



Project:

Delivery and maintenance of bird radar systems

Procurement Guideline European tender

Procedure type	Open procedure in conformity with the Dutch Public Procurement Act ('Aanbestedingswet 2012')
Organisation	Ministry of Defence
Contracting Authority	Defence Materiel Organisation (DMO)
Reference number	888.15.6020.00
Date	November 22nd, 2016
Point of contact	Mr. B.H.W. Heetkamp
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(available via www.tenderned.nl)

Annex 2: Model Reference contract

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Annex 4: Bid form agreement 070.44.5750.43 (8 pages)

Annex 5: Draft agreement 888.15.6020.00 (delivery)

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READER'S GUIDE

This document is the Procurement Guideline for the European procurement for the delivery and maintenance of six (6) bird radar systems, to be installed on military air bases in the Netherlands. The contract notice concerning this project, with reference 888.15.6020.00, was published on www.tenderned.nl on November 22nd, 2016. There was no prior information notice.

The purpose of this Procurement Guideline is to provide you with sufficient information about the project for you to make a well-informed decision whether or not to participate as a tenderer.

The Procurement Guideline will inform you about the exclusion criteria and selection criteria (suitability requirements) which are applicable for you as a tenderer (selection stage), the criteria in order to select the best offer (award stage), as well as the requirements which apply to the performance of the contract and the applicable terms and conditions of the agreement. This Procurement Guideline also informs you about the documents you have to submit for this tender.

Chapter 1: Contains general information about the Contracting Authority and its point of contact for this tender procedure.

Chapter 2: Contains general conditions that are relevant for this tender procedure, including requirements which your bid has to meet.

Chapter 3: Describes the scope of delivery, the applicable terms and conditions of the agreement and requirements concerning sustainability, if any.

Chapter 4: Contains the criteria for qualitative selection to be met by the tenderer.

Chapter 5: Contains the contract award criteria.

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DEFINITIONS

- Tender Documents: all documents made available by the Contracting Authority as part of this European procurement.
- Aanbestedingswet (Dutch Public Procurement Act): Aanbestedingswet 2012, with amendments of June 22nd, 2016, taking effect as from July 1st, 2016.
- Contracting Authority: Defence Materiel Organisation of the Dutch Ministry of Defence
- European Single Procurement Document (ESPD): self-declaration of the businesses' financial status, abilities and suitability for a public procurement procedure.

ABBREVIATIONS

- DMO: Defence Materiel Organisation of the Netherlands Ministry of Defence
- ESPD: European Single Procurement Document

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CHAPTER 1 INTRODUCTION

The Contracting Authority invites you to submit a tender for:

The delivery and maintenance of six (6) bird radar systems, to be installed on military air bases in the Netherlands

as described in the Tender Documents. Your tender will be assessed in conformity with the conditions, set forth in this invitation; the open procedure, as stated in the Aanbestedingswet (Dutch Public Procurement Act), is applicable.

1.1 Contracting Authority

The Contracting Authority is the Defence Materiel Organisation (DMO) of the Dutch Ministry of Defence. The DMO is responsible for the procurement of defence materiel for the four (4) Operational Commands (Royal Netherlands Army, Royal Netherlands Air Force, Royal Netherlands Navy and Royal Netherlands Military Police). The DMO was established in December 2004 as a separate directorate of the Ministry of Defence. The DMO consists of civilians and military personnel from the navy, army, air force and military police. This consolidation of logistics and materiel expertise results in the procurement and maintenance of modern, safe and qualitatively good materiel. The disposal of materiel also falls under the responsibility of DMO. As such, the military personnel can concentrate fully on performing their assigned tasks. More information about the Ministry of Defence and the DMO is available on the website www.defensie.nl.

1.2 Information and point of contact

Should you have any questions regarding the Tender Documents or discover any imperfections, procedural errors and/or contradictions, you are requested to express these in writing (preferably by e-mail) as soon as possible but not later than **January 2nd, 2017**. This period is required to give the Contracting Authority the opportunity to respond to the questions, to investigate the remarks and to give the tenderer a reasonable period of time to incorporate any adjustments.

