



Annex 4. Concept Framework Agreement ARVODI-2018

Lots 1 to 8 – ...

Subject : **Advice and specific expertise Aviation (2)**

According to a : **Public European Tender Procedure**

Reference no. : **331485**

Date : **Februar 28th, 2022**

Version : **Final**



**Framework Agreement ARVODI-2018 (date: May 2018)
Concerning Advice and specific expertise Aviation (2)
Lots 1-8 <Description Lots>**

The undersigned:

1. The State of the Netherlands, having its registered office in The Hague,
represented by the Minister of / State Secretary for [name of portfolio],
on behalf of the latter,
[signatory's name and position],
hereinafter referred to as the Contracting Authority,

and

2. [Contractor's full name and legal form], which has its registered office in,
legally represented in this matter by (and) [signatory's name],
hereinafter referred to as: Contractor,

WHEREAS:

1. Contracting Authority with regard to the performance of Services in the field of Advice and specific expertise Aviation (2), lot 1-8 <description of lot>, wants to make fixed agreements with 5-7 service providers for a certain period of time;
2. To this end, the Contracting Authority wishes to conclude a Framework Agreement with a term of three (3) years with an option to extend once by one (1) year (hereinafter referred to as: the Framework Agreement), in which the conditions for all items to be provided by the Contracting Authority during that term orders to perform Services have been recorded;
3. a European Tender with reference number: **331485**, for the award of the participation in this Framework Agreement has taken place on the basis of the Descriptive Document under application of the Public Procurement Act 2012;
4. The Contracting Authority has assessed the Contractor's tender, as well as the tenders of 4-6 other Framework Contractors, as the best price-quality ratio;
5. This Framework Agreement lays down the conditions applicable to all contracts 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) competitive assessment between the Framework Contractors;
6. Contracting Authority enters into an Agreement similar to this one with the 4-6 other Framework Contractors.



DECLARE THAT THEY HAVE AGREED AS FOLLOWS:

In this Agreement, a number of terms are used with an initial capital letter. These terms have the meaning given to them in Article 1 of the Government's General Conditions for the Granting of Contracts for the Provision of Services 2018 (ARVODI-2018). In deviation thereof or in addition thereto, the following terms shall have the meanings given to them in this Agreement:

Tender document: the document from the Contracting Authority dated **28th Februar 2022** with reference **331485**, describing and explaining the participation in the Framework Agreement regarding the performance of Services for a certain period, the procedure to be followed, the conditions and requirements and the award criteria.

Services: the activities to be performed by the Contractor, on the basis of a Further Agreement concluded under this Framework Agreement for the benefit of the Contracting Authority, in the field of Aviation Advice and specific expertise (2), lot **1-8** <**description lot**>.

Tender: the tender submitted by the Contractor in the context of the (European) tendering procedure Advice and specific expertise Aviation (2) with reference **331485** on the basis of the Descriptive Document dated [...date...] with reference

Further Agreement: the further agreement between the Contracting Authority and the Contractor on the basis of which the Contracting Authority may issue orders for the provision of Services to the Contractor during the term of this Framework Agreement.

Quotation: an offer to provide Services made by Contractor to Contracting Authority under this Framework Agreement in response to a Request for Quotation.

Request for Proposal: an invitation by Contracting Authority under this Framework Agreement to all Framework Contractors to submit a Proposal for a contract to provide Services.

Mini-Competition: an invitation by Contracting Authority under this Framework Agreement to all Framework Contractors to submit a further Proposal for a contract to provide Services.

Framework Contractor: a bidder who has been awarded participation in this Framework Agreement.

