



Memorandum of information European tender;

for the 'services of setting up and running the Area Monitoring System for the Netherlands Area'

Date: 17 January 2023

In this memorandum of information, the contracting authority provides answers to the questions asked and remarks posted in the context of the above-mentioned European tender. This memorandum of information forms an integral part of the tender document (with reference 202210076).

No.	Chapter or Annex From the tender document	Question	Answer
1.	Annex 6, section 1 asks for "Transfer of data between different cloud environments".	What data are meant here, and what cloud environment NEA is using?	<i>We have a viewer for AMS data which is hosted on a separate cloud environment. We are currently in the process of purchasing and setting up a new environment of the viewer. The exact specifications of this environment are not yet clear. The idea is that all products created by the contractor also have to be made available for the viewer. This includes all processed (satellite) imagery (COGs), marker results and signals (e.g. NDVI, Backscatter, Coherence) should be made available for the viewer environment to ingest.</i>
2.	Annex 6, section 1 requires us to budget a purchase of commercial data.	Can you please provide more details: - Should the price of the purchase of Planet Fusion data and optional purchasing of HR and VHR images be part of "Fixed annual cost" (Annex 6_Prices.xlsx), in Section 1, row 12 ("Data Satellite collection"), where the annual price is multiplied by a factor of 5. Are we correct that indicative budget of 5 * 245k€ for Planet Fusion data is taking up about half of the fixed annual costs?	<i>The purchase of planet fusion data and optional purchasing of HR and VHR images are part of the 'fixed annual costs' under 'data satellite collection' (section 1, row 12 of annex 6). We ask the tenderer to submit an amount for these costs in the tender.</i>
3.	Annex 6	The maximum rates for the variable development costs (section 3, Annex 6) are low compared to average Dutch rates. Could	<i>The hourly rates are fixed during the duration of the agreement, except for the indexation clauses. The costs for the variable developments depend on the type of development that is</i>

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		the rates be negotiated during the calls for these variable developments?	<i>necessary. The contractor will be asked to draw up an offer based on the hourly rates provided in the Tender.</i>
4.	Annex 6, section 1	Annex 6, section 1 requires us to budget a purchase of commercial data. What volumes and requirements are set here, to allow us to estimate the costs?	<i>The only source of commercial data what is fixed right now is the purchase of planet fusion data. Data from other commercial suppliers will only be purchased if there is a specific reason. For example the development of new markers or improving existing ones. So specifics about volumes and requirements other than the ones related to planet fusion can't be given.</i>
5.	Annex 6	In the price table there are "13 markers", whereas in the Annex 1, section 2.2 there are 11 markers (+3 in Innovation). Can you let us know, which are the mentioned 13 markers?	<i>In Annex 1, section 2.2 'FOI' is added to the list of markers, but in fact this is a requirement that is a prerequisite for good monitoring. It is therefore not one of the 13 intended markers. The elaboration of the FOI is also not in 2.2 'Requirements relating to the markers', but in 2.1 'Requirements relating to task specification'.</i>
6.	Tender document	For the further development (maximum budget € 2,300,000 excluding VAT), the services are on call. Is it allowed for the principal contractor to include a new subcontractor during the contract (that is not mentioned in the proposal) for these assignments if the principal contractor does not rely upon the capacity of this subcontractor to meet the requirements of the tender?	<i>We would like to refer to article 23.1 of the ARBIT-2022. In performing the Contract the Counterparty may use the services of third parties only with the prior consent of the Contracting Authority. This consent, to which the Contracting Authority may attach conditions, may not be withheld unreasonably.</i> <i>Furthermore the Counterparty will still be liable and responsible for executing the contract.</i>
7.	Tender document, 4.2.3 Reference data	Are current available signed client-statements in Dutch allowed to use when we use an English written reference written form?	<i>No, all tender documents including additional documents must be in English to ensure the level playing field and non-discrimination. Please see section 7.3.20 of the tender document.</i>
8.	Tender document, 4.2.3 Reference data ` These can be either paying agencies of the current European member states, or other institutions for which deliveries are often time-critical and for which work often has to be carried out under high time pressure.	The other institution do they also have to part Of a European Member state? What is exactly a European member state, is Great-Britain for example a European member state?	<i>No the 'other institution' does not have to be part of a European Union (EU) Member state. It can for example also be a pre-accession country or a government agency from a country outside the EU. When EU member states are mentioned we are referring to the current 27 EU member states. This does not include Great-Britain.</i>

