



# NORWEGIAN DEFENCE MATERIEL AGENCY

## **Invitation to Pre-Qualification No. 112357**

### **P5007 Passive sensor**

Procurement according to the Regulations of Procurements in the Defence and Security Sector

Deadline: 22.01.2024

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## 1 INTRODUCTION

### 1.1 Invitation to prequalify and procurement procedure

The Norwegian Defence Materiel Agency (NDMA) hereby invites potential candidates to pre-qualify for its procurement of “Acoustic Passive Sensors” for location of indirect fire (IDF) projectiles.

The procurement will be carried out as a negotiated procedure with prior publication of a contract notice.

This invitation sets the rules, framework, and procedures for the pre-qualification of candidates. Candidates will have to comply and adhere to the requirements herein. Candidates are responsible for ensuring that all requested documentation is submitted and that all questions and requirements are clearly and unambiguously addressed and answered. Non-compliance may lead to rejection of their request to participate.

### 1.2 The Contracting Authority

NDMA is the Contracting Authority for the procurement, and NDMA is responsible for carrying out the procurement on behalf of the entities in section 1.3. The 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.

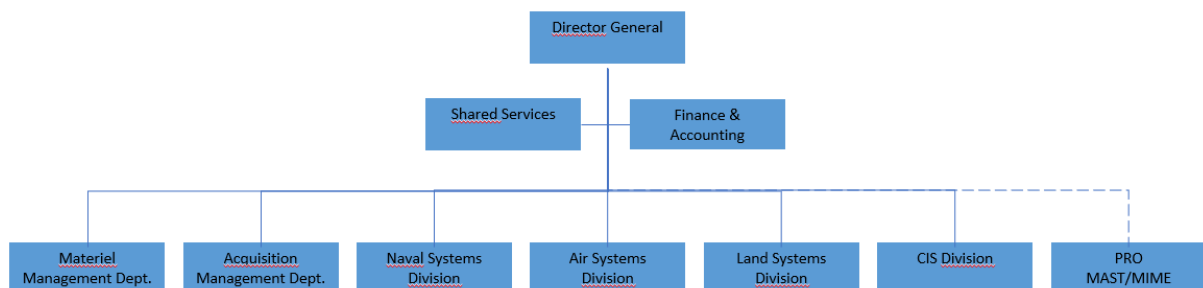


Figure 1 NDMA Organisation

More information is available at [www.fma.no/en](http://www.fma.no/en)

### 1.3 The Users of the Contract

The Contracting Authority enters into this agreement on behalf of the Norwegian Ministry of Defence and its underlying agencies.

The MoD’s underlying agencies are currently the following:

- the Norwegian Armed Forces
- the Norwegian Defence Estates Agency
- the Norwegian Defence Materiel Agency
- the Norwegian Defence Research Establishment

The Norwegian Defence Materiel Agency may transfer the contracts to the Norwegian Armed Forces. If so, all the rights and obligations of the Norwegian Defence Materiel Agency are transferred to the Norwegian Armed Forces.

## 2 THE PROCUREMENT

### 2.1 Scope of the Procurement

The scope of the procurement includes the following:

The main scope will be an acoustic “Passive Sensor” for location of indirect fire (IDF) projectiles that can be mountable on a light armoured or armoured tracked vehicle. The main operational purpose is to function as a supplement to artillery locating radars by passively “listening” after IDF while the radars are not in operational mode.

Option scope may be passive sensors for other purposes, such as area access control and counter unmanned aerial vehicles (UAV).

The procurement will consist of two contracts with one (1) contractor: a purchase contract and a CLS-agreement.

The purchase contract will be the main contract and will set the provisions for the deliveries including but not limited to requirements and procedures for test and verification of the product.

The main scope of delivery consists of:

Pos	Scope of delivery	Qty
10	Passive sensor systems	8
20	Possible Vehicle integration kit	8
30	Necessary training and documentation	

The Purchase Contract will include the option for the Purchaser to make the following supplementary purchases:

Pos.	Options	Total maximum quantities of all options
10	Passive sensor system	Up to 20
20	Vehicle integration kit	Up to 20
30	Training and documentation	
40	Incremental Engineering for SW/HW adaption to other vehicles or user platforms.	