1. Subject of the Framework Agreement

- 1.1 During the term of this Framework Agreement, the Contracting Authority is entitled to issue a Request for Quotation for an order to provide Services. The Contractor is obliged, in response to a Request for Proposals, to issue a Proposal that is no less favourable than the Tender submitted by the Contractor. If the contract referred to in the Request for Proposals is awarded to the Contractor by the Contracting Authority on the basis of the award criteria specified in the Descriptive Document for Further Award, the Contractor is obliged to perform that contract in accordance with the conditions of this Framework Agreement. To this end, the Contracted Party will then be obliged to conclude a Further Agreement with the Contracting Authority.
- 1.2 The following documents together constitute the Framework Agreement. To the extent that these documents contradict each other, the earlier document shall prevail over the later:
 1. This Framework Agreement, including the preamble and annexes attached thereto;
 2. The Memorandum of Information;
 3. The Descriptive Document (incl. Appendices) dated **..... February 2022**;
 4. The ARVODI 2018;
 5. The Contractor's Tender.
- 1.3 The Contracting Authority is not obliged to issue orders for the provision of Services during the term of this Framework Agreement, but is entitled to do so. Accordingly, Contractor



cannot make any claim to obtain orders for the provision of Services during the term of this Framework Agreement.

- 1.4 The terms and conditions of this Framework Agreement shall apply in full to all Subsequent Agreements entered into during the term of this Framework Agreement between the Contracting Authority, on the one hand, and the Contractor, on the other hand, with respect to orders for the provision of Services specified in a Request for Proposal, unless a Subsequent Agreement expressly deviates from this Framework Agreement in writing.
- 1.5 A Further Agreement shall specify the specific Services with respect to which and for what period the relevant Further Agreement is entered into.

2. Duration of the Framework Agreement

- 2.1 This Framework Agreement shall commence on **July 15, 2022** for the term of three (3) years with the option thereafter to extend the Framework Agreement up to once for a consecutive year. This option is exercisable unilaterally by Customer and may extend the Framework Agreement only under the same conditions.
- 2.2 The Contracting Authority will notify the Contractor in writing no later than 3 months prior to the expiry of the initial/then-current term of the Framework Agreement if the Contracting Authority exercises the extension option. If the renewal option is not exercised by the Contracting Authority, the Framework Agreement will end by operation of law upon expiry of the term applicable at that time, unless both parties clearly express in their actions the desire to continue the Framework Agreement.
- 2.3 Termination of this Framework Agreement for whatever reason shall not affect the rights and obligations under (an) Additional Agreement(s). The conditions of this Framework Agreement shall continue to apply to all Subsequent Agreements continuing after the termination of this Framework Agreement.
- 2.3 The duration of the Subsequent Agreement(s) awarded to the Contractor under this Framework Agreement shall be set forth in the Subsequent Agreement(s) on a contract-by-contract basis.
- 2.4 The Framework Agreement may be terminated unilaterally by Contracting Authority with a notice period of one month if the maximum order value has been reached or may be exceeded by a subsequent order, without this giving rise to any right to compensation. In case of premature exhaustion of the Framework Agreement, without justifiable recourse to article 2.163a - 2.163g Tender Act 2012, this provision may be invoked.

3. Further Award

- 3.1 The Contractor has declared by means of the Tender that it will bid for Further Requests for Quotations from the Contracting Authority. There is no charge to the Contracting Authority for obtaining a Tender.
- 3.2 In the event that, during a contract year, the Contractor is unable to submit a quotation on the basis of a Detailed Request for Proposals on several occasions, the Contracting Authority reserves the right to dissolve the Framework Agreement with the Contractor. If the Framework Agreement with the relevant Framework Contractor is dissolved, the Principal will invoke the Waiting Room construction. The first waiting party in the waiting room will then be notified by the Contracting Authority to enter into this Framework Agreement.



4. Price and other financial provisions

- 4.1 In all Further Agreements, it is agreed that the Contractor will perform the Services specified in the Further Agreement on a results basis at a fixed total price. A fixed hourly rate shall apply to assignments requiring effort.
- 4.2 It is expressly stipulated that if Contractor does not charge VAT, but for (part of) the Services no exemption from VAT turns out to exist, it will not be borne by Contracting Authority.
- 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 Further Agreement and any materials required for that purpose and includes any travel and accommodation expenses and any additional costs and is exclusive of VAT.
- 4.4 The Contractor shall invoice electronically in the manner prescribed in the Detailed Request for Proposal.
- 4.5 Payment shall be made upon receipt and acceptance of the Services performed pursuant to a Further Agreement.