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9.	Tender document, 4.2.3 reference data	You demand that the reference forms be signed by the referee. In order to relieve ourselves and our clients of administrative burden, we ask you not to make signing by the sponsor mandatory. Of course, if you wish, you can approach clients by telephone for verification. Do you agree with this? If not, please explain.	<i>We do not agree with this. By letting the referee sign the reference project we ensure that the project has been performed. This is very common in tendering procedures.</i>
10.	Tender document general	Is there a curated Dutch dataset available with ground truth of crops, mowing, etc. for validation purposes?	<i>We have some curated Dutch datasets available. However, we are currently working on extending this dataset.</i>
11.	Tender document general	Is frequent retraining of AI models expected to be required?	<i>That depends on the quality of the markers. If the quality is below a certain threshold than we expect retraining of the AI models.</i>
12.	Tender document general	How important is it to be cloud vendor agnostic (prevent vendor lock-in with a cloud provider)?	<i>It is not important. However, please bear in mind that the entire pipeline, tooling and scripting you develop should also be able to run on other cloud environments.</i>
13.	Tender document general	Is there a difference in importance of markers/marker classification correctness?	<i>Generally speaking all markers need to comply with the same standards. Priority should be given to crop classification and mowing. But all other markers mentioned should be operational by the end of 2023.</i>
14.	Annex 2	Annex 2 states that the minimum services have to be fully functional on the 1 June 2023 include an environment for "Testing for data analysis tasks and develop new procedures and markers". Is this environment part of the Development, testing, acceptance and production (DTAP) or is this referring to the Analytics platform? Can you specify what is meant with fully functional at what delivery date?	<i>Fully functional means that by the 1st of June 2023 you should be able to</i> <i>• produce marker results for crop classification and mowing based on sentinel 1 and 2 data (CSV)</i> <i>• that the satellite images used should be made available as COGs for ingesting in the viewer environment</i> <i>• that the signals used for creating the markers are available (CSV)</i> <i>• all FOI's created</i> <i>• reports on the images processed</i> <i>For a more detailed calendar we refer to annex J in the requirements and specifications document (Annex 1).</i>

No.	Chapter From the requirements document (annex 1)	Question	Answer
15.	Annex 1, section 2.2.1, bullet 4: In 2023 the Contractor will be required to automatically create new parcel boundaries and use them as input for further processing.	In the information meeting (21/12) it was stated that parcel boundaries will be delivered by NEA. Is that correct? What are requirements for the automatically created new parcel boundaries. We do not completely understand which geometries we need to create and deliver to NEA.	<i>NEA will deliver the parcel boundaries of all the parcels which are declared by Dutch farmers. You can find an example of this dataset on www.nationaalgeoregister.nl (see for example https://service.pdok.nl/rvo/brpgewaspercelen/atom/v1_0/downloads/brpgewaspercelen_concept_2022.qpkg). Although the quality of this farmers declaration is high there are always some mistakes. For example a farmer declaring a one crop parcel which in reality consists of two or more crops. It is the job of the contractor to detect these issues and create new crop parcels for these specific situations. You can use for example segmentation techniques to create new parcels.</i>
16.	Annex 1, section 1.3, bullet Q: 6 mentions the need to employ "NLP" as "Spatial machine learning".	What is the NLP used for? Could you specify this requirement?	<i>You can ignore this requirement. NLP is not required in the context of the AMS.</i>
17.	Annex 1, section 1.1., bullet 1: states that it is required to collect and analyse data up until 24 hours before each delivery deadline.	Is there a specific reason why only 24 hours are allowed to run the whole processing chain? Can this be extended to a few days?	<i>No this can't be extended to a few days. We are expecting a production environment which is capable of running markers from start to finish within 24 hours.</i>
18.	Annex 1, section 3.5: Requirements relating to processing red parcels Tender: As stated earlier, generating the traffic lights is something NEA will do. However, we do expect the Tenderer to respond to any particular issues arising from the traffic lights. In particular, when the number of red traffic lights is relatively high, we will expect the Tenderer to come up with	"Red traffic lights" are usually a consequence of a combination of markers as well as other signals (expert judgement, geotagged photo,...). Can you elaborate a bit more on what you expect from us to do and what level of effort should we plan for this?	<i>Based on our previous experiences the number of red parcels is often the results of missed event detection. This can be due to for example the settings of the marker algorithm or the lack of available usable images. We are expecting of the contractor that they support NEA with possible solutions to improve the detection of events. This can be by suggesting a different approach, the purchase of additional data, changing the settings of the algorithm used (e.g. focusing on completeness instead of correctness), suggesting on how to improve the quality of the training set, etc.</i>

