

Tender Guidelines

'Wheel profile measurement system (pilot)'

TN 470198

National public procurement procedure

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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 market parties. The attention of ProRail is focused on drawing up the necessary specifications, seeking competitive tenders 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 Tender Guidelines describe the course of the tender procedure. These guidelines should be read in conjunction with the publication in TenderNed to provide the reader with a complete overview of (the course of) this tender procedure.

The content of the assignment is described in Chapter 2 and Annex 3 - Tender Specifications WPMS Requirements.

Chapter 3 deals with the course of the tender 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 tender procedure.

Chapter 8 provides a list of appendices to these guidelines.

2 Information about the assignment

ProRail requires the delivery of a wheel profile measurement system to measure the cross-sectional profile of wheels and detect early or abnormal wear.

The purpose of this tender is to conclude an exclusive lease agreement with one party regarding the wheel profile measurement system hereinafter called the 'assignment' to meet this need.

2.1 Scope

ProRail, together with NS¹, has developed a vision in the area of Wayside Train Monitoring. Together with stakeholders from the rail sector, we have explored needs regarding wayside monitoring and identified use cases. Wayside monitoring was identified as a use case with potentially high added value, which is why ProRail and NS are launching this pilot for it.

By performing wheel profile measurements on train wheels in the operational train service, we gain insight into the current population of train wheels and their condition. We can frequently measure the cross-sectional profile of the wheels from the track and detect early or abnormal wear. As a result, breakdowns and damage to the track, more specifically of the points and the train, can be prevented and this system contributes to increased track capacity.

With the help of this pilot, it will be possible to determine:

- Whether the measurements correspond well to manual measurements taken in the workshops of NS and other transport operators, and whether the measurements can complement or replace them.
- Whether frequent measurements from the track can properly predict wheel wear and moment of maintenance or replacement.
- Whether, in case of train wheels that are too worn (hollow wear, transport operators can be warned in time so that damage to points can be prevented.
- What the actual costs of such a system are in practice.
- Whether the anticipated benefits actually occur and can be realised in practice.

This agreement for the provision of services, hereinafter called the Contract, comprises the supply and testing of a system for wheel profile measurement.

The Contract has a fixed term of 1 year without options for extension, as it concerns a pilot. This brings the maximum term to one year.

The Contract include the guaranteed acquisition of a complete system.

ProRail guarantees a minimum order for 1 system.

2.2 Terms and conditions of the assignment

The draft Contract can be found in Appendix 9. We added a Dutch and an English version of the contract. The English version is just for informative purpose only and added for your convenience, the Dutch version is leading and is used for signing. In case of conflict between the Dutch and English version, the Dutch version will prevail. This also applies on Appendix 9.1, the Waiting Room Agreement (see below).

2.2.1 Waiting Room Agreement

ProRail concludes the Agreement with the candidate who finishes number two in rank, which additionally includes a waiting room arrangement. The waiting room arrangement provides that ProRail can bring into effect the Agreement with the candidate who ends up second in rank within a period of 6 months if the Agreement with the first contractor is or will be terminated or annulled.

¹ ProRail acts as the lead party for this tender.

The provisions of Article 18.3 ARN2016 apply mutatis mutandis to the candidate who has submitted a tender that is eligible for the award of the Agreement with waiting room arrangement. The tender has not failed if, on the basis of this article, the Agreement with waiting room arrangement is not awarded, but it is awarded to the tenderer who finished first in rank.

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.

3 Tender Procedure

3.1 Conditions

This national public procurement procedure is governed by the tender regulations of the Aanbestedingsreglement Nutssectoren 2016 (ARN²⁰¹⁶). The ARN²⁰¹⁶ is available at: <https://www.prorail.nl/samenwerken/leveranciers/documenten>

3.2 Schedule

Process step	What we ask of you	Schedule
Send invitation to tender	You will be provided with the entire set of documents of this invitation to tender.	15-7-2024
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.	5-9-2024, 12.00 noon
Publication 1st Summary of Additional Information and Changes	After receiving all questions, we will answer them in a Summary of Additional Information and Changes which will be shared with the invited parties.	19-9-2024
Submission of questions following 1st Summary of Additional Information and Changes	If you still have questions about this invitation to tender and/or the answers given in the 1st Summary of Additional Information and Changes, we would be happy to answer them for you. Please submit your questions as described in section 3.4.	26-9-2024, 12.00 noon
Publication 2nd Summary of Additional Information and Changes	After receiving all questions, we will answer them in a 2nd Summary of Additional Information and Changes which will be shared with the invited parties.	10-10-2024
Submission of tender (tender deadline)	We look forward to receiving your complete tender.	24-10-2024, 12.00 noon
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.	19-11-2024
Provisional award decision	You will be notified of the provisional award decision.	26-11-2024
Final award	After the appeal and objection period has expired, you will be notified of the final award of the Contract.	9-12-2024
Signing	After final award, the Contract can be signed.	December 2024
Operational start date of Contract	This is the start date of the assignment.	December 2024/ January 2025

