



TENDER DOCUMENT SELECTION PHASE (general information)		
Replacement Combustion System Frame 9/E Gas Turbine RoCa 3 2023 (The Netherlands)		
CODE	REVISION N°	DATE OF ISSUANCE
WS764064879	01	14.10.2021

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Glossary

Contracting Authority

The company as identified in the Tender Document project specifics, also known as the client.

Tender Document/ Tender Documentation

All documents prepared by or on behalf of the Contracting Authority for this Competition Procedure with negotiation and made available in the context of this tender.

General Terms and Conditions of Purchase

The General Terms and Conditions of Purchase of Contracting Authority as included in the appendix Selection.

Procurement Act

Act of 1 July 2016, containing rules on procurement (revised Public Procurement Act 2012).

Entry

The totality of the Application and all the requested information as requested by the Contracting Authority in the Selection Document and Annexes.

Consortium

A grouping between two or more legal persons in which the members hold themselves jointly and severally liable, both jointly and severally.

Competitive procedure with negotiation

A way of tendering where the Contracting Authority selects parties to submit a First Tender. Together with these parties, the Contracting Authority works towards the best solution for the Assignment on the basis of Subsequent Tenders. Then, on the basis of the Final Tender, the Contracting Authority awards the Assignment to the contracting party that is the best able to carry out the Assignment.

First Tender

The first Tender submitted by a selected Candidate on the basis of this Tender Documentation, Based on this, the selected Candidates and Contracting Authority enter into negotiations.

Candidate

The natural or legal person who is interested in participating in the Competition Procedure with Negotiation, whether or not in a Partnership.

Award Decision

The evaluation result of the Final Tenders that is made known to all Tenderers with a substantively motivated reason if there is a rejection.

Tenderer

The selected Candidate who has made a Final Tender, whether or not in a Partnership.

Final Tender

The tender on the basis of which the award of the contract is made. All the tenders submitted by the Tenderer and all the information requested by the Contracting Authority as requested by the Contracting Authority in the tender documents, the annexes and the negotiations.

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Subsequent Tender

The improved Tender based on the previous negotiation conversation with selected Candidates.

Note of Information

Document in which answers to the anonymized questions of Candidates are given as described in the Selection Document.

Subcontractor

A company that the Candidate or Tenderer uses for (part of the) the execution of the Assignment.

Contractor

The Tenderer to whom the contract is awarded in the context of this invitation to tender (within or without Partnership i.e subcontractor and/or consortium).

Agreement

An Agreement between the Contracting Authority and a Contractor with the aim of laying down the conditions regarding the assignment to be awarded for a certain period of time.

Selection Document

The document in which in any case the Contracting Authority describes and explains the assignment, the tender procedure to be followed and the Selection Criteria. These are relevant for the submission of an Application/a Tender.

Partnership

A group of providers who have either registered as a main contractor and subcontractor or as a consortium (with and/or without subcontractors).

Selection requirement

A requirement to which it is determined whether Candidates are able to carry out the actual actions of the assignment correctly.

Selection Decision

The assessment result of the Applications that is made known to all Candidates with a substantively motivated reason if there is a rejection.

Selection criteria

The criteria on the basis of which the Contracting Authority assesses the degree of suitability of the appropriate Candidates.

Exclusion Grounds

The circumstances as mentioned in Articles 2.86 and 2.87 of the Public Procurement Act that, if the Candidate/Tenderer or their Application/Tender are within these circumstance, this will in principle lead to the exclusion of further participation in the Tender.

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1 The tendering procedure and method of notification

The details of the project show the complexity of the assignment, both on a technical level and on a social level. The Contracting Authority would like to give three suitable parties the space to propose solutions to realize this complex assignment in accordance with the stated ambitions of the Candidate/Tenderer. The Contracting Authority is happy to enter into negotiations with you about this.

1.1 **Competitive Procedure with Negotiation**

The Tender is put out on the basis of the Public Procurement Act 2012. The complexity and situation of this assignment in question mean that standard solutions in the market are not suitable to meet the needs of the Contracting Authority without prior negotiations. That is why we opt for the Competition Procedure with Negotiation.

