



NORWEGIAN DEFENCE MATERIEL AGENCY

Invitation to Pre-Qualification

**No. 2023014122
P6624**

Patrol crafts for the Nornen-class coast guard vessels.

Contents

1	INTRODUCTION	4
1.1	Invitation	4
1.2	The Contracting Authority	4
1.3	The Users of the Contract.....	4
2	THE PROCUREMENT.....	4
2.1	Scope of the Procurement.....	4
2.2	Reservation.....	5
2.3	Not applicable.....	5
2.4	Division into lots	5
2.5	Time limit for completion	5
2.6	Not applicable.....	5
2.7	Place of Delivery / Performance	5
2.8	Classified Procurement	6
2.9	Materiel and Facilities Held by the Defence Sector	6
3	GENERAL INSTRUCTIONS	6
3.1	Procurement Laws and Regulations.....	6
3.2	The Procurement Procedure and Phases	6
3.3	Procurement documents	7
3.4	Procurement schedule.....	8
3.5	Communication.....	8
3.6	Questions and Changes to the Procurement Documents	8
3.7	Language.....	9
3.8	Admission or Prohibition of Variants	9
3.9	Award Criteria.....	9
3.10	Termination of the procurement procedure	9
3.11	Cost of Participation etc	9
3.12	Place of Meetings.....	9
3.13	Visitor Permits and Security Clearances	10
3.14	Duty of Confidentiality and Public Access to Information	10
3.15	Ethical guidelines.....	10
4	INSTRUCTIONS TO CANDIDATES.....	11
4.1	About Qualification Requirements.....	11
4.2	Groups of economic operators (joint ventures, consortia, etc.).....	11
4.3	Reliance on the Capacities of Other Entities	11
4.4	Qualification Requirements	12
4.5	Not applicable.....	14
4.6	Submission of Requests to Participate	15
4.7	Exclusion of Candidates	15
4.8	Compliance with Sanctions Laws	16
4.9	Deadline for Request for Preliminary Injunction	17
5	CONDITIONS FOR PERFORMANCE OF THE CONTRACT	17
5.1	General.....	17
5.2	Subcontracting	17
5.3	Not applicable.....	18
5.4	Security of supply	18
5.5	Not applicable.....	18
5.6	Transparency and Work with Fundamental Human Rights and Decent Working Conditions	18
5.7	Compliance with Sanctions Laws	18

5.8	Not applicable.....	18
5.9	Not applicable.....	18
5.10	Environmental Considerations	18
5.11	Not applicable.....	19
5.12	NATO's Quality Assurance requirements.....	19
5.13	Main Terms concerning Financing and Payment	19
5.14	Payment Conditions, Deposits and Guarantees.....	19
5.15	Delivery Terms.....	19
5.16	Intellectual property rights and royalty	19

1 INTRODUCTION

1.1 Invitation

The Norwegian Defence Materiel Agency (NDMA) hereby invites suppliers to pre-qualification for the procurement of patrol crafts for the Norwegian inner coast guard.

The procurement will be carried out as a negotiated procedure with pre-qualification of candidates.

This document describes the rules and procedures for the pre-qualification.

1.2 The Contracting Authority

NDMA is the contracting authority and is responsible for carrying out the procurement procedure.

NDMA is an agency in the Norwegian Defence Sector, directly subordinate to the Norwegian Ministry of Defence (MoD). NDMA shall ensure that the Norwegian Armed Forces (Armed Forces) and other agencies in the defence sector shall have access to cost-efficient and safe materiel in accordance with adopted long-term plans. NDMA's main tasks are planning, procurement, management, and disposal of materiel for the Armed Forces and other MoD agencies.