The options will be valid for 7 years from when the Purchase Contract enters into effect. Respecting the maximum quantities above, the Purchaser may choose to exercise the options as many times and only on the systems and/or subsystems it prefers. The Purchaser may also choose not to exercise any options.

The Contractor Logistics Service (CLS) agreement will primarily cover maintenance and repair services as they relate to the materiel. It is necessary that the Contractor can continually supply the sought-after goods and services during the contractual period, with or without third parties. "Service & maintenance", as well as replenishment of spare parts, will be an integral part of the CLS-agreement.

The Contracting Authority envisions that the CLS-agreement be kept separate from, although linked to, the contract in order to simplify the process if the contracts are transferred to a different department. The duration of the CLS-Agreement will be 7 years from the first contractual delivery under the Purchase Contract. The Purchaser will have the right to prolong the CLS-Agreement throughout the systems lifetime.

## **2.2 Value of the CLS Agreement**

The estimated total value of the CLS - agreement, is 15 MNOK excluding VAT.

## **2.3 Place of Delivery / Performance**

The place of delivery of the materiel will be Eastern Norway.

# **3 ADMINISTRATIVE PROVISIONS**

## **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 Anskaffelsesregelverk for forsvarssektoren, (ARF) part I, II and IV. Chapter 42 applies to the situations described in Industrial Co-Operation. Note, that ARF does not in itself grant any rights to the participants in itself not to any third parties, cf. ARF § 1-2 (2).

Participants 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 Phases**

The procurement will be carried out with the following three phases:

- The Pre-Qualification Phase regulated by this Invitation to pre-qualification incl. appendices.
- The Tender Phase regulated by the Invitation to tender, which will be sent to pre-qualified and, where applicable, down selected candidates. The invitation will elaborate the terms and conditions in the Invitation to pre-qualification and contain draft contract documents.
- The Delivery Phase regulated by the contract documents

### 3.3 Procurement documents

#### The Invitation to Pre-qualification

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	Request to participate (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	Regulations on Industrial co-operation
Appendix 5	NDMA Ethical Requirements to all Contractors
Appendix 6	Prudence, Non-disclosure and Conflict of Interest
Appendix 7	Self-declaration (template)
Appendix 8	Guide for Clearance of Foreign Citizens Visiting Norway
Appendix 9	AQAP 2110
Appendix 10	2022.11.09 Compliance Matrix 1.0

### 3.4 Procurement schedule

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

ACTIVITY	DATE
Dispatch of Invitation to pre-qualification	11.12.2023
Deadline for submission of questions to the Invitation to pre-qualification	08.01.2024
<b>Deadline for submission of requests to participate</b>	<b>22.01.2024 at 12.00 AM</b> Oslo time
Notification of pre-qualification results to rejected/non-selected candidates	01.03.2024
Deadline for application for preliminary injunction	15 days from notification of the pre-qualification result

All dates are tentative except for the deadline for submission of the request to participate which is fixed.

The Contracting Authority plans to carry out the tender phase in accordance with the time schedule below. All dates are tentative.

ACTIVITY	Date
Invitation to tender is sent to pre-qualified candidates	Q1 2024
Deadline for submission of questions to the Invitation to tender	Q1 2024
<b>Deadline for submission of tenders</b>	Q2 2024
Negotiations and evaluation phase	May/June
Notification of contract award	Q2 2024
Standstill period	10 days from the day following contract award
Contract signing	Q2/Q3 2024
Tender validity date	Q3 2024
Deliveries	2024-2026

### 3.5 Communication

Mercell is the digital platform and procurement tool for the execution of the pre-qualification and tender phase of the procurement . If not otherwise explicitly stated herein or by the Contracting Authority, communication and information exchange will be conducted by the use of this platform. This includes registration of interest for the procedure, submission of the request to participate and tenders etc.

