approaches used, stakeholders involved, lessons learned and bottlenecks. Implications of reviewed Loi Domaine et Fonciers

- Resource requirements Land Commissions, availability and potential (Land Commissions and support structure), assessment of balance between local resource mobilization, local government contribution and central government support; inventory (potential) support international donors
- Short, medium and long-term vision, strategy and roadmap developed for the project and agreed with partners and SP LOA):
 - detailed action plan for the project for the first 3 years (incl responsibilities and resources) institutional support structure and sustainability agreed. Action plan short term agreed, and implementation started.
 - Discussion with development partners on the content of the action plan and possible support.

Component 2: Formalized multi-stakeholder support structure/ coordination mechanism for building capacity towards sustainable, inclusive, and transparent Land Commissions

The success and institutionalization of achievements requires a vibrant multi-stakeholder partner network at various (relevant) levels and institutionalization where needed. This network is based on the findings of the inception phase (stakeholder and interventions analysis) and will adopt an M&E structure. systems. Another output will be agreement on mechanism to collect complaints/ grievances for Land Commissions that may be needed by development partners and can be institutionalized by the government.

Deliverables (minimum):

- Stakeholder/ partner network established, with structures of operational modalities agreed; (signed Memorandum of Understanding or other equivalent agreement).
- Minutes of meetings with this coordination structure of the stakeholder network (at least 10 meetings, 3 per year).
- Multi-stakeholder partner network reviewed and consolidated; follow-up agreed and implemented.
- Annual review of functioning Land Commissions prepared, discussed and agreements implemented.
- Review of the costs involved and discussions on sustainability/ consolidation
- Agreement on measurement on inclusivity (gender⁶ and youth) and transparency Land Commissions.
- Agreement on design mechanism for enabling local people to submit complaints/ grievances on working of Land Commissions and discuss redress mechanism (inventory of existing practices like World Bank grievance redress mechanism) and annual monitoring of progress and results.

Component 3: Systematic approach for validating, and sharing capacity building for Land Commissions, with a focus on conflict mediation and inclusivity

The focus of the third component is on strengthening capacity for establishing and supporting Land Commissions, building on experience so far, assessment of approaches, instruments and tools already developed, ensuring wide sharing and accessibility for projects and NGOs supporting Land Commissions, and integrating into curricula for training civil servants, judges, local government staff, etc. This will be done in close cooperation with the multi-stakeholder network established in component 2 and is based on the analysis completed in the inception phase.

Deliverables (minimum):

- Analysis of the results and experiences so far on strengthening capacity building of Land Commissions; identification of gaps, priorities identified.
- Assess opportunities for integration of existing curricula (local governments; mayors; judges/ justice; administrators; farmer organizations, universities etc.)
- Develop, discuss, and agree on approach to capacity building, quality assessment, resource requirements/ availability.
- Discuss and agree tool/structure for sharing and updating courses/ tools/ instruments etc.
- Ensure availability of instruments/ tools / approach etc. for capacity building for various actors/ stakeholders.

⁶ The law includes provisions to increase access to land for women and youth (f.e. 10-15 % of the improved farmland is allocated to women and youth) subsidiary legislation on Land Commissions also regulates participation of representatives of women and youth organizations. One of the objectives is to have the participation of women secured.

- Develop capacity building plan & training of trainer courses; propose implementation plan and implementation.
- Annual review on the progress of capacity building/ a quality assessment; planning for subsequent year.
- 6-month review progress institutionalization/ consolidation progress of this learning approach- it needs to be consolidated in order to continue after the project ends.

Component 4: Independent monitoring and evaluation system of Land Commissions and support to innovations in customary systems in place

Regular and high-quality monitoring is essential for assessing progress and to timely adjust/ expand the approach. It will be important also for resource mobilization for the key partners. Independent evaluation will provide a more in-depth and independent review while studies on evolution of customary tenure and contribution to food security, agricultural productivity, inclusivity etc. will inform a forward-looking agenda. This work also requires a clarification of roles between SP-LOA, *Observatoire National du Foncier Agricole* (ONFA), university/ academics and civil society. Especially collaboration with local knowledge institutions is essential.

Deliverables:

- Goals, approach, work plan and quality assurance Land Commissions and LFA identified, agreed.
- Monitoring system agreed and in place (based on results inception phase as far as possible); implemented in coordination with SP-LOA and ONFA.
- Universities/ academics engaged on background/ in-depth research, piloting, and evaluation of the approach.
- Annual reports published and discussed on progress of Land Commissions (establishment, functionality; and inclusivity); financial sustainability).
- Draw lessons for regulatory and institutional framework Land Commissions (and LFA) and priorities. Prepare draft regulations.
- Innovations in customary systems identified and supported: One of the objectives is to promote innovations in customary tenure systems: more secure user and tenancy rights, gender sensitive and inclusive decision making, and transparency. The law and implementation regulation include representation by women and youth organizations, which is an important innovation with regards to the traditional structures. The university of Bamako successfully experimented with developing customary land tenure to strengthen the rights of land users and renters of amongst many women, migrants, young people as beneficiaries - under the umbrella of a village level Land Commission. This means that experiences with innovations elsewhere and which are adjusted to local needs and circumstances can be taken as an example to be further scaled up and taken up by other Land Commissions.

Component 5: Network organization for Land Commissions established

Land Commissions exist in 200-300 local government areas and will be established in all 703 local governments in the coming years (depending on the security situation), as well as additional Land Commissions at the village level (where desired). This project needs to be bottom up and this requires Land Commissions to voice their experiences and feedbacks and being able to share their experiences. The role of the network for the Land Commissions is to have a place to voice their experiences, draw lessons and to function as a learning instrument for other Land Commissions. When developing an exchange network of Land Commissions, it is therefore very important that it also has a regional/ district level dynamic. Details must be worked out on expectations from existing Land Commissions, how the network can be most effective, modalities and sustainability.

Deliverables (minimum):

- Land Commissions network: discussions with Land Commissions and other local actors on goals, structure and modalities, sustainability; including coordination with other local structure at local government and village level.
- Land Commissions network established in several regions, to be identified after the analysis of the inception phase; review of the functioning and modalities; prepare action plan for consolidation/sustainability of the network.

Project management – Steering Committee

A Steering Committee will be established to monitor the progress of the implementation in relation to the objectives of the LAND-at-scale project. The steering committee will validate the reports and work programs, before they will be sent to RVO for approval, and will propose possible small

adjustments in the orientation of the project, its content, and results in case of changes of the context in which the project is carried out.

The committee will encompass *inter alia* representatives of SP-LOA, the Netherlands Embassy, RVO and tenderer. In view of related projects and to support collaboration, it is required that a representative of the World Bank takes part in the steering committee, as well as an EU representative.

If deemed necessary, experts from other organizations can be added or other donors can be invited. The terms of reference from the steering group will be developed before the project starts and should be endorsed by SP-LOA and the Dutch Embassy. If the anticipated EU project comes in operation, the EU representative will also be invited to participate in the Steering Committee.

Risk analysis and mitigation

In the table below the risks are listed including the risk level and the mitigation measures. The tenderer is asked to provide an additional risk analysis and mitigation strategy in the inception phase.

