

DK-Hillerød: banking and investment services

OJ S 172/2012 07/09/2012

Contract notice

Services

Directive 2004/18/EC

Section I: Contracting authority

I.1. Name and addresses

Official name: Arbejdsmarkedets Tillægspension

National registration number: CVR.nr. 43405810

Postal address: Kongens Vænge 8

Town: Hillerød

Postal code: 3400

Country: Denmark

Contact person: Arbejdsmarkedets Tillægspension

For the attention of: Head of Transactions & Finance Jan Drewes

E-mail: atpcustody2012@atp.dk

Telephone: +45 48205808

Internet address(es):

General address of the contracting authority: www.atp.dk

Additional information can be obtained from:

the abovementioned address

Specifications and additional documents (including documents for competitive dialogue and a dynamic purchasing system) can be obtained from:

the abovementioned address

Tenders or requests to participate must be submitted: the abovementioned address

I.2. Type of the contracting authority

Body governed by public law

I.3. Main activity

General public services

Economic and financial affairs

Social protection

I.4. Contract award on behalf of other contracting authorities

The contracting authority is purchasing on behalf of other contracting authorities: no

Section II: Object of the contract

II.1. Description

II.1.1. Title attributed to the contract by the contracting authority

Global Custody Agreement and Collateral Management Agreement.

II.1.2. Type of contract and place of performance or delivery

Services

Service category No 6: Financial services a) Insurances services b) Banking and investment services

Main site or place of performance: Arbejdsmarkedets Tillægspension, Kongens Vænge 8, DK-3400 Hillerød, Denmark.

NUTS code DK013 Nordsjælland

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

The notice involves a public contract

II.1.4. Information about framework agreement

II.1.5. Short description of the contract or purchase(s)

Arbejdsmarkedets Tillægspension wishes to enter into a Global Custody Agreement and a Collateral Management Agreement for a period of 4-6 years to replace the present agreement which terminates on 5.10.2013.

Arbejdsmarkedets Tillægspension - which is a pension fund organized as an independent, self-governing institution governed by law - will be the contracting party. The contract will include services to Arbejdsmarkedets Tillægspension as well as its subsidiaries and schemes and entities administered or managed by Arbejdsmarkedets Tillægspension (collectively referred to as ATP in this notice).

ATP has chosen to split the contract notice into a Global Custody Agreement and a Collateral Management Agreement. ATP does not necessarily find these areas connected and integrated, and wishes to have the possibility to choose a separate vendor to the custody business and another one to the collateral management business or the same vendor for both businesses. Therefore it is possible to participate in either the tender regarding the Global Custody Agreement or the tender regarding the Collateral Management Agreement or both. The Global Custody Agreement is to compromise custody/safekeeping and handling of securities including foreign currency transactions held or managed by ATP. We expect the agreement to include services relating to e.g. custody of securities, matching, clearing and settlement of trades, clearing and payment settlement of foreign currency transactions (e.g. via CLS), handling of proceeds and corporate actions, administration of dividend tax, and handling of settlement accounts in Danish Kroner (DKK) and other currencies. In addition the contract must contain an offer of being Paying Agent for ATP Alternative Investments K/S (at present listed in Ireland).

ATP's expect the Collateral Management Agreement to include a complete administration of collateral regarding ATP's OTC-contracts, including e.g. daily margin calculations, administering daily margin calls/recalls, deliveries/returns, substitution, dispute management, administering interest payments to/from counterparties and reconciliation of custody and cash accounts.

We expect the global custodian and collateral manager to adjust their services on an ongoing basis throughout the term of the agreements with ATP in step with changes in the market, products and best practice for the global custody industry and the collateral management industry, and that they are willing to develop new standards together with ATP.

Additional information can be found in the supporting documentation which may be obtained by contacting the person mentioned under Section I.

II.1.6. CPV code(s)

66100000 Banking and investment services - SC01, 66110000 Banking services - SC01, 66150000 Financial markets administration services - SC01, 66162000 Custody services - SC01, 66172000 Financial transaction processing and clearing-house services - SC01

II.1.7. Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: yes

II.1.8. Lots

This contract is divided into lots: yes

Tenders may be submitted for one or more lots

II.1.9. Information about variants

Variants will be accepted: no

II.2. Scope of the procurement

II.2.1. Total quantity or scope

The Global Custody Agreement will comprise the following main services:

(i) Global custody services for Danish securities registered with VP Securities Services (Værdipapircentralen A/S);

(ii) Global custody services for all other securities and currency instruments; and

(iii) Other services including paying agent.