### 3.6 Questions and Changes to the Procurement Documents

Candidates are encouraged to review the Procurement Documents carefully and notify the Contracting Authority without undue delay of any errors, ambiguities, or inconsistencies it finds. Errors, ambiguities, or inconsistencies that a diligent potential candidate should have discovered when reviewing the Procurement Documents, cannot later be invoked as a basis for claims against the Contracting Authority.

Potential candidates may ask questions to the Procurement Documents. Such questions are submitted in writing at Merccell within the deadline in Section 3.4 *Procurement schedule*. Questions should be asked in a manner that is easy to reframe to all potential candidates in an anonymous manner.

Questions and answers, will be made available to all who has signed up as interested in the procurement in Merccell. Questions are strived to be given in an anonymized form. However, the potential candidate carries the risk for the questions not being reframed in an ideal manner. 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 Merccell.

Updated versions of the Procurement Documents will be made available in Merccell, and participants shall 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

The language requirement for this procurement is English and/or Norwegian. Original documentation can be submitted in other languages as long as they are submitted together with an admissible translation. Original documents may be submitted in Danish and Swedish without translations. The Contracting Authority may require any documents and/or information not meeting the language requirement to be translated in full length at the participants cost.

### 3.8 Variants

Variants are not accepted.

### 3.9 Award Criteria

The contract will be awarded the most economically advantageous tender from the viewpoint of the Contracting Authority.

The criteria are presented in descending order of importance.

The contract will be awarded based on the following:

Pos.	Criteria representing the most economically advantageous tender	Weight
10	Price	50 %
20	Functionality: <ul style="list-style-type: none"><li>- Technical solutions</li><li>- Functional characteristics</li><li>- Quality</li><li>- Environmental characteristics</li></ul>	40 %
30	Delivery time	10 %

### 3.10 Cost of Participation etc

Participants carries their own costs in connection with any participation in the procurement.

### 3.11 Place of Meetings

Meetings and negotiations relating to this procurement procedure will primarily take place in the Oslo area and/or electronically.

### 3.12 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. Description of the request for visit process and necessary forms are available on the following web page:

<https://www.forsvaret.no/en/contact/request-for-visit>

### 3.13 Duty of Confidentiality and Public Access to Information

#### 3.13.1 Duty of Confidentiality

All participants and their representatives shall protect confidential information made available to them in connection with the procurement.



### **3.13.2 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.

The candidate may enclose a redacted version of the request to participate where contents considered confidential such as trade secrets, personal sensitive information etc. are redacted. The redacted version should be accompanied by a list of the redacted contents and a short account as to why the contents is considered confidential.

Irrespective of the candidate's own classification of the information, the Contracting Authority is nevertheless obliged to conduct an independent assessment of the information and exempt information from public access only by statutory authority.

### **3.14 Collaboration with other competent Authorities and independent third parties**

Participation in the procurement grants the Contracting Authority the right to share any submitted information with other national authorities to the extent the Contracting Authority finds it needed, to carry out the procurement. Furthermore, information may be shared with competent Authorities in connection with government audits, controls and/or checks etc.

The defence sector may 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.

The Contracting Authority may collaborate with third parties such as accredited laboratories, auditors, advisors, law firms etc to the extent the Contracting Authority finds necessary to promote due diligence and its rights and obligations under the contract.

### **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. Likewise, the Contracting Authority expects that all participants to adhere to good business practice and pursue the highest ethical standards. Reference is made to Appendix 5 NDMA Ethical Requirements to all Contractors and Appendix 6 Prudence, Non-disclosure and Conflict of Interest. The candidate shall in its appendix 7 Self-declaration, confirm that it accepts and complies with the requirements therein.

## **4 CRITERIA FOR QUALITATIVE SELECTION**

The pre-qualification requirements in section 4.3 *Qualification Requirements* are minimum requirements relating to the candidates' suitability.

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 reserves the right to perform a financial due diligence (FDD) (including to obtain credit statements or credit ratings from a credit agency) and/or an integrity due diligence (IDD) to verify the information provided by candidates and to examine whether there are any grounds for exclusion, cf. FOSA § 11-12. Any DD may be performed at any time throughout the procurement process.

