NORWEGIAN DEFENCE
MATERIEL AGENCY

Invitation to pre-qualification

eVams

Negotiated Procedure
(The Norwegian Regulation on Defence and Security Procurement (FOSA) part I and II)

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1 Introduction

1.1 The Contracting Authority

This procurement is conducted by Norwegian Defence Material Agency, hereinafter referred to as NDMA or «the Contracting Authority».

The agency consists of the following five divisions: Naval Systems, Air Systems, Land Systems, Communication Information Systems and General Materiel, please see www.fma.no.

NDMA is the Department of Defence's commercial and technical designated procurement and divestment authority. NDMA plans for the future and establishes projects to meet the needs of military defence strategies as well as other defence agencies. NDMA formulates the necessary regulatory framework, certifies, authorizes and controls technical issues.

1.2 User

The Contracting Authority enters into the Contract on behalf of the Norwegian Ministry of Defence with all subordinate agencies. The Norwegian Armed Forces will be the main user of this Contract. However, the Norwegian Justice Sector and Public Security, shall also be given rights and obligations under this Contract equal to the Contracting Authority.

1.3 Purpose of the procurement

The purpose of the procurement is to meet the needs of the Norwegian Armed Forces for electronic thermal base layer for diving (eVams, "the System"). The System shall provide increased safety and enhance operational performance for the Armed Forces during maritime operations and exercises.

The nature of operations imposes severe stress to the equipment included in the Scope of Delivery. In order to maintain a high degree of operational security and survivability for the users, all equipment supplied under this contract must have a high degree of reliability, performance and quality.

1.4 Scope of the procurement

System overview:

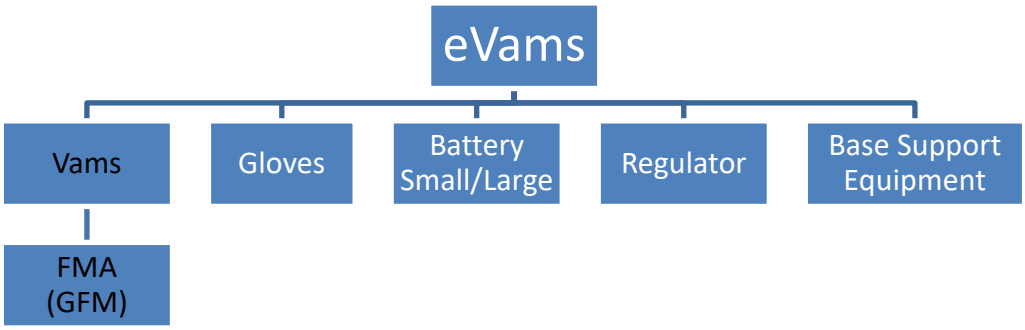


Figure 1 System overview

Figure 1 shows the complete system overview. The Candidate shall deliver the components listed in the four figures with white text, or equivalent, and integrate the components with the vams/wool underwear to a complete system. The Candidate shall be responsible for providing a totally integrated overall system. NDMA intends to deliver the woll underwear with integrated heating wires as Government Furnished Equipment (GFE).

The System shall supply divers with electric heat during dive in cold water. The wool underwear has integrated electric heating loops developed by a supplier in another project. The heat is to be distributed all over the diver's body except for the head and feet.

To supply this suit with electric power, NDMA requires a portable power supply system.

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The eVams is worn under the outer dry diving suit and is in direct contact with the diver's skin. eVams and heated gloves needs be connected to a diveable power supply. This power supply, protection arrangement, arrangement to charge, transmit and control electric power to the eVams is part of the Candidates scope of work.

Moreover, NDMA also requires heated gloves to complete the System. Finally, NDMA requires documentation of the System, spare part lists, maintenance- and operational manuals, relevant technical documentation and test reports to deem the System safe.

The Candidate shall deliver gloves, battery, regulator and base support equipment. The Candidate shall be responsible for providing a totally integrated overall system.