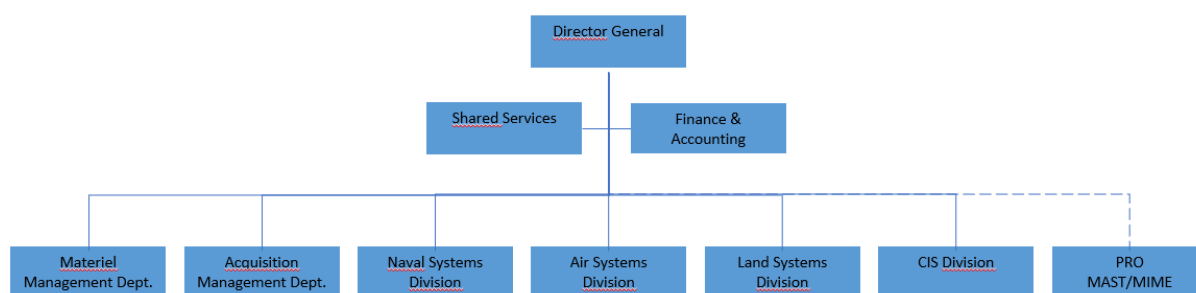


Figure 1 NDMA Organization

More information is available at www.fma.no/en

1.3 The Users of the Contract

The contracting authority enters into this agreement on behalf of

- the Norwegian Defence Materiel Agency

The contracting authority may transfer the contract to the Armed Forces. If so, all the rights and obligations of the contracting authority are transferred to the Armed Forces.

2 THE PROCUREMENT

2.1 Scope of the Procurement

Background

The Nornen – class vessels operate in our near coastal waters, from the border towards Sweden in the south - east, up to the border towards Russia in the north - east. Each ship has its specific area to cover. They cover various tasks, such as

- Search and rescue
- Fishery control
- Environmental control
- Control with foreign vessels
- Navigation safety
- Oil protection
- Security
- Assertion of sovereignty
- Military tasks during peace, crisis and war.

Each vessel is equipped with one patrol boat, with a large operating radius, capable of functioning as an independent unit for up to 12 hours.

The scope of the procurement includes the following:

Based on the customer's requirements, the contractor shall design, manufacture, test and deliver five patrol crafts, suited to the Nornen – class coast guard vessels, supporting the mother vessels with performing its missions.

The requirements will be distributed to those candidates that meet the qualification criteria, but the patrol boat must:

- Be able to be launched and picked up with the existing davit, a Vestdavit PAP-9000.
- Have inboard engine
- Have a closed wheelhouse/cabin

2.2 Reservation

The qualification process is carried out with the reservation of the approval of the Storting.

The competition does not imply an obligation to enter into a contract.

2.3 Not applicable

2.4 Division into lots

The contract is not divided into lots.

Tenders for only parts of the procurement's scope will be rejected.

2.5 Time limit for completion

Further information will be provided in the invitation to tender.

2.6 Not applicable

2.7 Place of Delivery / Performance

This will be clarified in the competition phase of the procurement.

2.8 Classified Procurement

This procurement is not classified.

2.9 Materiel and Facilities Held by the Defence Sector

This will be clarified during the competition phase.

3 GENERAL INSTRUCTIONS

3.1 Procurement Laws and Regulations

The procurement is carried out in accordance with the Act of 17 June 2016 No 73 on public procurement (anskaffelsesloven), and the Regulations of 4 October 2013 No 1185 on defence and security procurement (forskrift om forsvars- og sikkerhetsanskaffelser, FOSA), part I and II.

The contracting authority will furthermore carry out the procurement in accordance with its internal instruction of 25 October 2013 No. 1411 Anskaffelsesregulverket for forsvarssektoren, (ARF) part I, II IV, and chapter 42 in part V. Note, that the internal instruction does not grant any rights to third parties, including potential and actual candidates and tenderers, cf. ARF section 1-2 (2).

Candidates and tenderers shall take due care of the provisions of the Norwegian Competition Act of 5 March No. 12 according to which cooperation between suppliers may be considered a violation.

3.2 The Procurement Procedure and Phases

3.2.1 Procurement Procedure

The procedure will be carried out as a negotiated procedure, with the following two phases:

- The Pre-Qualification Phase
- The Tender Phase

3.2.2 The Pre-Qualification Phase

The procurement procedure begins with the pre-qualification phase, where all interested candidates may submit a request to participate. Candidates will have to meet the qualification requirements in accordance with section 4.

In the pre-qualification phase, the contracting authority will assess and verify the qualifications of the candidates and absence of grounds for exclusion. Only suitable candidates will be invited to tender. All candidates that have documented that they meet the pre-qualification criteriae, will be invited to tender.

3.2.3 The Tender Phase

The tender phase begins with the Invitation to tender. Only invited candidates will be allowed to submit tenders.

After submission of tenders, the contracting authority will negotiate with tenderers in order to adapt the tenders to the requirements set out in the Procurement Documents. The purpose of the tender phase is to seek out the best tender in accordance with the award criteria.