No.	Chapter From the requirements document (annex 1)	Question	Answer
	possible solutions for reducing the number of red parcels.		
19.	Annex 1 – 1.1. p4	Annex 1.1 states that the data for all tasks must be collected and analysed up until 24 hours before each delivery deadline. When are these delivery deadlines?	<i>The exact deadlines will be discussed with the contractor, but for now we are expecting monthly deliveries.</i>
20.	Annex 1 1.1 - p. 5	Annex 1.3 states that NEA likes to see NLP supported. For which purpose is this?	<i>See the answer to question 16.</i>
21.	Annex 1, 1.8 p.8	Annex 1.8 states that in the past, the transfer of developed software and tooling sometimes proved to be cumbersome. What were the main challenges?	<i>Based on previous experiences we encountered a number of issues:</i> <i>• Source code isn't always well documented.</i> <i>• Tooling was developed from a developers perspective and not from a user perspective.</i> <i>• Developed tooling and pipelines were integrated with existing solutions which were not part of the contract which made the transfer of the tooling to different environments difficult or not possible.</i>
22.	Annex 1, Test of Competence	It states that "no crop grouping is to be performed". Yet the Q&A from the info meeting (No. 11) states that in 2023 they ask for crop groups, not individual crops. Q: What is the objective of test of competence to include crop classification on individual crops, not on crop groups, especially as the production planned for 2023 will be on crop groups (answer 11 from Q&A)	<i>The contractor should have a crop classification procedure in place for detecting individual crops and crop groups. For detecting the minimal activity the focus will be on crop groups, but in 2023 we will also ask the contractor to detect specific crops in preparation of 2024. For the test of competence the focus will be on individual crops.</i>
23.	Annex 1, Test of competence	Q: Can you confirm that "FN" stands for "False negative" and "FP" for "False positive"? Q: Can you explain, for each of the test cases, how "False negative" and "False positive" are defined?	<i>We can confirm that FN stands for False Negative and FP stands for false positive.</i> <i>With the exception of crop classification all the requested markers are events with a certain period. If in the test of competence you detect an event which is not present in the ground truth data we consider this a FP. If you do not detect an event which is present in the ground truth data we consider this a FN. We use a margin of one week.</i>

Remarks regarding draft agreement and the processing agreement and ARBIT-2022

No.	Article from draft agreement or processing agreement or Arbit-2022	Reason for objection	Answer
24.	Annex 9 Draft contract	Article 8.5 for Counterparty, a bank guarantee is unreasonably onerous because of the attachment of liquidity, since Counterparty is a financially stable company there is no need to doubt the financial reliability. For this reason we kindly ask Contracting authority to cancel the bank guarantee.	<i>We do not accept. Since the contract includes several pre payments before receiving the services or products we think it is proportional to request a bank guarantee.</i>
25.	Annex 9 Draft contract, article 7.4	Article 7.4 this article concerns an indirect fine, we kindly request Contracting Authority to delete this article. The moment Counterparty fails to fulfil its obligations on time, Contracting authority can declare a default under the ARBIT.	<i>We do not accept. NEA has to deal with tight production deadlines. This article is intended to be used when the tenderer does not report problems immediately and only announces that there are problems on the day of delivery.</i> <i>When problems are reported immediately upon discovery, the deadline may be postponed in consultation or other solutions can be discussed. Due to the importance of the production deadlines, the article remains, but NEA strives for transparency and cooperation with the tenderer.</i>
26.	Annex 9 Draft contract, article 7.3	Article 7.3 there is only a possibility of indexation in 2026, in the current economic situation where much is uncertain, 2026 is far away. For this reason, we request that the indexation option take effect from Jan 1, 2024.	<i>Indexation will be possible from 1 January 2025. Article 7.3 of the draft contract will be altered to the following, please also see the altered annex 9 attached:</i> <i>After 1 January 2025 the annual fees and hourly rates may be adjusted once a year on 1 January by a percentage not exceeding the price index published by Statistics Netherlands for hourly rates of pay excluding special remuneration established under collective labour agreements in the business services sector. The figure for the previous month October will be used, with the figure for April 2023 being set at 100%.</i>
27.	ARBIT-2022	Do special provisions as stated in the ARBIT-2022 apply, and if so, which ones exactly? Will the Counterparty be given the opportunity to ask further questions about these special provisions?	<i>The special provisions on public service contracts and maintenance apply to this contract as stated in the ARBIT-2022. Since this contract concerns the performance of services by the Contractor such as consultancy, development of Custom software, directing IT projects and maintenance these special provisions clauses automatically apply as stated in the ARBIT. This means that you would have had the opportunity to ask questions on these clauses in this round of questions.</i>