Moreover, the Candidate shall deliver Contracted logistics support (CLS) required to operate and maintain the system throughout the System's lifetime. This includes, but are not limited to, spare parts, maintenance, documentation, and training.

1.4.1 Examples of technical requirements

NDMA will present a detailed and comprehensive list of functional and technical requirements in the Invitation to tender (ITT). Some key functional and technical requirements are:

- Battery shall consist of Lithium-Ion or equivalent
- Battery shall be delivered in two sizes:
    - Large battery should supply the system with minimum of 300W for 3 hours
    - Small battery should supply the system with minimum of 300W for 1,5 hours
- eVams system should be certified for transportation
- eVams system shall be designed and verified in accordance with recognized standards
- eVams shall be compatible for diving from surface to minimum 30 meters depth
- eVams system should in operational mode not have higher voltage than 7,0 Volts DC. Other means of protection of electrical systems close to the end users' body may be accepted

1.5 Value of the procurement

The estimated total value of the supplies/services for the entire duration of the framework agreement, including all options, is 17-30 MNOK excluding VAT. The total scope is estimated to 40 batteries and 40-60 pair of gloves.

NDMA intend to purchase spare parts for 2 years consumption, and special tools and equipment with the initial purchase order. In addition, NDMA also have the ambition to have completed the operator and maintenance training course (delivered by Candidate) prior to receipt of first delivery.

The estimated scope is uncertain, and does not serve as an absolute upper limit, nor does is entail any purchase obligations. Moreover, the scope of the initial purchase order is dependent on Candidate's solution.

1.6 Type of contract

The Contracting Authority intends to enter into a Framework Agreement with one Candidate, including contracted logistics support (CLS) required to operate and maintain the system throughout the System's lifetime.

1.7 Duration

The duration of the framework agreement is 5 years. The contracting authority have the option to extend the framework agreement by further 2 years, with a maximum total of 7 years. The CLS part is for the duration of each system's lifetime.

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1.8 Publication of the procurement

The procurement is published in Doffin (www.doffin.no) and Tender Electronic Daily (TED) (www.ted.europa.eu).

1.9 Non-exclusivity

This Contract will be non-exclusive, which implies that the Purchaser is at all times entitled to enter into other contracts with other providers for the provision of any or all goods and/or services which are the same or similar to the goods and services described in the scope of delivery.

1.10 The structure of the qualification documentation

The qualification documentation consists of the following documents:

Main document	This document
Annex A	Request letter
Annex B	Declaration of commitment
Annex C	Ethical statement for suppliers
Annex D	Prudence, non-disclosure and conflict of interest
Annex E	Information to be kept from public access
Annex F	Self-declaration
Annex G	Template for questions and answers

2 General instructions

2.1 Procurement procedures

This procurement is conducted in accordance with the Act and Regulation on public procurement; the Act of 17 June 2016 no. 73 (the Public Procurement Act) and the Regulation laid down by royal decree of 4 October 2013 no. 1185 on Defence and Security Procurements (FOSA).

The procurement is conducted according to the procedure "negotiated procedure following prior notification" according to FOSA Section 5-1 first paragraph. This is a procedure consisting of two phases starting with this qualification phase. All interested Candidates have the opportunity to submit a request to participate in the tender. A given number of the qualified Candidates will be invited to submit their tender in the next phase of the procedure (the tender phase), see clause 5.

2.2 Progress plan

The Contracting Authority plans to conduct the procurement in accordance with the progress plan below.

Please note that the progress plan is tentative, and that the Contracting Authority may make adjustments during the process. Date in bold, deadline for submission of request is set.

ACTIVITY	**DATE**
Deadline for questions about the qualification documentation	13.02.2023 12.00
Deadline to submit request for participation	**21.02.2023 12.00**
Evaluation of requests for participation	February-March
Notification of pre-qualification result	Medio March
Invitation to tender (ITT)	Medio March
Deadline for submission of tenders	Ultimo April

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Evaluation of tenders and negotiations	May-June-August
Contract award	September

2.3 Questions to the qualification documentation

Any questions from Candidates about the part of the request documentation relating to the request must be submitted within the deadline stated in the section above.

