

Tendering Guideline

Supply of two interrogators for the 'Data Science with Fibre Optic Acoustic Sensing' pilot project

European Open Tender

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1 Introduction

1.1 Who is ProRail?

ProRail B.V. (hereinafter: ProRail) is responsible for the Dutch railway network: construction, maintenance, management and safety. Our employees ensure every day, 24/7, that 1,200,000 passengers and 100,000 tons of goods arrive at their destination, with 6,550 trains over more than 7,000 kilometres of track. Indeed, the railway network is the beating heart of mobility in the Netherlands. In 2020 and 2021, rail usage declined due to Covid-19. Rail usage is forecast to eventually pick up and even grow further.

ProRail is working on accessibility in the Netherlands by providing an optimal railway network. We allocate capacity on the railways, control all train traffic, build and manage stations and lay new tracks. ProRail also maintains existing infrastructure, such as tracks, points, signals and level crossings. See also www.prorail.nl.

ProRail makes an important contribution to accessibility in the Netherlands. The population is growing, business activity is increasing and contributing to meeting climate targets is becoming increasingly urgent. As a result, demand for rail transport as the most sustainable form of mobility is also growing. To meet this increasing demand, we need to further expand the capacity of our already busy network. This can take the form of infrastructure (e.g. more tracks, longer platforms), new techniques (e.g. self-steering technology, sensor technology, big data) and smarter logistics on the railways. We do this with consideration for the climate, safety, economic interests as well as the interests of transport operators, travellers, local residents and other stakeholders. This is how we keep the Netherlands moving sustainably now and in the future. In order to be prepared for the future, ProRail anticipates these developments. ProRail does so by focusing on three ambitions:

Connection - Increasing mobility

Improvement - Making mobility more reliable

Sustainability – Making mobility more sustainable

ProRail contracts work to professional market parties. The attention of ProRail is focused on drawing up the necessary specifications, seeking competitive bids and managing the coordination of various contracts.

As regards contracting, ProRail focuses on achieving cost-effective results. In terms of the delivery of products and services, ProRail strives for quality and functionality at a realistic lifetime price and the highest possible return in terms of availability, reliability, sustainability and safety of the railway network. Finally, by pursuing continuous improvement, ProRail aims to make best use of the innovative capacity of the market.

1.2 Reading guide

These tendering guidelines (hereinafter: guidelines) describe the course of this tendering procedure.

The content of the assignment is described in Chapter 2 and Annex 1 - "Tender Specifications FOAS 2024 Interrogator".

Chapter 3 deals with the course of the tendering procedure. Requirements for the tender are detailed in Chapter 4. The award criterion is described in Chapter 5. Chapter 6 outlines the assessment process, after which Chapter 7 indicates what happens after this tendering procedure.

Chapter 8 provides a list of appendices to these guidelines.

2 Information about the assignment

ProRail requires the supply of two interrogators for the purpose of the pilot 'Data Science with Fibre Optic Acoustic Sensing'. The purpose of this tendering procedure is to enter into a lease agreement with one party regarding two interrogators to fulfil this need.

2.1 Scope

The scope of the tendering procedure consists of the leasing of two interrogators by entering into a lease agreement, hereinafter called the contract. For more information and background on this tendering procedure, see Annex 1 - "Tender Specifications FOAS 2024 Interrogator".

The contract has a fixed term of one year with one six-month extension option. This brings the maximum term to one and a half (1.5) years.

2.2 Terms and conditions of the assignment

ProRail will use its Model Lease agreement for this assignment, the draft contract can be found in Appendix 2.

Due to ProRail's transformation into an autonomous administrative authority, ProRail will include a provision in the contract stipulating that the rights and obligations on the part of ProRail pursuant to the contract will be transferred by universal title to the ProRail autonomous administrative authority, with which the contract will remain in force unchanged.

2.3 Relationship with other developments

The leasing of two interrogators, as described in these tendering guidelines, is related to two other activities of the FOAS project. The following two activities are related to this tendering procedure:

1. Installation of the interrogators to ProRail's rail infrastructure and ICT (outside the scope of this tendering procedure);
2. Advanced Analytics on the interrogator data serving 5 use cases (outside the scope of this tendering procedure).

3 Tendering procedure

3.1 Conditions

This European tender is subject to the Procurement Act 2012. This tender will be conducted according to the open procedure in accordance with Section 3.33 of the Procurement Act 2012 supplemented by Part II of the Utilities Procurement Regulations 2016, version 1 July 2016 (ARN²⁰¹⁶).

The ARN²⁰¹⁶ can be found at: <https://www.prorail.nl/samenwerken/leveranciers/documenten>.

