

United Kingdom-London: Industry specific software development services**OJ S 131/2020 09/07/2020****Contract award notice****Services****Legal Basis:**

Directive 2014/24/EU

Section I: Contracting authority

I.1. Name and addresses

Official name: The Secretary of State for the Home Department, Emergency Services Mobile Communications Programme (ESMCP)

Postal address: 2 Marsham Street

Town: London

NUTS code: UK United Kingdom

Postal code: SW1P 4DF

Country: United Kingdom

E-mail: esmcpsupplier@homeoffice.gov.uk

Internet address(es):

Main address: www.gov.uk/government/organisations/home-office

Address of the buyer profile: www.esn.bravosolution.co.uk

I.1. Name and addresses

Official name: The Scottish Ministers acting through the Scottish Government, Safer Communities Directorate

Postal address: Area 1R, St Andrews House, Regent Road

Town: Edinburgh

NUTS code: UK United Kingdom

Postal code: EH1 3DG

Country: United Kingdom

E-mail: ESMCPSupplier@homeoffice.gov.uk

Internet address(es):

Main address: www.esn.bravosolution.co.uk

I.1. Name and addresses

Official name: The Welsh Ministers acting through the Welsh Government

Postal address: Cathays Park

Town: Cardiff

NUTS code: UK United Kingdom

Postal code: CF10 3NQ

Country: United Kingdom

E-mail: ESMCPSupplier@homeoffice.gov.uk

Internet address(es):

Main address: www.esn.bravosolution.co.uk

I.1. Name and addresses

Official name: Secretary of State for Health, Department of Health

Postal address: Richmond House, 79 Whitehall

Town: London

NUTS code: UK United Kingdom
Postal code: SW1A 2NS
Country: United Kingdom
E-mail: ESMCPSupplier@homeoffice.gov.uk
Internet address(es):
Main address: www.esn.bravosolution.co.uk

I.2. Information about joint procurement

The contract involves joint procurement

In the case of joint procurement involving different countries, state applicable national procurement law:

England and Wales

The contract is awarded by a central purchasing body

I.4. Type of the contracting authority

Ministry or any other national or federal authority, including their regional or local subdivisions

I.5. Main activity

Other activity: Public order and safety, health, fire and rescue services

Section II: Object

II.1. Scope of the procurement

II.1.1. Title

ICCS Software Development for the Emergency Services Network ('ESN') — APD
Reference number: C16611

II.1.2. Main CPV code

72212100 Industry specific software development services

II.1.3. Type of contract

Services

II.1.4. Short description

The supplier is a provider of Integrated Command and Control System (ICCS) to the UK 3ES. This contract is to enable their services (as deployed to the supplier's UK 3ES customers) to be upgraded to work with the new emergency services network.

II.1.6. Information about lots

This contract is divided into lots: no

II.1.7. Total value of the procurement

Lowest offer: 1 000 000,00 GBP / Highest offer: 6 500 000,00 GBP taken into consideration

II.2. Description

II.2.2. Additional CPV code(s)

48100000 Industry specific software package, 72212510 Communication software development services

II.2.3. Place of performance

NUTS code: UK United Kingdom

II.2.4. Description of the procurement

This procurement seeks to establish a contract between the supplier as a vendor of Integrated Communications Control Systems (ICCS) software to 3ES Organisations and the Home Office, specifically the Emergency Services Mobile Communications Programme ('ESMCP' or the 'Programme'), for the provision of software development and supporting services.

In summary, the service requirements are concerned with the development of a compatible ICCS product upgrade that enables the supplier's control room ICCS product(s) (as deployed to the Supplier's UK 3ES customers) to interface to ESN, for the minimum subset of initially Kodiak 9.0 and 9.1, with a subsequent CCN to incorporate Kodiak 10.0 (K10) following the availability of the required K10 documentation early in 2020.

The services in relation to this Contract include:

- development of an ICCS Solution, compatible with ESN Kodiak 9.0 and 9.1, compliant with the control rooms ICD, ITRD and protocol ICDs, and the 3GPP standards referenced within the Contract documentation.
- functional testing of the control room ICCS against the Sandbox environment provided by Kodiak.
- functional, non-functional and end-to-end integration testing of the control room ICCS in the Motorola/EE reference and/or production mirror environments.
- NATS certification of the control room ICCS against a minimum set of Kodiak 9.0, 9.1 features as set out in the contract documentation.
- test and acceptance of an ESN compatible ICCS at a technical pilot control room site, connected to ESN Production via DNSP and UO-based firewall (requires NATS and ESN code of connection).
- maintenance and support for the ESN compatible ICCS at a technical pilot control room site, on a non-critical, Monday-Friday, 9-5 basis.
- replication of the above activities as required for Kodiak 10 and the required ESN K10 features.
- provision of an optional First Office Application (FOA) delivery and deployment service in order to implement and prove the upgraded software within a Live User environment.