Questions must be sent in writing, using Annex G - Template for questions and answers to the qualification documentation, and sent through the communication tab in the Mercell portal. All questions will be answered anonymously and distributed to all Candidates through additional information tab in Mercell.

2.4 Corrections, supplements and/or amendments to the request documentation

Within the expiry of the request period, the Contracting Authority is entitled to make corrections, supplements and amendments to the request documentation that are not substantial.

Corrections, supplementations and/or changes will be made available in the Mercell portal through the additional information tab.

2.5 Language

All written and oral communication relating to this request shall be in Norwegian or English. The language requirement also applies to the actual request. Official documents, e.g. certificates of registration and tax certificates, can also be accepted in other languages when the original document is provided together with a translation from an authorized translator

2.6 Confidentiality

Information the parties have gained access to in connection with the contract and its implementation must be kept confidential and must not be made available for third parties without the consent of the other party.

However, the duty of confidentiality is no more comprehensive than stipulated in the Norwegian Public Administration Act, cf. of 10 February 1967, or corresponding sector-specific regulation, as well as according to the Norwegian Freedom of Information Act, see section below.

2.7 Public access to documents

For the general public's access to documents relating to a public procurement, the Freedom of Information Act and the Non-Disclosure Regulation in the Public Administration Act apply.

The Candidate shall include an overview of the information they believe shall be kept from public access, see annex E, as well as provided a signed self-declaration exempting the purchaser from all duties of confidentiality concerning information not explicitly identified by the supplier as being confidential, see annex F.

In the event of a demand for access, the Contracting Authority must still make an independent appraisal of whether the information in question is of such nature that the purchaser is obliged to refuse access, cf. the Norwegian Freedom of Information Act § 29. As a part of the assessment, the Contract Authority will look at what information the supplier may believe must be considers a subject to confidentiality and the reasons given by the Candidate.

The purchaser is obliged to follow the principle of enhanced access to information cf. the Norwegian Freedom of Information Act § 11.

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2.8 Code of ethics and general requirements for the case handling

Employees in the defence sector and Candidates participating in the request shall act in accordance with good business practice and ensure a high business ethical standard in their case handling in all phases of the procurement process.

This is further explained in Annex C Ethical statement for suppliers and Annex D – Prudence, non-disclosure and conflict of interest. The Candidate shall confirm that it accepts and complies Annex C and D in Annex E. Information pursuant to Annex D item 3 shall appears in request.

2.9 Compliance with Sanctions Laws

Pursuant to the Regulations of 15 August 2014 No. 107 on restrictive measures regarding actions that undermine or threaten the territorial integrity, sovereignty, independence and stability of Ukraine (the Ukraine Sanctions Regulations) section 8n, it is prohibited to award public contracts covered by FOSA part II to:

a) a Russian national, or a natural person or legal person, entity or body established in Russia;
b) a legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50% by natural or legal persons, entities or bodies referred to in point a above; or
c) a natural or legal person, entity or body acting on behalf of or at the direction of a natural or legal person, entity or body referred to in point a or b above, including, where they account for more than 10 % of the contract value, subcontractors, suppliers or entities whose capacities are being relied on within the meaning of FOSA.

Pursuant to the Ukraine Sanctions Regulations, such Candidates will be rejected from this procurement procedure.

Furthermore, contracting authority expects that the Candidate is not in violation of any other Sanctions Laws, and that neither the Candidate nor any of its directors or leading employees engaged or to be engaged, are:

a) listed on any list of entities, persons or bodies subject to sanctions under any Sanctions Laws; nor
b) owned, controlled by, or act on behalf of any person, body or entity listed on any list of entities, persons and bodies subject to sanctions under any Sanctions Laws.