The negotiated procedure will take place in successive stages, and the contracting authority reserves the right, after each stage, to reduce the number of tenders to be negotiated. The

contracting authority also reserves the right to make an initial reduction of tenders to be negotiated prior to the negotiations.

Any reduction will be made by applying the award criteria on the submitted tenders.

Further information on the tender phase will be provided in the Invitation to tender.

3.3 Procurement documents

3.3.1 The Invitation to Pre-qualification

The Invitation to pre-qualification describes the rules and procedures for the pre-qualification phase of the procurement procedure, including the qualification requirements that apply to the pre-qualification of candidates.

The Invitation to pre-qualification consists of the following documents:

Document	Name of the document
Main document	Invitation to pre-qualification (this document)
Appendix 1	Feil! Fant ikke referansekilden. (template)
Appendix 2	Declaration of Commitment from entities on which the candidate relies to fulfil qualification requirements (template)
Appendix 3	Form for groups of economic operators submitting a joint request to participate (template)
Appendix 4	Ethical guidelines for contact with business and industry in the defence sector
Appendix 5	Ethical statement for suppliers to the Royal Norwegian Ministry of Defence with underlying agencies
Appendix 6	Prudence, Non-disclosure and Conflict of Interest
Appendix 7	Self-declaration (template)
Appendix 8	Not applicable
Appendix 9	Not applicable
Appendix 10	Compliance matrix ISO 9001:2015 vs. candidate's quality management system

3.3.2 The Invitation to Tender and Contract Documents

The contracting authority will send an Invitation to tender only to candidates who are pre-qualified.

The invitation will provide further information on the rules and procedures for the tender phase, including the award criteria. The invitation will also include the detailed specifications and the draft contract, as well as any supporting documents.

If any of these documents cannot be made available directly through Mercell, the invitation will provide information on how to access the documents.

3.4 Procurement schedule

3.4.1 Schedule for the Pre-qualification Phase

The contracting authority plans to carry out the pre-qualification phase in accordance with the following time schedule:

Activity	Date
Dispatch of Contract Notice in Doffin/TED	29.05.2023
Deadline for submission of questions to the Invitation to pre-qualification	22.6.2023
Deadline for submission of requests to participate	29.6.2023 kl. 1200
Pre-qualification of candidates	7.7.2023
Notification of pre-qualification result to rejected / non-selected candidates	8.7.2023
Deadline for application for preliminary injunction	15 days from notification of pre-qualification result
Invitation to tender distributed to the pre-qualified candidates.	14.8.2023

All dates, except for the deadline for submission of the request to participate, are tentative and might be subject to changes at the contracting authority's discretion. The contracting authority will inform tenderers of any changes to the procurement schedule through Mercell.

3.4.2 Schedule for the Tender Phase

The schedule for the Tender phase will be distributed with the invitation to tender.

3.5 Communication

Mercell will be used as the electronic tool for the execution of the procurement procedure.

All communication and information exchange in this procurement procedure shall be conducted electronically through Mercell. This means, e.g., that registration for the procedure and the submission of the request to participate and tenders is done through Mercell.

There shall be no contact/communication with any other representative of the contracting authority or other agencies in the defence sector about this procurement procedure.

3.6 Questions and Changes to the Procurement Documents

The candidates shall review the Procurement Documents carefully and notify the contracting authority without undue delay if errors, ambiguities, or inconsistencies are found. Errors, ambiguities, or inconsistencies that a diligent candidate should have discovered when reviewing the Procurement Documents before submission of the request to participate, cannot later be invoked as a basis for claims against the contracting authority.

The candidates have the opportunity to ask questions and request further information concerning the Procurement Documents. Such questions and requests shall be submitted in writing through Mercell within the deadlines specified in Section 3.4.1.

The questions and answers, in an anonymized form, will be made available to all candidates in Mercell. The contracting authority will, if relevant, provide answers in the form of updated and or/supplementary documents, enhanced descriptions and clarifications.

The contracting authority also reserves the right to make other corrections, additions, and changes to the Procurement Documents. All changes etc. will be made available in Mercell.

Updated versions of the Procurement Documents will be made available in Mercell, and candidates shall at all times adhere to the latest available version. To receive notifications of changes etc. in the Procurement Documents, the candidates must register their intent to participate in the procurement portal.

3.7 Language

All communication in this procurement procedure, including requests to participate, tenders and required documentation, shall be submitted in English or Norwegian unless otherwise specified. Underlying documentation can be in another Scandinavian language. 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.