This course has a cross-border interest because of the international market for the supply of interrogators. Therefore, ProRail chose to publish the tender through a European open tendering procedure.

3.2 Schedule

Process step	What we ask of you	Schedule
Publication European Open Tender via TenderNed	You will be provided with the entire set of documents of this invitation to tender.	08-02-2024
Submission of questions following the invitation to tender	If you have any questions about this invitation to tender, we would be glad to answer them for you. Please submit your questions as described in section 3.4.1 and 3.4.2	21-02-2024, for 23:59 hour
Publication 1 st Summary of additional information and changes	After receiving all questions, we will answer them in a summary of additional information and changes.	01-03-2024
Submission of tender (tender deadline)	We look forward to receiving your complete tender:	20-03-2024, for 12:00 hour
Assessment	The tenders received are checked for timeliness and completeness. The tenders received will then be assessed for quality and price. We expect to complete this by the scheduled date.	10-04-2024
Provisional award decision	You will be notified of the provisional award decision.	11-04-2024
Final award	After the appeal and objection period has expired, you will be notified of the final award of the contract.	02-05-2024
Signing	After final award, the contract can be signed.	16-05-2024
Operational start date of contract	This is the start date of the assignment.	17-05-2024

The current schedule is included in TenderNed. The tender deadline is final. Furthermore, after the deadline for questions ProRail is not obliged to accept any questions for handling. The other time periods mentioned are indicative. In case of inconsistencies regarding the schedule, the schedule as included in TenderNed will prevail.

3.3 Use of TenderNed

The tendering procedure takes place via TenderNed. To participate in the tender, you must be registered in TenderNed. You need an eHerkenningmiddel - with at least reliability level 2 - to register a company in TenderNed. For more information see www.TenderNed.nl and www.Tenderned.nl/cms/tenderned-voor-ondernemingen.

- All correspondence relating to this tendering procedure must be submitted in writing via the "Berichten" (Messages) module in TenderNed (use the option "Verstuur een bericht over deze aanbesteding naar ProRail B.V." (Send a message about this tender to ProRail B.V.)). Correspondence sent by any other means will not be accepted for handling. For the process of exchanging information, see also section 3.4.
- If the information in TenderNed differs from the information in these guidelines and the associated appendices, the text in TenderNed will prevail. Parties are requested to report inconsistencies to ProRail immediately via the "Berichten" (Messages) module of TenderNed.

- ProRail will only provide tender documents digitally by TenderNed. If both a PDF version and a native version of a file have been supplied, the PDF version will prevail over the native version.
- ProRail accepts no responsibility for the inability to submit tenders due to automation or telephone problems of the tenderer.
- If TenderNed is not accessible on the deadline for receipt of tenders due to a malfunction of TenderNed, ProRail may, depending on the situation and consequences, decide to postpone the deadline for receipt of tenders. In that case, ProRail will announce the modified deadline for receipt of tenders via TenderNed under 'Rectification' as soon as possible.

Your tender must be fully and validly signed (for the documents to which this applies) before the date and time specified in TenderNed and submitted via TenderNed.

To submit your tender, go to “Mijn inschrijving” (*My tender*) in TenderNed.

- In the section “Eisen beantwoorden” (*Compliance with requirements*), the requested documents relating to the grounds for exclusion and suitability requirements must be submitted.
- In the section “Gunningscriteria beantwoorden” (*Compliance with award criteria*), under the tab “Criteria”, the documents for the purpose of the tender must be completed.
- Tenderers must check the box at “Dit criterium is beantwoord” (*This criterion has been complied with*) for all criteria.
- After completing the first three points, the “Inschrijving op de aanbesteding” (*Tender submission*) item must be completed to submit your tender.

Note: if not all points have been completed, your tender has not been submitted and ProRail cannot process it!

The vault in TenderNed closes automatically at the time specified in TenderNed; uploading documents/tenders is not possible after that. Tenderers are responsible for the timely submission of all documents and the timely provision of all documents to ProRail. A tender that is late and/or submitted in a manner other than prescribed in these guidelines will not be assessed and will not be considered as submitted.

Appendix 1 contains a checklist of all documents to be submitted with your tender. For all documents mentioned in these guidelines that must be signed, the signatory of these documents must be authorised to sign on behalf of the tenderer/group member. This authority to represent must be demonstrated by submitting an extract from the trade register (see section 4.3). If the signatory is not registered as authorised to represent the company, a written power of attorney showing authority must be submitted.

All documents must meet the requirements set out in these guidelines. All documents must be submitted in generally accessible format (e.g. PDF or MS-office), unless otherwise indicated in the notes to the award criteria. ProRail may later request digital versions of the files in an editable format.

All documents must have an easy-to-read format.