#### **4.1 Groups of economic operators (joint ventures, consortia, etc.)**

Groups of economic operators may submit tenders and put themselves forward as candidates for the procurement. .

The group shall submit *Appendix 3 – Form for groups of economic operators submitting a joint request to participate* together with the request to participate. Furthermore, each member will have to document compliance with:

- PQR 1 concerning legal position and enrolment in trade registers etc and
- PQR 2 concerning payment of taxes and VATs and
- *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 group (guarantors), ensuring that the group can rely on the capacity of these partners for the fulfilment of the qualification requirements in sections 4.3.2 to 4.3.4, 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.

#### **4.2 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 4.3.2 and 4.3.3.

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 meet the relevant requirements in section 4.3.2 and/or 4.3.3.

Supporting entities shall be legally established entities, and such entities must fulfil the requirements in section 4.3.1 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*.

Where a candidate relies on the capacities of supporting entities with regard to the requirements in section 4.3.2 *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 4.3.3 relating to the educational and professional qualifications or

relevant professional experience, cf. PQR 4-1, 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 4.3.1) and management systems (section 4.3.4). However, if the candidate relies on the capacities of supporting entities with regard to the requirements in section 4.3.3, these entities shall fulfil the requirements relating to management systems in section 4.3.4 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.

### 4.3 Qualification Requirements

#### 4.3.1 Requirements Concerning the Candidate's Organisational and Legal Position

No.	Qualification requirement	Documentation requirements
PQR1	The candidate shall be a legally established company, registered in a professional, trade or business register in its state of origin or establishment.	<p>Current certificate of registration.</p> <p><u>For Norwegian candidates:</u></p> <ul style="list-style-type: none"> <li>- Certificate of Registration (firmaattest)</li> </ul> <p><u>For foreign candidates:</u></p> <p>Documentation that the Candidate is registered in a trade register or a register of business enterprise in accordance with the laws of the country where the Candidate is established.</p> <p>If such registration is not required in the candidate's country of origin, a self-declaration that this is the case.</p>

#### 4.3.2 Requirements Concerning the Candidate's Economic and Financial Standing

No.	Qualification requirement	Documentation requirement
PQR2	The Candidate shall have fulfilled its obligations relating to the payment of taxes in accordance with the legal provisions of the country in which it is established	<p>Tax certificate no older than 6 months form the date of submission.</p> <ul style="list-style-type: none"> <li>- For Norwegian candidates this means that a Certificate of tax and VAT, Form RF 1316 from Skatteetaten (skatteattest) shall be submitted.</li> </ul> <p>For foreign candidates, a certificate issued by the competent authority in the state concerned shall be submitted. If the state 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</p>
PQR3	The candidate shall have the necessary economic and financial standing to perform the contract, including positive equity and	<ul style="list-style-type: none"> <li>- A statement of the candidates overall turnover and of turnover in the area covered by the contract, for the last three financial years</li> </ul>

	satisfactory operating margin and liquidity ratio.	<p>available insofar as information on such turnovers is available.</p> <ul style="list-style-type: none"> <li>- Any other information that is relevant to the candidate's financial condition or accounting information (plans for demerger/merger, capital, reduction/debt structures not accounted for in financial statement , etc.)</li> <li>- Auditor statement about the Candidate's operations</li> </ul> <p>If, for any valid reason, the candidate is unable to provide the requested documentation, it may prove its economic and financial standing by any other document which the Contracting Authority considers appropriate.</p>
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#### 4.3.3 Requirements Concerning the Candidate's Technical and Professional Ability

No.	Qualification requirement	Documentation requirement
PQR4-1	The Candidate shall have experience from similar deliveries of passive sensors.	<p>A brief description of the three most relevant assignments from the last six years. If more than three assignments are presented, the Contracting Authority will evaluate the three latest assignments.</p> <p>The description shall include:</p> <ul style="list-style-type: none"> <li>- Product similarity</li> <li>- Operational environment similarity</li> <li>- Lead time</li> <li>- Customer (mil/civ)</li> <li>- The value of the assignment</li> <li>- The time at which deliveries was carried out.</li> <li>- Name, phone number, email address of the recipient for verification purposes</li> </ul> <p>If available, please provide a data sheet for relevant products.</p>
PQR4-2	The Candidate shall have the necessary technical professionals.	<p>NDMA will ensure that the Candidates possess a range of technical capacities to produce highly functioning passive sensors.</p> <p>Present a brief description (maximum one A4 page per presented personnel) of the technical personnel and other professionals involved in the team.</p> <p>The description is expected to include, but not limited to: Place of employment, length of employment, education, working experience, experience in similar projects.</p> <p>If the personnel do not belong directly to the</p>