If, at a later stage, it would appear that the Tender Documents contain imperfections, procedural errors and/or contradictions and these errors have not been reported by the tenderer, this will be interpreted in favor of the Contracting Authority. Manifest errors or omissions are not binding on the Contracting Authority

All questions will be made anonymous and the questions and answers will be provided in one or more Memorandum(s) of Information which will be uploaded via www.tenderned.nl as soon as possible but not later than **January 13th, 2017**. Tenderned will inform you whether the Contracting Authority has uploaded a Memorandum of Information (or other information that is related to this tender procedure). In order to receive the information that is related to this tender procedure, it is necessary that your company has been registered by Tenderned. Information about registration is available on www.tenderned.nl.

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The point of contact on behalf of the Contracting Authority is:

Mr. B.H.W. Heetkamp

Defence Materiel Organisation

Cell: +31 (0)6 53 77 3461

E-mail: bhw.heetkamp@mindef.nl

Contact with employees of the Netherlands Ministry of Defence other than the above mentioned point of contact in connection with this European procurement is not allowed, unless expressly stated otherwise.

1.3 Complaint procedure

Should you have a complaint about this European procurement, you can submit it through the complaint registration point, e-mail address: aanbestedingsklachten@mindef.nl. You must clearly state which aspect of the European procurement your complaint concerns and provide supporting argumentation. The complaint will be considered as soon as possible by an independent expert on tender procedures within the Ministry of Defence. You will receive his findings to your complaint through the point of contact as mentioned in par. 1.2 above. Before submitting a complaint, you are requested to make use of the time available for submitting requests for information, as specified in par. 1.2.

If you do not agree to the way your complaint has been settled within this tender, you can submit your complaint through the 'Commissie van Aanbestedingsexperts'. Additional information about the operating procedure of afore mentioned commission can be found on the website www.commissievanaanbestedingsexperts.nl (only in Dutch).

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CHAPTER 2 GENERAL CONDITIONS

In this chapter the Contracting Authority stipulates the relevant conditions which your tender has to meet. The specific conditions concerning selection and awarding will be stated in the following chapters.

2.1 Publication and bid closing date

The contract notice concerning the bird radar systems has been published on www.tenderned.nl (November 22nd, 2016) and www.ted.europa.eu.

Bid closing date for receipt of your tender is **January 26th, 2017** (14.00 hrs Amsterdam time). Your tender has to be valid till at least **May 31st, 2017**.

The tender has to be sent via e-mail to:

Offertes.dmo@mindef.nl

Please use as subject:

Bird radar system, reference number 888.15.6020.00

Tenderers are responsible for the good receipt of the tender. After sending the e-mail you will receive an acknowledgement of receipt.

The tender has to be drawn up using MS Word, Excel or Adobe Reader.

Note:

Be aware that the e-mail does not exceed 10 Mb. If your tender exceeds 10 Mb you have to zip your files and/or send your file in separate e-mails.

2.2 European Single Procurement Document

The Contracting Authority has uploaded an European Single Procurement Document (ESPD) via www.tenderned.nl. This ESPD is part of the Tender Documents. The tenderer shall use the dashboard ('mijn inschrijving') of www.tenderned.nl to open the ESPD ('Uniform Europees Aanbestedingsdocument'), fill in the ESPD, sign it, create a PDF of it and submit it as part of his tender. If the tenderer, in order to meet the selection criteria (see chapter 4), does rely on the capacities of other entities, the tenderer shall also provide separate ESPDs, setting out the information for each other entity. In this Procurement Guide the tenderer will find the information that has to be provided with the ESPD.

2.3 Consortium

A tenderer can submit his tender independently or together with other suppliers as a so-called consortium. In case that the tenderer consists of a consortium, all members of that consortium shall provide an ESPD setting out the information required under Sections A and B of Part II and Part III of the ESPD, duly filled in and signed by the members concerned, resp. shall submit the necessary official documents of evidence upon written request of the Contracting Authority.

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By participating in a consortium and signing the ESPD, each member of that consortium declares itself jointly and severally liable for fulfilling the obligations arising from this European procurement procedure and, if applicable, for complete and correct execution of the agreement. From the ESPD it must be apparent which member leads the consortium and will be the authorized representative for contact with the Contracting Authority.