During this procedure there are 2 phases foreseen:

a) **Selection phase**

With the publication of the Selection Document, the selection phase has started. Based on the Selection Criteria, we select a maximum of three parties with which we enter into negotiations. The Selection Criteria are elaborated in the Tender Documentation (please see project specific information).

b) **Negotiation phase**

A maximum of three selected parties shall issue a First Tender on the basis of an invitation to tender. Subsequently, the Contracting Authority enters into an individual and confidential conversation with the selected Candidates on the basis of the First Tender. This will take place in one or various rounds of negotiations. After each round of negotiations, selected Candidates will release an improved Subsequent Tender. The Contracting Authority does not yet foresee exactly how many rounds of negotiations will be applied. The rounds of negotiations will stop at the initiative of The Contracting Authority.

Final Tender

After the final round of negotiations, the selected Candidates will be informed of any changes to the technical specifications or Tender Documents. After this, the selected Candidates will have time to adjust and resubmit their Final Tender in response to these changes, if necessary.

Award

The award follows the assessment on the basis of our award criteria that are elaborated in the Tender Documentation (please see project specific information).

1.2 **One sign-up only**

You may only participate once in the tender as the main provider or part of a Consortium. If you register several times, either independently or as a partner in a Consortium, all submitted Applications, either independently or in Consortium, will be set aside and excluded from the tender. However, it is possible to be added to the main provider or Consortium as a Subcontractor after submission of First Tender. You must ask permission for this, and we will not refuse that permission on unreasonable grounds. The addition of a Subcontractor may not constitute a material change to the Assignment.

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1.3 Asking questions about the tender

Request for Information

You can continuously ask questions and/or make comments about the Tender Documents via TenderNed. You are able to do this via the 'Vraag en Antwoord' module within the TenderNed Environment. This can be done until latest the date indicated for this purpose on TenderNed. The Contracting Authority can answer the questions asked on an ongoing basis. The answers are made available anonymously to all registered interested parties. It may be that it is not yet possible to formulate answers to questions that have been asked, because they are only discussed during the negotiation phase. This will therefore be mentioned.

Tenderers also have the possibility to ask confidential questions. The answer is only meant for the questioner and will not be made publicly. Choose the option: 'Dit is een vertrouwelijke vraag'. Motivate clearly why this question is confidential and why publication of the answers may harm your business.

Note of Information

At least 10 calendar days before the deadline for submitting the Applications, The Contracting Authority draws up a Note of Information with all questions asked and answers given. The Contracting Authority makes the Note of Information available via TenderNed and is an integral part of the tender documents in the selection phase. The Contracting Authority does not guarantee that it will answer questions that will be asked after the deadline for asking question has passed. If questions are asked and answered after the deadline, the Contracting Authority will determine whether the 10 days will start again. If the answers given conflict with each other, please report this as soon as possible via TenderNed.

After this information round, the Selection Criteria and the requirements for the procedure and associated documents are definitively determined. If a complaint about a defect in the tendering procedure has not been made in time, i.e. 10 days before the expiry of the notification period, the right of Candidates to raise this in a legal procedure after the Notifications have been completed and the intention of selection has been announced shall lapse.

1.4 Contact and communication

The communication in this tender is exclusively digital via TenderNed.

This means that:

- The documents will be published on the TenderNed website;
- Requests for information need to be submitted on TenderNed;
- Tender Clarification(s) will be published on TenderNed;
- Requests made by telephone or e-mail will not be answered;
- The Applications need to be submitted on TenderNed during the selection phase;
- The Tenders need to be submitted on TenderNed during the negotiation phase.

In case of an emergency, you can contact the relevant contact persons as mentioned in the Tender Documentation project specifics.

1.5 Deadline for submissions of Applications/ Tenders

You must submit your Application/Tender appropriately before the deadline mentioned in the Tender Documentation project specifics for Applications (selection phase) and Tenders (negotiation phase) via TenderNed. After this date and time, it is no longer possible to upload documents. Placing the documents on time is entirely the responsibility of the Candidate/Tenderer and we strongly recommend that you take the necessary actions within due time.

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1.6 Compensation for participation in the tender

The Candidate/Tenderer shall solely bear all costs and expenses associated with the preparation and submission of the response to this tender and for subsequent discussions with the Contracting Authority.

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2 Selection for negotiation phase

You are eligible to participate in the negotiation phase if:

1. None of the Exclusion Grounds apply to you, your partner(s) and your subcontractor(s), if any (on which you rely to fulfill for the Selection Criteria). The grounds for exclusion are elaborated the Tender Document project specifics
And,
2. Your Application meets the Selection Criteria as set out in the Tender Document project specifics
And
3. Your Application belongs to the best three Applications following the assessment based on the Selection Criteria. The three Applications that achieve the highest number of points on the Selection Criteria are selected for the negotiation phase.