Table 1. Risk and mitigation measures

Risk	Level	Mitigation measure
External risks		
Political and Security risks Lack of progress in the security situation in the north and the center, and/or its extension to the south (through terrorist attacks) could distract Government's attention and divert resources from its recovery and development agenda. The Government security apparatus has so far been unable to counter this trend and there is a real risk of growing divide within Mali's population and the ability to solve conflicts over land.	High	Regular assessment of risks for Land Commission to be established/ operate; events being organized.
Security risk will affect - ability to support Land Commissions - requires creativity/ delegation and more remote monitoring - Droughts will influence local communities' availability and interest, as well as ability to self-financing - options to monitor in the field	High	Tenderer will have security system in place and operational; Tenderer will have the ability to work in a fragile environment. A possibility is to relocate certain activities when security cannot be guaranteed; Work in collaboration with local actors and build the capacity of local actors to ensure that they can continue activities and provide information.
Security risk will affect monitoring options in the field	High	Tooling is needed and also available to locally monitor by making use of paralegals and by training make them the ones who can do the monitoring (making them the long arm for those staying in Bamako)
Given the prevailing security situation and the likely on-going additional restrictions related to the COVID-19 pandemic how to avoid that this will be an initiative that is largely driven from out of Bamako or regional capitals with limited real impact on the ground in <i>cercles</i> , communes and villages?	High	Roll out the programming the more feasible and secure districts first. NB: This will happen in practice as the roll out will start in the safe districts only (World Bank strategy).
Sector strategies and policies risks particularly with respect to government support and ability to scale up of the Land Commissions and effective integration with decentralization; Institutional capacity risks are substantial	Medium	Commitment and support embassy and key development partners; other government actors Consultation/ communication with mandated government partners during project preparation Consultation/ communication with support structures decentralization from start
Governance risk Land Commission are substantial	High	Grievance redress mechanisms;

• Non-inclusions marginalized groups and gender • Exclusion of pastoralists • Captured by outside interest • Ineffectiveness due to too much bureaucracy: balance between sufficient formal procedures to ensure link with courts/ administration, while also leaving sufficient space for local ways of communication and negotiation (not exclude customary authorities, elderly, non-alphabetized; non-French speakers etc.) • Local communities/ customary authorities do not support goals on inclusivity and transparency • Parties in conflict do not accept outcome of mediation by Land Commission if not to their advantage; tribunals and/ or administration do not support mediation work Land Commissions		Special attention in analytics/monitoring & evaluation; Widely disseminate results Land Commission and importance of conflict mediation; prevent overly technocratic and bureaucratic approach;
Instable political situation After <i>coup d'état</i> and the current transition phase, unsure how new government will assess the position of Land Commissions	High	Bidder to assess situation and propose appropriate measures
Project risks		
Limited capacity/expertise: The ministries responsible for the implementation are endowed with limited well-qualified, in-house resource personnel.	High	Development roadmap and action plan at start; work with development partners on government support for LFA implementation; emphasize co-financing and realistic expectations from start
Risks associated with project • the technical design of project • and willingness of partners to collaborate	Medium	Open consultation and communication from start to promote spirit of coordination/collaboration instead of competition; avoid "Bamako bias"; engage civil society Quality of research; analytics; monitoring & evaluation
Effectivity of Land Commission • risk that conflicts as result of mediation might escalate • various parties with contradicting interest involved in mediation • to bring together all parties involved in meditation to avoid "shopping" of citizens from one mediator to another mediator • corruption by authorities	High	Risk mitigation mechanisms need to be developed by the implementing party
Standard approach for LC's might frustrate options to deal with local (cultural) differences. NB: there is a trade-off between standard and tailor-made solutions. Up scaling needs a high degree of standardization at the same time: it must be possible to address local cultural differences	Medium	Project strategy needs to create maximum space for regional differences and variations in customary tenure systems
Low trust in government of local population. Land Commissions might be seen as the long arm of the government	High	Contractor needs to propose approach how to gain more trust

2.2 Lots

The invitation to tender has not been divided into lots because this is a homogeneous assignment.

2.3 Contract Period

The Contracting Authority intends to conclude a Contract for a period of 30 months, starting from contracting date.

2.4 Scope of the assignment

The Tendering Authority has estimated a total contract value of € 1,280,000,-- (exclusive of VAT).

The estimated value is an indication from which no rights can be derived. This Tender Document was created using up-to-date knowledge and insights valid at the time of its formulation.

It is possible that the services specified in the contract may change in the event of political, budgetary, administrative or organisational developments within the Dutch government and the Contracting Authority's expansion or contraction resulting from this, or changes to the Contracting Authority's position within the government or to the targets that must be met. In the event such circumstances occur, the Contracting Authority will consult with the Contractor.

It is possible that the services specified in the contract may change in the event of political, budgetary, administrative or organisational developments within the Dutch government and the Tendering authority's expansion or contraction resulting from this, or changes to the Tendering authority's position within the government or to the targets that must be met. In the event such circumstances occur, the Tendering authority will consult with the Contractor.

If the Contractor foresees obstacles in the execution of the assignments within the agreement as a result of the Covid-19 crisis, or any other circumstance, he must inform the Contracting authority as soon as possible. If, in its opinion, the work cannot or cannot be performed to a sufficient extent, the Contracting authority may proceed to immediate termination by means of termination of the Agreement. The Contractor will then receive reimbursement of the costs in the event of cancellation by the Contracting authority in accordance with Article 22.6 of ARVODI 2018.

2.5 Safety situation

The assignment takes place in Mali. The current safety situation according to the Dutch Ministry of Foreign Affairs can be found on the website of the Dutch Government. In case the safety situation doesn't allow local travel, it may be decided to postpone parts of the project or work with distant coaching or other online forms. We advise the tenderer to follow the safety advise of their respective countries. Further information on technical assistance to be performed in an area with security risks can be found in annex 7.

3. Requirements to this assignment

This section includes the requirements set by the Tendering Authority concerning the requested services and the prices and rates.

By submitting a Tender, you as Tenderer, explicitly consent to all requirements and conditions specified in this Tender document and declare that you will continue to comply with these throughout the entirety of the contract period. Furthermore, you confirm that you will comply with all of the specified prices and rates, including any agreed indexation. Failure to comply with one or more requirements will result in your Tender being disqualified from the assessment process and therefore excluded from the tendering process.

3.1 Requirements relating to the services requested

- 3.1.1 The Tenderer must clearly describe the approach and methodology for the execution of the assignment, including the following specifications:
 - Planning of activities;
 - Description of the deliverables;
 - Project budget, including number of working days per expert and per activity
 - Estimation of total costs per activity;
 - Disbursement Schedule.
- 3.1.2 The description of the deliverables indicates, for each task, the expected results and the way these results will be reported to the Contracting Authority, and the Steering Committee.
- 3.1.3 The project approach must include a kick-off meeting and planning of 4 steering Committee meetings, which will take place approximately every six months.
- 3.1.4 The Tenderer will establish in the inception phase a grievance mechanism at field level to file complaint. Contact information and information on the process to file a complaint will be disclosed in all meetings, workshops and other related events throughout the life of the project. In addition, it is expected that all awareness raising material to be distributed will include the necessary information regarding the contacts and the process for filing grievances. The project will also be responsible for documenting and reporting as part of the safeguards performance monitoring on any grievances received and how they were addressed. Following the identification of stakeholders and stakeholder engagement plans the grievance mechanism will be set in place and communicated to stakeholders, to ensure that no stakeholders are negatively affected by project activities.

3.2 Requirements relating to the result monitoring of the projects

The Tenderer should provide a *monitoring and evaluation framework for project-specific output and outcome indicators* that measure the results of the project activities of this assignment. This framework should include the monitoring methods and the reasoning behind this. In addition to defining project-specific quantitative indicators, project monitoring should capture qualitative achievements and the progress made. The contractor has the freedom to be creative and innovative in these methods, based on the local context and needs.

This M&E framework should be based on:

- The indicators in table 1 below;
- The LAND-at-scale indicators, see below in table 2;
- The SDG land related targets and indicators, see annex 9.