Please note that it is not permitted to change the members of the consortium during the European procurement.

2.4 Subcontracting

For the execution of the agreement(s) it is allowed to use subcontractors. In case of subcontracting (without relying on the subcontractors' capacities to meet the selection criteria set out under Part IV of the ESPD), the tenderer is requested to state, in Part II, Section D of the ESPD which subcontractors he proposes. The entry of subcontractors will let the joint and several liability of the tenderer, as the contractor, unimpeded.

2.5 Language

All Tender Documents are available in the English language. The official language in the Tender Documents, during the tender procedure and the performance of the contract is English or Dutch. Documents to be submitted by the tenderers have to be in English or Dutch.

2.6 Suspension/termination procurement

The Contracting Authority reserves the following rights at all times:

- to not award the contract;
- to temporarily or permanently suspend and/or terminate this European procurement in whole or in part (at any time).

One of the reasons for discontinuation of this European procurement could be that the necessary political will for continuation of the project does no longer exist. The tenderers will receive written notice from the Contracting Authority in the event of discontinuation of this European procurement, of its suspension or of the decision not to award the contract. In that case, tenderers are not entitled to any compensation.

2.7 Costs quotation

The Contracting Authority will not reimburse any costs, damages or lost profits in connection with the submission of the tender. The Contracting Authority will not demand any compensation for the Tender Documents that are issued.

2.8 Dutch law

This European procurement shall be governed by Dutch law. All disputes in connection with this European procurement, the agreement(s) or related agreements are subject to the exclusive jurisdiction of the competent court in The Hague, the Netherlands.

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2.9 Intellectual property

The intellectual property of the Tender Documents is vested in the Contracting Authority. With the exceptions, stated in the law, no part of the Tender Documents may be copied or reproduced for purposes other than this European procurement without the written permission of the Contracting Authority.

2.10 Exclusion of your tender

A tender is declared invalid and will be excluded from further assessment if one or more of the following situations are applicable:

- The tender has not been submitted in time (see par. 2.1);
- The validity period of the tender is not in accordance with the required validity period (see par. 2.1);
- The requested information has not been submitted, has been submitted incompletely, has been submitted with reservations, conditionally or incorrectly;
- The tender has not been drawn up by use of the provided documents, where applicable or these documents have been changed by the tenderer;
- The tender has not been signed by a person who is authorized to represent the tenderer legally.

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CHAPTER 3 DESCRIPTION OF THE PUBLIC CONTRACT

In this chapter the public contract that is subject of this European procurement is outlined. The (full) scope of the supplier's obligations for this contract is stated in draft agreements 888.15.6020.00 (delivery) and 070.44.5750.43 (maintenance), which have been enclosed as Annex 5 and 6 to this Procurement Guideline.

3.1 Description of the scope of delivery and maintenance

The public contract concerns the delivery and maintenance of:

- a. six (6) bird radar systems, to be installed on six (6) different military airbases in the Netherlands;
- b. two (2) shelters, to be installed on two (2) different military airbases in the Netherlands;
- c. one (1) laptop for analyses of the bird radar data for the bird control staff of the Royal Netherlands Air Force at Breda, the Netherlands

Delivery (draft agreement 888.15.6020.00)

The bird radar system, consists of the following subcomponents:

- A bird radar with processing unit;
- ADS-B receiver;
- Vehicle transponders;
- Portable device (tablet) for the bird control user;
- Two portable devices (tablets) for the Air Traffic Control user;
- Communication 3G & 4G between the bird radar and portable devices

The requirements which are applicable for above mentioned goods are stated in the Programme of Requirements (annex 1 to draft agreement 888.15.6020.00).

Maintenance (draft agreement 070.44.5750.43)

The supplier shall carry out preventive, corrective and modification maintenance in conformity with article 2 of draft agreement 070.44.5750.43. Additionally, the Contracting Authority may require the performance of damage repair.

The tenderer shall submit a quotation for both delivery and maintenance. A quotation that consists of delivery or maintenance only shall be excluded from further assessment.