3.4 Exchange of information

ProRail may provide information within the scope of this tendering procedure as:

1. General information
2. Individual information

In general terms and in the case of contradictions, more up-to-date information takes precedence over older information (e.g. a later summary of additional information and changes takes precedence over an earlier version).

3.4.1 General information

Tenderers may submit written questions about the project, the tender dossier and the tendering procedure. Questions must be formulated clearly and unambiguously with a reference to the part of the tender dossier to which the question relates.

Questions must be submitted via TenderNed's "Vragen over de aanbesteding" (*Questions about the tender*) module. One question per field.

ProRail will publish the answers to questions received anonymously via additional information and changes on TenderNed.

ProRail publishes the answers to questions received anonymously via the summary of additional information and changes.

3.4.2 Individual information

Under the provisions of Section 3.50 in conjunction with Section 2.53 Procurement Act 2012, a tenderer may request that information be provided individually if disclosure of the information would damage the legitimate economic interests of the tenderer in question.

The provision of individual information may not lead to an undue knowledge advantage, which may violate the principle of equality. If this is the case, ProRail will offer the tenderer the choice of withdrawing the question or having it answered in general terms.

In the "Vragen over de aanbesteding" (*Questions about the tender*) module of TenderNed, the tenderer can choose to have a question answered individually by ProRail by placing a tick.

3.5 Contact information

Questions in the context of this tender can only be submitted via TenderNed and will be answered via TenderNed. Contact can be made with the tender manager if necessary. The tender manager for this tender is Daan Versteeg, e-mail: daan.versteeg@prorail.nl.

However, only correspondence via TenderNed can affect (the course of) this tendering procedure.

3.6 Term of validity

With reference to Article 15.1 ARN²⁰¹⁶, a term of validity of 60 days applies.

If a party submits a complaint (see 3.11) or institutes preliminary relief proceedings (see 3.12) against the preliminary award decision, the term of validity of your tender will be (automatically) extended until four (4) weeks have elapsed after judgment has been given in the relevant preliminary relief proceedings.

Also in the event that the preliminary relief proceedings are withdrawn, the term of validity will be extended until four (4) weeks have elapsed after the preliminary relief proceedings have been withdrawn.

3.7 Exclusion from the procedure

Failure by the tenderer to comply with these tendering guidelines can result in exclusion from the procedure.

It is further emphasised that statements, which subsequently (after verification or otherwise) turn out to contain inaccuracies, or commitments that are not (or cannot be) fulfilled, may be construed by ProRail as false statements. This may result in exclusion from this and further ProRail tendering procedures.

Exclusion may also follow if a tenderer maintains contacts with ProRail regarding the present tendering procedure outside the prescribed communication medium (see section 3.3), or if it is found that tenderers maintain contacts among themselves regarding this tendering procedure.

During the procedure, tenderers are not permitted to communicate with third parties about the object of the tendering procedure without ProRail's prior written permission. An exception to this is consultation with potential subcontractors, insofar as this is relevant in connection with the performance of their part. Publications are also considered third-party communications in this context.

3.8 Validity of tender

By submitting its tender, the tenderer agrees to all provisions in the tender announcement and tender documents. A tender containing conditions or reservations is not allowed and will be declared invalid by ProRail.

Alternative tenders are not permitted.

3.9 Forfeiture of rights

All tender documents have been compiled with the utmost care. Nevertheless, the documents may contain ambiguities, imperfections and/or contradictions. ProRail requests interested economic operators to report ambiguities, imperfections and/or contradictions as soon as possible. ProRail expects a proactive attitude from interested economic operators, which means that any ambiguities, deficiencies and/or inconsistencies in the tender documents will be reported to ProRail as soon as possible and at such time that these ambiguities, deficiencies and/or inconsistencies can as yet be corrected.

Interested economic operators must timely report all questions and/or objections within the scope of this tendering procedure with a request for information.

After expiry of the deadline for submitting tenders, an interested economic operator can no longer object to any ambiguities, imperfections and/or inconsistencies in the tender documents. Consequently, after that deadline, an interested entrepreneur forfeits the right to as yet object to (the consequences of) any violations of (procurement) law, insofar as such would be contained in the tender documents, and an interested entrepreneur will be deemed to have fully and unconditionally agreed to the contents of those documents.

By submitting a tender, tenderers declare their full and unconditional agreement to the tender documents including any adjustments as a result of information provided.

Furthermore, in accordance with Article 18.9 ARN²⁰¹⁶, parties may object to the preliminary award decision. If preliminary relief proceedings are not commenced within the time limit mentioned in that article, the unsuccessful tenderers can no longer object to the decision and have forfeited their rights in this regard. ProRail is therefore free in that case to act on the decision expressed. In the said case, the unsuccessful tenderers have equally forfeited their rights to bring a claim for compensation in proceedings (on the merits).

