

Denmark-Copenhagen: Architectural, construction, engineering and inspection services
OJ S 11/2022 17/01/2022
Contract award notice
Services

Legal Basis:

Directive 2014/24/EU

Section I: Contracting authority

I.1. Name and addresses

Official name: Femern A/S
National registration number: 28986564
Postal address: Vester Søgade 10
Town: Copenhagen
NUTS code: DK Danmark
Postal code: 1601
Country: Denmark
Contact person: Anne Bøgh Johansen
E-mail: ajo@femern.dk
Internet address(es):
Main address: www.femern.dk

I.4. Type of the contracting authority

Body governed by public law

I.5. Main activity

Other activity: connection with the establishment of of a fixed link across the Fehmarnbelt, Femern A/S is mandated to carry out the planning approval and procurement processes.

Section II: Object

II.1. Scope of the procurement

II.1.1. Title

Framework Agreement for Assessment Body and Notified Body Services

II.1.2. Main CPV code

71000000 Architectural, construction, engineering and inspection services

II.1.3. Type of contract

Services

II.1.4. Short description

On 7 July 2012 the contract notice (no [2012/S 129-214427](#)) concerning the Framework Agreement for Assessment Body and Notified Body Services, was published in TED. The framework agreement was awarded to the Consortium RINA Services S.p.A. & SINTEF, and the contract award notice (no [2013/S 030-046564](#)) was published on 12 February 2013. By voluntary ex ante transparency notice (no [2021/S 245-647672](#)) Femern A/S announced Femern A/S intention to prolong the existing framework agreement between Femern A/S and the Consortium RINA Services S.p.A. & SINTEF until 31 December 2029 where the

construction of the Fixed Link across the Fehmarn Belt is expected to be finalized, though at least until the finalization of the Fixed Link (as was the original intention with the procurement, cf. the contract notice). After this (and the expiry of stand still as stated in notice no [2021/S 245-647672](#)) the framework agreement has been prolonged.

II.1.6. Information about lots

This contract is divided into lots: no

II.1.7. Total value of the procurement

Value excluding VAT: 14 385 000,00 DKK

II.2. Description

II.2.2. Additional CPV code(s)

71630000 Technical inspection and testing services, 71631000 Technical inspection services, 71631470 Railway-track inspection services

II.2.3. Place of performance

NUTS code: DK Danmark

Main site or place of performance: Denmark

II.2.4. Description of the procurement

On 7 July 2012 the contract notice (no [2012/S 129-214427](#)) concerning the Framework Agreement for Assessment Body and Notified Body Services, was published in TED. The framework agreement was awarded to the Consortium RINA Services S.p.A. & SINTEF, and the contract award notice (no [2013/S 030-046564](#)) was published on 12 February 2013. By voluntary ex ante transparency notice (no [2021/S 245-647672](#)) Femern A/S announced Femern A/S intention to prolong the existing framework agreement between Femern A/S and the Consortium RINA Services S.p.A. & SINTEF until 31 December 2029 where the construction of the Fixed Link across the Fehmarn Belt is expected to be finalized, though at least until the finalization of the Fixed Link (as was the original intention with the procurement, cf. the contract notice). After this (and the expiry of stand still as stated in notice no [2021/S 245-647672](#)) the framework agreement has been prolonged.

According to the contract notice (no [2012/S 129-214427](#)) and the initial contract award notice (no [2013/S 030-046564](#)) the existing framework agreement covers:

"The framework agreement covers the Independent Assessment(CSM RA) and the EC-Verification of of the entire Fehmarnbelt Fixed Link project comprising:

- the Independent Assessment (CSM RA), acc. to the EC Safety Directive (2004/49/EC) and the EC Regulation on Common Safety Method on risk evaluation and assessment (352/2009 /EC)

- the EC-Verification by a NoBo (acc. to: Art. 2, litra j, Art. 28 and Art. 18 of the Interoperability Directive (2008/57/EC)

up to commissioning the Fixed Link Railway infrastructure and completion of the project.