Learning is an essential component of the LAND-at-scale program. Tenderer(s) are willing to participate in larger LAND-at-scale events to disseminate their lessons learned and learn from other LAND-at-scale projects.

Table 1. Means of verification for the project per immediate outcome. The presented list is a selection of indicators. The contractor may change or add indicators and means of verification as deemed opportune.

	Immediate outcome	Indicator/ MoV	Unit
Component 1	Strengthening institutional and financial capacity and regulatory framework	Legal framework improved	yes/no
		Model for financial sustainability of Land Commissions in place	yes/no
Component 2	Formalized multi-stakeholder support structure for building capacity towards sustainable, inclusive, and transparent Land Commissions	Local awareness of women of the local government and village level Land Commissions	80% of targeted population
		Women's satisfaction with Land Commissions of those aware (gender/ age disaggregated score)	90% of targeted population
		Awareness amongst pastoralist using grazing areas in local government areas with Land Commissions	80% of targeted pastoralists
		Stakeholder/ partner network established	Yes/ no
Component 3	Systematic approach for piloting, validating, and sharing capacity building for Land Commissions, with a focus on conflict mediation and inclusivity	Develop capacity building plan & training of trainer courses; propose implementation plan and implementation.	Yes/ no
		Percentage Procès-Verbal available/ submitted to tribunal	90%
		Reduced number of land/NRM conflicts; increased acceptance of both parties in conflict to accept mediation and the outcomes; less land/NRM related conflicts escalated to district courts	Report ONFA
		Increased clients of Land Commissions through better access, especially woman and youth	50% increase compared to baseline
Component 4	Independent monitoring and evaluation of Land Commission and support to innovations in customary systems in place	Outline and design for monitoring system agreed by key stakeholders	yes/no
		Monitoring system introduced at central level as well in the Land Commissions	yes/no
		Innovations in customary systems in place	yes/no
Component 5	Network of Land Commissions established	Network established	yes/no
		Number of local government and village Land Commissions connected to the platform	500

Table 2 LAND-at-scale indicators

Food and Nutrition Security (FNS)		
Result area	Indicator	Level
Enablers for FNS - land rights	Number of people that enjoyed secure tenure rights to land	Outcome
Enablers for FNS - land rights	Number of (inter) national institutions that contributed to improved (sub)national land governance aspects	Outcome
Increased productivity and income	Number of small-scale food producers directly reached	Output
Increased productivity and income	Number of small-scale food producers indirectly reached	Output
Climate		
Result area	Indicator	Level
Forests and Land Use	Adoption and implementation of inclusive forest (smart) public and private policies, plans, commitments and practices in the landscape / jurisdiction	Outcome
Private Sector Development (PSD)		
Result area	Indicator	Level
Strengthened economic	Number of strengthened (farmer/workers/entrepreneurs/	Outcome

governance and institutions	traders) organisations for a sustainable local business climate	
Strengthened economic governance and institutions	Number of members of supported organisations	Outcome
Strengthened economic governance and institutions	Description of changes achieved in laws, regulations, policy plans, outcomes of social dialogue or development strategies enacted or adopted by local government or social dialogue partners in the reporting period due to direct intervention by the programme, yielding tangible benefits to the business climate	Outcome
Security and Rule of Law		
Result area	Indicator	Level
Rule of Law	Number of beneficiaries (f/m) with access to justice	Outcome
Rule of Law	Number of people (f/m) reached through justice awareness campaigns	Output
Rule of Law	Number of (formal/informal) justice institutions strengthened in terms of fairness, effectiveness, accountability or independence	Outcome
Peace processes & political governance	Number of people (f/m) trained in conflict resolution skills	Output
Rule of Law	Number of inclusive law and policy reform initiatives advanced	Output
Rule of Law	Number of perception studies and justice needs surveys conducted with NL support	Output
Peace processes & political governance	Number of studies on drivers of conflict or political governance perception surveys conducted with NL support	Output
Civil Society Development		
Result area	Indicator	Level
Improved laws, policies, norms, attitudes and practices	Number of laws, policies and norms, implemented for sustainable and inclusive development	Impact
Improved laws, policies, norms, attitudes and practices	Number of laws, policies and norms/attitudes, blocked, adopted, improved for sustainable and inclusive development	Impact
CSO involvement	Number of times that CSOs succeed in creating space for CSO demands and positions through agenda setting, influencing the debate and/or creating space to engage	Outcome
CSO capacity	Number of advocacy initiatives carried out by CSOs, for, by or with their membership/constituency	Outcome
CSO capacity	Number of CSOs with increased L&A capacities	Outcome
Women's Rights and Gender Equality		
Result area	Indicator	Level
Strengthened capacity of women	Number of individuals with strengthened competencies to advance women's rights and gender equality	Output
Strengthened capacity of women	Number of organizations with strengthened capacity to advance women's rights and gender equality	Output
Strengthened capacity of women	# stakeholder assessments that have specifically addressed woman and girls in a gender sensitive manner.	Output
Strengthened capacity of women	# and type of gender aware activities operationalized based on suggestions from woman and girls	Output
Strengthened capacity of women	# and type of gender transformative activities operationalized based on suggestions from woman and girls	Output

3.3 Requirements relating to Project Leader and Project Team

The project leader is an academic, a qualified senior project leader with at least 5 years of experience as a team leader of a complex international and multi stakeholder capacity building programs and institutionalization of the results (regulatory, implementation structures, financially). The project leader has at least 5-year experience with implementing rural development programs in francophone Africa; proven experience of working at least 3 years in conflict and fragile states, and experience with institutional and governance aspects of the preparation, implementation and anchoring of projects in developing countries and their administration. In addition, the project leader has good written and oral mastery of the English and French language.

The project team has demonstrable knowledge and/or experience on working with both governmental (at all levels) and customary institutions, on capacity building, monitoring and evaluation and building multi-stakeholder networks. The team should consist of experts with experience in working with customary rights in West African Francophone countries (preferably Mali), land conflict management and legal processes. The team should include a mix of experts, both male and female, who can jointly implement the program components in such a way that desired results are achieved. The team should consist of members who speak the relevant local languages, or who are able to organize effective translation.

The offer should include the names, functions, responsibilities and the CVs of the project leader and project team.

3.4 Requirements relating to Reporting

The following schedule applies to the delivery of reports and results. The results will be considered as means of verification. After approval of each product by RVO, the next payment can be approved.

All reporting and correspondence on this project with RVO shall be in English. The project can of course use communication materials in French or other languages that the context requires.

Report	Recipients	Deadline
Action plan for inception phase, including budget overview	RVO	1 month after contracting
Monthly (informal) email update	RVO, EKN, subcontractors if applicable	Every last day of the month during the project
Inception report	RVO	4 months after contracting (1 month after end inception phase)
Narrative and financial reports	RVO	Every 6 months during project implementation, starting after the inception phase
Annual workplan and budget	RVO	At the start of each year during project implementation, starting after the inception phase
Mid term evaluation**	RVO	15 months after start project
Concept final report (financial and narrative)	RVO	4 weeks after end project
Final report (financial and narrative)	RVO	3 months after end project
External evaluation by independent party*	RVO	6 months after end project

*An "independent party" must be: an entity/person carrying out a review and/or evaluation free of the control of those responsible for the design and implementation of the development intervention. This means that an independent person, working for one of the partner organizations within the consortium, is allowed to be involved in the review. The hours budgeted for the mid-term and end review must be included in the project budget.

** The midterm review will be largely based on the monthly and progress reports and executed by the contractor at assignment level. The midterm review will provide insight into operational aspects, into what extent the indicators are met quantitatively, the number and nature of incidents and the lessons learned with suggestions for improvements. RVO may provide a template or guidance for reporting.