As of 30.6.2012, ATP held or managed total assets of approximately 610 billion DKK for a number of legal entities. The number of legal entities may increase in the future.

The Collateral Management Agreement will comprise services in relation to administering collateral regarding OTC derivatives, mainly on behalf of Arbejdsmarkedets Tillægspension.

Currently ATP has approximately 40 ISDA and GMRA counterparties and between 1 200-1 400 open positions. We expect the number of counterparties and open positions to show an upward trend in the years to come. Collateral exchanged between ATP and the counterparties is mainly Danish, US and German bonds.

Additional information can be found in the supporting documentation which may be obtained by contacting the person mentioned under Section I.

II.2.2. Information about options

Options: yes

Description of options: (i) ATP requires an option for the contract renewal of up to 2 x 12 months

II.2.3. Information about renewals

This contract is subject to renewal: yes

Number of possible renewals: Range: between 1 and 2

In the case of renewable supplies or service contracts, estimated timeframe for subsequent contracts:

in months: 12 (from the award of the contract)

II.3. Duration of the contract or time limit for completion

Duration in months: 48 (from the award of the contract)

Information about lots

Lot No: 1

Lot title: Global Custody Agreement

1) Short description

The Global Custody Agreement is to compromise custody/safekeeping and handling of securities including foreign currency transactions held or managed by ATP.

ATP expect the agreement to include services relating to e.g. custody of securities, matching, clearing and settlement of trades, clearing and payment settlement of foreign currency transactions (e.g. via CLS), handling of proceeds and corporate actions, administration of dividend tax, and handling of settlement accounts in Danish Kroner (DKK) and other currencies.

The main services will include global custody services for Danish securities registered with VP Securities Services (Værdipapircentralen A/S) and for all other securities and currency instruments. In addition the contract must contain a offer of being Paying Agent for ATP Alternative Investments K/S (at present listed in Ireland).

Additional information can be found in the supporting documentation which may be obtained by contacting the person mentioned under Section I.

2) CPV code(s)

66100000 Banking and investment services - SC01, 66110000 Banking services - SC01, 66150000 Financial markets administration services - SC01, 66162000 Custody services - SC01

3) Quantity or scope

As of 30.6.2012, ATP held or managed total assets of approximate 610 billion DKK for a number of legal entities. The number of legal entities may increase in the future.

Additional information can be found in the supporting documentation which may be obtained by contacting the person mentioned under Section I.

4) Indication about different time frame or duration

5) Additional information about lots

Lot No: 2

Lot title: Collateral Management Agreement

1) Short description

ATP expect the Collateral Management Agreement to include a complete administration of collateral regarding ATP's OTC-contracts, including e.g. daily margin calculations, administering daily margin calls/recalls, deliveries/returns, substitution, dispute management, administering interest payments to/from counterparties and reconciliation of custody and cash accounts.

Additional information can be found in the supporting documentation which may be obtained by contacting the person mentioned under Section I.

2) CPV code(s)

66100000 Banking and investment services, 66110000 Banking services, 66150000 Financial markets administration services, 66172000 Financial transaction processing and clearing-house services

3) Quantity or scope

The Collateral Management Agreement will comprise services in relation to administering collateral regarding OTC derivatives, mainly on behalf of Arbejdsmarkedets Tillægspension. Currently ATP has approximate 40 ISDA and GMRA counterparties and between 1 200-1 400 open positions. We expect the number of counterparties and open positions to show an upward trend in the years to come. Collateral exchanged between ATP and the counterparties is mainly Danish, US and German bonds.

Additional information can be found in the supporting documentation which may be obtained by contacting the person mentioned under Section I.

4) Indication about different time frame or duration

5) Additional information about lots

Section III: Legal, economic, financial and technical information

III.1. Conditions related to the contract

III.1.1. Deposits and guarantees required

Please note the information about contractual terms in Section VI.3.

III.1.2. Main financing conditions and payment arrangements and/or reference to the relevant provisions governing them

Quarterly payment in arrears.