II.2.5. Award criteria

Price

II.2.11. Information about options

Options: yes

Description of options:

Support and maintenance

Additional demonstrations

First office application options.

II.2.13. Information about European Union funds

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

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 works, supplies or services can be provided only by a particular economic operator for the following reason:
 - protection of exclusive rights, including intellectual property rights

Explanation:

This procurement was conducted pursuant to the negotiated procedure without prior publication, under Article 32 of Directive 2014/24/EU. Having taken legal advice, for the reasons set out below, the authority's awards this contract under Article 32 paragraph 2(b)(iii) as the services being procured can be provided only by the Awardee who alone has the necessary proprietary intellectual property rights required to be licensed under the contract. There is no reasonable alternative to the Awardee in the circumstances.

The Secretary of State for the Home Department requires the Integrated Communications and Control Solution (ICCS) used by various ESN users' (ESN Users) to interface with ESN's push to talk (PTT) application, Kodiak. The development is to commence with integration for the minimum subset of Kodiak 9.0, 9.1 features, subsequently migrating to Kodiak 10 and potentially other future releases as necessary to support the delivery of ESN.

This contract requires the Awardee

- (i) to upgrade its ICCS so it is capable of interfacing with Kodiak (the Kodiak SD Services); and
- (ii) to pass on the benefit of that upgrade to the ESN Users without additional charge.

The ESN Users had previously contracted with their ICCS vendor to upgrade the ICCS to interface with Wave7000, the former PTT application used by ESN which work the Secretary of State for the Home Department funded through grants. As a result of the recent reset of the programme, the ESN solution has moved from Wave7000 to Kodiak, meaning that any investment in and development of a Wave7000 interface was lost.

The Secretary of State for the Home Department, therefore, concluded that, to meet the programme timetable and to avoid duplicating costs, it would contract directly with the ICCS vendors to upgrade their solutions to Kodiak.

The contracts between the ESN Users and the Awardee are personal to the parties and subject to the intellectual property right (IPR) in their ICCS. It would not be possible to appoint a third party to develop the Awardee's ICCS. As a result, it is not possible for a third party to provide the Kodiak SD Services.

The Awardee is the only control room supplier that can provide the Kodiak SD Services to its ICCS. The Awardee owns the IPR in ICCS and will not allow a third-party access to the source code/background IPRs. As the Secretary of State for the Home Department cannot force the control room suppliers to grant access to their IPRs, it is not possible to contract with a third party to provide the Kodiak SD Services. An open procurement by competition for the Kodiak SD Services would be futile as only the Awardee could win a competition to provide the Kodiak SD Services to its CR Solution.

There are no reasonable alternatives to the award of the contract to the Awardee. If the ESN Users were to amend their current control room contract it would result in same control room supplier being awarded the contract, i.e. the Awardee would remain the same but the issuer would vary. The outcome is therefore unchanged and as noted above, this alternative would delay the delivery of the programme. There is also substantial risk of duplication of costs across all Users in this scenario.

The Secretary of State for the Home Department cannot require the ESN Users to procure alternative suppliers for its ICCS and the Kodiak SD Services. The Secretary of State for the Home Department does not exercise control over the ESN Users to force them to procure a

new ICCS vendor nor does it have the right to impose ICCS vendors on the users. For these reasons, there are no reasonable alternatives to this award made pursuant to Article 32(2)(b) (iii).

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

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.2.8. 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

Contract No: C16611

Title:

ICCS Software Development Contract for ESN

A contract/lot is awarded: yes

V.2. Award of contract

V.2.1. Date of conclusion of the contract

18/12/2019

V.2.2. Information about tenders

Number of tenders received: 1

Number of tenders received from SMEs: 1

Number of tenders received from tenderers from other EU Member States: 1

Number of tenders received by electronic means: 1

The contract has been awarded to a group of economic operators: no

V.2.3. Name and address of the contractor

Official name: APD Communications Ltd

National registration number: 01847526

Postal address: Peoplebuilding 2, Peoplebuilding Estate, Maylands Avenue

Town: Hemel Hempstead

NUTS code: UK United Kingdom

Postal code: HP2 4NW

Country: United Kingdom

The contractor is an SME: yes

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

Lowest offer: 1 000 000,00 GBP / Highest offer: 6 500 000,00 GBP taken into consideration

V.2.5. Information about subcontracting

Section VI: Complementary information

VI.3. Additional information

VI.4. Procedures for review

VI.4.1. Review body

Official name: The Secretary of State for the Home Department, (ESMCP)

Postal address: Clive House, 70 Petty France

Town: London

Postal code: SW1H 9EX

Country: United Kingdom

VI.5. Date of dispatch of this notice

07/07/2020