3.10 General questions or comments

If you have general questions, comments or complaints about ProRail's tendering policy, or proposals for its improvement, please address them to procurement@prorail.nl.

3.11 ProRail complaints procedure

If you have any complaints or objections regarding this specific tendering procedure, you may address them to the ProRail complaints desk. The procedure is described in ProRail's "Procurement complaints procedure", which can be found at: <https://www.prorail.nl/samenwerken/leveranciers/documenten>. Any complaint must be emailed to the complaints hotline at aanbestedingsklachten@prorail.nl with Tender Manager in the cc (see 3.5).

3.12 Appeal procedure

Parties are entitled to start an appeal procedure at the Midden-Nederland District Court if they deem it necessary. The appeal procedure is described in Article 21 ARN²⁰¹⁶.

3.13 Language

The main language for this tender procedure is Dutch, or English. The tender documents (tender/ bid) should be completed and submitted in Dutch, **or** English.

3.14 Conflicting language documents

In case of conflict between versions of the Award Guidelines including appendices/ annexes in different languages, the Dutch version will prevail.

4 Grounds for exclusion and suitability requirements

4.1 Introduction

With the suitability test, ProRail assesses whether you, as an economic operator, are suitable to perform the present assignment. It is important that no grounds for exclusion apply to you and that you meet the specified suitability requirements (minimum requirements). Any own knowledge of ProRail regarding the tenderer will not be included in the assessment. You can submit a tender as:

1. An independent tender (see section 4.2.1)

A tender together with other parties:

2. As a group (see section 4.2.2)
3. With reliance on the capacity of third parties (see section 4.2.3)
4. A tender as a joint-venture – such as a general partnership (see section 4.2.4)

4.2 European Single Procurement Document (ESPD)

4.2.1 Independent tender

The answers in the European Single Procurement Document (ESPD) and the supporting documents submitted serves to verify that no grounds for exclusion apply and that you, as the tenderer, are suitable for performing the work.

When entering the tender in TenderNed, the ESPD must be completed, signed and uploaded by the tenderer to the requirement 'European Single Procurement Document (ESPD)'.

Supporting documents Requirement 1 in TenderNed (immediately with tender)

- Completed and signed ESPD as per Appendix 4.

Supporting documents Requirement 2 in TenderNed (immediately with tender)

- The requested supporting documents for the grounds for exclusion. These concern the grounds for exclusion in sections 4.3 **Fout! Verwijzingsbron niet gevonden.** and 4.4 **Fout! Verwijzingsbron niet gevonden..**

4.2.2 Tender as part of a group

An economic operator participating in a tendering procedure in a group with one or more other economic operators - including temporary joint ventures - will submit both an own ESPD, as well as the separate ESPD of the other group member. If there are several group members, a separate ESPD must be submitted for each of them.

Since this involves a group tender, in addition to the ESPD, all documents (declaration(s)/agreement(s)) applicable to the situation at hand, as mentioned in Article 10 ARN²⁰¹⁶¹ must be submitted by the tenderer as a supporting document.

Supporting documents Requirement 1 in TenderNed (immediately with tender)

1. From all group members a completed and signed ESPD in accordance with Appendix 4. Note that:
 - each ESPD must state the role of the economic operator within the group as well as the identity of the other group members (company name).
2. Of the group members together:
 - A completed and signed Group Contract (Appendix 6) in which the group members:

¹ Groups or consortiums, joint ventures etc.

- include an organisational chart and division of activities showing at least which company is responsible for which activities and a declaration that, if the assignment is awarded, the division of activities included in the group agreement will actually be observed (Article 10.2 ARN²⁰¹⁶); and
- declare their acceptance of joint and several liability should the assignment be awarded (Article 10.4 ARN²⁰¹⁶).

Supporting documents Requirement 2 in TenderNed (immediately with tender, of each individual group member):

- The requested supporting documents for the grounds for exclusion (see Article 10.3 ARN²⁰¹⁶). These concern the grounds for exclusion in sections 4.3 **Fout! Verwijzingsbron niet gevonden.** and 4.4 **Fout! Verwijzingsbron niet gevonden..**

4.2.3 Tender with reliance on capacity of third party

An entrepreneur who participates independently or in a group and relies on the capacity of one or more other entities (for technical or professional competence and/or financial and economic capacity) must submit its own ESPD together with the ESPD of the third party on whose capacity it relies, along with the relevant information. If there are several third parties, a separate ESPD must be submitted for each of them.

In case of a tender involving reliance on the capacity of third parties, all documents (declaration(s)/agreement(s)) applicable to the situation in question, as mentioned in Article 11 ARN²⁰¹⁶, must be submitted by the tenderer as a supporting document, in addition to the ESPD.