Note to this schedule:

- The deadline and time for submitting questions is stated in the above schedule and is considered a deadline. After this date, ProRail is not obliged to consider any questions.
- The closing date and time for tendering is stated in the above schedule and is considered a deadline. Tenders submitted late or otherwise than as prescribed in these guidelines will not be assessed and are invalid.
- The other time periods mentioned are indicative.
- The vault in TenderNed closes automatically at the time specified in TenderNed; no tenders can be uploaded thereafter. Candidates are responsible for making all documents available to ProRail on time.

This tendering procedure is subject to the document 'Aanbesteden in vakantieperiodes' (Tendering in holiday periods), which can be found at www.prorail.nl.

3.3 Communication medium

The tender procedure takes place via TenderNed. To participate in the tender, you must be registered in TenderNed. For this, see the [website of TenderNed](#).

- All correspondence relating to this tender 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 information exchange, see also sections 3.3 and 3.5.
- Questions in the context of this tender can only be submitted via TenderNed and will be answered via TenderNed.
- If the information from TenderNed and these guidelines and related appendices differ, 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 a tender due to automation or telephone problems of the candidate.
- 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 'Rectificatie' (Rectification) as soon as possible.
- Contact can be made with the tender manager if necessary. The tender manager for this tender is Kim Hamoen (kim.hamoen@prorail.nl). However, only correspondence via TenderNed can affect (the course of) this tender procedure.

3.4 Exchange of information

ProRail may provide information within the scope of this tender 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

Candidates may submit written questions about the project, the tender dossier and the tender 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 asked in the attached Excel format ('Appendix 2 - Format of questionnaire', one question per cell) via the 'Berichten' (Messages) module of TenderNed (here you can add your questionnaire as an attachment) and not in the question and answer module of TenderNed. Multiple Excel forms can be uploaded per candidate, please avoid any duplication of questions.

ProRail publishes the answers to questions received anonymously via one or more summaries of additional information and changes.

3.4.2 Individual information

A candidate may request that information be provided individually if disclosure of the information would damage the legitimate economic interests of that candidate.

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 candidate the choice of withdrawing the question or having it answered in general terms.

Individual questions must also be asked via the 'Berichten' (Messages) module of TenderNed (here you can add your questionnaire as an attachment). Individual questions must be asked in the attached format ('Appendix 3 - Format of individual questions', one question per cell).

3.5 Tender costs allowance

ProRail will not award a tender costs allowance within the scope of this tender procedure.

3.6 Term of validity

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

If a party institutes preliminary relief proceedings 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 Submission of tender

Your tender must be fully and validly signed before the closing date and time. Alternative tenders are not permitted. Tenders submitted late or in a manner other than prescribed in these guidelines (see also section 3.3) will not be assessed and will be considered as not submitted. The candidate is responsible for making all necessary tender documentation available to ProRail in a timely manner.

To submit your tender, go to 'Mijn inschrijving' (My tender) in TenderNed.

- The requested documents relating to the grounds for exclusion and suitability requirements must be submitted in the section 'Eisen beantwoorden' (Compliance with requirements).
- The documents for the purpose of the tender must be completed in the section 'Gunningscriteria beantwoorden' (Compliance with award criteria), under the tab 'Criteria'.
- Candidates must check the box at 'Dit criterium is beantwoord' (This criterion has been complied with) for all criteria.
- After answering all the award criteria, complete the 'Inschrijving op de aanbesteding' (Submission of tender) step to submit your tender.

Note: if not all points have been completed, your tender has not been submitted and cannot be processed by ProRail.

The vault in TenderNed closes automatically at the time specified in TenderNed; uploading documents/tenders is not possible after that.

3.8 Exclusion from the procedure

Failure by the candidate to comply with these 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 tender procedures.

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

During the procedure, candidates are not permitted to communicate with third parties about the object of the tender 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.

3.9 Validity of tender

By submitting its tender, the candidate 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.

3.10 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 tender procedure with a request for information.

After expiry of the deadline for submitting tenders, interested economic operators can no longer object to any ambiguities, imperfections and/or inconsistencies in the tender documents. Consequently, after that deadline, interested economic operators forfeit 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 interested economic operators will be deemed to have fully and unconditionally agreed to the contents of those documents.