5. Contacts / Project leaders

- 5.1 Contact person for Contracting Authority is
Contact person for Contractor is
- 5.2 At least once a year, consultation shall take place between the contact persons of the Parties on how this Framework Agreement is being implemented (interim evaluation(s)).
- 5.3 Additional costs incurred for the purpose of consultation will not (can not) be charged by the Contracted Party to the Contracting Authority.

6. Times and place of work

- 6.1 The work, related to the Services specified in a Further Agreement, shall be performed at the location(s) to be specified in the Further Agreement.
- 6.2 Parties undertake to grant the Personnel of the other Party access to the place where the work relating to the Services specified in the Further Agreement must be performed, as well as to enable this Personnel to perform the work under the working conditions applicable to that Party during the regularly applicable office hours.
- 6.3 The parties undertake to instruct their Personnel to comply with the house rules applicable at the place of performance.

7. Other Conditions

- 7.1 This Framework Agreement, as well as an order for the provision of Services pursuant to a Further Agreement, shall be governed exclusively by the ARVODI-2018 (**annex 5**), insofar as this Framework Agreement does not deviate therefrom. The applicability of (any) general and special conditions of the Contractor is excluded.
- 7.2 Without prejudice to the obligation mentioned in Article 9 of the ARVODI-2018 to report on the progress of the work to the Contracting Authority when and in the manner it deems necessary, the Contractor is in any case obliged to provide the Contracting Authority's contract manager with a progress report once every six months.



In addition, the Contracted Party will provide reports to be specified by the Contracting Authority as often as the Contracting Authority requires them.

- 7.3 In addition to Article 21 of the ARVODI-2018, the Contractor shall indemnify the Contracting Authority against any claims by third parties for compensation for damage as a result of the shortcoming referred to in Article 21.3 of the ARVODI-2018. The scale of liability included in Article 21.3 of the ARVODI-2018 shall apply mutatis mutandis.
- 7.4 In addition to the provisions of Article 22 ARVODI-2018, the Contracting Authority may terminate this Agreement with immediate effect out of court by registered letter without any demand or notice of default in the following cases::
- a. the Contractor is subject to one of the grounds for exclusion listed in the Descriptive Document;
 - b. the Contractor no longer meets the requirements for suitability as set out in the Descriptive Document;
 - c. the Contractor no longer meets the requirements included in Appendix 3A-H;
 - d. the Contractor's acts or omissions, including those of its Staff, have endangered or are endangering the Contracting Authority and/or its Staff and/or are damaging or are damaging the Contracting Authority's image.
 - e. if the Contractor has been irrevocably convicted under criminal law of discrimination within the meaning of articles 137c to 137g and article 429 quater of the Dutch Penal Code;
 - f. if Staff of the Contractor has been irrevocably convicted under criminal law of discrimination within the meaning of articles 137c to g and article 429 quater of the Penal Code and the person concerned is a member of an administrative, managerial or supervisory body of the Contractor or has representative, decision-making or supervisory powers within that body. In the cases mentioned under e. and f., the right to dissolution will lapse three years after the relevant conviction has become irrevocable.

8. Integrity Statement

The Contractor declares that, in the context of the award of this Framework Agreement and also in order to obtain orders for the provision of Services under Further Agreements, it has not offered, given, arranged for the offer of, or allowed the offer of, or allowed the provision of, any benefit to the Staff of the Contracting Authority. Nor shall he do so in order to induce persons employed by the Principal to perform or refrain from performing any act.

9. Final Provisions

- 9.1 Deviations from this Framework Agreement or a Further Agreement shall only be binding to the extent expressly agreed in writing between the Parties.
- 9.2 By signing this Framework Agreement, any and all previous oral and written agreements made by the Parties regarding the granting of orders for the provision of Services, whether or not under a Further Agreement, shall cease to apply.



Thus agreed upon and signed in duplicate on the last of the two dates hereinafter specified,

The Hague, [date]

[Place], [date]

THE MINISTER/STATE SECRETARY OF
[name portfolio]

[name Contractor]

On behalf of this latter,
[job title signatory]

[name signatory]

[function and name signatory]

[Attachment(s): ...]