Negotiations will be conducted in English or Norwegian (with Norwegian suppliers) and the contract will be in English.

After the signing of the contract, the working language of the project will be English or Norwegian.

3.8 Admission or Prohibition of Variants

The contracting authority does not authorize variants.

3.9 Award Criteria

This will be communicated in the tender phase.

3.10 Termination of the procurement procedure

The contracting authority can terminate the procurement procedure if there are reasonable grounds for such actions, cf. FOSA section 13-1, for example due to the loss of planned financing or lack of political approval, or if the result of the qualification process provides reasonable grounds for such a decision.

3.11 Cost of Participation etc

Costs incurred by the candidates and tenderers in connection with the preparation, submission or follow-up of the request for participation and tenders, as well as the procurement procedure in other respects, are the complete responsibility of the candidate/tenderer and will not be reimbursed.

The contracting authority is not committed to contract with any candidate or tenderer, and the participation of candidates/tenderers in the procurement procedure will not impose any economic obligations on the contracting authorities towards the candidates or tenderers.

3.12 Place of Meetings

Meetings and negotiations relating to this procurement procedure will primarily take place in the Bergen area or electronically (Microsoft Teams).

3.13 Visitor Permits and Security Clearances

The candidate is responsible for obtaining the necessary visitor permits and security clearances for its participation in any meetings and negotiations in military areas.

Foreign citizens must submit a request for visit through their respective embassies in accordance with the procedures as described here: www.forsvaret.no/en/contact/request-for-visit.

3.14 Duty of Confidentiality and Public Access to Information

3.14.1 Duty of Confidentiality

The candidate and his representatives shall protect confidential information made available to them in connection with the procurement.

3.14.2 Public Access to Information

For the general public's access to documents relating to a public procurement, the Freedom of Information Act of 19 May 2006 No. 16 and the non-disclosure regulation in the Public Administration Act of 10 February 1967 apply.

Pursuant to the Norwegian Freedom of Information Act section 23, paragraph 3, tenders, including request for participation, and procurement protocols are considered public documents after the contract award. Information considered trade secrets is, however, exempt from public access pursuant to the Freedom of Information Act section 13, cf. the Norwegian Public Administration Act section 13 and FOSA section 3-4.

3.14.3 Collaboration in the Defense Sector

The submission of a request to participate grants the contracting authority the right to share any submitted information with other competent authorities in the defence sector to the extent needed to carry out the procurement.

The contracting authority may also share any submitted information with other competent authorities in the defence sector in connection with audits, controls and/or checks. The defence sector may also collaborate with competent official bodies in the State in which the candidate is established, subject to that body's agreement with the competent Norwegian authority.

3.15 Ethical guidelines

NDMA and all employees in the defence sector shall act in accordance with good business practice and pursue the highest ethical standards throughout all stages of the procurement procedure. Likewise, the contracting authority expects that all candidates, tenderers and suppliers adhere to good business practice and pursue the highest ethical standards. Reference is made to *Appendix 4 Ethical guidelines for contact with business and industry in the defence sector* and *Appendix 6 Prudence, Non-disclosure and Conflict of Interest*

The candidate shall in the request to participate, in *Appendix 7 - Self-declaration*, confirm that it accepts and complies with the ethical guidelines in *Appendix 4 Ethical guidelines for contact with business and industry in the defence sector*, *Appendix 5 Ethical statement for suppliers to the Royal Norwegian Ministry of Defence with underlying agencies* and *Appendix 6 Prudence, Non-disclosure and Conflict of Interest*.

Should the candidate be in one of the situations referred to in Appendix 5, section 3, letter a) (cf. also FOSA section 11-12), this shall be clearly stated in in *Appendix 7 - Self-declaration*, in accordance with section 4.7.

4 INSTRUCTIONS TO CANDIDATES

4.1 About Qualification Requirements

The qualification requirements are the minimum requirements relating to the candidates' ability to perform the contract. The purpose of the qualification requirements is to ensure that candidates have the necessary organisation, financial standing and technical and professional abilities.

The contracting authority will make its assessment of candidates' suitability based on the information provided by candidates in their requests to participate. Candidates are responsible for ensuring that all requested documentation is submitted and that all questions and requirements are answered. The contracting authority may, but is not under an obligation to, invite candidates to supplement or clarify the certificates and documents submitted in accordance with FOSA section 12-4.

Candidates who do not comply with all qualification requirements will be rejected.