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

3.11 General questions or comments

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

3.12 ProRail complaints procedure

Complaints or objections regarding this specific tender procedure can be addressed to the ProRail complaints desk. The procedure is described in the 'Klachtenregeling aanbesteden' (procurement

complaints procedure) of ProRail. The complaints desk can be reached at aanbestedingsklachten@prorail.nl.

The complaints desk can be reached at aanbestedingsklachten@prorail.nl.

3.13 Language

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

3.14 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.

4 Suitability of candidate

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 requirements (minimum requirements). Any own knowledge of ProRail regarding the candidate 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 serve to verify that no grounds for exclusion apply and that you, as the candidate, are suitable for performing the work.

When entering the tender in TenderNed, the ESPD must be completed, signed and uploaded by the candidate under 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 and 4.4.

4.2.2 Tender as part of a group

An economic operator participating in a tender 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, completing the information requested in Parts II to VI. 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 (declarations/agreements) applicable to the situation at hand, as mentioned in Article 102 ARN2016, must be submitted as a supporting document by the candidate.

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:
 - the option 'yes' must be ticked in each ESPD under Part IIA, on page 3 of the ESPD under 'type of participation';
 - 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:

² 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 and ESPD Part III. These concern the grounds for exclusion in sections 4.3 and 4.4.

4.2.3 Tender with reliance on capacity of third party

An economic operator 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, in addition to the ESPD, all documents (declarations/agreements) applicable to the situation in question, as mentioned in Article 11 ARN²⁰¹⁶, must be submitted by the candidate as a supporting document.

Supporting documents Requirement 1 in TenderNed (immediately with tender)

1. All completed and signed ESPDs in accordance with Appendix 4. Note that:

- the main contractor (and possibly the group member) must tick the 'yes' option under 'information on reliance on capacity of other entities' in Part IIC of the ESPD. The nominated subcontractor can tick the 'no' option there;
- The candidate'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 the candidate 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 obliged³ to comply with the ESPD procedure enumerated in section 4.2.3 (tender with reliance on the capacity of third parties (natural or legal persons)) and submit the corresponding additional documents.

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).

4.3 Mandatory and optional grounds for exclusion

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

Supporting documents Requirement 2 in TenderNed (immediately with tender)

1. Certificate of conduct for procurement that is not older than two years at the time of submission of the tender.
If you do not already have it, bear in mind that the application procedure has a long lead time!
2. 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.
3. Declaration of compliance with tax obligations by Tax and Customs Authorities that is not older than 6 months at the time of submission of the tender.

These are the supporting documents referred to in Section 2.89 Procurement Act 2012.

Foreign companies must submit an equivalent form from the country where the candidate is based. If this document is not available, it can be replaced by a sworn or solemn declaration. The foreign company makes this declaration before a competent judicial or administrative authority, a notary public or a competent professional body of that country.

4.4 Ground for exclusion: 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 candidates to provide an additional Candidate's Statement Russia Sanctions Package regarding the prohibition on awarding public contracts to Russian parties. The (mandatory) model Candidate's Statement Russia Sanctions Package can be found as Appendix 8 to the Tender Guidelines.

4.4.1 Candidate's Statement Russia Sanctions Package in case of independent tender

The Candidate's Statement Russia Sanctions Package must be completed by the candidate and submitted to the tender manager by email within 48 hours (on working days) of ProRail's request to do so.

4.4.2 Candidate's Statement Russia Sanctions Package in case of tender by a group

An economic operator participating in a tender procedure in combination with one or more other economic operators - including temporary joint ventures - must submit both its own Candidate's Statement Russia Sanctions Package and the group member's separate Candidate's Statement Russia Sanctions Package. If there are several group members, a separate Candidate's Statement Russia Sanctions Package must be submitted for each of them.

³ Also based on recent case-law of the Court of Justice (CJEU 10 November 2022 (C-631/21)),

4.4.3 Invalidity

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

In the event of a defect in, or failure to deliver any Candidate's Statements Russia Sanctions Package within 48 hours, ProRail will give the relevant economic operator the opportunity to remedy the defect. Repair of defects will take place within 48 hours (on working days) of ProRail's request. If defects are not remedied within this 48-hour period (on working days) or if the defect is not remedied by the response (within an additional 24-hour period), ProRail may declare the tender invalid.

In the event of invalidity, the candidate(s) will be informed thereof with the motivated reason for this rejection. This decision is subject to objection under the ARN2016 and ProRail's Tender Complaints Procedure.