Supporting documents Requirement 1 in TenderNed (immediately with tender)

1. All completed and signed ESPDs in accordance with Appendix 4. Note that:
 - The tenderer's ESPD must include the identity of the third party (company name) whose capacity is being relied upon.
 2. A completed and signed declaration of reliance on third parties (Appendix 7) in which:
 - In the event that the technical ability and professional competence of a third party is relied upon:
 - the contractor declares that it has at its disposal the means necessary for the execution of the assignment; and
 - includes an organisation chart showing at least which company will be responsible for which activities; and
 - a declaration that if the assignment is awarded this division of activities will also be observed (Article 11.1 in conjunction with 11.2 ARN²⁰¹⁶); and/or
 - In case of reliance on the financial and economic capacity of a third party, it is declared that the third party accepts joint and several liability for the performance of the assignment in the event that the assignment is awarded to the relevant economic operator (Article 11.4 ARN²⁰¹⁶).
- Supporting documents Requirement 2 in TenderNed (immediately with tender, of both the main contractor and the nominated subcontractor).
- The requested supporting documents for the grounds for exclusion. These concern the grounds for exclusion in sections 4.3 and 4.4.

4.2.4 Tender as a joint venture - such as a general partnership

In the case of a joint venture - such as a general partnership - it is important to consider whether the capacity of the separate entities within the company is being relied upon.

If tenderer is a general partnership and has to rely on the resources and/or competence of the individual partners in its tender, it is regarded as a tender relying on the capacity of third parties (see section 4.2.3), whereby the tendering general partnership is obliged² to comply with the ESPD procedure (tender with reliance on the capacity of third parties (natural or legal persons)) and submit the corresponding additional documents.

² Also based on recent case-law of the Court of Justice (CJEU 10 November 2022 (C-631/21)),

If the general partnership can perform the assignment using only own personnel and equipment, in other words with the resources transferred to it by its joint partners in accordance with the partnership agreement and freely available to it, it is sufficient for the general partnership to submit an own ESPD and the partnership agreement (see section 4.2.1 **Fout! Verwijzingsbron niet gevonden.**).

4.3 Mandatory and optional grounds for exclusion

This tender is subject to all mandatory grounds for exclusion and all optional grounds for exclusion as stated in Section 2.86 and Section 2.87 of the Procurement Act 2012. The aforementioned grounds for exclusion are also selected in the ESPD.

Supporting documents Requirement 2 in TenderNed (immediately with tender)

1. Extract from the trade register not older than 6 months at the time of submitting the tender;
The extract must show that the person signing the ESPD is authorised to do so. In some cases it may be necessary to provide several extracts to prove this. If the signatory is not registered as authorised to represent the company, a written power of attorney showing authority must be submitted.

4.4 Russia Sanctions Package

With the Fifth EU Sanctions Package of Friday 8 April 2022, the Member States agreed to prohibit contracting authorities and special sector companies from awarding new contracts to Russian parties based in the Russian Federation, including European Union-based subsidiaries controlled or directed by those parties. As a result, ProRail has decided to require tenderers to provide an additional Tenderer's Statement Russia Sanctions Package, regarding the prohibition on awarding public contracts to Russian parties. The (mandatory) model Tenderer's Statement Russia Sanctions Package can be found as Appendix 8 to the Tendering Guidelines.

Supporting documents Requirement 2 in TenderNed (immediately with tender)

- The tender and any group members must submit a Tenderer's Statement Russia Sanctions Package (Appendix 8). If subcontractors are used, the tenderer and any group members must declare this on behalf of the subcontractors they engage.

4.4.1 Invalidity

If it follows from any of the Tenderer's Statements Russia Sanctions Package that ProRail is prohibited from awarding the assignment to the relevant tenderer(s) pursuant to Regulation EU/833/2014 as amended by Regulation EU/2022/576, the relevant tenderer(s) will be excluded from further participation in this tendering procedure. If any of the Tenderer's Statements Russia Sanctions Package - also after the repair procedure described in Chapter 6.2 - is not delivered (in full), ProRail may declare the tender invalid.

4.5 Suitability requirements

Suitability requirement 1: Technical and organisational competence, experience

Tenderer demonstrates through one reference to have demonstrable experience in providing an interrogator.

Supporting documents Suitability requirement 1 in TenderNed (immediately with tender)

Verifiable reference(s) (statement of completed or ongoing assignment) in accordance with Appendix 5.

Suitability requirement 2: Technical and organisational competence, experience

Tenderer demonstrates through one reference demonstrable experience in rail road projects.

