

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

Case number

Framework Agreement ARVODI-2018 on Traffic data from non-road bound systems

The undersigned:

1. The State of the Netherlands, with its seat in The Hague, represented in this matter by the Minister of Infrastructure and Water Management, represented by
Director of the National Road Traffic Data Portal, Mr. C. P. de Vries,
hereinafter to be called: Commissioning Authority,

and

2. [full name and legal form of contracting party],
(registered office) located in,
represented in this matter by
.....(and.....) [name of signatory].
hereinafter to be called: Contractor,

WHEREAS:

1. The Commissioning Authority acts as the purchasing centre for the National Road Traffic Data Portal (Nationaal Dataportaal Wegverkeer) partnership, hereinafter referred to as: NDW;
2. NDW is an implementing organisation for a number of collaborating government bodies;
3. Commissioning Authority wants to make fixed agreements with [..... enter number of Framework Contractors] service providers for a fixed period of time with regard to the performance of Services relating to Traffic data from non-road bound systems;
4. Commissioning Authority wishes to enter into a framework agreement for this purpose with a maximum term of four (4) years (hereinafter to be referred to as: the Framework Agreement), in which the

conditions are laid down for all assignments for the provision of Services to be awarded by Commissioning Authority during that period;

5. A European procurement procedure for the award of participation in this Framework Agreement has taken place on the basis of the Descriptive Document in accordance with the Procurement Act 2012 (Aanbestedingswet 2012);

6. The Contracting Authority has evaluated the Contractor's tender, as well as the tenders of [..... enter number of other Framework Contractors] other Framework Contractors and has established that these tenders meet the requirements set out in the Descriptive Document;

7. This Framework Agreement lays down the conditions that apply to all supplementary agreements for the provision of Services that the Contracting Authority intends to award during the term of this Framework Agreement and that will or will not be awarded to the Contractor on the basis of the award criterion of 'best value for money' following a (further) competition between the Framework Contractors;

8. Commissioning Authority is entering into an agreement similar to this one with the [..... enter number of other Framework Contractors] other Framework Contractors.

AGREE:

A number of terms are capitalised in this Framework Agreement. These terms have the meaning given to them in Article 1 of the General State Conditions for the Granting of Contracts for the Provision of Services 2018 (Algemene Rijksvoorwaarden voor het verstrekken van opdrachten tot het verrichten van Diensten 2018 - ARVODI-2018). In derogation from or in addition to the above, the following terms shall have the meanings hereby assigned to them in this Framework Agreement:

Descriptive Document: the document from the Contracting Authority dated [...date...] reference TenderNed in which participation in the Framework Agreement relating to the provision of Services during a particular period, the procurement procedure to be followed and the requirements for the Services are described and explained;

Services: the work to be performed by the Contractor on behalf of the Commissioning Authority on the basis of a Supplementary Agreement concluded under this Framework Agreement relating to (the provision of) Traffic data from non-road bound systems and the participation in (theme) meetings, all as described in the Appendix entitled 'Method of working within the Framework Agreement';

Tender: the tender submitted by the Contractor in the context of the European procurement 'Framework Agreement on Traffic data from non-road bound systems' with reference on the basis of the Descriptive Document dated [...date...], with reference

Supplementary Agreement: the supplementary agreement between the Commissioning Authority and the Contractor in accordance with the model attached as an Appendix to this Framework Agreement, on the basis of which the Commissioning Authority may award assignments to the Contractor for the provision of Services during the term of this Framework Agreement;

Proposal: an offer to perform Services which the Contractor makes to the Commissioning Authority under this Framework Agreement in response to a Request for Proposals;

Request for Proposals: an invitation from the Commissioning Authority under this Framework Agreement to all Framework Contractors to submit a Proposal for an assignment to provide Services;

Framework Contractor: a Tenderer that has been awarded participation in the Framework Agreement for the performance of Services relating to the Supply of Data from Location-Based Systems.

1. Subject of the Framework Agreement

1.1 The Commissioning Authority is entitled to issue a Request for Proposals for an assignment to provide Services during the term of this Framework Agreement. If the assignment specified in the Request for Proposals is awarded to the Contractor by the Commissioning Authority on the basis of the awarding criteria set out in the Descriptive Document for further awards, the Contractor is obliged to perform this contract in accordance with the terms of this Framework Agreement. To this end, the Contractor is then obliged to conclude a Supplementary Agreement with the Commissioning Authority.