28.	ARBIT-2022, article 30.6	We kindly request Contracting Authority to add a notice period of 3 months to this article. Is this acceptable for Contracting Authority?	<i>We do not accept. We would like to keep this option.</i>
29.	ARBIT 2022, article 30.4	Counterparty considers an assumption insufficient ground for cancellation, a decision irrevocable by the court considers Counterparty as a more reasonable ground and for this reason Counterparty requests contracting authority to delete this article.	<i>We do not accept.</i>
30.	ARBIT 2022, article 30.2	We kindly request Contracting Authority to extend this 15-day period to 60 days. Is this acceptable for Contracting Authority?	<i>This is not acceptable to the contracting authority. The period of 15 days remains.</i>
31.	ARBIT 2022, article 26.1, 26.2 and 26.4 d)	We consider the amounts for which the Counterparty may be held liable to be disproportionate compared to the market standard and for this reason Counterparty would kindly request Contracting Authority to limit liability in these articles to a maximum of the amount of three times (3x) the value of the contract sum with a maximum of 2,500,000 (two and a half million euros).	<i>We do not agree. In principle based on Dutch law parties have unlimited liability for any harm they have caused. Nevertheless in the ARBIT-2022 this liability is limited to a certain amount as stated in articles 26.2 and 26.3. Therefore the contracting authority does not see any cause to further limit the liability.</i>
32.	ARBIT 2022, article 26.1	We kindly ask to delete the phrase "or the conduct" from article 26.1 as this is subjective and open to multiple interpretations which can lead to undesirable situations.	<i>We agree, the phrase 'or the conduct' can be deemed as deleted from article 26.1 of the ARBIT-2022.</i>
33.	ARBIT 2022, article 17.5	Counterparty considers fine of 50,000 per occurrence to be very high and kindly requests Contracting Authority to moderate the fine to a one-off fine of 25,000. Is this acceptable for Contracting Authority?	<i>We do not accept.</i>
34.	ARBIT 2022, article 15.5	Counterparty considers this article undesirable and does not wish to waive any rights in this regard. Counterparty would therefore kindly request Contracting Authority to delete this article.	<i>The contracting authority does not agree. The article will remain.</i>
35.	ARBIT 2022, article 12.3	a 12-month warranty period is a very long period, we kindly request Contracting Authority to adjust the period to 6 months where the Defects that will occur after 6 months will be repaired based on the Maintenance Agreement.	<i>This is not agreeable to the contracting authority. The warranty period of 12 months will remain.</i>

36.	ARBIT 2022, article 1.2 and 11	the definition of "Acceptance Procedure" states that the acceptance procedure is stipulated in the Contract, however, this procedure is not part of the Contract yet, making this process non-transparent for Counterparty. We kindly request Contracting authority to add the Acceptance Procedure to the Contract	<i>We would like to refer to article 6.1 of the draft contract for the acceptance procedure.</i>
37.	ARBIT 2022, articles 11.1, 15.1, 16 and 8.1 and 8.2 contract	These articles state that there is no payment based on time and materials, but on an accepted performance. It appears that the Counterparty is only entitled to payment for a small part of the performed work until the performance is accepted. This is not desirable from the Counterparty's point of view as such projects are time- and labour-intensive and – until there is payment – for a longer period commercially uncertain. For this reason, we kindly ask the Contracting Authority: are you willing to allow payment to be made on time and materials basis whereby the Counterparty is authorised to invoice on a monthly basis?	<i>We will not allow payment on a monthly basis.</i> <i>As stated in article 8.1 of the contract. The fees as specified in article 7 for serial numbers A1, B1, B2, B3, B4, and B5 can be invoiced on a quarterly basis.</i> <i>We will amend the payment schedule as stated in article 8.2 (also see annex 9 attached) for the other costs including the development costs and on call services to the following:</i> <i>15% at the start of the assignment</i> <i>25% after agreement on the approach and how the assignment will be carried out</i> <i>25% upon delivery of the results of the assignment</i> <i>35% after completion and acceptance of the results of the assignment.</i> <i>We believe that by using this invoicing schedule the counterparty will have sufficient resources during the assignment to execute the work.</i>