		Candidate, state and document the connection and form of cooperation to the Candidate.
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#### 4.3.4 Requirements Concerning Management Systems

It is important for the NDMA to have confidence in that the Candidate will be able to fulfil the contractual requirements regarding performance, time, and cost, and thus the importance for the Candidate to have established, implemented and maintained a Quality Management System (QMS) according to the required standards, and with relevant scope for the products and/or services to be provided. Candidates that apply for pre-qualification in order to qualify for the bidding process for a contract, are in many cases Sales agents, distributors and not the original equipment manufacturer (OEM) of the products and/or services to be delivered in the contract. It is important for NDMA to ascertain that the products that shall be used by the Norwegian Armed Forces are designed, developed and produced under controlled conditions based on an efficient QMS, in order to be sure that the products will work in use and be safe for the users. In some instances, the Candidate will purchase the products and/or services through a Distributer, whom in turn will purchase the products and/or services from the OEM. Therefore, it is necessary for NDMA to ascertain that the QMS requirements are applicable for all the entities in the supply chain.

	Qualification requirement	Documentation requirements
PQR5	<p>The candidate shall have an efficient quality management system relevant to the procurement scope that complies with the requirements of ISO 9001:2015 or recognized equivalent international standard.</p> <p>If the Candidate is a group of economic operators (joint ventures, consortia, etc.), the requirement shall apply to every member of the group.</p>	<p>If the candidate is certified to ISO 9001 or an equivalent standard, a copy of a valid certificate drawn up by an accreditation body attesting that Candidate's quality management system complies with such a standard. The scope of the certificate shall be relevant to the procurement scope.</p> <p>If the candidate is not certified to such a standard, a description of the candidate's quality management system.</p> <p>The scope of the certificate/the described system shall include all areas and activities that will be involved in the deliveries under this contract.</p> <p>If the Candidate does not have an ISO 9001:2015 third party certification, the Candidate shall complete the enclosed compliance matrix, Appendix 10, and document the relations between ISO 9001:2015, and a description of the Candidate's QMS.</p> <ul style="list-style-type: none"> <li>- The scope of the QMS must be clearly described, as required by ISO 9001:2015 para. 4.3.</li> <li>- Where the Candidate is a group of economic operators (joint ventures, consortia, etc.), the</li> </ul>

	Qualification requirement	Documentation requirements
		<p>documentation mentioned above, shall be delivered by the Lead Company and the entities/participants where the majority of the contract's operation will be performed.</p> <p>The Candidate shall describe what the contribution for each single entity/participant during the contract period are, and how the Candidate will ascertain the implementation of the QMS for the group of economic operators.</p>

#### 4.4 Format for Requests to Participate

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

#### 4.5 Content of the Requests to Participate

The request to participate shall contain the following documents and are 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	Where a group, completed Appendix 3 – 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 4.3.1, PQR1
6	Certificate or other prove of authorisation [...]	Section 4.3.1, PQR2
7	Tax certificate	Section 4.7

8	Documentation on economic and financial capacity	Section 4.3.2, PQR4
9	Documentation on technical and professional qualifications	Section 4.3.3, PQR4-1,4-2
10	Documentation on quality management systems	Section 4.3.4
11	Redacted version of the request to participate	Section 3.13.2
12	List of redacted content	Section 3.13.2
13	Description of Industrial co-operation	Section 5.9

#### **4.6 Exclusion of Candidates**

The grounds for exclusion in FOSA §§ 11-12 continues to apply for participation in this procurement. The candidate shall familiarize itself with these provisions.