3.2 Lots

This public contract will not be parceled out. Operational requirements of the Royal Netherlands Air Force do not allow the implementation of different bird radar systems (of different brands). Due to the system responsibility the contracts for delivery and maintenance shall be awarded to one supplier.

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3.3 Terms and conditions of the agreements

The public contract will be executed based on the terms and conditions as set forth in draft agreement 888.15.6020.00 (delivery) and 070.44.5750.43 (maintenance), as provided in Annex 5 and 6. Tenderers may suggest changes to these draft agreements, provided that these changes are well founded and do not harm the essential aspects of the agreements or is for the benefit of one specific tenderer. Afore mentioned suggestions, if any, have to be submitted not later than **January 2nd, 2017**.

The Contracting Authority will assess these suggestions and will inform tenderers about changes of the draft agreement, if any, via a Memorandum of Information. The process, as set out in par. 1.2 is applicable hereto.

3.4 Specifications

The Contracting Authority shall assess whether the bird radar systems (par. 3.1a), the shelters (par. 3.1b) and the laptop (par. 3.1c) to be delivered meet the requirements as stated in the Programme of Requirements (annex 1 to draft agreement 888.15.6020.00) The requirements are (also) listed in the Excel file called 'Programme of Requirements FILL IN DOCUMENT', which functions as a reply to all requirements (Annex 8 to this Procurement Guideline). The requirements which are marked as 'knock-out' must be met, the preferences which are marked as 'preferred' requirements may be met. Whether to meet one or more preferences is the tenderer's choice; see also par. 5.2. The tenderer must fill in the Excel file and include it in his quotation. A description of the implementation of the requirements (technical specification) and, if any, preferences is required. This description must be limited to a max. of 1,000 words per requirement/preference.

The tenderer shall assure that no misunderstanding can arise about the description of the implementation of the requirements and, if any, preferences in relation to the price(s) quoted. The tenderer shall not suggest properties or qualities that the product(s) and/or services do not have; basic assumption is that all what has been stated in the description of the implementation of the requirements and, if any, preferences concerning construction and qualities has been calculated.

In his quotation, the tenderer shall give a description/specification of the operations (including the number of man hours needed, parts or components to be replaced, software to be updated) which:

- are part of the preventive maintenance. The suppliers' guidelines concerning preventive maintenance must be part of the quotation.
- he expects to carry out as part of the corrective maintenance, assuming that the bird radar system will be used on working days (from 07.00 – 23.00 hrs (Eindhoven) and 08.00 – 17.00 hrs (Volkel, Gilze Rijen, Woensdrecht, Leeuwarden, Den Helder)) and preventive maintenance is carried out in conformity with the suppliers' guidelines;
- he expects to carry out and/or software updates are needed to improve the functionality of the Bird Radar System or to keep it up-to-date. This modification maintenance concerns also software updates.

Afore mentioned description/specification must be detailed per period of 12 months: which operations are expected to be performed during the first period of 12 months after a bird radar system has been delivered and installed, the second period of 12 months, the third period of 12 months, etc. (till the tenth period of 12 months).

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In his quotation, the tenderer shall state the availability (operational uptime) of the bird radar with processing unit (see par. 3.1 of the Programme of Requirements (annex 1 of draft agreement 888.15.6020.00)).

The tenderer shall fill in the Frequency Supportability Request Form and submit this document as part of the quotation. Afore mentioned document is enclosed as Annex 7 to draft agreement 888.15.6020.00. A FSR-form is needed for every transmitter device that is to be delivered in accordance with article 2 of agreement 888.15.6020.00.

Due to the registration in SAP the Supplier shall supply the Contracting Authority with the data as listed in annex 2 of Directive 1-PVA 002: Interchange ERP-DATA Ministry of Defence and suppliers. It concerns the data of the bird radar with processing unit, the ADS-B receiver, vehicle transponders, portable devices (tablets), laptop and shelters. In his quotation the tenderer shall confirm that he will submit the data requested not later than one month before delivery of the goods. Afore mentioned Directive is enclosed as Annex 7 to this Procurement Guideline.