Any Tender to which Exclusion Grounds apply rejected. The Contracting Authority reserves the right to request the official supporting documents that belong to the Selection Criteria of the Candidates who have been provisionally selected as during the preliminary selection.

2.1 **Exclusion Grounds**

When you register, you provide the European Single Procurement Document (hereinafter referred to as the ESPD). In the ESPD, you indicate whether the applicable Exclusion Grounds apply to you and your subcontractors, if any. The applicable exclusion grounds are listed in the ESPD.

If you use a Subcontractor to meet the Selection Criteria, you will also submit the signed document 'Subcontractor Implementation Statement' with your Application. This form has been added as an appendix to the publication on TenderNed.

If one of the Grounds for Exclusion applies to you (and any Subcontractors on which you rely), the Contracting Authority excludes you from further participation in the procedure.

Official supporting documents

The Contracting Authority reserves the right to request from you, and any Subcontractors, the official supporting documents associated with the Exclusion Grounds in the Selection Decision, provided that the relevant supporting documents cannot be obtained directly and free of charge by consulting a national database. You need to provide the requested supporting documents within seven calendar days of request.

Please note: The Declaration of Conduct for Contracting (GVA) serves as official proof, therefore you need to make sure you request it in time. Applying for the Declaration of Conduct for Contracting (GVA) can take weeks.

2.2 **Method of assessment and evaluation committee**

If necessary, the selection committee will be advised by (internal or external) experts, depending on the subject. The assessment takes place under the guidance of a purchasing advisor, who makes no substantive contribution to the assessment. The procurement consultant is responsible for the process guidance of the assessment so that it runs objectively, transparently and non-discriminatorily. The determination of the score per Selection criterion is determined by members of the selection committee by consensus.

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2.3 Calculation of total score and rounding of judgement

The scores per Application on the Selection Criteria are added together. This is the total score of the Application. On the basis of these total scores, the selection committee arrives at a ranking of the Applications. Logically, a higher point total is better than a lower point total. The three Applications with the highest total score are eligible for selection and participation in the negotiation phase. With three or fewer Applications, all Candidates will proceed to the negotiation phase providing they fulfill all the minimum requirements.

For Applications whose total of points is the same after the assessment, a draw determines the placement order. The draw will be carried out by the Contracting Authority. The relevant participants are requested to be present at the draw and are invited by the Contracting Authority.

You can register up to two working days before the draw by sending a message via TenderNed. A maximum of two people per organization can be present at the draw. The Contracting Authority will provide the minutes of the draw to all Candidates via TenderNed at the end of the draw.

2.4 Announcement of the result of the selection

The Contracting Authority will announce the selection of selected Candidates via TenderNed and will invite the selected Candidates to participate in the negotiation phase. Verification of the official evidence that belongs to the Selection Criteria will take place before the start of negotiations. If during this verification it appears that a selected Candidate/Tenderer has provided incorrect information in their Application, the Contracting Authority will still exclude the Candidate/Tenderer from further participation in the procedure.

If it turns out that The Contracting Authority should have excluded a Candidate/Tenderer, but has not done so, the Contracting Authority will go through the procedure again. It does this with the Candidates/ Tenderers who have not already been excluded. This option does not exclude the possibility for the Contracting Authority to decide to stop the entire procedure.

2.5 Objecting to a Decision

Selection phase

The Candidates who are not (yet) eligible to participate in the negotiation phase will receive a message from the Contracting Authority with a statement of reasons via TenderNed. The Candidates have the possibility to request information and to challenge this decision in court. The Contracting Authority estimates 3 days following the selection decision for submitting an objection.

Negotiation phase

The time limit for objecting to an award decision is set at 20 calendar days after the date of dispatch of the notice of rejection. This period is an expiry period, after which the Candidates/Tenderers can no longer take legal action against the decision. A request for further explanation leaves this date unchanged.

2.6 Discontinuation of the tender

The objection period of 20 calendar days also applies in the event that the Contracting Authority decides to discontinue the Tender. In the latter case, the period starts to run when you have been informed about this via a message in TenderNed.

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3 **Negotiation phase**

Here we describe our thoughts and choices about how we see the negotiation phase in front of us at the moment. This process is not fixed and can change if there is reason to do so in terms of content or process. The Contracting Authority acts as interview chairman and takes care of keeping a so-called action and decision list.