3.5 Requirements relating to security risks (CSR)

- 3.5.1 The Tenderer has internal safety management procedures. It will provide a description of its stand-by and crisis management system.
- 3.5.2 The Tenderer has a support and repatriation contract for services provided abroad by its employees. He will provide the justifying certificate.
- 3.5.3 In the case of consortium, all experts based outside Mali will have to be covered by a contract of assistance and repatriation.

3.6 Requirements relating to the prices/rates

- 3.6.1 The Tenderer will provide an overview of the prices and rates applicable to this assignment by filling in the appendix entitled 'Prices/Rates'.
- 3.6.2 The price/rates must be in Euros and be all inclusive. In any event, they must include all of the following: wage costs, overheads (e.g. accommodation and wage costs for support staff), costs relating to the use of equipment and machinery during the assignment, insurance costs, any applicable costs for e-invoicing, and local travel and accommodation expenses as well as any currency risks.
- 3.6.3 The Tenderer will not submit any zero or negative prices/rates.
- 3.6.4 The rate is fixed up to the maximum price of €1,280,000,-- (1.28 Million Euros) for the durations of the agreement and cannot be indexed. The Tenderer will provide a budget with fixed hourly/daily rates, specified according to the various duties.

3.7 Tax-related requirements

- 3.7.1 The Tenderer indemnifies the Contracting Authority against any claims from the Dutch Tax and Customs Administration (*Belastingdienst*) or other tax authorities.
- 3.7.2 The Tenderer will quote the prices according to the following structure:
 - the amount excluding Dutch VAT and any VAT due outside the EU;
 - the amount of Dutch VAT due (if applicable) and the amount of any VAT due outside the EU, and;
 - the amount including Dutch VAT (if applicable) and any VAT due outside the EU.
- 3.7.3 If the Tenderer indicates that no VAT is applicable, then he agrees to provide documentary proof of the grounds for this to the Contracting Authority within 30 (thirty) calendar days of the request to do so.
- 3.7.4 You are liable for any extra costs for Dutch and/or foreign VAT due if you incorrectly charge no VAT or an incorrect amount of VAT to the Contracting Authority. If applicable, you are liable for accurate payment of VAT in the Netherlands and outside the EU, with the exception of the case stipulated in the following sentence. If the Contracting Authority procures a service from a foreign business and Dutch tax law considers the work to have been performed in the Netherlands, then the Contracting Authority is liable for the payment of VAT to the Dutch Tax and Customs Administration for this/these service(s) performed in the Netherlands.
- 3.7.5 You guarantee that the amounts specified in the quotation are inclusive of all taxes and levies (including amounts considered equivalent to taxes or levies), regardless of their description and wherever in the world they may have been levied.
- 3.7.6 You indemnify the Contracting Authority against any claims from any tax authority for any taxes, levies or contributions considered equivalent to taxes or levies, originating from either the Netherlands or outside the Netherlands.
- 3.7.7 Given the nature of this assignment, which includes development cooperation that exclusively benefits a developing country, a VAT rate of 0% applies to the amount specified on the quotation provided the Contractor is established in the Netherlands and his

organisation is registered as an entrepreneur for VAT purposes. **For extra certainty in this matter**, you can request a declaration of exemption from VAT from the tax inspector. More information on this matter can be found within the decree issued by the Ministry of Finance on 21 September 2015 (no. BLKB/2015/76M).

If you submit a statement from the tax inspector within 60 (sixty) days of the award of the Contract that specifies that a **different** VAT rate applies, then the contract price will be increased to include the applicable VAT rate.

You are liable for any costs (extra or otherwise) in the event that you incorrectly charge no VAT or an incorrect amount of VAT to the Contracting Authority.

- 3.7.8 If you believe that your work is being taxed simultaneously (in part or in full) in both the Netherlands and a foreign country (outside the EU), then you agree to provide evidence from the foreign tax authorities in question that prove VAT has been levied on one of the services/amounts substantiated by you in the quotation. You will provide this statement in English. If the statement from the foreign tax authorities is not in English, then you agree to provide a sworn translation of this statement, the costs of which will be borne by you.

3.8 Invoicing requirements

- 3.8.1 The following payment schedule applies:

- 20% at the start of the contract;
- Setup payment scheme for 70% will be based on the approved deliverables mentioned in chapter 3.4 (semi-annual narrative and financial reports);
- 10% after approval of the final product.

- 3.8.2 You must include a summary of the actual hours/days worked in accordance with the applicable rates.

- 3.8.3 **For companies established in the Netherlands only**

E-invoicing

The general terms and conditions that apply to this contract contain a provision that invoices must be sent electronically (not in pdf). This can be done in 4 different ways:

- The invoicing portal of the Dutch government
 - Link with Digipoort
 - E-invoicing with your own (accounting) software package through Simplerinvoicing
 - E-invoicing through a service provider.
- See attached "Brochure e-factureren".

For companies not established in the Netherlands

The paragraph concerning e invoicing does not apply to companies located outside of the Netherlands.

4. Requirements concerning the Tenderer

4.1 Introduction

In this section, you can find the requirements set by the Tendering Authority to determine whether particular Tenderers are suitable to be awarded the Contract. For this purpose, Exclusion Grounds and Suitability Requirements have been set.

You can indicate whether or not the Exclusion Grounds apply to you and whether or not you are in compliance with the Suitability Requirements by completing the 'European Single Procurement Document'.

The 'European Single Procurement Document' is a PDF file that has been partially filled in for you. You must fill in the rest of the form, print it, legally sign it with a handwritten signature, scan it and submit it together with your Tender via TenderNed.

4.2 Exclusion Grounds

The following Exclusion Grounds are specified in the annex 'European Single Procurement Document':

- all Exclusion Grounds specified in Part III A and B;
- the Exclusion Grounds in Part III C of the 'European Single Procurement Document' that have been selected by the Tendering Authority by means of the tick boxes.

See Section 7 for information on how to submit a Tender in collaboration with other organisations. This section specifies who must provide a completed and signed European Single Procurement Document during the process of submitting a Tender.

The evidence relating to the Exclusion Grounds does not have to be submitted together with the Tender: it is only required once the Tendering Authority requests it.

Please note: The process of applying for a GVA (certificate of conduct) can take several weeks.

For information on types of evidence, see Section 2.89 of the Public Procurement Act.
<http://wetten.overheid.nl/BWBR0032203/2016-07-01>

The evidence consists of:

1. Extract of Trade Register (no older than 6 months see §4.3)
2. 'Certificate of Conduct for procurement' ('Gedragsverklaring Aanbesteden' -no older than 2 years)
3. Tax statement (no older than 6 months)

The Tendering Authority, to which a Tenderer submits data in order to prove that the exclusion grounds referred to in Article 2.86 or Article 2.87 do not apply to the Tenderer, also accepts data and documents from another Member State, from the country of origin of the Tenderer or from the country where the Tenderer is established, that serve an equivalent purpose or that show that the exclusion ground does not apply to Tenderer.

Please refer to <https://ec.europa.eu/tools/ecertis/search>
eCertis is the information system that helps you identify different certificates requested in procurement procedures across the EU.

4.3 Suitability Requirements

The purpose of the Suitability Requirements is to assess whether the Tenderer is suitable to fulfil the Contract in the opinion of the Tendering Authority.

By signing Part IV of the annex 'European Single Procurement Document' (which uses the term 'Selection Criteria' to refer to the Suitability Requirements), the Tenderer declares that he complies with the Suitability Requirements as specified in this subsection of the Tender document. These Suitability Requirements are further specified in the subsequent paragraphs in this section.