III.1.3. Legal form to be taken by the group of economic operators to whom the contract is to be awarded

No particular legal form is required; however, clear allocation of responsibility and liability is a requirement. Where the global custody agreement or the collateral management agreement is awarded to a grouping of service providers, the participants are required to be jointly and severally liable and to appoint a joint attorney-in-fact.

Please note that ATP request certain additional information regarding the tender's legal form, cf. Section VI.3.

III.1.4. Contract performance conditions

The performance of the contract is subject to particular conditions: yes

Description of particular conditions: The Global Custody Agreement and the Collateral Management Agreement must provide for technical tools to receive and supply electronic input via ATP's portfolio management system (Dimension™ provided by SimCorp A/S) at least on a daily basis, as well as providing for online or ongoing supplies during the day in selected areas. This process must be fully electronic – "Straight Through Processing".

III.2. Conditions for participation

III.2.1. Suitability to pursue the professional activity, including requirements relating to enrolment on professional or trade registers

List and brief description of conditions: A signed solemn declaration must be submitted with the request to participate in relation to unpaid, overdue payments to the public sector, cf. Consolidation Act no. 336 of 13.5.1997 (Act on limitation of debtors' participation in public works contracts, as amended), meaning that all candidates are required to produce a signed solemn declaration demonstrating that they have fulfilled obligations relating to the payment of (i) social security contributions under the law of any part of Denmark or of the relevant State in which the candidate is established and (ii) taxes under the law of any part of Denmark or of the relevant State in which the economic operator is established.

In accordance with 'Bekendtgørelse nr. 712 af 15. juni 2011 om fremgangsmåderne ved indgåelse af offentlige vareindkøbskontrakter, offentlige tjenesteydelseskontrakter og offentlige bygge- og anlægskontrakter' (Executive Order No. 712 of 15 June 2011 on procedures for the award of public works contracts, public supply contracts and public works contracts), all applicants will - on the date of submission of its tender - be asked to submit a signed solemn declaration that the applicant are not covered by the exclusion criteria in Article 45 in Directive 2004/18/EC of the European Parliament and of the Council of 31.3.2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, meaning that all tenders will be required to produce a signed solemn declaration demonstrating that:

(i) the tender are not bankrupt or the subject of an administration order, are not being wound-up, have not granted a trust deed, are not the subject of a petition presented for sequestration of their estate, have not had a receiver, manager or administrator appointed and are not otherwise apparently insolvent;

- (ii) the tender, their directors, or any other person who has powers of representation, decision or control of the tender has not been convicted of conspiracy, corruption, bribery, or money laundering;
- (iii) the tender have not been convicted of a criminal offence relating to the conduct of their business or profession;
- (iv) the tender have not committed an act of grave misconduct in the course of their business or profession;
- (v) the tender comply with the requirements of the State in which they are established, regarding registration on the professional or trade register. Failure to provide such a declaration will result in the candidate being declared ineligible and they will not be selected to participate in this procurement process.

Any tender found to be guilty of serious misrepresentation in providing any information required, may be declared ineligible and not selected to continue with this procurement process.

All tenders will on the date of submission of its tender have to demonstrate that they are licensed, or a member of the relevant organization, in the State where they are established, when the law of that State prohibits the provision of the services, described in this notice, by a person who is not so licensed or who is not a member of the relevant organization.

Please note that ATP request certain additional information regarding the tender's profession, cf. Section VI.3.

III.2.2. Economic and financial ability

List and brief description of conditions: As stated in 'Questionnaire regarding the tender's legal form, economic and financial ability, technical capacity etc.' The questionnaire can be obtained by contacting the person mentioned under Section I.

Please note that ATP request certain additional information regarding the tender's economic and financial ability, cf. Section VI.3.

Minimum level(s) of standards possibly required: Global Custody Agreement.

(i) The candidate must from at least two of the three named rating agencies have a rating for long term debt equal to or above BBB+ from S&P, Baa3 from Moody's and BBB+ from Fitch. If the candidate is rated by more than two of the named rating agencies it is the two highest of the ratings that will count in the prequalification of the candidates.

(ii) The candidate must have assets in custody above 750 billion US \$.

Collateral Management Agreement.

(i) The candidate must from at least two of the three named rating agencies have a rating for long term debt equal to or above BBB+ from S&P, Baa3 from Moody's and BBB+ from Fitch. If the candidate is rated by more than two of the named rating agencies it is the two highest of the ratings that will count in the prequalification of the candidates.