4.2 Groups of economic operators (joint ventures, consortia, etc.)

A group of economic operators, e.g. in the form of a Joint Venture or consortium, may cooperate to submit a joint request to participate and a joint tender, cf. FOSA section 8-7 (1). Such a group of economic operators participating in the procurement procedure shall submit *Appendix 3* together with the request to participate, as well as the following documentation for each of the individual partners of the group:

- A certificate of registration in accordance with section 4.4.1
- A tax certificate in accordance with section 4.7
- *Appendix 7 – Self-declaration* in accordance with section 4.7 and 4.8.

The economic operators of the group shall be jointly liable for the execution of the contract.

A signed cooperation agreement shall be submitted in the tender phase.

In connection with the submission of the request for participation, the candidates shall submit a declaration of obligation from one or more partners of the group (guarantors), ensuring that the group can rely on the capacity of these partners for the fulfilment of the qualification requirements in sections 4.4.2 to 4.4.4, cf. *Appendix 2*.

A group of economic operators may also, if necessary, rely on the capacity of other entities (third parties) to satisfy the qualification requirements in accordance with Section 4.3.

4.3 Reliance on the Capacities of Other Entities

A candidate may rely on the capacities of other entities (supporting entities) to fulfil the qualification requirements concerning the candidate's economic and financial standing and technical and professional ability in sections 4.4.2 and 4.4.3.

If a candidate wishes to rely on the capacity of other entities, the candidate shall document that it will have at its disposal the resources necessary for the execution of the contract, by

submitting *Appendix 2 – Declaration of commitment from entities on which the Candidate relies to fulfil qualification requirements*.

The candidate must provide documentation from the supporting entities, confirming that they fulfil the relevant requirements in section 4.4.2 and/or 4.4.3.

Supporting entities shall be legally established entities, and such entities must fulfil the requirements in section 4.4.1 and submit the documentation requested under these requirements. They shall also submit a tax certificate in accordance with the requirements in section 4.7, as well as *Appendix 7 - Self-declaration* (cf. sections 4.8).

Where a candidate relies on the capacities of supporting entities with regard to the requirements in section 4.4.2 *Requirements Concerning the Candidate's Economic and Financial Standing*, the candidate and those entities shall be jointly liable for the execution of the contract.

Where a candidate relies on the capacities of supporting entities with regard to the requirements in section 4.4.3 relating to the educational and professional qualifications or relevant professional experience, cf. QR3 and QR 4, the entities shall perform the service for which these capacities are required.

The candidates may not rely on the capacity of other entities to fulfil the requirements relating to organizational and legal position (section 4.4.1) and management systems (section 4.4.4). However, if the candidate relies on the capacities of supporting entities with regard to the requirements in QR3 or QR4 in section 4.4.3, these entities shall fulfil the requirements relating to management systems in section 4.4.4 for the services that they are required to perform in accordance with the above. For other services not to be performed by such entities, the requirements relating to management systems shall be fulfilled by the candidate itself.

4.4 Qualification Requirements

4.4.1 Requirements Concerning the Candidate's Organisational and Legal Position

No.	Qualification requirement	Documentation requirements
QR1	The candidate shall be a legally established company, registered in a professional, trade or business register in its state of origin or establishment.	Current certificate of registration. <u>For Norwegian candidates:</u> <ul style="list-style-type: none">- Certificate of Registration (firmaattest) <u>For foreign candidates:</u> <ul style="list-style-type: none">- Certificate of Registration

4.4.2 Requirements Concerning the Candidate's Economic and Financial Standing

No.	Qualification requirement	Documentation requirement
QR2	The candidate shall have the necessary economic and financial standing to perform the contract.	Board approved and audited financial statement, including notes with the board of directors' report and auditor's report, from the last 3 years.

	The contracting authority will inter alia assess the equity, operating margin and liquidity ratio.	<p>If the accounts from the previous year is not available at the deadline for submission of the requests to participate, the provisional annual accounts for the previous year may be enclosed.</p> <p>If, for any valid reason, the candidate is unable to provide the requested documentation, for instance if the candidate is a newly established entity, it may prove its economic and financial standing by any other document which the contracting authority considers appropriate.</p>
--	--	--