4.3.1 Financial and economic standing

By signing the 'European Single Procurement Document', the Tenderer declares:

- a. That he possesses sufficient financial and economic capacity to fulfil the contractual obligations.
- b. That the Tenderer is unaware of any possible claims against him that may compromise his organisation's financial-economic capacity or continuity, and that no investment is required during the Contract period that may have a similar compromising effect.
- c. That the most recently issued auditor's report (or, if applicable, a review report or compilation report) does not include a 'continuity section' that expresses doubt concerning the viability of the organisation.
- d. That the Tenderer has a sufficient level of professional and/or statutory liability insurance for the fulfilment of the assignment and that in the event of the Contract being awarded to him, will remain sufficiently insured throughout the duration of the assignment(s).

Evidence (do not submit together with the Tender – only submit it when requested to do so):

Proof of the economic operator's economic and financial standing may, as a general rule, be furnished by one or more of the following references:

- a. appropriate statements from banks or, where appropriate, evidence of relevant professional risk indemnity insurance;
- b. the presentation of financial statements or extracts from the financial statements, where publication of financial statements is required under the law of the country in which the economic operator is established;
- c. a statement of the undertaking's overall turnover and, where appropriate, of turnover in the area covered by the contract for a maximum of the last three financial years available, depending on the date on which the undertaking was set up or the economic operator started trading, as far as the information on these turnovers is available.

If the data of the Tenderer's parent/holding company is used in relation to the aspect of financial-economic capacity, then the Tenderer must provide a statement from the parent/holding company that specifies that the parent/holding company unconditionally acts as a guarantor for the obligations to be undertaken by the subsidiary company and any debts arising from the Contract incurred by the subsidiary company. The statement by the parent/holding company must be signed by a legally authorised representative.

4.3.2 Reference data (technical qualifications)

The Tendering Authority has set the following core competences, which demonstrate experience with essential aspects of the assignment:

- Experience of working with rural land rights and land governance in a Sahelian context;
- Experience in multi-stakeholder network building and capacity building;
- Networking capacity/ a network of governmental organisations, non-governmental organisations (donors, NGO's, financial institutions like the World Bank, and knowledge institutions).

By signing the 'European Single Procurement Document', the Tenderer declares that he has carried out at least one reference assignment for each of the core competences listed above that meets the following minimum requirements:

- The subject of the reference assignment must be comparable to the core competence in question.
- The reference assignment must have been executed or completed within the three years prior to the closing date for the submission of tenders. If the Tenderer uses an assignment that is

not yet fully complete, then only the completed results of the ongoing assignment can be submitted for reference purposes: projected results cannot be taken into consideration.

The total value of the reference assignment(s) must be at least € 750,000. This reference-assignment value must exclusively consist of the value of the aspects of the assignment that are equivalent to the service specified in this document. In case a series of separate yet significantly comparable assignments was carried out for the same client during the reference period, then the turnover of these separate assignments can be combined into a cumulative total.

Assignments including one or more subcontractors can only be used as reference assignments if the subcontractor(s) in question will be involved in the fulfilment of the Contract and if the Tenderer can and will make use of the knowledge and experience of the subcontractor(s) in question during the fulfilment of the assignment.

Evidence (do not submit together with the Tender – only submit when requested by the Tendering Authority):

You may not provide more than one reference for each core competence. If a single reference testifies to multiple competences that comply with the applicable requirements, then you can use the same reference for these different core competences.

Provide one reference assignment for the core competences mentioned above. The reference(s) must be signed by the referee (the Contracting authority in question).

The references must also demonstrate that they have a value of at least € 750,000,--

If required, the Tendering Authority reserves the right to check the accuracy and completeness of the references and to contact one or more of the reference parties without the Tenderer's involvement or permission.

4.3.3 Professional/trade register extract

The Tendering Authority expects the Tenderer to be authorised to practise his trade. For this reason, the Tendering Authority reserves the right to ask the Tenderer to demonstrate that he is registered in the professional register or in the trade register referred to in Annex XI of EU Directive 2014/24/EU in accordance with the regulations applicable in the country in which he is established.

It is also vital that the signed documents included in the Tender have been signed by a legally authorised representative of the Tenderer. For this reason, the Tendering Authority can also ask the Tenderer who is awarded the contract to demonstrate the legal validity of the signature.

Evidence (do not submit together with the Tender – only submit when requested by the Tendering Authority).

In order to establish the legal validity of the signed statements, declarations and other evidence, it is vital that a recent and up-to-date (**max. six months old**, counted from the time of submission of the Tender) extract from the professional register or trade register is provided in compliance with the provisions stipulated in Section 2.98 of the Public Procurement Act. The extract must demonstrate the legal authorisation of the signatory.

If the signatory of the statements, declarations and other evidence is not featured on the extract, then authorisation of the signatory must be provided by one of the parties featured on the extract, in the form of a statement declaring that the signatory was authorised to legally bind the Tenderer at the time that he signed the documents.

In the event that the Tender involves a collaboration (consortium), then every member of this collaboration must provide the aforementioned evidence separately.

5. Award criteria and assessment

5.1 Introduction

This Section concerns the award criteria. The Tenders are assessed based on the award criteria. Your response to the award criteria must be included in your Tender. In your response, you must take into account the requirements set in Section 3.

A maximum of 100 points can be obtained for your response to the award criteria.

20 points maximum	Quality of the Team Leader proposed
30 points maximum	Quality of the Project Team proposed
40 points maximum	Quality of the Project Approach proposed
10 points maximum	Total price offered (excluding all taxes)

Of the written responses to the qualitative criteria are valued with a total score lower than 60 points out of the maximum 100 points that can be obtained for these criteria, the Tender is set aside and excluded from further participation in the tendering process.

The answers to the award criteria may have a maximum of 25 pages, excluding attachments. The excess will be disregarded in the assessment.

5.2 Quality criteria

5.2.1 Award criteria relating to the Team Leader

You will provide evidence of the expertise of the project leader you have proposed by submitting his detailed resume.

Max. no. of points available 20	Assessment aspects
5	Degree of experience in international project management as team leader (such as managing and coaching teams) of complex, multi stakeholder projects specifically in rural areas in francophone West African countries.
4	Degree of experience with leading capacity building programs and the institutionalization of the results (regulatory, implementation structures, financially)
4	Degree of experience with a diversity of government services and non-government stakeholders at local, regional and national level.
2	Having, and being able to approach an extensive network in the land governance sector in Mali, both governmental and non-governmental (e.g. donors, financial institutions).
2	Degree of experience with customary land tenure systems and land governance
3	Degree of experience of working in conflict and fragile states

5.2.2 Award criteria relating to Project Team

In your registration, you indicate the team members you propose to deploy in the project team, based on the current indication of areas of expertise that are needed. You add the CVs of these advisors to your registration. Third parties needed to be handled as part of the team.

Max. no. of points available 30	Assessment aspects
8	Degree of experience in working with customary rights in Mali, land conflict management, and legal processes and institutions. Experience with land commissions is an advantage.
5	Degree of experience with multi-stakeholder (government, professional organizations, organized civil society; communities and customary authorities) Demonstrated capacity to organize high level consultations with government is an advantage.
4	Degree of evidence of relevant network in Mali at government level (from national to local), producer organizations, civil society organizations and academia relevant for implementation of this project.
4	Degree of operational experience with capacity building and institutionalization of these processes in West African countries, preferably Mali.
4	Degree of experience with decentralization and local governments, at all levels --national, regional, cercle and communal level, preferably in Mali.
5	History of working via field offices in West Francophone Africa. Preferably the project team has an existing operational office in Mali with sufficient administrative and logistic capacity for implementation of this project.