III.2.3. Technical and professional ability

List and brief description of conditions:

The global custodian and the collateral manager are expected to make web-based systems available to enable ATP to explore and search information on accounts, portfolios, transaction status, cash at the custodian etc.

With the request the operator must forward a statement listing the tools, equipment and technical equipment available to the service provider for the provision of the service required.

With the request the operator must forward information concerning the educational and professional qualifications of the company's staff responsible for providing the service.

With the request the operator must forward a description of the measures taken by the service provider to assure the quality of the service provided.

Please note that ATP request certain additional information regarding the tender's Technical capacity, cf. Section VI.3.

III.2.4. Information about reserved contracts

III.3. Conditions specific to services contracts

III.3.1. Information about a particular profession

Execution of the service is reserved to a particular profession: yes

Reference to the relevant law, regulation or administrative provision: Service providers under the Global Custody Agreement must be registered under the terms of the Financial Business Act or equivalent law of European Economic Area (EEA) member state and be regulated by Finanstilsynet (the Danish Financial Services Authority) or a European Economic Member State equivalent body.

Execution of the service under the Global Custody Agreement is reserved to service providers that fulfill or will be able to fulfill the Danish requirements for carrying on business as a banking institution, an investment firm or another company which is authorized to or may be authorized to undertake custody and management of securities on behalf of a third party, cf.

Consolidation Act no. 705 of 25.6.2012 as amended (Financial Business Act).

Please note that ATP request certain additional information regarding the tender's profession, cf. Section VI.3.

III.3.2. Information about staff responsible for the performance of the contract

Obligation to indicate the names and professional qualifications of the staff assigned to performing the contract: no

Section IV: Procedure

IV.1. Type of procedure

IV.1.1. Type of procedure

Restricted

IV.1.2. Information about the limits on the number of candidates to be invited

Envisaged number of candidates: 6

Objective criteria for choosing the limited number of candidates: The financial strength of the operator, cf. Section III.2.2. For the Global Custody Agreement, this will be evaluated on the basis of the following in order of precedence: (1) Operators with the highest ratings for long term debt, and (2) operators with the most assets (in value) in custody. For the Collateral Management Agreement, this will be evaluated on the basis of the highest rating for long term debt.

IV.1.3. Information about reduction of the number of solutions or tenders during negotiation or dialogue

IV.2. Award criteria

IV.2.1. Award criteria

The most economically advantageous tender in terms of Price is not the only award criterion and all criteria are stated only in the procurement documents

IV.2.2. Information about electronic auction

An electronic auction will be used: no

IV.3. Administrative information

IV.3.1. File reference number attributed by the contracting authority

FLS-30-12-12

IV.3.2. Previous publication concerning this procedure

no

IV.3.3. Conditions for obtaining specifications and additional documents or descriptive document

Payable documents: no

IV.3.4. Time limit for receipt of tenders or requests to participate

8.10.2012 - 13:00

IV.3.5. Estimated date of dispatch of invitations to tender or to participate to selected candidates

IV.3.6. Languages in which tenders or requests to participate may be submitted

Danish. English.

IV.3.7. Minimum time frame during which the tenderer must maintain the tender

IV.3.8. Conditions for opening of tenders

Section VI: Complementary information

VI.1. Information about recurrence

This is a recurrent procurement: yes

Estimated timing for further notices to be published: 4-6 years

VI.2. Information about European Union funds

The procurement is related to a project and/or programme financed by European Union funds:
no

VI.3. Additional information

1) Essential requirements for contract:

(i) During the term of the contracts new institutions, schemes, entities, subsidiaries or subsidiary undertakings placed under the ownership, administration or management of Arbejdsmarkedets Tillægspension or one of the above institutions, schemes, entities or undertakings shall be covered by the contracts on the terms thereof.

(ii) In the contracts the tender must unconditional warrant that (a) the safekeeping of securities shall in any event be without any custody risk on the part of ATP including that if the securities are lost, wholly or in part, the tender shall be obligated to compensate ATP for the loss of the securities deposited and (b) the products and the services comply with requirements to the content, performance, functionality, integration, quality, standards etc. agreed on. The warranties will not include force majeure or losses caused by ATP if the tenderer can prove this.