3.5 Prices

For the quotation of the prices, the tenderer is required to use enclosed bid forms (Annex 3 and 4). The following bid forms are applicable:

- Bid forms (Annex 3) concerning the **delivery** of the bird radar systems and the laptop and, for 2 locations, the shelters (agreement 888.15.6020.00)
 - o Airbase Woensdrecht, Den Helder, Eindhoven (page 1)
 - o Airbase Volkel, Gilze Rijen, Leeuwarden (page 2)
 - o Royal Netherlands Air Force staff Breda, project (page 3)

- Bid forms (Annex 4) concerning the **maintenance** of the bird radar system and laptop and, for 2 locations, the shelters (agreement 070.44.5750.43)
 - o Airbase Woensdrecht (page 1)
 - o Airbase Den Helder (page 2)
 - o Airbase Eindhoven (page 3)
 - o Airbase Volkel (page 4)
 - o Airbase Gilze Rijen (page 5)
 - o Airbase Leeuwarden (page 6)
 - o Royal Netherlands Air Force staff Breda (page 7)
 - o Airbase Woensdrecht, Den Helder, Eindhoven, Volkel, Gilze Rijen, Leeuwarden
Royal Air Force staff Breda (page 8)

The bid forms have to be filled in completely and without reservations. The tenderer shall quote prices in Euro. The tenderer shall be aware that the prices to be quoted for preventive, corrective and modification are ceiling prices; see also article 4 and article 5 (par. 2) of the draft maintenance agreement.

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3.6 Delivery time

In his quotation, the tenderer shall submit a planning concerning the delivery time of the 1st till the 6th bird radar system, the documentation, the two shelters and the laptop. The tenderer shall take into account that the Contracting Authority will perform a final site acceptance test (see chapter 6 of the Programme of Requirements). All 6 bird radar systems have to be delivered within 24 months after agreement 888.15.6020.00 has been signed. A quotation will be excluded from assessment if the delivery time of the 6 bird radar systems is more than 24 months.

3.7 Sustainability and Corporate Social Responsibility

The State of the Netherlands encourages Corporate Social Responsibility. This is to be considered as a concept where, besides profit, environmental and human aspects will be taken into account in the companies' decisions and assessment of the business results. Paragraphs 3.7.1, 3.7.2 and 3.7.3 hold information about the applicable requirements and criteria concerning environment, social conditions and social return for this European procurement.

3.7.1 Environmental criteria

The policy of the Ministry of Defence is to avoid the application of substances and materials which are a threat for health, safety and welfare of human beings. The tenderer shall confirm that the goods to be delivered shall meet the requirements as stated in par. 3.2 and 3.3 of the Programme of Requirements (annex 1 to draft agreement 888.15.6020.00).

3.7.2 Social conditions

The State of the Netherlands' policy concerning social conditions apply to this European procurement. The Contracting Authority requires the supplier to contribute to the awareness of impacts which the contract has on labour and human rights in the product chain. Supplier shall endeavour to file the risks of violations of the standards concerning labour and human rights and shall prevent or resolve actual violations. It concerns:

- The fundamental labour standards, as have been laid down in the conventions of the International Labour Organisation (ILO) concerning abolition of forced labour and slavery (29, 105), abolition of child labour (138, 182), protection against discrimination in respect of employment and occupation 100, 111), freedom of employer's association and the right to bargain collectively 87, 98);
- The human rights from the Universal Declarations of Human Rights and its effects in binding treaties, which are relevant for employment and enterprise.

By submitting a quotation the tenderer confirms that he agrees to afore mentioned conditions.

3.7.3 Social return

Not applicable for his tender procedure. Maintenance of the bird radar system requires specific know how; application of social return should lead to disproportional efforts or costs for the supplier.

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CHAPTER 4 SELECTION STAGE

This chapter holds the exclusion grounds and selection criteria (suitability requirements) which the Contracting Authority demands of the tenderer, and which the tenderer has to meet in order to be qualified for the award stage. Together with the requirements it is stated which documents have to be submitted by the tenderer as part of his tender.

4.1 Mandatory grounds for exclusion

The tenderer's enterprise has to prove not to be in the circumstances as stated in article 2.86 of the 'Aanbestedingswet'. For this, the tenderer, represented by an authorized person, shall provide the information under Section A and B of Part III of the European Single Procurement Document (ESPD) and sign the ESPD.