4.4.3 Requirements Concerning the Candidate's Technical and Professional Ability

No.	Qualification requirement	Documentation requirement
QR3	<p>The candidate shall have the necessary experience to perform the contract.</p> <p>The candidate shall have relevant and sufficient experience from similar contracts, ie delivering patrol crafts with inboard engine and wheelhouse/cabin.</p>	<p>A list of the 3 - 5 most relevant references for supply contracts provided in the past years. The list shall include the following information:</p> <ul style="list-style-type: none"> - Recipient name, and whether public or private - Brief description of the contract - The value of the contract - The dates - Contact person (name, telephone and e-mail).
QR4	The candidate shall have the necessary technical and professional ability and capacity to perform the contract.	<ul style="list-style-type: none"> - A description of the manufacturers technical facilities - A statement of the average annual manpower of the manufacturer and the number of managerial staff for the last three years <p>If, for any valid reason, the candidate is unable to provide the requested documentation, it may prove its technical and/or professional ability by any other document which the contracting authority/entity considers appropriate.</p>

4.4.4 Requirements Concerning Management Systems

	Qualification requirement	Documentation requirements
QR5	The manufacturer shall have established, implemented, and maintained a quality management system that complies with the requirements of ISO 9001:2015 or recognized equivalent international standard.	<ul style="list-style-type: none"> - The manufacturer shall enclose a copy of a valid ISO 9001:2015 certificate issued by an accredited third-party certification body. The scope of the certificate must be clearly described, as required by ISO 9001:2015 para. 4.3, and shall include all areas and activities that will be involved in the deliveries under this contract. - If the manufacturer does not have an ISO 9001:2015 third party certification, the candidate shall fill in the enclosed compliance matrix in appendix 12 showing the relations between ISO 9001:2015, and the manufacturer's quality management system.
QR6	The manufacturer shall have a good environmental management system.	<ul style="list-style-type: none"> - If the manufacturer 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 manufacturer is not certified to such a standard, a description of the manufacturer's environmental management system. <p>The system shall contain</p> <ul style="list-style-type: none"> - All aspects of the company that affect the external environment (essential environmental aspects) are identified and documented. - control on the environmental aspects through routines. This must be documented in the system. - an environmental policy, with operating goals and action plans and reports. - as a minimum, compliance with environmental legislation in the country where it has its activities - documentation of continuous improvement.

4.5 Not applicable

4.6 Submission of Requests to Participate

Requests to participate shall be electronically submitted through Mercell before the deadline set out in section 3.4.1.

Files shall be submitted in Microsoft Office, ODF or PDF format. Files shall be named so that the file name refers to the file's content and the structure of the answers. Candidate shall create one file per requirement, see table below.

The request to participate shall contain the following documents and shall be structured as follows:

No.	Document name	Reference
1	Completed letter of request to participate	Appendix 1 (template)
2	If relevant, declaration of commitment if the candidate relies on other companies to meet qualification requirements	Appendix 2 (template), cf. section 4.3
3	If relevant, completed form for groups of economic operators submitting a joint request to participate,	Appendix 3 (template), cf. section 4.2
4	Self-declaration	Appendix 7 (template), cf. section 3.15, 4.7 and 4.8
5	Certificate of registration (firmaattest)	Section 4.4.1, QR1
6	N/A	
7	Tax certificate	Section 4.7
8	Documentation on economic and financial capacity	Section 4.4.2, QR2
9	Documentation on technical and professional qualifications	Section 4.4.3, QR3-QR4
10	Documentation on management systems	Section 4.4.4, QR5-QR6

4.7 Exclusion of Candidates

The grounds for exclusion in FOSA section 11-12 apply. The candidate shall familiarize itself with these provisions.

The candidate shall in the request to participate, in *Appendix 7 - Self-declaration*, confirm that it is not in any of the situations referred to in FOSA section 11-12. If the candidate is in such a situation, it shall provide details of the relevant exclusion grounds. In that case, the candidate may provide evidence to the effect that the candidate has taken measures that sufficiently demonstrates its reliability despite the existence of the relevant exclusion ground.

As regards the exclusion ground in FOSA section 11-12 relating to the payment of social security contributions, taxes and VAT, the candidate shall in the request to participate also submit a tax certificate, no older than 6 months from the date of submission of the request to participate, cf. also FOSA section 8-17.

- For Norwegian candidates this means that a Certificate of tax and VAT, Form RF 1316 from Skatteetaten (skatteattest) shall be submitted.
- For foreign candidates, a certificate issued by the competent authority in the state concerned shall be submitted. If the state concerned does not issue such certificates, it may be replaced by a self-declaration which confirms that all taxes and duties are paid. The declaration must be approved and signed by the candidate's CFO/Financial Manager.