(iii) ATP will accept the use of subcontractors/subcustodians by the tender. If subcontractors /subcustodians are used, the tender must in the contract unconditional accept to indemnify ATP for (a) all losses related to errors and omissions in the products and services of the subcontractor/subcustodian in the same way as the tenderer indemnify ATP for its products and services and (b) all losses as well as loss of right of disposal in the event of insufficient

solvency, bankruptcy etc. of the subcontractor/subcustodian. The indemnification will not include force majeure or losses caused by ATP if the tenderer can prove this.

(iv) In the contracts ATP expects the tender to accept at the request of the mutual funds etc. in 'ATP Invest' (at present ATP Invest III) to offer the mutual funds etc. the same services as in the contract with ATP and on equal or better terms.

(v) In the contracts ATP expects the tender to accept at the request of trusts, funds and companies connected to ATP's activities in UK where the portfolios of the trusts, funds and companies are managed by ATP's investment company (at present NOW: Pensions Investment A/S Fondsmæglerselskab) to offer the trusts, funds and companies the same services as in the contracts with ATP and on equal or better terms.

(vi) The tender must be able to provide services 24/7 in the period from Monday to Friday. ATP reserves the right to reject one or several services - or parts of the services.

2) Questionnaire regarding the tender's legal form, economic and financial ability, technical capacity etc.

(i) Please note that ATP asks for certain information regarding the tender's legal form, economic and financial ability, technical capacity etc. in ' Questionnaire regarding the tender's legal form, economic and financial ability, technical capacity etc.'. The questionnaire can be obtained by contacting the person mentioned under Section I.

(ii) To avoid any misunderstanding only the information required under the first section will be used for evaluating if the requirements are met for prequalification. The information required under the second section will only be used for preparation of the tender material and the contract and not be used for evaluating if the requirements are met for prequalification.

3) Other information:

(i) The tender must maintain the tender for a minimum period up to 30.6.2013.

(ii) The tender documents will be available in English however a draft of the contract will be available both in Danish and English. The final contract will be governed by Danish law. The Danish version of the contract will be the legally binding version.

(iii) To avoid any misunderstanding the time limit for receipt of requests to participate set out in Section IV.3.4 is 13:00 CET on the 8.10.2012.

(iv) Any request to participate including statements, declarations, answers to questionnaire and any other documentation send by post or courier must be forwarded en 5 copies.

(v) Additional information can be found in the supporting documentation which may be obtained by contacting the person mentioned under Section I.

VI.4. Procedures for review

VI.4.1. Review body

Official name: Klagenævnet for Udbud

Postal address: Dahlerups Pakhus Langelinie Allé 17

Town: København Ø

Postal code: 2100

Country: Denmark

E-mail: klfu@erst.dk

Telephone: +45 35291000

Fax: +45 33307799

Internet address: <http://www.klfu.dk/>

VI.4.2. Review procedure

Precise information on deadline(s) for review procedures: A company's complaint about not being prequalified shall be filed with 'Klagenævnet for Udbud' (the Complaints Board for Public Procurement) within 30 calendar days from the day following the day on which the contracting entity has sent a notification to interested applicants who have been prequalified.

ATP will incorporate a standstill period at the point information on the award of the contract is communicated to tenderers. That notification will provide full information on the award decision. The standstill period, which will be for a minimum of 10 calendar days, provides time for unsuccessful tenderers to challenge the award decision before the contract is entered into. A complaint against the tender must be submitted to Klagenævnet for Udbud (the Complaints Board for Public Procurement) within 6 months from the day following the date of publication of the notice, cf. lov om håndhævelse af udbudsreglerne mv. § 7, stk. 2 (the Act on enforcement of procurement rules, section 7, second paragraph). At the same time the plaintiff shall in writing notify the tender of the complaint lodged with Klagenævnet for Udbud, and whether the application ask for a stay of execution pending the outcome of the complaint, cf. lov om håndhævelse af udbudsreglerne mv. § 6, stk. 3 (the Act on enforcement of procurement rules, section 6, third paragraph).

VI.4.3. Service from which information about the review procedure may be obtained

Official name: Konkurrence- og Forbrugerstyrelsen

Postal address: Carl Jacobsens Vej 35

Town: Valby

Postal code: 2500

Country: Denmark

E-mail: kfst@kfst.dk

Telephone: +45 41715000

Fax: +45 41715100

Internet address: <http://www.ks.dk/>

VI.5. Date of dispatch of this notice

4.9.2012