Sanctions Laws means any law, resolutions and/or regulations, trade embargoes, restrictive measures and/or decisions implemented, adopted, imposed and/or enforced by any competent authority, including, but not limited to, the Norwegian state, the United Nations, the European Union and the United States of America directed at prohibiting or restricting dealings with certain countries, territories, governments or specifically designated persons or entities.

The contracting authority will consider, at its own discretion, rejecting a Candidate if the Candidate is in violation of the above, cf. FOSA section 11-12 (2) letter d or h.

The Candidate shall in the request for participation, in Annex F – Self-declaration, confirm that it is not in a situation as referred to in section 8n of the Ukraine Sanctions Regulations and that it is otherwise not in violation of the above. If the Candidate is in violation of the above, the Candidate shall describe the violation as well as give an account of appropriate self-cleaning measures that have been or will be implemented.

2.10 The Candidate's costs relating to participation in the tender

Costs incurred by the Candidate in connection with the preparation, submission or follow-up, the tender or the procurement process in other respects, will not be refunded.

Participation in this procurement process will not in any way commit the Contracting Authority to enter into contract with the Candidate or impose any type of economic obligations upon the Contracting Authority towards the Candidate.

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2.11 Company Inspections

NDMA requires access to the Candidate's premises as part of competition. Such inspection may be necessary in relation to quality assurance, financial audit, general Candidate assessment, inspection of production and working conditions, competence and security. NDMA may use the evaluation of the company and the factories for qualification purposes, in accordance with FOSA §8-12 (1) a. 4. Inspections will mainly be executed during the evaluation period but may also be executed at any time prior to contract award.

3 Conditions for performance of the Contract

The ITT will include the draft contract. In the following subsections, particular conditions to which the performance of the contract will be subject are described.

3.1 System responsibility

The Contractor shall have system responsibility for the Scope of Delivery. This entails overall responsibility for the planning, design, development and integration of the Scope of Delivery in order to ensure that it is fully functional and meets the requirements of the Contract. Where the Scope of Delivery is part of a system or one or more subsystems, the Contractor is responsible for ensuring that the Scope of Delivery does not have a negative impact on the systems so that they do not work as intended or are not fully functional.

Subsystems include, but are not limited to, Provided Items, spare parts, special tools, technical documentation, training and test equipment.

3.2 Subcontractors

The Contractor shall convey all necessary terms and conditions under this Contract to subcontractors to ensure that the Purchaser has the same rights under subcontracts as under the Contract. Particular emphasis shall be placed on the Norwegian Defence Materiel Agency's ethical requirements for contractors, and on health, safety and the environment, quality assurance, right of access to information and the duty of confidentiality.

3.3 NATO's Quality Assurance requirements

The contract will contain quality assurance requirements in accordance with the following Allied Quality Assurance Publication (AQAP):

AQAP-2131 «NATO Quality Assurance Requirements for Final Inspection».

4 Qualification requirements

4.1 General

All Candidates must fulfil all the set qualification requirements (QRs) in this chapter. The Candidate is responsible for submitting all documentation requested below in document requirements (DRs). Candidates who do not comply with all qualification requirements will be rejected.

If, at any time during the process leading up to a Contract Award, it is disclosed that a Candidate does not satisfactorily comply with:

- the answers given to the qualification questions, or
- the requirements and intentions of the requirement

NDMA shall have the right to disqualify the Candidate from further participation in the process.

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4.2 Reliance on the capacity of other entities

The Candidate can choose to rely on the capacity of other entities (supporting entities) to fulfil the requirements to the Candidate's economic and financial capacity (QR4), and to technical and professional qualifications (QR 5 and 6). Supporting entities include parent companies, collaborating partners, subcontractors or similar.

Supporting entities must also fulfil QR 1, 2 and QR 3 and submit the documentation requested under these requirements.

If the Candidate relies on the capacity of other entities to fulfil the qualification requirements to economic and financial capacity (QR 4) and/or for technical and professional qualifications (QR 5 and 6), the Candidate must state clearly which requirement(s) they choose to rely on capacity of others.