5.2.3 Award criteria relating to the Project Approach

In your project approach, you describe how you want to implement the modelling, including a strategy for consultations, participation and embedding, an overview of project risks you have identified and how you deal with them, and how you intend to shape knowledge transfer (capacity building).

Max. no. of points available 40	Assessment aspects
6	Formulation of the goals to be achieved (SMART), including deliverables.
6	Clear and realistic project planning, including GANT chart
5	Vision on conflict sensitivity and working in a volatile, conflict prone, context.
5	Quality of approach for identification and management of risks
6	Formulation of the proposed strategy to develop a coherent and consolidated approach to capacity building, and M&E that builds on the experiences so far and lessons learned on establishing and consolidating effective land commissions in Mali
5	Quality of strategy to ensure sustainability of approach developed (regulatory, institutional and financially)

3	Vision to ensure inclusivity and prevent exclusion in land commissions, such as gender equity and inclusion of youth
4	Effectiveness of the use of project resources, which must be demonstrated by the rationale for the distribution of the proposed total price in relation to different tasks and activities

5.3 Assessment method for qualitative award criteria

During the assessment, the assessment team will work in accordance with the following scale for the weighting of the quality criteria.

Quality of the response	Weighting percentage of the maximum points available per preference
Excellent, with great added value	100%
Very good, with some added value	90%
Good	80%
Ample	70%
Satisfactory	60%
Average	50%
Fair, not completely satisfactory	40%
Unsatisfactory	30%
Poor, insufficient	20%
Very poor, insufficient	10%
No response provided	0%

5.4 Award criteria relating to prices/rates (exclusive of VAT)

Points will be awarded for the quality of the cost specification, the effectiveness of the use of the project resourced and the total price offered in the offer according to the following table, up to a maximum of 10 points.

Offers with a price above **€1,280,000,--** (exclusive of VAT) will be rejected. The points awarded for the total price will be based on the price ranges specified in the following table:

Total price offered (exclusive of VAT)	Points awarded
Offer is lower than 1,253,000	10 points
Offer is 1,253,000 or higher	9 points
Offer is 1,256,000 or higher	8 points
Offer is 1,259,000 or higher	7 points
Offer is 1,262,000 or higher	6 points
Offer is 1,265,000 or higher	5 points
Offer is 1,268,000 or higher	4 points
Offer is 1,271,000 or higher	3 points
Offer is 1,274,000 or higher	2 points
Offer is 1,277,000 or higher	1 point
Offer is 1,280,000	0 points
Offer is higher than max price 1,280,000	rejected

6. Assessment of the Tender

6.1 Assessment of the Tender's completeness and legal validity

The Tender will be assessed according to the following procedure. The Tendering Authority will check whether:

1. all required documents have been provided (see the checklist in the subsection 'Structure and content of the Tender' in Section 7);
2. the information is correct and complete, and no adjustments have been made to the documents provided by the Tendering Authority;
3. no provisos have been made by the Tenderer (e.g. specifying that the Tenderer's own terms and conditions apply);
4. the 'European Single Procurement Document' has been completed in full and has been legally signed.

In the event that the aforementioned requirements have not been complied with, the Tender will be excluded from assessment and further participation in the tendering process, unless rectification is permitted within the boundaries of public procurement legislation.

6.2 Assessment of requirements relating to the assignment

Subsequently, the Tender's compliance with the requirements to the assignment (see Section 3) will be assessed. Any Tenders that do not comply, will be excluded from further participation in the tendering process.

6.3 Assessment of award criteria relating to the assignment

Subsequently, all Tenders not excluded from the tendering process, will be assessed according to the award criteria stipulated in Section 5.

6.4 Determination of definitive total score

The Contract will be awarded according to the principle of the Most Economically Advantageous Tender. The Most Economically Advantageous Tender is the Tender that achieves the highest definitive total score based on the best price-quality ratio.

The Tenderer's definitive total score will be rounded to one decimal place. No scores will be rounded off until the moment that this definitive total score is determined. If two or more Tenderers have an equal definitive total score that would result in the Tendering Authority having to award the Contract to more parties than is desired, then the Tendering Authority will award the Contract to the Tenderer with the highest final score for the subcriterion 5.2.3 "Project approach". In the event that the highest scoring Tenderers also achieve an equal score for this subcriterion, then determination of the Tenderer to which the Contract will be awarded will be made by drawing lots.

6.5 Assessment of evidence

At the moment that the Tenderer legally signs the 'European Single Procurement Document' and submits the Tender, the Tenderer is not (yet) required to provide any evidence, unless expressly asked to do so in this Tender document.

By signing the 'European Single Procurement Document' and submitting his Tender, the Tenderer agrees that at a later date, the Tendering Authority is entitled to request that the winning Tenderer provides the required evidence.

Upon awarding the Contract, the Tendering Authority will only request evidence from the winning Tenderer. The Tendering Authority is entitled to request this evidence at an earlier stage and from all Tenderers if it believes such a course of action is necessary to facilitate the progress of the tendering process.

The evidence must demonstrate that the Tenderer indeed complies with the content of both the 'European Single Procurement Document' and the Tender. Following the Tendering Authority's request to provide the evidence, the Tenderer has 15 (fifteen) calendar days to hand over the required evidence. If the Tendering Authority does not agree with the content and/or validity of one or more of the pieces of evidence provided by the winning Tenderer, then this could result in the winning Tenderer being excluded from further participation in the process. In such cases, the Tendering Authority will inform every Tenderer of this situation. The Tendering Authority will then determine the next Most Economically Advantageous Tender. The score of the Tenderer that has just been excluded will be removed. The calculations will then be carried out once more and a new ranking will be created. The award process will then be conducted again.

In the event a winning Tenderer does not qualify for the definitive award of the Contract, then all Tenderers will be notified of this and the consequences thereof concerning the award of the contract.

7. Submission procedure for Tenders

7.1 Statement of agreement

By submitting a Tender, including the 'European Single Procurement Document', the Tenderer explicitly consents to all requirements and conditions stipulated in this Tender document and the Memorandum of Information and declares that he will continue to comply therewith throughout the entirety of the contract period. Furthermore, the Tenderer confirms that he will comply with all of the specified prices and rates, including any agreed indexation. Failing to comply with one or more requirements will result in his Tender being disqualified from the assessment process and therefore excluded from the tendering process.

7.2 Schedule

See schedule in Subsection 1.3.

7.3 General procedure

This tendering process will be carried out in compliance with the Public Procurement Act. In this case, the 'open procedure' was selected. An announcement thereof was published on www.tenderned.nl and on Tender European Daily (TED).

In the event that a Tender is not submitted in accordance with the provisions and regulations stipulated in this section, the Tendering Authority can set aside the Tender and exclude the Tenderer from further participation in this tender procedure.

7.3.1 Communication

All communication relating to this tender procedure will be conducted via TenderNed (www.tenderned.nl), unless otherwise specified.

Once you have indicated your interest in this invitation to tender on TenderNed, you can send and receive messages about this tender process via 'My Tenders'. Any questions concerning the tender process can be sent to the Tendering Authority's contact person via TenderNed.

You will receive messages via TenderNed. Via your personal TenderNed settings, you can turn on automatic notifications, including notifications to your private email address. It is your responsibility to ensure that these emails are not blocked by your email provider's security system. If the communication cannot be conducted via TenderNed, you can contact the following contact person(s):

Mr. G.Goorhuis, purchasing advisor, e-mail gert.goorhuis@rvo.nl

Attempts to directly contact parties other than the contact person(s) stated above in relation to this tender process are prohibited.