Supporting documents Suitability requirement 2 in TenderNed (immediately with tender)

Verifiable reference(s) (statement of completed or ongoing assignment) in accordance with Appendix 5.

Suitability requirement 3: Technical and organisational competence, experience

Tenderer demonstrates through one reference to have demonstrable experience of support work in the installation and commissioning of an interrogator.

Supporting documents Suitability requirement 3 in TenderNed (immediately with tender)

Verifiable reference(s) (statement of completed or ongoing assignment) in accordance with Appendix 5.

Suitability requirement 4: Technical and organisational competence, experience

Tenderer demonstrates through one reference to have demonstrable experience in application of algorithms to interrogator data.

Supporting documents Suitability requirement 4 in TenderNed (immediately with tender)

Verifiable reference(s) (statement of completed or ongoing assignment) in accordance with Appendix 5.

4.5.1 Invalidity

The assignment to which the reference relates was completed no more than three years ago at the time of final receipt of the tender.

The reference must relate to a completed assignment or an ongoing assignment with a minimum expired term of 6 months at the time of the final receipt of the tender.

ProRail may contact the referee (without intervention by the tenderer) to verify the reference provided.

Primary contracting authority means the first contracting authority in the chain. In the event that the assignment in question was performed as a subcontractor, a declaration from the primary contracting authority to the subcontractor suffices as a supporting document. Only the declaration from a main contractor to a subcontractor, or only the declaration from the primary contracting authority to the main contractor, does not qualify as a supporting document. A combination of these two statements will, however, be accepted as a supporting document.

Example: In case of contracting work, the main contractor is not the primary contracting authority; the contracting authority of the main contractor is the primary contracting authority.

NB: If references are submitted, the tenderer must indicate for which suitability requirements the relevant references are submitted.

5 Award requirements and criterion for the assignment

5.1 General description and purpose

ProRail will use the award criterion to assess your tender for the present assignment. The objective is to arrive at a ranking of all tenders submitted.

The contract (Appendix 2) contains a provision on how the offered performance and quality levels will be dealt with after the award.

5.2 Requirements

Tenderers must meet all the requirements below in this section.

Tender requirement: Contract

The tenderer agrees to the terms stated in the draft lease agreement, which is attached to these guidelines as Appendix 2 including the amendments from the summaries of additional information and changes.

Supporting documents:

- By submission of your tender, you declare to comply with this requirement.

Tender requirement: Tender specifications

In order to be eligible for further award, the tenderer must comply, without reservation, with all requested minimum requirements as specified in “Annex 1 – Tender specifications FOAS 2024 Interrogator”.

Supporting documents:

- By submission of your tender, you declare to comply with this requirement.

Implementation requirement: Language

The responsible managerial staff and advisors to be deployed by the tenderer will have command of the Dutch and/or English language, both verbally and in writing.

Supporting documents:

- By submission of your tender, you declare to comply with this requirement.

The tenderer will comply with the implementation requirements during the performance of the contract.

5.3 Award criterion - Awarding on Value

The award criterion is the most economically advantageous tender on the basis of Awarding on Value.

The objective of the Awarding on Value methodology is to challenge tenderers to offer innovative and high-quality products and/or services. The basic idea is that quality is translated into money with the underlying rationale: how much money is it worth to us as the Procurement Team to buy high-quality and/or innovative products/services?

The price consists of the offer price as stated in the tender budget (Appendix 3). To clarify: the submitted tender price (Appendix 3) is the amount that actually applies as the contract price. The added value expressed in notional discounts in euro amount(s) are only used to determine the assessment price (notional reduction of the tender price).

The quality component is made up of a number of quality criteria, which are shown in the overview below, with the maximum obtainable added value in euros for each award criterion. The maximum obtainable added value is set at **€90,000**.

Award criteria (A.C.)		
Fictitious discount in €	€	90.000,00

Award criteria			
Delivery time	50%	€ 45.000,00	Maximum fictitious discount
Plan of approach	50%	€ 45.000,00	Maximum fictitious discount

Valuation Model							
A.C. 1. Delivery time	3 weeks or less	4 weeks	5 weeks	6 weeks	7 weeks	8 weeks	9 weeks or more
Percentage	100%	90%	70%	50%	30%	10%	0%
Fictitious discount	€ 45.000,00	€ 40.500,00	€ 31.500,00	€ 22.500,00	€ 13.500,00	€ 4.500,00	€ -

A.C. 2. Plan van approach	Assessment grade 10	Assessment grade 8	Assessment grade 6	Assessment grade 4	Assessment grade 1		
Percentage	100%	75%	50%	0%	0%		
Fictitious discount	€ 45.000,00	€ 33.750,00	€ 22.500,00	€ -	€ -		

5.3.1 Award criterion 1 - Tender budget

The tender budget must be submitted using "Appendix 3 - Tender Form". The total price covers the lease of two interrogators for a period of 1.5 years (1 year fixed and option to extend for 6 months) and associated requirements, service and support as described in "Annex 1- Tender specifications FOAS 2024 Interrogator" and Tendering Guidelines, throughout the full term (1.5 years).