1.2 The following documents jointly constitute the Framework Agreement. Insofar as these documents conflict with one other, the earlier document shall prevail over the later one:

1. This document;
2. ARVODI-2018;
3. Memorandum of Information;
4. The Descriptive Document;
5. Method of working within the Framework Agreement;
6. The Tender;
7. Model Supplementary Agreement.

1.3 The Commissioning Authority is not obliged to award assignments for the provision of Services during the term of this Framework Agreement, but is entitled to do so. The Contractor cannot therefore claim any entitlement to obtain assignments for the provision of Services during the term of this Framework Agreement.

1.4 The conditions of this Framework Agreement apply in full to all Supplementary Agreements concluded between the Commissioning Authority on the one hand and the Contractor on the other hand

during the term of this Framework Agreement relating to assignments for the provision of Services specified in a Request for Proposals, unless a Supplementary Agreement expressly deviates from this Framework Agreement in writing.

1.5 A Supplementary Agreement will specify the specific Services and the period for which the Supplementary Agreement in question is concluded.

2. Duration of the Framework Agreement

2.1 This Framework Agreement shall commence on the date of signing by both Parties for a period of two (2) years, after which the Framework Agreement shall terminate by operation of law unless the Commissioning Authority wishes to extend the Framework Agreement as described in paragraph 2 of this article.

2.2 After the end of the period referred to in paragraph 1 of this article, the Commissioning Authority may extend the Framework Agreement twice (2) for a period of twelve (12) months. The duration of the Framework Agreement, including extensions, shall not exceed four (4) years.

2.3 In derogation from the preceding paragraphs, the Framework Agreement shall end by operation of law when a maximum amount of € 40,000,000, exclusive of VAT, in Supplementary Agreements has been awarded under the Framework Agreement.

2.4 Termination of this Framework Agreement for any reason shall not affect the rights and obligations under any Supplementary Agreement(s). The conditions of this Framework Agreement shall continue to apply to all Supplementary Agreements continuing after the termination of this Framework Agreement.

2.5 The duration of the Supplementary Agreement(s) awarded to the Contractor under this Framework Agreement will be specified in the Supplementary Agreement(s) for each assignment.

3. Supplementary award

3.1 If the Contractor accepts the request for an Proposal, the Contractor is obliged to issue a Proposal within the number of Working Days specified in the Request for Proposals, with due observance of the provisions of this Framework Agreement. There are no costs involved for the Commissioning Authority in obtaining a Proposal, unless the Commissioning Authority offers a cost reimbursement in its Request for Proposals.

4. Price and other financial provisions

4.1 It will be agreed in all Supplementary Agreements that the Contractor will provide the Services specified in the Supplementary Agreement at a fixed total price, unless the nature of the Services requires a different method of pricing. In that case, the Commissioning Authority will include the manner in which the price is determined in the Supplementary Agreement.

4.2 It is explicitly stipulated that if Contractor does not charge VAT but it is found that there is no exemption from VAT for (part of) the Services, this will not be at the Commissioning Authority's expense.

4.3 The price referred to in article 4.1 of this Framework Agreement relates to all Services to be performed by the Contractor in the context of the relevant Supplementary Agreement and any materials required for this purpose, and includes any travel and accommodation expenses and any additional costs, and is exclusive of VAT.

4.4 The amounts agreed in Article 4.1 are fixed and unchangeable during the term of Supplementary Agreements concluded under this Framework Agreement.

4.5 An invoice must contain the following information:

- Order reference (**SAP order number/position number**);
- Invoice number;
- Bank account number;
- Contact person at NDW;
- Company name or logo;
- Chamber of Commerce number;
- The billing address:

National Road Traffic Data Portal
F.a.o. creditor administration RWS
PO Box 8185
3503 RD Utrecht

4.6 In deviation from the provisions of Article 17.1 of ARVODI-2018 concerning electronic invoicing, an invoice must:

- Only be mailed to efacturen@rws.nl in PDF format;
- Quoting NDW's OIN number: 00000004127736109000;
- Be included as an attachment in the e-mail;
- Not contain more than 1 SAP order number/position number.

4.7 Reminders/demands should be mailed to kcc@rws.nl

4.8 Payment will take place after receipt and acceptance of the Services assigned in a Supplementary Agreement and reports on these Services.

4.9 The method of invoicing and possibly the Supplementary Proposal process will change with the further introduction of electronic ordering and invoicing. Contractor shall cooperate with this at the Commissioning Authority's first request.