The Assessment Body shall also perform the Notified Body (NoBo) tasks covered by the Interoperability Directives and the corresponding Technical Specifications for Interoperability (TSI's). The Assessment Body must thus be a certified NoBo.

The State Treaty determines that beyond the obligation of demonstration of compliance to the EC Directives (Safety and Interoperability) the Fixed Link shall be built according to Danish Norms and Standards as well as demonstrating compliance to German National Safety Rules as notified according to art. 8, of Directive 2004/49/EC."

II.2.5. Award criteria

Quality criterion - Name: Method Statements and Management Systems / Weighting: 40

Quality criterion - Name: Personnel / Weighting: 30

Price - Weighting: 30

II.2.11. Information about options

Options: no

II.2.13. Information about European Union funds

The procurement is related to a project and/or programme financed by European Union funds:

yes

Identification of the project: The Fehmarnbelt Fixed link - TEN-T programme 2014-EU-TM-0221-W (previously 2007-EU-20050-P).

II.2.14. Additional information

Section IV: Procedure

IV.1. Description

IV.1.1. Type of procedure

Award of a contract without prior publication of a call for competition in the Official Journal of the European Union in the cases listed below

- The procurement falls outside the scope of application of the directive

Explanation:

By voluntary ex ante transparency notice (no [2021/S 245-647672](#)) Femern A/S announced Femern A/S' intention to prolong the framework agreement until 31 December 2029 where the construction of the Fixed Link across the Fehmarn Belt is expected to be finalized, though at least until the finalization of the Fixed Link (as was the original intention with the procurement, cf. the contract notice).

The prolongation of the framework agreement without a new procurement procedure falls under the Danish Public Procurement Act section 183, which implements Directive 2014/24 /EU art. 72(1)(c).

The construction of the fixed link across Fehmarnbelt requires approvals from the authorities in both Denmark and Germany. The Danish approval was achieved in 2015 with the passing of the "Act on the Construction and Operation of a Fixed Link across the Fehmarnbelt with Associated Landworks in Denmark". However, in regard to the German plan approval the administrative procedure in Germany has been subject to massive delays, i.e. due to a number of complaints and legal proceedings. As a result hereof, the actual processing time in Germany to obtain the required plan approval substantially exceeded the reasonable expectations of Femern A/S initially at the time of tendering out the framework agreement. Final approval in Germany was obtained in November 2020 in conclusion of the final oral proceedings at the Federal Administrative Court in Leipzig. As a direct result of this delay the overall timeschedule for the finalization of the Fixed Link has been disturbed and delayed. Consequently, Femern A/S' demand of the Assessment Body and Notified Body, as covered by the existing framework agreement, is still relevant and will continue being relevant until the finalization of the Fixed Link (expected 2029). The extraordinary long processing time in Germany and the resulting delay of the project was not possible for Femern A/S to foresee at the time of initiating the procurement procedure despite a diligent and thorough preparation of the procurement process for the framework agreement. The prolongation of the existing

framework agreement is found necessary in order to finalize the initially contemplated work under the existing framework agreement. Consortium RINA Services S.p.A. & SINTEF is therefore generally to deliver the same services as initially intended and hence no modification to the overall nature of the contract is made as a result hereof. The total value of the framework agreement is estimated to DKK 14,385,000 (including the prolongation). It is noted that part of the amount, that exceeds the initial estimated value (DKK 10,000,000, cf. contract notice), represents indexation and is therefore not in fact an actual modification of the framework agreement's value, and that the estimated total value further includes a buffer of 5 % taking into account future unexpected changes in value. The prolongation will therefore not result in a price increase higher than 50% of the value of the existing framework agreement. The conditions for applying the Danish Public Procurement Act section 183 are therefore met.