#### **4.7 Compliance with Sanctions Laws**

Only candidates not being in violation of 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), will be allowed to participate in the procurement. Same applies to any other sanction laws. By Sanctions Laws is meant 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 candidate shall in the request for participation 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.

If the candidate is a group of economic operators, 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 such a declaration is also required from the ultimate parent company of the group/the ultimate controlling company.

#### **4.8 Deadline for Request for Preliminary Injunction**

Any request for a preliminary injunction against the Contracting Authority's decision to reject a request to participate or not invite a candidate shall be submitted to the court within 15 days after such a notice is sent, cf. FOSA § 10-6.

### **5 CONDITIONS FOR PERFORMANCE OF THE CONTRACT**

#### **5.1 Form of Contract**

This procurement will consist of a supply contract and a CLS-agreement as mentioned in pt. 2.1.

## **5.2 Pay and Working Conditions**

The contracts will contain requirements for pay and working conditions, documentation and sanctions in accordance with the Regulations of 8 February 2008 no. 112 on pay and working conditions in public contracts (forskrift om lønns- og arbeidsvilkår i offentlige kontrakter).

## **5.3 Transparency and Work with Fundamental Human Rights and Decent Working Conditions**

The contracts 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), will have to ensure compliance with all legal obligations of the Transparency Act.

## **5.4 NATO's Quality Assurance requirements**

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

- AQAP-2110 «NATO Quality Assurance Requirements for Design, Development and Production», Ed D v 1

## **5.5 Main Terms concerning Financing and Payment**

The contract will be structured as a

- Firm fixed price contract, which will not be subject to any adjustments on the basis of the Contractor's incurred costs in performing the contract.
- Options will be fixed price contract with price adjustment clauses. There will be a basis unit prices, which will be adjusted pursuant to price adjustment clauses.

The CLS contract will be structured as a fixed price contract with price adjustment clauses. There will be a basis unit prices, which will be adjusted pursuant to price adjustment clauses.

## **5.6 Payment Conditions, Deposits and Guarantees**

The contracts will contain payment conditions in compliance with ARF chapter 23.

The terms of payment will be as follows:

- Payment 30 days after approved delivery and receipt of correct invoice.

If payment is not made when due, the Contracting Authority will pay interest in accordance with Act of 17 December 1976 related to interest to overdue payments.

## **5.7 Delivery Terms**

INCOTERMS [2020] FCA apply for the delivery and transfer of risk of the supplies.

## **5.8 Intellectual property rights and royalty**

Intellectual property rights in accordance with the contracts.

Royalty will not be applicable.



## **5.9 Industrial Co-Operation**

The Royal Norwegian Ministry of Defence (MOD) has decided that procurements with a value over 50MNOK must include an industrial co-operation agreement for suppliers and sub-suppliers located outside the European Economic Area (EEA).

### For suppliers located outside the EEA:

An industrial co-operation agreement is required, in accordance with the Regulations for Industrial Co-operation related to Defence Acquisitions from Abroad (RIC).

A tenderer located outside the EEA shall in its tender state its commitment to enter into such agreement without making any reservations to the RIC and standard agreements.

Such a tenderer shall also in the tender describe (in a separate annex) how it intends to fulfil the industrial commitment. The annex shall include descriptions of contracts or arrangements entered into, or currently being negotiated, with Norwegian industry.

### For suppliers located within the EEA with sup-suppliers located outside the EEA:

An industrial co-operation agreement is required, in accordance with the Regulations for Industrial Co-operation related to Defence Acquisitions from Abroad (RIC), where the value of the sub-contract exceeds 50 million NOK. This requirement also applies if the supplier and sub-supplier belong to the same corporation.

A tenderer using sup-suppliers located outside the EEA shall in its tender, on behalf of its' sub-suppliers, state their commitment to enter into such agreements without making any reservations to the RIC and standard agreements.

Such a tenderer shall also describe (in a separate annex) how its' subcontractors located outside the EEA intend to fulfil the industrial commitment. The annex shall include descriptions of contracts or arrangements entered into, or currently being negotiated, with Norwegian industry.