5. Contact persons/Project leaders

5.1 Contact person for the Commissioning Authority is Mr. F. Qayoumi.
Contact person for Contractor is

5.2 The Parties' contact persons will consult on how this Framework Agreement is being implemented at least one (1) time per year (interim evaluation(s)).

6. Other Terms and Conditions

6.1 This Framework Agreement and an Assignment to provide Services pursuant to a Supplementary Agreement are governed exclusively by ARVODI-2018, *which is attached to this Framework Agreement as an Appendix*, insofar as this Framework Agreement does not deviate from this. The applicability of (any) general and special conditions of the Contractor is excluded.

6.2 Articles 6.1 and 6.2 of ARVODI-2018 are not applicable. The Contractor may replace persons charged with the performance of the Agreement. The Commissioning Authority cannot refuse the replacement(s).

6.3 The provisions of article 13 of ARVODI-2018 on confidentiality also apply to the Contracting Authority with regard to (the business of) the Contractor and the information provided by the Contractor in the context of this Framework Agreement and Supplementary Agreements.

6.4 In supplement to article 14 Processing of Personal Data of ARVODI-2018, data to be supplied by the Contractor as part of the Services or as a result of the Services may contain personal data. Contractor will only provide this personal data if and insofar as this is permitted under the General Data Protection Regulation and other relevant laws and regulations in this area, and guarantees to the Commissioning Authority that by providing personal data as part or result of the Services, the Contractor is in compliance with the General Data Protection Regulation and other relevant laws and regulations in this area.

6.5 In supplement to Article 14 Processing of Personal Data of ARVODI-2018, the Parties are obliged to comply with subsequent and new laws and regulations (implementing the) General Data Protection Regulation and to implement the consequences as soon as possible. Where this leads to a change in the Services or their performance, this does not constitute a material change.

7. Intellectual property rights and right of use

7.1 Articles 24.1, 24.5 and 24.6 of ARVODI-2018 are not applicable.

7.2 In addition to Article 24 of ARVODI-2018, the intellectual property rights of third parties in respect of information obtained from them for the purpose of assignments for the provision of Services under a Supplementary Agreement shall remain with those third parties. The Contractor will arrange a suitable right of use for the Commissioning Authority.

7.3 Contractor grants the Commissioning Authority a non-exclusive, non-cancellable right for an indefinite period of time, and the Commissioning Authority accepts this right from the Contractor, to make the results of the Services performed public (or have them made public) and to reproduce them (or have them reproduced), all in the broadest sense of the word, irrespective of the manner of use or reproduction and irrespective of whether this use or this manner of reproduction was already known at the time of signing the Agreement.

7.4 Commissioning Authority reserves the right to have the (results of) Services made public and available to third parties under a Creative Commons licence. The nature and extent of the actions that the third parties are permitted to perform with regard to the (results of the) Services is determined by the type of Creative Commons licence. The Commissioning Authority and the Contractor will agree on the type of Creative Commons licence that will apply in the Supplementary Agreement.

7.5 In exceptional cases in which the intellectual property rights of the owner of (the result of) the Service are incompatible with publication as referred to in 7.3 or 7.4, and the Contractor reports this restriction in good time prior to concluding the Supplementary Agreement, Parties will agree on a right of use arrangement that does justice to the objections reported by the owner of the intellectual property rights to (the result of) the Services and to the objectives pursued by the Commissioning Authority with this Framework Agreement.

8. Integrity statement

The Contractor declares that, both in the context of the award of this Framework Agreement and in order to obtain assignments for the provision of Services under Supplementary Agreements, it has not offered, given, caused to be offered or caused to be given any benefit to Employees of the Commissioning Authority, nor will it offer, give, cause to be offered or cause to be given any benefit. Nor shall it do so in order to induce persons employed by the Commissioning Authority to perform or refrain from performing any act.

9. Final provision

9.1 Deviations from this Framework Agreement or a Supplementary Agreement are binding only insofar as they have been expressly agreed in writing between the Parties.

9.2 By signing this Framework Agreement, all previous oral and written agreements made by Parties regarding the granting of assignments for the provision of Services, whether or not under a Supplementary Agreement, will lapse.

Thus agreed and signed in duplicate on the latter of the two dates specified below,

Utrecht, [date]

[Place], [date].

THE MINISTER OF
Infrastructure and Water Management
represented by
Director National Road Traffic Data Portal

[name of Contractor]

C. P. de Vries

[job title and name of signatory]

Appendix:
Model Supplementary Agreement for Traffic data from non-road bound systems