IV.1.3. Information about a framework agreement or a dynamic purchasing system

The procurement involves the establishment of a framework agreement

IV.1.8. Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: yes

IV.2. Administrative information

IV.2.1. Previous publication concerning this procedure

Notice number in the OJ S: [2021/S 245-647672](#)

IV.2.8. Information about termination of dynamic purchasing system

IV.2.9. Information about termination of call for competition in the form of a prior information notice

Section V: Award of contract

A contract/lot is awarded: yes

V.2. Award of contract

V.2.1. Date of conclusion of the contract

05/01/2022

V.2.2. Information about tenders

Number of tenders received: 1

The contract has been awarded to a group of economic operators: yes

V.2.3. Name and address of the contractor

Official name: RINA Services S.p.A

National registration number: 03487840104

Postal address: Via Corsica12

Town: Genoa

NUTS code: IT Italia

Postal code: 16128

Country: Italy

The contractor is an SME: no

V.2.3. Name and address of the contractor

Official name: SINTEF

National registration number: 948 007 029

Postal address: P.O. Box 4760 Torgarden
Town: Trondheim
NUTS code: NO Norge
Postal code: 7465
Country: Norway
The contractor is an SME: no

V.2.4. Information on value of the contract/lot

Total value of the contract/lot: 14 385 000,00 DKK

V.2.5. Information about subcontracting

Section VI: Complementary information

VI.3. Additional information

In regards of section II.2.5) it is noted that the award criteria are as stated in the initial tender documents. This notice is sent in continuation of the prolongation of the existing framework agreement. Therefore, there has not been a new invitation to participate or a tender deadline, no new tender documents and therefore also not any evaluation of tenders.

The value stated in section II.1.7) and V.2.4) is the estimated total value of the existing framework agreement, i.e. including the prolongation. It is noted that part of the amount, that exceeds the initial estimated value (DKK 10,000,000, cf. contract notice), represents indexation and is therefore not in fact an actual modification of the framework agreement's value, and that the estimated total value further includes a buffer of 5 % taking into account future unexpected changes in value.

VI.4. Procedures for review

VI.4.1. Review body

Official name: Klagenævnet for Udbud (The Danish Complaints Board for Public Procurement)

Postal address: Nævnenes Hus, Toldboden 2

Town: Viborg

Postal code: 8800

Country: Denmark

E-mail: klfu@naevneneshus.dk

Telephone: +45 72405600

Internet address: <https://klfu.naevneneshus.dk/>

VI.4.3. Review procedure

Precise information on deadline(s) for review procedures:

According to the Danish Act on the Complaints Board for Public Procurement, etc. (lov om Klagenævnet for Udbud m.v.) (the Act is available (in Danish) at www.retsinformation.dk), complaints can be lodged with Klagenævnet for Udbud (The Danish Complaints Board for Public Procurement).

Complaints must be submitted to The Danish Complaints Board for Public Procurement before the expiry of 30 calendar days, see section 7(3) of the Act, from the day after the contracting entity has published a notice in the Official Journal of the European Union that the contracting entity has entered into a contract if the notice includes an explanation of the grounds for the decision.

Not later than at the time of lodging a complaint with The Danish Complaints Board for Public Procurement, the complainant must notify the contracting entity in writing that a complaint has been lodged with The Danish Complaints Board for Public Procurement and whether the appeal was lodged during the standstill period.

The e-mail address of The Danish Complaints Board for Public Procurement is set out in section VI.4.1).

The Danish Complaints Board for Public Procurement's complaints procedure is available at <https://naevneneshus.dk/start-din-klage/klagenaevnet-for-udbud/vejledning/>

VI.4.4. Service from which information about the review procedure may be obtained

Official name: Konkurrence- og Forbrugerstyrelsen (The Danish Competition and Consumer Authority)

Postal address: Carl Jacobsens Vej 35

Town: Valby

Postal code: 2500

Country: Denmark

E-mail: kfst@kfst.dk

Telephone: +45 41715000

Internet address: www.kfst.dk

VI.5. Date of dispatch of this notice

12/01/2022