If you have any functional or technical questions regarding TenderNed, you can contact the TenderNed service desk on weekdays between 08:30 and 18:00 CET on 0800-8363376 or via servicedesk@tenderned.nl. You can also consult the eHandbook via <http://www.tenderned.nl/egids/>.

7.3.2 eHerkenning

All TenderNed users affiliated with a *Dutch* company registered with the Dutch Chamber of Commerce are obliged to log in and register using eHerkenning.

This obligation does not apply to companies not registered in the Netherlands.

Visit <http://www.tenderned.nl/eherkenning-en-tenderned-0> for more information about eHerkenning, including the terms and conditions. You are responsible for any consequences arising from the failure to register with eHerkenning in a timely manner.

7.3.3 Questions and additional information/changes

During the procedure, you have the opportunity to ask questions. Ask your questions as soon as possible. All questions will be answered anonymously. The Tendering Authority can answer your questions via TenderNed in two ways:

- Via one or more Memoranda of Information.
- By means of the TenderNed 'Questions and Answers' facility.

The deadline for submission of your questions is specified in the schedule (see section 1.3). In any event, all questions asked will be answered at least 10 days prior to the deadline for submission of the Tender.

Submitting a question to the Tendering Authority

Questions are to be asked via TenderNed. See <https://www.tenderned.nl/cms/english/six-steps-bidding-public-procurement-contracts-online-through-tenderned>.

All questions and answers will be published anonymously for all interested parties to view. If you have a compelling reason why you do not wish your question (and its answer) to be revealed to the other interested parties, then tick the 'Answer Individually' box. However, the Tendering Authority will decide whether or not to process your question individually.

Answers from the Tendering Authority

The Memoranda of Information are an integral part of this Tender document. The Tendering Authority assumes that all sections for which no questions have been asked have been clearly and fully understood.

7.3.4 Validity period and submission of Tender

The Tender must be valid for at least the four months after the deadline for submitting the tenders. In the event that an application for a preliminary injunction is filed with the competent court in The Hague against the award decision, then the Tenderers must in any event ensure that their Tenders are valid until four weeks subsequent to the initial decision by the court.

7.3.5 Variants on Tender

Upon submitting a Tender in accordance with the Tender document, the Tenderer is not permitted to submit a variant of this Tender.

7.3.6 Costs of submitting a Tender

The Tendering Authority will not reimburse any Tenderers for any costs resulting from the drafting and submitting of a Tender, including any further information requested of the Tenderer.

7.3.7 Termination of tendering process

Until the moment that the Contract is signed, the Tendering Authority reserves the right to partially, fully, temporarily or permanently terminate the tendering process. In such cases, Tenderers will not be entitled to receive compensation for any costs incurred by them in connection with this Tender, unless the Contracting Authority is of the opinion that a (small) contribution to the tender costs is appropriate in view of the circumstances.

7.3.8 Order of precedence of documents

In the event of inconsistencies between the Tender document and the Memorandum of Information, the Memorandum of Information takes precedence.

In the event that there are multiple Memoranda of Information, then the provisions in the most recent Memorandum of Information takes precedence in the event of inconsistencies between the different Memoranda.

7.3.9 Information about the Tenderer's obligations

The Tenderer must take into account his obligations relating to environmental, social and employment law in compliance with article 2.81 paragraph 2 of the Public Procurement Act.

Information on obligations resulting from Dutch legal provisions with regard to taxes, environmental protection, occupational health and safety and terms of employment that will be

applicable to the Tenderer's activities throughout the Contract period is available from the following sources:

- Information on taxes: the Dutch Tax and Customs Administration: (www.belastingdienst.nl).
- Provisions concerning environmental protection: the Ministry of Infrastructure and Water Management (www.rijksoverheid.nl).
- Provisions pertaining to occupational health and safety and terms of employment: the Ministry of Social Affairs and Employment: (www.rijksoverheid.nl).

7.3.10 Inconsistencies and objections

If the Tenderer is of the opinion that the documents contain inconsistencies, errors or matters that are unclear or if the Tenderer has any objections, then the Tenderer must report this to the contact person in writing, including substantiation.

7.3.11 Complaints procedure

If a Tenderer disputes a response given by the Tendering Authority to a question, request, comment or objection from the Tenderer, or if the Tenderer receives no response, then he can submit a complaint. More detailed information on this matter can be found in the 'Complaints Procedure' annex.

7.3.12 Dispute resolution

In addition to the provisions in the 'Complaints Procedure' subsection, any dispute arising from this tendering process can be presented to the Public Procurement Experts Committee (www.commissievanaanbestedingsexperts.nl) and/or to the competent court in The Hague. Dutch law applies exclusively to such proceedings.

7.3.13 Submission of the Tender

The deadline (date and time) for submission of Tenders is stipulated in the 'Time schedule' (1.3) and it is a final deadline.

- In order to submit a Tender, you must register with TenderNed. One or more registered users must be connected and authorised to submit the Tender via TenderNed on behalf of your company.
The Tendering Authority advises that you start the TenderNed registration process immediately rather than postponing it until the tendering period is coming to a close. Upon registering your organisation, you must add your tender via TenderNed's announcements platform.
- For more information on registering and establishing your organisation with TenderNed and digital submission of your Tender, visit <https://www.tenderned.nl/cms/english/six-steps-bidding-public-procurement-contracts-online-through-tenderned>.
- Only Tenders that have been submitted to the digital safe for this invitation to tender either prior to or on the day of the deadline (prior to the time of the deadline) will be processed by the Tendering Authority.
- The time and date as displayed on the digital countdown clock in TenderNed serves as the definitive deadline for the submission of Tenders.
- The Tendering Authority is only able to see the Tenders once the digital safe opens in TenderNed. This safe can only be opened upon expiry of the deadline for the submission of Tenders.
- In the event you have technical issues or questions regarding submission of your Tender via TenderNed, you can contact the TenderNed service desk via [servicedesk@tenderned.nl](mailto: servicedesk@tenderned.nl) or +31 (0)70-3798899. If you believe that the TenderNed service desk is taking too long to answer your question or comment, then you can contact your contact person within the Tendering Authority.
- Any risks resulting from late submission of the Tender and/or submission of an incomplete Tender is borne by the Tenderer.
- The Tendering Authority is neither responsible nor liable for any consequences resulting from a Tender that is submitted too late, incorrectly or incompletely.

The Tendering Authority will treat confidential information provided by the Tenderer with due care.

7.3.14 Structure and content of the Tender

The Tender must be submitted entirely via TenderNed and the 'European Single Procurement Document' must be legally signed.

You can use the following checklist during the submission of your quotation.

Subject	Description	Action required from tenderer
Annex 1	European Single Procurement Document*	Fill in, legally sign and add to TenderNed
Award criteria	Tender, including a general response to the Tendering Authority's award criteria.	Add to TenderNed
'Prices/Rates ' annex 2	Prices/rates included in the quotation	Fill in, legally sign and add to TenderNed
CV and examples asked at the Award criteria	CV('s), examples	Add to TenderNed

* See Subsection 7.3.16 in the event your Tender is submitted in collaboration with other companies.

7.3.15 Legal signature

A legally binding signature means that a document has been signed by a duly authorized representative.

If it is recorded in the professional or company register that two or more persons only have joint powers of representation, then the documents requiring a legally binding signature must be signed by those two or more persons. If any restrictions are in place regarding the authorization to represent the organization, then these must be taken into account.

Where a legally binding signature is required, the Contracting Authority accepts, in addition to an original handwritten signature, also the qualified electronic signature within the meaning of article 3: 15a of the Civil Code (or EU Regulation no. 910/2014, article 3, part 12).