If a tenderer is to be qualified for the award of the contract, the tenderer shall, upon written request of the Contracting Authority, submit the necessary official documents of evidence within 10 working days. For Dutch tenderers these consist of the 'Gedragsverklaring aanbesteden' (article 2.89 of the 'Aanbestedingswet'), to be issued by the Minister of Security and Justice and a certificate issued by the 'Belastingdienst' (Inland Revenue Service). Foreign tenderers shall submit the documents of evidence in conformity with their national law and which are issued by a competent judicial or administrative authority in the country of origin whence that tenderer comes.

Where the country in question does not issue such documents or certificates they may be replaced by a declaration on oath or, in countries where there is no provision for declarations on oath, by a solemn declaration made by the person concerned before a competent judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin or in the country where the tenderer is established.

In case that the tenderer consists of a consortium, all members of that consortium shall provide a separate ESPD setting out the information required under Sections A and B of Part II and Part III of the ESPD, duly filled in and signed by the members concerned, resp. shall submit the necessary official documents of evidence upon written request of the Contracting Authority.

4.2 Optional grounds for exclusion

The tenderer's enterprise has to prove not to be in the circumstances as stated in article 2.87 of the 'Aanbestedingswet', in so far the Contracting Authority has declared these applicable in Section C of Part III of the ESPD. For this, the tenderer, represented by an authorized person, shall provide the information/answer the questions under Section C of Part III of the ESPD which relate to the circumstances and which have been declared applicable by the Contracting Authority.

If a tenderer is to be qualified for the award of the contract, the tenderer shall, upon written request of the Contracting Authority, submit the necessary official documents of evidence within 10 working days. For Dutch tenderers these consist of:

- For the optional exclusion ground concerning bankruptcy, insolvency, arrangements with creditors, analogous situation like bankruptcy, assets being administered by liquidator, suspended business activities: its entry in the trade register, that is not older than 6 months, to be calculated from the bid closing date.

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Foreign tenderers shall submit the documents of evidence in conformity with their national law and which are issued by a competent judicial or administrative authority in the country of origin whence that tenderer comes.

If the tenderer consists of a consortium, all members of that consortium shall fill in a separate ESPD, provide afore mentioned information/answer the questions and sign the ESPD, resp. shall submit the necessary official documents of evidence upon written request of the Contracting Authority.

4.3 Suitability requirements (selection criteria)

The tenderer's enterprise has to prove that it meets the selection criteria, in so far the Contracting Authority has declared these applicable in Part IV of the ESPD. For this, the tenderer, represented by an authorized person, shall provide the information under Section A, C and D of Part IV of the ESPD and sign the ESPD.

The tenderer may rely on the capacities of other entities in order to meet the selection criteria set out under Part IV. If the tenderer does so, he has to state this in Section C of Part II of the ESPD. Additionally, the tenderer shall provide a separate ESPD setting out the information required under Sections A and B of Part II and Part III for each of the entities concerned, duly filled in and signed by the entities concerned.

4.3.1 Technical and/or professional ability

Reference(s)

The tenderer has to prove that he has the ability to execute the contract that is subject of this European procurement. The tenderer shall dispose of the following (core) competence:
the delivery and installation of a bird radar system.

Evidence of the tenderers' technical ability has to be furnished by submitting a list of the principal deliveries (reference contracts). This list shall contain at least one contract concerning the delivery and installation of one or more bird radars with processing unit.

Requirements:

- a. A reference contract is not older than 3 years, to be calculated from the bid closing date;
- b. The delivery of the bird radar system has been completed.

References which do not concern above mentioned (core) competence and/or do not meet the requirements are not valid and will not be assessed.

The tenderer shall use enclosed 'model reference contract' (Annex 2) to inform the Contracting Authority about the reference contract(s). By signing Annex 2 the reference's point of contact confirms that the information supplied in the 'model reference contract' is correct and that the Contracting Authority may contact him in order to obtain more information about the bird radar system that has been delivered by the tenderer. If the 'model reference contract' has not been signed by the reference's point of contact, the reference is not valid and will not be assessed.