Moreover, the Candidate must document that it possesses the necessary resources. This may be documented by for instance enclosing a signed declaration of commitment from these enterprises, see Annex B – Declaration of commitment.

3.2.1 Technical and professional qualifications

As described in section 1.3 and 1.4, all equipment supplied under this contract must have a high degree of reliability, performance and quality. Moreover, as the system shall supply divers with electric heat during dive, NDMA require that the parties that contribute to fulfilling the Contract must have the relevant experience and competence, either if it's the Candidate itself or supporting entities.

Where a Candidate relies on the capacities of supporting entities with regard to QR 5 and 6, the entities shall perform the scope for which these capacities are required.

4.3 Qualification requirements (QRs) and documentation requirements (DRs)

4.3.1 Mandatory requirement

4.3.1.1 QR 1

The Candidate and supporting entities (if applicable) shall fulfil obligations relating to the payment of taxes, VAT or similar payments under the laws of Norway or the relevant State in which the Candidate is established.

4.3.1.1.1 DR 1

Tax certificate which is not older than 6 months calculated from the application deadline. Tax certificate means:

For Norwegian contractors:

- Certificate issued by a tax collector or the Norwegian Tax Administration regarding:
  - Value added tax
  - Tax
  - Payroll tax

For foreign contractors:

- Foreign contractors must submit corresponding certificates from their countries, documenting proper fulfilment of their obligations regarding the payment of taxes and duties.

If the authorities in the relevant country do not issue such certificates, the contractor must submit a declaration which confirms that all taxes and duties are paid. The declaration must be approved and signed by the contractor's CFO/Financial Manager.

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4.3.2 Requirements for organisational and legal position

4.3.2.1 QR 2

The Candidate and supporting entities (if applicable) shall be a legally established company.

4.3.2.1.1 DR 2

Norwegian Candidates:

- Certificate of Registration

Foreign Candidates:
Confirmation that the Candidate is registered in the Central Coordinating Register of Legal Entities, a Chamber of Commerce or trade register in the state where the Candidate is established.

4.3.3 QR 3

The Candidate and supporting entities (if applicable) shall have ownership that is acceptable for entering into Contract with the NDMA

4.3.3.1.1 DR 3

Give an overview of:

- The organization and the owner structure,
- Legal standing with respect to any parent company, and
- A short description of the core business.

Maximum 1 page.

4.3.4 Requirements for economic and financial situation

4.3.4.1 QR 4

The Candidate shall have economic strength to be able to fulfil the contract.

4.3.4.1.1 DR 4

The Candidate's financial statements, including notes with director's report and auditor's statement, from the 2022, 2021 and 2020. If the financial statements for the previous year are not completed upon expiry of the deadline for submitting request, the preliminary financial statements shall be enclosed.

Contracting Authority reserves the right to obtain a credit rating.

Where a Candidate relies on the capacities of supporting entities with regard to QR 4, the Candidate and those entities shall be jointly liable for the execution of the contract.

4.3.5 Requirements for technical and professional qualifications

Note that NDMA reserves the right to control production facilities in accordance with FOSA §8-12 (1) a. 4. This also applies for supporting entities.

4.3.5.1 QR 5

The Candidate shall have recent and relevant experience from similar related contract performance. Similar experience can be, but not limited to programming of control systems for batteries, assembly of subsystems (subsea components and batteries) and similar.

4.3.5.1.1 DR 5

Submit maximum five (5) references to relevant comparable contract performance from the five (5) preceding years with information listed below:

- Short description of the work performed under the relevant contract
- Purchasing company/Candidate
- Time for performance of the contract

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- Scope of contract performance in monetary terms

4.3.5.2 QR 6

The Candidate shall have the capability and capacity to fulfil the contract obligations, incl. CLS during the systems expected lifetime.