3.1 ***Negotiation topics***

The negotiation phase focuses on the following main themes:

- Financial content of your offer: price, payment terms, conditions etc.
- Technical content of your offer: technical characteristics and performance of your product/service, capabilities, limitations etc.

3.2 ***Individual and confidential***

The discussions in the negotiation phase take place individually between the selected Candidates and the Contracting Authority. This makes it possible to deal with different topics with each other in a confidential setting. Reporting of the negotiations is done by means of a "list of action and decisions". Without the consent of the Contracting Authority, it is not permitted to communicate publicly about this tender or its content.

By participating in this tender procedure, you undertake to keep confidential and not to provide to third parties information that you receive from the Contracting Authority – insofar as not available in the public domain – or to produce in the context of the tender. If it concerns information that is not 100% clear whether it is classified as confidential, you first need to submit this to the attention of the Contracting Authority.

However, you may provide such information to your employees and other auxiliary persons involved in the tender, provided that the employees and auxiliary persons concerned have previously agreed in writing to comply with this confidentiality clause.

3.3 ***Asking (confidential) questions during the negotiation phase***

In addition to the discussions, participants in the negotiation phase are always free to ask written questions about any subject via TenderNed. In TenderNed you have the choice of asking public questions or confidential questions. We apply the principle that questions are in principle public, unless the motivation shows that the question must indeed be treated confidentially.

Confidential information is involved when it concerns the specific solutions or commercial interests of your company. Requests for confidential information will be reviewed by us accordingly. If we believe that a request for confidential information cannot be classified as confidential, or can only be answered as public information, you can decide to withdraw the request in question or to give permission to treat the request as public information.

We strive to treat as much as possible (parts of) questions and answers in the interest of equality of information publicly. You can expect us to make every effort to provide you with the necessary information. Regardless of whether your request for information stems from the sharing interview, or whether you have made your questions known to us digitally, we aim to answer each question within seven calendar days.

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3.4 Finalization of negotiations

We expect the negotiation to be completed on the estimated date you can consult in the Tender Document project specifics. You then have to submit your Final Tender. These dates are subject to change. In the event that there is substantive or procedural reason to do so, we shorten or extend the negotiation phase.

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4 Tender Conditions

1. As long as full Agreement has not been reached on all points regarding the tender and no written Agreement signed by both parties has yet been concluded, there is no question of any commitment of / with The Contracting Authority. In that case, there is also no obligation to compensate for any damage or costs whatsoever.
2. Your Application and/or Tender is never an award of the Contract for this tender. Costs for your Application/Tender in the Selection phase are entirely at your expense.
3. The Contracting Authority would like to point out that, at the tendering stage of this tender, it will require that the members of the Consortium are jointly and severally liable for the execution of the Contract and that each member of the Consortium is also jointly and severally liable for the execution of the Contract. In the Tender phase, The Contracting Authority will also require that the responsible management and the staff members in charge of the execution of the assignment must have a sufficient command of the Dutch language, both verbally and in writing, insofar as this is relevant for the execution of the Assignment and the contractual obligations.
4. The forms that you must upload with your Tender have been made available via TenderNed. You may not change the layout and shape of the (digital) documents. Questions and answers in the information phase may result in the Contracting Authority changing a form. Contracting Authority then adjusts the version number. Just before submitting your Tender, make sure that you are using the latest version of the forms. If you use the wrong form (this also includes a document made available whose shape and/or layout you have changed), this may result in the Contract Authority excluding you from further participation in the procedure.
5. You must submit your Application by responding to the Selection Criteria set out in TenderNed by uploading the requested completed documents. The Contractor Authority does not accept applications that are handed over in any other way, for example via e-mail, fax or in person.
6. You must upload your Tender correctly before the specified time on the closing date via TenderNed. After this date and time, it is no longer possible to place the documents and it is no longer possible to submit an Application/ Tender.
7. After closing the deadline for submitting Applications/ Tenders, the Contracting Authority downloads the Applications/ Tenders from the digital vault and starts the selection procedure. Further information about working with TenderNed: <https://www.tenderned.nl/cms/voor-ondernemingen/6-stappen-digitaal-inschrijven>.
8. By signing up, you agree to the valuation and assessment methodology described in this document.
9. If you contact members of the evaluation committee for information about this tender, the Contracting Authority may exclude you from participating in the tender.

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