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In case that the tenderer consists of a consortium, all members jointly have to prove their technical and professional ability, where the references of the different participants jointly prove the required expertise.

Quality management system

The tenderer shall prove that his quality management system meets the requirements of ISO 9001:2015, or an equal system of quality management; scope: the delivery of (bird) radars.

If a tenderer is to be qualified for the award of the contract, the tenderer shall, upon written request of the Contracting Authority, submit within 10 working days a valid quality management system certificate, in order to prove that the requirement is met. The Contracting Authority shall recognize equivalent certificates from independent accredited bodies established in other countries. Also equivalent measures concerning quality management with which the requirements have been implemented may be accepted by the Contracting Authority, provided that this appears from a declaration, to be issued by an independent accredited body. This declaration has to be submitted as a substantiating document.

In case that the tenderer consists of a consortium, all members of that consortium shall provide an ESPD setting out the information required under Sections A and B of Part II, Part III and Part IV of the ESPD, duly filled in and signed by the members concerned. At least one of the members of the consortium shall submit a valid quality management system certificate upon written request of the Contracting Authority.

4.4 Exclusion of tenderer

The tenderer shall be excluded if he:

- Does not meet one or more of above mentioned exclusion grounds and/or suitability requirements;
- Does not, not timely or not completely submit the required substantiating documents.

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CHAPTER 5 AWARD STAGE

In this chapter the criteria and methodology are described which the Contracting Authority will apply to assess the quotations, in order to decide which tenderer has submitted the best offer.

The Contracting Authority will distinguish between requirements which lead to a direct knock-out if you do not meet these requirements and additional (sub) award criteria to decide about the final ranking of the tenderers.

5.1 Knock-out criteria

K1: The bird radar system does not meet the knock-out requirements of the Programme of Requirements, to be assessed by the Contracting Authority; see par. 3.4 of this Procurement Guideline,

K2: The time of delivery of the 6 bird radar systems is more than 24 months; see par. 3.6 of this Procurement Guideline.

5.2 Award criteria

Without prejudice to all other requirements and conditions, set forth in this Procurement Guideline, the award of the contract will be made to the tender with the best price-quality ratio.

The tender with the best price-quality ratio will be assessed as follows:

PRICE

Total price related to the delivery of the bird radar systems, i.e.

- *Total price airbase Woensdrecht*
- *Total price airbase Den Helder*
- *Total price airbase Eindhoven*
- *Total price airbase Volkel*
- *Total price airbase Gilze Rijen*
- *Total price airbase Leeuwarden*
- *Total price Royal Netherlands Air Force staff Breda*
- *Total price project*

as stated in the bid forms Agreement 888.15.6020 (Annex 3)

plus

- *Price for Preventive Maintenance airbase Woensdrecht 1st till 10th period*
- *Price for Corrective Maintenance airbase Woensdrecht 1st till 10th period*
- *Price for Modification Maintenance airbase Woensdrecht 1st till 10th period*

- *Price for Preventive Maintenance airbase Den Helder 1st till 10th period*
- *Price for Corrective Maintenance airbase Den Helder 1st till 10th period*
- *Price for Modification Maintenance airbase Den Helder 1st till 10th period*

- *Price for Preventive Maintenance airbase Eindhoven 1st till 10th period*
- *Price for Corrective Maintenance airbase Eindhoven 1st till 10th period*
- *Price for Modification Maintenance airbase Eindhoven 1st till 10th period*

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- *Price for Preventive Maintenance airbase Volkel 1st till 10th period*
- *Price for Corrective Maintenance airbase Volkel 1st till 10th period*
- *Price for Modification Maintenance airbase Volkel 1st till 10th period*

- *Price for Preventive Maintenance airbase Gilze Rijen 1st till 10th period*
- *Price for Corrective Maintenance airbase Gilze Rijen 1st till 10th period*
- *Price for Modification Maintenance airbase Gilze Rijen 1st till 10th period*

- *Price for Preventive Maintenance airbase Leeuwarden 1st till 10th period*
- *Price for Corrective Maintenance airbase Leeuwarden 1st till 10th period*
- *Price for Modification Maintenance airbase Leeuwarden 1st till 10th period*

- *Price for Preventive Maintenance Royal Air Force Staff Breda 1st till 10th period*
- *Price for Corrective Maintenance Royal Air Force Staff Breda 1st till 10th period*
- *Price for Modification Maintenance Royal Air Force Staff Breda 1st till 10th period*

- *Provision of technical assistance, logistic support analysis and communication for Airbase Woensdrecht, Den Helder, Eindhoven, Volkel, Gilze Rijen, Leeuwarden, Royal Air Force staff Breda 1st till 10th period*

as stated in the bid forms Agreement 070.44.5750.43 (Annex 4)

leads to the total price for delivery and maintenance.