Note, that where the contracting authority have doubts concerning the personal situation of candidates or tenders, it may apply to competent authorities to obtain any information it considers necessary on the personal situation of the candidates concerned. Where the information concerns a candidate established in another State, the contracting authority may seek the cooperation of the competent authorities in that State.

4.8 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 *Appendix 7 – 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.

The supplier shall warrant and represent the same in the contract, cf. section 5.7.

If the candidate is a group of economic operators (e.g., a Joint Venture), the required information shall be provided for each individual group member.

If the candidate, or a group member in case the candidate is a group of economic operators, is part of a group and/or another company or other companies have control of the candidate or such group member, the contracting authority requests the required information also from the ultimate parent company of the group/the ultimate controlling company.

4.9 Deadline for Request for Preliminary Injunction

Any request for a preliminary injunction against the contracting authority's decision to reject a request to participate shall be submitted to the court within 15 days after such a notice is sent, cf. FOSA section 10-6.

5 CONDITIONS FOR PERFORMANCE OF THE CONTRACT

5.1 General

The invitation to tender will include the draft contract. This will include such contract provisions as required pursuant to ARF section 21-4.

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

5.2 Subcontracting

When using sub-suppliers, the supplier remains bound by its obligations to the contracting authority under the agreement and retains sole responsibility for carrying out the procurement.

The supplier shall ensure sub-suppliers' compliance with all requirements and obligations in the contract. The supplier shall further ensure that the intellectual property that may be generated by a sub-supplier reverts to the supplier so that the supplier can meet its obligations towards the contracting authority.

The supplier may have a maximum of two links in the supply chain for the execution of the contract, excluding suppliers of material and equipment. The contracting authority may, however, after the signing of the contract, accept additional links if, due to unforeseen circumstances, it is necessary in order for the contract to be completed.

Tenderers who intend to use sub-suppliers will be required to provide information about the share of the contract that the candidate intends to subcontract to third parties, the proposed subcontractors, and the subject-matter of the subcontracts for which they are proposed.

Any changes at the level of subcontractors during the execution of the contract will be subject to prior approval from the contracting authority.

It is the supplier's responsibility to ensure that all sub-suppliers have the necessary certificates and registration for the works they are allocated to on this contract.

5.3 Not applicable

5.4 Security of supply

The contract will specify the security of supply requirements.

5.5 Not applicable

5.6 Transparency and Work with Fundamental Human Rights and Decent Working Conditions

The contract will contain requirements to promote basic human rights and decent working conditions.

Suppliers that are subject to the Act of 18 of June 2021 No. 99 relating to enterprises' transparency and work on fundamental human rights and decent working conditions (Transparency Act), must ensure compliance with all legal obligations of the Transparency Act.

All suppliers, irrespective of being subject to the Transparency Act, shall promote fundamental human rights and decent working conditions in its own operations and its' supply chain for the execution of the contract. This includes providing the contracting authority with:

- i) the necessary information related to the supplier to identify and assess actual and potential adverse impacts on fundamental human rights and decent work conditions that are directly linked with the execution of the contract,
- ii) corresponding information relating to the supplier's supply chain, and
- iii) immediate notification of any material adverse incident affecting fundamental human rights or decent work conditions.

5.7 Compliance with Sanctions Laws

The supplier will in the contract be required to warrant and represent that it is in compliance with Sanctions Laws, cf. section 4.8.

5.8 Not applicable

5.9 Not applicable

5.10 Environmental Considerations

The environmental management system the supplier was qualified for the tender with, shall be applied in the works on this contract.

5.11 Not applicable

5.12 NATO's Quality Assurance requirements

The contract will include requirements for the supplier to comply with Allied Quality Assurance Publications (AQAP) 2110 – NATO Quality Assurance requirements for design, development and production as standard for the Contractors Quality Management System.

The contract will further include requirements for the contractor to flow down quality assurance requirements in compliance with AQAP-4107-SRD.2 AQAP Selection Guidance, Edition A version 1.

5.13 Main Terms concerning Financing and Payment

Will be clarified in the tender phase.

5.14 Payment Conditions, Deposits and Guarantees

Will be clarified in the tender phase.

5.15 Delivery Terms

Will be clarified in the tender phase.

5.16 Intellectual property rights and royalty

Will be clarified in the tender phase.