4.5 Requirements

Requirement 1: Technical and professional competence - Language

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

Supporting documents Requirement 1 in TenderNed (immediately with tender):

- The candidate declares compliance with this requirement by signing the Uniform European Tender Document (ESPD) (see Part IV ESPD).

Requirement 2: Technical and organisational competence - Experience

The candidate will demonstrate, through one reference, demonstrable experience in wheel profile measurement in the track when the train passes the system (during the operational mission) at a speed of 80 km/h. This reference may be no more than 3 years old at the date of the tender.

Supporting documents Requirement 2 in TenderNed (immediately with tender):

- Verifiable reference(s) (statement of completed or ongoing assignment) in accordance with Appendix 5, (incl. Testimonial by primary contracting authority).

4.5.1 Reference requirements

The assignment to which the reference refers has been completed a maximum of 3 (in case of supplies and services) years ago at the tender deadline.

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

Each reference must be accompanied by a (separate) testimonial issued by the primary contracting authority, proving that the assignment has been or is being carried out properly with regard to the desired result; this testimonial must state the contract amount, as well as time and place of execution. ProRail may contact the referee (without intervention by the candidate) 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 testimonial from the primary contracting authority to the subcontractor suffices as a supporting document. Only the testimonial from a main contractor to a subcontractor, or only the testimonial from the primary contracting authority to the main contractor, does not qualify as a supporting document. A combination of these two testimonials 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.

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.

5.2 Requirements

Candidates must meet all the requirements below in this section.

Tender requirement 1: Contract

The candidate agrees to the terms stated in the draft Contract, which is attached to these guidelines as Appendix 9 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 2: Tender Specifications WPMS Requirements

In order to be eligible for further award, the candidate must comply, without reservation, with all requested minimum requirements as specified in 'Annex 3 – Tender Specifications WPMS Requirements'.

Supporting documents:

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

5.3 Award criterion

The award criterion is the most economically advantageous tender on the basis of the Best Price-Quality Ratio (BPQR).

The best price-quality ratio is determined as follows:

- Price: 60%
- Quality: 40%
 - Delivery time 30%
 - Installation speed 10%

Tender sum	: €
Delivery time (notional (fictitious) discount)	: € -/- (0 - 30%)
Installation speed (notional discount)	: € -/- (0 – 10%)

Evaluation price:	: €

Award sub-criteria	Score	Explanation
1. Estimated price	Amount in euros	Total amount based on fixed prices per service based on estimated acquisition.
2. Delivery time (notional discount)	0 - 30%	Added value is achieved if the supplier delivers faster than in 60 days (maximum delivery time). Maximum added value is achieved if delivery is made in 35 days.
3. Installation speed (notional discount)	0 - 10%	Added value is achieved if the supplier installs faster than 4 train-free periods. Maximum added value is achieved if installation is realised in 2 train-free periods.

5.3.1 Award criterion 1 - Estimated price

The award is calculated using 'Annex 6 – Estimated price'. For a more detailed explanation of the scope, see section 2.1.

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

The candidate must submit the Estimated price when tendering.

Only the costs included in the Estimated price are eligible for reimbursement. All other costs (administrative costs, travel expenses, accommodation, ICT resources, etc.) must be included.

Documents to be submitted

- Fully completed and duly signed Tender Form in accordance with Annex 5 of these guidelines (to be submitted immediately with tender).
- Fully completed Estimated price in accordance with the format in Annex 6 (to be submitted immediately with tender).

5.3.2 Award criterion 2 - Quality

This award criterion consists of 2 award sub-criteria: delivery time and installation speed.

5.3.2.1 Award sub-criterion 1 – Delivery time

ProRail aims to deliver the wheel profile measurement system as soon as possible. Added value is therefore achieved if delivery is made faster than 12 weeks. The delivery time includes both the preparation and the actual delivery of the wheel profile monitoring system at our test location near Weesp (Netherlands), after signing the Contract.

The maximum delivery time is 12 weeks after signing the Contract. Each week of earlier delivery provides 5% notional discount. Maximum notional discount to be achieved is 30%.

Please note that the 12-week delivery time applies from the moment of contracting. However, the christmas period (2 weeks or 14 days) and public holidays may be excluded from this calculation. The public holidays can be found on: <https://www.government.nl/documents/questions-and-answers/work/public-holidays-in-the-netherlands>

Delivery time in weeks	Notional discount
12 weeks	0%
11 weeks	5%
10 weeks	10%
9 weeks	15%
8 weeks	20%
7 weeks	25%
6 weeks	30%
5 weeks	KO

The candidate must achieve at least a delivery time of 12 weeks. The delivery time offered replaces the requirement of 12 weeks in the tender specifications. If the candidate offers a delivery time of less than 5 weeks, it does not meet this

requirement. The candidate will then be set aside and become ineligible for award.