All costs will be stated all-inclusive and exclusive of VAT.

Documents to be submitted

- Fully completed and duly signed Tender Form in accordance with Appendix 3 of these guidelines (to be submitted immediately with the tender).

5.3.2 Award criterion 2 - Quality criterion delivery time

ProRail is seeking delivery of the interrogators as soon as possible. Maximum added value is achieved when the delivery is as soon as possible. The delivery time includes both the preparation and the actual delivery of the interrogator at our location in Amersfoort, the Netherlands, after the signing of the contract.

Documents to be submitted:

- Appendix 9. Award criterion 1. Delivery time (completed and signed)

ProRail assesses the criterion of delivery time as follows:

Delivery time in weeks	Notional discount
Delivery time 3 weeks or less	€45.000,-
Delivery time 4 weeks	€40.500,-
Delivery time 5 weeks	€31.500,-
Delivery time 6 weeks	€22.500,-
Delivery time 7 weeks	€13.500,-
Delivery time 8 weeks	€4.500,-
Delivery time 9 weeks or more	€0,-

Maximum quality value

A maximum quality value (notional discount) of €45.000,- can be achieved for this criterion.

5.3.3 Award criterion 3 - Plan of approach

It is important for ProRail that the supplier can provide support during both the installation of the interrogators and their implementation. The tenderer will in the plan of approach explain how it intends to implement this process and how it will relieve ProRail of the burden by including:

- Description of the scope and responsibilities of the tenderer.
- The extent to which the tenderer demonstrates expertise to carry out the work successfully.
- Description of how the tenderer will tackle the work within the planning.

- A description of what commitment and/or activities are expected from the ProRail and when.
- A planning:
 - Overview of the work to be carried out.

Documents to be submitted

The plan of approach may consist of a maximum of three (3) A4 pages (including appendices, excluding cover page and planning). The planning may be submitted in a separate document and does not fall under the maximum of three (3) pages. If the prescribed maximum number of pages is exceeded, this will not invalidate the tender, but the assessment team will not include the excess pages in the assessment.

ProRail assesses the criterion of delivery time as follows:

Score Motivation		Notional discount
In general terms, a response must be SMART (Specific, Measurable, Acceptable, Realistic, Time-bound), with a more SMART-defined response scoring better. Concrete commitments score better than promises. Moreover, demonstrability is important, with better demonstrability (e.g. by referring to previous successful application/projects) scoring better. Finally, an approach that is better substantiated (provides better insight), more complete and more consistent scores higher than one for which this is less true.		
10	Excellent: The plan of approach contributes maximally to ProRail's stated objective and is SMART in all parts. The plan of approach consists of such elements that the objective is exceeded.	€45.000,-
8	Good: The plan of approach contributes significantly to ProRail's formulated objective and is predominantly SMART.	€33.750,-
6	Adequate: The plan of approach contributes to the formulated objective and, although not for all points, is sufficiently SMART. The method of implementation is not fully described and openings are left.	€22.500,-
4	Moderate: The plan of approach barely contributes to ProRail's stated objective. On many points, the tenderer provides a minimal description and/or is insufficiently SMART in its formulation.	€0,-
1	Poor: Description by the tenderer lacks or does not contribute to the formulated objective and/or is not SMART.	€0,-

Maximum quality value

A maximum quality value (notional discount) of **€45.000,-** can be achieved for this criterion.

5.3.3.1 Assessment of award criteria

The assessment of the qualitative award criterion other than award criteria 1 and 2 is carried out by the assessment committee with substantive knowledge and experience. All members individually assess the submitted tenders and complete the scoring form. During the evaluation of the quality criteria, the price information of the tenderer remains unknown to the members of the assessment committee. Items or services that are offered optionally and are not part of the tender are not considered. The individual assessments are fed into a plenary meeting of the assessment committee. The aim of this consultation is to reach consensus on the final assessment of the award criteria. The final rating of the award criteria is used for the calculation of Awarding on Value.

6 Assessment process

Once the tenders have been received, the following steps are taken:

Step 1: Provision of Tender Report

Step 2: Check submitted documents and remedy of defects

Step 3: Assessment

a) ESPD and related documents

b) Quality criteria

c) Price

d) Request for clarification

Step 4: Ranking

Step 5: Communication of award decision

6.1 Step 1: Provision of Tender Report

In accordance with Article 16.1 ARN²⁰¹⁶, a Tender Report will be provided to tenderers after the closing of the term for submitting tenders. No tender sums will be stated in this report.