This total price for delivery and maintenance will be expressed in a number of points: a score of 700 points is awarded to the quotation with the total price for delivery and maintenance of € 7,000,000.00. For every € 20,000 less or more 1 point will be added, resp. deducted. The score will be rounded off to two decimal places. The Contracting Authority supposes that the tenderer's quotation will be competitive. The maximum score, stated in the announcement of the contract on www.tenderned.nl has to be considered as theoretical.

Example:

€ 7,000,000 = 700 points

€ 6,800,000 = 710 points

€ 5,555,000 = 772.25 points

€ 7,444,000 = 677.8 points

QUALITY

The bird radar system must at least meet the requirements which are marked as 'knock-out requirements' in the Excel file called 'Programme of Requirements FILL IN DOCUMENT'; see par. 3.4 of this Procurement Guideline.

The tenderer can earn points if the bird radar system to be delivered meets one or more 'preferred requirements'. The preferred requirements and the number of points that can be earned (for every single preferred requirement) are stated in afore mentioned Excel file. In order to earn points it is important that the tenderer clearly stipulates whether a preferred requirement will be met or not. The tenderer shall describe, in a maximum of 1,000 words, to what extent the preferred requirement is met, the advantages and disadvantages of meeting the preferred requirement, etc.

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On behalf of the Contracting Authority at least 2 employees of the Ministry of Defence will evaluate the quotations with respect to the preferred requirements. In a joint meeting the employees will discuss every preferred requirement of which the tenderer has confirmed he will meet it and award a score. The awarded scores of all preferred requirements will be added together. The sum is the (total) score for sub criterion QUALITY.

The score for sub criterion QUALITY will be added to the score of sub criterion PRICE. The tenderer with the highest score has submitted the quotation with the best price-quality ratio and is qualified for the contract award.

Example

Tenderer 1 *Price delivery: € 4,000,000*
Price maintenance: € 3,500,000
Total price: € 7,500,000 = 675 points

Quality: 100 points

Total score: 775 points

Tenderer 2 *Price delivery: € 3,000,000*
Price maintenance: € 3,000,000
Total price: € 6,000,000 = 750 points

Quality: 10 points

Total score: 760 points

Tenderer 1 qualifies for contract award

5.3 Notification of the award decision

The Contracting Authority will notify all tenderers simultaneously of the contract award decision. This notification will be in writing and be sent in any case by fax or by electronic means. It will contain the grounds of the Contracting Authority's contract award decision and the name of the tenderer who is to be awarded the contract.

In accordance with article 2.129 of the 'Aanbestedingswet' (the Dutch Public Procurement Act) this notification of the contract award decision does not imply acceptance of a tenderer's tender.

Tenderers can take legal action against the Contracting Authority's contract award decision. If a tenderer wishes to do so, he should start interlocutory proceedings before the Court in The Hague, the Netherlands, within a period of 20 calendar days after dispatch of the notification of the contract award decision. This legal action has to be evidenced by submission of a copy of the summons to the Contracting Authority within the period mentioned. In such case the Contracting Authority shall not proceed with awarding the contract until the Court has decided. If no such proceedings have been initiated before expiration of the abovementioned period, tenderers lose their right to dispute the Contracting Authority's contract award decision.

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It should moreover be noted that the Contracting Authority is entitled to reconsider its decision to award the contract of its own accord. The Contracting Authority can do so if itself establishes any mistake or omission in the procurement procedure, or is of the opinion that a complaining tenderer is right without being compelled to wait for a court decision, if any. In such case the tenderer to be awarded the contract is not entitled to any compensation at all.