Documents to be submitted:

- Fully completed and duly signed Tender Form in accordance with Annex 5 of these guidelines (to be submitted immediately with tender).

5.3.2.2 Award sub-criterion 2 - Installation speed

ProRail aims to maximise track availability and minimise disruption to train traffic and limit the use of train-free periods.

The maximum installation time (in the track) is 4 train-free periods (4 hours per train-free period). Each night that shorter work is carried out results in a 5% notional discount. Maximum notional discount to be achieved is 10%.

Installation speed in train-free periods	Notional discount
4 train-free periods	0%
3 train-free periods	5%
2 train-free periods	10%
1 train-free period	KO

Documents to be submitted:

- Fully completed and duly signed Tender Form in accordance with Annex 5 of these guidelines (to be submitted immediately with tender).

6 Assessment process

After the tenders have been received and the vault in TenderNed is opened, the following steps will be completed:

- 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 (optional)

In deviation from Article 16.1 ARN²⁰¹⁶, no Tender Report will be issued to candidates after the closing of the term for submitting tenders.

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 candidate 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 absent 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 absent or submitted late	Remedy is not possible.
The identity of the group member/third party is not indicated on the ESPD of candidate and the ESPD of the group member/third party has not been submitted	Remedy is not possible.
Certificate of conduct for procurement is absent	Remedy is possible.
Declaration by Tax and Customs Authorities absent	Remedy is possible.

Description of defect	Explanation
Trade register extract absent	Remedy is possible.
Power of attorney accompanying trade register extract absent (signature defect)	Remedy is possible provided that the date on the document precedes the tender deadline.
ISO or SCC certificate absent	Remedy is possible provided that the date on the document precedes the tender deadline.
Reference with respect to requirement absent 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.
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 of 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 requirements. Also see Chapter 4.

b) Assessment of quality criteria

The submitted documents will be assessed against the award criteria as stated in section 5.3.3.

c) Assessment of price

The estimated price will be assessed on the basis of the award criterion as stated in section 5.3.1. During the evaluation of the quality criteria, the price information of the candidate 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 candidate. The candidate 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 provisional 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.

6.6 Step 6: Submission of supporting documents and other documents

The candidate who has submitted the most economically advantageous tender will receive the request referred to in Article 14.3 ARN²⁰¹⁶ from ProRail to submit the required Candidate's Statements Russia Sanctions Package within 48 hours (not including weekend and national holidays therein) via the communication medium as stated in section 3.3.

7 After the tender 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 Contract based on the winning tender and provide it to the winning candidate. In consultation with the contact of this tender procedure, an appointment will be made for signing the contract.

ProRail may enter into a 'waiting room arrangement' with the candidate finishing as number two in rank, which will take effect after it has been established that the Contract with the first contractor is or has been terminated or annulled.

7.2 Evaluation

ProRail is keen to learn from experiences of participating parties in the context of a tender procedure. ProRail may therefore approach these parties for an evaluation. With a view to being able to further improve its tenders, ProRail hopes for everyone's cooperation.

8 Appendices Tender Guidelines

Appendix 1 - Checklist of documents to be submitted

Added separately

Appendix 2 - Format for general information

Attached separately in editable format

Appendix 3 - Format for individual information

Attached separately in editable format

Appendix 4 - ESPD

Attached separately in editable format

Appendix 5 - Reference form

Attached separately in editable format

Appendix 6 - Group Contract

Attached separately in editable format

Appendix 7 - Declaration of reliance on third parties

Attached separately in editable format

Appendix 8 - Candidate's Statement Russia Sanctions Package

Attached separately in editable format

Appendix 9 - Draft contract WPMS

Added separately in Dutch and English

In Dutch: Bijlage 9 - Concept overeenkomst WPMS

In English: Appendix 9 - Draft contract WPMS

Appendix 9.1 - Draft waiting room contract WPMS

Added separately in Dutch and English

In Dutch: Bijlage 9.1 - Concept wachtkamerovereenkomst WPMS

In English: Appendix 9.1 - Draft waiting room agreement WPMS

Annex 1 - Deliberately omitted

Annex 2 - Purchasing Conditions

Added separately in Dutch and English

In Dutch: Annex 2 - Inkoopvoorwaarden ProRail BV

In English: Annex 2 - Purchasing Conditions ProRail BV

Annex 3 - WPMS Requirements

Added separately in a folder

Annex 4 - Deliberately omitted

Annex 5 - Tender Form

Attached separately in editable format

Annex 6 - Estimated price

Attached separately in editable format