4.3.5.2.1 DR 6-1

Submit a short description of the technical and operational personnel that will be tasked to fulfil contract obligations, including their experience and qualifications that are relevant for this scope.
Maximum three (3) pages (full CVs are not requested)

4.3.5.2.2 DR 6-2

Describe companies' capability and capacity to fulfil contract obligations. E.g., annual work force and number of employees, production facilities and locations, and major sub-suppliers.
Maximum two (2) pages.

4.3.6 Requirements concerning management systems

4.3.6.1 QR 7

The Candidate and supporting entities that contribute to the majority of scope shall have established, implemented and maintained a Quality management system that complies with the requirements of ISO9001:2015 or similar.

4.3.6.1.1 DR 7

Description of Candidate and supporting entities quality assurance methods.

If the Candidate/supporting entity is certified pursuant to ISO 9001 or equivalent standards, it is sufficient to submit a copy of a valid certificate.
Maximum five (5) pages.

4.3.6.2 QR 8

The Candidate and supporting entities that contribute to the majority of scope shall have established, implemented and maintained an environmental management system.

4.3.6.3 DR 8

If the Candidate/supporting entity is certified to ISO 14001 or an equivalent standard, a copy of a valid certificate drawn up by an accreditation body attesting that Candidate's environmental management system complies with such a standard.

If the Candidate is not certified to such a standard, a description of the Candidate's environmental management system.

5 Assessment qualification

5.1 Number of Candidates that will be invited to submit tender

Amongst the Candidates who fulfil the qualification requirements, NDMA will select maximum six (6) Candidates who will be invited to submit a tender. The selection of Candidates who will be invited will be based on which Candidate are considered the best qualified in relation to the selection criteria set out in clause 5.2.

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5.2 Selection criteria

The selection will be made based on which Candidate that are considered best qualified in relation to the following criteria:

Selection criteria	Weight
QR 5 Relevant experience	50 %
QR 6 Capability and capacity	50 %

6 Preparation of request for participation in the tender

6.1 Structure of the request

The request shall contain the following documents:

Document	Annex
Completed request letter	Annex A
Declaration of commitment if applicable	Annex B
Information to be kept from public access if applicable	Annex E
Self-declaration	Annex F
Documentation of fulfilment of the qualification requirements	N/A

6.2 Format of request

Contracting Authority requests that:

- The files must be able to be read by MS Office 2010 or newer versions. Brochures etc. can be in pdf-format
- The files must be named so that the name of the file refers to the content of the file

7 Submission of request for participation in tender

The tender shall be submitted electronically in the Mercell portal within the deadline under section 2.2. The Candidate is responsible for the risk of failure or technical problems related to the submission.

7.1 Withdrawal of request

It is possible to withdraw or change request until the deadline. Changing the request is to be considered as a new request in Mercell.

Withdrawal is not an own option in Mercell, so Candidates must upload a new blank request to withdraw their request until deadline. After deadline, Candidates must withdraw their request in writing through the communication tablet.

8 Closing of the qualification phase

8.1 Rejection

The rules set out in FOSA §11-12 will apply for this competition. The Candidate is advised to become familiar with these rules.

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8.2 Notice of exclusion and rejection

The Contracting Authority will inform all Candidates in writing if their request for participation in the tender is excluded as a consequence of under-fulfilment of the qualification requirements or is rejected for being a surplus qualified Candidate.

The notice will include a justification for why the Candidate is not considered as qualified or did not reach the qualification phase.

If the Contracting Authority finds that exclusion or rejection does not correspond to the qualification requirements or the selection criteria, the Contracting Authority can reverse its decision and let the Candidate participate in the tender.

A petition for a preliminary injunction against the Contracting Authority's decision to exclude or reject a request for participation in the tender must be put forward to the District Court within 15 days calculated from the day after the notice of exclusion or rejection was submitted.

8.3 The tender phase

The tender phase begins with the ITT. Only invited candidates will be allowed to submit tenders. Note that this phase will not be processed fully through Mercell. This means that Candidates must deliver tenders by mail/postal service. More information will be given in the ITT.

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