6.2 Step 2: Check submitted documents and remedy of defects

After the tender is submitted, ProRail will check whether all required documents are attached to the tender and whether those documents comply with the specified requirements. Partly based on the outcome of the assessment of the supporting documents, it will be determined whether the tender is valid or not.

The schedule below shows which defects can be remedied and which defects cannot be remedied. Defects must be remedied within 48 hours (not including weekends and national holidays) after ProRail's request to do so. If the defect is not remedied by the response, the tenderer will be given a further period of 24 hours to as yet fully comply with the remedy request. If even after this second deadline the defect has not been remedied by the reply, ProRail will declare the tender invalid.

Regarding defects not included in the schedule below, in accordance with Article 17.1 ARN²⁰¹⁶, those defects may be remedied at ProRail's request, provided that such remedy does not result in a new tender actually being proposed.

Description of defect	Explanation
Tender Form missing or submitted late	Remedy is not possible
The Tender Form has not been signed (or has not been validly signed)	Remedy is not possible
The ESPD is missing or is submitted late	Remedy is not possible
The identity of the group member/third party is not indicated on the ESPD of tenderer and the ESPD of the group member/third party has not been submitted	Remedy is not possible
Trade register extract missing	Remedy is possible.
Power of attorney accompanying trade register extract is missing (signature defect)	Remedy is possible provided that the date on the document precedes the tender deadline.
Reference with respect to suitability requirement missing or insufficient	Remedy is possible unless, by means of the new reference, reliance is made on a third party not previously relied on.
Group contract	Remedy is possible provided that the date on the document precedes the tender deadline.

Description of defect	Explanation
Documents regarding group/subcontracting: declaration of joint and several liability	Remedy is possible provided that the date on the document precedes the tender deadline.
Documents regarding group/subcontracting: Declaration regarding division of tasks	Remedy is possible provided that the date on the document precedes the tender deadline.

6.3 Step 3: Assessment

a) Assessment ESPD and related documents

The ESPD and the Tender Form are checked for completeness and valid signature. A substantive check of the ESPD is also carried out against the stipulated regulations, grounds for exclusion and suitability requirements. Also see Chapter 4 **Fout! Verwijzingsbron niet gevonden..**

b) Assessment of quality criteria

The submitted documents will be assessed against the award criteria as stated in section 5.3. **Fout! Verwijzingsbron niet gevonden.**

c) Assessment of price

The tender budget/price sheet will be assessed based on the award criterion as stated in section 5.3 **Fout! Verwijzingsbron niet gevonden..** During the evaluation of the quality criteria, the price information of the tenderer remains unknown to the members of the assessment committee.

d) Request for clarification

If ProRail finds ambiguities in the tender, a request for clarification can be sent to the tenderer. The tenderer will respond to this request adequately, and within the time limit specified in the request for clarification.

6.4 Step 4: Ranking

The ranking is determined on the basis of the award criteria as described in Chapter 5.

6.5 Step 5: Communication of award decision

After assessing the tenders, ProRail will announce the results by sending a provisional award decision. This preliminary award decision is subject to objection and appeal in accordance with Article 18 ARN²⁰¹⁶.

If no objection is made within the stipulated period, ProRail may proceed to final award. ProRail is not obliged to proceed to (final) award. In clarification of Article 2.3 ARN²⁰¹⁶, if the last day of a term mentioned in the ARN²⁰¹⁶ falls on a Saturday or Sunday, the term in question will be extended up to and including the next day that is not a Saturday, Sunday, bank holidays, public holiday or other day off.

7 After the tendering procedure

7.1 How next

When, after assessment of the tenders, it is possible to proceed with the award of the assignment, ProRail will, if it wishes to proceed with the award, complete the Lease Agreement based on the winning tender and provide it to the winning tenderer. In consultation with the contact of this tendering procedure, an appointment will be made for signing the contract.

8 Appendices to Tendering Guidelines

Appendix 1 - Checklist of documents to be submitted

Added separately

Appendix 2 - Contract

Added separately

Appendix 3 - Tender Form

Attached separately in editable format

Appendix 4 - ESPD

Attached separately in editable format

Appendix 5 – References

Attached separately in editable format

Appendix 6 – Group contract

Attached separately in editable format

Appendix 7 – Reliance on third parties

Attached separately in editable format

Appendix 8 - Tenderer's Statement Russia Sanctions Package

Attached separately in editable format

Appendix 9 - GC. 1 Delivery time

Attached separately in editable format

Annex 1 – “Tender specifications FOAS 2024 Interrogator”

Added separately