Please note: it is not possible to sign the European Single Procurement Document with a qualified electronic signature immediately. You can provide the ESPD with a handwritten signature or you must make a digital PDF printout of the PDF form, after which the qualified electronic signature can be placed on this digital PDF printout.

The lack of a legally binding signature in principle will lead to exclusion from the tendering procedure. In that case, however, you will be given one single opportunity to correct it within 48 hours.

7.3.16 Submission of a Tender in collaboration with other organisations

If you cannot carry out the assignment independently, you can set up a collaboration with other organisations.

There are two ways in which you can submit a Tender in collaboration:

- 1) As a consortium in which each member of the consortium is jointly and severally liable for the fulfilment of the obligations arising from the Tender as well as the fulfilment of the Contract.
- 2) In a principal contractor-subcontractor structure in which the Contractor is liable for the fulfilment of all obligations, including the obligations that will be subcontracted.

Tendering as a consortium

If a Tender is submitted by a consortium, then:

- Every member of the consortium must fill in and legally sign a separate 'European Single Procurement Document', which also includes a specification of who the consortium members are (see Part II of the 'European Single Procurement Document'). Indicate the role each member plays within the consortium. In the 'European Single Procurement Document', you must indicate who is in charge of the consortium (who is lead manager) and will act as its authorised representative.
- All organisations in the consortium accept joint and several liability for the fulfilment of the obligations arising from the Tender and the eventual fulfilment of the Contract.
- If a consortium member relies upon the capacity of another entity in order to demonstrate compliance with the applicable Suitability Requirements, then the entities in question must complete and sign Part II C of the 'European Single Procurement Document' (in compliance with the provisions specified below in the subsection 'Submitting a tender together with subcontractors' in the eventuality that subcontractors are obliged to demonstrate their capacity).
- Every member of the consortium, for their part, must provide the evidence requested for the Tender.

Submitting a tender as a principal contractor together with subcontractors

If a Tender is submitted by a principal contractor that does not rely upon the capacity of any subcontractors, then only the principal contractor is required to complete and legally sign Part II D of the 'European Single Procurement Document'.

If the principal contractor does rely on the capacity of subcontractors in order to demonstrate compliance with the applicable Suitability Requirements, then the subcontractor(s) in question must also complete and legally sign Part II C of the 'European Single Procurement Document'.

The principal contractor is fully liable for the fulfilment of the obligations arising from the Tender as well as the fulfilment of the contract (if awarded). In addition, the principal contractor is liable for the fulfilment of the obligations for which he has hired the subcontractor(s).

All completed and legally signed 'European Single Procurement Document' forms must be added to the Tender.

Upon the award of the Contract, the Tendering Authority will request – prior to the commencement of the Contract – that the winning principal contractor provides the following information:

the name, contact details and legal representatives of the subcontractor that will be involved in the execution of the services.

7.3.17 Single Tender

All natural persons, legal entities and organisations may only submit a single Tender (either individually or in combination with other natural persons, legal entities and/or organisations). Tenderers who are mutually connected via a relationship of dependence (group link) are permitted to participate separately in this tendering procedure. However, this is on the express condition that they participate as competitors in this tendering process. For this purpose, they must demonstrate that their mutual relationship has not influenced their behaviour within the scope of this tendering procedure nor has it restricted fair competition.

By submitting a Tender, the Tenderer in question agrees to this condition.

7.3.18 Violation of the fundamental principles of procurement law and restriction of fair competition

Any Tenderer whose actions violate a fundamental principle of procurement law (such as the equality principle), the result of which restricts or could restrict fair competition, will be excluded from this tendering procedure. This is also the case if the violation or the restriction of fair

competition only comes to light after the announcement of the award of the Contract to all Tenderers. Prior to making the decision to exclude the Tenderer in question, the Tendering Authority will notify the Tenderer of this intention, at which point the Tenderer will be given the opportunity to demonstrate to the Tendering Authority that no violation of a fundamental principle of procurement law or restriction of fair competition has taken place.

By submitting this Tender, the Tenderer declares his awareness that actions contravening any fundamental principle of procurement law can result in the aforementioned consequences. The Tendering Authority can use all resources available to him in order to identify any violation of the fundamental principles of procurement law or the restriction of fair competition. A judicial decision will not be a necessary requirement in such cases.

7.3.19 Communication and language

During the tendering process, communication with the Tendering Authority must be conducted in English.

The Tender must be submitted in English.

Additional documents (such as informational materials etc.) can be provided in English and also in French.

During the fulfilment of the contract, communication must be conducted in English.

7.3.20 General terms and conditions

The applicability of any of the Tenderer's general terms and conditions concerning delivery, payment and/or any other matters is explicitly excluded. The General Government Terms and Conditions apply to the Contract.

7.3.21 Contract conditions

The draft Contract and the corresponding General Government Terms and Conditions are included in the annexes. The Tenderers have the opportunity to ask questions, make comments and propose textual amendments.

The Tendering Authority is free to accept or reject the proposed textual amendments. The Tendering Authority will indicate whether or not the proposals have been accepted or rejected in the Memorandum of Information. By submitting the Tender, the Tenderer declares his consent to the (possibly amended) Contract. Only the definitive Contract will apply during the execution of the assignment.

7.3.22 Explanation and verification of the Tender

The Tendering Authority can request that the Tenderer explains his Tender in greater detail and/or provide substantiating documents. The Tendering Authority is entitled – although not obliged – to check the accuracy of all data and statements submitted within the scope of the Tender.

7.3.23 Request for supplementary information concerning the Tender

The Tendering Authority can ask Tenderers to provide supplementary information and/or clarification of their Tender.

7.3.24 Announcement of the award of the Contract

All Tenderers will receive a message simultaneously that announces the award of the Contract and substantiates its decision. All Tenderers are entitled to request further information regarding this decision from the Tendering Authority.

Standstill period

All Tenderers and stakeholders who dispute the award of the Contract and/or the verbal/written substantiation thereof can apply for a preliminary injunction at the competent civil court in The Hague. This must be done no later than 20 calendar days subsequent to the sending of the digital notifications concerning the award of the Contract. Upon expiry of this period, no more applications for a preliminary injunction can be submitted. In the event a Tenderer applies for a preliminary injunction, we kindly request that you send a copy of the summons to the Tendering Authority.

On the grounds of Section 2.129 of the Public Procurement Act the award of the Contract does not yet mean the Tenderer's Tender has been accepted. For the 20 calendar days subsequent to the sending of the digital notification of the award of the Contract, the Tendering Authority is not permitted to definitively award the assignment by concluding the Contract.

If a preliminary injunction is applied for during these 20 calendar days, then a waiting period will be required pending a judgement in the preliminary injunction proceedings. The judgement will serve as the basis for further decision making by the Tendering Authority.

If preliminary injunction proceedings are brought against the award of the Contract, then the Tendering Authority will notify the Tenderer of this fact. The Tenderer must ensure that his Tender remains valid for at least four weeks subsequent to the judgement in the preliminary injunction proceedings.

Interest in relation to the judgement

Tenderers who have an interest in the judgement in these preliminary injunction proceedings can only engage in these proceedings by means of intervention or joinder. The Tenderer cannot initiate separate proceedings or other judicial proceedings.

Annexes

The following annexes constitute an integral part of this Tender document. These annexes were published together with the Tender document.

Annex 1: European Single Procurement Document

Annex 2: Prices/Rates

Annex 3: Draft Contract

Annex 4: ARVODI-2018

Annex 5: "Brochure E-factureren Rijksoverheid"

Annex 6: Complaints Procedure

Annex 7: Special conditions of Contract for studies and Technical Assistance to be performed in an area with security risks.

Annex 8: The SDG land related targets and indicators